



HUMAN RIGHTS AT SEA



HRAS

Case Study **In Their Own Words**

Eight Indian Seafarers
Abandoned Off-Shore
Walvis Bay, Namibia, Face
Fatigue, Lack of Wages
and Mental Health Issues.

“Holding us here against our wishes after we have completed the contracts is a direct infringement of our human rights. We seek help so that we can all be sent home A.S.A.P.”¹



“We ask for justice to prevail.”

Capt. Amarjit Singh Bajwa

Introduction

Another IMO recorded case² of abandoned seafarers has come to the fore-front of public attention, this time in Walvis Bay, Namibia, Africa. The Captain has reached out to Human Rights at Sea through its Iranian-based researcher, Miss Hajar Hejazi, due to the lack of resolution in the matter.

Indian seafarers (17 recorded on the IMO database, eight (8) reported to Human Rights at Sea) remain stranded on board the “MV HALANI 1” with unpaid wages, insufficient provisions, physical and mental health problems highlighted in recently submitted crew witness statements to the charity, **some indicating very worryingly that two of their number were prepared to commit suicide over the non-payment.** Protection & Indemnity insurance is also reported as having expired on 20th February 2018.

The crew have been supported by The Mission to Seafarers for their immediate welfare needs throughout, with the flag State (St. Vincent & Grenadines), Namibian legal and judicial authorities, Indian consular and local port authorities engaged with the matter; though at the time of

writing and from the first recorded notification of abandonment (27th April 2018), the remaining crew are without wages nine (9) months on, with some being variously reported as having been onboard for over 24 months.

It is once again very concerning that Human Rights at Sea publicly reports another case study on the deliberate abandonment of crew by a ship owner who effectively instigates abusive labour conditions to demoralise hard-working seafarers so that they leave the vessel and return home without fair payment of their owed salaries under legally -binding contracts of employment.

It further raises the issue of whether or not the Maritime Labour Convention (MLC) 2006 is a successful legal instrument for providing the route to an effective legal remedy in such cases, noting that the flag State in this matter ratified the MLC and brought it in to force on 10th November 2010.³

Background

Eight Indian seafarers have been on board “MV HALANI 1” (flag State: St Vincent and Grenadines, IMO No: 7816379) between one and two years variously with unpaid wages, suffering from fatigue and serious mental health problems, including written statements indicating some crew member’s preparedness to commit suicide.

Captain Amarjit Singh Bajwa contacted the charity’s Iran-based researcher, Miss Hajar Hejazi, to appeal for urgent help on behalf of himself and his seven Indian crew members who remain stranded at Walvis Bay, Namibia.

Halani 1 is a DP3 vessel that works with offshore oil rigs owned by

“Halani International PVT Ltd”, a company based outside of Dubai, in Sharjah, UAE. “Halani Shipping PVT LTD: is owned by fellow Indian Mr. Ashok Bhambhani, who owns three other vessels also at anchorage in Walvis Bay. The vessels are Barge DSH 1 (Flag: St Vincent and Grenadines, IMO No: 8645466), BARGE VENTURE (Flag: St Vincent and Grenadines, IMO No: 8638774) and TUG IMA ATISI (Flag: Panama, IMO No: 8108119).

All four vessels remain under the care of the eight Indian seafarers of HALANI 1 at Walvis Bay port who have arguably exceeded their professional employment duties and their generosity in acting as loyal crew.

The Course of Events: As reported to Human Rights at Sea by the Master of “HALANI 1”, Capt. Amarjit Singh Bajwa

“ HALANI 1 arrived at the port of Walvis Bay, in Namibia on 22nd of July 2017. The two Barges were also moored at Walvis Bay and IMA ATISI the tug board and Halani 1 were alongside them. Part of the crew of “Halani 1” was signed off in November 2017, with salaries of three months due. Their salaries have not been paid in full till today. The officers who were signed off in November 2017 did not receive their wages until January 2018. There was a plan for HALANI 1 to sail out to India. The crew on-board refused to sail the ship and the owner promised that the salaries would be paid by end of January 2018. The voyage was cancelled and the crew was eventually repatriated, after five months on board the HALANI 1 with insufficient provisions to survive and with only with 50% of their salaries.

I joined HALANI 1, in the rank of master on 18th March 2018. For three to four weeks we were only eating dal with plain rice, without onions, tomatoes. **The intention of the owner was to starve and demoralize us, so we would return home without our salaries.** We contacted ITF and they tried hard to get the owner to pay our wages and repatriate us but soon they also gave up. They advised us to approach the local courts and file a case. We filed the case against “HALANI International PVT LTD” on the 18th May 2018 and had the vessel arrested, for non-payment of wages, and with a court order for crew relief and repatriation to India. Following the filing of the case, the deputy sheriff of the High Court of Namibia provided us with the provisions necessary to our subsistence and life became more bearable.

Regrettably, the owner did not respond to the court notice that the vessel was to be auctioned. On the day of the auction, which was the 10th

October 2018, the owner offered to pay the crew their salaries for the year up to September 2018, and to repatriate us back to India. He promised to us and to our lawyer that he would repatriate us in seven to ten days. Nothing happened.

From the 12th October onwards, I started communicating directly with him regarding the crew relief. He kept giving me excuses as to why our repatriation was delayed, until the end of December when he went incommunicado. **At that point we had a meeting with Port Master of Walvis Bay and he told us that, under no circumstances, the vessel could be abandoned, due to safety issues.** So I asked him what is the minimum crew necessary and he said that eight crew-members should be sufficient. We were 16 seafarers on board at that time, so through our P&I club, I signed off 8 crew members in the end of October. I still kept in touch with the owner, trying to ask for our relief but he did not make any arrangements and finally he went again incommunicado towards the end of December 2018, refusing to pick up my calls.

The crew on board the other three vessels at Walvis Bay owned by “HALANI International PVT LTD” faced similar problems. The company signed of some crew members from TUG IMA ATISI, BARGE VENTURE and BARGE DSH 1. Some others, managed to get their own exit visas, tickets and made their own transport arrangements locally and went home.

The status of the crew on all four vessels by September 2018 was the following: IMA ATISI had 5 crew, BARGE Venture had no crew on board and Barge DSH 1 had only one crew - the Captain. The Captain of BARGE DSH1 managed to get help from the P&I Club and went home in November 2018. ”

¹ Reported by Jade Lennon, 9 Jan 19, Medium article: https://medium.com/@Jade_Lennon/exclusive-us-15-million-ship-and-indian-crew-abandoned-at-walvis-bay-9d70713db4ad

² https://www.ilo.org/dyn/seafarers/seafarersbrowse.details?p_lang=en&p_abandonment_id=341&p_search_id=190127153640

³ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312331

“We have been on board too long. The morale of the crew has been running low and the mental health is not good. Frequent arguments on issues, loss of temper at even the slightest excuse and general indifferent attitude are all part of our everyday lives.”

Capt. Amarjit Singh Bajwa

Mental Health Issues and Suicidal Crew on board of IMA ATISI

“The IMA ATISI had two crew members who were very mentally disturbed and even threatened to commit suicide. The P&I was willing to help but it was unable to provide for relief. The ITF started pressurizing for the IMA ATISI crew to be relieved urgently. The Port Captain agreed that if the “HALANI 1” crew agrees to look after IMA ATISI, the crew could be signed off.

So, myself and the crew agreed to look after the IMA ATISI provided that we would be compensated for that and that when repatriation time comes we would not be stopped from going home because of IMA ATISI requirements. This was agreed and on the 4th October, all remaining seafarers of IMA ATISI were signed off. Through the P&I, they were paid 120 days of wages and their repatriation.



A Strategy of Labour Abusive Practices and No Action from the Indian Authorities

Currently only HALANI 1 has crew on board. My fellow Indian nationals are: Mr Balakrishan, Chief Engineer, Mr Vinoth, Electrotechnical Officer, Mr Satayedra, crew member, Mr Sing Negi, crew member, Mr Naresh (oiler), Mr Badudasan (oiler) and Mr Santosh Negi, (cook).

IMA ATISI is under our care at the moment. The two barges are also abandoned. However, we are tending to the moorings of all four vessels because IMA ATISI and HALANI 1 are at the outer ends, with both barges in between.

The owner has seriously violated our human rights by not providing us enough food, not paying our wages and not allowing us to go home after we have completed our contracts. I have a crew member on board who is now in 24th month of his service, as against his contract of 6 months. The owner has pursued this strategy of labour against seafarers in the past 2 years, including vessels in India and he seems to be getting away with it.

Considering that the crew members are Indians, the owner is also Indian, the contracts have been signed in Mumbai, we ask ourselves how come the government of India and Director General of Shipping in India have taken no action against the ship owner? We ask for justice to prevail. ”

Individual Statements of the Crew Member of HALANI 1 as provided to Human Rights at Sea⁴



Crew members supported by The Mission to Seafarers staff, Walvis Bay, Namibia @Jade_Lennon/exclusive-us-15-million-ship-and-indian-crew-abandoned-at-walvis-bay-9d70713db4ad ^{4a}

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Sharjah, UAE. “Halani Shipping PVT LTD: is owned by fellow Indian Mr. Ashok Bhambhani, who owns three other vessels also at anchorage in Walvis Bay. The vessels are Barge DSH 1 (Flag: St Vincent and Grenadines, IMO No: 8645466), BARGE VENTURE (Flag: St Vincent and Grenadines, IMO No: 8638774) and TUG IMA ATISI (Flag: Panama, IMO No: 8108119).

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Personal Statement of Mr Chandra Rakesh Singh Negi, AB HALANI 1

I hereby state that I am Chandra Rakesh Singh Negi A/B, Passport No. L1545364, through Halani Shipping Mumbai joined ship Halani 1 on 8th November 2017 at Walvis Bay Port, Namibia. My contract was for 6 months and today I am running 15th month on board. I have many problems on board: Problem about my salary. Have not received salary for last three months. Problem about Medical. The medical certificate for the vessel has expired Problem for my relief. I am not being signed off Insurance problem. The vessel’s Insurance has expired. No cash advance - having lot of problems because of this. Human Right Violations – P & I is willing to help us but the Port is not allowing us without relief. We have no safety on board and because of all this **I am always under mental tension that in case if anything happens to me on board then who will be responsible. I come from a poor family, where along with my job I have to look after my family also. There are many problems at home. My children are college going and I do not have money to pay their fees. My mother is quite old and has many problems. I am very worried about my family as due to no salary and sign off my family might come on the road.**

⁴ Human Rights at Sea has explicit written permission to reproduce.

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“My mental state is not all right. I feel very stressed all the time. The ship’s insurance has also expired. So if anything was to happen to me then who will take responsibility for that?”

Santosh Singh Cook

Personal Statement of Satyendra Pratap Singh A/B

I hereby state that I am Satyendra Pratap Singh A/B, Passport No. M7164156, through Halani Shipping Mumbai joined ship Halani 1 on 23rd November 2017 at Walvis Bay Port, Namibia. My contract was for 6 months (+/- 1 Month) and today I am running the 14th month on board. I have many problems at home and I need to go home as soon as possible. I am the eldest sibling and therefore have lot of responsibilities towards my family. My mother was operated for brain haemorrhage in April 2018 and she needs to go for check up every 2-3 months. I have already 3.5 months’ salary overdue. The ships medical certificate has expired. **My marriage date is getting postponed every time. Because of this my family members are under mental tension. I am mentally under stress and then I start talking loudly.** If anything happens to me on board then who will be responsible for it? The Port authority is not allowing us to go home without relief. I am extremely worried about my home. My mother every time she speaks to me in a very sad voice, which I don’t like. I am constantly worried.

Translation of Personal Statement of Santosh Singh Negi - Cook

I respectfully submit I am Santosh Singh Negi, Cook, Passport No. H 3155322, I joined through Halani Shipping Mumbai MV Halani 1 at Walvis Bay Port in Namibia on 06 Sept 2017. My contract was for six months but at present I am serving 17 months, and I am facing lot of difficulties here. Salary problem - Since over last three months I have not received any salary because of which I am very stressed. Relief problem - Because I am not getting my vacation my mental state is pitiable. Medical Certificate - My medical certificate has expired five months ago, which is bothering me. Communication - Since I have not received any cash advance I am finding it difficult to buy phone vouchers and I am not able to talk to my family frequently. My marriage was fixed but I have continuously been postponing it, because of which my family is greatly disturbed. My passport will be expiring on 26th Feb 2019. My mental state is not all right. I feel very stressed all the time. **The ship’s insurance has also expired. So if anything was to happen to me then who will take responsibility for that?**

Translation of Personal Statement of Naresh Kumar M/M

I joined Halani 1 on 8th November 2017. My contract was for six months. My Contract completed on 7th May 2018. My wife was to have an operation for the delivery of the baby. I sent many requests to the company for relief but the company gave no reply. Vessel’s medical certificate has also expired. **There are no medicines on board. So I am very scared on board that I should fall sick.** Ship’s insurance has also expired. I am having lot of domestic problems. I am now in the 15th month on board the ship. I am fully stressed. The company is not extending any kind of support to us. The food/provisions is also being supplied by the Namibian Court. We have over three months salary due now.

ILO, Flag State & other Authorities

The International Labour Organisation (ILO) reported in April 2018 that the vessel, along with a tug and two accommodation barges owned by Halani had been abandoned at Walvis Bay and that the “owner is having financial problems as they can’t come up with payments to seafarers on-board.” **Halani-1 is valued at over US\$15 million.**

The SVG Flag State Inspector in June last year confirmed that the company did not pay its seafarers for several months and that they were running short on food supplies.⁵

On 12 June, a company representative Kamal Aggarwal told the ILO: “We are making arrangements to pay the salaries for the Halani-1 crew and repatriate them back home... We are also in the meantime making efforts to sell Halani-5 and pay the crew as well as repatriate them back to their home town... provisions have been ordered and shall be supplied by Monday.”⁶

The Mission to Seafarers in Namibia and their lawyer, Mr. Danie Melhrebe, continue to help the crew members with their legal case in Namibia, and the crew would like to extend their sincere gratitude.

Final Comment

Human Rights at Sea remains committed to continuing to publicly showcase abusive labour and human rights practices towards crew from the first-hand perspective of front-line seafarers and who, in this case, have directly appealed to the charity for help when all other legal avenues and official channels have apparently failed to resolve the matter. The charity further finds it concerning that in all of our latest publicly available case studies, the abandoned crew are predominantly Indian seafarers. This begs the question of what is the level and detail of State scrutiny and commercial ship manager due diligence checks into the seafarer recruitment process in India, reflecting implementation of the 2011 UN Guiding Principles on Business and Human Rights, at the very least?

World Map: Eight Indian Seafarers Abandoned Off-Shore Walvis Bay, Namibia, Face Fatigue, Lack of Wages and Mental Health Issues.



⁵ https://medium.com/@Jade_Lennon/exclusive-us-15-million-ship-and-indian-crew-abandoned-at-walvis-bay-9d70713db4ad

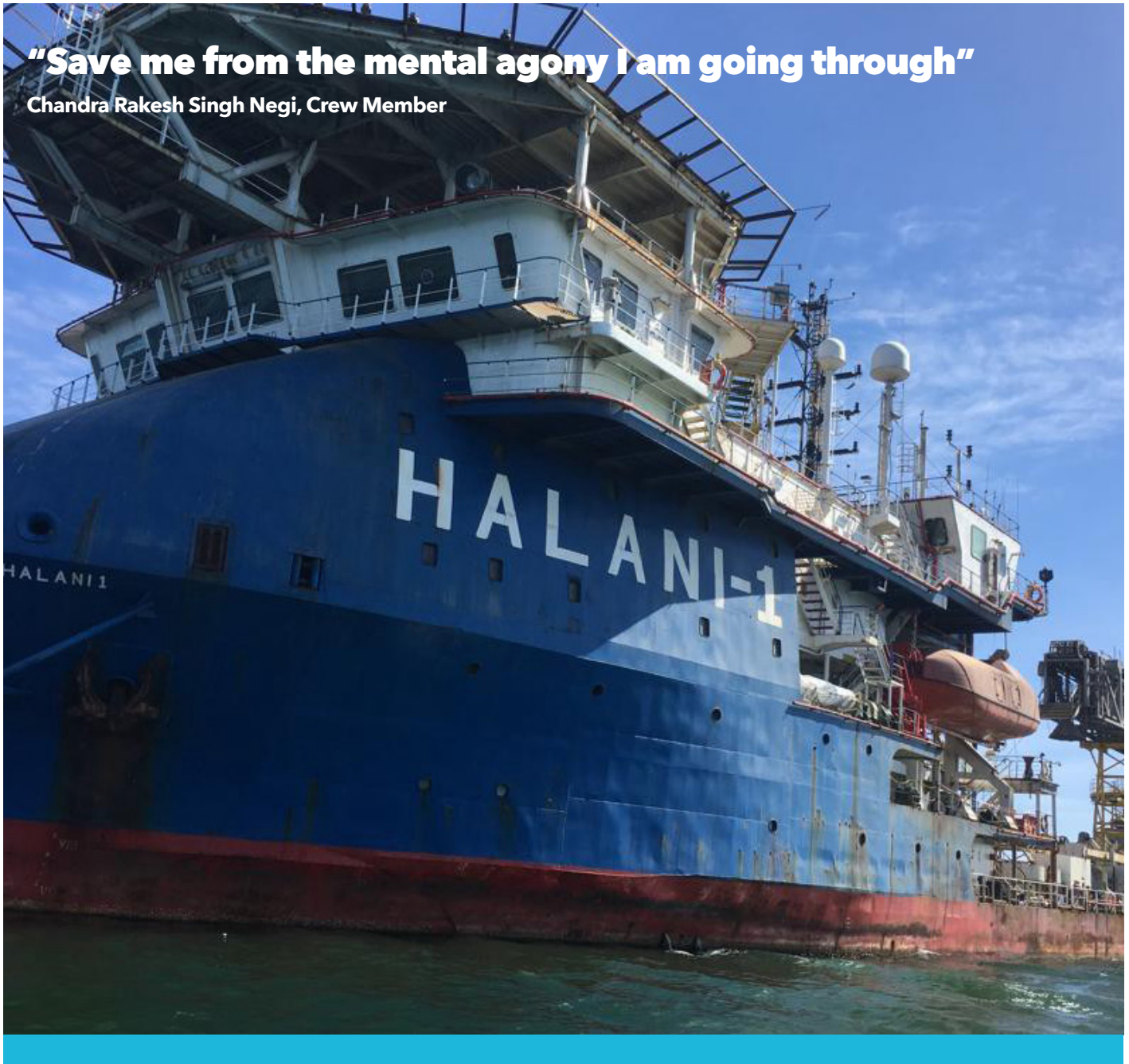
⁶ Ibid

Disclaimer

The content and detail within this Human Rights at Sea Case Study has been provided to Human Rights at Sea by the seafarers stranded on board their vessel in Walvis Bay, Namibia. The contents of the submitted text have been checked, as best as is possible, for accuracy by the authors at the time of writing. Human Rights at Sea is not liable in anyway, whatsoever, in any jurisdiction, for the contents of this case study which has been translated and published in good faith following investigation by the Charity. All reported text, articles and pictures have been acknowledged where able and known to the authors. Any omissions or factual inaccuracies may be alerted by writing to: enquiries@humanrightsea.org



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"Save me from the mental agony I am going through"

Chandra Rakesh Singh Negi, Crew Member





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Human Rights at Sea is a Registered Charity in England and Wales No. 1161673. The organisation has been independently developed for the benefit of the international community for matters and issues concerning human rights in the maritime environment. Its aim is to explicitly raise awareness, implementation and accountability of human rights provisions throughout the maritime environment, especially where they are currently absent, ignored or being abused.

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