



**THE SEAMEN'S CHURCH INSTITUTE  
OF NEW YORK AND NEW JERSEY**

241 Water Street  
New York, New York 10038  
212/349-9090 Fax: 212/349-8342 Website:  
[www.seamenschurch.org](http://www.seamenschurch.org)

Charleston School of Law  
Professionalism Series

Public Service Careers

Douglas B. Stevenson, Esq.  
Director, Policy, Advocacy & Law  
The Seamen's Church Institute of NY & NJ

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Dean Gershon, Charleston School of Law faculty and students, I am extraordinarily honored to be with you today to participate in the Charleston School of Law Professionalism Series. I am especially honored to be included in the company of previous Professionalism Series speakers, all of whom are either eminent judges, top practicing attorneys, or successful business leaders.

I am not a judge. I have never been in the private practice of law. And, I have not been successful in business. I am speaking to you from a very different perspective. My perspective is from my work as a full time public service attorney.

I must tell you that I am really impressed with the Charleston School of Law. It is a remarkable institution that not only instills its students with a commitment to public service, but it also has a focus on maritime law studies.

So, it should be no surprise to anyone that the Seamen's Church Institute's Center for Seafarers' Rights, the world's only full time legal aid program devoted to merchant mariners, has teamed up with the Charleston School of Law.

It has been a real pleasure for me to work with Prof. Randall Bridwell, director of the law school's Charleston Maritime Legal Institute and with Prof. Elizabeth McCullough, the

law school's Externship Director to establish a unique externship opportunity for a Charleston School of Law student to gain public service experience in maritime law.

At this point I would like to introduce one of your fellow students, John Radeck, who also happens to be the first CSOL extern at the Center for Seafarers' Rights. John spent last May with us in New York where he learned about the importance of commercial shipping to the world's economy and the importance of protecting ship's crews. I suspect that if you ask John about the scourge of modern piracy, how orange juice is shipped from Brazil to the United States, or about international standards for working on fishing vessels, he will be able answer your questions – and more. John also learned how to navigate the NY subway system, and to survive in the city on a student's stipend.

Presentation of certificate.

John did a great job representing Charleston School of Law as its first intern at the Center for Seafarers' Rights. He also learned a lot about a world that very few Americans know, even though they are entirely dependent on that world. I am speaking about the world of commercial shipping. I know that Charleston residents have a better appreciation for shipping than do most Americans. The Port of Charleston is the nation's fourth largest container facility and the nation's sixth largest port by cargo value. In 2006 Charleston ports handled 1.88 million container units and 588,100 tons of bulk and break bulk cargo with a total value of \$55 billion!

Very few of Americans appreciate that when we drink our morning coffee, when we drive our cars, when we heat our homes, or when we use almost anything in our daily lives, that these things were brought to us on ships by merchant mariners. More than 90% of everything that we consume today has traveled on a ship. To demonstrate this, let me recommend an exercise for you to try. The next time you go to the mall, look for the country of origin on the labels on products for sale. You will see that most of them originate in other countries, and they most assuredly got here on a ship. Maritime transportation is reliable, efficient, and economical - thanks in large part to skilled and dedicated merchant mariners.

International law places an obligation on port states to provide welfare, cultural, recreational, and information facilities and services for visiting ship's crews. In the United States, as in most maritime nations, this national obligation is satisfied by voluntary organizations such as the Seamen's Church Institute of New York and New Jersey and your own Charleston Port and Seafarer's Society (with its center at Wando Terminal). Christian seafarers' centers perform vital services that are necessary for seafarers' well being and consequently for the safe and efficient operation of their ships. There are more than 526 Christian seafarers' centers in 126 countries where port chaplains provide vital welfare services to merchant mariners. My organization, the Seamen's Church Institute of New York and New Jersey, is unique in providing full time legal aid and advocacy services to seafarers and the chaplains serving them.

There are two important points to remember about the work of Christian seafarers' organizations. First, their mission is to provide hospitality - not proselytize. And, second, seafarers are not viewed as objects of charity, rather as highly skilled, dedicated professionals who deserve to be respected and honored.

Who are today's merchant mariners?

Most of today's merchant mariners are from foreign countries where labor costs are low. There are about 1.2 million merchant mariners worldwide. About 27% of them are from the Philippines, about 7% from Russia and another 7% from Ukraine. Other nations that supply large number so seafarers include India, Indonesia, China, Poland, Latvia and Croatia.

They are capable professionals, but they are also very vulnerable to exploitation, abuse, and discrimination. The highly mobile nature of their work takes them from jurisdiction to jurisdiction and outside of any jurisdiction. Mariners are often far away from the institutions that provide stability, predictability, and the protections that land-based workers take for granted. They are strangers and friendless almost everywhere they go. They are usually foreigners in the ports they visit. They are often treated with suspicion and they are not protected by local port elected officials who represent their voting constituents, not visiting merchant mariners.

It is because of their vulnerability as well as their importance to commerce that maritime law has for centuries provided extraordinary protections to seafarers. Protecting mariners was one of the principal reasons for developing maritime law. The problem, however, is that seafarers often find it difficult to protect their rights.

Let me give you a few examples of cases that have crossed my desk:

A few years ago we received a letter from the United Nations forwarding to us a letter that had been written to the Secretary General by the wives of Ukrainian seafarers who were being held hostage in Nigeria. Their husband's ship had lost a small amount of cargo in heavy weather while sailing from India to Nigeria. When the vessel arrived in Nigeria, the cargo owner, a Nigerian chief, claimed a \$17 million in losses, even though the cargo was worth only about \$200,000. Although acceptable security was provided to the Nigerian court that would allow the ship to leave Nigeria pending adjudication of the claim, the chief used armed force to hold the ship's master, chief mate, chief engineer and radio officer hostage on the ship, in the jungles on Nigeria, without proper medical care, food or water, and without visitors for more than one and a half years – merely as pawns to extort money out of an insurance company for a cargo claim.

Over the course of the next nine months, we worked with the ship's owners and their insurers, with the governments of the United States, Nigeria, Ukraine, United Kingdom, Russia, and Malta, as well as British Commonwealth's Ministerial Action Group (Nigeria was at the time trying to regain admission to the Commonwealth). We filed a case for each crewmember with the United Nations High Commissioner for Human Rights' Working Group on Arbitrary Convention. We appealed to numerous industry and non-governmental organizations for assistance, without success.

We requested and received permission from the vessel's flag state, Malta, to file a case on its behalf in the International Court of Justice in the Hague. We knew that Nigeria and

Cameroon had a case in the court to decide a border dispute, and that Nigeria probably did not want the irritation of another case against it in the court. So, while I was attending an International Maritime Organization meeting in London, I gave the Nigerian High Commissioner an advance copy of the complaint that we were preparing to file with the Court. A week and a half later we received the following fax sent by satellite telephone from the vessel's master:

**Please be informed that four Ukrainian seafarers, which had been 24 month without a break and shore leave under illegal arrest on board m/v Dubai Valour of Malta flag in Nigeria are FREE and now ALL RIGHT!**

**It is clear that our freedom was allowed due to series of actions that had been organized by you and your staff. We know very well that your job was very hard and basically due to very helpful coordination function to get us out of this absurd hostage situation. We would like once more to thank you and your staff for your support and understanding and real help and attention for Ukrainian crew.**

That was a very moving result to a very dramatic case.

However, the cases that I take the most pride in are the little cases. Ones that mean a great deal to an individual seafarer but that aren't big enough to warrant hiring a lawyer to work on - cases that if we didn't help, no one would help.

A good example is denial of shore leave. It doesn't require rocket science to figure out that shore leave is very important to seafarers. But fighting for seafarers' shore leave against governmental immigration authorities, shipowners and terminal operators can be a daunting task. It's an issue that you can easily give up on: because ships are in port for such a short period of time, the time for remedial action is quite short. But, we kept trying anyway – even though our success rate was pretty low. What we accomplished, however, was affirming the basic rights and dignity of every individual seafarer we tried to help. Maybe, for some seafarers, it was the first time in their life that someone seriously listened to their problems and tried to help them – and affirmed their basic human dignity.

Although we focus our work on individual seafarers' issues, we are not satisfied with that work alone. We also try to find the source of the problems and look for solutions to keep them from recurring. This was really true with the shore leave issue. We identified that the main reason why shore leave was denied in the United States was because foreign seafarers did not have a visa. The United States was one of the few countries that required seafarers to have visas for shore leave – even though the United States had ratified the Facilitation of Maritime Traffic Convention which prohibited port states from requiring seafarers to have visas for shore leave). We were making a lot of progress with the Immigration Service on this issue, that is, the INS was willing to discuss the possibility of alternatives to visas. Those discussions abruptly stopped on September 11, 2001.

The post 9/11 maritime security measures took their toll on seafarers, most acutely in limitations on shore leave. Shortly after 9/11 we began reading press reports (mostly from Europe) that foreign seafarers, particularly Muslim seafarers and seafarers from Muslim countries, were not allowed to go ashore in the United States. We asked port

chaplains around the United States to conduct shore leave surveys in their ports and report the results to us. What we found was that seafarers were being denied shore leave for two reasons 1) they didn't have a visa and 2) private terminals restricted crews (foreign and American) to their ships while in their terminal.

After identifying the sources of the problem we focused our attention on solutions.

For the private terminal denial problem, we learned that the Coast Guard would conduct eleven hearings around the United States to get stake holders input on regulations to implement the Maritime Transportation Security Act of 2002. We asked chaplains to speak at the hearings and provided them with talking points that raised two issues: seafarers should be allowed to transit terminals to go on shore leave and chaplains should be allowed to transit terminals to visit ships.

The resulting regulations require all shore facility security plans to address how seafarers transit through the terminals for shore leave and chaplains access to ships will be accommodated. These requirements later became part of the International Ship and Port Facility Security Code that is followed worldwide.

For the visa problem, we participated in the International Labor Organization deliberations to develop international standards for seafarers' identity documents. We recommended that Seafarers' Identity Documents that conform to the ILO standards be accepted as substitutes for seafarers' shore leave visas in countries that require them. This recommendation was adopted and is included in Article 6 of the ILO's Seafarers' Identity Document Convention.

These are just of a few examples of our advocacy for merchant mariners. I tell many more sea stories, but I want to leave some time for your questions.

As I said when I began, I am speaking from the prospective of a public-service attorney. I feel very fortunate that I have had this opportunity to work full-time for a humanitarian institution. However, the reality is that very few of us are fortunate to have a life's work where we can make a difference in the world.

But, what I would like you to understand is that no matter what vocation you pursue, you still have an opportunity to help change the world. Look around you am I am certain that you will see many opportunities to serve your community. When you see an injustice, however small, think about what you might do to make it right. Individual efforts show the character of a community. You are extraordinarily privileged to be studying at the Charleston School of Law where you are developing the skills that will enable you to make a positive difference in your communities and in the world. What you do with these skills is up to you.