

## ILO's Effort against Maritime Labor Crimes: Case of Sexual Harassment on Filipino Women Seafarers

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### Abstract

*The professions of seafarer and mariner are stereotypically associated with men and have a good employee culture. Traditionally, young people have been allowed on a ship so that they may be directed and socialized to live at sea, yet women and minority groups are particularly vulnerable to sexual harassment in the aforementioned work environment. At the level of policy, both of which compel employers to detect and avoid hazards to occupational safety and health in the workplace. Unfortunately, there has been no separate discussion from the general discussion about sexual harassment on the ship. Secondly, law enforcement and policy in this regard are weak, given the different laws that can be proposed in social aspects. Accordingly, the nature of the research led to the application of the normative method. The result of the research is the International Labor Organization's (ILO) efforts to combat sexual harassment in the work environment and the importance of adopting and ratifying Recommendation No. 206 and Convention No. 190 to provide a clear framework for action and opportunities to build a dignified work environment and free from sexual harassment.*

**Keywords:** Sexual Harassment, Filipino Women Seafarers, ILO, 190 Convention

### Abstrak

Profesi pelaut secara stereotip dikaitkan dengan seorang laki-laki dan memiliki budaya karyawan yang baik. Secara tradisional, orang muda telah diizinkan di kapal sehingga mereka dapat diarahkan dan disosialisasikan untuk hidup di laut, namun perempuan dan kelompok minoritas sangat rentan terhadap pelecehan seksual di lingkungan kerja yang disebutkan di atas. Pada tingkat kebijakan, keduanya memaksa pengusaha untuk mendeteksi dan menghindari bahaya terhadap keselamatan dan kesehatan kerja di tempat kerja. Sayangnya, belum ada pembahasan terpisah dari pembahasan umum tentang pelecehan seksual di kapal tersebut. Kedua, penegakan hukum dan kebijakan dalam hal ini masih lemah, mengingat perbedaan undang-undang yang dapat diusulkan dalam aspek sosial. Dengan demikian, sifat penelitian mengarah pada metode normatif. Hasil penelitian ini adalah upaya Organisasi Perburuhan Internasional (ILO) untuk memerangi pelecehan seksual di lingkungan kerja dan pentingnya mengadopsi serta meratifikasi Rekomendasi No. 206 dan Konvensi ILO No. 190 agar memberikan kerangka kerja yang jelas untuk tindakan dan peluang untuk membangun lingkungan kerja yang bermartabat dan bebas dari pelecehan seksual.

**Kata kunci:** Pelecehan Seksual, Pelaut Wanita Filipina, ILO, Konvensi 190

## I. Introduction

On March 8, 2019, the Association of Marine Officers and Seafarers' Union of the Philippines (AMOSUP) held an international women's day<sup>1</sup> that was attended by about 200 seafarers, journalists, and students. The captain of the Philippines' first women's commercial ship, Jasmine, revealed the following:

<sup>1</sup> Frankie Lantican, 2020, from Vice World News: <https://www.vice.com/en/article/v7g9mm/sexual-harassment-abuse-women-female-seafarers-filipino>, Accessed July 18, 2022.

"When I first boarded the ship as a cadet, my father advised me to befriend the cook so that I would never go hungry on the ship. So, I followed his advice. But one night, while I was sleeping, the cook I believed in tried to put his finger between my legs, but I just kept quiet because I didn't know what to do because I was only 17 years old at the time."

That experience shows that Filipino women seafarers are vulnerable to sexual harassment. On International Women's Day, Captain Jasmine motivated women seafarers to speak up if they were subjected to sexual harassment or intimidation. Sexual harassment often occurs, ranging from verbal, physical, and sexual violence in the maritime work environment.

A woman who attended and graduated from the Maritime Academy of Asia and the Pacific (MAAP) was subjected to sexual harassment on campus on two separate occasions. The first incident occurred while the women cadet was in the second grade of the school, and she found that one of her male acquaintances and many seniors had been peeping in the restroom of the women cadet. The second event occurred when the women cadet was in the fourth grade of the academy. When the women cadets investigated the shower room, she discovered a hole in the ceiling. The second instance of sexual assault committed against the women cadet took place while she was still a student in high school. While she was paying attention to the activities that his group was doing in class, one of the other male students suddenly rubbed his private parts at her.

The #MeToo campaign has highlighted the issue of sexual harassment crimes and exposed how little society has come forward since the first statute against sexual harassment was brought into effect.<sup>2</sup> Because of the prevalence of sexual violence on ships in the maritime industry, which disproportionately affects women seafarers, the critique cannot be isolated from the maritime industry. A worldwide campaign against violence and sexual harassment against women that was propagated around the globe via social media is known by its hashtag, "#MeToo." The movement was launched in 2006 and, in 2017, became a global campaign. Its ad demonstrates the influence that social media is having in the age of digitization. Many women choose not to speak out when subjected to sexual harassment at work for fear of being disruptive. It is quite difficult to speak about the issue on the ship since it has the potential to disrupt the peace amongst the crew members in such a tiny and limited place. The campaign #MeToo has given women seafarers the opportunity to form a voice against acceptable behavior, including sexual harassment.

ILO is an international organization of the United Nations (UN) agency that seeks to realize the creation of feasibility of conditions in work, such as the implementation of freedom, justice, and security of work for both men and women. The main objectives of its organization are to socialize and introduce various labor rights in the workplace, ensure the feasibility of job opportunities, guarantee protection to workers and intensify discussions and dialogues as a way of dealing with problems in the world of labor. In carrying out its duties, the ILO cooperates with its members numbering 187 countries, as the tripartite body of the ILO will also involve representatives of employers and workers.<sup>3</sup>

Based on International Maritime Organization (IMO), the proportion of women seafarers in 1998 was believed to be somewhere around 2 percent. Its figure includes working in non-operational areas of ships like hotels and catering. It is estimated that just 0.12 percent of the overall maritime population is comprised of women deck officers and engineer's aboard cargo ships.<sup>4</sup> The most recent significant labor study conducted twenty years after the IMO estimates found that the percentage of female seafarers working in deck and engine departments is barely

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<sup>2</sup> Farnush Ghadery, "#Metoo – has the 'Sisterhood' Finally become Global or Just another Product of Neoliberal Feminism?", *Transnational Legal Theory*, Vol. 10, No. 2, (2019): 261. DOI: <https://doi.org/10.1080/20414005.2019.1630169>

<sup>3</sup> Daniel Maul, *The International Labour Organization: 100 Years of Global Social Policy*, (Berlin: De Gruyter, 2019): 2.

<sup>4</sup> BIMCO; ICS, *Manpower Report: The Global Supply and Demand for Seafarers in 2015*, (London: Maritime International Secretariat Services Limited, 2016).

one percent of the total number of seafarers. Less than half are cadets and trainees who have yet to complete the minimum year of sailing experience to get a Certificate of Competency (CoC); women seafarers with CoC on deck and machinery will be deemed to occupy just 0.5 percent of the total survey participants. The statistic does not consider the presence of women in the shipping industry, even though, according to the MLC, 2006, everyone employed aboard a ship may be considered a "seafarer." According to an estimate provided by the International Transport Workers' Federation (ITF), which was derived from mutual agreements reached with operators in the industry<sup>5</sup>, the latter category may account for between 28 and 30 percent of cruise ship employees.

The data generally conclude that women are still a minority on a ship<sup>6</sup> despite international and national initiatives to encourage women. Integration of Women in the Marine Sector (IWMS) was a program that was initiated in 1988 by the IMO. Since its inception, IWMS has been responsible for the development of a gender strategy as well as regional organizations for women who work in the maritime industry.<sup>7</sup> IMO held a regional meeting in South Korea in 2013 to discuss the formulation of a worldwide strategy for women seafarers. The Busan Declaration, which was the culmination of the meeting, included a reference to helping women mariners all over the globe. <sup>8</sup>However, there are still very few women who are employed in maritime-related jobs.

## II. Research Problems

It will address the following issues: a) Why has the AMOSUP organization not been able to address the problem of seafarers' sexual violence? And b) why is ILO Convention No. 190 so urgent in addressing the problem of seafarers' sexual violence?

## III. Research Methods

The article used the normative method, which includes performing research on legal principles mentioned in legislation, literature, and scientific articles connected to the topic. The data was collected from reading, analyzing, and making a summary from related documents, such as conventions, legal journals, law books, and others. The research will discuss the efforts of the ILO in overcoming sexual violence in the work environment and the protection of women seafarers as victims of sexual harassment on ships, as well as the urgency of ratifying the ILO Convention No. 190 to the Philippine government.

## IV. Result and Discussion

### 1. Form of Violence Experienced by Women Seafarers

Sexual harassment is a serious societal issue that must be addressed and rectified in some way. Harassment of a sexual is not only the expression of misplaced sexual desire. Rather, it is also the exploitation of inequitable and violent relationships.<sup>9</sup> Its perception is reflected in policies in various ways including not mentioning sexual harassment, inappropriate acts to combat it,

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<sup>5</sup> ILO, *Recruitment and Retention of Seafarers and the Promotion of Opportunities for Women Seafarers*, Sectoral Policies Department. (Geneva: International Labor Office, 2019): 32.

<sup>6</sup> Momoko Kitada, and Lise S. N. Langåker, "The Body" Matters in Maritime Employment Contracts. "Global Perspective in MET: Towards Sustainable, Green and Integrated Maritime Transport, (Varna: Nikola Vaptsarov Naval Academy, 2017): 383-391.

<sup>7</sup> Pamela Tansey, *Women at the Helm: 25 Years of IMO's Gender Programme*, In M. K. Williams, *Maritime Women: Global Leadership*, Vol. 3, (Berlin: Springer, 2015): 17-22. DOI: [https://doi.org/10.1007/978-3-662-45385-8\\_2](https://doi.org/10.1007/978-3-662-45385-8_2)

<sup>8</sup> Momoko Kitada, *Advancing 'Good Practices' that Promote Gender Equality in the Maritime Sector*. In I. Papanicolopulu, *Gender and the Law of the Sea* (Vol. 88), (Boston: Brill-Nijhoff, 2019): 302-317. DOI: [https://doi.org/10.1163/9789004375178\\_015](https://doi.org/10.1163/9789004375178_015)

<sup>9</sup> Paula A. Johnson, Sheila E. Widnall, Benya, and Frazier F, *Sexual Harassment of Women: Climate, Culture, and Consequences in Academic Sciences, Engineering, and Medicine*. (Washington, DC: The National Academic Press, 2018): 27. DOI: <https://doi.org/10.17226/24994>

being interpreted restrictively, or slightly enforcing the law. Unfortunately, such behavior is still considered acceptable by a large part of the world's population, and this perception is reflected in laws and policies in various ways.

Although laws against sexual harassment have developed and been enacted in several countries, it does not mean that all countries have done so. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW Convention), which was adopted in 1979 at the United Nations (UN) General Assembly, does not make any mention of sexual harassment, the United Nations Committee on the Elimination of Discrimination against Women, which has been established in Article 17 of the CEDAW Convention, came to a conclusion in General Recommendation No. 19 of 1992 that sexual harassment is a form of discrimination against women.

**a) Harassment of *Quid pro Quo***

Some jurisdictions use the term harassment to denote sexual coercion.<sup>10</sup> In the type of sexual harassment in the work environment, individuals must adhere to unwanted sexual seduction, requests for sexual assistance, or other verbal behaviors. In quid pro quo abuse, women who do not adhere to unwanted sexual urges will face problems and experience obstacles in their professional growth.<sup>11</sup>

**b) Harassment of an unsafe workplace**

It is defined as behavior that focuses on the sexuality group of people who are in the work environment.<sup>12</sup> This form of sexual harassment is carried out indistinctly by superiors, co-workers, or external individuals who interact in the work environment. This will create an environment that makes victims feel intimidated while in that environment and will interfere with their performance and productivity.

ILO Convention No. 190 provides a pragmatic approach that defines harassment as a combination of bad behaviors and practices aimed at producing or possibly inflicting physical, psychological, sexual and economic injury. The term "sexual abuse" refers to a broad variety of abusive acts, including physical, verbal, and non-verbal assaults. There are three distinct kinds of sexually violent behaviors, which are as follows:<sup>13</sup> (1) gender harassment, which includes verbal and non-verbal behaviors that indicate hostility, objectification, and exclusion; (2) unwanted sexual attention, which can be either verbal or physical in nature and take the form of unwanted sexual seduction; and (3) sexual coercion. This form of abuse in verbal abuse is the most commonly experienced by victims.

Women seafarers often experience comments about their body shape, usually the legs and breasts. For example, Monique Engineer was asked to come into the office by a ship captain and subjected to verbal abuse. The captain spoke directly to Monique, "there is something in you. I really like you." Nina also experienced verbal and sexual harassment, the first Filipino woman to hold the position of chief engineer. The perpetrator asked her how much money he wanted in exchange for paid sex, and he believed that all Filipino women were cheap.<sup>14</sup>

Nina was also victimized by an Indian second engineer while she was in the third engineer position. Inside the control room, India's second engineer would make him feel welcome by easing his workload and treating him kindly. Nina was asked to watch television in her cabin by an Indian engineer one day after he stopped by. He turned down the offer and gave her the warning that he would not be successful with Nina. After the event, he started piling more work

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<sup>10</sup> Shawn Meghan Burn, "The Psychology of Sexual Harassment", *Teaching of Psychology*, Vol. 46, No. 1, (2019): 96-97.

<sup>11</sup> Nguyen Thi Ngoc Unyen, and Le Nhat Bao, "Laws of Protection of Women Rights against Sexual Harassment in the Workplace", *Science & Technology Development Journal*, Vol. 5, NO. S12, (2021): 1-8.

<sup>12</sup> Martha E. Reeves, *Women in Business: Theory, Case Studies, and Legal Challenges*, (New York: Routledge, 2010). DOI: <https://doi.org/10.4324/9780203851418>

<sup>13</sup> Lauren M. Aycocock, Zahra Hazari, et al., "Sexual Harassment reported by Undergraduate Female Physicist", *Physical Review Physics Education Research*, Vol. 15, No. 1, (2019): 1-13.

<sup>14</sup> Lucia Tangi, "Empowering Filipino Women Seafarers in the Maritime Sector", *UPCIDS Policy Journal*, Vol. 15, No. 2, (2016): 182.

on Nina's plate and often reprimanding her for things that had no basis. In addition to that, he threw poor scores on Nina's report card.

Victims of sexual harassment in the work environment will be exposed to psychological impacts, physical and sexual wellness, and their social surroundings. Sexual abuse causes mental and physical stress, as well as anxiety, depression, and sleeping disorders.<sup>15</sup> All these effects will interfere with the performance of victims and in other areas of their lives. Sexual harassment will be a challenge for women to join and survive the job, weakening their long-term earning capability and contributing to the gender pay gap.<sup>16</sup>

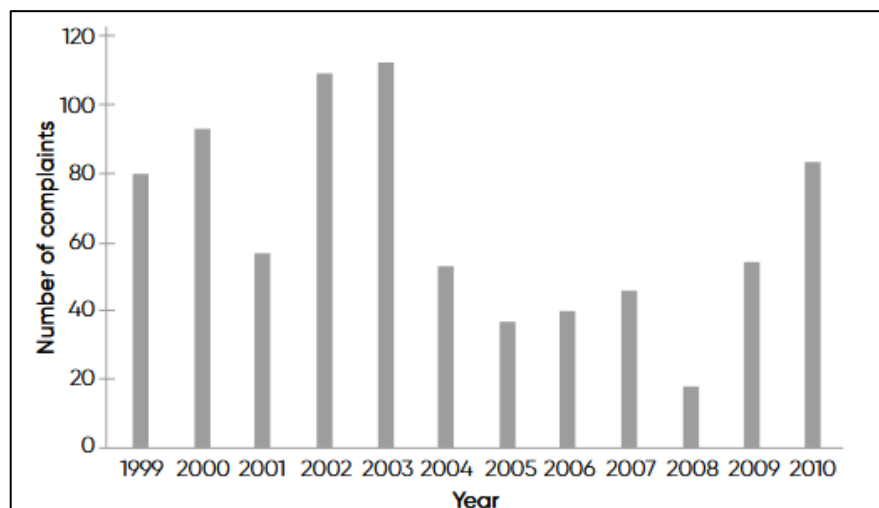
## 2. AMOSUP Establishes Women's Committee

Women's organizations rejoiced over the passage of Republic Act 7877, which was a significant piece of legislation. The passage of this legislation represents a step in the right direction for Filipino women, who have fought for a long time to have sexual harassment acknowledged as a significant social issue. It is a violation of the law to engage in any type of sexual harassment in work, in an educational or training setting, in either the public or private sector. That prohibition applies to all forms of sexual harassment. The policy emphasizes:

"The state must respect the dignity of each individual, improve the development of its human resources, guarantee full respect for human rights, and uphold the dignity of workers, employees, job applicants, students or those undergoing training, teaching or education. "

Any person who leads or convinces someone to conduct an act of sexual harassment is also accountable under the law in the Philippines, according to a provision of the legislation that specifies such a person is liable under the law. The legislation stipulates that violators may face a maximum fine of PhP 20,000 and a potential jail sentence of one to six months for their offense.

Picture 1. Police Sexual Harassment Complaints<sup>17</sup>



The number of people who file criminal complaints with the police is still relatively low. Victims in Philippines rarely report the events they have experienced. Some scholars explain that women victims often hesitate to go out. Often traumatized by their experiences, they eventually

<sup>15</sup> Shawn Meghan Burn, *OP. Cit.*: 97.

<sup>16</sup> Christopher Unggen, Rachael A. Powers, et al., "Toward a Criminology of Sexual Harassment", *Annual Review of Criminology*, Vol. 4, No. 1, (2021): 33-51.

<sup>17</sup> Lucia Tangi, "Uniting Against the Tides: Filipino 'Seafarers' Organising Against Sexual Harassment", *IDS Bulletin*, Vol. 51, No. 2, (2020): 103.

choose to be silent and suffer.<sup>18</sup> According to information provided by the Philippine Statistics Authority, the annual average of the number of complaints lodged with the police over the period from 1999 to 2010 was just 65. Over a span of 12 years, the number of complaints received by the police reached a peak of 112 in 2003, while the number of complaints recorded at its lowest was 18 in 2008. Even in more recent years, the police received an annual average of 107 complaints for the period 2013-2020. This figure continued to remain rather consistent.<sup>19</sup> According to the statistics, the culture of complaining about sexual violence that the law does not protect Filipino women from sexual harassment. It is something that the women who are victims of sexual harassment suffer.

Many women are afraid to register criminal charges since most people who are sexually abused are young cadets, junior officers, and employees. This is even though seafarers are often given a briefing on sexual harassment before they begin working aboard ships. Most of them do not have a clear understanding of the specific actions or protocols involved in making a complaint while they are on a ship. The women seafarers were concerned that the male crew would make fun of them and exclude them from the activities.

AMOSUP recently held a session to discuss the challenges that women in the maritime industry face and how those challenges may be overcome. The forum also functions as a network for women who have been the target of sexual harassment and may get in touch with one another via the site. When captain Jasmine was subjected to abusive treatment, she did not have a "big sister" in the business to whom she could confide in the harrowing details of her ordeal. Because Jasmine and the other women in her class were among the first to enroll in the maritime school, they did not have an elder sister or a women mentor to look up to as role models.

Jasmine has high expectations that the culture of silence that prevails among women seafarers who have been the target of sexual harassment will be broken by the sisterhood that has been established among the women members of AMOSUP and that these women will reach out to their fellow members for assistance. AMOSUP Women is prepared to provide victims not just emotional support but also help in obtaining legal representation.

### **3. The Urgency of Ratification of ILO Convention No. 190 in Protecting Seafarers**

Convention No. 190 acknowledges that everyone has the right to work free from sexual violence and harassment, including violence based on gender. Its right extends to all forms of harassment in the workplace. The convention provides an explicit acknowledgment, which is a first in international law, that violence and harassment in the workplace are included with human rights breaches. This recognition is incorporated with the convention. The agreement provides extensive safeguards and is applicable to both the public and commercial sectors, as well as the formal and informal economies, since it acknowledges that everyone has the right to an environment free from violence and harassment in the workplace.<sup>20</sup> Its convention protects workers and others in work environment, including workers as stated in Article 2 paragraph (1) of Convention No. 190. Convention No. 190 protects workers and others in the world of work. When tackling the situation, it is vital to use an inclusive, integrated, and gender-responsive strategy since Article 4 paragraph (2) compels members to evaluate the occurrence of violence and harassment involving third parties.

Convention No. 190 and Recommendation No. 206 create and execute a strategy to prevent and eradicate violence and harassment in the workplace in conjunction with employers' and workers' groups or unions. This strategy is based on an inclusive, integrated, and gender-responsive approach. The measures of prevention, protection, enforcement, rehabilitation,

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<sup>18</sup> Nitya Chawla, Allison S. Gabriel, Anne O'Leary Kelly, and Christopher C. Rosen, "From #MeToo to #Times Up: Identifying Next Steps in Sexual Harassment Research in the Organizational Sciences", *Journal of Management*, Vol. 47, No. 3, (2020): 551-556. DOI: <https://doi.org/10.1177/0149206320980518>

<sup>19</sup> Lucia Tangi, *Op.Cit.*:105.

<sup>20</sup> William I. Pons, Janet E. Lord, Stein, and Michael Ashley, "Disability, Human Rights Violations, and Crimes Against Humanity", *American Journal of International Law*, Vol. 116, No. 1, (2022): 58-95.

guiding, training, and awareness-raising are included under each of these three methods.<sup>21</sup> An inclusive strategy is one that provides wide safeguards by considering the fact that some groups may be more adversely impacted by acts of violence and harassment than others. The implementation of handling in all areas of equality and non-discrimination, workplace safety and health, migration and criminal legislation, laws and policies, as well as via collaborative negotiations, is one example of the integrated approach to the issue. Although using a gender-responsive strategy is one method to combat the underlying causes of sexual assault and harassment in the workplace, other kinds of discrimination, uneven gender-related abuses, gender stereotypes, and cultures that condone sexual assault should also be targeted.<sup>22</sup>

The adoption and ratification of Convention No. 190 and its Recommendations are indispensable to the Philippine government. Here are some of the reasons for the importance of ratification of the convention, including, first, recognizing that gender-based violence and harassment, including sexual harassment in the work environment, are issues that need to be addressed globally. Secondly, Convention No. 190 and its Recommendations are innovative international legal instruments because they clearly recognize states' obligations on the measures necessary to prevent and remedy sexual harassment in the work environment. Legal instruments provide protection against the most fundamental issues concerning sexual harassment in the work environment.

It is not surprising that Convention 190 and its Recommendations require States to provide appropriate and effective remedies for victims of gender-based abuse. To establish whether international law instruments predict simple, reasonable, and effective damages in the event of a lawsuit, it is first required to comprehend the dual meaning of recovery. Procedure and substance are two distinct notions in remedies. Human rights abuses are initially heard in a court, administrative agency, or other judicial or administrative authority. So, the term "reparations" refers to the aid or financial compensation given to the victim as a result of the procedure.<sup>23</sup> Therefore, Convention No. 190 and its Recommendations foresee procedural and substantive recovery. Here is a review of such recovery:

#### a) Procedural Remedies

According to Convention No. 190, states are required to take the relevant steps to enable simple access to secure, fair, and effective dispute reporting and resolution methods and procedures in these situations of sexual harassment. Convention No. 190 was adopted in 1998. Complaints and investigation processes, as well as dispute resolution methods in the workplace, as well as the judicial system, are all examples of the kinds of mechanisms that might be provided by international law as possibilities for indemnification. It is imperative that victims of sexual harassment in the workplace have access to a variety of appropriate avenues to seek redress for the crimes they have suffered. Gaps in the scope of indemnity occur if labor laws do not cover a safe grievance mechanism.

In order to provide effective rehabilitation, the legal instrument handles one of the most critical aspects, the fear of retribution is the major reason why incidents of sexual harassment in the workplace are not reported.<sup>24</sup> Convention No. 190 and its Recommendations recognize that states must ensure the complainants are entitled to free legal help in all judicial procedures. Otherwise, access to justice and protection against secondary victimization will be unsecured.<sup>25</sup>

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<sup>21</sup> Zhanna Khamzina, Yermek Buribayev, et al., "Towards Nondiscrimination and Gender Equality: The Role of International Labor Standards", *Sustainability*, Vol. 14, No. 9, (2022): 5349. DOI: <https://doi.org/10.3390/su14095349>

<sup>22</sup> Eric S. Carlson, and Shauna Olney, "A New Global Mandate to End Violence and Harassment in the World of Work: A Gender-Responsive Approach", *ABA Journal of Labor & Employment Law*, Vol. 53, No. 3, (2021): 493-510.

<sup>23</sup> Dinah Shelton, *Remedies in International Human Rights Law*, 3rd ed., (New York: Oxford University Press: 2015).

<sup>24</sup> Bruce Haller, "Sexual Harassment in the Workplace: Legal Attempts to Resolve a Cultural Problem", *Northeast Business and Economics Association*, (2018): 118-123.

<sup>25</sup> Jane Aeberhard-Hodges, and Ludo McFerran, "An International Labour Organization Instrument on Violence against Women and Men at Work: The Australian Influence", *Journal of Industrial Relations*, Vol. 60, No. 2. (2017): 5. DOI: <https://doi.org/10.1177/0022185617712751>

#### **b) Substance-Based Remedies and Reparations**

Reparations aim to rectify breaches of international human rights legislation by compensating victims for their losses.<sup>26</sup> Both local and international laws dictate that, victims of sexual abuse are proportional to the severity of human rights abuses. The violations and circumstances of each case must be given full and effective reparations.<sup>27</sup> Reparations must involve restitution, recompense, rehabilitation, satisfaction, and assurances against a recurrence.

Non-binding recommendations complement Convention No. 190 on the forms of reparations provided when there are cases of sexual harassment in the work environment. First, the Recommendations provide that the remedies referred to in Article 10 paragraph (b) of the Convention shall include the right to quit and get compensation, the right to sue, and the right to receive damages recompense. However, this form of reparation is not limited, so the Recommendations suggest that organizational adjustments may be imposed to prevent sexual harassment from occurring again.

To begin addressing sexual harassment in the workplace, it is essential for the Philippine government to ratify and implement ILO Convention No. 190 and its Recommendations. Doing so would allow the country to move forward with this issue. Ratification of legal instruments is an express admission that sexual harassment in the workplace is an issue that must be addressed, and it is the state's responsibility to take all necessary steps to eliminate the crime. Furthermore, the adoption of legal instruments is an express acknowledgment that sexual harassment in the workplace is an issue that must be addressed. In addition, the UN Guiding Principles on Business and Human Rights (UNGPs) establish a set of criteria for nations to follow in order to allow successful recovery, which may be performed using non-judicial state-based approaches.

The third pillar of the UNGPs framework emphasizes the need of recovery in situations of human rights breaches and the state's commitment to take adequate steps to facilitate successful rehabilitation. A large part of their duty is to protect against human rights violations in the work environment.<sup>28</sup> State action is required when violations occur inside its borders or jurisdiction in order to offer an effective remedy that may be implemented by legal, administrative, legislative, or other methods.

The international standards offer a variety of procedural remedies, such as grievance procedures based on state or non-state entities, judicial or non-judicial processes in which complaints about work-related human rights violations can be filed, and remedies can be sought. These procedural remedies are referred to collectively as "remedies" in this article. Apologies, restitution, rehabilitation, financial or non-financial compensation, and punitive sanctions are some of the substantive forms that are specified by the UNGPs as being available in order to counteract or correct any violations or crimes that have taken place. In addition, the UNGPs stipulate that there are various forms of substantive intended to counteract or correct any violations or crimes that have taken place.

#### **4. ILO's Effort to Address Violence over the Sea**

Pengutipan The Gender, Equality, and Diversity (GED) Branch is a component of the International Labor Organization's Department of Working Conditions and Equality. Its mission is to promote equality and respect in the world environment. To do so, it was founded by the International Labor Organization. By providing policy advice, tools, and guidance, the GED aims to ensure that policies, programs and institutions are gender-responsive, promoting a more inclusive workplace and eliminating discrimination based on gender. This includes ensuring that

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<sup>26</sup> Dinah Shelton, *Loc. Cit.*

<sup>27</sup> UN General Assembly, 2005, from Human Rights Instrumen: <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>, Accessed July 23, 2022.

<sup>28</sup> UN, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect, and Remedy" Framework*, (New York: United Nations, 2011), from [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf), Accessed July 23, 2022.



policies, programs and institutions are gender responsive. Policy advise, tools, guidance, and technical support are used to attain these goals.<sup>29</sup>

The Convention against Violence and Harassment No. 190 was finally approved by the International Labor Organization in 2019. The Convention was preceded by a report on violence against women and men in the workplace<sup>30</sup>, which presented findings on the analysis of a survey of domestic laws on violence and harassment in the workforce, covering 80 different countries. The report was titled "Violence and harassment against women and men in the workplace."

In the context of addressing the issue of sexual violence, the International Labor Organization (ILO) has made a commitment to the countries that have ratified Convention No. 190 to devise a collection of solutions that are both simple to access and highly effective for individuals who have been victims of sexual harassment in the workplace, with a particular focus on the situation faced by women seafarers. A mechanism for resolving internal and external disputes in the workplace, both inside and outside of the workplace; external courts; protection against victimization or retaliation; effective examination and investigation procedures; legal, medical, and administrative support measures; and compensation are the components that make up the solution.<sup>31</sup>

ILO has recently adopted comprehensive rules for the elimination of sexual violence and harassment in the workplace. These rules allow for the use of organizational institutions outlined in the ILO constitution, such as regular surveillance systems and special procedures. The regular supervision mechanism of the ILO is dependent on periodic reports being filed by member states on the actions that have been done to implement the conventions that those governments have ratified.<sup>32</sup> The Committee of Experts on the Application of Conventions and Recommendations (CEACR) is the technical body that examines these reports and has the authority to submit requests directly to the country in question. These requests are then followed by observations, ultimately included in the CEACR's annual report to the ILO General Conference.<sup>33</sup>

**Picture 2.** License renewal for crewing agencies and principals<sup>34</sup>

<b>Requirements/penalties</b>	<b>Crewing agencies</b>	<b>Principal/ship owner</b>
Required escrow account with Bangko Sentral ng Pilipinas (Central Bank of the Philippines)	P1,000,000	US\$10,000
Additional escrow for 1–5 cases	P50,000 per case	US\$3,000 per case
Additional escrow for 6–10 cases	P75,000 per case	US\$4,000 per case
Additional escrow for 11 or more cases	P100,000 per case	US\$5,000 per case

Seafarers will be more likely to take responsibility for their actions as a result of the measures in this legislation. Seafarers are known to boast about engaging in sexual actions with their fellow crew members when on a ship. Considering ILO's recommendation to include sexual

<sup>29</sup> C. Dragomir Popa, "The Role of the International Labour Organisation in Reducing Maritime Gender Gap and Motivating more Female towards Seafaring Careers", *Journal of Physics: Conference Series*, No. 1122, (2018): 2.

<sup>30</sup> ILO, *Recruitment and Retention of Seafarers and the Promotion of Opportunities for Women Seafarers*, Sectoral Policies Department, (Geneva: International Labor Office, 2019).

<sup>31</sup> Julinda Begiraj, "Convention Concerning the Elimination of Violence and Harassment in the World of Work", *International Legal Materials*, Vol. 58, No. 6, (2019): 1168.

<sup>32</sup> Nandan Sharma, Bhumika Sharma, and Poonam Pant, "Sexual Harassment at Workplace vis-à-vis Recent Developments of International Labour Organization", *International Journal of Law and Politics Studies*, Vol. 2, No. 1, (2020): 15-20.

<sup>33</sup> Faradj Koliev, and James H. Lebovic, "Shaming into Compliance? Country Reporting of Convention Adherence to the International Labour Organization", *International Interactions*, Vol. 48, No. 2, (2022): 258-291.

<sup>34</sup> POEA, *Philippine Overseas and Employment Administration*, from Revised POEA Rules and Regulations governing the Recruitment and Employment of Seafarers (2016): <https://www.dmw.gov.ph/archives/laws&rules/files/2016%20Rules%20Seabased.pdf>, Accessed July 24, 2022.

harassment rules in the standard contract of the Philippine Overseas Employment Administration (POEA), seafarers can be warned from engaging in boasting. Seafarers should be encouraged via standard contracts to report incidents of sexual harassment to their superiors if they hear about or see such behavior on ships.

It will increase responsibility between the shipowner and the crew management if this clause is accepted into the POEA standard contract. Employers are required by Article 4 of RA 7877 to take measures to avoid or hinder acts of sexual harassment, and one of these measures is the implementation of a policy that prohibits such behavior. It will also be helpful in the fight against sexual harassment if gender sensitivity training is provided to crew agency employees as well as maritime workers.

It should be noted that the ILO's constitutional responsibility to promote gender equality in the workplace was subsequently enhanced by the Philadelphia Declaration. The 1998 ILO Declaration on Fundamental Principles and Rights in the Workplace is crucial to our objectives because it stipulates that all ILO member states, even if they have not ratified the convention, they have obligations arising from membership in the organization to respect, advance, and realize the Constitution in good faith. Therefore, the state is obligated to foster a workplace devoid of discrimination, including sexual harassment.

The Equivalent Wage Convention No. 100 of 1951, and the Discrimination (Employment and Position) Convention No. 111 of 1958, are two conventions that are relevant to the principles and rights that should be exercised in the workplace, but the ILO Declaration of 1998 does not provide for their exercise. These principles and rights are subject to the conventions that are relevant to them. Remarkably, 175 countries have shown their support for Convention No. 111 by ratifying it. The ILO Declaration from 1998 and the treaties essentially apply to the same circumstances in the marine industry as well. To be more precise, MLC, 2006

## **V. Conclusion**

The government has formed AMOSUP to become a forum for overcoming the problem of sexual violence in the shipping world. The organization has not been able to address the problem because women seafarers who are victims of sexual abuse do not want to report on the incidents they have experienced, and they choose to remain silent. The national law here also affects the reason AMOSUP has not been able to handle the case. Philippine law does not address the culture of complaining about sexual violence experienced by Filipino women as the victims.

At the same time as the International Labor Organization (ILO) was starting its efforts to abolish sexual violence and harassment in the workplace, both instruments were created. An opportunity to design a work environment free of all types of violence and harassment has been created thanks to the International Labor Organization (ILO) adopting Convention No. 190 and its Recommendation No. 206 on workplace violence and harassment. Violent or abusive conduct is considered a breach of human rights under the Convention.

## **VI. Recommendation**

Based on the conclusions above, the following are recommended:

1. The country must provide protection to all women workers regardless of the status of their employment relationship, so it is important to recognize a law covering acts of non-physical sexual violence.
2. The government will immediately ratify the ILO Convention No. 190 of 2019 as an umbrella for criminal law in the Philippines, which needs to contain provisions on non-verbal sexual harassment.
3. In the process of law enforcement against women who experience violence, law enforcers should consider substantive justice more harassment so that women workers who experience it cannot defend their human rights before a criminal court.

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