



Research on the Legal Problems of Crew Management of Ocean going Fishing Vessels

Xizhi Yue*, Liangwei Yang, Yumeng Ning

Dalian Ocean University, Dalian, Liaoning, China.

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***Corresponding author:** Xizhi Yue, Dalian Ocean University, Dalian, Liaoning, China.

Abstract

By the end of 2019, China had 2512 ocean going fishing vessels, and the development of ocean going fishery is showing a vigorous trend. However, the occurrence of "Lu Rongyu 2682" and other cases, as well as more and more maritime crime cases and maritime accidents in recent years, show that the process of ocean going fishing vessels from high-speed development to high-quality development is not smooth—low quality of crew, legislative deficiencies, poor management of fishing vessels and many other factors are still obstacles to the development of China's fisheries. Therefore, how to draw lessons from the past pain, strengthen the management of the crew of ocean going fishing vessels and promote the high-quality development of ocean going fisheries is still a problem that needs our profound reflection.

Keywords

Ocean going, fishing boat, crew management

Ocean going fishing vessels generally refer to vessels that carry out fishing operations on the high seas or in the waters of other countries and are far away from their own fishing ports. Today, the marine economy is becoming increasingly important. The development of ocean going fishing vessels directly affects the development of the marine economy. Ocean going fishing vessels have the characteristics of high degree of automation, strong degree of mechanization, complete facilities, long mileage, etc., which play an important role in China's ocean going fisheries. Ocean going crew is an indispensable part of ocean going fishing vessels, mainly engaged in ocean going fishing.

Since the reform and opening up, the living standard of the people has improved significantly, and the demand for seafood has increased day by day. According to WTO statistics, from 2016 to 2019, China's demand for imported seafood broke through from 7.6 million tons to 10 million tons. The good market prospect and large market demand greatly stimulate the development of pelagic fishery. Statistics show that by 2019, the number of Chinese ocean going fishing vessels has stabilized at 2512, and the power of ocean going fishing vessels has reached 2,156,100 kilowatts; At the same time, China's deep-sea fishery output reached 2,086,200 tons, a year-on-year increase of 4.97%, and the total output value of deep-sea fishery reached 23.6 billion yuan (2019 China Fishery Statistics Yearbook). With the vigorous development of deep-sea fisheries, the number of crimes and accidents at sea has increased significantly. In 2013, the "Lu Rongyu 2682" case was pronounced. Of the 11 crew members involved, six were sentenced to death and five were sentenced to four to fifteen years' imprisonment. On December 22, 2003, Lurongyu No. 1653 fishing boat robbed a fishing boat in Jiangsu Province, killing one crew member and injuring one, and robbed a total of 20,000 yuan worth of goods. On November 15, 2006, the ship "Suidongfang 206" collided with a cargo ship and then sank. It was found that the sunken ship went to sea without formal procedures (Xu Wei'an, 2012). On April 19, 2011, the "Haiyang 208" ship collided with a "three no" fishing boat, which

sank on the spot, killing four people.

1. The Manifestation and Cause Analysis of the Management Problems of the Seagoing Fishing Vessel Crew

With the increase of market demand and the intensification of globalization, it is urgent to strengthen the management of crew members of ocean going fishing vessels and promote ocean going fishery from high-speed development to high-quality development. We should be soberly aware that a series of problems exposed in the "Lu Rongyu 2682" case are actually the epitome of the management of fishing boat crew during the development of China's deep-sea fisheries. Maritime accidents and crimes occur every day. In order to prevent similar tragedies from happening again, we should take them as a lesson from the past. Through the analysis of the problems exposed in these cases, we should find out the defects and deficiencies in the current management of crew members on ocean going fishing vessels, and put forward measures and suggestions to promote and improve the development of ocean going fisheries.

1.1 On the quality of the crew of ocean going fishing vessels

The low quality of crew is one of the important factors that cause frequent accidents of ocean going fishing vessels. Statistics show that 91% of the crew of ocean going fishing vessels in China have bachelor's degree or below. The main reasons for the low quality of the crew are as follows:

First, due to the harsh working environment of ocean going fishing vessels, long sailing time, being far away from inland, and having no advantage over land work in terms of remuneration, most senior technicians and highly educated personnel are unwilling to engage in this work. According to the interview with the relevant personnel of the "Lu Rongyu 2682" case, the crew members come from all over the country with different occupations, including barbecue shop operators, medium-sized bus drivers and unemployed people.

Second, crew members need to get on board with certificates, and ratings can go to sea only after passing the examination after several months of training. Since no crew can be recruited, the fishery company will reduce the threshold of crew boarding through various methods. According to the recollection of the party involved in the "Lu Rongyu 2682" case, "the company asked us to apply for the seaman's certificate first. Let me think about it first. Anyway, the company paid a part of the money. It took three days of classes in total, and the examination was even tape copying, which was basically proved." It can be seen that most of the crew members do not have the basic quality of safety, security and operation that they should have when boarding the ship, which also leaves a great potential safety hazard for future sailing.

Finally, in order to maximize the benefits, the fishery company did not arrange daily skill training and crew quality assessment, which led to the continuous low quality of the crew.

1.2 On the legislative defects of ocean going fishing vessels

Law is an important guarantee for social and economic development. As an important part of marine economic development, ocean going fishing vessels and crew members also need to formulate corresponding laws and regulations to protect their interests. At present, there is no special legislation for the protection of crew members in China, only the Regulation of the People's Republic of China on Crew Members and some administrative regulations formulated by the Ministry of Communications and its subordinate departments, such as the Technical Rules for Statutory Survey of Domestic Marine Fishing Vessels (Zhou Xiuling, 2007). These laws and regulations have the following problems when adjusting the relationship between fishing vessels and crew members:

Pay more attention to management than security. In the Regulation of the People's Republic of China on Crew Members and other administrative regulations, the provisions regulating the management relationship, the access system and the assessment system of crew members account for the majority, while the provisions on the protection of crew members' rights and interests are few.

Lack of implementation rules. There are no specific rules for the implementation of seafarers' disease prevention, complaints, paid leave, physical examination, remuneration, legal relief and other issues specified in the Regulations on Crew Members. At the same time, the Crew Ordinance and other regulations do not specifically target the crew members of remote fishing vessels, which makes it difficult to implement the law, and also makes it impossible to fully protect the rights and interests of crew members.

Lack of relevant provisions on the protection of crew rights. When the rights and interests of crew members are

damaged, timely and reasonable protection of rights and interests and relief of rights and interests is an essential part to ensure the smooth and orderly operation of ocean going fishing vessels. If the law lacks provisions on rights protection, it will lead to difficulties in protecting the rights of crew members, which will lead to crew members' failure to act in accordance with the law and seek private relief when their rights and interests are damaged.

1.3 On the mental health problems of Seagoing Fishing Vessel Crew

Mental health problem is one of the most easily ignored problems in ocean going fishing vessel operation, but it is most likely to affect the safety of operation. The working nature of ocean going crew is relatively special. Due to factors such as long-time drifting and narrow space, it is very easy to affect the crew's psychology. According to relevant data, the mental status of Chinese ocean going fishing boat crew is not optimistic, and the mental health rate is only 45.6%. More than half of the crew members' psychological evaluation results are "average" and "poor" (Gao Yude & Zhang Xiao, 2006). It can be seen that more than half of ocean going sailors have problems in their mental health, which are mainly reflected in the following aspects:

As a result of a long time drifting on the sea, sometimes even going out to sea for two years without being able to go ashore, and having difficulty communicating with land and family members, most of the crew members are anxious, which leads to manic depression and other psychological conditions.

The risk of offshore operation is relatively high. The crew members need to face the severe weather such as wind, waves and rainstorm at any time, and they also need to be careful to maintain the normal operation of the ship. The director of China Fishing Vessel Owners Mutual Insurance Association once pointed out that the occupational risk of ocean going fishing boat crew is very high, 35 times that of the construction industry and 124% of that of the coal industry. The tension in the face of danger for a long time will make the crew overly sensitive, anxious and irritable, which will lead to accidents.

The limited and solidified interpersonal relationship makes it impossible for the crew members to carry out normal social activities like on land, and the tension in daily operations is difficult to vent through social channels. At the same time, in some fishing vessels, the old grade management system is still playing a role, which makes the management and control of high-level crew members to low-level crew members become more powerful and arbitrary, while the dissatisfaction of low-level crew members to high-level crew members increases sharply every day, which is very likely to cause conflicts.

1.4 On the management and operation of fishery companies

In the final analysis, the problem at sea lies on land. While paying attention to the problem of ocean going fishing vessels, we should pay more attention to the fishing companies behind the fishing vessels. In recent years, accidents of ocean going fishing vessels have occurred frequently, most of which can be traced back to fishing companies. The problems of supervision, management and operation of fishery companies have directly or indirectly led to the occurrence of offshore fishing vessel accidents. The main problems are as follows:

In order to save recruitment costs, a large number of undocumented migrant workers with low professional skills have been recruited, and they have been trained in the way of "muddling through the border", that is, sending ships to sea. As a result, seafarers generally have low quality, lack professional skills, and can not handle emergencies correctly, leading to accidents.

Loose management. Fishery companies lack scientific and rational management of fishing vessels, which makes the ships at sea lack an effective response mechanism when encountering emergencies, and the safety production cannot be guaranteed. At the same time, there are more serious problems such as "attaching ships".

Insufficient supervision over fishing vessels. In order to maximize the benefits, fishery companies often pay less attention to the safety inspection, machinery inspection, crew health inspection and other issues of fishing vessels. Some fishery companies even abuse the legal provisions and use scrapped or cancelled vessels to operate at sea, which directly leads to the high incidence of maritime vessel accidents, leaving great hidden dangers for maritime safety.

2. Solutions to the Problems of Seagoing Fishing Vessel Crew

It can be seen from the above that in recent years, there are still many problems in the management of crew members of ocean going fishing vessels in China, especially in the selection and training of ocean going crew members. This requires us to coordinate the promotion of marine utilization, marine development and marine

management and control, so as to make them an important part of the socialist modernization drive. The management and development of the crew of ocean going fishing vessels have a direct impact on the development and utilization of China's marine resources, the long-term sustainable development of marine fisheries, and the national marine rights and interests. Therefore, it is essential to solve a series of problems in the management of crew members of ocean going fishing vessels and ensure the sustainable and healthy development of ocean going fisheries in the new era (Yin Shaozhou, 2019).

2.1 Earnestly do a good job in the screening of oceangoing crew access

The assessment system for crew members and seafarers shall be implemented in strict accordance with the relevant provisions of the State to ensure that the examination is conducted fairly and impartially. Those who fail to pass the assessment shall be strictly prohibited from going to sea. Formulate corresponding measures to supervise the recruitment behavior of fishery companies. Those who practice fraud in the recruitment process shall be severely punished. Urge fishery companies to carry out daily training, or the Maritime Safety Administration and fishery administrative departments shall cooperate with training institutions to carry out regular training, so as to ensure that the crew's skills meet the requirements for going to sea.

2.2 Strengthen legislation on ocean going fishing vessels, fishery, crew, etc

The measures for the safety of deep-sea fisheries, the management of fishing vessels and the protection of crew members shall be specified by law (Zhou Xiuling, 2007). The legislation should focus on protecting the rights and interests of crew members, embody humanistic care, bring repatriation, retirement, minimum wage, disability compensation and other issues into the scope of legal adjustment, and eliminate the worries of crew members when working at sea. At the same time, strengthen the popularization of the legal knowledge of the crew, so that the crew can know, understand, abide by the law, act in accordance with the law, and safeguard their rights in accordance with the law.

2.3 Focus on the mental health of oceangoing sailors

When recruiting crew members, fishery companies should include psychological quality into the investigation items. After the crew members enter the post, they should pay close attention to the psychological changes of the crew members and do a good job of persuasion in a timely manner. At the same time, a corresponding psychological counseling team should be established to provide psychological help to the sailors in need.

2.4 Improve the management system of ocean going fishing vessels

We will strengthen supervision over deep-sea fisheries and investigate and punish "three no" fishing vessels. The state shall formulate a unified crew assessment mechanism to ensure that the crew members receive formal and complete training and examination. Those who seriously endanger fishery safety, such as "three no ships" without ship name or number, ship certificate or port of registry, shall be investigated and punished in strict accordance with the Notice on Cleaning up and Banning "Three No" Ships issued by the Ministry of Communications. Companies or individuals who use scrapped or cancelled vessels to go to sea shall be punished according to law. At the same time, the legislation should be in line with the United Nations Convention on the Law of the Sea and other international conventions to make up for the lack of control over ocean going fishing vessels in China (Yang Xiuying & Li Donglou, 2014).

3. Final summary

The 13th Five Year Plan points out that the development of deep-sea fisheries should focus on strengthening the training of fishery science and technology talents, widely carry out relevant personnel training, continuing education, etc., to improve the quality of employees; Strengthen fishery administration and strictly implement the system of working with certificates; Strengthen the supervision and management of deep-sea fishing vessels to ensure the safety of aquatic products and production and operation; Clearly point out the boundaries of violations and crimes in deep-sea fisheries, strengthen the legal quality training of practitioners, so that practitioners have laws to abide by and must abide by, and create a good legal environment for deep-sea fisheries.

At present, China's ocean going fishing vessels are growing rapidly, which has caused certain pressure on resource carrying capacity, crew management capacity, security capacity, etc. The development of ocean going fish-

ing vessels has a long way to go. Digest, adjust and stabilize the existing problems of ocean going fishing boat crew, and effectively solve the problems of fishing boat management, crew recruitment and training, and maritime safety, which are related to the safety of people's seafood, the national marine interests, and the smooth and orderly progress of the strategy of maritime power. At the same time, realizing the transformation from high-speed growth to high-quality development and promoting the smooth and orderly development of deep-sea fisheries are also the inherent needs of accelerating the transformation of deep-sea fisheries.

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