



A **study of** Maritime Refugees And Illegal Immigrants  
Via Sea.

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### **Abstract:**

The purpose of this research is threefold: To consider and highlight the problem caused by maritime refugees and illegal immigration by sea by examining the current situation of maritime immigration and the effects it has on seafarers; To gain a better understanding of how the situation is affecting the global population; and to consider the discrepancies in existing legislation and establish the necessary steps that could be taken to reduce the effects of maritime refugees as well as a possible solution to minimize the risks faced by seafarers while working at sea.. Given that this problem could potentially end the career of many individuals pertaining to the maritime sector, it is important to review this matter.

The principal source of the problem caused by maritime refugees is conflicting laws and legislation regarding maritime refugees and the variations in immigration policies between different coastal and non-coastal states.

A great deal of work has been done with the aid of maritime risk management to establish possible solutions to reduce the effects of the problem created by maritime refugees and uncontrolled immigration by sea. This study will conclude that the current situation can be controlled or made systematic if all maritime transport and immigration bodies work together with a common motive to build and establish a reasonable and unbiased solution.

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## 1 Introduction

Immigration of people from one place to another in search of a better life and better opportunities is not a new occurrence in human civilization. After the rapid growth of the global population in the 19th century, there was a huge demand of resources. People wanted a better life for themselves and their families. Because of the unavailability of resources and opportunities, competition grew exponentially on an unprecedented scale. The First World War created a huge void in individuals' lives, a void that could be satisfied if they gained access to better life opportunities. The First World War encouraged the ever-accelerating movement of people across borders: The lower class dreamt of becoming the middle class, the middle-class dreamt of becoming the upper class and the upper class aspired to more still. Human nature has always encouraged us to be dissatisfied with what we have. Consequently, we are guided to seek a better life and path of progress and prosperity. We compare ourselves with others and seek a higher social status, additional wealth, greater prosperity and a better education. Feelings of jealousy and envy have deep-seated roots in our society. All of these combined motivate people to move across boundaries and borders by whatever means they find, and for better or for worse.

This study will explore the problem caused by maritime refugees and illegal immigration by sea by examining the current situation of maritime immigration i.e. the movement of humans without a legal permit from one place to another via sea (including a few case examples) along with the risk involved and the effects it has on seafarers. . To do so, this study will first consider the history of maritime refugees, and, where relevant, this history will be presented alongside the gradual change in the international attitude towards illegal maritime immigration over time., This study will then focus on the reasons for refugee crises, which will shed light on the migration of people. This study will then seek to gain a better understanding of how the situation is affecting the global population by attempting to shed light on the challenges for countries to deal with, include or assimilate refugees,, challenges which play a vital role in lengthening the asylum application process. This study will also consider the discrepancies in existing legislation and establish the necessary steps that could be taken to reduce the effects of maritime

refugees. Based on the results of an in depth survey and a number of interviews with experienced seafarers, this study will then explore and discuss the effects and risks of maritime refugees on seafarers while working at sea as well as a possible solution to minimize these risks. This study will conclude that the current situation can be controlled or made systematic if all maritime transport and immigration bodies work together with a common motive to build and establish a reasonable and unbiased solution, as well as discuss the possibilities available after the business of Meriaura Oy (VG-Shipping) is expanded in the Mediterranean.

## **1.1 Background**

At the end of 2013, we attended a one-week intensive class on Search and Rescue.. The class included a task on the intricacies of search and rescue, the reasons behind illegal immigration by sea and the challenges linked to rescuing migrants, along with detailed information concerning maritime refugees. One of the discussions in particular sparked a fierce debate regarding the matter of seamen being trapped between the jurisdiction of the law and human morality. This issue stayed with me until we dealt with stevedores and maritime immigrants in the class of Maritime Risk Management.

A developing nation under the poverty line is not the best place for people to envision a better life. People have dreams, which are difficult to fulfill in harsh conditions. There is often a lot of crime, violence, illiteracy, unemployment and a lack of infrastructure to cater for basic needs. The difficulties to reach our dreams to match society's expectation are unimaginable. Few are lucky enough to be brought up with a good family background. One of the main inspirations for this study was the refugee problem of Nepal-Bhutan, in which the contemporary Royal Government of Bhutan threw ethnic Bhutanese, who were of Nepalese origin, out of the Kingdom of Bhutan.

## **1.2 Aims of the study**

The aim of this study is to establish a possible solution to minimize the risks faced by seafarers while working at sea. At the same time, the motive is to highlight the discrepancies in the law or the administration concerning this issue in order to consider how these can be modified to better protect seafarers. The main question

that this research tries to answer is what are the issues of maritime refugee in today's world and how we should try to reduce the consciences to the minimum.

### **1.3 Limitations of this study**

Time is the most important limitation along with the lack of interest among the people who are responsible or have enough influence to solve this problem. Due to the fact that, this possibly can be a long and hefty process. The involvement of administration from different states all around the world, who have quite long transient time to come up with an amendment in their legislation and to agree on a new pact according to international demand. This study is subject to a number of limitations. Firstly, a number of people were not keen to answer the survey questionnaire or willing to be involved. Secondly, this study will be restricted because of the lack of contact with different maritime cultures and societies, which could impact the broadness of the results of this study. Thirdly, this study will be influenced by some form of recall bias, which is a classic form of information bias and poses a major threat to the internal validity and credibility of the survey of this study. Also, it arises when there is an intentional or unintentional difference of information about the result of an association by subjects in a group compared to other. This differential recall can take a huge part in misclassification of the study subject with regards to the exposure to the results. Recall bias of a significant amount can set off the projected degree of effect size either in the direction towards or away from the null, depending on the magnitudes of subjects misclassified (Hassan 2005). Despite these limitations, this study and the survey undertaken will provide enough data to discuss, to develop and to answer the problematic and questions outlined in the introduction.

### **1.4 Methods**

This research has been performed using a cross-sectional approach (also called a transversal study approach). A cross-sectional research method was chosen because it provides a straightforward way to categorize the presence and size of casual effects of one or more independent aspects upon a dependent aspect that concerns us at the time of research. The main research was conducted by undertaking interviews and completing the survey questionnaire: The interviews were undertaken with Norwegian nationals, Finnish border guard personnel and

the employees of a Finnish shipping company. The survey questionnaires were completed by Swedish national and by a number of people of Asian origin. This method was used following a consultation with faculty members in AboaMare, who had experience in maritime immigration and the transportation of illegal immigrant by sea. Two points are worth mentioning regarding this methodology. Firstly, it would have been easier to reach a greater a number of interviewees and survey volunteers in a shorter period via the Internet. Secondly, international and national legislation, international codes, conventions, agreements and practice court cases were considered as factors when the survey questionnaire was produced in order to avoid any group or parties involved been omitted or overlooked.

## **2 History**

When the current refugee crisis began in the early 1950s and then continued into the late 1970s, rescue at sea did not involve many of the issues that exist today. The number of asylum seekers was comparatively small. Once rescued at sea, it was possible for refugees to have their claims processed in the next available port of call of the rescuing ship. They could then find protection in that port of call, in a place where the ship was registered or in another place where the refugees previous had ties. (Newland 2003)

However, this relatively smooth process reached a crisis point in the late 1970s after the war in Vietnam broke out. At this time, thousands and thousands of Vietnamese refugees took to the South China Sea in boats, most of which were not seaworthy and risked becoming a target of brutal criminals who attacked, looted, and disabled boats and often abducted or took the lives of passengers. Merchant vessels, sailing through these waters and encountered these troubled boats, followed the then usual practice of rescuing the passengers and seeking to disembark them in the next port of call. However, as the arrival of sea-borne refugees skyrocketed in the nearby coastal states, including Malaysia, Australia and Thailand, these states started to refuse passenger disembarkation. (Newland 2003)

Meanwhile, in the late 1970s, the Office of the United Nations High Commissioner for Refugees (UNHCR) brokered an agreement under which all the coastal states

would have to allow these "boat people" to come ashore if other (Northern) states agreed to resettle them within 90 days of their disembarkation from the rescuing vessel. However, because of incomplete legislation and discrepancies in the law, the arrangement did not work as smoothly as hoped. Rescuing ships were subjected to lengthy and costly delays as coastal states asked for specific resettlement provisions prior to the disembarkation of asylum seekers. Ship owners, who sought to comply with the traditions and laws governing rescues-at-sea, bore the direct costs of undertaking such rescue operations. Simultaneously, refugee boats continued to arrive with both dead and dying passengers throughout the early 1980s. Survivors reported that most of the ships they had hailed refused to respond to distress calls. Unsurprisingly, the rate of rescued people or boats that were seeking help at sea continued to shrink during that time. (Newland 2003)

During this time, the UNHCR implemented a number of emergency measures. The UNHCR successfully appealed for more resettlement places to be offered and streamlined the procedures for matching up arrivals with resettlement places. They established a scheme to compensate ship owners for the direct costs of rescuing refugees, issued guidelines for ship owners and masters of the vessel on the operational aspects of rescue, and sent out maritime radio messages explaining rescue procedures and appealing for ships to respond to boats in distress. The UNHCR then also began issuing public recommendations to vessels that rescued refugees. By the mid-1980s, rescue operations of maritime refugees started to rise again. The crisis was slowly tackled as the new measures started to address the situation and the number of boat departures from Vietnam and neighboring areas gradually decreased. (Newland 2003)

However, the 1990s brought another upsurge in the number of people taking to the sea in an attempt to reach safer countries that provided more opportunities. The refugees of the 1990s were mostly from African and Eastern Asian nations seeking to sail to Europe and America. Tighter controls at borders and ports-of-entry were associated with the unintended consequence of illegal professional smuggling. High profits in this business attracted organized crime to smuggle people, thereby increasing the risks involved. (Newland 2003)



The involvement of organized criminal activity forced a stricter response from both officials and the public toward people coming from the boat. The authorities of the countries of destination were often inadvertently complicit with criminals by seeking to categorize all arriving refugees as economic migrants, despite the efforts of many to declare their intention to claim asylum from authoritarian and/or lawless countries. Despite the dangers, people continued to embark, often in huge numbers, from places such as North Africa, the Caribbean, and Asia. Countries such as Turkey and Indonesia have served as major staging points for smugglers assembling passengers from many countries. (Newland 2003)

The toll in human life and property has been significantly high. Estimates of the number of people drowned in the straits between Spain and North Africa in the 1990s range from hundreds to thousands. At least a dozen of immigrants died, and a greater number were missing at the beginning of the 20<sup>th</sup> century, after a vessel carrying approximately 120 illegal immigrants from Libya toward Italy sank off the Libyan coast due to bad weather. A year earlier, a ship that had been carrying 187 would-be immigrants ran aground south of the Florida coast, drowning two and leaving the rest to be detained by the U.S. Immigration Service. A lot of Cubans and Haitians also have died trying to reach the United States in rickety boats and rafts. (Newland 2003)

### **3 International Attitude**

The risks involved in maritime navigation, however great or small, are inevitable regardless of how competently the serviced ship is operated by the master and crew. Every day, scores of vessels set out on voyages, with or without incidents, be it for trading or non-trading purposes. All ships are subject to the risks of being trapped in bad weather conditions and rough seas. They are subject to security threats posed by stowaways, maritime refugees, modern day pirates and terrorists. However, these risks are routine for ships and do not deter vessels from making their voyage for their determined purpose. However, contrary to popular perception, badly governed ships are not the only ones that may require assistance. All ships, including well-constructed ships with competent and able crews, may have their voyage interrupted or their stay in the next port of call prolonged.

Given the broad spectrum of vessels that may require assistance, the number of places for these vessels to take refuge has also increased further. The right of ships in distress to seek refuge in port has long been recognized in customary international law. This law was designed in the light of the value, importance and sacredness of human life and the need to prevent any loss of life at all costs. However, no legal consensus with regards to conflicts with the interests of coastal states had yet been reached. The debate on the right of ships in distress to enter a port of refuge or the right of a coastal state to refuse entry is of great importance to both public and private maritime law. As these issues have been discussed and debated, disasters such as *Erica* and *Prestige* took place, bringing the human aspect of the debate further into the limelight. These tragedies led to the birth to developments such as the International Maritime Organization's Guidelines on Places of Refuge and the European Union legal regime contained in the *Erica I* package. Despite these developments, the conflict between human rights and the interests of coastal states continue to rage on. The primary concern of this study is to address the socially constructed dilemma of whether a ship in distress has the right to enter a place of refuge and if so, is that right absolute or not. In case of maritime refugees, border states, such as Greece and Italy are at the receiving end of most illegal migration. However, any coastal state should always consider the maritime refugee's situation on arrival.

The Australian case, which took place in 2001, is a good example of the issues at stake. A Norwegian commercial vessel, *Tampa*, rescued Iraqi and Afghani asylum-seekers from a sinking vessel named *Palapa* but was subsequently diverted to Nauru by Australian authorities despite twelve other rescuing vessels in a similar situation not having any issues reaching the Australian coast. . Given that asylum-seekers from these countries had been fairly successful gaining asylum once the determination process had begun, Australian authorities started to employ "*presumptive refoulement*" to prevent potential asylum-seekers from entering Australian territory. Ships were declared illegal, the operators were criminalized as smugglers, and the passengers were seen as "*bogus refugees*" or "*queue-jumpers*" in attempts to avoid the responsibilities set out in the UN Refugee Convention (Budz, 2009). Incidents such as this expose the tension and possibilities of undermining human rights when state security is at stake. This

tension leaves refugee protection at risk. The possibility of refugee protection could potentially compromise notions of state security in terms of sovereignty, border security and government functioning and has made the tension grow stronger yet. In situations where a state senses any degree of threat, the goodwill of the rescuers can be disregarded. The rescuers can be considered smugglers and the passengers, illegal migrants. (Budz, 2009)

## **4 Reasons for Refugee Crisis**

### **4.1 Asylum Seekers**

Asylum seekers are people on the verge of becoming refugees because their previous nationality is called into question. According to international refugee law, "people who are forced to flee their homes due to persecution, whether on an individual basis or as part of a mass exodus due to a political, religious, military or any other problem are known as refugees". (Council, et al. 2014)

The United States considers persecution as a ground for seeking asylum as long as the persecution is on account of race, religion, nationality, political opinion or membership to a particular social group (The UN Refugee Agency n.d.). Until a request for refuge has been accepted, the person is referred to as an *asylum seeker*. When the receiving country approves of asylum seekers' request, he or she is then entitled to their refugee rights and should thereby submit to the legal framework of the receiving country.

However, in practice, the decision of whether or not a person meets the conditions to be considered a refugee is more often than not left to government agencies within the host country. This can then lead to a situation where the country will neither recognize the refugee status of the asylum seeker nor see them as legitimate migrants, and therefore treat them as illegal aliens. (Human Rights Education Associates. 2003)

### **4.2 Climate**

We are paying heavy toll for our actions that degrade our environment. Large numbers of people have been migrating in search of better environmental

conditions as more and more places become inhabitable as a direct consequence of climate change. It is now evident that the consequences of climate change were undermined as the definitions set out by the UN convention for refugees do not cover the situation faced by people displaced by climate disasters and changes despite these people falling within the definition of refugees. These refugees have been defined as “climate refugees” or “climate change refugees” (Ćirović n.d.). The term 'environmental refugee' is also commonly used for the estimated 25 million people all around the world who have been displaced by the consequences of climate change.

Although unrealistic, the UN, charities and some environmentalist's claim that between 200 million and 1 billion people could potentially flood across international borders to escape the impacts of climate change over the next 40 years. (Vidal 2011)

### **4.3 Security Threats**

It is common knowledge that people will often seek refuge in another country when faced with security threats in their home country. In addition, international human rights privilege people who are in need of a safe place away from crisis areas. These asylum seekers cannot be deported back to their home country unless it is proven that the act of deportation will not cause a direct threat to their lives. However, host countries have to consider the consequences that accompany the reception of migrants. Tensions have been seen to surface where people have been welcomed into a host country only to then be the subject of further aggression from internal extremist groups. Such responses raise the question of their acceptance in a new country, a different culture and society.

Very rarely, refugees have been used and recruited as refugee warriors, and the humanitarian aid directed at refugee relief has very rarely been utilized to fund the purchase of arms. Support from a refugee-receiving state has rarely been used to enable refugees to mobilize militarily, enabling conflict to spread across borders. Authorities are concerned with the intelligence reports confirming the existence of individuals and organizations operating in host countries to support, plan, and mount attacks elsewhere, although open information by no means suggests that the participation rate of immigrants in these activities is proportionally higher than

that of people born in a host country. (Aiken 2001)

#### **4.4 Economic Migrants**

People who migrate from one region to another in search of economic stability, better employment opportunities and greater financial means for the improvement of living standards are defined as economic migrants. Many countries have immigration and visa restrictions that prohibit economic migrants from entering the country for the purpose of acquiring work without a valid work permit. The presence of people declared to be economic migrants and are refused entry into the country is deemed illegal. Most importantly, refugees who travel to developed countries to improve their personal finances may take advantage of the host country's wealth to meet the financial needs of their friends and families in their country of origin. There are therefore both positive and negative impacts of economic migration for both the host nation and the asylum seeker.

In some cases, economic migration can also turn out to be a win-win situation for both the migrant and the receiving country in a situation where the receiving country then has more manpower to be employed to construct infrastructures for development for a lower fee. In addition, the migrants would have access to job opportunities which they would not have had in their home country and could potentially assist their country of origin to tap into new sources of revenues.

These considerations will be carefully weighed when the host country decides whether or not to grant this class of people a refugee status or not.

#### **4.5 Boat People**

The term "boat people" became colloquial in the 1970s with the mass exodus of Vietnamese refugees following the Vietnam War. At the time, people from Cuba, Haiti, Morocco and Vietnam were largely transported by boats. Their lives were risked on dangerously crowded boats to escape oppression and poverty in their home nations. Thus, the aftermath of the Vietnam War led to many people in Cambodia, Laos, and especially Vietnam to become refugees in the late 1970s and 1980s. In 2001, 353 asylum seekers sailing from Indonesia to Australia drowned when their vessel sank. (History Learning Site n.d.)

The main danger to a boat person is that the boat he or she is sailing in may actually be anything that floats and is not large enough for passengers. Such an arrangement is not safe for traveling long distances and can capsize at any given moment. In 2003, a small group of five Cuban refugees attempted (unsuccessfully, but unharmed) to reach Florida in a 1950s pickup truck made buoyant by oil barrels strapped to its sides. (Referance.com n.d.)

Boat people frequently create controversy in the nation they are vying to settle in, such as the USA, New Zealand, Germany, France, Russia, Canada, Italy, Japan, South Korea, Spain, and Australia. These state officials forcibly prevent boat people from arriving to their destination. Such is the situation in Australia, which is guided by 'Australia's Asia Pacific Solution' where illegal immigrants arriving in such contraptions are subjected to mandatory detention. (History Learning Site n.d.)

## **5 Refugee Absorption Policy and Issues**

After the arrival of maritime refugees in land, there are a number of legal issues that need to be addressed as well as other issues such as refugee settlement and normalizing daily life, both before settlement (i.e. just after their arrival in land) and after settlement.

### **5.1 Camps**

A refugee camp is a place built by governments or NGOs (such as the International Committee of the Red Cross) to receive refugees. People may stay in these camps, receiving emergency food and medical aid until it is safe to return to their homes or until people outside the camps retrieve them. In some cases, often after several years, other countries decide it will never be safe to return these people, and they are resettled in "third countries", away from the border they crossed. However, more often than not, refugees are not resettled. In the meantime, they are at risk of disease, child soldier recruitment, terrorist recruitment and physical and sexual violence. There are estimated to be 700 refugee camp locations. (Mollie Gerver 2013)

## 5.2 Resettlement

Resettlement involves the assisted movement of refugees who are unable to return home to safe third countries. The UNHCR has traditionally seen resettlement as the least preferable of the "durable solutions" to refugee situations. Resettlement involves a number of difficulties, most of them involving the often-extreme cultural transition needed to adapt to life in the country of resettlement. As highlighted in reports from within European Union, Member States can voluntarily agree to accept refugees who have already received refugee status from the UNHCR and receive €4000 for each refugee they accept from the European Refugee Fund, the budget for which was €614 in the period from 2008 to 2013 (Gerver 2013). For the many refugees going from rural, undeveloped countries to life in urban centers, public transport, education, healthcare systems, job applications, and even grocery shopping can be difficult to navigate. Language barriers also frequently pose a problem. In addition to material problems, resettled refugees can struggle with issues of identity and belonging, as societal integration can be very difficult in a completely different culture, and discrimination frequently further inhibits the process. (Wikipedia n.d.)

## 5.3 Right of Return

Even in a supposedly "*post-conflict*" environment, the process is not simple for refugees to return home. The United Nations *Pinheiro Principles* are guided by the idea that people not only have the right to return home, but also have the right to the same property. These principles seek to return to the pre-conflict status quo and ensure that no one profits from violence. This is however a very complex issue and every situation is different. Conflict is a highly transformative force and the pre-war status quo can never be reestablished completely, even if that were desirable (it may have caused the conflict in the first place). Therefore, the following factors are of particular importance to the right to return. (Center on Housing rights and evictions, 2009)

## 5.4 Medical Condition

One of the important issues to consider is the medical condition of a person. The refugee may possibly be suffering from a transmittable disease or an epidemic.

Apart from bodily wounds or starvation, a number of refugees who arrive in the host country have already developed symptoms of post-traumatic stress disorder (PTSD) or depression. These long-term mental problems can severely impede the functionality of the person in everyday situations and are heightened for displaced persons who are confronted with a new environment and challenging situations. They are also at high risk for suicide.

## **5.5 Exploitation**

Refugee populations consist of people who are keeping a low profile and are away from their familiar environment (socio-cultural, economical and mental). There is therefore always a chance of exploitation at the hands of enforcement officials (such as ill-treatment during the process of application), citizens of the host country (such as ignorance, bullying and racism), labor markets or even United Nations peacekeepers, who are also seen to be involved in some cases. There are a number of cases of human rights violations, child labor, mental and physical trauma/torture, violence-related trauma, and sexual exploitation, especially in the case of children, which should not be ignored.

## **5.6 Immigration Status (Refugee Status)**

A crime is evidently not committed when a refugee enters any country (e.g. Australia) without the required legal travel documents when the purpose is for seeking international protection. In such cases, asylum seekers do not violate Australian laws simply by arriving on boats without approval.

Article 31 of the Refugee Convention clearly states that refugees should not be penalized for arriving without valid travel documents. What may be considered an illegal action under normal circumstances (e.g. entering a country without a visa) should not, according to the Convention, be considered illegal if a person is seeking asylum.

There is a long legal process for a person to receive refugee status, including a thorough background check into the identity of the person as well as their place of origin. The length of the process will also depend on the regulations of the



accepting nation. In addition, there is a risk that the process will not come to a conclusion and only be a waste of taxpayers' money.

## 6 Results from the survey

The preparation and distribution of the questionnaire took place by maintaining a focus on the Scandinavian approach towards the refugee situation. The aim was to observe the refugee situation, compare the available data and provide a suggestion to VG-Shipping. Since VG-Shipping is planning to expand its business in the Mediterranean later next year, it is currently doing business mainly in the North Sea and the Baltic Sea. VG-Shipping is concerned about the current refugee situation in the Mediterranean. The company will gain an advantage by having an early insight into the situation and have the time to work out points of concerns. This survey focused on companies and personnel from Scandinavia as well as a number of Asian countries that sail in international waters, the Baltic Sea and the North Sea.

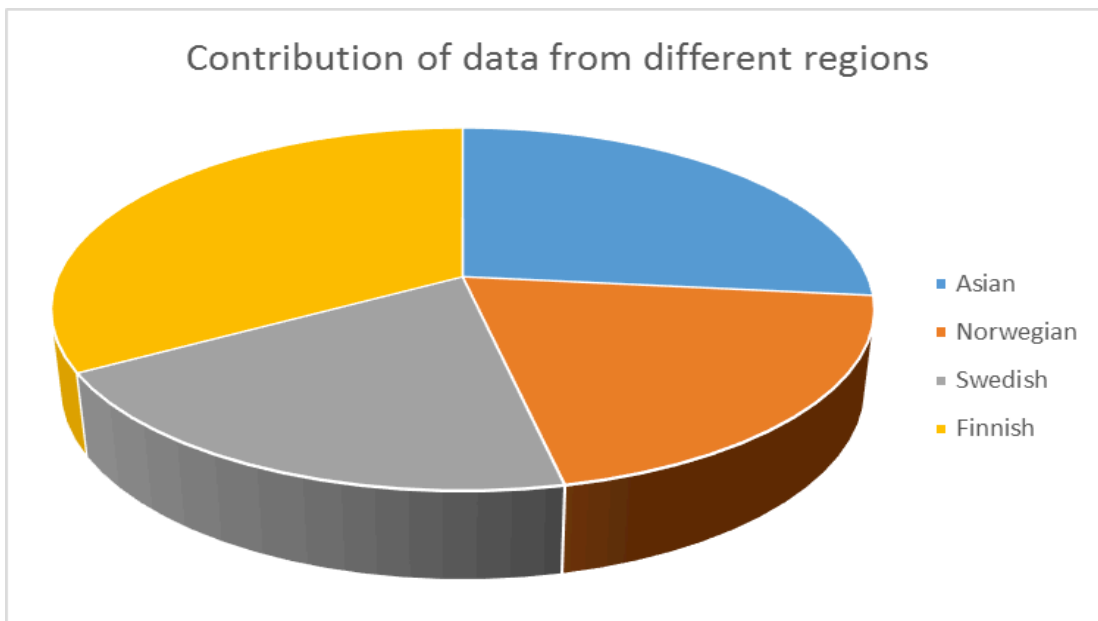
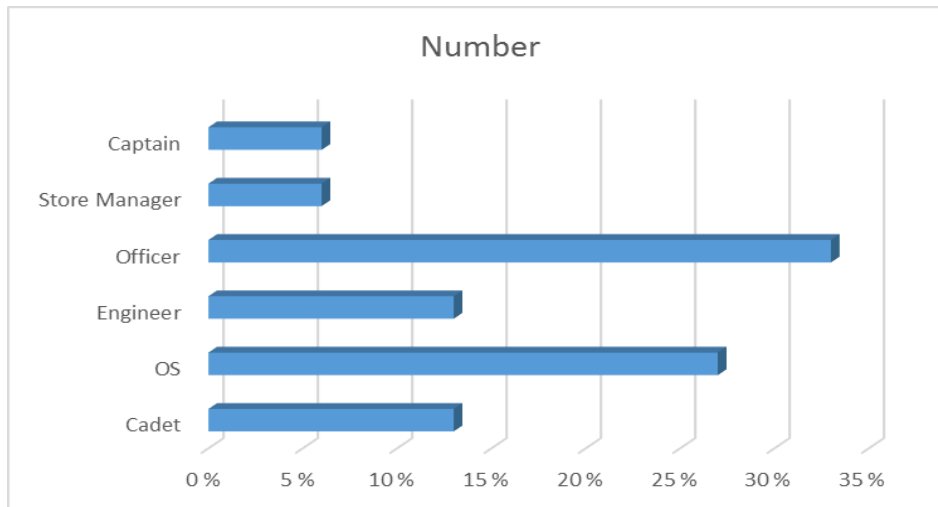


Figure 1: Regions from which the different survey data originated.

The sample size of the pool of respondents who undertook this survey was of 15 individuals, each currently working as cadet, ordinary seaman, marine engineer, officer, store manager or captain. The age of the pool of respondents involved was between 24 and 47 years old. The companies they represented were Wallenius Lines, BW Shipping, BW Maritime, Viking Line, Silja Line, Meriaura and Stolstad

AS. In addition, a further interview was conducted with personal from the Finnish Border Guards.



*Figure 2: Working position of the respondents who took part in the survey.*

A number of the survey questions addressed the general working conditions of the respondents. The result shows that the respondents who undertook the survey had a tendency to work in their place of residence but were willing to change their place of residence for the sake of better job opportunities. People will often change companies at the start of their career until they find a position that meets their needs and requirements and then remain loyal to the company for the rest of their career. In this survey, my results are consistent with the fact that people associated with the Norwegian shipping industry often choose to stay with companies with business offshore because of the higher salaries and safer working environment. Norwegian flagged vessels seem to be good to work on because of the high standards of safety and strict national regulations. Almost all the regulations from the offshore sector have been implemented to commercial shipping which renders the safety standard high.

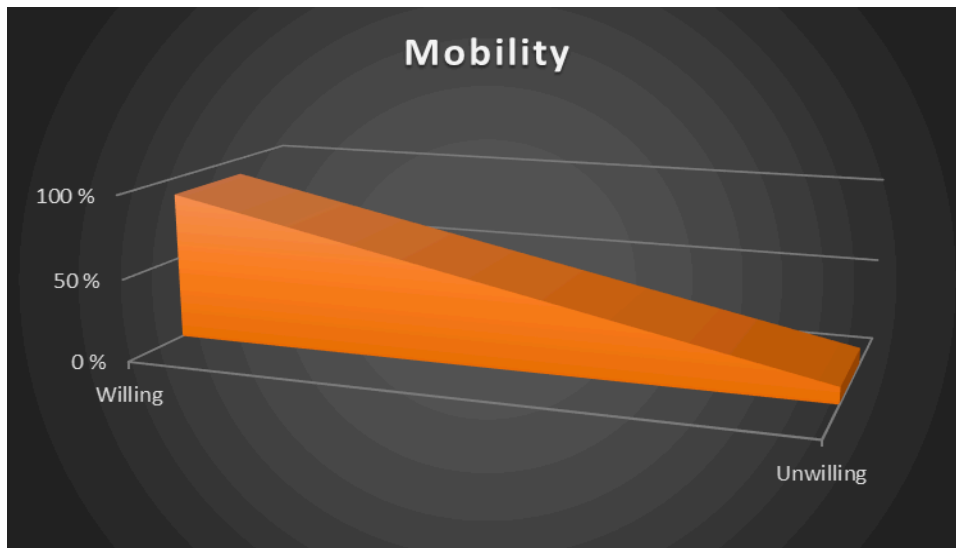


Figure 3: Respondent's willingness to change workplace.

The questions regarding life on sea were answered with ambiguity. We noticed that all respondents wanted to see improvements in their lifestyle and working conditions, whether big or small. Some were concerned about the crew with whom they were working. Others were concerned about the new challenges they have to face every day. Nevertheless, all of them had rationalized the working demands based on the alluring salary and food. Some of them were happy with the shorter working hours and the holidays they obtain after work. Other answers related to real life situations in which the respondents missed their families but were free from traffic jams. Some just relished the pleasure of having their office next to their home.

A number of survey questions related to the respondents about their experience of the refugee situation, all of the respondents working in Scandinavian companies and sailing around the Baltic Sea and the North Sea had no experience of encounters with maritime refugees. However, personnel working in international waters highlighted a few experiences of encounters in the early stages of their career when working in waters close to South East Asia and Central West Africa. When asked about their experience of such encounters, they replied, "they [the refugees] can be found in weirdest of places, and the numbers can be astonishing."

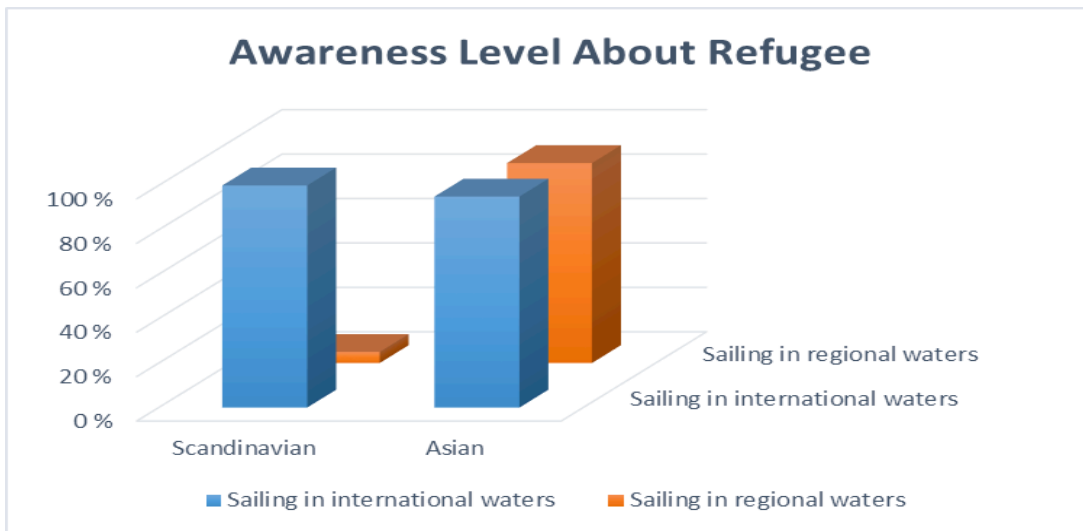


Figure 4: Respondent's awareness about refugee situation.

Most of the respondents had worked in international waters at some stage in their career, and had no fear or preference as to the presence of maritime refugees where they were sailing. The focus was rather on the importance of having a good crew, who worked towards the same goal.

When asked about the concerns or thoughts regarding the refugee situation at sea, the respondents said they were ready to assist those who found themselves in distress. Few of the answers provided were divided as to how to address such a situation given that the respondents had no experience of maritime refugees or knowledge of company policy on how to deal with these situations. A number of respondents had heard of or read about refugee incidents within the media. Instead, the respondents raised concerns regarding the consequences of assisting maritime refugees in distress. Others raised concerns regarding the care provided after maritime refugees disembarked at the next port of call, with questions such as: What will happen to them? Who will care for them? Are they safe? What will happen behind the closed doors? The most experienced responding seafarers shared thoughts as to the need for the master of the vessel to decide whether to enter a port based on the economic and political situation of the country and city where disembarkation would occur. Any concerns as to the safety of the next port of call calls for greater security awareness and measures on board and among the crew. A high level of security can always be reduced once the master is convinced the port is safe.

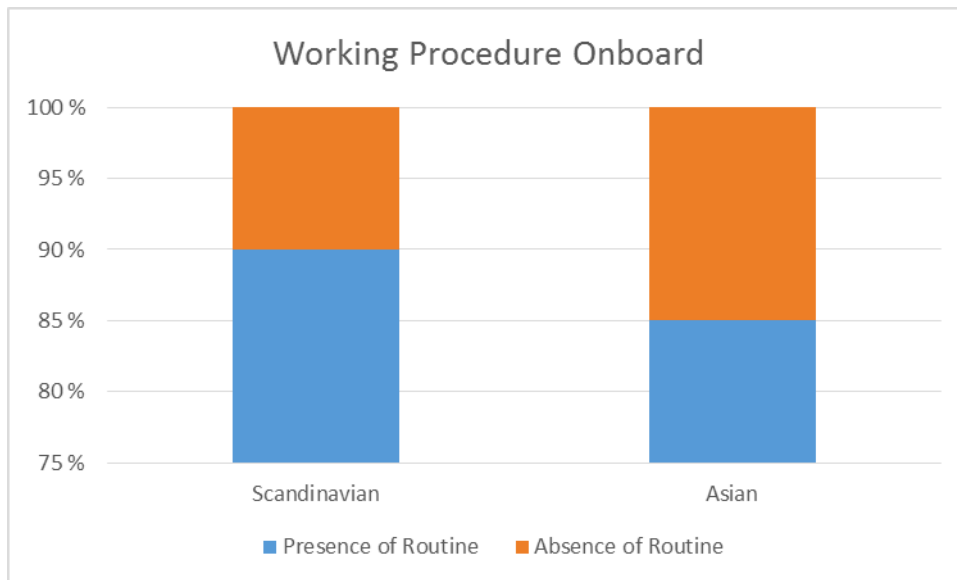
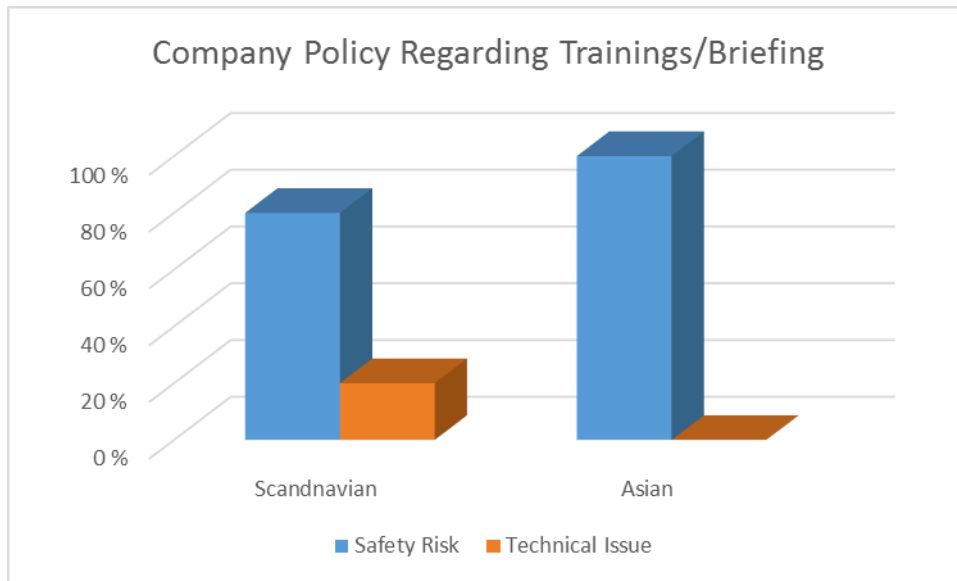


Figure 5: Working habits as per routine.

The survey raised a number of questions regarding the respondents' feelings towards the routine and procedures onboard to cater for maritime refugees in distress. A number of the respondents agreed that there was no routine or proper procedure to deal with encounters of refugees in distress requiring assistance. Some respondents suggested that the ship security plan should deal with such situations whereas others thought that the International Maritime Organization (IMO) or a similar authority should assist seafarers in tackling the problem. Other respondents suggested there was no need for a routine or procedure as seafarers who dealt with maritime refugees on board had enough experience to address the situation as necessary. The respondents with the most experience considered that a greater amount of information was available and had been integrated into policies and procedures and implemented throughout the organization. These respondents focused rather on the greater need of awareness of the risk for stowaway's activity when entering a port as well as the need for the crew to be properly briefed, for drills to be held and for greater exchanges of email between the ship and the office.

The respondents were also asked about precautionary measures taken when traveling around areas with a higher risk of maritime refugees. The respondents spoke of the need to keep a good lookout, increase the security level on board to the highest possible taking into consideration the number of crew and resources on board. Easy steps mentioned by the respondents included sealing all unnecessary access doors to space prior to entering the port if the access was not

needed during the entire stay. If access is required, the respondents suggested locking it or if not lockable (such as many lifejacket boxes), placing a plastic seal which had to be broken when opened.



*Figure: Company Policy regarding trainings and briefing.*

The respondents answered questions regarding briefings by an officer or company in relation to the company working policies. The respondents highlighted a systematic checklist on the bridge which everyone had to follow according to the demands of the situation. The respondents also spoke of being briefed by the master of the vessel or the company's safety officer. Some of the personnel received training from the company based on a common policy among the fleet of that respective company. Some of the respondents spoke of briefings being a technical difficulty rather than a safety risk. All respondents however seemed to agree that the best way to proceed was to follow the company's manual and use common sense.

When asked about the company's policy regarding the refugee situation, almost all the respondents answered that people in distress need to be rescued. This response resonates with ship security plans and humanitarian grounds. Some expressed feelings of being lucky to have a fleet operating in areas around Europe where this kind of activity is hardly present, especially when they sail mostly in the northern parts of Europe. In general, the policy was that everyone should do the utmost to prevent stowaways from gaining access to the ship and, if found, should

be dealt with according to international regulations. Seafarers dealing with stowaways should always inform the office and authorities.

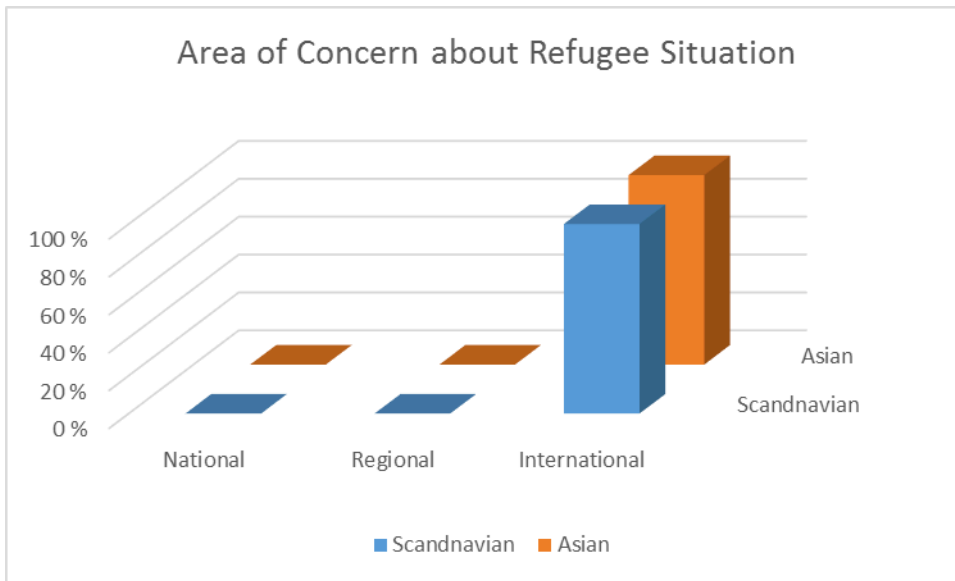


Figure: Situational Awareness about refugee crisis.

A number of questions related to whether the issue of maritime refugees was a regional, national or international issue. All respondents agreed that the problem was a global issue but that each country could make a difference at a local or regional level. The respondents also suggested that further regulations and legislation by states and authorities may improve the situation. The respondents recognized however that the issue often only concerned the country the ship intended to go and its particular situation (finance, politics, health epidemic etc.).

The respondents were also asked to suggest ways of reducing the risks of maritime refugees or eliminating the problem altogether. The respondents spoke of the global issue that exists alongside this problem and the need to maintain a routine to be followed according to the ship security plan. . The world consists of countries with a variety of backgrounds and every seaman simply has to deal with any situation that arises if he sails through those areas. One respondent found it exciting that there were no standards in some countries and ports.

## 7 Analysis of results

After consideration of all the points, ideas, thoughts and suggestions raised, the respondents suggested that the following issues should be taken into account as required:

## **7.1 Risk Factors**

After deciding on the destination of sail, the crew should first analyze the voyage plan. In addition, the circumstances of the destination to which the vessel is sailing, such as the weather situation and political circumstances should also be considered. The crew should also have a brief knowledge in relation to the regional water situation and a good understanding of how to deal with stowaways on board the vessel. These considerations will help prevent a lengthy legal process, which could lead to financial problems for the company and, ultimately, could cost the careers of the seamen working for the vessel.

## **7.2 Risk Analysis**

After considering the risk factors, the individual risk from the seafarer's point of view should also be calculated.

- If the area is known for stevedores, it will be necessary to take measures according to the ISM code. Any lengthy legal battles for the disembarkation of personnel onboard the vessel should also be considered, especially if none of the ports of arrival are willing to take them in.
- Any risk due to sailing in a very harsh weather conditions should be eliminated by avoiding it.
- A ship security assessment should be performed where there are any problems around the waters which are sailed through.

## **8 Discussion of the survey results**

The refugee crisis is a new phenomenon in our society and has only been present since the early 20th century. The maritime refugee crisis is however even more recent, only really starting during the mid-20th century with the rapid escalation in the numbers of people moving from one place to another in search of a better life. Industrial developments, which took place in Europe and America, meant that migrants were attracted to those regions in search of jobs and a better quality of life. However, panic started to germinate within native populations regarding questions of independence, job security, public safety and security, socio-cultural integrity and national identity.



Impatience leads us to want everything as soon as possible. However, where political instability or lack of opportunities becomes a major obstacle, we may be led to a shortcut. Those with an education or with practical skills may make their way to developed countries by their own means. However, those who lack these may seek the help of smugglers by using savings or loans. In the worst cases, parents may even hand over their infant children (minors) to smugglers who promise to take them to Europe or America.

The system that created to tackle the overflow of migrants appears now however to now not functioning properly and creating further problems rather than providing a solution. Now is the time to give thought to the merits of carrying on with this system or instead seeking to improve it.. Given that this problem is at an early stage, there is a strong possibility that we can either change or improve current conditions.

In order to do so, firstly, coastal states must stick strictly to the international rules and regulations they had promised to comply with. There have been instances where coastal states have not shown any interest or have ignored their responsibility in respect of the laws that they had promised to comply with. Secondly, without making the maritime refugee situation a political issue by linking it with issues surrounding the sovereignty of the nation, it is to the benefit of all parties to seek a solution on both humanitarian and moral grounds. Thirdly, when seeing this problem from a seaman's perspective, a proper habit of making and following a systemic way to improve the safety and security of the vessel and its crew should be setup according to international standards as it has been stated in the International Safety Management Code and International Ship and Port Facility Security Code.

Along with this, there are amendments to the SOLAS and SAR Conventions concerning the treatment of persons rescued at sea, and/or asylum seekers, refugees and stowaways (adopted by the MSC 78 in 2004), which are recommended and should be taken into account. In the case of SOLAS - Chapter V, Safety of Navigation ([see Appendix I](#)), the captain of the vessel is required to offer assistance to any person in distress at sea, regardless of the nationality or status of that person, and mandates Contracting Governments to co-ordinate and co-operate in assisting the ship's master to deliver persons rescued at sea to a

place of safety. A new regulation providing the master with further discretion is also added. In the case of SAR Annex (see Appendix II) to the Convention, there is an obligation among parties to assist the captain in delivering persons rescued at sea to a place of safety and requires appropriate operating procedures for maritime rescue co-ordination centers to initiate the process of identifying the most suitable places for disembarking persons found in distress at sea.

There are special guidelines on the treatment of personnel rescued at sea (see Appendix III) provided by the IMO to governments and shipmasters concerning humanitarian obligations and obligations under the SOLAS and SAR Annex (see Appendix IV) relating to the treatment of persons rescued at sea. The Guidelines are intended to assist governments and masters to better understand their obligations under international law and provide helpful guidance with regard to discharging these obligations (see Appendix V) on Principles relating to administrative procedures for disembarking persons rescued at sea.

## 9 Conclusion

In conclusion, regardless of the troubles that we encounter in our daily life; the risks can be reduced to a minimum by improving work practices, being open towards changes in managerial skills and creating a systematic approach towards risk management and problem-solving techniques. An international standard should be established to tackle the refugee problem by having all the concerned port states to agree together to put their words into actions. The system to deal with the refugee crisis should also be modernized and the flaws in previous standards should be improved, even if this requires a set committee of experts.

The issues raised by maritime refugee movements will always lead to questions of who is accountable for accepting asylum seekers who have been rescued at sea, for mediating their claims and for providing a place of safety for those who have proven their need for international protection. There is no clear answer in existing laws and we have so far sought to follow the present system of classification and treatment of refugees, which prevails internationally. Countries that refuse to release vessels involved in the rescue of maritime refugees not only place an

unfair burden on seafarers but also threaten the system of rescue at sea that has long been endorsed on humanitarian grounds.

These issues call for cooperation among all the parties, including related states, the shipping industry and international organizations such as United Nations Commission for Human Rights (UNHCR) and the International Maritime Organization (IMO) to support the humanitarian practices that are an honorable part of maritime tradition. Political instability and authoritarianism will lead to people determined to escape from impossible situations and brave high seas full of danger and life threatening situations. When considering the future of the shipping business, including the masters and crews of the vessels should not be laden with the burden of applying international humanitarian laws and standards alone.

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## Appendix

Recommendations for States to take actions to avoid unsafe practices associated with the trafficking or transport of migrants by sea a, in accordance with domestic and international law, can be found in the IMO Circular [MSC/Circ.896.Rev.1](#).

## Questionnaire:

I am Sandeep Nepal a student of Maritime Management at Novia University of Applied Sciences in Turku, Finland. I am doing my bachelors thesis about the maritime refugees and illegal immigrants via sea. I would like you to kindly answer these following questions thoroughly and honestly, there are no wrong answers. It can be assured that every questionnaire is handled anonymously and you are not obligated by it in anyway. Your name and contact information is solely collected for the purpose of possible further studies and research and will never be used for marketing and other commercial purposes.

Name :  
 Company associated with :  
 Phone number :  
 Email address :

1. Your place of origin :

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2. Age :

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3. Place of residence :

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4. Profession :

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5. Is the profession based on land or sea?

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6. Describe shortly, what kind of image do you have of the life at sea??

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7. Personal experience to a refugee situation?

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8. Which geographical areas do you find good to work at??

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9. Concern/thoughts towards refugee situation at sea? (How comfortable are you, when you have to deal with refugee) if so why??

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10. Do you have a feeling that there is a lack of routine present when we deal any refugee crisis? (We know it's a Political issue immediately as it happens.)

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11. Are there any precautionary measures you take when you travel to refugee-heightened areas?

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12. How are you briefed before you start your work? From whom? Company, officers? Do they have a general policy or a specific policy?

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13. What kind of policy does your company follow regarding refugee situation?

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14. Is this an international issue or regional issue or national issue? Can a country can make a difference by making few rules added up to the international regulations??

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15. Any suggestions that can help to take away this big problem from seamen's career or make current situations better?

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