

The Study on Social Security of Seamen

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ABSTRACT: The social security of the seamen is complex and it represents the protection of the human rights. There are a large number of seamen in China. The social security laws of the seamen in China are behind. Together with the approval of the Maritime Universal Labor Convention of the ILO we should regularize the social security of the seamen basong on the real conditions of China.

1 THE MEANING OF THE STUDY ON SOCIAL SECURITY OF CHINESE SEAMEN

Seamen are special in any state because of the speciality of seamen's work. The characteristics of seamen's work are as follows (1) MOBILITY. Seamen on board are mobile with vessels. (2) foreign-related; (3) risks. Seamen are often faced with national risks and artificial risks. (4) professionalism. Seamen are asked to possess universal qualities. (5) hardship. The condition of life in a ship is hard and seamen often have on stores enough when a long trip. China is a developing country and has a large number of seamen. So social security of seamen in China has a special meaning in international society. Together with the approval of ILO's Maritime Universal Labor Convention seamen acts in china have been propose in the agenda. There is of a seamen act in China nowadays. This condition must be solved as soon as possible so as to protect seamen's special rights. Social security of seamen is a heavy problem in seamen laws of China. Seamen's social security is acute more and more. The social security problems of seamen on board a vessel flying non - PRC flag are acute all the more.

Seamen are a kind of special career and need special legislation. In the thesis the writer mainly study seamen's rights of social security.

2 THE SCOPE OF SEAMEN'S SOCIAL SECURITY

In the whole the social security legislation of seamen in China is behind and the special legislation on seamen in this aspect is blank. The scope of seamen's social security also covers three aspects: social insurance, social welfare and social help. Social insurance covers the olders insurance, disease insurance, treatment insurance, work-wound insurance, out-of-work insurance and so on. Although there are not female bearing insurances nowadays in china seamen's social security should cover female bearing insurance for a long-time planning.

For the study on seamen's social security, seamen is sorted three kinds: 1 seamen with some company; 2 individual seamen; 3 seamen on board a vessel flying non - PRC flag. Social security legislations should be different in different kind seamen.

Before studying seamen's social security, we must define seamen. Maritime Law of the People's Republic of China provides in the article 31: Seamen are all staff on board a vessel inclusive of a master. There is not a united definition in the internation.

3 THE APPLICATION SCOPE OF SEAMEN'S SOCIAL SECURITY LEGISLATIONS

Social security legislations have different applicable scopes in different states. Seamen's social security laws in China should have a different applicable scope under different conditions. Seamen social security laws and seamen act should be different in the applicable scope.

Seamen Act is mainly a labor law and some contents in the Seamen Act is similar or same as seamen social security law, but the similar or the same is related with seamen's labor conditions. The draft of Seamen Act in China proposed that it should be applied for the seamen on board a vessel flying the PRC flag and whether seamen's nationalities. Seamen's social security law should also be applied to seamen on board a vessel flying a convenient flag. It is behind in seamen legislation in convenient flag states or there is not a seamen law. If the law of the vessel flag state applied under any condition, seamen's rights will not be protected enough.

3.1 *Seamen's social insurance laws*

A law of social insurance can help people defend some kinds of life risks. It provides basic life protection. The goal of social security laws is to protect basic life.

The common social security laws of China should apply for Chinese seamen, but the special social security laws of seamen are prior. Seamen social security legislation protects seamen's special rights.

3.1.1 *The Social Insurance of Seamen with Some Companies*

Seamen's salary is different when they work on board with that when they rest on land. The companies turn in premium according to a percentage of seamen's salary when they rest on land. The seamen's salary when they rest on land is very low and so it is unfair according to the percentage of seamen's salary when they rest on land. The writer proposes that the company should turn in premium according to the different salary sum when seamen are on board or rest on land or rest with salary on board.

3.1.2 *The Social Insurance of Seamen on Board a Vessel Flying Non-PRC Flag*

The social insurance of seamen on board a vessel flying non-PRC flag is related with the application of law in relation to foreign-related matters. There are disputes on the application of law of the social insurance of seamen on board a foreign ship. The

law of the flag state of the ship and the law of the seamen's lawful rights.

3.1.3 *The Social Insurance of Individual Seamen*

The individual seamen are that the seamen do not belong to any company. They hold their certificates themselves and are on board through professional seamen companies. There are not institutes to manage individual seamen and there is also not special laws to secure the rights of individual seamen. The Seamen Units in China does not show their functions. The writer suggests that we should strengthen the functions of the Seamen Units. The Seamen Units should be responsible for the management of individual seamen. The social insurance of individual seamen is special. How does the premium turn in and who should turn in the premium and so on. These problems need to regularize in the seamen social insurance laws.

3.1.4 *The Seamen's Social Insurance Conventions Enacted by the ILO*

From the beginning of the twentieth century, the improvement of the seamen's social security is underlined more and more by the ILO. Bettering labor condition and improving seamen welfare is the goal of the relative conventions of ILO. The relative social insurance conventions of the seamen are mainly as following: 1 *the 1946 Social Insurance Convention of the Old Seamen*; 2 *the 1936 Disease Insurance Convention of Seamen*. The two conventions have been enforced for a long time and the contents is behind the time.

3.1.5 *The Seamen's Social Insurance of Japan*

In a number of developed states there are special laws of the seamen. For example, in Japan there is Seamen Act, the Protection Law of Seamen Career, Insurance Law of Seamen, the Lowest Salary of Seamen and so on. In Japan there is special insurance law of the seamen. It can secure the legal rights of the seamen. We can absorb when we regularize in the seamen legislation of China. The level of social insurance must match the level of the development in China. The seamen have a better income and so we can improve the level of the social insurance of the seamen.

4 SEAMEN WELFARE IN CHINA

In order to improve and better the material life and the moral life the states enact the relative laws. The laws of social welfare is to improve the development

rights and to better life. The funds of social welfare is built up by the government.

Seamenn's special social welfare covers repatriation fees, stores fees, treatment fees, living standard, labor time, off-hire fees, illness fees, holiday fees, disability fees and death fees and so on. But these legal rights can not be enjoyed wholly by the seamen. These rights need laws to build up.

The ILO has enacted some social welfare conventions of the seamen as *1987 Seamen Welfare Convention*, *1920 Out-Of-Work Seamen Compensation Convention*, *1946 Seamen Foods On Board Convention* and so on.

These conventions were enacted in the beginning of the twentieth century and need to modify. But we still can absorb from these conventions when we enact the relative laws in China.

5 THE SEAMEN'S SOCIAL HELPS

The states have liabilities to help citizens pass through life crises. The social helps is the main mode. The seamen career is mobile and so the seamen social helps should be international. Any states has liabilities to help the seamen refugees, lake home. The Seamen Refugees Treaty was enacted by

the ILO. The seamen helps is special and needs the international cooperation.

6 THE LEGISLATION MODE OF THE SEAMEN'S SOCIAL SECURITY

The social security laws of the seamen are enacted to defense the special rights of the seamen. Which mode should be opted when we legalize? The Seamen Act in China has been planning in the agenda. The social security of the seamen can be partly regularized in The Seamen Act. We can also enacted a special The Social Security Of The Seamen. The social security of the seamen is complex and special. On the one hand we should base on our development level of China; on the other hand we should absorb the foreign laws and the international laws.

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