

A close-up photograph of a person's hand wearing a black, textured work glove, firmly gripping a vertical red metal bar. The person is wearing a dark blue jacket. The background is a blurred brick wall. The overall image conveys a sense of being trapped or restricted.

# SEAFARERS AND CRIMINALISATION

SEAFARERS ARE OFTEN UNFAIRLY BLAMED  
WHEN THEIR VESSEL IS INVOLVED IN  
A MARITIME INCIDENT, SO KNOW YOUR  
RIGHTS TO BE TREATED FAIRLY



**SEAFARERS ARE OFTEN UNFAIRLY BLAMED, AND CONVICTED, WHEN THEIR VESSEL IS INVOLVED IN A MARITIME INCIDENT. AND IT CAN BE DIFFICULT TO KNOW WHERE TO TURN FOR HELP. EACH COUNTRY HAS ITS OWN LEGAL SYSTEM. WHAT YOU MIGHT EXPECT IN YOUR OWN COUNTRY MAY NOT APPLY ELSEWHERE.**

**BUT THERE ARE INTERNATIONAL CODES AND GUIDELINES TO ENSURE THAT YOU ARE TREATED FAIRLY IN ANY CRIMINAL INVESTIGATION.**

### **Why seafarers are criminalised**

The situations in which seafarers can get caught up in criminal investigations include incidences of marine pollution, accidents at sea or even in port, and when illicit cargo is found on board. They are sometimes convicted and imprisoned, even when there is no evidence of wrongdoing.

Worldwide, efforts to fight marine pollution are growing. Efforts to prosecute polluters are growing too.

Seafarers must do all they can to avoid polluting the seas. They must be aware of the International Convention for the Prevention of Pollution from Ships (MARPOL). This International Maritime Organization (IMO) convention governs all aspects of marine pollution, including oily wastewater and garbage.

Violating the MARPOL convention can lead to criminal prosecution by a national government. Seafarers are often unfairly blamed because it is easier for governments to prosecute workers than owners.

Commercial pressures often put seafarers in difficult situations. If the shipowner or manager is putting pressure on you, or if you face accusations of a criminal nature in relation to an accident at sea or a marine pollution incident, you should contact the ITF Seafarer Support team for confidential advice at [seafsupport@itf.org.uk](mailto:seafsupport@itf.org.uk).

You can view more about MARPOL at <https://www.imo.org/en/KnowledgeCentre/ConferencesMeetings/pages/Marpol.aspx>.

### **How do legal systems vary?**

The legal treatment of seafarers varies between countries. This applies to your rights to remain silent, confidentiality of information, safeguards covering arrest and detention, access to legal advice and representation, a fair trial, and processes for extradition. If you are in any doubt, be sure to get advice from your trade union and/or from your company.

Be aware that information given to investigators could be used against you in a criminal prosecution.



## Your rights

If your vessel is involved in a maritime incident, your shipowner and the ship's insurers may provide you with legal support and advice if you are arrested or detained, and support any welfare needs that arise. You may, however, require independent legal advice.

The state under which your ship is flagged has the right under international law to institute legal proceedings requesting the immediate release of any seafarers detained following an accident or pollution incident at sea. But flag of convenience (FOC) states are notorious in failing to pursue this right on behalf of crews of ships under their flags.

### **International mandatory rights**

Your mandatory rights if you become involved in an investigation are set out in the Code for International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident. This code is contained in IMO Convention on the Safety of Life at Sea (SOLAS). It specifies that:

- Your evidence should be provided at the earliest opportunity, and you should be allowed to return to your ship, or be repatriated, as soon as possible.
- You need to be informed of the nature and basis of the marine safety investigation. This means you must be allowed access to legal advice so that you are aware of:
  - any potential risk of incriminating yourself in any proceedings which might follow an investigation;
  - your right not to self-incriminate and to remain silent; and
  - any necessary protections that need to be provided to you to prevent your evidence to the investigation from being subsequently used against you.

The Code can be viewed at <https://imorules.com/CI.html>



## International guidelines

There are also international guidelines to ensure that you are treated fairly during any investigation or if you are detained by authorities of the port, the coastal state, or the flag state.

These represent the internationally accepted standard for how investigating authorities should treat seafarers. These are not mandatory and are not always observed. They include the following rights:

- You have the right to a lawyer. Ask for one before answering any questions or making any statements, since these could be used against you in any future legal case. An ITF inspector or your union can help you find an independent lawyer.
- You must be able to understand what's being said – ask the authorities to stop the questioning if you don't understand. If you have difficulties because of the language being used, ask for an interpreter.

- Your company has an obligation to assist you – contact your company and/or union for advice and help.

These IMO/International Labour Organization (ILO) Guidelines on the Fair Treatment of Seafarers in the Event of a Maritime Accident are available for viewing at <https://www.imo.org/en/MediaCentre/HotTopics/Pages/Supporting-Seafarers.aspx>.

If you want further advice, and there is no local union or ITF inspector present where you are, email the ITF Seafarer Support team at [seafsupport@itf.org.uk](mailto:seafsupport@itf.org.uk).

The ITF has produced a toolkit on criminalisation which can be found on the ITF Seafarers website ([www.itfseafarers.org](http://www.itfseafarers.org)).



**SEAFARERS – MAKE THE ITF YOUR DAILY PORT OF CALL FOR INFORMATION AND ADVICE.**

**USE THE FREE ITF SEAFARERS APP (AVAILABLE FOR BOTH ANDROID AND IOS DEVICES FROM YOUR APP STORE) OR VISIT THE WEBSITE DEDICATED TO YOU [WWW.ITFSEAFARERS.ORG](http://WWW.ITFSEAFARERS.ORG)**

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