

**"Occurrence reporting, can maritime transport learn from aviation?  
Promoting the development of a 'just culture' principle"**

**Just Culture perception by maritime professionals**

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Thank you for your kind invitation to speak. This Seminar is a small but significant step towards providing the employment climate and safety conditions that will deliver a sustainable and prosperous maritime industry in the European Union. It is with regret that safety is not given the same priority in shipping as in other sectors of the transport. This is not the fault of European seafarers or the ship-owners, who are generally puppets in a global competitive industry where humans are considered a disposable commodity.

The shipping industry by its nature is resistant to change and may be considered a late adopter. Recent and ongoing issues concerning fuel oil and the environment serve to illustrate this. Despite overwhelming evidence of environmental damage and premature loss of life, resulting in considerable social and economic cost, the movement towards the use of cleaner fuels has, and continues to be, fiercely resisted.

It is natural that maritime professionals are cynical of the 'Just Culture' concept given the fractured and sometimes casual nature of the labour market and the structure of ownership in the industry. This is reinforced by the requirement to work a maximum of 91 hours/week in accordance with the social provisions of the Maritime Labour Convention (MLC) 2006 and a maximum of 98 hours/week limited to a maximum two week period with a reversion to twice the period as a safety provision of the Standards of Training, Certification and Watchkeeping Convention 1978 - 2010 Manila Amendments. Somewhat perverse but true; the argument of flag states, at the behest of their backers, that safety required longer hours prevailed. What's more it was EU flag states that either supported the 98 hour week or remained silent.

Accidents are rarely investigated promptly; sometimes never at all. This is despite regional and international provisions. There are however, some notable exceptions amongst flag states with respect to accident investigation, but limited to fingers on one hand. Rarely do the findings produce change, other than within the company involved. The report into the Costa Concordia has been subject to considerable debate, and not for its content I may add, but the lack of it. But where is the report on the Costa Europa? Would a proper, widely available report have been useful? On reflection, I doubt it - much is said at the time of an incident - the well-rehearsed regrets and words of sympathy pour out soon to be forgotten, certainly by the time any report is ever produced.

Occurrence reporting need not in itself bring about a full investigation. If further investigation is necessary this should not be feared. Otherwise the number of reports will reduce, as will the quality. Similarly, the threat of prosecution, like the sword of Damocles, hangs over the heads of maritime professionals, and none more so than the Master.

This industry has yet to acknowledge explicitly that seafarers have 'Human Rights'. However, Project Horizon, EU funded research into the effects of sleepiness on the cognitive performance of maritime watchkeepers under different watch patterns, confirmed that seafarers were human in getting tired. It is with this background and the readily apparent failure of safety management systems that a 'Just Culture' is expected to be adopted with a 'buy-in' by marine professionals. I ask you?

IN 1982 my own Union, Nautilus -- which was then the Merchant Navy and Airline Officers Association (MNAOA) and included flight engineers in its membership -- sought to establish a reporting system in the United Kingdom for what could be considered procedural failures. This resulted in an Aviation CHIRP, but not for shipping. This was fiercely resisted by ship-owners until 2003 - when, after 3 years of deliberations, the UK Department of Transport set up Maritime CHIRP. The lack of financial support by the shipping industry is an illustration of what can only be considered a lack of interest in such issues at best and at worst sheer contempt. It does, however, demonstrate the need for a properly funded mandatory system.

We should be looking with a very critical eye at initiatives that would promote self-regulation. On the contrary, what is needed is a mandatory regulatory system designed in a way to prevent scapegoating of individuals and, more importantly, one which marine professionals have confidence in. A mandatory system of reporting incidents involving passengers has been adopted in the United States with the efforts of Kendall Carver, of the International Cruise Victims association, through lack of an effective voluntary system. When is such a system to be adopted in Europe?

Because of the very nature and structure of the sector, it is very difficult to apply the principles of the 'Just Culture' - based on a voluntary approach - to maritime transport. The experience gained in civil aviation regarding the implementation of occurrence reporting principles cannot be readily adopted by shipping due to the specificities and fragmentation of the industry.

At the International Maritime Organisation (IMO), non-mandatory guidance is the favoured approach to safety. This permits both flag and coastal states to exercise flexibility, which affords the opportunity for non-compliance. This could be referred to as a 'light touch' approach to regulation as is adopted in Banking. This voluntary approach, while favoured by some, no doubt will afford the opportunity for non-reporting by the less scrupulous.

Before coming to this Seminar I received, from Tim Sindall of Aviation CHIRP in the UK, an extract from Flight International dated 6-12 January 2015 entitled, 'Marshalling the Safety of the Skies' featuring the work experience of Greg Marshall, Vice President of global programmes for Flight Safety Foundation. In the article he refers to the rollout of safety management systems across the global aviation community, recognising the different degree of progress between countries. As he rightly identifies, the main challenge with a

safety management system is not so much the adoption in terms of a philosophy and a process, it is with its integration throughout the organisation.

There is no doubt that this will be possible in some shipping companies, but there will be the issue of how complete it will be given the nature of the industry. Mr Marshall rightly identifies the need for a significant cultural shift throughout layers of the organisation for implementation to succeed. Is this possible in shipping, where the level of safety is set so low at the design and build stages thus making safe operation a struggle to achieve? He further notes, and I would suggest more pertinent to shipping, that organisations that are geographically diverse with many different workforces are particularly challenged.

I would suggest that the fractured nature of the labour market in shipping, created intentionally more than by necessity to reduce costs regardless of safety considerations, results in incompatible personnel who do not speak a common language or share the same cultural background. Surely this would have to change? The 'Just Culture' concept, if we are honest is non-existent in shipping. Our ability to collect safety data is minimal. Where it does exist it is not shared widely and is therefore of questionable use.

Marshall stresses that a system can only be truly effective in a state of 'chronic unease' and can only be truly effective if this sense is felt at all levels of an organisation, irrespective of an individual's role or activity. While he draws upon his experience in aviation, where safety is of higher priority than in shipping, and clearly asserts it has to start at the executive level, it is irrelevant if it remains at that level and undesired attitudes and behaviours are allowed to exist elsewhere.

I would suggest the ownership models in the shipping industry make this a somewhat difficult task. The cry for change is ready and waiting amongst marine professionals, but there is little evidence to suggest this has taken route at the executive level. Perhaps with the notable exception of the tanker sector, where the effect of MARPOL and its regional derivatives have concentrated the minds of executives and personnel alike.

Shipping has come to rely on Port State Control (PSC) because of the ineffectiveness of Flag State Implementation (FSI). Shipping companies readily seek out flag states that have the inability to carry out proper oversight of their operations. There are flag states where accidents are either not properly investigated or woefully inadequate, often taking years to complete or never made public. Is the EU prepared to adopt flag state exclusion? - where states fail to encourage an implement a 'Just Culture'.

The scapegoating of individuals is regrettably common in this industry. Is such a simple assessment correct? Or is it more complex - where the requirements of the parties and the fixation on proximate cause, driven by the insurance market, produce an undesirable frenzy focusing on the seafarer, usually the Master? This can and is, I would suggest, fuelled by a party or the parties for their own self interest.

The Master may have contributed to the cause of an accident and have a measure of culpability but the operators are responsible for the circumstance the Master is placed in, i.e. vessel and crew. As to the consequences and their magnitude, the responsibility lies elsewhere - usually with the parties seeking to protect their own self interests. This may be the government, regulatory authority, designer, (I cannot bring myself to use the term

naval architect), class, yard, hull and machinery insurer, cargo insurer and last, but by no means least, P&I. Those with the most to lose may engage in an orchestrated campaign utilising the existing processes so readily available to deflect attention away from substantive issues onto to the individual so as to avoid addressing manifest deficiencies.

Unless this changes, the Unjust Culture will continue.

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