

APPENDIX 1

Ms. Marcia Eugenio
Director
Office of Child Labor, Forced Labor, and Human Trafficking
U.S. Department of Labor
Bureau of International Labor Affairs
200 Constitution Ave NW
Washington, DC 20210

December 17, 2019

Re: ILAB’s List of Goods Produced by Forced Labor and Seafood Exemptions

Dear Ms. Marcia Eugenio:

We are writing to express our deep concern over the Bureau of International Labor Affairs’ (ILAB) practice of only including seafood harvested from a country’s territorial waters or Exclusive Economic Zone in your List of Goods Produced by Child Labor or Forced Labor (“List of Goods”). This practice effectively excludes distant water fishing nations with significant incidence of forced labor on the high seas from your biennial report to Congress and the public. We call on you to fully consider the ramifications of this position on forced labor in the fisheries sector, declare an official policy of attributing high seas catch to the flag State, and remove all seafood exemptions in the 2020 report.

ILAB’s List of Goods is widely recognized as one of the most important sources of information on the current state of forced labor in numerous sectors around the world. Seafood buyers and suppliers rely on your findings when conducting human rights due diligence,ⁱ consumers look to your *Sweat & Toil* app for the latest updates on forced labor risks in their seafood, foreign governments shape their policies and actions in response to your listings and subsequent dialogue, and civil society organizations use your report as a powerful tool for advocacy. Even the Marine Stewardship Council, an environmental certification organization, selected your report as one of its four indicators to determine whether a country is “lower risk” and thus exempt from labor audits under its new forced labor policy.ⁱⁱ

It is clear that the List of Goods has made a significant contribution to reducing forced labor across many sectors and that is why it is vital ILAB take the unequivocal position that all seafood caught on the high seas is eligible for listing in your report.ⁱⁱⁱ Some communications with your staff suggest high seas catch will continue to be exempted regardless of whether all five factors that constitute your “reason to believe” standard are fulfilled, including sufficient evidence that demonstrates significant incidence of forced labor on Taiwanese and other foreign-flagged fishing vessels harvesting tuna and other species in international waters.^{iv}

ILAB's practice of considering high seas catch as attributable to no single country is confounding as it is inconsistent with international law, including several provisions of the UN Convention on the Law of the Sea – which the US has agreed reflects customary international law – and the UN Fish Stocks Agreement to which the US is a party.^v This practice also undermines US and international efforts to combat forced labor and human trafficking on fishing vessels operating in international waters as well as the co-occurring crime of illegal fishing.^{vi} Moreover, it also conflicts with the current policy and practice of the US Department of State and the National Oceanic and Atmospheric Administration, two US agencies that represent US interests at the UN and select regional fisheries management organizations (RFMOs).^{vii}

Indeed, at the most recent meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT), the US made an opening statement that highlighted its concern about the overfishing of bigeye tuna and called on fellow members of ICCAT to help establish conservation and management measures (CMMs) that would end the overfishing of this species immediately and rebuild the stock as soon as possible.^{viii} The US has proposed, supported, and complied with the CMMs of ICCAT and other RFMOs that demonstrate high seas catch is attributed to the flag State, including species-specific catch prohibitions for certain flag States operating within the area of the ocean covered by the RFMO convention;^{ix} annual catch limits/quotas, including species and gear-specific limits, for members of the RFMOs;^x and catch documentation and reporting requirements for members of the RFMOs to ensure compliance with these CMMs.^{xi}

ILAB's seafood exemptions has resulted in a dangerously incomplete picture of forced labor in the global fishing industry. While several countries have been listed in your report for forced labor produced seafood, some of the worst offenders are conspicuously missing. Numerous media and civil society reports over the years have shown that the most egregious human rights abuses, including forced labor, human trafficking, and even murder, occur in international waters where longline fishing vessels targeting tuna are far from sight and perpetrators often evade accountability for their crimes.^{xii}

Seabound: The Journey to Modern Slavery on the High Seas, a new Greenpeace report released last week, provides further evidence that forced labor on Taiwanese longline fishing vessels continues unabated with little to no consequences for those who deceive and abuse Indonesian migrant fishers.^{xiii} The testimonies of six survivors of horrific abuses are indicative of the labor conditions in the Taiwanese tuna industry as a whole.^{xiv} Credible media and NGO reports have documented similar incidences on numerous Taiwanese longline fishing vessels over the last five years,^{xv} yet ILAB has chosen to exempt Taiwanese caught tuna from its report for unjustified reasons. These are not isolated cases and the abuses will continue until the US uses the full range of tools at its disposal, including the List of Goods, to send a strong message to the Taiwanese

government that it must reform its laws and policies – and its tuna industry must change – or it will face the consequences of inaction.

Flag State responsibility is a fundamental tenet of all legal regimes governing our ocean,^{xvi} including specifically on the high seas.^{xvii} Flag States must exercise their exclusive jurisdiction on the high seas to preserve marine biodiversity and protect vulnerable fishers. The US has the opportunity with the 2020 List of Goods to promote and protect fundamental human rights in international waters and hold rogue States and companies accountable for violations of international standards. To achieve this, flag State responsibility and accountability must be central to the message in your report.

We call on ILAB to demonstrate leadership on this issue, rectify past mistakes, and align with civil society, businesses, multilateral organizations, and other actors in the fight to eradicate forced labor and illegal fishing in the global fishing industry.

Sincerely,



American Federation of Labor-Congress of Industrial Organizations



Coalition of Immokalee Workers



Environmental Justice Foundation



Fish Wise

Tobias Aguirre, CEO



Freedom Fund



Freedom United

Joanna Ewart-James, Executive Director

Gavin McDonald

Project Researcher

The Environmental Markets Solutions Lab

University of California, Santa Barbara



Greenpeace USA

Andy Shen, Senior Oceans Adviser



Human Rights Watch



International Labor Rights Forum



International Pole & Line Foundation

Martin Purves, Managing Director



International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations

Sue Longley, General Secretary



Liberty Shared



Minderoo Foundation



NAECO

Bill Levey, CEO



Natural Resources Defense Council

Irene Gutierrez, Senior Attorney, Oceans

Sandy Aylesworth, Senior Advocate, Oceans



Oxfam



Pergerakan Pelaut Indonesia

Imam Syafi'i, Ketua Advokasi, Hukum, dan Hak Asasi Manusia



Serikat Buruh Migran Indonesia
Hariyanto, Ketua Umum SBMI

羣衆

Serve the People Association



Taiwan Association for Human Rights



Taiwan International Workers' Association



Whole Foods Market



Yilan Migrant Fishermen's Union

ⁱ U.S. Department of Labor. 2018. List of Good Produced by Child Labor or Forced Labor. P. 42, Box 11 (noting civil society groups and the private sector are creating tools to help companies combat labor abuses and several of these incorporate the List of Goods into their methodology or resource lists. Examples provided include the Responsible Sourcing Tool's Risk Assessment Guidance for the Seafood Supply Chain, the Seafood Slavery Risk Tool, and the Labor Safe Screen). <https://www.dol.gov/sites/dolgov/files/ILAB/ListofGoods.pdf>

ⁱⁱ Marine Stewardship Council. 2019. New measures introduced to combat forced and child labour in seafood business. <https://www.msc.org/en-us/media-center/news-media/new-measures-introduced-to-combat-forced-and-child-labour-in-seafood-businesses>; Greenpeace, International Labor Rights Forum, et al. 2019. Public Statement on MSC's Revised Chain of Custody Certification (during MSC's stakeholder consultation process, Greenpeace and other civil society organizations strongly recommended it not exempt any country from its labor audit requirement. MSC rejected this advice despite warnings that its approach could result in serious failure to address forced labor and child labor occurring within its program). <https://laborrights.org/publications/public-statement-mscs-revised-chain-custody-certification>

ⁱⁱⁱ An email from ILAB on June 27, 2019 explained that the Department of Labor decided only seafood harvested within a country's Exclusive Economic Zone could be considered for the List of Goods. ILAB later confirmed this position on a phone call with Greenpeace USA on July 15, 2019. An email from Greenpeace USA on November 13, 2019 asked ILAB whether they had ever declared and provided the rationale behind this policy in a publication. ILAB responded on December 6, 2019 noting no publication states that the Department of Labor has made a determination not to list fish caught on the high seas and it will continue to review information provided on this topic.

^{iv} Phone call between ILAB and Greenpeace USA on July 15, 2019. ILAB strongly defended its position on high seas catch, noting Department of Labor lawyers supported it, and made clear that it was unlikely they would change their view and they would only consider the recommendations of the Department of Justice-led interagency task force on legal and jurisdictional issues affecting forced labor in fishing in international waters. Even then, they made clear there was no guarantee they would implement the recommendations even if it called for ILAB to revise its position.

^v United Nations Convention on the Law of the Sea. 1982. Art. 87(1)(e) ("The high seas are open to all States, whether coastal or land-locked. Freedom of the high seas is exercised under the conditions laid down by this Convention and by other rules of international law. It comprises, *inter alia*, both for coastal and land-locked States: freedom of fishing, subject to the conditions laid down in Section 2"). https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf. Section 2 conditions the right to fish on the high seas on a State's treaty obligations, including provisions under UNCLOS that require States to adopt or cooperate with other States to adopt measures to conserve and manage living resources in the high seas. Scholars have noted the US has followed all the provisions of UNCLOS except the ones on deep sea mining since President Ronald Reagan's 1983 Oceans Policy Statement. In that statement, President Reagan clarified that the US would "continue efforts to achieve international agreements for the effective management of [highly migratory species of tuna]"; United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (also known as the UN Fish Stocks Agreement). 1995. Art. 8 ("Only those States which are members of [a subregional or regional fisheries management organization] or participate in such an arrangement, or which agree to apply the conservation and management measures established by such organization or arrangement, shall have access to the fishery resources to which those measures apply"), Art. 10(a),(b),(c), (l) ("In fulfilling their obligation to cooperate through subregional or regional fisheries management organizations or arrangements, States shall: (a) agree on and comply with conservation and management measures to ensure the long-term sustainability of straddling fish stocks and highly migratory fish stocks; (b) agree, as appropriate, on

participatory rights such as allocations of allowable catch or levels of fishing effort; ... (e) agree on standards for collection, reporting, verification and exchange of data on fisheries for the stocks; ... (l) ensure the full cooperation of their relevant national agencies and industries in implementing the recommendations and decisions of the organization or arrangement”), Art. 18(1) (“A State whose vessels fish on the high seas shall take such measures as may be necessary to ensure that vessels flying its flag comply with subregional and regional conservation and management measures and that such vessels do not engage in any activity which undermines the effectiveness of such measures”), Art. 18(2) (“A State shall authorize the use of vessels flying its flag for fishing on the high seas only where it is able to exercise effectively its responsibilities in respect of such vessels under the Convention and this Agreement”), Art. 18(3)(e),(f) (“Measures to be taken by a State in respect of vessels flying its flag shall include: ... (e) requirements for recording and timely reporting of vessel position, catch of target and non-target species, fishing effort and other relevant fisheries data in accordance with subregional, regional and global standards for collection of such data; (f) requirements for verifying the catch of target and non-target species through such means as observer programmes, inspection schemes, unloading reports, supervision of transshipment and monitoring of landed catches and market statistics”), Art. 19(1)(a) (“A State shall ensure compliance by vessels flying its flag with subregional and regional conservation and management measures for straddling fish stocks and highly migratory species. To this end, that State shall: (a) enforce such measures irrespective of where violations occur”). <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N95/274/67/PDF/N9527467.pdf?OpenElement>

^{vi} President’s Interagency Task Force (“PITF”). 2019. Report on U.S. Government Efforts to Combat Trafficking in Persons. P. 17 (under the PITF’s 5th Strategic Objective, Forge and Strengthen Partnerships and Other Forms of Collaboration to Combat Trafficking in Persons, it is noted that the Department of Justice launched a broad interagency task force to assess legal and jurisdictional issues affecting forced labor in fishing in international waters and to make recommendations to Congress). <https://www.state.gov/wp-content/uploads/2019/10/2019-PITF-Report-Web.pdf>; International Labour Organization. 2019. Resolution of the Southeast Asian Forum to End Human Trafficking and Forced Labour of Fishers. Annex 1: Recommendations to flag States and coastal States, Para. 8 (“We call on flag States of commercial fishing vessels to protect all fishers and migrant fishers on vessels flying their flag, particularly on the high seas where States have exclusive jurisdiction, through the promotion of human rights, fundamental principles and rights at work, and other relevant international standards and obligations onboard”), Para. 14 (“We call on flag States of commercial fishing vessels as receiving States of migrant workers to protect migrant fishers onboard vessels flying their flag, including at the high seas”). www.seafisheriesproject.org; National Oceanic and Atmospheric Administration, National Marine Fisheries Service. 2019 Report to Congress. Improving International Fisheries Management. P. 77 (“Some fishermen, many of them migrant workers, are subjected to labor rights abuses, including forced labor, on board fishing vessels ... such abuses and exploitation are known to occur in conjunction with IUU fishing activities, and therefore warrant attention here”). <https://www.fisheries.noaa.gov/foreign/international-affairs/identification-iuu-fishing-activities>; International Maritime Organization. 2019. Summary of the 4th FAO/ILO/IMO Joint Working Group meeting on IUU Fishing and other related matters (“IUU fishing refers to fishing which is carried out with proper authorization. This can undermine national, regional, and global efforts to conserve and manage fish stocks and result in poor safety and working conditions for fishers. Tackling the issue requires collaboration by all stakeholders”). <http://www.imo.org/en/MediaCentre/MeetingSummaries/othermeetings/Pages/IUU-JWG-4.aspx>

^{vii} US Department of State. Office of Marine Conservation. International Fisheries Management (“Countries must cooperate to conduct scientific study and set fisheries rules that will ensure that these resources are conserved and managed sustainably. The United States has worked over many decades to establish a network of regional fisheries management organizations (RFMOs), treaty-based multilateral bodies and other bilateral, regional, and global organizations that oversee the cooperative sustainable management of shared fish stocks and other living marine resources. The United States is a member or observer of many of these organizations, and the Department of State works closely with other U.S. agencies, including National Oceanic and Atmospheric Administration’s National Marine Fisheries Service, to represent U.S. interests”). <https://www.state.gov/key-topics-office-of-marine-conservation/international-fisheries-management/>

^{viii} International Commission for the Conservation of Atlantic Tunas. 2019. 26th Regular Meeting. Opening Statement of the United States of America. <https://www.iccat.int/com2019/index.htm#en>

^{ix} International Commission for the Conservation of Atlantic Tunas. 2019. Secretariat’s Report to the ICCAT Conservation and Management Compliance Committee. Annex 8: History of Prohibitions Applied under Rec. 11-15. <https://www.iccat.int/com2019/index.htm#en>

^x International Commission for the Conservation of Atlantic Tunas. 2019. 2018 Compliance Tables Received in 2019. <https://www.iccat.int/com2019/index.htm#en>

^{xi} Western and Central Pacific Fisheries Commission. 2013. 10th Regular Session. Conservation and Management Measure on Daily Catch and Effort Reporting (still in force). <https://www.wcpfc.int/system/files/CMM%202013-05%20CMM%20on%20daily%20catch%20and%20effort%20reporting.pdf>

^{xii} International Transport Workers' Federation. 2006. Out of Sight, Out of Mind: Seafarers, Fishers & Human Rights (describing severe abuse of Chinese migrant fishers onboard the Vanuatu-flagged tuna longliner Tunago No. 61). <https://issuu.com/sdm2007/docs/humanrights>; Nexus Institute & International Organization for Migration. 2014. In African Waters: The Trafficking of Cambodian Fishers in South Africa (discussing the Giant Ocean case where hundreds of Cambodian migrant fishers were reportedly trafficked into Taiwanese and Chinese distant water fleets likely harvesting tuna on the high seas).

https://publications.iom.int/system/files/pdf/nexus_africanwaters_web.pdf; New York Times. 2015. Tricked and Indebted on Land, Abused or Abandoned at Sea (discussing the suspected murder of Eril Andrade, a Filipino migrant fisher who worked on the Taiwanese-flagged tuna longliner Hung Yu No. 212).

<https://www.nytimes.com/2015/11/09/world/asia/philippines-fishing-ships-illegal-manning-agencies.html>

^{xiii} Greenpeace Southeast Asia. 2019. Seabound: The Journey to Modern Slavery on the High Seas. <https://www.greenpeace.org/southeastasia/publication/3428/seabound-the-journey-to-modern-slavery-on-the-high-seas/>. Note some of the cases cited in the report have yet to be resolved through the judicial or administrative process. Greenpeace's conclusions are based on methodology developed by the Indonesian migrant workers union Serikat Buruh Migran Indonesia (SBMI) and joint analysis by Greenpeace and SBMI. SBMI's methodology is consistent with the methodology developed by Greenpeace for its own investigations.

^{xiv} ILO forced labor indicators were present among six migrant fishers who collectively worked on three Taiwanese-flagged fishing vessels. Two migrant fishers who each worked on Vanuatu-flagged, but Taiwanese-owned fishing vessels also reported forced labor indicators during interviews. The latter arrangement is a known scheme in the Taiwanese industry to avoid responsibility and limit accountability. Vanuatu has been declared by the International Transport Workers' Federation as a Flag of Convenience. <https://www.itfglobal.org/en/sector/seafarers/flags-of-convenience>

^{xv} Human Rights at Sea. 2019. Baseline Study on the Awareness and Application of Human Rights in Taiwan's Fishing Industry (documenting presence of ILO forced labor indicators in the Taiwanese distant water fleet).

https://www.humanrightsatsea.org/wp-content/uploads/2019/10/HRAS_Taiwanese_Human_Rights_Baseline_Study_October_2019_SP_LOCKED.pdf;

Environmental Justice Foundation. 2018. Abuse and Illegal Fishing Aboard Taiwanese Vessel Let Slip Through the Net (briefing based on interviews with five survivors of forced labor who worked on the Taiwanese-flagged longliner Fuh Sheng No. 11). <https://ejfoundation.org/news-media/2018/first-hand-reports-of-grave-abuse-and-illegal-fishing-aboard-taiwanese-vessel-allowed-to-slip-through-the-net>;

Environmental Justice Foundation. 2018. Illegal Fishing and Human Rights Abuses in Taiwanese Fishing Fleet (documenting presence of ILO forced labor indicators on two Taiwanese-flagged vessels, and two foreign-flagged vessels with suspected or actual links to Taiwanese owners). <https://ejfoundation.org/resources/downloads/EJF-Taiwanese-vessels-briefing-public-final.pdf>;

Greenpeace. 2018. Misery at Sea. PP. 28-35 (discussing the presence of ILO forced labor indicators in the case of Supriyanto, an Indonesian migrant fisher who was allegedly murdered on the Taiwanese-flagged fishing vessel Fu Tsz Chiun). https://storage.googleapis.com/planet4-new-zealand-stateless/2018/05/9fdf62aa-greenpeace_misery_at_sea-report-lowres.pdf;

Greenpeace. 2018. Misery at Sea. PP. 36-45 (discussing the presence of ILO forced labor indicators among the six Indonesian migrant fishers who worked on Vanuatu-flagged, but Taiwanese-owned longliner Tunago No. 61); The News Lens. 2018. Welcome to Taiwan: Beatings, Bodies Dumped at Sea and a Culture of Maritime Abuse (interview with an Indonesian migrant fisher who worked with Supriyanto onboard the Taiwanese-flagged fishing vessel Fu Tsz Chiun corroborates Greenpeace and others' reports that his fatal wounds resulted from continuous abuse by the skipper and engineering crew).

<https://international.thenewslens.com/feature/highseas/96334>; Tempo, Tempo Institute, Free Press Unlimited, and The Reporter. 2017. Slavery at Sea (interviews in Indonesia and Taiwan documented the presence of ILO forced labor indicators among many Indonesian migrant fishers working on Taiwanese-flagged distant water fishing vessels). https://issuu.com/twreporter.org/docs/merged_1; Greenpeace. 2016. Made in Taiwan. PP. 16-24 (dozens of interviews with migrant fishers documented severe abuse and the presence of ILO forced labor indicators on

Taiwanese-flagged distant water fishing vessels, including tuna longliners). <https://storage.googleapis.com/planet4-international-stateless/2016/04/1f3e47c1-taiwan-tuna-rpt-2016.pdf>

^{xvi} United Nations Convention on the Law of the Sea. 1982. Art. 92(1) (“Ships shall sail under the flag of one State only and, save in exceptional cases, expressly provided for in international treaties or in this Convention, shall be subject to its exclusive jurisdiction on the high seas”), Art. 94 (1) (“Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag”), Art. 94 (2) (“In particular every State shall: ... (b) assume jurisdiction under its internal law over each ship flying its flag and its master, officers and crew in respect of administrative, technical and social matters concerning the ship”), Art. 94 (3) (“Every State shall take such measures for ships flying its flag as are necessary to ensure safety at sea with regard, *inter alia*, to ... (b) the manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments”), Art. 94(5) (“In taking the measures called for in paragraphs 3 and 4 each State is required to conform to generally accepted international regulations, procedures and practices and to take any steps which may be necessary to secure their observance”).

https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf; UN Fish Stocks Agreement. 1995. Art.8, Art. 10 (a),(b),(e),(l), Art. 18(1),(2),(3)(e)(f), Art. 19(1)(a). <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N95/274/67/PDF/N9527467.pdf?OpenElement>; International Labour Organization Maritime Labour Convention. 2006. Regulation 5.1.1(1) (“Each Member is responsible for ensuring implementation of its obligations under this Convention on ships that fly its flag”), 5.1.1(2) (“Each Member shall establish an effective system for the inspection and certification of maritime labour conditions, in accordance with Regulations 5.1.3 and 5.1.4 ensuring that the working and living conditions for seafarers on ships that fly its flag meet, and continue to meet, the standards in this Convention”). https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/normativeinstrument/wcms_554767.pdf; International Labour Organization Work in Fishing Convention. 2007. Art. 40 (“Each Member shall effectively exercise its jurisdiction and control over vessels that fly its flag by establishing a system for ensuring compliance with the requirements of this Convention including, as appropriate, inspections, reporting, monitoring, complaint procedures, appropriate penalties and corrective measures, in accordance with national laws or regulations”), Art. 43(1) (“A Member which receives a complaint or obtains evidence that a fishing vessel that flies its flag does not conform to the requirements of this Convention shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found”). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C188; Food and Agriculture Organization of the United Nations Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. 2009. Preamble (“*Recognizing* that measures to combat illegal, unreported and unregulated fishing should build on the primary responsibility of flag States ...”). <http://www.fao.org/3/i5469t/I5469T.pdf>; Pew Charitable Trusts. The Cape Town Agreement Explained. 2018 (“The [International Maritime Organization Cape Town Agreement]’s entry into force would give States a powerful tool to ensure that vessels flying their flags are held accountable for the safety of their crews; that fishing operations are conducted safely and legally; and that their safety obligations as responsible flag States are fulfilled”).

<https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2018/10/the-cape-town-agreement-explained>

^{xvii} United Nations Convention on the Law of the Sea. 1982. Art. 92(1).

https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

APPENDIX 2



GREENPEACE IN COLLABORATION WITH **SBMI**

SEABOARD: THE JOURNEY TO MODERN SLAVERY ON THE HIGH SEAS



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SBMI

SPECIAL THANKS TO SBMI

Established on February 25, 2003, Serikat Buruh Migran Indonesia (also known as the Indonesian Migrant Workers Union or "SBMI") is an organisation operated by former, present, or aspiring Indonesian migrant workers and their families. The organisation aims to bolster the welfare and rights of Indonesian migrant workers through advocacy work, client support, education, and economic empowerment. SBMI was later recognised as a Trade Union in 2006.

EXECUTIVE SUMMARY

For several years now, international media has shone a spotlight on the inhumane working conditions of migrant fishers from Southeast Asia. The vessels they work on reportedly use destructive, illegal, and unreported methods, which take a heavy toll on the health and viability of our already fragile oceans.

By the fishers' own accounts, lured by promises of higher wages, many find themselves indebted to shady brokers and employment agencies. Through salary deductions, as indicated in their payment schedules, Indonesian migrant fishers have to pay guarantee deposits and processing costs, far in excess of the amounts they were expecting, for the first 6 to 8 months of their employment. As a result, they often work ridiculous hours in one of the world's most dangerous industries, for little or no pay. This alone suggests modern slavery, but the issues at hand are multifarious and just as heart-wrenching.

Isolation at sea for months, even years, makes escape difficult and often impossible. It is all too easy for these vessels to operate away from the reach of the law. Such a scenario, where fishing vessel captains rule with impunity, makes modern slavery at sea possible. Through direct interviews, paper trail, and corroborative information, Greenpeace Southeast Asia describes the alleged working conditions as claimed by Indonesian and Filipino migrant fishers on distant water fishing fleets.

According to the Taiwan Fisheries Agency, as of June 2019, some 21,994 migrant fishers from Indonesia and 7,730 from the Philippines are reportedly working on Taiwanese distant water fishing vessels. These two countries combined represent the majority of migrant fishers on Taiwan's distant water fleets - a USD2 billion industry and one of the top five distant water fishing fleets on the high seas.



Central to this report are the 13 suspected foreign fishing vessels where 34 Indonesian migrant fishers have reported conditions which suggest signs of forced labour. Four main complaints have been identified: deception involving 11 foreign fishing vessels; withholding of wages involving 9 foreign fishing vessels; excessive overtime involving 8 foreign fishing vessels; physical and sexual abuse involving 7 foreign fishing vessels.

Dwindling fish populations are forcing vessels to seek fish further and further out to sea, which results in higher operation costs and increases the possibility of violation and exploitation of migrant fishers who endure backbreaking work just to make a living.

The fates of migrant fishers remain uncertain because the crimes they allege that were committed against them usually happen out in the open sea, far away from the scrutiny of regulators who might ensure their proper working conditions and safety.

As a result of the learnings outlined in this report, Greenpeace Southeast Asia strongly emphasises the need for ASEAN member States, particularly the Philippine and Indonesian governments, to take concrete policy actions to address the labour and environmental issues cited and ensure that modern slavery at sea becomes a thing of the past.



Photo Credit: ©Jiri Rezac/Greenpeace

INTRODUCTION

This report raises the varied but interrelated issues, both social and environmental, concerning many distant water fishing operations. It is written with the purpose of bringing these issues to the public's attention, raising greater awareness among authorities, and eventually mobilising support for critical policy actions in the region.

A commercial fishing industry has existed in Southeast Asia since the mid-1800s. In the 1900s, it experienced rapid growth to serve a growing population, opening up a regional export market which remains to this day, one of the most robust, thanks to a steady stream of low-paid, regular workforce.

At the center of this report are the experiences of Indonesian and Filipino migrant fishers who commonly work onboard foreign distant water fishing fleets. Through direct interviews, paper trail and corroborative information,

Greenpeace Southeast Asia presents a snapshot of the particular conditions of their lives onboard these fishing vessels – a life they have described as being characterised mainly by forced labour, mistreatment, and rampant human rights abuses – and how they arrived to be in such situations in the first place.

In Indonesia, the story generally begins with a manning agency recruiting migrant fishers. Workers have to pay guarantee deposits to foreign brokers and processing fees to Indonesian manning agencies for the first six to eight months of their 24-month contract – often, a third of their salary is deducted to pay for debts incurred in the recruitment process.

Cross-referencing documents obtained from Serikat Buruh Migran Indonesia (SBMI - Indonesian Migrant Workers'

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Taiwanese longliner *Jordan No 5* sets a line in the Indian Ocean. Photo taken from Greenpeace ship *Esperanza* in the Indian Ocean when investigating fishing vessels that are operating illegally or using highly destructive and wasteful fishing techniques.

Union), with the International Labour Organization's (ILO) forced labour indicators, shows that 34 migrant fishers working on 13 suspected foreign fishing vessels have reported conditions that indicate forced labour.

The same is true in the Philippines, where Filipinos end up as victims of false recruitment, or worse, in debt. But the Philippine experience is also unique as the country has the Davao Fish Port Complex (DFPC) used almost exclusively by Taiwanese longliners for transshipment activities¹ - that is, the act of transferring the catch from one fishing vessel to another or a vessel used solely for the carriage of cargo. While foreign fishing vessels transshipping in the DFPC are subjected to boarding formalities, the presence or absence of forced labour conditions onboard may remain unknown.

Many of the cases documented in this research take place onboard longline vessels, where working conditions are among the most labour intensive. With a crew of 5 to 12 men, workers need to place bait on some 2,500 to 3,000 hooks on hanging lines which can extend from 10 to 100 kilometers from the vessel². Vessels tend to be small and operating costs are high, providing a strong incentive to minimise crew costs and/or investment in safety and living conditions.

Aside from the various labour violations, poorly managed longline fisheries can be involved in overfishing and illegal, unreported and unregulated (IUU) fishing which place a huge burden on marine ecosystems. While this report includes 8 longliners, Greenpeace Southeast Asia is not claiming that these vessels are involved in IUU fishing or shark catch / finning as this issue is beyond the scope of this report. Many longline fishing operations also have high shark by-catch rates as their fishing grounds significantly overlap with shark habitats³. Longliners have been documented as being involved in shark finning - where fins are severed from the shark and the body thrown back to the sea with sharks left to bleed to death⁴.

Crucially, this report emphasises the need for both the Indonesian and Philippine governments to take concrete policy actions in order to address the labour

and environmental issues raised. Three international instruments are particularly relevant for migrant fishers: 1) the International Labour Organization (ILO) Work in Fishing Convention, 2007 (Convention No. 188 or C-188); 2) the International Maritime Organization (IMO) Cape Town Agreement; and 3) the Food and Agricultural Organization (FAO) Agreement on Port State Measures (PSMA).

Of the 10 member states of the Association of Southeast Asian Nations (ASEAN), only Thailand has ratified C-188. The PSMA has been ratified by Indonesia, the Philippines, and Thailand. The Cape Town Agreement, on the other hand, has yet to be ratified by any of the members of the ASEAN.

Industrial fishing has been rated the second deadliest profession in 2019⁵. It involves long work shifts, physically demanding tasks, poor availability and use of protective equipment, inexperienced crew, and high injury rates⁶.

Reports documenting the experiences of Indonesian and Filipino migrant fishers reveal a common pattern throughout the recruitment process, the terrible working conditions onboard vessels, as well as the uncertainty of repatriation when vessel operators are caught violating fishing laws in foreign countries.

The fact that high seas fishing operations take place so far from shore creates perfect conditions for such exploitation to continue unreported and unmonitored.

Perhaps the biggest complication, however, lies in the fact that the industry involves so many State actors, meaning responsibility and accountability is often elusive. Where one operation may involve two or more countries, a host of agencies and possibly corrupt authorities, implementing laws and resolving cases becomes lengthy and discouraging, especially for complainants.

As such, this report lays down a framework with policy actions for addressing exploitative labour practices, unsustainable fishing methods, and the issue of state accountability.





METHODOLOGY

For the cases of Indonesian migrant fishers, Greenpeace Southeast Asia reviewed the documentation of pending cases with permission from SBMI. These were compiled Letters of Guarantee, contracts, complaints filed, salary schedules, passports and plane tickets. Only contracts from 2017 onwards, with complete complaint documentation, were included.

All documents were carefully reviewed to establish patterns. Data were specific to each fishing vessel although generalisations have been made to describe the overall pattern common to all 13 fishing vessels.

The International Labour Organization's (ILO) Forced Labour Convention 1930 (No. 29) defines forced or compulsory labour as: "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."⁷ See *Box 1*.



Box 1. Indicators of Forced Labor^a

1. Abuse of vulnerability

People who lack knowledge of the local language or laws, have few livelihood options, belong to a minority religious or ethnic group, have a disability or have other characteristics that set them apart from the majority of the population are especially vulnerable to abuse and more often found in forced labour.

2. Deception

Victims of forced labour are often recruited with promises of decent, well-paid jobs. But once they begin working, the promised conditions of work do not materialise, and workers find themselves trapped in abusive conditions without the ability to escape.



3. Restriction of movement

If workers are not free to enter and exit the work premises, subject to certain restrictions which are considered reasonable, this represents a strong indicator of forced labour.

4. Isolation

Workers may not know where they are, the worksite may be far from habitation and there may be no means of transportation available. But equally, workers may be isolated even within populated areas, by being kept behind closed doors or having their mobile phones or other means of communication confiscated, to prevent them from having contact with their families and seeking help.



5. Physical and sexual violence

Forced labourers, their family members and close associates may be subjected to actual physical or sexual violence. Violence can include forcing workers to take drugs or alcohol so as to have greater control over them. Violence can also be used to force a worker to undertake tasks that were not part of the initial agreement, such as to have sex with the employer or a family member or, less extreme, to undertake obligatory domestic work in addition to their “normal” tasks. Physical abduction or kidnapping is an extreme form of violence which can be used to take a person captive and then force them to work.

6. Intimidation and threats

In addition to threats of physical violence, other common threats used against workers include denunciation to the immigration authorities, loss of wages or access to housing or land, sacking of family members, further worsening of working conditions or withdrawal of “privileges” such as the right to leave the workplace. Constantly insulting and undermining workers also constitutes a form of psychological coercion, designed to increase their sense of vulnerability.



7. Retention of identity documents

The retention by the employer of identity documents or other valuable personal possessions is an element of forced labour if workers are unable to access these items on demand and if they feel that they cannot leave the job without risking their loss.

8. Withholding of wages

When wages are systematically and deliberately withheld as a means to compel the worker to remain, and deny him or her the opportunity to change employer, this points to forced labour.



9. Debt bondage

Forced labourers are often working in an attempt to pay off an incurred or sometimes even inherited debt. The debt can arise from wage advances or loans to cover recruitment or transport costs or from daily living or emergency expenses, such as medical costs.

10. Abusive working and living conditions

Forced labour victims are likely to endure living and working conditions that workers would never freely accept. Work may be performed under conditions that are degrading (humiliating or dirty) or hazardous (difficult or dangerous without adequate protective gear), and in severe breach of labour law



11. Excessive overtime

Forced labourers may be obliged to work excessive hours or days beyond the limits prescribed by national law or collective agreement. They can be denied breaks and days off, having to take over the shifts and working hours of colleagues who are absent, or by being on call 24 hours a day, seven days a week.



Potential migrant workers learn Korean language at an agency for workers destined to work in South Korea at Suradadi District, Tegal, Central Java.

Note: According to the ILO, all indicators of forced labour fall under the “menace of penalty” element except deception and excessive overtime which fall under the “involuntariness” element. Degrading living conditions imposed by the employer, recruiter, or third-party, when the worker was uninformed or did not consent, should be considered an indicator of involuntariness. If the worker was informed and consented to the conditions, then such conditions should be considered an indicator of menace of penalty. There needs to be a combination of both elements (menace of penalty and involuntariness) present in order to deduce forced labour exists. One element alone is considered a forced labour risk, not conclusive forced labour.

In the Philippines, Greenpeace Southeast Asia commissioned a review of relevant laws pertaining to migrant fishers. Two roundtable discussions were organized in Manila and in Davao. These forums brought together relevant government departments and bureaus and non-government organisations to discuss their respective mandates, system of recruitment and penalties, roles and responsibilities, and current projects they are undertaking. Based on these, a general description of the system (e.g. recruitment and port inspection) was presented in this report.

The main sources for verifying the information of each foreign fishing vessel include Marine Traffic cross-checked with Western and Central Pacific Fisheries Commission (WCPFC) and the North Pacific Fisheries Commission (NPFPC) records of fishing vessels authorised to fish in their respective convention areas.

In addition, Greenpeace Southeast Asia estimated the days at port of foreign fishing vessels docking at the Davao Fish Port Complex (DFPC) from 1 January 2019 to 14 November 2019 using Exact Earth. Greenpeace Southeast Asia also visited the DFPC, where they unload fish for transshipment.





MIGRANT FISHERS FROM INDONESIA AND THE PHILIPPINES

At a recent ILO meeting held in Bali⁹, representatives from the Philippines and Indonesia indicated that both countries had a large number of migrant fishers working on other fleets.

According to Indonesian government sources, there were 186,430 Indonesian migrant fishers aboard Malaysian fishing vessels, 12,278 in Taiwanese fishing vessels, and 4,885 in South Korean fishing vessels in 2018. However, these figures were mere estimates because outbound recruitment (and migrant fishers documentation for that matter) is currently split across several government authorities.

The Philippines, on the other hand, does not disaggregate between fishers and seafarers in their statistics. Philippine Overseas Employment Administration (POEA) 2017 data reveals that at least 378,072 work at sea. But undocumented workers are common, such as the 10 Filipino fishers, including one minor, who were arrested by Indonesian authorities for various violations including illegal fishing, poaching, smuggling and illegal entry into Indonesia¹⁰.

In any case, it is safe to conclude that most the Indonesian and Filipino migrant fishers end up working on Taiwanese distant water fishing vessels.

The Taiwan Fisheries Agency estimates that around 22,710 migrant fishers have been hired overseas to work aboard Taiwanese fishing vessels, while some 12,223 were hired in Taiwan under the Taiwan Labour Standards Act (2018)¹¹. As shown in *Table 1*, most of Indonesian and Philippine migrant fishers have been hired overseas. Migrant fishers in Taiwan's DWF fleet are currently paid USD450 per month¹². On the other hand, migrant fishers hired within Taiwan are covered by the national minimum wage, which is approximately USD740 per month¹³. As of June 2019, some 21,994 migrant fishers from Indonesia (59% of which were hired overseas) and 7,730 migrant fishers from the Philippines (78% of which were hired overseas) are working on Taiwanese coastal and distant water fishing vessels.¹⁴

POEA data shows that from 1 January 2017 to 30 April 2019, there were 65 Philippine manning agencies which processed applications for work onboard 675 Taiwanese fishing vessels. At least 485 Taiwanese manning counterparts were also involved.

Additionally, official 2017 data from POEA pegs the number of Filipino migrant fishers working on fishing vessels from China Mainland, Taiwan and South Korea at 4,009; 2,533; and 272, respectively. With the inefficiency of data access and management in the Philippines and Indonesia, it is not surprising to see discrepancies between countries.

Table 1. Number of foreign crews employed by Taiwanese fishing vessels

Country	Crew hired oversea	Crew hired under the Employment Act
Total	22,710	12,223
China Mainland	2,238	-
Indonesia	12,991	9,003
Philippines	6,016	1,714
Thailand	-	25
Vietnam	1,015	1,481
Cambodia	3	-
Myanmar	215	-
Vanuatu	8	-
Bangladesh	38	-
Japan	3	-
Others	93	-

Latest Update: 2019/06/30

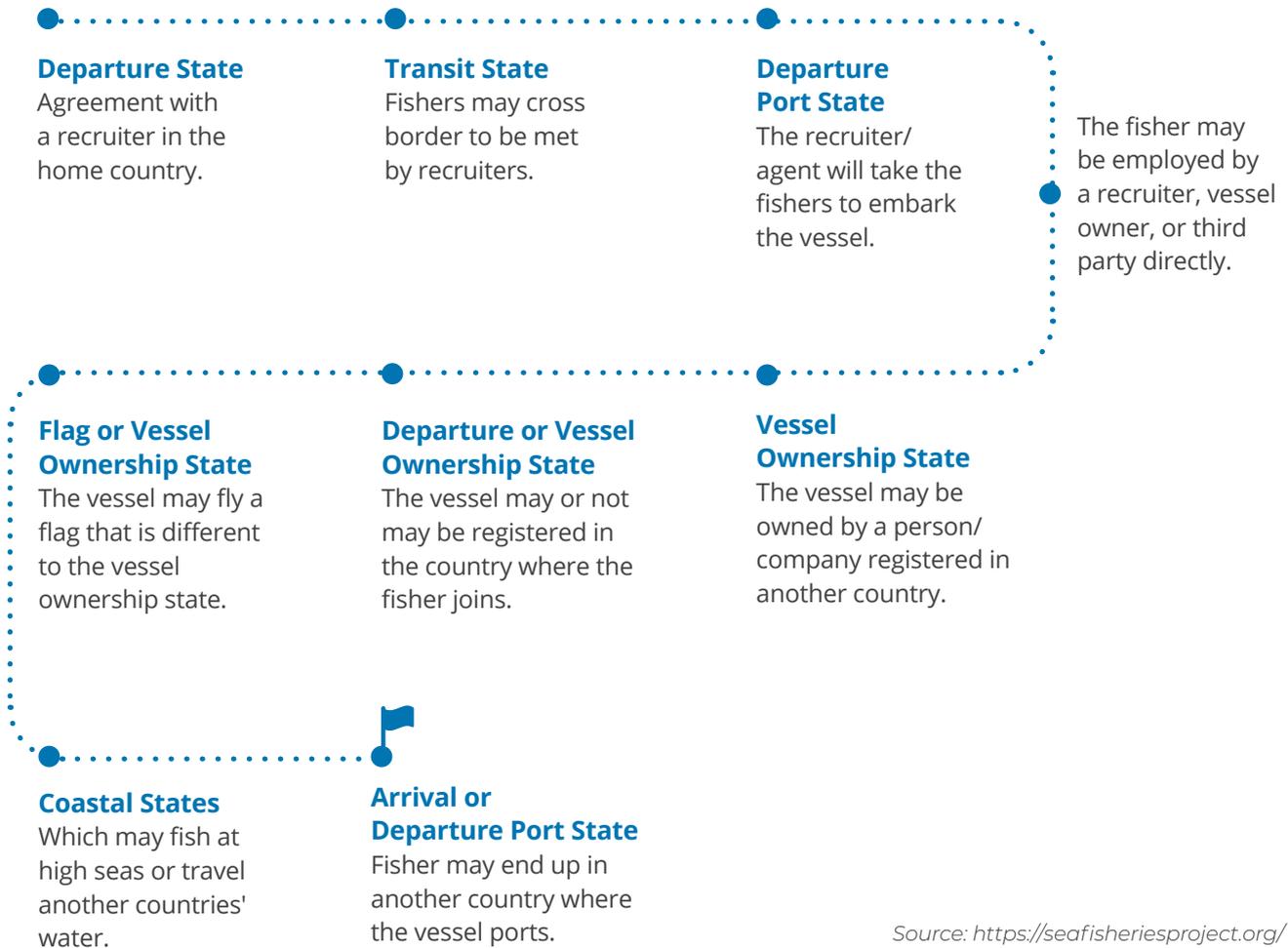
Source: Taiwan Fisheries Agency

Box 2. ILO Categorisation of States Involved in Work in Fishing

The ILO categorises countries in the following ways: **Source States**¹⁵ serve as points of recruitment and transit of migrant fishers – such as in the case of Indonesia and the Philippines, plus most countries in Southeast Asia and West Africa. **Flag States**¹⁶ determine the nationality of the vessel or the country where the beneficial owner is based. Some vessels are flagged in international open registers, which are also known as flags of convenience.¹⁷ **Coastal States**¹⁸ control issuance of fishing licenses to

vessels operating within their Exclusive Economic Zone or EEZ. **Port States**, like the Philippines, are those that host vessels during transshipment or discharge of catch in port other than those of the Flag State¹⁹. **Trade and Market States** are those involved in the processing, wholesale and retail of fish and fish products – the top five exporters being China Mainland, Norway, Vietnam, Thailand and the United States of America (USA); and the top five importers being USA, Japan, China Mainland, Spain and France²⁰.

Figure 1 Transnational nature of working in fishing



Source: <https://seafisheriesproject.org/>

MODERN SLAVERY IN THE FISHING INDUSTRY

The 2018 Global Slavery Index²¹ lists the top 20 fishing entities with low, medium, and high risk of modern slavery along with their parallel share in the world's catch. According to the International Labour Organization (ILO) and the Walk Free Foundation, modern-day slavery is described as "any situation of exploitation that a person cannot refuse or leave because of threats, violence, coercion, deception, and/or abuse of power". This includes "forced labour, debt bondage, forced marriage, slavery and slavery-like practices and human trafficking".²²

A Vulnerable Workforce

Considering the global nature of the lucrative fishing industry, with an estimated traded value of USD153 billion²³, it is no surprise that one migrant fisher's fate often lies in the hands of too many actors, agencies and governments.

In the case of Indonesia, foreign and local fishers, migrant fishers and seafarers have been found to be trafficked in the country and subjected to inhumane living conditions²⁴.

Research conducted by the International Organization for Migration (IOM) featuring 2011 to 2015 data, also found that the majority of Indonesian migrant fishers worked on Taiwanese fishing vessels.

Although Indonesian migrant fishers are exploited in other countries or regions, Indonesia, in turn, is the main destination of almost half of the migrant fishers trafficked from Thailand, Cambodia, and Vietnam, according to a study conducted by the Study on Trafficking, Exploitation and Abuse in the Mekong or STEAM²⁵.

THE DIFFERENT FACETS OF EXPLOITATION

To fully comprehend the stories of exploitation of migrant fishers, it is imperative to understand the recruitment process they go through, the lives they lead onboard fishing vessels and the cases they have to face if and when they are arrested in a foreign country.

It is also crucial to understand that prioritising profits drives this exploitation – the companies' need for greater profits, not only during fishing operations but also during the recruitment process. Overexploitation of coastal water resources and dwindling fish populations compel the industry to increase fishing efforts in the high seas, which often results in higher operating costs and increases the possibilities of exploitation of migrant fishers.

Unsustainable Fishing Harms Fishers and the Environment

Illegal, Unreported, and Unregulated or IUU fishing is central to the issue of modern slavery on the high seas. According to Channing (2017), "Annual illegal and unreported marine fishing generates USD15.5 billion to USD36.4 billion in illicit profits; of that, the majority is generated off the coasts of developing countries." Unfortunately, these figures are a conservative estimate of what exactly is generated by IUU fishing.²⁶

The situation is even more worrisome as overfishing and IUU fishing have major impacts on the environment, the working conditions of migrant fishers and on the food security of affected countries. Some firms allegedly involved in IUU fishing have been linked to other crimes such as the smuggling of migrants, and the trafficking of drugs and persons²⁷.

This happens because of lack of oversight, impunity and loose policies. Migrant fishers, local economies and marine ecosystems are the ones to pay the price for these crimes.







Work on Distant Water Fishing Fleets

Purse seiners are super large nets, resembling a large purse when full. They are used to encircle schools of tuna, often attracted by fish aggregating devices, which catch mostly juvenile fish.

Longlines, as the name implies, is a method consisting of a line which stretches up to 100 km long and uses bait placed on hooks every few metres, to attract tuna.

In terms of labour conditions, longlines are more labour intensive compared with purse seiners as workers are required to place the bait on each hook. After that, hauling of the catch entails another physically-draining challenge as migrant fishers have to remove the tuna from the line one by one. Purse seines are less manual, using mechanised nets (e.g. winches) which haul in the catch.

Illegal fishing not only deprives nations of their fisheries resources, but ultimately results in the collapse of fish stocks and other important marine species. Globally, around 33% of fish stocks are already overfished beyond sustainable limits while some 60% are on the edge of collapse or fished to maximum sustainable limits.²⁸

Tuna longline fleets operate in all four oceans – the Western and Central Pacific Ocean (WCPO), Eastern Pacific Ocean (EPO), Atlantic Ocean (AO), and Indian Ocean (IO). According to Campling *et al.* (2017), the total number of all sizes of longliners currently registered on the four Regional Fisheries Management Organisation's (RFMO) record of fishing vessels is 17,494.²⁹

China Mainland, Taiwan, South Korea, and Japan operate significant distant water longline fleets in WCPO and EPO. On the high seas 86% of fishing effort has been attributed to only five fishing entities: China Mainland, Taiwan, Japan, South Korea, and Spain.³⁰







LABOUR REQUIREMENTS

Depleted fish stocks put additional pressure on fishing operators to maintain profitability. It increases costs as fishing vessels need to travel longer distances to sustain catch levels, consuming more fuel. Crews, as a result, need to stay at sea for long periods of time³¹

Operating an industrial tuna longliner requires at least five crew members to set some 2500 to 3000 hooks over a distance of about 100 km, taking five to six hours to complete. Hauling longlines typically takes 11 hours or more and requires a line hauler and at least a dozen crew members³². In general, estimates for industrial fishing labour costs range from 30 to 50% of total fishing costs.^{33 34}

This is why fishing firms resort to trafficking fishers onboard, sourced from countries that have loose labour migration policies. This makes migrant fishers vulnerable to low wages, poor working and living conditions on substandard fishing vessels and egregious abuses, such as forced labour.³⁵

In the midst of this mad race for the few remaining fish, migrant fishers endure backbreaking work trying to make a living. Isolation at sea for months makes escape difficult and often impossible. Such a scenario, where fishing vessel captains rule with impunity, makes modern slavery at sea possible.

SUPPLY CHAIN



Distant water fishing fleets can stay at sea for months. To reduce costs of shipping, fish caught are stored in refrigerated chambers.



Fish are then transferred to reefers, which are refrigerated cargo vessels used in transshipments with distant water fishing vessels. Reefers store the fish and take it to the port or market destination. It can also deliver supplies and in some cases, crew members who join fishing vessels while on the high seas.



Fish are processed by global tuna companies such as those based in Thailand.



After processing fresh, frozen, chilled and canned fish, products are exported abroad to markets in the United States and Europe where it is distributed to various supermarkets and retail stores.

Isolation at sea for months makes escape difficult and often impossible. Such a scenario, where fishing vessel captains rule with impunity, makes modern slavery at sea possible.





IN FOCUS: CASES OF INDONESIAN MIGRANT FISHERS

One story published in Indonesian magazine, *Liputan BMI*³⁶ describes a village boy who used to work at a local convenience store not far from his home. Rahmatullah was desperate to improve economic conditions and provide a better life for his parents with a higher paying job.

According to Rahmatullah, he was promised a monthly salary of USD400 and a large fishing bonus on the Chinese reefer vessel³⁷ *Han Rong 353* operating in Somali waters. Rahmatullah took the bait, hoping to find his fortune as a migrant fisher.

Rahmatullah's story is very similar to other Indonesian migrant fishers who consider "economic reasons" as the primary factor that encouraged them to work in foreign fishing fleets. Rahmatullah claims that he left from Soekarno-Hatta Airport on December 2017, along with 21 other crew members. The following are excerpts from an interview by *Liputan BMI*.³⁸

"We were scattered on several ships, some were on Han Rong 355."

"The captain likes to play hands (hitting), if the fish catch is small,"

"I haven't bathed in 8 months. I only eat with raw cabbage and drink AC water (water dripping from air conditioning units) and rusty water. But for other foreign nationals, they can get mineral water (like bottled Aqua)."

"... on my friend's ship (Han Rong 355), there are 2 crew (members) who have died. One migrant fisher from the Philippines because of food poisoning in June 2018 and one migrant fisher from China in August 2018 that I myself do not know the cause."

Rahmatullah claims that he got his salary only in the second week of July 2018 – seven months after he went onboard - and it only amounted to IDR8,775,000 (USD608).

After working for seven months, Rahmatullah says that he should have received USD2,400 based on the USD400 monthly pay that was promised, minus a supposed "office deduction" of USD400.

In the Liputan BMI interview, Rahmatullah expressed, "I am confused. The agreement is that my salary will be paid every three or four months. If it was only sent in July it should be USD2,400. Why is this only USD608?", Rahmatullah said.

On 28 November 2019, Greenpeace Southeast Asia contacted Imam Syafi'i, Head of Advocacy, Legal and Human Rights of Indonesian Seafarer's Movement (PPI), regarding the latest status of Rahmatullah's complaint. According to Imam Syafi'i, a legal investigation by the Indonesian National Police began in January 2019, but no case has been filed in court.

In SBMI and Greenpeace Southeast Asia's view, it is imperative that the LG placement require the involvement and oversight of public authorities, both in Indonesia and Taiwan, so as to ensure that migrant fishers are not exploited.

THE RECRUITMENT PROCESS

In general, there are two types of placement for Indonesian migrant fishers who work on a Taiwanese distant water fishing vessel: 1) Official placement; and 2) Letter-guaranteed placement.

Official Placement is a government-to-government placement scheme where migrant fishers are placed through the National Agency for the Placement and Protection of Indonesian Workers (BNP2TKI)³⁹ on Taiwanese vessels that only operate in Taiwanese waters. This process provides better protection for Indonesian fishers given its official nature. It provides Indonesian fishers with an 'alien resident certificate' which guarantees their rights under Taiwanese laws⁴⁰. As such, they are less vulnerable to labour exploitation and abuse.

The letter-guaranteed (LG) placement, on the other hand, is a private-to-private placement scheme that places the fate of Indonesian fishers under the authority of private manning agencies and fishing firms⁴¹. Most of the vessels that fall under this type of placement operate outside Taiwanese waters⁴². Indonesian migrant fishers who work under this type of placement are more vulnerable and face a greater risk of being exploited and abused. Most of the Indonesian migrant fishers assisted by the IOM in Indonesia fall within this category⁴³.

In SBMI and Greenpeace Southeast Asia's view, it is imperative that the LG placement require the involvement and oversight of public authorities, both in Indonesia and Taiwan, so as to ensure that migrant fishers are not exploited.

According to investigations by Indonesia's newspaper Tempo, Indonesian migrant fishers were unaware that they were provided fake seafarers' books and were placed by manning agents who do not have permission from the Ministry of Transportation to operate in Indonesia⁴⁴.

Government efforts, however insufficient, are not nil. In a May 2019 document obtained by SBMI from the Ministry of Transportation, records indicate that as of May 2019, there were 124 registered companies with a Business Permit for Recruitment and Placement of Crews, known as SIUPPAK. However, only two are allowed to recruit and place migrant fishers onboard foreign vessels which suggests that other manning agencies were not able to fulfill a set of 12 conditions⁴⁵ in order to obtain official permits. Among other things, the agent must submit a copy of the fisher's data (a copy of which must be available on the ship) and a copy of the agreement between the fisher and the vessel owner. According to the Ministry of Transportation these conditions were introduced to protect crew members.

The fishing crew who work on foreign vessels are categorised by the Indonesian Ministry of Transportation as

seafarers and not fishers. According to an article in Tempo, seafarers must have basic safety training before being allowed to work onboard a fishing vessel.⁴⁶

Debt Bondage

Greenpeace Southeast Asia, with the help of SBMI, analysed contracts, letters of guarantee and related documents, to understand the system of recruitment and how migrant fishers are paid. The most notable findings are as follows.

A migrant fisher is typically contracted for two years with a monthly gross salary ranging from USD300 to USD500. Of the 34 fisher's documents and contracts analysed, 22 migrant fishers worked on Chinese fishing vessels receiving USD300, while 6 migrant fishers working on Taiwanese-owned and Taiwanese-flagged fishing vessels had a monthly salary ranging from USD300 to USD500. You may recall that the minimum salary required under Taiwanese law⁴⁷ for those working on Taiwanese fishing vessels is USD450. "Processing fees" are then charged by Indonesian manning agents, ranging from USD600 to USD800, and are deducted from the migrant fisher's salary in the first six to eight months.

In addition to the processing fee, migrant fishers also have to pay "guarantee deposits" in the first eight months of

employment. For example, a guarantee deposit of USD800 will go to the foreign broker and is deducted from the migrant fisher's salary at around USD100 to USD150 per month. After all "fees" have been deducted, this leaves the migrant fisher a monthly income of only USD50 (see Table 2). While the deduction of guarantee deposits may be illegal under Taiwanese law⁴⁸, it remains a common practice onboard distant water fleets regardless of nationality.

Brokers claim that the guarantee deposits are returned to the crew upon finishing their two-year contract. If the crew breaches the contract, the guarantee deposit will not be returned and all charges, including plane tickets, will be shouldered by the crew. However, there are cases where guarantee deposits have not been returned, despite migrant fishers fulfilling their contracts.

Despite the many red flags and even though such circumstances may be considered debt bondage, migrant fishers will still take a chance on the opportunity to break free from poverty.

Table 2. Sample Monthly Payslip

Explanation	Chin Chun 12		Lian Yi Hsing 12	
	USD	%	USD	%
Basic Pay	300	100	450	100
Less				
Guarantee Payment*	200	66.67	150	33.3
Processing Fee**	50	16.67	200	44.4
Total Deduction	250	83.33	350	77.8
Pay on Board	-	-	50	11.11
Remittance	50	16.67	50	11.11
Net Pay	50	16.67	100	22.2

*Usually deducted on a monthly basis from the first 8 months of employment

** Usually deducted on a monthly basis from the first 6 to 7 months of employment

Figure 2. Crew salary and deduction table Fishing Vessel (FV) *Chin Chun 12*

SALARY AND DEDUCTION TABLE/ TABEL GAJI DAN POTONGAN

Name :
 Date of Birth :
 Passport Number :
 Seaman book No :
 Vessel Name : FV. CHIN CHUN NO.12
 Position/jabatan : DECKHAND
 Salary/ Gaji : \$300 - \$300
 Deduction/Potongan : \$800
 Address/Alamat :
 Bank Account :

BULAN KE- (Month)	GAJI POKOK (Basic Salary)	GAJI ON BOAT	JAMINAN (Bail)	POTONGAN (Deduction)	PENERIMAAN (Acceptance)
1	\$ 300,00	\$ 50,00	\$ 200,00	\$ 50	\$ 0,00
2	\$ 300,00	\$ 50,00	\$ 200,00	\$ 50	\$ 0,00
3	\$ 300,00	\$ 50,00	\$ 200,00	\$ 50	\$ 0,00
4	\$ 300,00	\$ 50,00	\$ 200,00	\$ 50	\$ 0,00
5	\$ 300,00	\$ 50,00		\$ 250	\$ 0,00
6	\$ 300,00	\$ 50,00		\$ 250	\$ 0,00
7	\$ 300,00	\$ 50,00		\$ 150	\$ 100,00
8	\$ 300,00	\$ 50,00			\$ 250,00
9	\$ 300,00	\$ 50,00			\$ 250,00
10	\$ 300,00	\$ 50,00			\$ 250,00
11	\$ 300,00	\$ 50,00			\$ 250,00
12	\$ 300,00	\$ 50,00			\$ 250,00
13	\$ 300,00	\$ 50,00			\$ 250,00
14	\$ 300,00	\$ 50,00			\$ 250,00
15	\$ 300,00	\$ 50,00			\$ 250,00
16	\$ 300,00	\$ 50,00			\$ 250,00
17	\$ 300,00	\$ 50,00			\$ 250,00
18	\$ 300,00	\$ 50,00			\$ 250,00
19	\$ 300,00	\$ 50,00			\$ 250,00
20	\$ 300,00	\$ 50,00			\$ 250,00
21	\$ 300,00	\$ 50,00			\$ 250,00
22	\$ 300,00	\$ 50,00			\$ 250,00
23	\$ 300,00	\$ 50,00			\$ 250,00
24	\$ 300,00	\$ 50,00			\$ 250,00
Total	\$ 7.200,00	\$ 1.200,00	\$ 800,00	\$ 850	\$ 4.350,00

Tegal, 27 Maret 2017

Pihak Pertama



Source: SBMI

The risk of forced labour is shown in Table 3. Of the 13 suspected fishing vessels involved, 5 are from Taiwan, 6 are from China Mainland and 1 is from Fiji. Eight of the 13 fishing vessels are longliners while 4 are purse seiners. Eight tuna longliners are listed in the Western Central Pacific Fisheries Commission (WCPFC) and 4 purse seiners are listed in the North Pacific Fisheries Commission (NPFC).

A total of 34 cases of Indonesian migrant fishers involving 13 suspected foreign distant water fishing (Table 3) vessels

were identified and selected for inclusion in this report. Each case linked to the 13 suspected foreign distant water fishing vessels was classified according to ILO's Forced Labour indicators (see Box 1). Four main complaints have been identified. Deception was identified in 11 suspected foreign fishing vessels; withholding of wages was identified in 9 suspected foreign fishing vessels; excessive overtime in 8 suspected foreign fishing vessels; physical and sexual abuse in 7 suspected foreign fishing vessels.

Table 3. Cases filed with Serikat Buruh Migran Indonesia (SBMI) from 2017-2019

No	Vessel Name RFMO Registry Vessel Type	Owner - Company / Where the Company Registered / Fishing Entity	Complainants	* Numbers refer to ILO Forced Labor Indicators in Box 1.												
				1	2	3	4	5	6	7	8	9	10	11		
1.	<i>Chin Chun No.12</i> https://www.wcpfc.int/node/15684 Tuna longliner	Sheng Sheng Fishery Co., Ltd., Hung Chih Jung/ Taiwan/Vanuatu (FoC)	1		●							●				
2.	<i>Da Wang</i> https://www.wcpfc.int/node/15625 Tuna Longliner	Yong Feng Fishery Co., Ltd. /Taiwan /Vanuatu (FoC)	1	●	●			●				●		●	●	
3.	<i>Fu Yuan Yu No. 054</i> https://www.npfc.int/vessels/476 Purse Seiner	China Mainland	10		●							●				●
4.	<i>Fu Yuan Yu No. 055</i> https://www.npfc.int/vessels/477 Purse Seiner	China Mainland	3		●			●	●					●	●	
5.	<i>Fu Yuan Yu No. 056</i> https://www.npfc.int/vessels/478 Purse Seiner	China Mainland	2		●			●	●							●
6.	<i>Fu Yuan Yu No. 062</i> https://www.npfc.int/vessels/484 Purse Seiner	China Mainland	4			●	●					●				●
7.	<i>Fwu Maan No.88</i> https://www.wcpfc.int/node/17556 Tuna Longliner	Wu, Bor-Shyan / Taiwan /Taiwan	3	●				●			●					

No	Vessel Name RFMO Registry Vessel Type	Owner - Company / Where the Company Registered / Fishing Entity	Complainants	* Numbers refer to ILO Forced Labor Indicators in Box 1.										
				1	2	3	4	5	6	7	8	9	10	11
8	<i>Han Rong 353</i> Cargo Ship	China Mainland	4		●			●	●		●		●	●
9	<i>Hangton No. 112</i> https://www.wcpfc.int/node/30417 Tuna Longliner Contract says Hangton No. 1115	Hangton Pacific Company PTE Ltd. / Fiji	1	●	●					●		●	●	●
10	<i>Lien Yi Hsing No.12</i> https://www.wcpfc.int/node/15299 Tuna Longliner	Chai, Maung-jian / Taiwan / Taiwan	2		●							●		
11	<i>Lu Rong Yuan Yu No.30</i> https://www.wcpfc.int/node/16939 Tuna Longliner	Shandong Lidao Oceanic Technology Co. Ltd. / China Mainland	1		●			●	●	●	●	●		
12	<i>Shin Jaan Shin</i> https://www.wcpfc.int/node/15409 Tuna Longliner	Chen,Shin-Dean/ Taiwan / Taiwan	1		●									
13	<i>Zhong Da No. 2</i> https://www.wcpfc.int/node/16161 Tuna Longliner	Zhong Da Co. Ltd / China Mainland / Fiji	1	●	●			●	●	●	●		●	●
Total			34	4	11	1	1	7	6	3	9	2	5	8

Source: SBMI

Note: *Han Rong 353* is not listed in WCPFC or NPFC. NPFC does not mention owner, company and address.

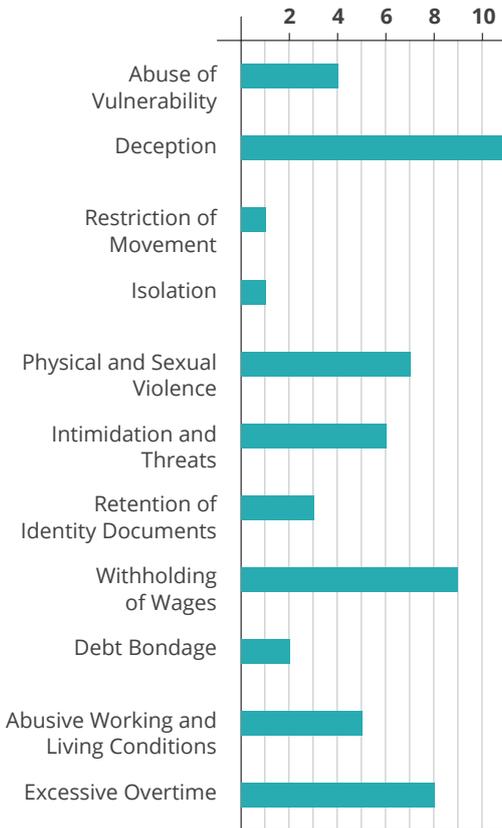
*** ILO Forced Labour Indicators**

- 1= Abuse of Vulnerability
- 2= Deception
- 3= Restriction of Movement
- 4= Isolation
- 5= Physical and Sexual Violence
- 6= Intimidation and Threats

- 7= Retention of Identity Documents
- 8= Withholding of Wages
- 9= Debt Bondage
- 10= Abusive Working
and Living Conditions
- 11= Excessive Overtime

FISHING VESSELS LOCATION

Table 3A.
Suspected fishing vessels involved



To visualise how far distant water fishing fleets are from Indonesia, see *Figure 4* which shows the recent locations of distant water fishing vessels according to Marine Traffic.



Vessel Name

- | | |
|-------------------|----------------------------|
| 1. Chin Chun #12 | 8. Han Rong 353 |
| 2. Da Wang | 9. Hangton 115 |
| 3. Fu Yuan Yu 054 | 10. Lian Yi Hsing No. 012 |
| 4. Fu Yuan Yu 055 | 11. Lu Rong Yuan Yu No. 30 |
| 5. Fu Yuan Yu 056 | 12. Shin Jaan Shin |
| 6. Fu Yuan Yu 062 | 13. Zhong Da 2 |
| 7. Fwu Mann #88 | |

Figure 4. Fishing Vessel Location



Source: Marine Traffic 16 September 2019

VOICES OF MIGRANT FISHERS

The following are testimonials of migrant fishers obtained by SBMI and Greenpeace Southeast Asia. The stories are shocking, disturbing, and when taken together, expose a pattern of abuse, violence, and impunity to which no human being should ever be subjected.

“I witnessed horrible torture. We were working even on midnights. When the Fishing Master was angry, he hit my friend’s head near his left ear. After that he was forced to continue working until the work was finished and only then was he allowed to rest. In the morning when we woke up for breakfast, we found him dead in his room. The Captain wrapped up my dead friend’s body with a blanket and then stored him in the freezer.”

Mr. D, 28 years old, a former crew on *Da Wang* (statement made on July 2019)

“The fishing crew often got bad and unpleasant treatment from the Captain. We did not get our salaries as promised. Our passports were also held by the Captain.”

Mr. F, 31 years old, a former crew on *Fwu Maan No.88* (statement made on January 2019)

“When I arrived in Taiwan, I was directly brought to the vessel berthed at port. The next day we sailed. Work conditions such as food, working hours, social insurance, among others were not like as promised by the manning agency in Indonesia. We were promised salaries that will be paid cumulatively every three months, but that did not happen. The reality was different from my expectations before deciding to board the ship.”

Mr. C, 24 years old a former crew on *Chin Chun No.12* (statement made on May 2019)

"I and several other crew members were sent home because the boat owner reported that *Han Rong 353* had to sail back to China. The *Han Rong 353* was operated together with the *Han Rong 355*. The problem was that there were three crew members who had died in the last 6 months since we were working - one from the Philippines and two from China."

Mr. HR, 28 years old, a former crew on *Han Rong No.353*
(statement made on January 2019)

"I was forced to work without enough rest and food. I was exhausted and could not continue my duty. I saw that others went for a rest. I stopped and went to the galley but food was not served anymore. My boss came to me and asked, "What's your problem?" I asked back, "Don't you know the rules, also I need to rest and eat food, what's my fault? *Zhong Da No. 2* operated in Fiji and sometimes fishing close to New Zealand waters too. To my knowledge, this vessel was owned by China, but Fiji-flagged. Quite confusing!"

Mr. Z, 24 years old, a former crew on *Zhong Da No. 2* (statement made in May 2018)



RESPONSES FROM FISHING VESSELS

Greenpeace Southeast Asia reached out to all the companies or individuals associated with the fishing vessels mentioned in this report. Emails and letters by courier were sent to allow them an opportunity to comment on the alleged forced labour cases. In cases where contact details were not available, Greenpeace Southeast Asia also informed the RFMO where the fishing vessels in question were registered and requested disclosure of contact details of the said vessels involved in the complaint.

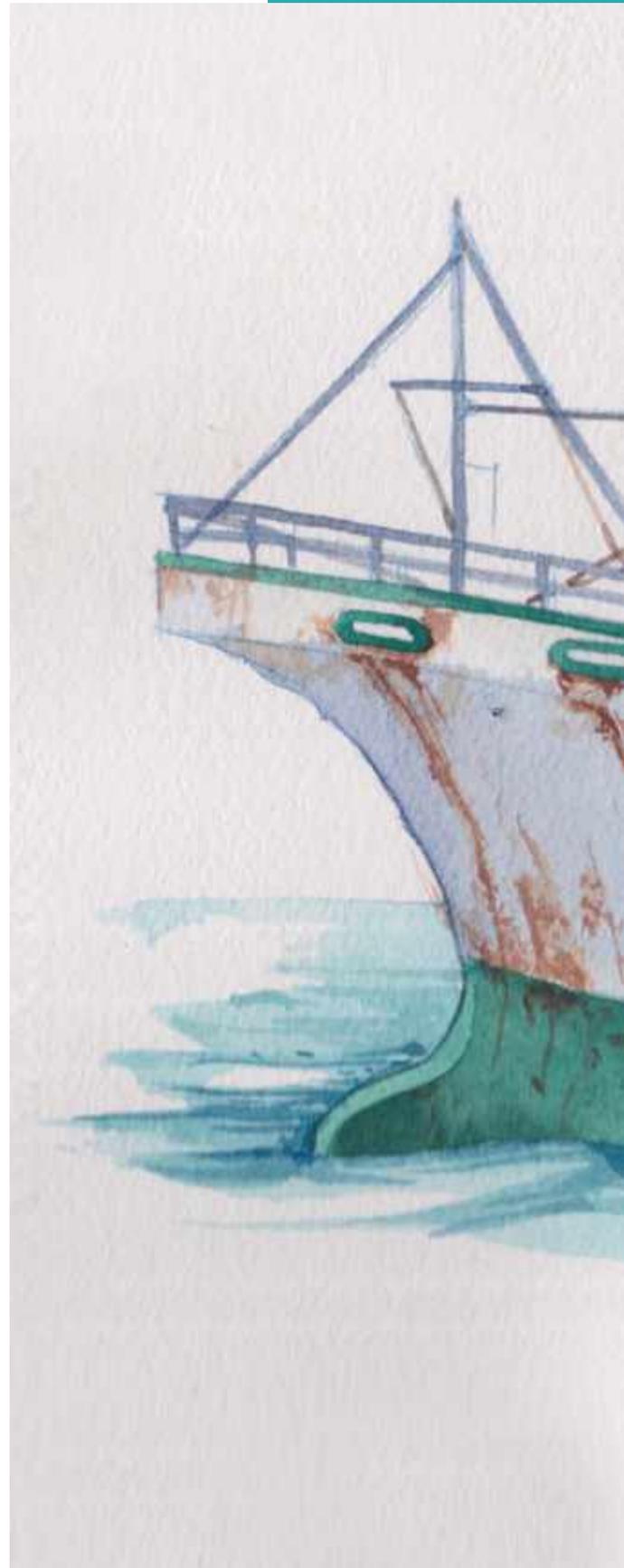
In an email sent to Greenpeace Southeast Asia dated 28 November 2019, a representative from the Taiwanese fishing vessel *Shin Jaan Shin* denied withholding salaries from the crew and claimed that it will investigate the matter.

A representative from the Fiji flagged *Hangton 112* responded on 2 December 2019 and claimed that the said vessel is not a distant water fishing vessel and that its Indonesian crew are recruited by an Indonesian agent. The representative also claimed that they make no salary deductions nor retain any of the crew's documents in Fiji while crew is at sea. There was mention of an incident from another vessel *Hangton 112* where a crew member resigned after fighting with another crew onboard.

A representative from the Taiwanese fishing vessel *Da Wang* also responded on 2 December 2019 and denied that crews were treated inhumanely, emphasising that working is prohibited between midnight and 5 AM. The representative also claimed that their crew are paid through labor service companies in Taiwan. There was mention of an incident wherein a crewman allegedly died in his sleep on 17 June 2019.

A representative from the Taiwanese fishing vessel *Fwu Maan 88* responded on 3 December 2019 and claimed that the accusations are "groundless". The representative also emphasised that efforts are being done by the vessels and the Taiwanese government to improve human rights of fishing migrants.

A representative from the Taiwanese fishing vessel *Lien Yi Hsing 12* responded on 7 December 2019. The representative claimed that their crew are always paid on time, coursed through a Taiwanese agent.





IN FOCUS: CASES OF FILIPINO MIGRANT FISHERS

In 2015, the New York Times recounted the tragedy of Eiril Andrade from Linabuan Sur, Aklan⁴⁹ According to the report, Andrade and his town mates were promised a handsome salary by a local recruiter and the opportunity to work onboard a commercial fishing vessel for a Singapore-based manning agency.

Seven months after leaving for Singapore on a tourist visa, Andrade came back inside a coffin, without his eyes and pancreas. The report claims that an autopsy conducted later on, revealed that the cuts and bruises on his body had been inflicted before he died.⁵⁰

Another story involved 10 Filipino fishers, including one minor, who were arrested by Indonesian authorities for various violations, including illegal fishing, poaching, smuggling and illegal entry in Indonesia. In the report,⁵¹ Joeper Escobal of Malapatan in Sarangani Province, was named among the arrested fishers who were held for about a year in Indonesia, for illegal fishing. Escobal told that they went to Indonesia on May 14, 2018 and got caught by Indonesian authorities without proper documents and were charged for illegal fishing.

These narratives echo the vulnerabilities of so many migrant fishers and the grim reality of decent work deficit, where fishers or crew members continue to suffer from what could be called a 3D occupation - dirty, difficult, and dangerous. While there have been technological advances in fisheries and fish production, migrant fishers worldwide lag behind significantly compared to other occupations in terms of being afforded basic human and labour rights.







Photo Credit: ©Karlitos Manlapig/Greenpeace

LIFE ONBOARD

The Environmental Justice Foundation released a video showing two Filipinos who claimed to have experienced forced labour onboard an unnamed Taiwanese fishing vessel.⁵² One of them warns prospective migrant fishers not to sign contracts that appear to offer a disproportionately high salary. He spoke of enduring nine months onboard, being trapped and helpless as he and his fellow migrant fishers, were declared by their captain as undocumented migrants.

Another migrant fisher in the video said that the captain didn't allow them to sleep⁵³. According to him, at times they would work for 24 hours and were not given proper meals. In one incident, the migrant fisher claimed that his finger was almost cut-off by the fishing line and that the captain failed to take him to hospital for treatment.

Another mentioned that they were promised a salary increase upon reaching their second year onboard but their salary has since stayed the same. Yet another shared that he was promised a salary of USD625, but when he

came to Taiwan, he was only given USD260 apparently with deductions for "loans, food, and accommodation." He also shared that while he wanted to understand the contract he was signing on to, this was not possible since they were written in Chinese.⁵⁴

In February 2019, a Filipino crew member of the Taiwanese fishing vessel *Wen Peng*, allegedly attacked crewmates killing two and ordering six others to jump into the sea. The Taipei Times mentioned that the suspect, *Wen Peng's* chief officer, apparently become violent but the actual reason behind his behavior remains unknown⁵⁵.

This Page:

Taiwanese long liner *Chao Yeung 5* docked at the Davao Fish Port Complex on 21 October 2019.

THE RECRUITMENT PROCESS IN THE PHILIPPINES

As mentioned earlier, 2017 data from POEA show that 4,009 Filipinos work on fishing vessels from China Mainland while 2,533 work on fishing vessels from Taiwan.

POEA data also shows that migrant fishers come from various parts of the Philippines. Many of them are recruited by unregistered manning agencies who lure people from rural regions with beautiful promises that tend to be untrue.

In 2016, the top 10 source provinces for fishers included: 1) Iloilo 416 – 7%; 2) Ilocos Norte 392 – 6.6%; 3) Isabela 386 – 6.5%; 4) Ilocos Sur 380 – 6.6%; 5) Negros Occidental 324 – 5.5%; 6) Cagayan 310 – 5.2 %; 7) La Union 223 – 3.8%; 8) Pangasinan 202 – 3.4%; 9) Palawan 183 – 3.1%; and 10) Nueva Vizcaya 175 – 3%⁵⁶

Payment for Philippine recruitment agencies vary from full payment before departure, partial payment with salary deduction, or entire salary deductions.

The POEA also has a special hiring program for Taiwan (SHPT) where pre-departure expenses are about PHP22,785 (USD437)⁵⁷. Post arrival expenses include National Health Insurance at NT\$295 (USD9.40) and 'Alien Certificate of Registration' which costs around NT\$1,000 (USD32.00) per year⁵⁸.

Through the POEA, the Philippines sets up a licensing system where it regulates the recruitment and placement of sea-based workers. This is done through licensing manning agencies, accreditation of foreign principals or employers, enrollment of vessels and the introduction of the POEA Standard Contract.

Where there are problems concerning seafarers and migrant fishers, cases are handled by POEA. Legal remedies are available either through conciliation, administrative action, criminal action or money claims through the National Labour Relations Commission.

In August 2019, Greenpeace Southeast Asia requested information from the POEA Legal and Adjudication Office concerning the cases filed by Filipinos involving foreign fishing vessels. After two and a half months of continuous follow up, we received an official reply on 6 November 2019 informing us that, pursuant to the Data Privacy Act of 2012, the POEA would have to request consent from manning

While the existence of human trafficking is widely recognised to exist, it is very rare for it to be proven in individual cases because of the difficulties in documenting the case. Migrant fishers and some of their families tend to remain silent and settle for some sort of settlement.

agencies before they can disclose information. Greenpeace was informed that there are 14 cases still pending, which involve 10 fishing vessels from China Mainland, 2 fishing vessels from Taiwan, 1 fishing vessel from Vanuatu and another from the Seychelles. Greenpeace Southeast Asia sent a follow up letter asking for a reconsideration of our request to disclose at least the names of the fishing vessels but has yet to receive an official reply.

A PORT OF CONVENIENCE

Located in southern Philippines, the Davao Fish Port Complex (DFPC), (Figure 5) is the homeport of some 35 to 40 domestic fishing vessels⁵⁹. It is also conveniently used by foreign fishing vessels for transshipment activities regulated under the 2000 "Guidelines on Transshipment".⁶⁰ The DFPC particularly defines transshipment as "the process in which the fish cargo (sashimi-grade tuna) from foreign fishing vessels are unloaded, classified, packed at the DFPC and transshipped by air freight to other countries of destination."

Tuna catch landed and transshipped through DFPC are sashimi grade tuna caught by longliners. Those that are not of export quality are offloaded locally and sold to the local market.

Since the issuance of the Fisheries Administrative Order 199 in 2000, the DFPC has been reportedly used by Taiwanese longliners for transshipment. In 2001, Taiwanese fishing vessels made 932 port calls, but there has been a significant decline throughout the years.⁶¹ In 2019, 19 Taiwanese longliners transshipped at DFPC, based on data by Exact Earth

(Table 4). From credible sources, Greenpeace Southeast Asia learned that most of the migrant fishers onboard these longliners are Indonesian. However, the absence of trained labour inspectors (in DPFC) makes determinations of forced labour and other abuses of migrant fishers very difficult.

Table 4. Total time in Davao Port (2019) ⁶²

Fishing Vessel	Total Times In	Total Time
Sheng Teng Chun #66	8	1 month, 19 days
Ching Chuen Fa #10	5	1 month, 3 days
Chyuan Liang Fa	6	1 month, 2 days
Chin Dong Fa #11	5	27 days, 4 hours
Hwa Gwo #58	6	25 days, 4 hours
Ching Yih Wanq	6	19 days, 6 hours
Lian Fa Fwu #6*	4	12 days, 2 hours
Maan Horng Jinn #3	4	10 days, 4 hours
Ming Sheng Tsair	3	8 days, 9 hours
Jin Yu Sheng	5	7 days, 20 hours
Ti N Fa Tsai #26	3	7 days, 7 hours
Hsin Ming Tsai	2	5 days, 4 hours
Jnn Yng Lih	1	5 days, 3 hours
Goang Shing Lih	2	4 days, 19 hours
Shinn Fure Shen #11	2	3 days, 20 hours
Tein Fa Tsai #26	2	2 days, 3 hours
Kun Chi Chai	1	1 day, 20 hours
Kim Der Cheng	1	1 day, 5 hours
Hwa Gwo #6	2	

**Not in WCPFC fishing vessel list*

Based on Marine Traffic, recent locations of TW fishing vessels in Table 4 are shown in Figure 5.

The DFPC provides the Philippines a unique opportunity as a port State to determine the conditions of migrant fishers onboard. It could well serve as a pilot port to assess and review where policies fail to inform future actions.

The DFPC had set out rules and guidelines that should give them authority to monitor the practices of vessels that dock in the complex. For one, the DFPC created the One-Stop Action Center (OSAC), a multi-agency, government office

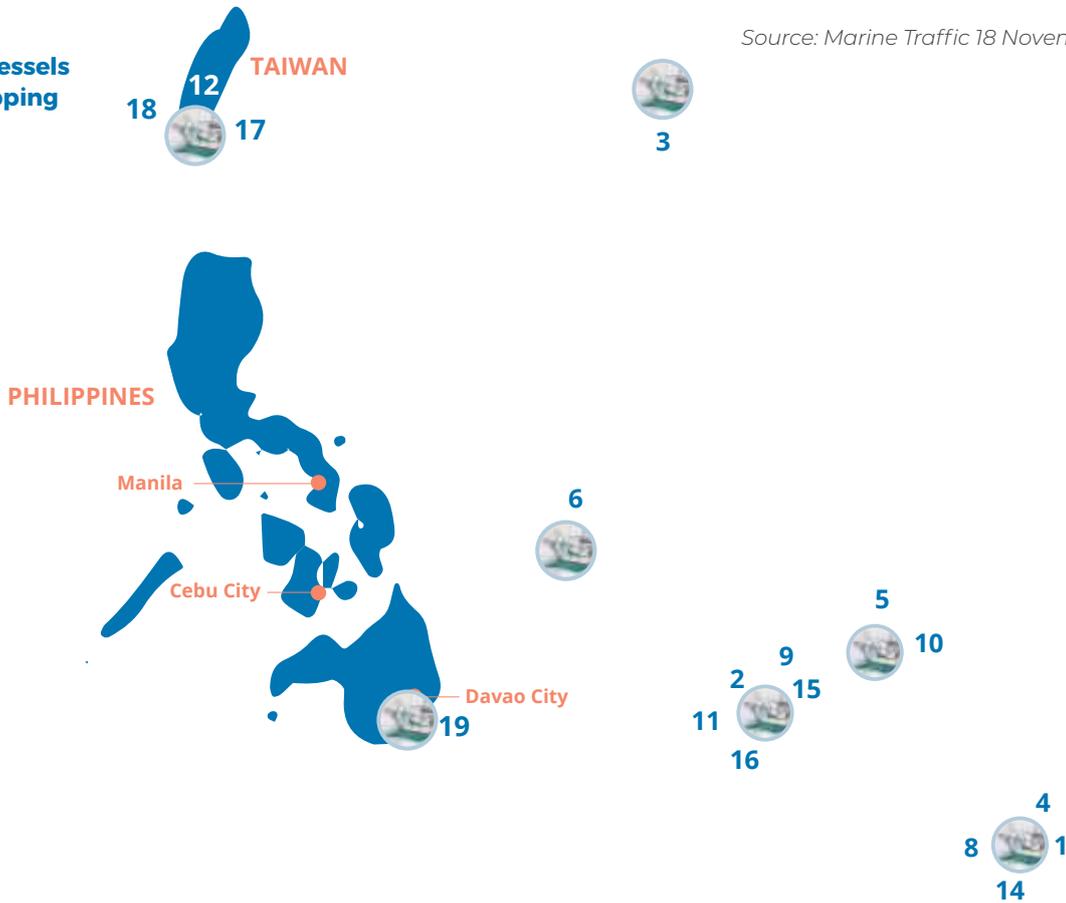
whose main task includes processing of documents of fishery products that are to be transshipped to foreign markets, and the documentation of incoming and outgoing foreign vessels, among others.⁶³

In addition, DFPC rules states that any foreign fishing vessel is subjected to boarding formalities conducted by the Bureau of Customs, Bureau of Immigration (BI), Bureau of Quarantine and the Philippine Coast Guard. The BI ensures that foreign nationals are guarded, remain under their custody and shall be off limits to unauthorised persons.⁶⁴

TAIWAN FISHING VESSELS IN DAVAO

Figure 5.
Taiwan vessels
transshipping
in DFPC

Source: Marine Traffic 18 November 2019



Vessel Name

- | | |
|------------------------|-------------------------|
| 1. Sheng Teng Chun #66 | 11. Ti N Fa Tsai #26 |
| 2. Ching CHuen Fa #10 | 12. Hsin Ming Tsai |
| 3. Chyuan Liang Fa | 13. Jnn Yng Lih |
| 4. Chin Dong Fa #11 | 14. Goang Shing Lih |
| 5. Hwa Gwo #58 | 15. Shinn Fure Shen #11 |
| 6. Ching Yih Wang | 16. Tein Fa Tsai #26 |
| 7. Lian Fa Hwu #6 | 17. Kun Chi Chai |
| 8. Maan Horng Jinn #3 | 18. Kim Der Cheng |
| 9. Ming Sheng Tsair | 19. Hwa Gwo #6 |
| 10. Jin Yu Sheng | |

In 2015, the Philippines and Taiwan forged an agreement concerning facilitation of cooperation on law enforcement in fisheries matters.⁶⁵ It sets out cooperative mechanisms between Taiwan and the Philippines to provide mutual assistance for “law enforcement proceedings related to fisheries matters”. However, this agreement falls short on procedures involving issues relating to forced labour onboard Taiwan fishing vessels docking at DFPC.







A NEED FOR POLICY SHIFT

INDONESIA

Indonesian laws seek to provide full protection to its migrant workers. Act 18-2017⁶⁶ re-emphasises that: 1) Every worker has equal rights and opportunities to obtain proper work and income; 2) Indonesian overseas workers are frequently subjected to trafficking, slavery, forced labour, and whose human rights are violated; and 3) The government is obliged to guarantee and protect its citizens' human rights based on the principles of equality, democracy, social justice, gender equality, anti-discrimination, and anti-human trafficking; among others. Note that Act 18-2017 also explicitly recognises Indonesian migrant fishers working abroad as migrant workers whose rights must be protected.

As such, the law stipulates that the government has the obligation to: 1) Ensure the compliance of prospective worker / worker rights, both those who departed through a worker placement institution, or independently; 2) Supervise the implementation of prospective worker placement; 3) Establish and develop an information system on prospective worker placement in destination country; 4) Perform diplomacy effort to ensure rights compliance and protections of worker, optimally in destination country; and 5) Protect workers during the pre-departure, during placement and post-placement periods.

In 2010, however, a study conducted by the International Organization for Migration (IOM)⁶⁷ brought forward an analysis of how the previous Act 39-2004 (which was replaced by Act 18-2017) had failed to provide complete protection for Indonesian migrant workers. For one, it presented a limited scope of protection and only provides safeguards for documented migrants. Undocumented migrants, whether willingly or unwillingly, are not protected by the law.

Moreover, IOM emphasised the failure of the law to ensure the functions and responsibilities of key government agencies, especially in determining clear jurisdictions and maintaining transparency in coordination between them. Equally important, IOM highlighted the failure of the law to recognise the rights of family members of the migrants – this means that in times of emergency, family members of migrant workers have no access to accurate and important documents and information regarding their migrant family members as well as no right to communicate with them.

As seen in the cases mentioned in this report, the Indonesian government has been remiss in protecting and upholding

the rights of its migrant fishers. Sadly, the implementing regulations mandated by Act 18-2017, which are key to protecting Indonesian migrant fishers, have not been adopted as of November 2019.

PHILIPPINES

There seem to be a considerable number of Filipino migrants reportedly being subjected to inhumane conditions while performing their jobs in countries where foreign laws have primacy over Philippines laws. On top of that, the existence of laws and policies which are meant to protect fishers, such as Department Order (DO) No 156 - 2016, pose some challenges.

As mentioned earlier, there are still pending cases at the POEA involving foreign fishing vessels. Indeed, the Philippines' law can be used to hold manning agencies, jointly or severally, liable for the abuses of the foreign employer, however, enforcement has been lacking.

Republic Act No. 10022⁶⁸ is an act amending Republic Act No. 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995 declared the State policy to "afford full protection to labour, local and overseas, organised and unorganised, and promote full employment and equality of employment opportunities for all." It further declared that the State "shall provide adequate, timely social, economic and legal services to Filipino migrant workers."

RA 8042 also assures Filipino workers that they will only be sent to countries where their rights are protected by existing labour and social laws, said country being signatory to multilateral conventions, declarations or resolutions relating to the protection of migrant workers, forged bilateral agreement or arrangement with the Philippine government protecting the rights of OFWs and that said country is taking measures to protect the rights of migrant workers (Sec. 4).

This law also emphasises illegal recruitment as an offense which refers to engaging in "recruitment and placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines (Sec. 6).

Particularly for fishers in commercial fishing operations, the Department of Labour and Employment (DOLE) released Department Order (DO) No 156 in 2016. The DO 156-16 clearly outlined rules governing the employment of Filipino fishers including: 1) Responsibilities of fishing vessel owner, captain, master, and fisher; 2) Minimum requirements for work onboard fishing vessels; 3) Terms and conditions of employment; 4) Compensation scheme; and 5) Occupational safety and health; among others.

Where DO156 -16 fails is in covering Filipinos working onboard foreign distant water fishing vessels, as it only applies to Philippine-registered fishing vessels. It states, "These (sic) Rules shall apply to fishing vessel owners, fishers, and captains or masters onboard Philippine-registered fishing vessels engaged in commercial fishing operation in Philippine or international waters." It points out that those onboard commercial fishing vessels with foreign registry shall be governed by applicable rules and regulations of the POEA (Rule 1, Sec. 2).

To date, DO 156-16 has yet to be fully implemented. During the 11 November 2019 meeting of the Inter Agency Committee against Trafficking, where Greenpeace Southeast Asia is a member, the DOLE mentioned that violations include occupational safety and health standards and non-payment of social security benefits. The DOLE claims that only 30-50, out of more than 3,500 commercial fishing vessels have been inspected. It would seem that the powerful commercial fishing sector still questions the validity of DO 156-16.⁶⁹

This Page:

Greenpeace activists and SBMI members carry portraits of former human trafficking victims during a protest in front of the Ministry of Manpower in Jakarta.



Box 3. International instruments on protecting workers rights in fisheries

INTERNATIONAL LABOUR ORGANIZATION C188 - WORK IN FISHING CONVENTION

Adopted in 2007 by the International Labour Organization, the Work in Fishing Convention entered into force only in November 2017. The Convention, also known as C188, was forged “to ensure that fishers have decent conditions of work onboard fishing vessels with regard to minimum requirements for work onboard; conditions of service; accommodation and food; occupational safety and health protection; medical care and social security”.

To this end, C188 takes into account the responsibilities of Member States, fishing vessel owners, skippers, and fishers. More importantly, C188 sets the minimum requirements for work onboard fishing vessels such as minimum age (set at 16, however), medical examination, manning and hours of rest, carrying of crew list, forging fisher’s work agreement, entitlement to repatriation, recruitment and placement regulations, payment of fishers, accommodation and food, access to medical, health care, and social security, and occupational safety, among others.

C188 provides greater protection to migrant fishers compared to having no international instruments at all. The convention is in force in 12 countries with Thailand and the United Kingdom entering into force on January 2010.

THE CAPE TOWN AGREEMENT OF 2012

Initiated by the International Maritime Organization (IMO), the Cape Town Agreement (CTA) was, in effect, a renewed effort to uphold the Torremolinos International Convention for the Safety of Fishing Vessels, adopted in 1977, and the Torremolinos Protocol, adopted in 1993, which both failed to enter into force for various technical and legal constraints and lack of political will.

The Agreement particularly espouses the 1993 Torremolinos Protocol whose provisions generally refer to the legitimacy of a fishing vessel thereby ensuring its safety and the safety of those onboard. While also considering the right of vessels

from being unduly detained or delayed, the Agreement provides clarity in terms of who are the rightful parties to exercise jurisdiction over a vessel. The CTA outlines fishing vessel standards and includes regulations designed to protect the safety of crews and observers and provide a level playing field for industry. Currently, there are only 11 States which have signed the CTA out of the 22 States needed for the Agreement to enter into force.

AGREEMENT ON PORT STATE MEASURES

Negotiated under the Food and Agriculture Organization of the United Nations (FAO), the 2009 Agreement on Port State Measures (PSMA) “lays down a minimum set of standard measures for Parties to apply when foreign vessels seek entry into their ports or while they are in their ports” in an attempt to fight and curb illegal, unreported and unregulated (IUU) fishing.

IUU fishing “remains one of the greatest threats to marine ecosystems due to its potent ability to undermine national and regional efforts to manage fisheries sustainably as well as endeavours to conserve marine biodiversity.”

Corrupt administrations and weak management regimes pave the way for IUU fishing. Developing countries that lack capacity and resources for effective and efficient monitoring, control, and surveillance are especially susceptible to its impacts.

The agreement entered into force on 5 June 2016 and the Philippines, Indonesia and Thailand are Parties to the PSMA. Unfortunately, these countries have yet to demonstrate their commitment and full implementation of the PSMA provisions to address IUU fishing.

In the case of Davao’s port of convenience, the Philippines must ratify the ILO Work in Fishing Convention (C-188) and harmonise or amend existing laws and regulations to allow trained labour inspectors to board foreign fishing vessels in any fishing port in the Philippines and then be able to monitor, report and address cases of labour violations onboard.

CALLS FOR CONCRETE POLICY ACTIONS

In Greenpeace Southeast Asia’s view, the 34 complaints described in this report give strong indications of exploitation of migrant fishers working on foreign-owned distant water fishing vessels, complaints so severe that it has been characterised by many as “modern slavery”.

Evidently, these issues must be prioritised by ASEAN governments. Such abuses also greatly impact the already fragile marine environment which is even more reason to address them with urgency.

Greenpeace Southeast Asia calls upon Indonesian and Philippine governments to protect the rights of their migrant fishers and the marine environment: first, by ratifying international conventions that strengthen the protection of migrant fishers and the marine environment; second, by passing robust legislation that offers equal protection to migrant fishers and protection for the marine environment; and third, by implementing and enforcing existing laws to provide greater protection of the rights of migrant fishers and citizens’ rights to a healthy environment.



Photo Credit: © Jiri Rezac/Greenpeace



CONCLUSION

At a time when slavery has long been outlawed, it is inconceivable that today's migrant fishers still suffer from this unjustifiable situation. The stories of Indonesian and Filipino migrant fishers, whose intention was to escape a life of poverty but end up shackled at sea are not isolated. With help from the media and NGOs, many cases have been uncovered and even brought forward to the courts. But there are still many cases that have remained unresolved or eluding justice. These are powerful testimonies of how cheap labour is taken advantage of by the rich and powerful in the fishing industry.

The quest for bigger profit also ravages marine ecosystems with overcapacity, overfishing and the practice of illegal, unreported, and unregulated fishing. Bad fishing practices, while it may provide greater profit for the fishing companies, is emptying our oceans of fish and other marine life, which in turn will adversely impact the world's food security.

National and international laws are supposed to address such abhorrent practices - if they are strictly observed. But gaps in the laws and in their implementation, coupled with the relevant authorities' lack of sense of responsibility, allow for IUU fishing and modern slavery to persist in the 21st century. Governments must first be held accountable and take proactive steps in addressing the issues with concrete policies and programs, including stronger enforcement of laws to protect their citizens working even in the remotest corners of the world. Greater awareness of these issues can then be achieved among the general public so that support for policy shift is mobilised.

A society that values human and labour rights, environmental sustainability and food security should take stock of the very real events that take place before food is served to our tables. Modern slavery should have no place in Southeast Asia or anywhere else on the planet.

Tuna transshipment on the high seas in the Indian Ocean between the Taiwanese longliner *Yi Long No 202* and the *Tuna Queen*, registered in Panama. Photo taken during Greenpeace's patrol in the Indian Ocean to document fishing activities.

RECOMMENDATIONS

This paper recommends that all ASEAN member states follow Thailand's lead, by ratifying and implementing the ILO (C-188) Work in Fishing Convention as a matter of urgency. In order to address both labour issues and IUU fishing, States need to strengthen their national legislation and ensure coordination among different departments. They also need to invest in control and inspection, ensuring the presence of labour inspectors at ports of interest, and improve transparency on documentation and conditions of migrant fishers working in all distant water fishing fleets.

Since Indonesia, the Philippines and Thailand have already signed the Food and Agricultural Organization Port State Measures Agreement (PSMA), these three countries should take the lead in its effective implementation in the region to address IUU fishing.

For ASEAN Member States

1. Ratify ILO C-188 and apply it in full to all fishers and commercial fishing vessels
2. Ratify and implement the ILO Core Conventions
 - a. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
 - b. Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
 - c. Forced Labour Convention, 1930 (No. 29), include the 2014 Protocol to the ILO Forced Labour Convention (No. 29)
 - d. Abolition of Forced Labour Convention, 1957 (No. 105)
 - e. Minimum Age Convention, 1973 (No. 138)
 - f. Worst Forms of Child Labour Convention, 1999 (No. 182)
 - g. Equal Remuneration Convention, 1951 (No. 100)
 - h. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
3. Ratify and implement the IMO Cape Town Agreement
4. Ratify and implement the FAO Port State Measures Agreement
5. Improve transparency, national measures and strengthen collaboration across government departments:
 - a. Country to country dialogue with respective government offices e.g. Fisheries, Foreign Affairs, Labour
 - b. Public disclosure of fishing vessel – crew list
 - c. Public disclosure of Vessel Monitoring System (VMS) data for their fishing vessels, and request the same disclosure from all Flag States where ASEAN migrant fishers work.
 - d. Require mandatory pre-departure orientation of sufficient quality and duration to ensure migrant fishers know their rights and responsibilities. Pre-departure or post-arrival orientation should include adequate training on work in fishing, safety at sea, and basic education about IUU fishing. All costs of such orientation and training should be covered by the employer.
 - e. Assign official labour inspectors in ports known to be used by foreign fishing vessels
 - f. Port State inspections should be carried out on all foreign vessels
 - g. Integrate decent work in fishing into all national action plans on labour migration and human trafficking
 - h. Adopt a National Action Plan consistent with the UN Guiding Principles on Business and Human Rights and guidance produced by the UN Working Group on Business and Human Rights
6. International collaboration and advocacy:
 - a. Declaration or Consensus on Work in Fishing that calls on Flag States to end unequal treatment of ASEAN migrant fishers in the distant water fishing fleet
 - b. Regional Fisheries Management Organizations' IUU Vessel list should also include cases on human rights abuses

The implementation of the International Maritime Organization Cape Town Agreement (CTA) may take some time, as there are only 11 signatories out of the 22 States needed for the Agreement to take force, but if all 10 ASEAN member states sign the CTA, then it comes into force (see *Box 3*).

Such political undertaking, coupled by meaningful cross-country dialogue among key States and non-state actors – such as labour and fisheries administrations, the private sector, migrant fishers and their organisations, among others – can hopefully put an end to modern slavery at sea and strengthen the fight against IUU fishing.

Specific recommendations are listed below.

NOT JUST TUNA

**PERHATIAN!
NYA TUNA**

**HINDARI
PEKERJAAN KOTOR**

**END SLAVERY
AT SEA**

**HEALTHY OCEANS
WITHOUT SLAVERY**

**STOP
DIRTY**

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APPENDIX 3

BLOOD AND WATER

Human rights abuse in the global seafood industry





Protecting People and Planet

The Environmental Justice Foundation is a UK-based environmental and human rights charity registered in England and Wales (1088128).

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OUR MISSION

To Protect People and Planet

EJF believes environmental security is a human right.

EJF strives to:

- Protect the natural environment and the people and wildlife that depend upon it by linking environmental security, human rights and social need
- Create and implement solutions where they are needed most – training local people and communities who are directly affected to investigate, expose and combat environmental degradation and associated human rights abuses
- Provide training in the latest video technologies, research and advocacy skills to document both the problems and solutions, working through the media to create public and political platforms for constructive change
- Raise international awareness of the issues our partners are working locally to resolve

Our Oceans Campaign

EJF's Oceans Campaign aims to protect the marine environment, its biodiversity and the livelihoods dependent upon it. We are working to eradicate illegal, unreported and unregulated fishing and to create full transparency and traceability within seafood supply chains and markets. We conduct detailed investigations into illegal, unsustainable unethical practices and actively promote improvements to policy-making, corporate governance and management of fisheries along with consumer activism and market-driven solutions.

EJF is working to secure sustainable, legal and ethical seafood.

Our ambition is to secure truly sustainable, well-managed fisheries and with this the conservation of marine biodiversity and ecosystems and the protection of human rights.

EJF believes that there must be greater equity in global fisheries to ensure developing countries and vulnerable communities are given fair access and support to sustainably manage their natural marine resources and the right to work in the seafood industry without suffering labour and human rights abuses.

We believe in working collaboratively with all stakeholders to achieve these goals.

For further information visit
www.ejfoundation.org

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Abbreviations

DoF	Department of Fisheries	NGO	Non-governmental organisation
EEZ	Exclusive economic zone	PIPO	Port in - port out (Thailand)
EU	European Union	PSC	Port-state controls
FAO	UN Food and Agriculture Organization	PSMA	Port State Measures Agreement
FoC	Flags of convenience	TAC	Total allowable catch
ILO	International Labour Organization	UN	United Nations
IMO	International Maritime Organization	UNGPs	UN Guiding Principles for Business and Human Rights
INTERPOL	The International Criminal Police Organization	UNHRC	UN Human Rights Council
ITF	International Transport Workers' Federation	UVI	Unique vessel identifier
IUU	Illegal, unreported and unregulated fishing		

Executive summary

This report sets out the linkages between rapidly declining fish stocks in the world's oceans, in part caused by the widespread practice of illegal, unreported and unregulated (IUU) fishing, and serious human rights abuses in the global seafood industry. It provides case studies describing the problem, and analyses solutions that can be employed to address it – in particular, the pressing need for greater transparency in fisheries.

Seafood is a multi-billion dollar global industry with total export trade valued at US\$152 billion in 2017.¹ This represents more than 9% of total agricultural exports across the world (excluding forestry products) and in some countries accounts for more than 40% of the total value of traded commodities.² Per capita fish consumption has risen from just 9.9 kg of fish consumed in the 1960s to 20.5 kg in 2017, and this ever-growing demand for cheap seafood from buyers around the world has seen employment in this sector expand at a phenomenal rate.³ The UN Food and Agriculture Organization (FAO) estimates that 59.6 million people are involved in fishing or aquaculture, with 40.3 million of these working in capture fisheries and the remainder in aquaculture.⁴

However, this lucrative global business is under threat from IUU fishing which now accounts for up to 30% of catches in some regions.⁵ The global cost of IUU fishing is estimated to be between US\$15.5 - 36.4 billion annually, accounting for 11 to 26 million tonnes of seafood.⁶ Illegal fishing not only deprives nations of their fisheries resources, but ultimately results in the collapse of fish stocks. 33.1% of fish stocks are fished beyond sustainable limits and 59.9% are on the edge, fished at maximal sustainable limits.⁷

Falling revenue, very largely due to declining fish stocks, coupled with the growing demand for cheap seafood, have created powerful economic forces, driving down profits in many fisheries and leading to increased abuse of crews. In recent years, EJF's reports, along with those by journalists and other non-governmental organisations (NGOs), have repeatedly shown how overfishing and illegal fishing have substantially increased the risks of serious human rights abuses.^{8/9/10} Fishers, by the nature of their work, operate in an isolated environment, making them more vulnerable and in need of better protections.

Investigations by EJF have uncovered multiple examples of human rights abuses, aboard multiple vessels, flagged to different nations and across different geographies. Abuses have ranged from long hours and squalid living quarters to extreme violence and murder. This report documents case studies of human rights abuses occurring in the jurisdiction of 11 separate countries.

Labour costs can account for up to 60% of total vessel expenses,¹¹ and fishing operators therefore seek to take advantage of large labour pools from poorer countries in an attempt to drive down costs and increase their competitive advantage over their rivals.

Local workers often choose to work in more stable, safer, and less labour-intensive industries. With lower salaries, less social protection and weaker labour rights compared to their domestic counterparts, migrant workers are extremely vulnerable to traffickers, exploitative brokers, and abusive captains or crews.

This can ultimately lead to workers being forced into bonded labour or slavery, being paid little or nothing for exhausting and hazardous work. Modern slavery remains extremely prevalent, with 40.3 million men, women, and children estimated to be enslaved globally across all industries.¹²

Those who engage in slavery and human trafficking in fisheries capitalise on capacity gaps in monitoring, surveillance and enforcement tools of states. Weak governance has allowed these two issues to become embedded in many national seafood supply chains.

Practices such as trans-shipment at sea and the use of flags of convenience further exacerbate these risks, making it more difficult to identify and track possible cases of illegal fishing or labour abuses and less likely that governments can take enforcement action. These practices also facilitate other illegal activities such as drug or weapons trafficking, and can be associated with the use of tax havens.^{13/14/15}

Just as there is a direct causal link between IUU fishing and human rights abuses at sea, the approach to stopping them must be aligned. Fortunately, there are now solutions that are easily implemented and increasingly affordable.¹⁶ States and international authorities, fishing companies, processors, importers, retailers and consumers can all play a part.

EJF recommendations:

States:

To combat human rights abuses and associated problems in the seafood industry, states should embrace greater transparency, bringing fisheries out of the shadows. EJF has developed ten transparency principles that can be applied today at low cost. Set out in greater detail in the conclusion (see page 35) and in the EJF report *Out of the Shadows*¹⁷, they are:

1. Give all vessels a unique number.
2. Make vessel tracking data public.
3. Publish lists of fishing licences and authorisations.
4. Publish punishments handed out for fisheries crimes.
5. Ban transferring fish between boats at sea – unless pre-authorised and carefully monitored.
6. Set up a digital database of vessel information.
7. Stop the use of flags of convenience for fishing vessels.
8. Publish details of the true owners of each vessel – who takes home the profit?
9. Punish anyone involved in IUU fishing.
10. Adopt international measures that set clear standards for fishing vessels and the trade in fisheries products.

In addition to adopting these transparency principles, states should also do the following to tackle serious human rights abuses in their fishing industries:

- Ensure appropriate legal mandates, training and support for relevant authorities;
- Tightly regulate the recruitment process for migrant workers on fishing vessels, ending the ability for brokers to use exploitative contracts that create bonded labour;
- Provide sufficient resources for detection, investigation and prosecution of human rights cases in the seafood industry.

Industry:

Along with the need to manage reputational risks, industry face increasing regulatory requirements to consider the risks of human rights abuses in their supply chain. In 2011 the UN Human Rights Council (UNHRC) issued Guiding Principles on Business and Human Rights (UNGPs) to encourage states and industry to do more to address supply chain risks.¹⁸ This has been followed by increasing national laws, such as the UK's Modern Slavery Act, that encourage industry to understand and mitigate human rights abuses in their supply chains. Corporations involved in the global seafood industry should:

- Adopt clear risk mitigation policies and processes that extend through the supply chain, backed with third-party verification, to identify and deal with human rights abuses and associated issues. EJF, together with WWF, other NGOs and industry developed a code of practice that supports processors and importers to do this.¹⁹
- Record, or demand, sufficient data on sourcing vessels to ensure no vessel with a history of committing IUU fishing or labour abuses can taint the supply chain. Use in-house and third party verification to ensure the accuracy of this data.
- Raise awareness on the dangers of the informal recruitment industry and promote responsible recruitment practices and work that excludes recruitment fees for workers.
- Only work with suppliers that have a system in place, or are working towards a system for transparency and traceability – including the tracing of protein source for farmed seafood.
- Require that social audits or other verifications measures used to check working conditions on fishing vessels provide a safe and confidential opportunity to hear directly from workers.
- Work in pre-competitive industry groups and with NGOs to call on states to implement greater transparency to make it easier to implement risk mitigation measures.

Consumers:

Consumers can play their part to encourage industry to do more to address risks in their seafood supply chains. They can:

- Demand proof of net-to-plate traceability and clear, specific assurance that products are caught or farmed legally, sustainably and ethically;
- Require businesses to publicly state the measures they are taking to ensure they are not sourcing products that use trafficked, bonded, forced or slave labour;
- Use their collective power to drive change in shops and restaurants to make sure they only source seafood that is environmentally and socially responsible;
- Ask retailers to sign up to EJF's Transparency Charter.

Forced labour, slavery, human trafficking

Forced labour

The International Labour Organization's (ILO) Forced Labour Convention 1930 (No. 29) defines forced or compulsory labour as:

*“all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”*²⁰

A violation of the convention occurs even if the initial recruitment is voluntary and the coercive mechanism to keep a person in an exploitative situation manifests itself at a later stage.²¹

Forced labour can be imposed either by state or private agents. The ILO estimates that of the 20.9 million victims of forced labour around the world, 89% are exploited by private agents or enterprises such as labour brokers.²²

Slavery

Slavery is the “status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised,” as defined in 1926 by the League of Nations.²³

In 1956, the UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery considered ‘modern slavery’ practices such as debt bondage and serfdom to be:²⁴

- **Debt bondage:** “the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.”
- **Serfdom:** “the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status.”

Both forced labour and slavery's definitions are therefore based on the idea of coercion.²⁵



A slave is “a person over whom any or all of the powers attaching to the right of ownership are exercised”. © EJF

Case study locations



Cambodia

Workers exploited by brokers



Hawaii

Forced labour on longliners



Indonesia

Workers exploited by brokers; Illegal reefers



Myanmar

Workers tricked into the fishing industry



Sierra Leone

Observers prevented from working



Spain (Las Palmas)

Crew stranded on boat



Taiwan

Weak labour protection laws



Thailand

PIPO weaknesses; Trafficking convictions



United Arab Emirates

Bonded labour in artisanal fisheries



United Kingdom

Trafficked fishermen



Vietnam

Uncontrolled fishing fleet

Abuse aboard Taiwan's distant water fleet

In May 2018, South African authorities detained the Taiwanese-flagged fishing vessel Fuh Sheng No 11. In a press release on 17 July 2018, the ILO announced that this was the first detention of a fishing vessel under the provisions of the ILO Work in Fishing Convention (C188).²⁶ Although the vessel was initially inspected because of signs that it was unseaworthy, important issues related to labour conditions on board were subsequently found by South African authorities during the inspection. These included: harsh labour conditions reported by the crew, hazardous living conditions on board and the absence of work contracts for most of the crew. In later interviews conducted by EJF, the crew also reported physical abuse and shark finning, which is illegal under Taiwanese law. After initially claiming there were no human rights abuses on Fuh Sheng 11, following the release of EJF's findings Taiwanese authorities sanctioned the vessel. This case demonstrates the connections among human rights abuses, illegal fishing and vessel safety and how increased port state control and harmonised inspection standards under international conventions can help detect IUU and other related crimes.

In late 2018, EJF released another briefing on Taiwanese flagged and owned longliners that gave testimony of human rights abuses on four further vessels, including bonded labour, threats and physical abuse. As with the Fuh Sheng No 11, these abuses were accompanied by serious forms of illegal fishing, including shark finning and the intentional killing of dolphins and turtles.²⁷

Similar cases on Taiwanese vessels were discovered by Greenpeace, detailed in the report *Misery at Sea*.²⁸ One Indonesian crew member aboard a Taiwanese ship, Urip Muslikhin, was reported lost at sea, only to be discovered days later, dead on board, with evidence emerging that he had been seriously abused before his death. Although the Taiwanese authorities appeared to accept that he had been abused they did not conduct a thorough investigation or make a public statement on the case, according to Greenpeace. In another case highlighting a worrying lack of action from the Taiwanese authorities, Greenpeace obtained evidence that five men who had been convicted in absentia for human trafficking by the Cambodian courts in 2014 continue to be connected to recruitment, with the authorisation of the Taiwanese government. These men are directors and shareholders of the seafood company Giant Ocean – the front for a notorious human trafficking ring.



Fuh Sheng No 11. © EJF

Human trafficking

Human trafficking is defined in the UN Trafficking in Persons Protocol 20 as:

“The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

The protocol (Article 3. b) specifies that the consent of a victim of trafficking is irrelevant when any of the means mentioned above has been used.

Finally, the notion of exploitation of labour allows for a link between the ‘Trafficking in Persons Protocol’ and the ILO Forced Labour Convention 1930 (No. 29) and “makes clear that trafficking in persons for the purpose of exploitation is encompassed by the definition of forced or compulsory labour provided under Article 2, paragraph 1, of the Convention.”²⁹

Illegal, unreported and unregulated fishing

What is it?

Illegal fishing can apply to violations in fisheries under the jurisdiction of a coastal state, or to high seas fisheries regulated by regional fisheries management organisations (RFMOs). Fishing may also be unreported or misreported to the national fisheries authority or RFMO. Unregulated fishing generally refers to fishing by vessels without nationality, or to vessels fishing in areas or for fish stocks with no conservation measures to protect them, and where such fishing activities conflict with conservation measures under international or regional regulations.³⁰

Why is it a problem?

IUU fishing threatens marine environments and the people who rely on them. By depleting fish stocks and biodiversity, IUU fishing puts the food security and livelihoods of coastal communities at risk – small-scale fisheries provide 90% of the people employed in capture fisheries.³¹ It also deprives countries of their marine resources and undermines efforts to sustainably manage fisheries. 90% of fish stocks are caught within countries' exclusive economic zones (EEZ) – the areas of coastal water and seabed that stretch 200 nautical miles from shore to which the country claims exclusive fishing, drilling and other resource extraction rights.³²

Examples of IUU fishing

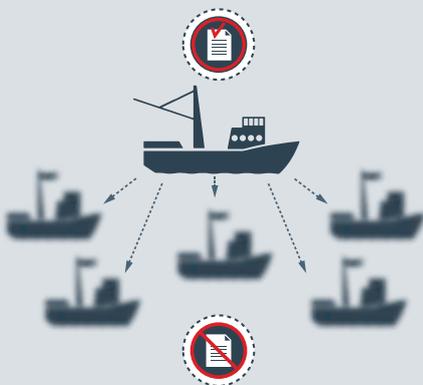
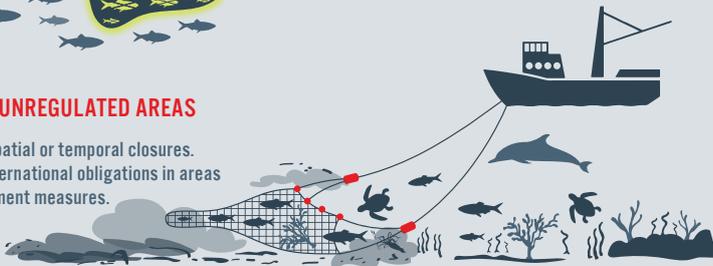
DESTRUCTIVE GEAR

Using explosives, poisons, light fishing or electro-fishing can harm or destroy marine ecosystems.



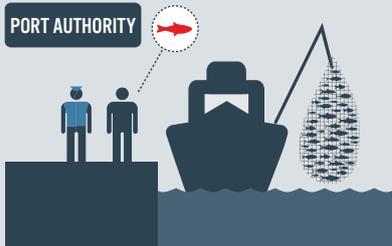
FISHING IN RESTRICTED OR UNREGULATED AREAS

Illegal intrusions and flouting of spatial or temporal closures. Fishing in violation of a State's international obligations in areas or for fish stocks lacking management measures.



UNLICENSED OR UNREGISTERED FISHING

Involves non-licensed activities, or usage of one legitimate registration document amongst multiple unregistered 'ghost' vessels.



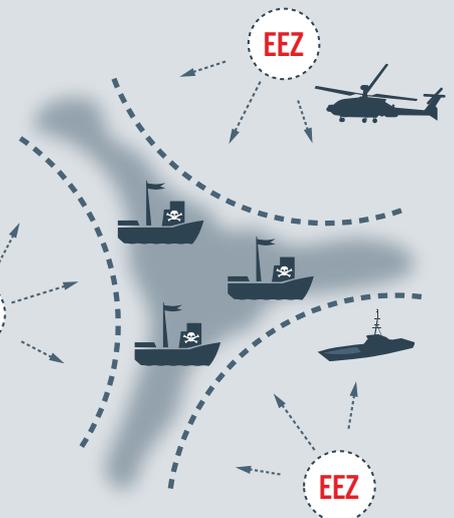
FALSIFYING FISHING STATISTICS AND VIOLATING QUOTAS

Misreporting, under-reporting, or no reporting of catch, by-catch or discards. Taking more than the total allowable catch (TAC) level.



VIOLATION OF LAWS OR CONSERVATION MEASURES

Includes lack of permission of the respective state, bribery to secure licenses, re-flagging to avoid sanctions or exploiting management gaps.



UNAUTHORISED HIGH SEAS FISHING

Unregistered vessels skirting EEZ boundaries and fishing in high-seas pockets.

Trafficked fishermen in the UK and Ireland

Human trafficking and slave labour are closer to home than many people think, with abuses being reported across the British Isles.^{33/34/35/36} Fishers can face similar forms of exploitation as those working overseas: receiving little or no pay, experiencing verbal or physical abuse, and being forced to work in very poor conditions.

Several recent studies into the fishing industry in the UK and Ireland have found cases of labour abuse amongst the predominantly migrant fishers on boats. In the Republic of Ireland, for example, 12 cases of alleged human trafficking were reported to the Irish Police between July 2017 and April 2018.³⁷ Four of the abused men, from West Africa, reported having travelled on tourist visas to Belfast to begin working onboard British trawlers before being forced to work on Irish vessels instead for no pay.³⁸

The Irish fishing industry exported €559 million worth of seafood in 2016 and currently has almost 2,000 vessels.³⁹ The majority of these are less than 15 metres in length and crewed by around four to six workers.⁴⁰ A study by the Migrant Rights Centre Ireland revealed that out of a sample of 50 Egyptian and Filipino fishers, 80% worked more than 60 hours a week, whilst 65% worked over 100 hours per week. Average pay was 2.82 euros an hour, well below Ireland's minimum wage. In addition, one in four workers had experienced verbal or physical abuse or both while working on the vessels.⁴¹ Partly due to concerns over trafficking in the fishing industry, in 2018 the United States Trafficking in Persons Report downgraded Ireland for failing to do enough to tackle modern slavery.⁴²

In Northern Ireland and Scotland there are also concerns, with non-European Economic Area (non-EEA) workers being used as cheap labour via a legal loophole that leaves them vulnerable to exploitation. Non-EEAs can enter the UK using transit visas. The International Transport Federation and the Apostleship of the Sea have both raised concerns that this system can facilitate abuse, with the latter saying that the transit visa system “creates a culture that allows those minority of skippers to get away with various abuses, up to and including forced labour”.⁴³ The use of transit visas mean workers may also receive substandard contracts, be paid less than minimum wage, work unlimited hours and be forced to stay on board their fishing vessel when in port. Industry bodies, including Seafish and the Scottish White Fish Producers Association, have called for the system to be reformed.

How are human rights abuses related to illegal, unreported and unregulated fishing?

Workers in the fishing sector are particularly vulnerable to human rights abuses, such as trafficking and forced labour.⁴⁴ By the very nature and remote location of their work and the lack of transparency in large parts of the industry, fishers are already in a precarious position. They are isolated and sometimes far out at sea, exposing them to risks of exploitative working conditions, wage reductions and labour abuses, unnoticed by the authorities or regulatory agencies.⁴⁵ In some respects, fishers are a ‘hidden’ workforce, invisible to the authorities and consumers.⁴⁶

Where there is inadequate or complete lack of sustainable fisheries management, fishing activities will likely lead to a damaging decline or even full exhaustion of marine resources. Overfishing of the world's fish stocks leads not only to the collapse of these ecosystems, but also to increased poverty and malnourishment for millions of people who rely on the oceans as their source of food and livelihoods.

As catches decrease, some local and commercial fishers take increasingly drastic measures to ensure profitability – such as using illegal fishing gears and fishing in protected or restricted areas. This further contributes to the decline of catches and accelerates the exhaustion of fish stocks. Increased competition among fishers drives this rush to catch the remaining stocks, further depleting fishery resources.

The depletion of fish stocks puts pressure on fishing operators to maintain catch rates and profitability by decreasing operational costs. As fish stocks are depleted, fishing boats are forced to travel further out to sea to fish. This increases costs: long-distance fishing requires more fuel, sophisticated support infrastructure as well as crew staying at sea for long periods of time.⁴⁷ Fuel costs are unavoidable, but labour costs can be modified and distorted. Fishing operations are highly labour intensive, with fishers' wages accounting for up to 60% of operating costs.⁴⁸

The pressure on vessel operators to cut costs incentivises the use of migrant workers who are often from poorer, developing countries where insufficient domestic employment opportunities pushes people to seek work abroad. Migrant workers may face being poorly paid and have fewer social protections and labour rights compared to their domestic counterparts.⁴⁹ This vulnerability to exploitation and a drive for reduced costs increases the risks of forced labour and trafficking for fishing crews.⁵⁰

Low-cost workers in fisheries are particularly vulnerable to slavery, human trafficking and forced labour due to a variety of factors:⁵¹

- At sea, escape is difficult and often impossible;
- The isolation and distance from regulatory agencies mean very little oversight, allowing unscrupulous vessel operators to commit crimes and abuses;
- There may not be effective protection against abuses (either because of a lack of appropriate regulation, or because countries are under-resourced or lack political will);
- Migrant workers might lack relevant documentation,

- Recruitment agencies are often unregulated or poorly regulated,
- Workers may not be able to read their contracts in the language they are written in and may be unclear what their rights are;
- There is a critical lack of transparency and accountability in the global fishing industry. There are currently no international requirements for measures such as a unique vessel identifiers (UVIs) or registration on a global record of fishing vessels, which would help authorities track vessels. Vessels may also intentionally register with states less able or willing to exercise control on vessels. This is known as using 'flags of convenience'.⁵²

Although trafficking and forced labour have been reported across the fishing and seafood processing sectors, including in fish farms, this report will focus on abuse on board fishing vessels.⁵³



Migrant workers may face being poorly paid and have fewer social protections and labour rights compared to their domestic counterparts. © EJF

Bonded labour in United Arab Emirates fisheries

The fishing industry across the Gulf Arab States is worth US\$270 million a year⁵⁴, with the United Arab Emirates (UAE) exporting US\$100 million worth of seafood in 2015 alone.⁵⁵ Although domestic industrial fishing in the UAE has in recent years become increasingly regulated, with seasonal closures over the winter months for large trawlers, and bans on catching vulnerable fish species, illegal fishing persists both at an artisanal and industrial level.⁵⁶

UAE vessels have been spotted illegally fishing Somali waters, jeopardizing already vulnerable fish stocks ravaged by other foreign fleets. Weak governance and potential corruption of local officials who receive bribes from UAE vessel operators have facilitated the practice at the expense of Somalia's own fishers.⁵⁷ Closer to home, UAE fishers have been found to be using illegal fishing nets in order to maximize catches, which can lead to accidental catches of endangered species such as dugongs and sharks. Abu Dhabi authorities also recently discovered a 200-strong fleet of unregistered vessels.⁵⁸

Human rights violations have also gone undetected. In the northern UAE region of Ras Al-Khaimah lies a string of fishing communities, made up of mostly Amarati Indians who have migrated to the UAE.⁵⁹ They fish using small 12 metre skiffs owned by local UAE businessmen, catching approximately 100 kg of fish per trip. According to local organisations, the workers are not paid a salary but instead given a small proportion of the catch. This is barely enough to feed themselves, let alone their families. Workers have also reported having their identification documents confiscated by their employers to prevent them from leaving. As a result, these communities are working in a semi-bonded state, completely reliant on the boat owners to sustain themselves and their families.

Forced labour on US-flagged fishing boats based in Hawaii

Honolulu is a hub for 140 US flagged longliner fishing boats that ply the waters around Hawaii for prized swordfish and tuna species to supply local and national restaurants. Fish from these boats are air-freighted over to the mainland in an industry worth US\$110 million every year.⁶⁰

Serious labour abuses including forced, unpaid labour, and living conditions akin to slavery were discovered on some of these boats in September 2016.⁶¹ There were approximately 600-700 workers on board these vessels, predominantly from Indonesia, the Philippines, and Kiribati.⁶² Some of these workers reported being paid less than US\$1 an hour while being forced to pay off debts to their brokers and recruiters. One Indonesian worker accumulated debts of over US\$5,000 to pay for getting to Hawaii, recruitment fees, and even for finding his replacement. This sum was gradually deducted from his already meagre salary.⁶³ Ship owners or captains could pay up to US\$10,000 to brokers for each worker, a cost which is often then transferred to the worker for the duration of their contract.⁶⁴

“It turns out that the salary I got is not much better than my job in my homeland...It’s just my silly dream”.

– Unidentified Indonesian worker.

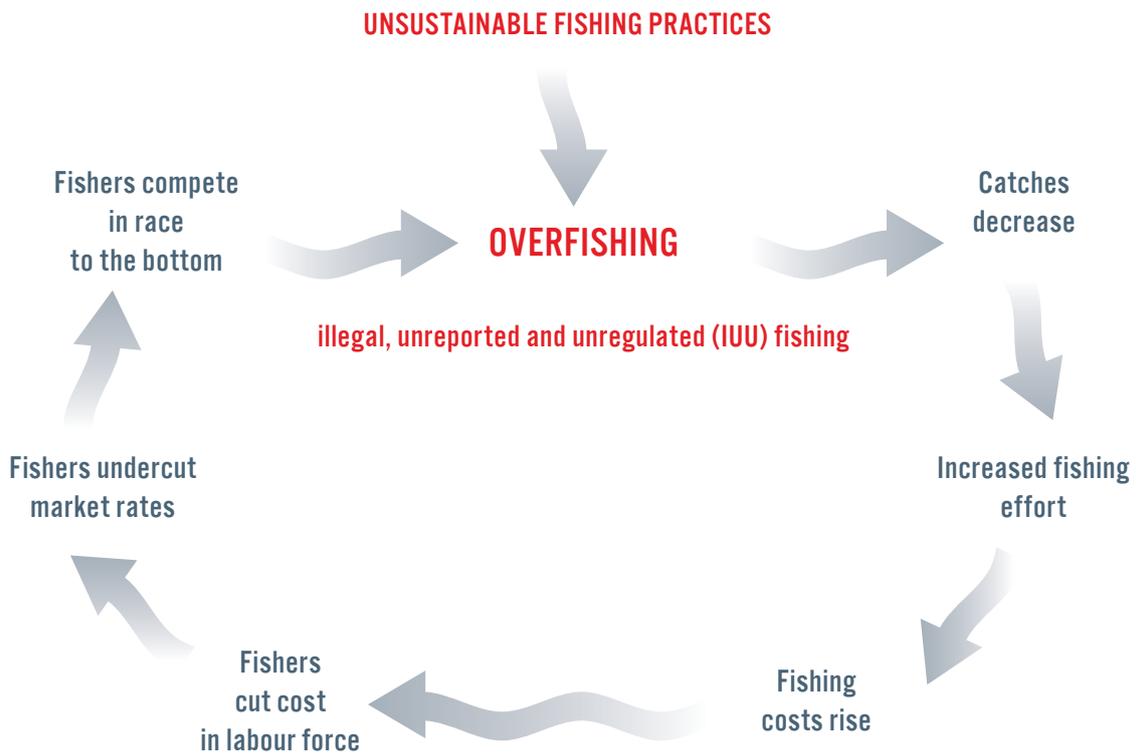
These workers do not have visas to enter the United States and are not lawfully allowed to set foot on US soil.⁶⁵ Through a legal loophole in US immigration law, they are forced to remain on board their vessels whenever they return to port. The law in question (I259) specifies that workers must be “detained onboard” for the entire duration of their stay in port and requires the vessel captain to retain the men’s passports – a practice often used to facilitate trafficking and forced labour.⁶⁶

“We don’t have any visa. We are illegal, so we cannot demand more”.

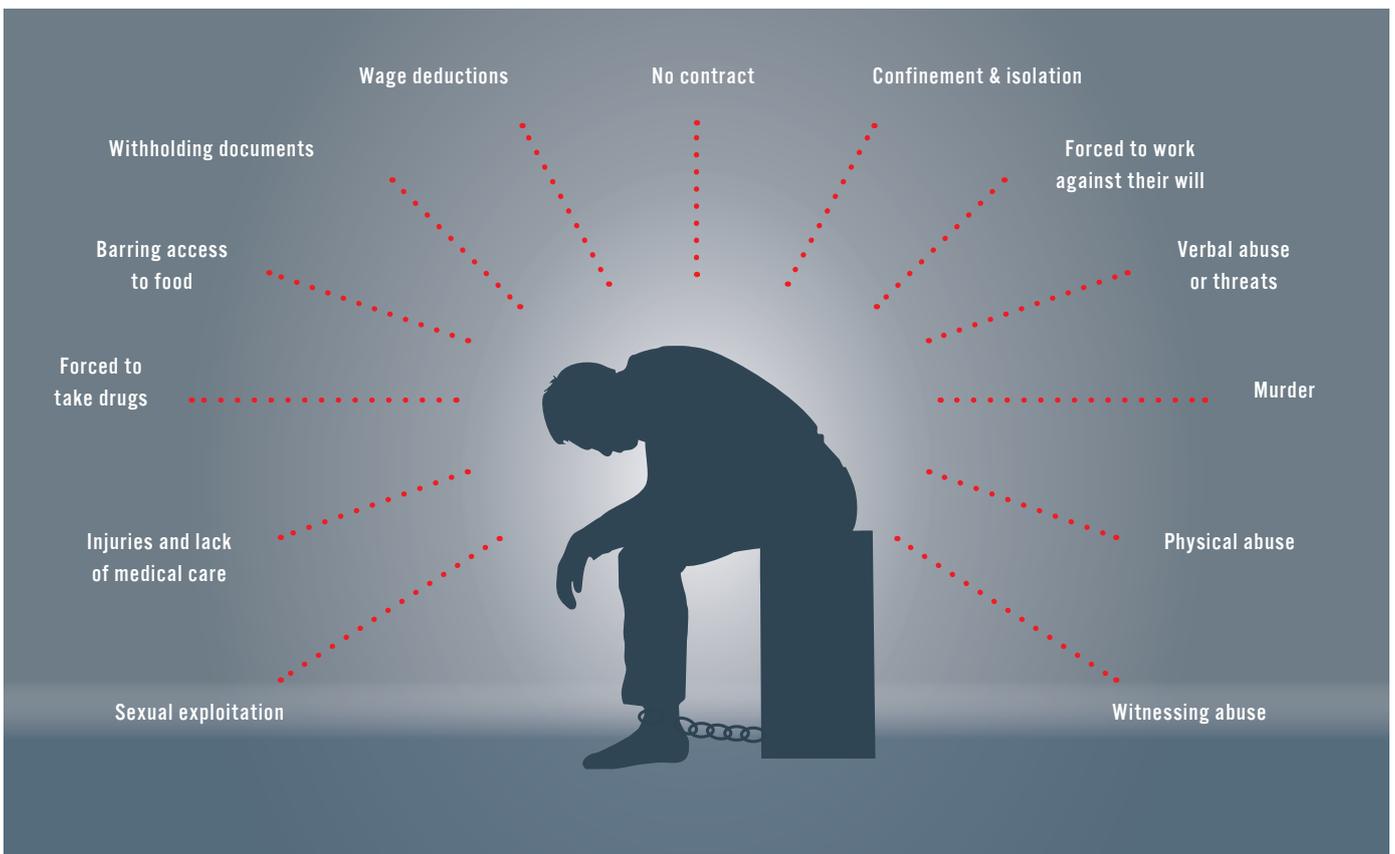
– Syamsul Maarif, Indonesian crew member.

Workers have also reported being verbally and physically abused. Two Indonesian men who escaped from their vessel in 2010 while it was docked in San Francisco told police how they were beaten and kicked by the vessel captain, forced to work 20-hour shifts, and denied access to medical treatment for work-related injuries.⁶⁷ One of the victims said that food was so scarce he would often take pieces of raw fish to eat, just to keep his strength up.⁶⁸ The owner of the vessel in question – Sea Queen II – was taken to court in September 2016 with the case finally settled in January 2018.^{69/70}

Linkages between overfishing and labour exploitation



Abuses that workers can experience onboard fishing vessels



Vietnamese fishing vessels around the world

Vietnam has one of the largest and fastest expanding overseas fishing fleets in the world, with well over 105,000 vessels.

These vessels – known colloquially across the Pacific region as ‘blue boats’⁷¹ are often relatively small and therefore not legally required to carry on-board satellite or mobile tracking devices. This allows the vast blue-boat fleet to hunt for high-value species – such as sea cucumbers for the lucrative Chinese market – with little or no oversight.

The Indonesian authorities alone arrested 1,100 Vietnamese fishermen in 2016, up from 700 in 2015.⁷²

In recent years, Vietnamese vessels have also been arrested in Australia;⁷³ most of the 13 countries that make up the Pacific Islands Forum Fisheries Agency;⁷⁴ Malaysia;⁷⁵ and Thailand.⁷⁶ Illegal Vietnamese vessels have even been detained as far as the Caledonian Islands – over 7,000 km away from Vietnam.⁷⁷ Persistent infractions by Vietnamese vessels prompted the European Commission to issue Vietnam with a ‘yellow card’ – a warning of seafood trade sanctions – for failing to control its distant water fishing fleet in October 2017.⁷⁸

In early 2018 EJF spoke to 24 fishers from Vietnamese fishing vessels that had been detained in Thai waters over the previous six months. Thailand’s EEZ often suffers intrusions by vessels based in Vietnam’s southernmost province, Ca-Mau. Between January and May 2018 alone over 50 Vietnamese vessels were arrested for IUU fishing in Thailand’s waters.⁷⁹ The vessels that the crew had worked on used a variety of destructive, and often banned, fishing gears including push nets, gillnets, and even electro-fishing gears that stun or kill all sea life in the vicinity. Furthermore, some of the individuals that EJF spoke to knew that when their vessels left their home port they would travel to fish illegally in Thailand, stating that the depletion in domestic fisheries left them with no choice.

“It’s not worth fishing in Vietnam. The boat owner pushed me (the captain) to go out of Vietnam because if not we won’t bring back enough money.”

– Vietnamese fishing boat captain.

Crew also described long working hours on board, restricted access to food and water, and only receiving pay if the catch was good. During the monsoon months boats would not be able to leave port at all, meaning that workers received nothing. Many of the individuals EJF spoke to also reported owing mounting debts to vessel owners or captains, a common indicator of debt bondage and forced labour.⁸⁰



These Vietnamese vessels were detained whilst illegally fishing in the Gulf of Thailand within Thailand’s EEZ. © EJF

Enabling factors for trafficking and abuse in fisheries

Forced labour in the fishing industry is complex and involves both the product supply chain and the labour supply chain.⁸¹ In both of them, weak governance allows unscrupulous businesses to take advantage of vulnerable workers and resort to forced labour. Labour regulations are often national, whereas market forces are global and “governments (of all persuasions) are prepared to sacrifice the labour standards of their citizens in a ‘race to the bottom’ for trade and investment.”⁸²

The drive for cheap labour in a globalised market

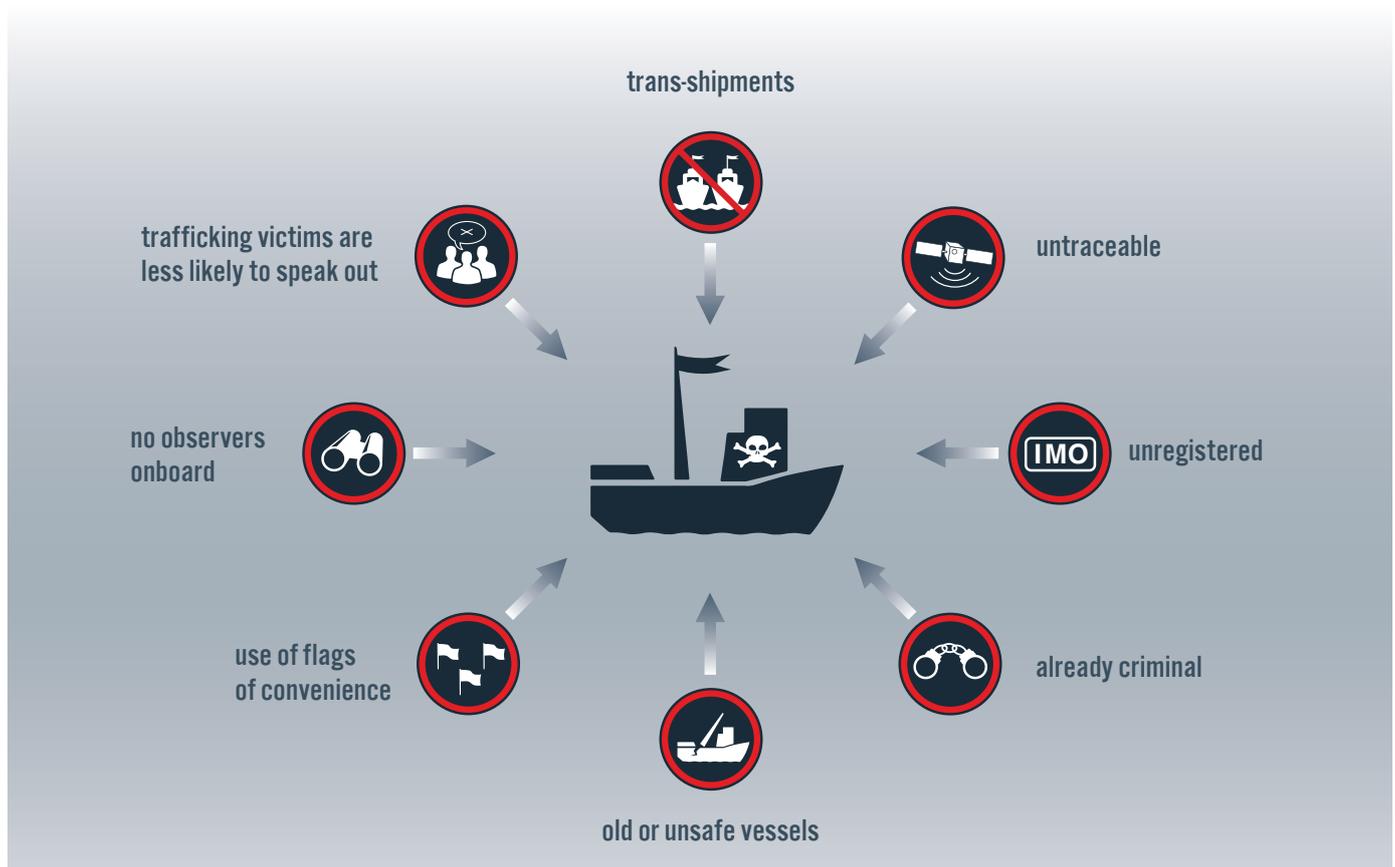
International retailers hold great power over the distribution of seafood.⁸³ This is due to the globalisation of the fisheries value chain, which means that each activity adding value to the fish product can occur in a different country.⁸⁴

To maintain consumption in the Global North, international retailers and other companies are forcing down the price of goods, such as seafood, imported from abroad. This is done

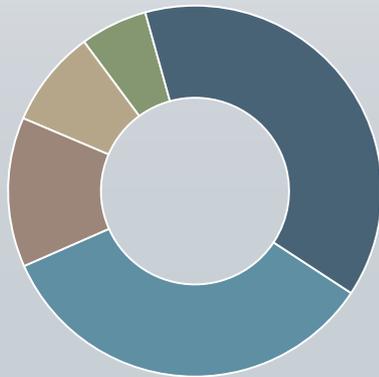
through reliance on harsh labour regimes in the Global South.⁸⁵ Companies use global supply chains to obtain cheaper inputs from, and outsource labour to, lower cost regions of the world economy.⁸⁶

This has two consequences. First, retailers might not be aware of the ‘upstream’ elements of their supply chain or might simply decide to ignore it. Market sourcing policies often do not reach the primary levels of a supply chain as they are often regarded as disassociated from the final product.⁸⁷ These supply chain ‘disconnects’ – inadvertent or not – can allow forced labour and human trafficking to flourish at the end of a supply chain furthest away from the consumer. Second, seafood suppliers are generally paid low prices, while having to provide goods quickly or at short notice and regularly facing delayed payments. This fosters a reliance on cheap and forced labour, as a way to cut costs.⁸⁸ Such reliance is reinforced by the use of labour market intermediaries and subcontracting.

Contributing risk factors of human trafficking and forced labour onboard fishing boats



Five largest fleets in the world



- 700,000 (2016) CHINA
- 620,830 (2012) INDONESIA
- 238,772 (2015) INDIA
- 152,998 (2013) JAPAN
- 109,000 (2015) VIETNAM

Five largest wild capture countries in the world

TONNES
per/capture/landings (2016)



- 15,246,234 CHINA
- 6,109,783 INDONESIA
- 4,897,322 USA
- 4,466,503 RUSSIA
- 3,774,887 PERU



Top 10 capture fisheries countries in tonnes of seafood caught

Country	Tonnes (2018)	% of total
China	15 246 234	16.8%
Indonesia	6 109 783	6.7%
USA	4 897 322	5.4%
Russia	4 466 503	4.9%
Peru	3 774 887	4.2%
India	3 599 693	3.9%
Japan	3 167 610	3.5%
Vietnam	2 678 406	2.9%
Norway	2 033 560	2.2%
Philippines	1 865 213	2%
Top 10 countries	47 839 211	52.5 %
Total world production	90.9 million	100%

FAO report (2018).

Marine fisheries around the world directly or indirectly employ over 200 million people. The market value of marine and coastal resources and industries is estimated at US\$3 trillion per year or about 5% of global GDP.

The European Union (EU) is the largest seafood market and importer in the world, accounting for 20-25% of the global seafood market. Imports were worth €21 billion in 2014.

US seafood imports in 2014 totalled US\$20.2 billion (€18 billion), of which shrimps amounted to US\$6.7 billion (€5.9 billion).

Volatile tuna prices in the Pacific mean more recruitment of cheap migrant labour

Fish prices can fluctuate massively as a result of several factors, including supply and demand variations as well as changing fuel prices.⁸⁹ Some of the most volatile prices are for tuna: they can rise and fall to such an extent that they dictate whether or not vessels go to sea. Tuna prices in Thailand and Ecuador – the two benchmark markets because of their global significance in tuna processing⁹⁰ – between September 2015 and January 2016 were at their lowest level since 2009 hitting new lows of US\$950 - 1,000 per tonne.⁹¹ This is in comparison to trading prices of approximately US\$1,800 per tonne in 2014 and close to US\$2,500 per tonne in 2013.⁹²

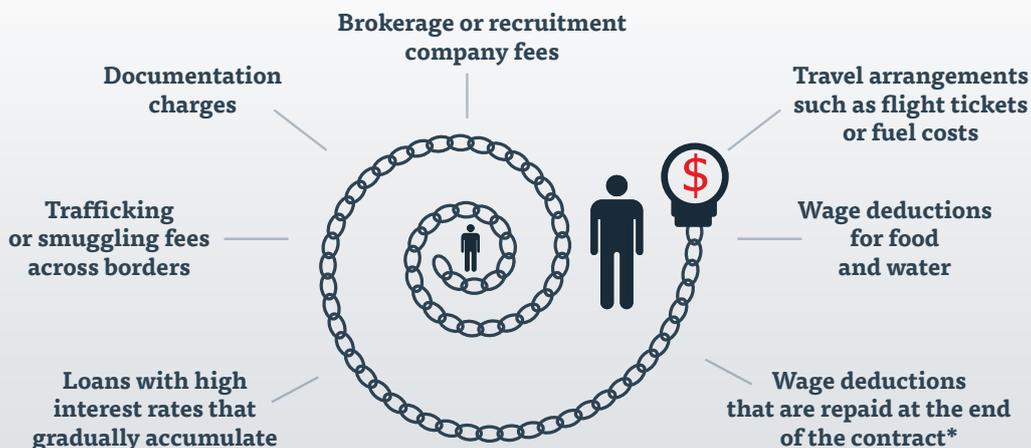
Price drops such as these leave vessel owners struggling to maintain profitability. In Taiwan for example, large longliners have been known to remain in port as the costs of fuel and labour far outweigh the gains from fishing.⁹³ For Sri Lanka's deep-sea fishing fleet, labour costs can account for 45% of operational costs, while fuel accounts for between 37-41% of such costs.⁹⁴ Although fuel costs can vary, it is difficult for vessel operators to cut fuel costs themselves. This makes the employment of migrant workers – often prepared to work for less than nationals – an attractive step for vessel operators. Many fleets across the Asia-Pacific region opt for such a solution.^{95/96} The drive to keep costs at a minimum opens the door for human trafficking and forced labour on board these vessels.⁹⁷ Lax labour laws along with exploitative broker networks and vessel captains further compound these issues.

The role of labour intermediaries in the seafood industry

Labour market intermediaries – so-called 'brokers' – recruit and supply workers to fishing boat owners, piers, processing facilities and other employers. When recruitment channels cross countries with a weak rule of law, and where migrant workers are trafficked or smuggled into the workforce, labour brokers flourish.⁹⁸ Migrant workers often rely on brokers because of complex bureaucracy, language barriers and lack of local contacts to access the job market of a foreign country.

Whether or not they are licensed, brokers can play a major role in the deception of workers, taking advantage of impoverished people faced with a lack of work opportunities.⁹⁹ Brokers have been documented lying about job offers or working conditions, requesting huge fees, selling workers to human traffickers and unscrupulous employers, receiving the salary for the employee and retaining part or all of it.^{100/101}

Debt bondage cycle



| *This is often used to prevent workers from fleeing halfway through their contract. |

Tricked into the Thai fishing industry

Many of the victims of trafficking and forced labour who end up on fishing boats are there because brokers and traffickers deceived or coerced them. Brokers – often an unregulated profession – promise opportunities in destination countries that offer attractive prospects for economic security and the ability to send money back to their families.¹⁰²

Brokers in Thailand have historically not required formal licenses and under certain recruitment channels it is still not mandatory for employers to use licensed brokers.¹⁰³ This informal system allows unscrupulous individuals to exploit recently arrived migrant workers. A 2018 report by the ILO in Thailand found that 53% of 434 workers in the Thai fishing and seafood industries reported some form of wage deduction in the form of fees charged for transport, 'pink card' identity documents, or lodging and sustenance.¹⁰⁴

Thai brokers have in the past been known to charge up to 7,000 baht to recently arrived Myanmar nationals in order to be legally registered in Thailand under the 'pink card' scheme.¹⁰⁵ Recent arrivals are easily exploited as they often do not speak Thai and are not aware of labour laws or their rights. Contracts are often written only in Thai, meaning that workers cannot understand their agreed working hours or rest periods and whether or not deductions will be taken from their salary.¹⁰⁶

To pay broker fees, migrant workers are often forced to borrow money, sometimes from informal sources such as their family or through the sale of assets such as land or possessions.¹⁰⁷ Workers who have done this are then reluctant to leave employment even if they find their new employers are abusive. Alternatively, other brokers seek payment of their fees during employment, by deducting their fee from the worker's wages. Combined with charging inflated interest on outstanding fees, this practice risks creating debt bondage, a common form of forced labour on fishing vessels. This can create an immobilising cycle whereby migrant workers do not want to return home to their families until they have generated enough income to pay off their debts.



Living quarters on the Thai boat that 14 Myanmar migrant workers lived on before being rescued from the port in Kantang. © EJF

Vulnerable workers

Migrant workers are especially vulnerable to incidences of forced labour because they often experience communication and cultural barriers which increase the likelihood of abuse.¹⁰⁸ For instance, contracts may not be provided in their native language, meaning that they cannot understand the conditions of their employment agreement.¹⁰⁹

In addition to often having weaker legal protections, migrants may be unaware of those rights they do have and may not know they can report grievances or complain about working conditions. According to a 2013 survey by the ILO of 596 workers in the Thai fishing industry, 61.7% of workers felt that their rights had not been violated; however, a further inspection of the conditions of their fishing vessels showed otherwise.¹¹⁰ Another study by the Global Alliance Against Traffic in Women found that Cambodian migrant workers in Thailand had little awareness of their labour rights and options for legal assistance while in Thailand, with many resistant to seeking government help in the event that they were exploited.¹¹¹



Migrant workers are vulnerable to abuse partly because they are often unaware of their rights. © EJF

CASE STUDY

No escape from a sinking ship

In a two-year investigation by Seoul-based Advocates for Public Interest Law and the International Organization for Migration, numerous cases of human rights abuses and negligence aboard South Korean fishing vessels were documented. Interviews with some 70 migrant fishermen based in the Republic of Korea, Vietnam, Indonesia and the Philippines revealed cases such as the Oryong 501. Aboard this vessel, safety provisions were so poor that when the ship sank in the Bering Strait in 2014 – as a direct result of the captain forcing the crew to continue fishing despite severe weather – only seven out of the 60 crew, mostly migrant fishers, survived.

Human rights abuses facing migrant fishermen aboard South Korean ships first came to light in 2012, when 32 Indonesian crew members escaped from the Korean vessel Oyang 75 in New Zealand. They claimed that they were sexually and physically assaulted, and not paid their wages, which was confirmed by both Korean and New Zealand authorities.¹¹²



Oryong 501 photographed in 2012. Photo credit: Seafarer Officer Practice Naver Cafe / 네이버카페: 해기사실무

Weak or ineffective legislation and regulation

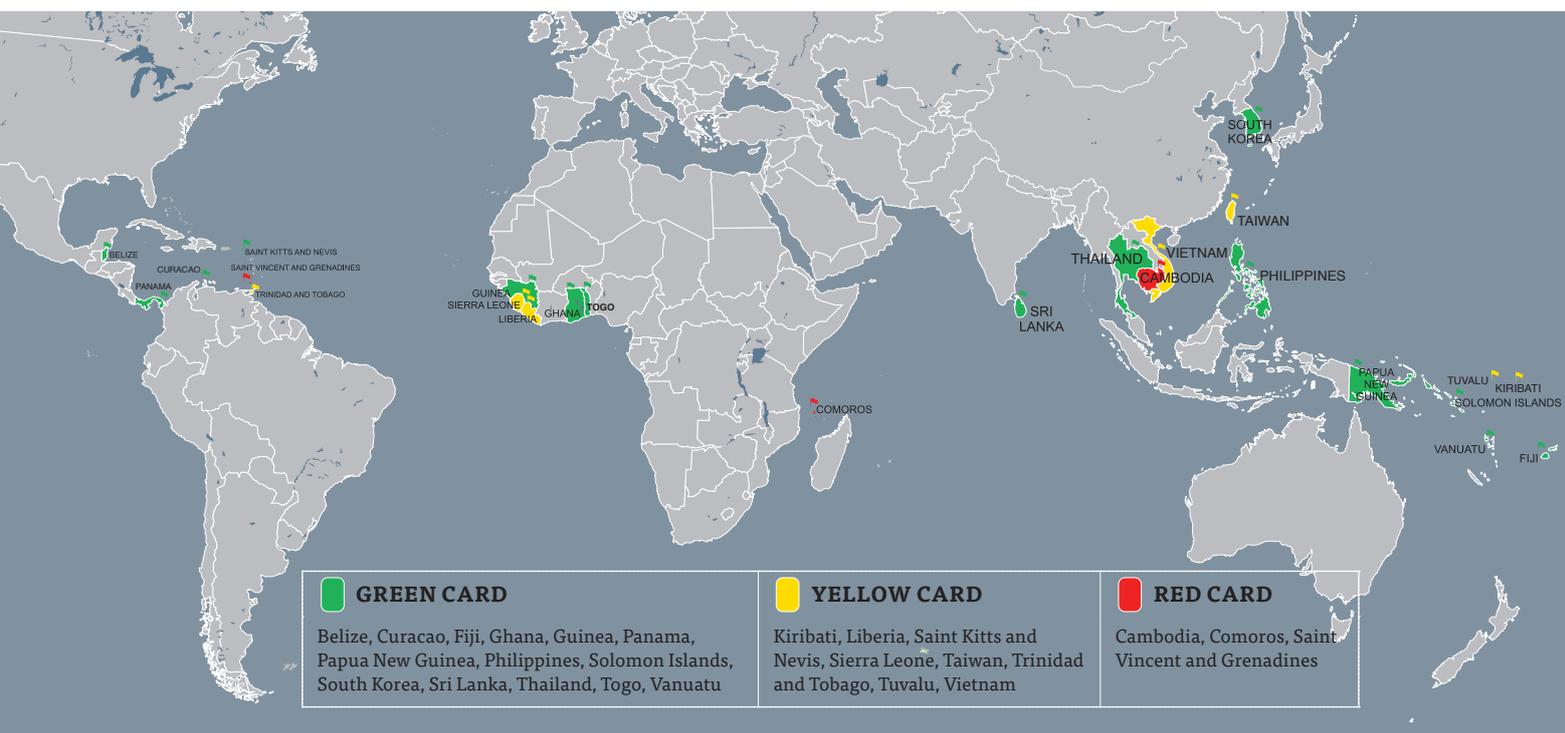
Governments – in all regions – might choose to ignore the relationship between forced labour, intermediation and the informal economy “in their desire to foster flexible labour markets.”¹¹³ Labour regulation and trade unions are still weak in much of the Global South. For example, under the Thai Labour Relations Act, migrant workers in Thailand are currently prohibited from forming or joining labour unions.¹¹⁴ As a result, workers cannot muster adequate support to fight labour abuses or regulatory loopholes that allow exploitation to continue. In distant water fleets, organisation of trade unions can also prove extremely difficult. Even when problems can be identified, in many states enforcement measures are weak, a problem discussed below.

International conventions related to the ability of migrant workers to organise trade unions and undertake collective bargaining (ILO Conventions 87 and 98) as well as the working conditions of fishers (ILO Convention 188) do exist. Too often, however, relevant states have not signed or implemented them — for instance Thailand has not signed ILO Conventions 87 and 98. Only 13 states have ratified Convention 188,¹¹⁵ which entered into force in November 2017. Most key fishing nations across the world, such as Korea and the US, still need to ratify the convention and integrate it into national law.¹¹⁶ Slow ratification and enforcement of labour conventions can inhibit effective flag and port-state controls and allow illegal operators to continue IUU fishing and the trafficking and exploitation of their workers.

Fishers work in one of the world’s most hazardous professions. At sea, safety is paramount, but unlike non-fishing vessels there is not an international agreement currently in force that aims to make life on fishing vessels safe. This gap is being addressed by the International Maritime Organization’s (IMO’s) Cape Town Agreement, which sets standards for design, construction and equipment to ensure the safety of crew and observers on fishing vessels. Ratification of this agreement would mean that vessels are under greater scrutiny because of safety inspections, which can in turn help identify and eradicate human rights abuses, as happened when the Fuh Sheng No. 11 was inspected (see case study above). If a state ratifies the agreement, they can inspect vessels calling at their ports regardless of whether the flag state of the vessel is a signatory.¹¹⁷ However, at the time of writing, only 11 states had ratified, half the number needed for the agreement to enter force.¹¹⁸

One positive development is the recent acceleration of states signing up to a third key international measure, the FAO’s Port State Measures Agreement (PSMA).¹¹⁹ The PSMA strengthens and unifies regional and international port state legislation while also helping to eliminate ports of convenience.¹²⁰ Measures include improving dockside inspections, blocking entry to vessels known to be involved in IUU, and sharing information with the states whose vessels contain IUU product. The PSMA came into force in May 2016 and at the time of writing had 57 ratifications after several countries including the Philippines, Turkey, Libya and Sierra Leone ratified the agreement in 2018.¹²¹

Countries where the EU IUU Regulation has been used and is currently being used



Labour legislation in Taiwan leaves migrant fishing workers at risk of exploitation

Migrant fishers in Taiwan are vulnerable to exploitation not only through brokers but also because of a lack of protective labour regulations. Indeed, migrant workers on Taiwanese fishing vessels are split into two groups, with workers recruited by brokers or agencies in Taiwan receiving considerably greater protections than those recruited outside of Taiwan, as is common in the distant water fleet.¹²² Migrants workers recruited in Taiwan are protected by the Labour Standards Act,¹²³ National Health Insurance Act,¹²⁴ and Labour Insurance Act¹²⁵ among others, with responsibility falling to the Ministry of Labour.¹²⁶ Workers recruited overseas, however, only receive basic protections from a separate set of weaker regulations operated by the Fisheries Agency.¹²⁷

Lack of protective legislation can leave migrant workers vulnerable to exploitation and abuse.

This was the case for Supriyanto, an Indonesian man recruited overseas to work on a Taiwanese longliner called 'Fu Tzu Chun'.¹²⁸ Supriyanto had previously worked on a similar vessel in 2014 and had returned to Indonesia, before deciding that he needed more money to sustain his family. He was recruited the second time by Jangkar Kaya Samudera, an Indonesia-based recruitment agency with a contract that promised US\$350 per month. It was later revealed that his Taiwanese employer would deduct US\$100 from his monthly wages, which would then be given back to him at the end of his 24 month contract. This was designed to prevent him from running away. Further deductions and fees were charged to Supriyanto over the first few months meaning that he only received US\$100 for his first two months of work. During his time on board Fu Tzu Chun, photographic and video evidence shows that Supriyanto was beaten and abused by the captain and fellow crew members – on the captain's orders. He eventually died on board the vessel as a result of his injuries, less than four months after starting work.¹²⁹



The Fuh Sheng No.11 moored up in Kaohsiung port, Taiwan in November 2018 - six months after its initial detention in Cape Town. © EJF

Port in - port out system in Thailand

In an effort to address inadequate portside inspections at a time when it was seeking to combat both IUU fishing and human rights abuses, in 2015 the Royal Thai Government unveiled a network of 32 'port in - port out' (PIPO) centres distributed among Thailand's 22 coastal provinces.¹³⁰ PIPO centres are responsible for documenting the departure and arrival of every fishing vessel and to carry out inspections to ensure compliance. The objective of PIPO is to minimise the risks of IUU fishing, identify signs of trafficking amongst crews and prevent crew transfer at sea.

Through in-depth and ongoing field investigations since 2015 EJF has identified significant failings across the PIPO system.¹³¹ EJF has observed inspections and procedures at 28 centres around Thailand since February 2016. Key components of the PIPO process such as interviews with vessel crew and inspection procedures can vary hugely between PIPO centres. Although there is a universal checklist for PIPO officials to ensure that inspections are carried out to the same standard, there continue to be inconsistencies in its use. Gaps across the network mean that the efforts of effective PIPO centres are being undermined by less-thorough regimes at others, thereby weakening the entire network. This is exemplified by the fact that in 2018, across Thailand's network of 28 PIPO centres, there was not a single identified case of forced labour or human trafficking.¹³²

Continued inconsistencies during PIPO vessel inspections have the potential to allow illegally caught seafood to continue to enter the supply chain, and trafficking and abuse of crews onboard Thai fishing vessels to continue undetected. It is imperative that PIPO officials follow the set guidelines provided to allow the PIPO network to become a credible and effective monitoring and enforcement mechanism.



PIPO officials in Nakhon Si Thammarat, Thailand speak with crewmembers during a routine vessel inspection. © EJF

Trans-shipment as a facilitator of illegal fishing and labour exploitation

One method that traffickers use to transport and transfer fishing crews is trans-shipments at sea.¹³³ This involves the transfer of catch from fishing vessels to reefer vessels or 'mother ships' which then transport fish back to port. Reefers or other support vessels also resupply fishing boats with fuel and food, allowing the vessels to stay at sea almost indefinitely, thereby reducing fuel costs. Fish transport vessels can range in size from converted fishing vessels up to large-scale refrigerated cargo vessels capable of carrying many thousands of tonnes of fish. When trans-shipments take place at a designated location near port, states can more easily control them. Trans-shipment, however, can occur hundreds of kilometres from land, far from any inspections that port visits might entail.

Trans-shipments can aid IUU operators in their efforts as illegally caught fish can be mixed with legitimately caught fish from other vessels. They can also facilitate trafficking and forced labour as vessels come to port less often, reducing the chance for inspections. In more extreme cases, trans-shipments can also be used to rotate crews between fishing vessels without going back to shore, trapping trafficked crew on board.¹³⁴ Vessel owners use this tactic to minimise the risk of their crews escaping. Trafficked workers might be trans-shipped between vessels when individual boats need to return to port for repairs¹³⁵ or whenever a vessel has to return to shore to land their catch.¹³⁶ Consequently, "fishers may

spend months or even years isolated at sea, without access to reporting mechanisms to authorities or any prospect of law enforcement intervention."¹³⁷

For this reason, in well-managed fisheries trans-shipment at sea is banned or is subject to stringent national and international controls such as the presence of observers and electronic monitoring.¹³⁸ However, as will be explained later, their presence may not result in improvements and observers might even be reluctant to work on board fishing vessels.

Banning trans-shipment at sea is an effective legislative measure that forces vessels to come into port, where catch transfers can be observed and potential cases of abuse or trafficking can be identified. If trans-shipments do need to occur at sea, adequate enforcement measures are necessary to ensure that regulations are followed. These can include the deployment of on-board observers and the installation of on-board cameras and sensors on fishing vessels that can be monitored remotely.

Cameras have already been successfully trialled in limiting fish discards on board North Sea fishing vessels but could also be applied to combat IUU fishing and forced labour.¹³⁹ A similar project to fit Thai-flagged refrigerated cargo vessels (or reefers) with electronic reporting systems and cameras has also been rolled out. The Bangkok Fisheries Monitoring Centre then receives a notification and photograph whenever activities such as holds opening, crane movements, or speed changes occur on board.¹⁴⁰



Transshipment taking place in Sierra Leone. © EJF

Acquittals in Ranong

Two Thai fishing vessels – K Nawamongkholchai No. 1 and No. 8 – that were found to have been fishing in Indonesian and Papua New Guinean waters were boarded by Thai authorities in January 2016.^{141/142} The raid was conducted after the Royal Thai Police received a tipoff from authorities in Samut Sakhon about potential labour abuses on-board. A total of 15 Cambodian crewmembers from the vessels were later identified as victims of trafficking and cases were filed against the two boat captains and also a fish market owner based in Samut Sakhon.¹⁴³

The cases were filed in Ranong Provincial Court and eventually reached final verdicts in February and March 2017 – over a year later. The court acquitted both boat captains and the fish market owner of all charges including human trafficking, using forced labour, and coercing crewmembers to work on their vessels. The court ruled in the case of K Nawamongkholchai No. 8's captain that there was no evidence of deception or coercion because the fishing vessels clearly had fishing gear on board, and resembled fishing vessels. This meant that the workers must have known when they approached the boat that they were boarding a fishing vessel. The court also stated that the alleged working hours of 22 hours per day must be fabrications as no normal person would be able to survive such arduous working conditions.

In the case of K Nawamongkholchai No. 1 the court ruled that the victims had encounters with Thai authorities in which they could have alerted them to their working conditions. Although the victims could not speak Thai and there were no translators present, it was judged that they could have communicated through other means if they were really working against their will. The court also ruled that because the house that the crew stayed in before boarding the vessel was not locked there was no evidence of deception or imprisonment.

In both cases, no account was taken of the extreme power imbalance between the crew and their captains, their unfamiliarity with Thai laws and the potential use of bonded labour and threats to crew and their families to enforce conditions of forced labour.



Workers at a PIPO inspection in Phang-Nga, Thailand. © EJF

These two unsuccessful convictions, and the basis on which the court made them, demonstrated a very poor understanding of human trafficking and have set a dangerous precedent for future trafficking cases. They are examples of how the judicial process has sided with the defendants based on a misinterpretation of both forced labour and human trafficking as per Thai labour laws (Anti-Trafficking in Persons Act B.E. 2551 (2008)) and the principles of the ILO's Forced Labour Convention C29. These rulings may dissuade trafficked workers from pressing charges for fear that their cases will be dismissed and for them to face subsequent retribution from their traffickers. Migrant workers may also be dissuaded from raising cases or alerting the authorities in the first place by the way previous victims of trafficking have been treated during the judicial process. They demonstrate the urgent need to train not only enforcement officials but also judges and others in the judiciary about the importance of taking a victim-centred approach to human trafficking.

Flags of convenience

Under international law, flag states are primarily responsible for ensuring vessel compliance with international minimum standards. Consequently, vessels wishing to circumvent fishing and labour regulations often choose to register in states that are unable or unwilling to implement effective legislation and ensure controls. These vessels therefore adopt what are called 'flags of convenience' (FoCs).¹⁴⁴

FoCs are notoriously easy, quick and cheap to acquire. The process can be done online and can take just 24 hours.¹⁴⁵ Their use is advantageous for vessel operators as they allow for cheaper registration fees, low or no taxes, and freedom to employ cheap labour. Vessels can also engage in 'flag-hopping' whereby they re-flag several times a year in order to confuse surveillance and enforcement agencies.¹⁴⁶

In theory, according to international law, flag states should only register vessels that have a 'genuine link' with them. This means that "there should exist within the flag state a substantial entity, which can be made responsible for actions of the vessel"¹⁴⁷ and penalised if the vessel operates illegally. Unfortunately, as a result of the lack of a practical definition of 'genuine link' by the UN, some states allow vessels to gain a flag using a paper-based shell company without any assets or real presence in the country. Consequently, FoCs facilitate anonymous ownership of vessels, and in most cases, there is no direct link between the owner of the FoC vessel and the flag state.

FoCs exacerbate a lack of transparency that hinders the work of law enforcement officers, making it extremely difficult for them to "seek basic confirmation of registry and investigative information from the relevant authorities".¹⁴⁸ According to Interpol, this highlights "the frequent disconnect between registry authorities and law enforcement agencies."¹⁴⁹



Panama received a yellow card from the EU in 2012 in part due to its role as a flag of convenience. This was removed in 2014. © EJF

Flags of convenience around the world

The International Transport Workers' Federation (ITF) has identified 33 countries that are classified as FoC countries. In July 2018, the TryggMat Foundation's combined IUU vessel list contained data on 305 fishing vessels used for IUU fishing and fisheries crime. While the analysis of the dataset showed that close to half of these vessels were stateless or had an unknown flag state, the data also showed that over a third of vessels with known flags were operating under a FoC (as per the ITF list), demonstrating the link between IUU fishing and FoCs.¹⁵⁰ Cambodia was until recently an infamous FoC. Since 2016, the Cambodian shipping register has changed its policy on foreign-owned vessels and has begun stripping them of their Cambodian flags. Cambodian vessels will now need to be registered in Cambodia if they want to receive a flag.^{151/152}

FoCs are also used when vessels of a particular nationality are limited by national quotas. For example, Taiwanese vessel owners have been known to use FoCs to obtain access to quota (as set by several regional fishery management organisations) beyond that available to Taiwan, while at the same time evading regulatory measures governing both fisheries operations and the treatment of crew. Official statistics from the Taiwanese Fisheries Authority put the figure of Taiwanese owned vessels operating under a foreign flag at 252 vessels.¹⁵³ However, Greenpeace estimates that there are closer to 480 such vessels.¹⁵⁴ 71% of the known 252 vessels using foreign flags are flying FoCs as identified by ITF. Two countries – Vanuatu and Panama – are the most common, together accounting for over 60%.¹⁵⁵

FoCs can not only lead to confusion and circumvention of fishing regulations but also exacerbate or facilitate human rights abuses. A recent murder case involving a Vanuatu registered, Taiwanese owned tuna longliner – Tunago No.61 – shows how FoC and beneficial ownership jurisdictions can impact subsequent investigations. The captain of the vessel, Xie Dingrong, was killed by six crewmembers while at sea between Fiji and Easter Island.¹⁵⁶ They have since been sentenced to 18 years imprisonment by the Vanuatu Supreme Court. The court investigations found that the Indonesian crewmembers on board had experienced wide-ranging physical and verbal abuses at the hands of Mr. Xie.¹⁵⁷ Although numerous human rights abuses and incidences of mistreatment were recorded during the hearings, to date there has been no formal investigation of the Taiwanese owned vessel by the Taiwanese authorities either into the recruitment process, or the treatment of the crew on board.¹⁵⁸



A trap vessel in Cambodia, until recently a state notorious for allowing vessels to use it as a FoC. © EJF

Stateless vessels

A 'stateless' vessel is one not registered in any country. This facilitates illegal fishing and is a dangerous threat to legal fishing operators as well as global fish stocks. It also leaves crew completely unprotected by any responsible flag state. Just under half of the TryggMat Foundation's global 'blacklist' of IUU fishing vessels are deemed stateless or with an unknown flag state, demonstrating their prevalence in fishing crimes.¹⁵⁹ They predominantly target high-value and therefore often vulnerable or critically endangered species such as Antarctica toothfish (Chilean sea bass) or

tunas.^{160/161/162} Their use of illegal fishing gears to maximize their own yields at the expense of fish populations makes them a destructive scourge on the high seas. This can have devastating consequences for fragile marine ecosystems, especially those already highly susceptible to overfishing.¹⁶³

Often with lax formal registration, or none at all, they operate under no regulations and are predominantly unknown to international authorities. This makes them both difficult to track and arrest.

Stateless vessels' identity crises

In October and November 2016 nine tuna longliners, claiming they were registered in Bolivia, arrived at Phuket port in Thailand, saying they needed repairs after fishing in the Indian Ocean.¹⁶⁴ After an investigation by Thai authorities it was found that these vessels were not registered in Bolivia and they were subsequently impounded. Fake documents found on board the vessels indicated Taiwanese ownership; however, because of difficulties in establishing links this has not been verified. Seven of these vessels were deemed stateless by Thai authorities in February 2018.¹⁶⁵

EJF investigations found that four of the impounded longliners were listed on the Indian Ocean Tuna Commission's vessel 'blacklist' for illegal fishing in May 2015 but under different names. When EJF spoke to some of the crew from these vessels they said that their vessels would change names several times in one trip depending on where they were fishing.

*"The vessel changes names very often...The captain ordered it on behalf of the boss. I don't know why, none of the ship workers knew why."*¹⁶⁶



EJF visited the impounded vessels in January 2017. This vessel clearly shows the multiple names that have been used in the past. © EJF

Ever-shifting identities also make stateless boats extremely dangerous working environments for any crew on board, potentially facilitating forced labour and human trafficking.

“I went to Thailand to change my life but then this experience happened, and now I come home and bring back nothing.”

Indonesian fisherman working on board one of the nine longliners.¹⁶⁷

Several Indonesian fishermen from the impounded longliners were classified as victims of human trafficking. EJF spoke to three of these individuals after they were repatriated to Indonesia. They described how when they arrived in Phuket, their broker told them that their original contracts were no longer valid and that a verbal contract would suffice. He also confiscated their passports and seaman books. Their contracts had promised a salary of between US\$100 and US\$350 a month depending on their role. None of the workers EJF spoke to had been paid anything since they started at the company. Two fishermen also reported witnessing their colleague being beaten by the boat owner because he didn't work fast enough.

“My friend had a gun pointed at him and was being threatened with a sword...They hit him with the flat side, across the back and other parts of his body.”¹⁶⁸

In another case of vessels going stateless to avoid regulations, the Indonesian authorities – in coordination with INTERPOL – arrested the STS-50 in early April 2018, a fishing vessel that had previously escaped the authorities in both China and Mozambique. The vessel, carrying 600 illegal gillnets that stretched up to 30 km, was arrested flying the Sierra Leonean flag. STS-50 had evaded capture for so long by flying a range of different country flags and using several names including Sea Breeze, Andrey Dolgov, STD No. 2, and Aida. STS-50 is now declared 'stateless.'

The mostly Indonesian crew of STS-50 lacked any kind of identity documents, had not received any pay, and had worked on board the vessel for an extended period of time – all potential indicators of human trafficking.¹⁶⁹

A final example of a stateless vessel comes from the Isabel.¹⁷⁰ Between August 2013 and December 2013, the crew members of this fishing vessel were stranded in the Spanish port of Las Palmas. The 12 crew from several West African countries (Côte d'Ivoire, Ghana, Mauritania, and Senegal) had been told that they would be going to sea in West Africa for three weeks, but a financial dispute between the owners of the boat led one of the alleged owners to bring the boat to Las Palmas where it was detained by Spanish authorities for a number of safety and administrative infractions. Having previously flown the Panamanian flag, the vessel was found to be stateless, leaving the crew perilously unprotected while working at sea.

An EJF investigation revealed that the crew were forced to live on board the boat for five months with inadequate food and accommodation, while the boat's situation was resolved and the financial dispute was settled.¹⁷¹ During the five months spent in Las Palmas, the crew members received 300 euros in total, only 25% of their salary. On the return of Isabel to Côte d'Ivoire in January 2014, one of the crew drowned in an accident in port. There was no evidence that steps were being taken to maintain adequate health and safety standards on the boat at the time of the accident.

The treatment of Isabel's crew in Las Palmas demonstrates that cases of abuse in the fishing sector can happen anywhere in the world and are not issues isolated to fisheries in developing countries.



Isabel moored in Las Palmas in September 2013. © EJF

Enforcement gaps

Even when relevant legislation is in place, it might not be applied because of state and officials' lack of capacity or will, or corruption. The cost of enforcement can be prohibitive, and safety concerns for enforcement officers have also created difficulties.

Lack of enforcement due to cost

In some cases, initial upgrades to fisheries management strategies can result in the doubling or even tripling of costs because of the necessary investments needed in the early stages.¹⁷² For many countries, this can be an obstacle; for others, enforcement may seem to be a completely unachievable ambition. During the Ebola outbreak in West Africa during 2014, for instance, regional governments were forced to divert almost all their attention to containing the disease, allowing foreign fishing companies to exploit the resulting chaos to conduct illegal fishing activities across the region.¹⁷³

Because of the high initial investment, developed countries tend to spend more on fisheries management than developing countries.¹⁷⁴ Fisheries management can be split into three broad activities: 1) administration, 2) research, and

3) surveillance and enforcement. Enforcement is on average the most expensive form of fisheries management because it is labour and equipment intensive. In Iceland, Newfoundland and Norway, for instance, it represents on average 59% of management costs.¹⁷⁵ However, the benefits of reform substantially outweigh these costs,¹⁷⁶ because well-managed fisheries provide for greater sustainability and long-term stability in the industry, generating improved incomes for fishers and governments.

Safety and security concerns

Enforcement capacity might also be diminished by fear. Officers who have successfully exposed or prosecuted traffickers might fear for their own safety if they follow through with their investigations (see case study). Observers may have concerns for their safety on board fishing vessels, especially if they are operating alone, and far away from assistance.¹⁷⁷ There are several cases of observers being intimidated into falsifying their reports, being confined to their quarters, and even murdered at sea.^{178/179} The resulting lack of oversight presents an increased risk for illegal fishing practices and abuse.



A Marine Police official carries out a gear inspection in Kantang, Thailand. © EJF

Observers at risk

Fisheries observers are often tasked with recording fishing activity, weighing caught fish, and conducting scientific sampling of catches on board fishing vessels and refrigerated cargo vessels. In some cases they can also play an important role in identifying any vessel transgressions they observe including illegal trans-shipments at sea, catching vulnerable or endangered species, and other IUU fishing crimes.

However, the job can also be incredibly dangerous, putting observers at risk of being punished or threatened to force them to let fishing crimes go unnoticed.¹⁸⁰ These threats can even come from their supervisors – one observer EJF spoke to during an investigation in Sierra Leone said he was once given five days extra duties by his commanding officer for reporting IUU fishing. Another observer described how he was confined to his cabin any time IUU fishing took place and had been prevented from accessing communications equipment while on board.¹⁸¹

Observers may even disappear, potentially murdered at sea in order to ensure their silence. Over the last five years, for example, 18 Papua New Guinean fisheries observers have disappeared in the Western and Central Pacific Ocean (WCPO) region – one of the most valuable tuna fisheries in the world.^{182/183} In many cases, observer disappearances are not properly reported and may not even make local news outlets in their countries of origin.¹⁸⁴ Observers working in this vast expanse of ocean are vulnerable because of the lengthy periods at sea, spending days or even weeks away from any potential rescuer. Arduous and dangerous living and working conditions coupled with a lack of protective regulations have seen many fishing vessels operating in the WCPO going without observers. The Western Central Pacific Fisheries Commission (WCPFC) requires that 5% of the region's 3,000 longliner tuna boats have observers. However, actual coverage is approximately 3%.¹⁸⁵

Although 'Observer Safety Measures' were implemented by the WCPFC in 2016, which finally laid out minimum actions to take if an observer falls sick, is injured, or falls overboard, their implementation has been sporadic. For example, after the disappearance of James Numbaru in June 2017, the fishing vessel he was on – Feng Xiang 818 – continued to fish for four hours even after the deck officers were alerted to Numbaru falling overboard. None of Numbaru's personal items were preserved as evidence and none of the vessel crew were interviewed, meaning that any potential perpetrator of Numbaru's disappearance has likely escaped justice.¹⁸⁶

Lack of will

National governments may be unwilling to act on both IUU fishing and severe crew abuses because of short-term concerns over the importance of the seafood sector for their respective economies. In 2015, the Thai seafood export sector was worth US\$5.63 billion.¹⁸⁷ Concerns that improved regulation and enforcement might result in increased costs can be a disincentive to curb IUU fishing and strengthen labour standards. Such countries fail to see that short-term cost increases due to stronger regulation and enforcement will yield sustained and long-term benefits due to sustainably managed fisheries and adequate labour standards.

Governments might also be reluctant to increase labour rights and control over recruitment agencies, as many fishers are migrants who do not have voting rights, and so action may hold no perceived political advantage.

At the operational level, fisheries enforcement officials are not always aware of human trafficking for the purpose of forced labour and, when they are, "see it as outside the scope of their mandate to investigate instances of human trafficking", as stated in an UN Office on Drugs and Crime report.¹⁸⁸ "The result is that victims are not identified, instances of trafficking are not investigated, and potential traffickers are not prosecuted."¹⁸⁹

Corruption

There are strong links between low levels of governance in a country and the prevalence of IUU fishing. Researchers from the Imperial College London measured World Bank governance indicators – controls on corruption, government effectiveness, regulatory quality, and rule of law – against the amount of illegal fishing occurring in different countries.¹⁹⁰ Those with poor governance scores were more likely to have high levels of IUU fishing in their waters.

Countries with poor governance are more susceptible to corruption from officials, have weaker regulatory measures in place, and may have barriers to upholding the rule of law. IUU fishing and related labour and human rights abuses are more likely to occur and go unnoticed or unpunished in countries with low political stability or government effectiveness.¹⁹¹ These countries are at a greater risk of being involved in illegal activities not only from their own fishers but also from nationals from other countries fishing in their waters.

Corruption exists at every stage of the fisheries supply chain and the human trafficking process (recruitment, transfer and exploitation).¹⁹² It can happen at sea but has also been exposed at the highest political levels and on both international and national scales. Corruption can take many forms including the favourable negotiation of



Fish trading in Indonesia. © EJF

access agreements, influence peddling, conflicts of interest between related parties, and the use of bribes and undisclosed payments to circumvent regulations or fishing sanctions.

The negotiation of fisheries access agreements is often shrouded in secrecy. There are serious concerns of corruption surrounding the negotiation process – including bribes, kickbacks and foreign countries using donor and development funds or threats of their removal to ensure favourable terms.¹⁹³ Access agreements represent a considerable income for many developing countries. Moreover, “there is considerable concern in many developing countries that operators of foreign boats caught for illegal fishing locally are pardoned due to diplomatic pressure from the home governments of boat owners.”¹⁹⁴

Bribery – such as illegal payments or gifts to port officials, observers, field-level law enforcement officers and senior civil servants – is a major form of corruption. In fisheries, it is used to:

- Obtain fishing licences
- Overlook irregularities
- Facilitate human trafficking (ignoring the traffickers’ operations, turning a blind eye during border crossing, etc.)

- Bypass labour and security regulations (overlooking cases of forced labour)
- Avoid inspections
- Avoid or reduce penalties and prosecutions (for example, paying a judge to drop human trafficking charges or reduce IUU fishing fines).

According to Interpol, bribery of civil servants “is a significant issue for all types of law enforcement in many countries where pay is low and/or sporadic and personnel are poorly trained and equipped for their jobs.”¹⁹⁵ Fishing observers can sometimes become reliant on gifts or illegal payments to supplement low pay and they can also be threatened not to report wrongdoings.¹⁹⁶

Conflicts of interest can also limit the enforcement of fisheries and labour laws, as well as the effectiveness of marine inspections. Senior officials and politicians with responsibilities in public fisheries management, police work or local councils are sometimes also involved in the private seafood industry. Consequently, they can illegitimately use their power to force decisions and actions that are in their favour, going against the law or the public interest.

Conflicts of interest in Kantang

Kantang is a small port town in Trang province, southern Thailand, where EJF has undertaken several investigations.¹⁹⁷ These have revealed how corruption of local officials and law enforcement agencies has allowed a system of trafficking and forced labour to perpetuate despite supposed government action.¹⁹⁸

In 2015 - Sompon Jirotmontree, the owner of Kantang based company Boonlarp Fishing L.P., was one of the most powerful figures in Kantang. At the time he had served two terms as municipal mayor – a position his brother Soranont currently holds – and was once listed as a ‘consultant’ on Kantang municipal website. At the time of EJF’s investigation he was also the President of the Trang Fishing Association and head of the Council for the Monitoring and Inspection of the Kantang Police.¹⁹⁹ This meant that Mr. Jirotmontree was able to exert influence across municipal authorities and local law enforcement, while having clear private interests in fisheries. A confidential informant revealed to EJF how police officers investigating the previous Boonlarp cases in 2013 had been pressured by Mr. Jirotmontree’s powerful connections to drop the investigation.²⁰⁰

Several trafficking victims in the 2013 case also reported that Mr. Jirotmontree and his associates would visit them at Kantang police station to pressure them into not implicating him or the company.^{201/202}

Mr. Jirotmontree was arrested on 7th November 2015 along with seven individuals after EJF passed a detailed dossier of evidence to Deputy Prime Minister Prawit Wongsuwan and other high-level officials.²⁰³ In March 2017, the provincial court in Trang found Mr. Jirotmontree and five of his accomplices guilty of human trafficking. They could face 14 years in prison and the Boonlarp Fishing L.P. 600,000 baht in fines.²⁰⁴ Four other defendants were found innocent because of a lack of evidence. Although the convictions are encouraging news – as EJF stresses in its report *Thailand’s Seafood Slaves* – the endemic corruption and conflicts of interest present in Kantang that have hampered the case are not an isolated incident.²⁰⁵ Nationwide intelligence-led enforcement efforts are needed to rid Thailand’s fishing industry of these issues.



Thailand’s fishing fleet has been the scene of slavery, physical abuse, trafficking, and even murder of migrant workers. © EJF

The way forward

Despite the obstacles faced, there is a clear path towards eradicating human rights abuses in fisheries, and some key measures that can help the industry take that path. Above, key international treaties were cited at varying stages of entering force—in particular the PSMA, C188 and Cape Town Agreement. Their adoption by states would not only help secure their individual goals in combatting IUU fishing, human rights abuses and unsafe conditions respectively; but also ensure more frequent inspections of vessels by contracting states.

At a regional level, the EU IUU Regulation is an example of a world-leading measure to combat IUU fishing.²⁰⁶ The regulation serves both as best practices for port and market states seeking to block IUU imports, as well as a punitive measure for non-EU states that fail to combat IUU. In addition to putting in place a catch certificate scheme to stop illegal fish entering the EU, the regulation applies strict standards to ‘third countries’ wishing to export fish to the EU. These standards are designed to ensure legality and greater environmental sustainability. If they are not met, countries are first warned (‘yellow carded’) and, failing improvement, may receive a total ban on seafood imports to EU countries (‘red carded’).

Alongside the EU IUU Regulation, the annual US Trafficking in Persons Report (TIP Report), works as a diplomatic tool to engage governments by ranking them based on their perceived efforts to acknowledge and combat human trafficking. The report has generated action in several countries in the form of increased legislation and national action plans.²⁰⁷

In 2011, the UNHRC approved the UNGPs, which “seek to provide an authoritative global standard for preventing and addressing the risk of adverse human rights impacts linked to business activity”.²⁰⁸ The UNGPs have three pillars of implementation: the “State duty to protect human rights”, the “corporate responsibility to respect human rights”, and “access to remedy” for victims. Following the agreement of the UNGPs, there has been some movement in states setting out requirements for business to address human rights abuses in their supply chains, most notably the 2015 UK Modern Slavery Act.²⁰⁹

The following case study looks at how NGOs and businesses have developed corporate approaches to mitigate the risks of human rights abuses in supply chain, alongside also establishing legality for fish catches.

The steps industry can take – PAS Code of Practice

The PAS 1550 code of practice (*PAS 1550:2017 Exercising due diligence in establishing the legal origin of fishery/seafood products and marine ingredients – importing and processing – code of practice*) provides industry with guidance on how to avoid the purchase of IUU seafood and recommendations on traceability and decent working conditions for the importers and processors of seafood. It is for use by any importers and processors who have an obligation to meet the requirements of the EU IUU Regulation, which includes all supply chains of seafood imported into and subsequently sold in the EU.

Created under the auspices of the British Standards Institute, the UK’s national standards body, with the support of EJF, Oceana, The Pew Charitable Trusts and WWF, and the direct involvement of retailers, processors and importers, PAS 1550 is an important tool to help the industry adapt their due diligence and risk assessment systems to reduce the risk of supplying or procuring IUU fish, or fish either caught or processed by workers who are not provided with decent working conditions.

The document gives recommendations on the following:

- What are the considerations within a due diligence system in order to minimise the risk of IUU seafood in the supply chain?
- What needs to exist to assure decent conditions at work in the seafood sector?
- What traceability systems are used to deliver the ability to verify claims?

Undercover tactics offer innovations in enforcement

Since 2015 Thailand has been combatting IUU fishing and human trafficking, tightening fisheries legislation and regulations while also rolling out sweeping changes to portside and at-sea vessel inspections. One area that initially proved elusive was intercepting illegal fishing operators at sea. Thailand's solution to this was to deploy a covert method of intercepting illegal fishing activities – converting an old fish carrier vessel into an undercover police patrol vessel. At the time of writing, Thailand has one of these covert vessels – 'Poseidon' – operating in its waters.

Poseidon is an unremarkable looking vessel, still peppered with rusted exterior sections, dents, and chipped paintwork. However, this worn exterior makes Poseidon an effective tool in the ongoing battle against IUU fishing. Its unassuming profile on the horizon does not raise the alarm as a regular law enforcement vessel might do, meaning that illegal fishing vessels will approach. To maximise its effectiveness as an enforcement mechanism, Poseidon will often drift with the currents on the fringes of Thailand's EEZ – thereby reducing fuel costs. It can stay at sea for several weeks at a time, either intercepting vessels that it finds or relying on intelligence sent to it from Bangkok's central monitoring centre.

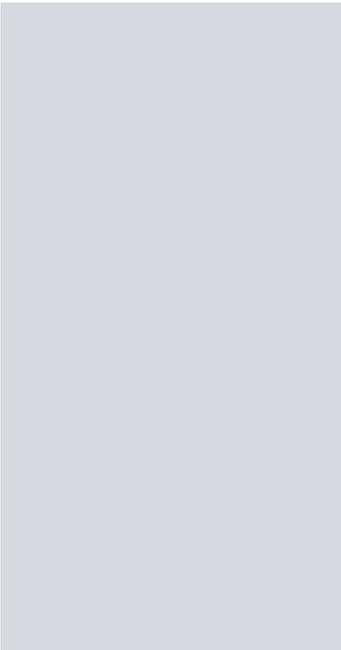
Poseidon carries a crew comprised of Royal Thai Police and Department of Fisheries (DoF) officials, sophisticated radar technology, and a speedboat. Once within range, the speedboat is deployed and sent in for the final interception. Poseidon will often radio a Navy or DoF vessel to rendezvous with the impounded vessel and escort it back to shore, allowing Poseidon to resume its patrol and minimise wasted time in transit back and forth.

In April 2018 EJF joined Poseidon on a routine mission to patrol the Gulf of Thailand. The trip lasted a total of three days due to Poseidon being able to catch five illegal Vietnamese trawlers in the space of 12 hours and within 14 nautical miles of each other. These vessels had entered Thai waters and were rapidly intercepted by Poseidon's speedboat.

Poseidon's success is demonstrated by its high capture rate. Between January and July 2018 it was responsible for impounding 77 vessels: 18 Thai boats and 59 flagged to other countries. It serves as a relatively low-cost model that coastal states in the region and beyond should consider replicating.



Poseidon (left) rests alongside three recently arrested Vietnamese fishing vessels caught illegally fishing within Thailand's EEZ. © EJF



Conclusion

The global over-exploitation of fish stocks, enabled by weak governance and driven by increasing consumption of seafood from transnational supply chains, is a critical factor in facilitating abuse and exploitation in fisheries.

Changing legal requirements and operational practices within fisheries management regimes to deliver transparency across all aspects of seafood production and supply chains would be transformative. Such reforms offer the most cost-effective, operationally efficient and politically realistic measures to build effective enforcement against both illegal fishing and the associated human and labour rights abuses. Transparency allows enforcement agencies and management officials to leverage limited assets and financial resources to the best effect, simultaneously giving other stakeholders – such as retailers and NGOs – the opportunity to scrutinise production and supply chains to identify abuses. This can reward law-abiding businesses while weeding out illegal, unscrupulous players.

This report makes clear that worker exploitation is a trans-boundary issue, with crew being trafficked from origin to host countries, often travelling vast distances in dangerous conditions. Labour brokers are a key component of this trafficking system, taking advantage of vulnerable workers in origin countries and weak regulation in host countries. They allow the exploitation of workers by tricking or forcing them to sign unreasonable contracts that restrict their freedom of movement, charge extortionate fees, deduct wages, and threaten them or their families psychologically and physically. It is evident from the case studies presented in this report that far greater attention needs to be paid to the role of brokers and that urgent national, regional and international regulation must be developed, including bans on recruitment fees.

Legislation needs to be updated to address gaps in workers' rights, fishing regulations, and enforcement procedures. Weak fisheries legislation and poor enforcement around the world is allowing illegal operators to flourish. Legislative reforms alongside vastly improved enforcement, trans-boundary collaboration and the application of effective deterrent penalties are urgently needed. This will help to prevent illegal and unsustainable fishing; the use of damaging fishing gear and practices; human trafficking and use and abuse of illegal, unregistered and vulnerable workers.

International agreements such as the recently enacted ILO's Work in Fishing Convention (C188) and UNFAO's PSMA as well as the not-yet-enacted Cape Town Agreement are designed to eliminate capacity gaps and increase inspection. All three still must be rapidly adopted and ratified by governments worldwide.



Policy recommendations

The following recommendations are designed to assist coastal, market, flag, and port states, industry, and consumers in applying economically feasible, cost effective, technologically and logistically realistic measures to ensure the eradication of labour and human rights abuses in the seafood industry. Specifically, they are designed to help prevent the trafficking of workers and the use of bonded, forced and slave labour – while also helping to eliminate IUU fishing.

If applied with consistency, rigour and determination, the actions listed here would make a substantial and decisive impact in building a wild-capture seafood industry that is sustainable, legal and ethical.

Recommendations for coastal, flag, market and port states

A suite of measures is required to eradicate IUU fishing, from improved fisheries management to better corporate due diligence. Central to this is the need to achieve transparency throughout seafood supply chains and address the opaque environment in which illegal fishing and other criminal activities thrive.²¹⁰ Enhanced transparency offers the most cost-efficient and effective means to identify illegal activities and IUU operators. It allows government agencies, corporate actors and other stakeholders to leverage limited assets to effectively combat IUU fishing. These simple measures for states would shed light on vessel identities, activities and ownership, making action against IUU fishing easier, cheaper and more effective, thereby delivering a substantial contribution toward securing sustainable, legal and ethical fisheries worldwide.

States should:

1. Immediately mandate IMO numbers for all eligible vessels, implement a national unique vessel identifier scheme for non-eligible vessels, maintain a vessel registry and provide all information to the FAO Global Record of Fishing Vessels (that ultimately includes all eligible vessels over 12 metres length overall).
2. Require automatic identification systems for fishing vessels and/or make unedited vessel monitoring system (VMS) data public with regular transmission intervals sufficient to ensure vessels can be effectively tracked.
3. Publish up-to-date lists of fishing licences and authorisations, as well as vessel registries.
4. Publish information about arrests and sanctions imposed on individuals and companies for IUU fishing activities, human trafficking and other related crimes.
5. Implement a ban on trans-shipments at sea unless they are pre-authorised and are subject to robust and verifiable electronic monitoring and are covered by a human observer scheme appropriate to the fishery and with the ability to identify labour abuses.
6. Mandate and implement the near-term adoption of cost-effective digital tools that safeguard in a digital form key information on vessel registration, licenses, unloading records, catch location and information and crew documentation (including details on authorisations and documentation for at-sea crew transfers). These should be designed in such a way as to support a rapid move towards a universal, interoperable digital catch certification scheme.
7. Prohibit fishing vessels from using open registries to fishing vessels and stop the use of flags of convenience by vessels fishing in their waters or importing to their markets.
8. Publish information about beneficial ownership in all public lists and require companies to provide information on true beneficial ownership when applying for a fishing licence, fishing authorisation or registration of their flag.
9. Include provisions in legislation to identify where nationals are supporting, engaging in or profiting from IUU fishing, and implement deterrent sanctions against them. This effort can be aided by a register of vessels owned by nationals but flagged to other countries.
10. Sign, ratify and implement international measures that set clear standards for fisheries vessels and the trade in fisheries products, including the **ILO's Work in Fishing Convention (C188)**, the FAO's PSMA, and the IMO's Cape Town Agreement.

Appropriate legal mandate, training and support for authorities

- All states should acknowledge the nature and scale of labour and human rights abuses in their countries including those related to child labour, forced labour, debt bondage, freedom of association and the right to collectively bargain amongst others. States should request training and guidance from the International Labour Organization to institutionalise reforms.
- States should implement a robust legal framework which institutionalises operational practices throughout the enforcement chain – specifically empowering those in identification and ‘front-line’ services such as coast guard and fisheries inspectors through to the judiciary and legal services.
- Wherever necessary, ensure the timely provision of security protections to witnesses to wrong-doing aboard vessels, and also to enforcement, legal and judicial officials to prevent any sort of retaliation by fishing boat owners and captains.

- All states should ratify and implement all the ILO's fundamental conventions: ILO Conventions 29 (Forced Labour), 87, 98, 100, 105, 111, 138, 182, 188.
- All states should revise labour laws to fully comply with the ILO's fundamental conventions ratified by the state.

Recruitment processes and brokers

- Formalise government-to-government regulated worker recruitment channels and set strictly controlled, completely transparent limits on recruitment fees; control and closely regulate labour brokers and recruitment firms in order to end exploitative fees; investigate and criminally prosecute those involved in human trafficking networks.
- Mandate broker registration and accountability so that workers, especially migrant workers, can make informed decisions about which broker or recruitment agency is the most reliable and trustworthy.
- In line with ILO C188 and the Employer Pays principle²¹¹, ban recruitment fees paid by workers and ensure fees are paid by the employer recruiting the worker. Ensure employers do not seek to recoup recruitment fees through deductions in pay.
- Blacklist brokers and recruitment firms found to engage in deceptive recruitment and/or charging exploitative fees.

Prevention, investigation, detection and prosecution

- Where known instances of trafficking and human rights abuse exist, states must apply greater resources and effort – in collaboration with industry partners and civil society – to the detection and successful prosecution of these abuses.
- Inter-agency collaboration and cooperation should be fostered by states to ensure cases can be resolved swiftly, while prosecutions should apply appropriate sentencing to provide robust deterrent.
- States should highlight successful prosecutions to magnify their impact in discouraging similar crimes.
- When implementing port inspection measures, port states should recognise the increased risk of human rights abuses on flags of convenience vessels due to the higher likelihood that their flag state does not have adequate legal regimes and enforcement measures to protect crew.



Recommendations for fishing companies, processors, importers and retailers

It is essential that businesses involved in the seafood industry adopt a zero-tolerance approach to human trafficking, human rights abuses, labour rights violations and IUU fishing. Failures by industry to adopt appropriate measures and controls will undermine efforts by governments and regional authorities to combat these abuses. Critically, companies cannot solely rely on certification schemes designed to make fisheries more sustainable to also address the need to make sure fish is caught legally and ethically. Failure to specifically establish robust risk mitigation measures designed to address human rights issues and legality leave businesses vulnerable to legal, financial and reputational risk.

Fortunately, establishing such risk mitigation measures is becoming easier. As states make fisheries more transparent and there are advances in technology, companies increasingly have access to economically and logistically feasible measures that provide full 'net to plate' traceability and the ability to establish due diligence processes that are informed by risk levels in different parts of their supply chain.

In this context business stakeholders should:

Adopt clear risk mitigation policies and processes that extend through the supply chain, backed with third-party verification, to identify and deal with human rights abuses and associated issues. EJF, together with WWF, other NGOs and industry have developed a code of practice that supports processors and importers to do this.²¹²

- Disclose efforts to uphold human and labour rights in their operations and specifically note areas of their operations at-risk of labour violations. Engage with worker and human rights organisations to identify and solve these risk areas.
- Record, or demand, sufficient data on sourcing vessels to ensure no vessel with a history of committing IUU fishing or labour abuses can taint the supply chain. Use in-house and third party verification to ensure the accuracy of this data.
- Record gender disaggregated data so that companies can have a better understanding of the risks for men and women workers in their supply chains.
- Raise awareness on the dangers of the informal recruitment brokers, agents, and companies, and promote responsible recruitment practices and work that excludes recruitment fees for workers.
- Only work with suppliers that have a system in place, or are substantively working towards a credible system for transparency and traceability – including the tracing of protein source for farmed seafood.

Recommendations for consumers

Consumers can and should hold retailers and seafood suppliers to account for their actions and send a strong message that seafood must come from sustainable sources and be free from trafficked, forced or bonded labour.

Consumers should:

- Demand proof of net-to-plate traceability and require clear, specific assurances that products are caught or farmed legally, sustainably and ethically: can your retailer tell you how, where, when and who caught the fish on your plate?;
- Require businesses to publicly state and publish on their websites the measures they are taking to ensure they are not sourcing products that were produced using trafficked, bonded, forced or slave labour;
- Consult online performance indicators and resources such as the Sweat and Toil app²³ to learn about products and their potential ties to human rights abuses;
- Use their individual and collective purchasing power to drive change wherever seafood is sold. If your retailer cannot guarantee your fish has been caught or produced sustainably and without human rights abuses - do not buy it. Demand this information;
- Demand retailers sign up to EJF's Charter for Transparency.

- In due diligence systems, recognise the increased risk of human rights abuses on vessels using flags of convenience and take risk mitigation measures.
- Require that social audits or other verification measures used to check working conditions on fishing vessels provide a safe and confidential opportunity to hear directly from workers in interviews with no senior crew members and/or company representatives present.
- Work with pre-competitive industry groups, NGOs and worker rights organisations to go beyond their own supply chains and demand governments implement greater transparency in regulation to make it easier to implement risk mitigation measures.
- To inform due diligence processes, businesses should seek input from communities, local NGOs and workers' rights organisations relevant to their supply chains.
- Adopt a zero-tolerance policy toward violence and human rights abuses and ensuring that this policy is communicated clearly and forcefully through the supply chain.



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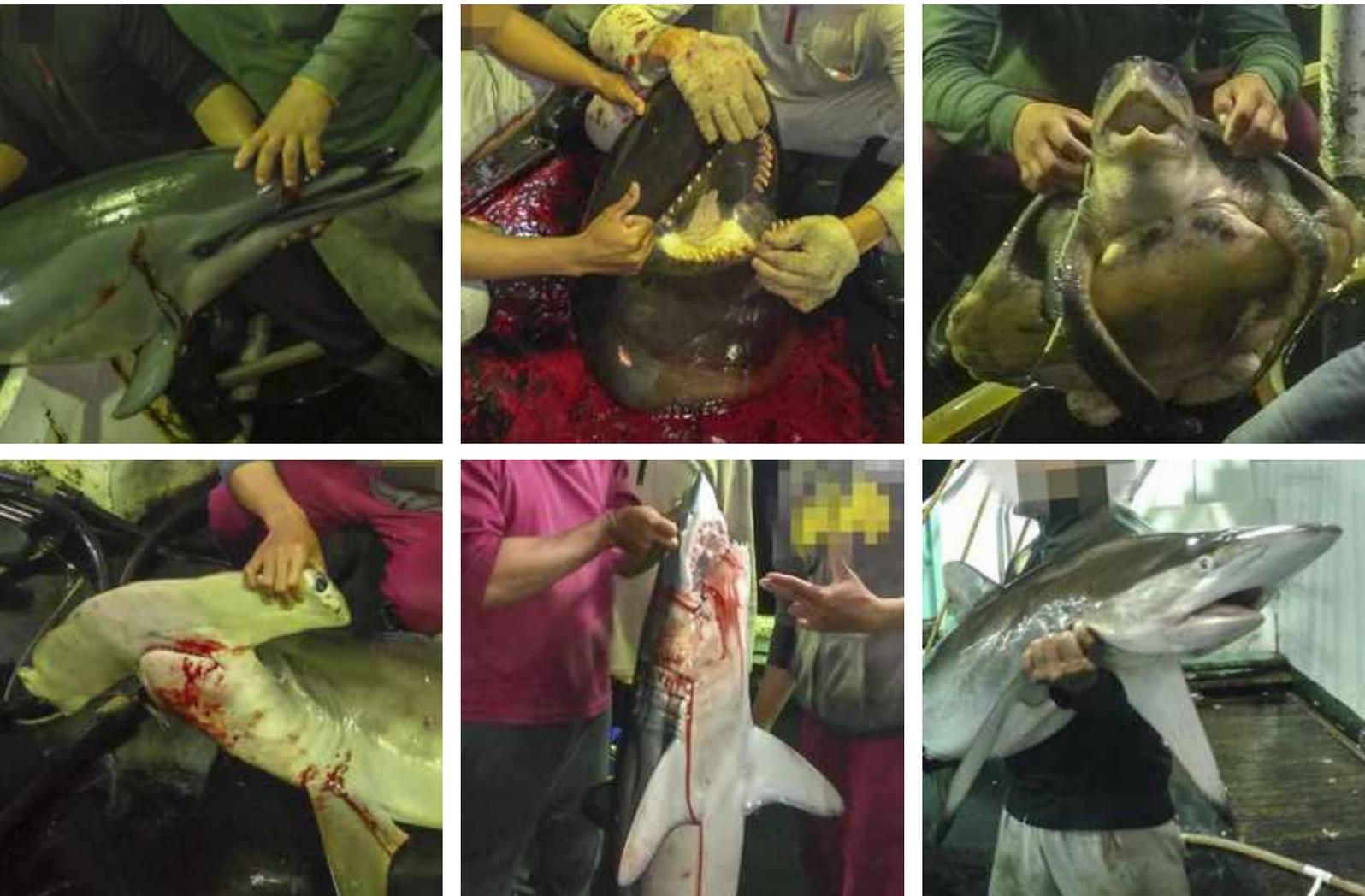
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Protecting People and Planet

APPENDIX 4

Illegal fishing and human rights abuses in the Taiwanese fishing fleet



These photos show a selection of charismatic species caught on board the five vessels described in this briefing.

The Environmental Justice Foundation (EJF) is a UK-based environmental organisation working internationally to combat illegal, unreported and unregulated (IUU) fishing and promote sustainable management of fisheries. EJF uses remote monitoring technology and conducts interviews with former crew from fishing vessels to document instances of IUU fishing, as well as related crimes such as human trafficking and forced labour.

Vessel names, identification numbers, and ties to coastal States have been redacted due to an ongoing investigation into these five vessels by the Taiwanese authorities. All interviews with crewmembers from the vessels and all photographs enclosed in this briefing were carried out and/or obtained with the informed consent of the individuals involved.

Introduction

Taiwan operates one of the world's largest distant water fishing fleets (DWFs) with over 1,142 vessels flying the Taiwanese flag¹ and more than 250 Taiwanese owned vessels flying other flags – often referred to as Flags of Convenience (FOCs).

A vessel using a FOC is one that flies the flag of a country other than the country of ownership. The flag State used usually has weaker regulations and looser enforcement of fisheries and labour rules, lowering costs². In February 2018 Taiwan reported that there were 283 such vessels with investment or ownership ties to Taiwanese citizens. EJF believes that this list is unlikely to be comprehensive and that there are further vessels where the true beneficial ownership is Taiwanese.

Taiwan continues to hold a formal warning or 'yellow card' from the European Union for not sufficiently addressing illegal fishing across its fishing fleet.³ If adequate steps are not taken, it could lead to the issuing of a 'red card' and import bans of seafood to the EU as well as wider reputational damage to the sector. Although Taiwan has taken important steps towards improving its fisheries laws this has not yet been mirrored by sufficient reforms to labour laws, or migrant worker recruitment policies that would provide workers adequate protections on board fishing vessels. In addition, through EJF's own investigations over the course of 2017 and 2018, there remain significant gaps in the enforcement of Taiwanese regulations.

Taiwan's distant water fleet mainly operates across the Pacific, Indian and Atlantic oceans. Over 90% of the fleet fishes primarily for tuna or tuna-like species which can include swordfish and marlins with much of this caught using longline fishing gears.

Sharks, turtles, dolphins, whales and seabirds are often caught incidentally in longline fisheries as they are attracted to the bait laden lines that can stretch for tens or hundreds of kilometres from the catching vessel.⁴ Often these tuna targeting vessels will bait the lines with mackerel, sardines or pacific saury. In the case of one vessel discussed in greater detail below, the longlines were baited predominantly with chunks of dolphin meat and juvenile sharks.

EJF's most recent briefing in August 2018 focused on one particular Taiwanese longliner – the Fuh Sheng No.11. This vessel became infamous in July 2018 for being the first vessel to be impounded under the ILO's C188 'Work in Fishing' Convention in Cape Town.⁵ EJF subsequently interviewed five crewmembers from this vessel who reported persistent human rights abuses, atrocious living and working conditions and illegal fishing practices on board.⁶ Taiwan's Fisheries Agency initially failed to take action against the vessel, allowing it to leave Cape Town unpunished. Following the release of an EJF briefing and film⁷ concerning this vessel in September 2018, an investigation was launched by the Fisheries Agency to determine if any illegalities occurred on board. The investigation resulted in significant sanctions being imposed for human rights abuses, however the vessel was not charged for shark finning despite the testimony of crew and photographic evidence.



Fuh Sheng No. 11 at port in Kaohsiung. © EJF

IUU fishing practices continue

This briefing summarises findings gathered from testimony of crewmembers who worked aboard three Taiwanese-flagged vessels, a Taiwanese owned vessel flagged to Panama, and a vessel with potential links to Taiwan flagged to the Seychelles. Interviews were carried out with crew members from these vessels in November 2018. It sets out detailed allegations of IUU activities, with accompanying photographs, as well as potential human rights abuses.

Alleged IUU practices include finning sharks and disposing of their bodies whilst at-sea, landing or trading shark fins weighing in excess of five per cent of the total retained shark carcasses (hereafter referred to as the five per cent ratio), catching of prohibited shark species including Bigeye Thresher and Smooth Hammerhead Sharks – both listed as globally vulnerable on the IUCN's red list of threatened species^{8/9}, and the intentional hunting and capture of protected wildlife species including dolphins.

The capture of turtles and dolphins – whether incidentally or on purpose – was reported on four vessels with the majority of crews reporting that these would be returned to the sea upon discovery. Crewmembers stated that they would cut the lines to release the animals but would not remove the hook that was lodged inside the animal's mouth or stomach. This practice likely results in serious and long-lasting injury or death to the animal¹⁰.

Summary of potential infractions

Name	Flag	Potential IUU Offence	Human rights abuse
Vessel 1		<ul style="list-style-type: none"> Catching and killing dolphins Finning sharks and disposing of the bodies Not notifying the authorities to conduct an inspection Falsifying and not declaring catch 	Threats to deduct pay or send crew back to Indonesia without pay.
Vessel 2	 (registered as Taiwanese owned vessel)	<ul style="list-style-type: none"> Shark finning in prohibited areas Catching, landing, and decapitation of a False Killer Whale (protected species) 	Threats to deduct pay or withhold food. Crew also reported being kicked, hit and slapped by a senior Taiwanese crewmember.
Vessel 3		<ul style="list-style-type: none"> Finning sharks and disposing of the bodies, trans-shipping fins to ██████ flagged vessels in ██████ waters – catch and retention of forbidden shark species including thresher and hammerhead sharks Catching dolphins and Olive Ridley Turtles – protected species under Taiwanese law Unauthorised trans-shipments 	None reported.
Vessel 4	 (Evidence of link to Taiwanese owner)	<ul style="list-style-type: none"> Finning sharks and disposing of bodies Potentially a flag of convenience vessel that has failed to register with Taiwanese authorities 	Potential debt bondage and/or forced labour involving a crewmember who was forced to work for eight months without pay.
Vessel 5		<ul style="list-style-type: none"> Finning sharks and disposing of bodies Unauthorised trans-shipments 	Physical abuse by the captain reported.

Several of the countries listed above already implement full or partial bans on shark finning in their waters including; Seychelles (no removal of fins on board vessel unless granted authorisation)¹¹ and Panama (no finning by Panamanian flagged vessels in international waters)¹².

In addition, Taiwan is party to several regional fisheries management organisations (RFMOs) that would encompass the operating jurisdictions of these vessels including the Inter-American Tropical Tuna Commission (IATTC), International Commission for the Conservation of Atlantic Tunas (ICCAT), Indian Ocean Tuna Commission (IOTC), and Western and Central Pacific Fisheries Commission (WCPFC). These four RFMOs stipulate similar shark retention policies stating that all parts of the shark except the head, guts, and skin must be retained.^{13/14/15/16} In addition all four RFMOs state that fins must not exceed the five per cent ratio.

Potential human rights abuses include verbal threats, physical abuse, long working hours in violation of Taiwanese law and salary deductions creating conditions of bonded labour. In several cases interviewees reported only being shown their contract on the day that they were expected to travel to join their fishing vessel. Often they would be asked to sign it in the broker's office before going straight to the airport. Such tactics could be construed as pressuring potential employees into signing their employment contracts whilst not allowing them adequate time to read their potential contract thoroughly.

"I never read my contract...I signed the contract in Jakarta in the morning and then flew to the vessel in the afternoon."

Crewmember



Fishing vessels at Kaohsiung port. © EJF

Vessel 1

ID number	Call sign	Flag	Operating area*	Landing site
██████████	██████████	Taiwan	Pacific Ocean	██████████

* According to interviewee(s)

Interviewees reported dates on board vessel

First interviewee – February 2018 until September 2018.

Second interviewee – October 2017 until March 2018.

Overview of fishing practices: catch of dolphins for use as bait and shark finning

The crew reported catching between 50-600 sharks a day. The captain actively targeted sharks using meat from intentionally-caught dolphins as bait. Crew report that the vessel would throw the majority of the shark bodies into the sea, retaining only the fins. They described four freezers on board, one full of fins, one full of fish, and two half fish/half fins.

*“We throw away the body because there is not enough room in the freezer.
If we just keep the fins then we can bring back a lot more fins.”*

Crewmember

Crew report that they were made to catch dolphins as they surfed the bow waves of the vessel, using a harpoon with a rope attached. The crew would harpoon dolphins one-by-one, and then drag them by the side of the boat while they waited for the dolphin to tire. After about 10 minutes, the dolphin would be exhausted and they would be able to haul them onto the boat. If they were still alive they would use a car battery to electrocute and stun the dolphin. Crew also reported using juvenile sharks that they caught as bait rather than returning them to the sea. The use of dolphin meat as bait in shark fisheries is widely reported around the world. A recent study found for example that this practice has been observed in at least 33 countries, across six continents, since 1970¹⁷ whilst in Peru similar harpooning practices as described by the crew of Vessel 1 were observed on board fishing vessels targeting sharks¹⁸.

*“Dolphins have a lot of blood and the smell is strong.
This attracts the sharks very easily.”*

Crewmember

This testimony is corroborated by reports from other shark fisheries where fishers reported that the “high blood and fat content makes dolphin meat an efficient attractant, while its hardy nature allows it to remain attached to hooks after extended periods of soaking (unlike other baits, fishes in particular)”¹⁹. They could catch six to nine dolphins a day and estimated that on their most recent trip they caught approximately 300 dolphins (each trip is approximately three months). The most they caught and killed in one day was 18 dolphins. Sometimes they would give dolphin meat and juvenile sharks to other vessels to use as bait.

“It is easy to catch them (dolphins). We could kill maybe six to nine per day. But if we had 10 dolphins already on deck and there were still more at the bow, we would hunt them until they were all caught.”

Crewmember

They would unload their catch at [REDACTED] port in Taiwan, unloading the fins at 3am and the rest of the fish at 6am. The captain would often tell them to hurry. There were often three or four other boats from the same company unloading at the same time.



The above photos are screenshots from video obtained from crewmember on board Vessel 1 that show numerous finned Blue Sharks as well as baskets of Blue Shark fins. Blue Sharks are listed as globally near threatened on the IUCN's red list of threatened species²⁰. In the same video clip there is also footage showing a crewmember disposing of an already finned shark body into the sea (filmed between July and August 2018, available on request).

“We would unload in the middle of the night at 3am, pull the fins out and sell them. Captain would often order us to hurry when we were unloading the fins.”

Crewmember

One Fisherman (working on the boat from October 2017 to March 2018) reported that they would hide the fins at the bottom of the freezers so that when they unloaded the fish, the fins would be hidden from view. He reported that they would be inspected by the authorities on arrival into port, with officials opening the freezers to see what was inside, however inspectors would not inspect the entire catch and therefore fail to find the shark fins, which were then unloaded in the early morning hours.

“We were ordered to store the fins at the bottom, the very bottom, and then to put many fish above them until full. When there was an inspection at port they would open the hatch and check the tuna on top. If it looks fine then they close the lid, that’s all.”

Crewmember

The crew reported that each day they could catch the equivalent of eight to 10 sacks worth of fins, the lowest being five sacks in one day. For a whole trip they could return into port with between 250-300 sacks of shark fins, with sacks weighing up to 70kg equating to a total landed weight of shark fin ranging from 12 to 21 tonnes from just three months at sea.

Crew conditions

Both crewmembers reported that living and working conditions on board were difficult. Food and water quality was poor, living quarters were squalid and dirty, and the working hours were “exhausting”. One crewmember mentioned that they would only receive 3-4 hours of sleep per day. Although both crewmembers never reported being physically abused or witnessing physical abuse whilst on board the vessel, they both stated that the captain had previously been much more violent.

“It was awful on this vessel. The captain was always rude to us...He used to hit the crew but he was warned about doing this again. When the captain got angry, he wouldn’t hit us but would exploit us in other ways”

Crewmember

Both crewmembers reported that their monthly salary was \$450 per month (a standard salary for distant water fisheries). However, both also experienced monthly deductions of \$100 to pay for medical checkups, flight tickets, administration fees, and their guarantee – a portion of their salary kept by the broker until the end of the contract as a deterrent to crewmembers fleeing the vessel early. This meant that their monthly take-home salary was reduced to \$350. Both spoke about how the captain would threaten to deduct a portion of their salary guarantee or even be sent home to Indonesia without pay if they disobeyed orders or did not work at a desired speed.

Potential IUU offences:

1. Catching and killing dolphins:

Dolphins and the cetacean species family in general, are classified as 'protected wildlife' under Taiwan's Wildlife Conservation Act, Article 4. It is therefore prohibited for them to be 'disturbed, abused, hunted, killed, traded...' (Article 16).²¹ Hunting or killing of protected wildlife species is punishable by imprisonment of up to five years and fines between 200,000 NTD and one million NTD.

2. Shark fishing practices: violated several aspects of Taiwan's "Regulations for Tuna Longline or Purse Seine Fishing Vessels Proceeding to the Pacific Ocean for Fishing Operation"²²:

a. Reported catching of juvenile shark:

According to Article 57 section 1, sharks under 100cm should be returned to the sea alive or dead and recorded on the e-logbook. Footage obtained from the vessel shows two finned sharks bodies estimated under 100 cm. Crew reported that juvenile sharks were used as bait.

b. The shark finning practices described by crew violated the following measures:

- If the vessel is a seasonal shark-targeting vessel, according to Article 58 section 5 of the above regulation, the vessel is only permitted to catch Blue Sharks and the shark fins and carcasses of Blue Sharks shall be landed concurrently in the same shipment, and the weight of fins shall not exceed the five per cent ratio.
- According to Article 58 section 3, if the vessel is not a seasonal shark-targeted vessel, the fins shall be naturally attached or alternatively the dorsal fins and pectoral fins shall be tied to the corresponding carcass, while the caudal fins may be stored separately. The caudal fins and carcasses shall be trans-shipped or landed concurrently in the same shipment, and the number of caudal fins shall be consistent with that of carcasses.
- The punishment for violating these regulations can include fines between two million NTD and 10 million NTD as well as confiscation of the vessel's fishing license for up to two years or full revocation.
- Under the Western Central Pacific Fisheries Commission's (WCPFC) Conservation and Management Measure for Sharks 'all parts of sharks excepting head, guts, and skins' must be retained until landing²³. According to crew reports as well as AIS data for the vessel's last trip, Vessel 1 operated within the jurisdiction of the WCPFC.
- Crew reported catching several species of sharks. If those species are prohibited in the catching area, the punishment can be fines of between two million NTD and 10 million NTD as well as suspension of fishing license up to two years or full revocation.

3. Unloading was not in line with the "Regulations for Tuna Longline or Purse Seine Fishing Vessels Proceeding to the Pacific Ocean for Fishing Operation"

a. Vessel reportedly unloaded fins at 3 am not in the presence of inspectors. This is in violation of Article 78 Section 2 and could result in fines between 500,000 NTD to 2.5 million NTD and confiscation of fishing license up to 2 years or revocation.

b. The vessel is unlikely to record any of the illegally caught catch on its e-logbook and/or report it in the catching certificate. Therefore, it is likely that the vessel engaged in the falsification of the e-logbook and catch certificate which can result in fines between two million NTD to 10 million NTD and confiscation of fishing license up to two years or revocation.

Vessel 2

IMO	Flag	Operating area*	Landing site	Vessel history
██████	Panama, but registered with Taiwan as a Taiwanese-owned, foreign-flagged vessel.	Eastern Pacific*	██████████	██████

* According to interviewee

Interviewee reported dates on board vessel

12th January 2017 to April 2018.

Fishing practices

Crew were instructed to fin sharks, throw heads and organs into the sea and then fold the fins and put them together with the body. For certain species they would fin the sharks and then throw the body back into the sea. In high season they could catch 30-40 sharks a day, in low season around five to 10 a day.



A Smooth Hammerhead Shark caught by the vessel in August 2017. Smooth Hammerheads are globally classified as vulnerable by the IUCN (V)²⁴.

The crew reported that they caught a False Killer Whale. They brought it on deck where a senior Taiwanese crewmember then ordered the crew to decapitate the whale and remove its teeth to make necklaces (see photo on next page). False Killer Whales are classified as near-threatened by the IUCN and listed on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) which means that the “trade of these animals must be controlled in order to avoid utilisation incompatible with their survival”^{25/26}.

“We caught the whale using a gaff, then electrocuted it. The captain was asleep but the supervisor wanted the whale’s teeth... We cut its head because its teeth are a rare souvenir.”

Crewmember

The crew also reported catching turtles, dolphins and other whales. They would mostly return these to the sea but sometimes the captain would order them to cut the turtle tails off for him to keep, whilst they would throw the turtle back into the sea. Olive Ridley Turtles (as shown below) are globally classified as vulnerable by the IUCN (V)²⁷ and listed on Appendix I of CITES which strictly prohibits the trade of listed species²⁸.

“We would catch turtles but mostly release them. Sometimes the captain would ask for the turtle’s tail. If so we would kill it and give him the tail. It is believed it can be used for medicine to make you strong.”

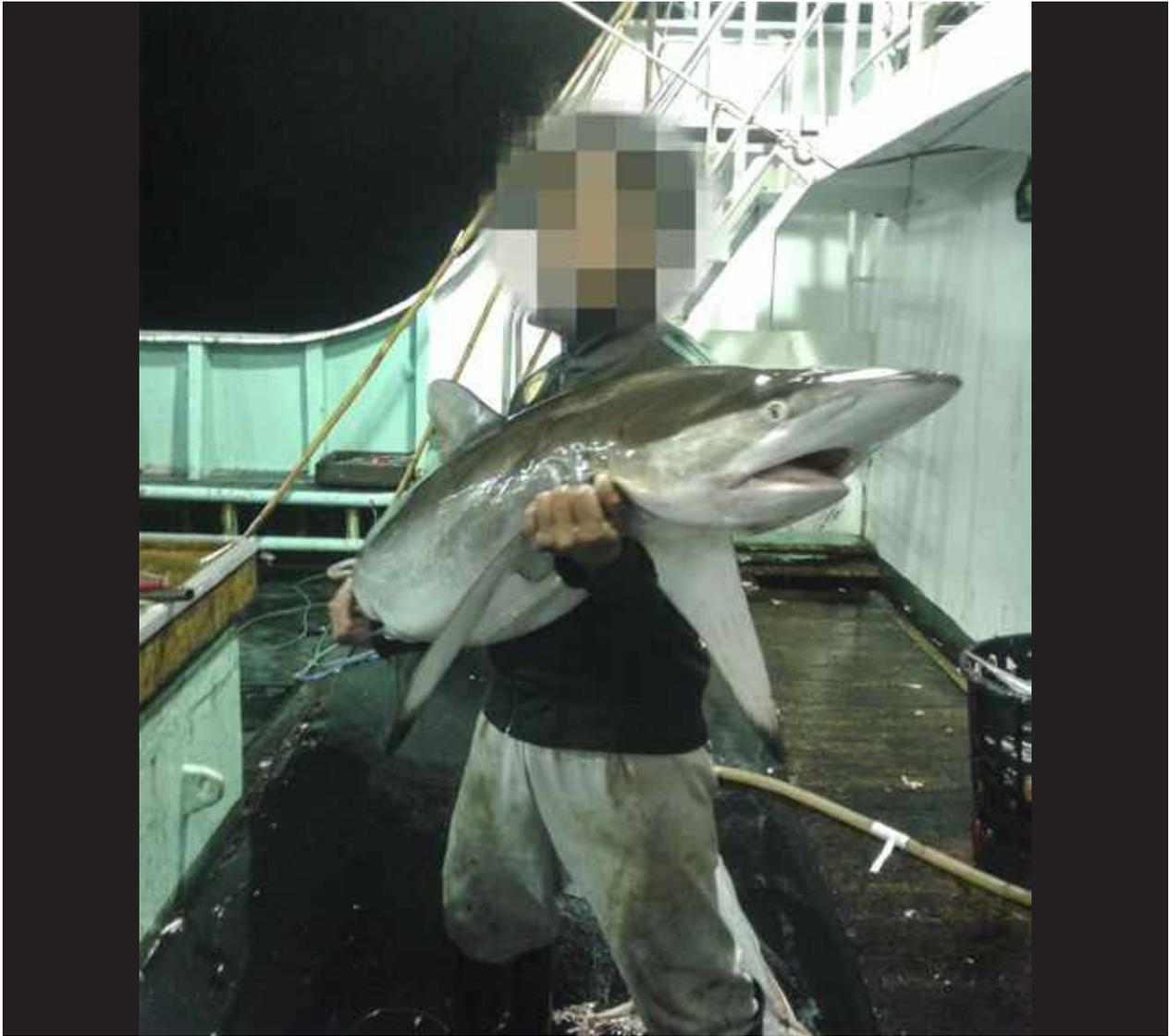
Crewmember



After the crew caught the False Killer Whale they proceeded to decapitate it and remove its teeth to be made into necklaces.



Crewmembers pose with an Oceanic Sunfish (left)²⁹ and an Olive Ridley Turtle. Both species are globally classified as vulnerable by the IUCN (V).



Silky Shark caught in December 2017. Silky Sharks are globally classified as vulnerable by the IUCN³⁰ and are listed on Appendix II of CITES³¹.

Crew conditions

Crew reported that living conditions on board were unsanitary and that they would sometimes be forced to wait several days without adequate food before they were resupplied by supply ships.

Senior crew would threaten them with reductions to their salary and withholding food. Crew would be kicked, hit and slapped by the senior crew.

One incident occurred when a crew member tried to pull a shark in but the shark cut the line. The senior crew came down and shouted and slapped the crew member. Mostly junior crewmembers were hit whilst on board. Crewmembers reported that abuse was 'too often and not acceptable'. The crew member felt he 'had no choice and could not do anything about it' because if he did, he would be sent back to Indonesia with no pay.

"When I tried to haul a shark in, the shark cut the line with its teeth and it swam away. The Taiwanese foreman saw this and he came down the steps shouting at me. When he got to me he slapped me on the back of the head for my mistake."

Crewmember

Potential IUU and human rights offences:

1. Finning:

Shark finning and body disposal is prohibited within the IATTC fishing area³². Sharks must be landed with fins 'naturally attached to the whole body or to a portion of the shark body'³³. In this case, the disposal of shark bodies is in violation of both RFMO and local regulations.

According to the Taiwanese Act to Govern Investment in the Operation of Foreign Flag Fishing Vessels Article 8, Taiwanese citizens operating/investing a foreign-flagged vessel are not allowed to fish for, retain, trans-ship, land or sell species prohibited by the international fisheries organizations. The punishment for the owner/operator of vessel of its size is between four million NTD to 20 million NTD³⁴. In addition, according to the Act of Distant Water Fisheries Article 22³⁵, foreign-flagged vessels engaging in IUU activities are not allowed to enter the ports of Taiwan.

2. Turtles and dolphin captures:

The vessel operated in countries that have ratified the 'Interamerican Convention on sea turtle protection and conservation' which seeks to protect sea turtle species and specifically prohibits the consumption of 'turtle products and sub-products'. Reported turtle tail retentions would therefore be in contravention of this regulation. Resolution 04-05 (Rev 2) of the IATTC – RFMO of the vessel's operating area - also states that sea turtles be promptly released unharmed.³⁶

According to the Taiwanese Act to Govern Investment in the Operation of Foreign Flag Fishing Vessels Article 6, Taiwanese citizens operating/investing a foreign-flagged vessel shall comply with the regulations prescribed by the competent authority, taking into account the conservation measures adopted by international fisheries organizations, and relevant regulations on fishing prescribed by the flag or coastal State. The punishment for owner/operator of vessel of its size is between 4 million NTD to 20 million NTD³⁷.

3. Physical abuse:

The foreman could be charged for causing bodily harm and potentially for human trafficking due to issuing threats to crew to cut their salary or not feed them³⁸.

Vessel 3

Call sign	Flag	Operating area*	Landing site
██████████	Taiwan	██████████	██████████

* According to interviewee

Interviewee reported dates on board vessel:

December 2016 to October 2018.

Fishing practices

Crew would catch sharks but only retain the fins. They would often electrocute the shark to subdue it, cut the fins off, and then throw the body back into the sea. Crew also reported and showed photographic evidence of the capture of dolphins, turtles and threatened species of sharks including hammerhead and thresher sharks.

“When we caught sharks, if they were resisting we would electrocute them...Then we would cut the fins and throw the body and head into the sea. We only took the fins.”

Crewmember



Short-beaked Common Dolphin with gaff puncture wound to head. Photo taken in July 2017.



Photos show crewmembers posing with a Bigeye Thresher Shark caught in March 2018 and an Olive Ridley Turtle (V) caught in May 2017. Bigeye Threshers are globally classified as vulnerable by the IUCN.³⁹



Smooth Hammerhead Shark (V) caught in June 2018.



Photos show a Blue Shark (NT) (left) and a Shortfin Mako Shark (right). Both were caught in March 2018. Shortfin Mako Sharks are globally classified as vulnerable by the IUCN⁴⁰.

Potential IUU offences:

1. Sharks and finning:

- a. The practice of disposing of shark bodies as described by the crew is prohibited under both local and ICCAT regulations.⁴¹
- b. If unloaded at ports of Taiwan or trans-shipped at sea in the Atlantic Ocean, Vessel 3 may be in violation of Taiwan's Regulations for Tuna Longline Fishing Vessels Proceeding to the Atlantic Ocean for Fishing Operation (Article 48 and 49)⁴²: "shark fins shall not be fully cut off and shall be naturally attached to the carcasses" and "In case of at-sea trans-shipment of shark catches, shark carcasses and fins shall be trans-shipped or landed concurrently in the same shipment." Violations of these regulations can result in fines between four million NTD and 20 million NTD as well as suspension of fishing license up to two years or revocation.
- c. Bigeye Thresher and Smooth Hammerhead sharks are both forbidden catching species within the jurisdiction of the ICCAT⁴³. Their catch and retention also violates Article 42⁴⁴ in Taiwan's Regulation for Tuna Longline Fishing Vessels Proceeding to the Atlantic Ocean for Fishing Operation⁴⁵ and can result in fines between four million NTD and 20 million NTD and suspension of fishing license up to two years or its revocation.

2. Dolphins and turtles:

- a. The 'disturbing, abusing, hunting, killing, trading...' of turtles, dolphins, and whales – listed as 'protected wildlife species' – is in violation of Taiwan's Wildlife Conservation Act and is punishable by imprisonment of up to five years and fines between NT\$200,000 and one million NTD⁴⁶.
- b. ICCAT Recommendations 03-11, 05-08 and 10-09 also state that sea turtles should be released as soon as possible after catching.⁴⁷

3. The vessel reported trans-shipping whilst at sea. The Taiwanese Act for Distant Water Fisheries requires all trans-shipments be pre-authorized or it could result in fines between four million NTD and 20 million NTD⁴⁸.

Vessel 4

Call sign	Flag	Operating area*	Landings
██████████	Seychelles but a potential Taiwan FoC vessel	██████████	██████████

* According to crew interview

Interviewee reported dates on board vessel:

2016 to 28th September 2018.

Fishing practices

The interviewed crew member reported that when they would catch sharks they would fin them on deck and throw some shark species' bodies back into the sea, whilst keeping others – for example, they kept Blue Shark bodies but threw other species bodies' back into the sea.

The crew member reported that the vessel would sometimes catch dolphins and turtles but they would release these, sometimes dead and sometimes alive. They would simply cut the line leaving the hook still lodged inside the animal. This practice likely results in serious and longlasting injury to the animal⁴⁹.



Crewmembers pose with a Olive Ridley Turtle (V). Photo taken in June 2018.



Photo shows crewmembers posing with a Blue Shark (photo taken in September 2017) listed as near-threatened (NT) on the IUCN's red list of threatened species⁵⁰.



Photos show several juvenile Blue Sharks (NT) (left) and an Oceanic Whitetip Shark (photo taken in September 2017) (right). Oceanic Whitetips are globally classified as vulnerable by the IUCN⁵¹ and are listed on Appendix II of CITES⁵².

Crew conditions

The crewmember reported that living conditions on board the vessel were uncomfortable and that they would only be given six hours of rest per day. He also stated that the captain was often rude and would try to intimidate and threaten the crew into fearing him.

“If we made a mistake the captain would shout at us and threaten us to cut our salary or not give us any money at all.”

Crewmember

In one described example of abuse, the captain reportedly refused to send a Filipino crewmember home for eight months, forcing him to work without pay during this time. Eventually, the Filipino challenged the captain about this. The captain provoked him into a fight on board the vessel.

The crew member reported that his salary was US \$300 after deductions. He would receive \$50 on board and \$250 was sent to his family by the agency.

Potential IUU and human rights offences: (assuming vessel is Taiwanese-owned)

1. Flag of Convenience registration:

The name of the vessel is not on the list E/JF obtained from the Fisheries Agency of foreign-flagged vessels registered with Taiwan. However, evidence shows that it potentially has Taiwanese investment.

If it is confirmed that the vessel is a Taiwanese-owned vessel using another flag, it has violated Taiwanese regulations which requires investors to obtain pre-authorized permission to operate a vessel under another flag. Investors who fail to do so can be fined up to two million NTD⁵³.

2. Finning:

Article 6 in the regulations governing Taiwanese-owned foreign vessels⁵⁴ state that Taiwanese citizens should follow the regulations set by relevant RFMOs, flag states and coastal states. Finning practices on Vessel 4 may have violated local and regional management regulations set by the Indian Ocean Tuna Commission (IOTC)⁵⁵. In addition, the capture of Oceanic Whitetip Sharks (V) is prohibited under IOTC regulations⁵⁶.

3. Sea turtles:

Under local coastal State regulations and the Seychelles Wild Animal and Birds Protection Act (2012) it is prohibited to catch, land, possess, and/or sell marine turtles, marine turtle eggs, or any marine mammals.⁵⁷

4. Human Trafficking:

If the captain is Taiwanese, he could be charged for human trafficking⁵⁸ under the Criminal Code of the Republic of Taiwan Chapter 3 Offense against Freedom⁵⁹ for making threats against crewmembers.

Vessel 5

Call sign	Flag	Operating area*	Landings
██████████	Taiwan	██████████	██████████

* As reported by interviewee

Interviewee reported dates on board vessel:

2017 to October 2018.

Fishing practices

Sharks under 10kg would be released back to the sea however sharks over that weight would be kept and finned. If they had already caught sufficient albacore tuna during their trip, they would throw the shark bodies overboard in order to save space in the freezers. They would fin the sharks and wrap the fins in plastic before storage.

“When we catch big sharks we will cut the fins and keep both but if we have a lot of tuna fish already we will throw the bodies overboard.”

Crewmember

Crew conditions

One fisherman interviewed was pushed by the captain, who would be especially angry when they didn't have a good catch. Working hours on board the vessel were reported to be 22 hours with two hours of rest per day.

“If we didn't survive and stay awake the captain would threaten us with sending us back to Indonesia and with cutting our salary.”

Crewmember

The two crew members that EJF spoke to had monthly salaries of \$400 and \$450 respectively. Both reported deductions of approximately \$100 a month for guarantees and other fees. Both reported being shown their contract the day that they flew to meet the vessel meaning that they did not have time to read it. This tactic is often employed by exploitative brokers as a way of pressuring potential employees into signing.

Potential IUU offences:

1. Finning:

- a. The IOTC's regulation states that all parts of the shark except the head, guts, and skin must be retained and that fins should not exceed the five per cent ratio⁶⁰. This could result in Vessel 5 operating in violation of these regulations.
- b. If unloaded at port in Taiwan or trans-shipped at sea, reported finning practices violate the Regulations for Tuna Longline Fishing Vessels Proceeding to the Indian Ocean for Fishing Operation Article 46⁶¹: "Fins shall be naturally attached or alternatively the dorsal fins and pectoral fins shall be tied to the corresponding carcass, while the caudal fins may be stored separately." The caudal fins and carcasses shall be trans-shipped or landed concurrently in the same shipment, and the number of caudal fins shall be consistent with that of carcasses. The punishment for violating this regulation can include fines between two million NTD and 10 million NTD and suspension of fishing license up to two years or revocation.

2. **The vessel reported trans-shipping whilst at sea.** The Taiwanese Act for Distant Water Fisheries requires all trans-shipments be pre-authorized or it could result in fines between four million NTD and 20 million NTD⁶².



A Taiwanese trawler approaches Kaohsiung port. © EJF

Conclusion:

Crew reports and photographic evidence obtained from these five vessels in October and November 2018 demonstrate that potential illegal practices continue to occur on an alarmingly frequent basis across a range of different vessels either flagged or with significant ties to Taiwan. Across the five vessels explored in this briefing, there are several reports of the disposal of shark bodies, catching and retention of vulnerable or near-threatened shark species, as well as the catching of protected wildlife species.

Photographic evidence has also allowed EJF investigators to identify six different species of vulnerable and one species of near-threatened shark being caught and retained across these vessels. Four species are also listed on CITES Appendix II meaning that their trade is strictly controlled⁶³ whilst Olive Ridley Turtles are listed on Appendix I which strictly prohibits the trade of listed species⁶⁴. Although these vessels are primarily targeting tuna, the unselective nature of longline fishing gear means that the incidental capture of these species as bycatch is extremely likely.

Technologies are increasingly available now that would limit bycatch of non-target species including sharks, dolphins and turtles. These include innovative hook designs and line setting restrictions to limit non-target species catches⁶⁵ and shark deterrent technologies that can deter sharks from venturing near longline gears in the first place⁶⁶.

These measures can only prove successful if there is sufficient monitoring of high risk fishing vessels. Although Taiwanese fishing vessels are monitored using a global satellite based vessel monitoring system (VMS) and some broadcast signals using a publicly available the automatic identification system (AIS), specific vessel activities can still be shrouded in mystery. Shark body disposals and undeclared catches of protected species are also unlikely to be logged in vessels' logbooks, meaning that vessel catches are opaque and largely unreported.

Electronic monitoring and reporting systems in the form of cameras and remote sensors would help shed light on such practices, allowing relevant authorities to ensure that vessels are not engaging in IUU fishing and that anything they do catch is recorded correctly. Such technologies have already been widely deployed across the S. Korean distant water fishing fleet and Thai flagged refrigerated cargo vessels.

The fact that such an extensive range of offences were recorded over a relatively small sample size of just five vessels raises serious concerns about the fishing practices that take place on Taiwanese longliners. These five Taiwanese flagged or Taiwanese registered vessels are operating in direct breach of not only Taiwanese fisheries and wildlife conservation laws but also international, coastal, and flag State regulations. While Taiwan has taken significant steps to determine where vessels operate and whether or not they have licenses, the testimony of these crew members indicates that further measures need to be taken to determine what actually takes place onboard.

Lack of transparency in fisheries is a critical enabling factor in IUU fishing, facilitating the laundering, smuggling, and trade of illicitly caught seafood.⁶⁷ The practices described of these vessels suggest that vessel operators are actively taking advantage of opaque fisheries management regulations to conceal illegal practices. Unauthorized trans-shipment at-sea for example is a commonly employed method of hiding illegally caught seafood amongst legitimate catches. The practice of flying flags of convenience is often used to conceal true ownership of vessels or allow vessel operators to circumvent stricter regulations in their home countries.⁶⁸

It is important to note that although the crewmember interviews and photographs included in this briefing might suggest that the catching and landing of protected shark species and protected wildlife species were the decisions of the individuals involved this is most likely not the case. Many of the crewmembers when asked why they carried out actions on board their respective vessels responded saying that they had no choice in the matter. If they complained, objected, or asked questions to the captain they could face salary deductions, be sent home without any pay or be subject to intimidating behaviour and physical abuse.

"When I was often hit by the captain I felt angry but I didn't have a choice. I could not do anything..."

Crewmember

EJF heard reports of vessels using deceptive techniques to avoid inspection by the Taiwanese authorities. Vessel 1 for example landed its shark fins into port in the early hours of the morning along with several sister ships also from the same company demonstrating a coordinated strategy to circumvent catch declaration regulations and avoid scrutiny by the Fisheries Agency.



A port in southern Taiwan. © EJF

*“When we unloaded into port there were three other boats also unloading,
all of them were catching sharks, all from the same company.”*

Crewmember

The descriptions of portside inspections for Vessel 1 highlight the need to significantly upgrade inspections in port and surveillance of what takes place on vessels using remote electronic monitoring. It is also critical to take serious account of the crew’s experiences using professional interviews. Comprehensive and high-quality crew interviews would also increase the chances of detecting human rights abuses occurring on board vessels, as well as provide an opportunity for crewmembers to receive advice or ask questions about their contract or working conditions on board their vessel.

It is imperative that the Taiwanese Government acts swiftly to address these serious contraventions of domestic and international fisheries regulations through thorough and substantial investigation of these vessels’ operations. It is evident that substantive reforms are also necessary to address many of the capacity gaps addressed in this briefing, especially those concerning the transparency of Taiwanese vessel ownership and lack of high-quality, in-depth portside vessel catch and labour inspections.

Recommendations to the Government of Taiwan

- Investigate and, where appropriate, prosecute vessel owners and operators of aforementioned vessels for fisheries infractions including disposal of shark bodies whilst at-sea, landed fin weight exceeding the five per cent ratio, hunting of protected wildlife species and using prohibited electrocution devices to hunt protected wildlife species.
- Investigate and, where appropriate, prosecute vessel owners, captains, foremen for potential human rights, human trafficking, and forced labour abuses on board Taiwanese flagged and Taiwanese owned vessels.
- Investigate the current and past activities of the vessels owned by the same owners of the above cases and regard all the other vessels as high-risk vessels and inspect them regularly and thoroughly in Taiwan and overseas.
- Pledge to fully commit to EJF's Charter on Transparency to address critical gaps that facilitate IUU fishing through opaque regulations and lack of sufficient monitoring and control mechanisms. This commitment should include strict time-bound steps with specific implementing actions.
- Publish a statement from the Office of the President of Taiwan declaring full support and direction to act to solve identified capacity gaps and transparency issues.
- Increase the resources and training of Taiwanese Coast Guard officials and Fisheries Agency inspectors in Taiwanese ports to ensure illegal catch, in particular fins, can be identified. This will prevent the concealment of shark fins on board vessels as well as deter fishing vessels from disposing of shark bodies.
- Conduct comprehensive, sample-based crewmember interviews during portside or at-sea vessel inspections that: 1) take place away from the main vessel inspection, 2) take place away from the vessel senior crew, 3) use an accredited translator, 4) adopt a victim-centred approach¹, 5) use appropriate screening tools or questionnaires.
- Establish a coordinating body that can work with the Fisheries Agency and Marine Bureau to facilitate robust labour inspections, worker interviews, and thorough, victim-centred investigations of alleged human trafficking or forced labour incidents.
- Increase collaboration efforts with foreign authorities to enhance fisheries and labour inspection of Taiwanese vessels at overseas ports.
- Enhance transparency by publishing a single, online and easily updated list of Taiwanese fishing vessels detailing the ownership, license, authorised operation area, and crew list. This should include vessels owned by Taiwanese citizen but flagged to other countries.
- Implement mandatory electronic reporting and monitoring systems (ERS and EM) on Taiwanese fishing vessels in addition to any RFMO human observer schemes. This should include vessels owned by Taiwanese citizen but flagged to other countries.
- Introduce a science-based management plan for the capture of sharks by Taiwanese vessels, regardless of whether or not finning is employed.
- Conduct research into and introduce longline bycatch mitigation technologies and methodologies to prevent the incidental capture of sharks and protected wildlife species.

¹ A victim-centred approach is one that acknowledges that victims of trafficking or abuse are extremely vulnerable and likely to be fearful of speaking out for fear of retaliation. Inspecting officers should attempt to make victims feel as safe, secure, and comfortable as feasibly possible. For more information, please consult the EJF guidelines on conducting interviews with migrant workers. This guide and other EJF resources are available upon request.

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APPENDIX 5



Misery at sea

Human suffering
in Taiwan's distant
water fishing fleet

GREENPEACE

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Above // Frozen tuna are loaded onto a truck at Dong Gang wholesale fish market, Dong Gang, Kaohsiung. © // Alex Hofford, Greenpeace



Above // Qianzhen fish market auction scene in Kaohsiung, Taiwan. © // Shutterstock.com

Introduction

This report makes for shocking and harrowing reading. Its findings should concern everyone connected to the seafood industry — from consumers to workers and vessel operators, and those who manage and govern this critical global industry. It should concern everyone who values human rights and the rule of law.

For those who follow or have an

interest in Taiwan's fisheries, and distant water fishing (DWF) fleets generally, some of the case studies in this report will not come as a surprise. Stories of serious human rights abuses, poor labor standards, dire working conditions, and the use of fishing techniques that harm our oceans and the life in them, have been well reported. Many of the world's leading news outlets such as the

New York Times and *the Guardian*, and international NGOs such as Greenpeace, have investigated and reported appalling stories from the furthest reaches of our oceans.

And yet for all the reporting, the stories and research presented in this new investigation are no less appalling, the passive approach of Taiwanese authorities and the

indifference of industry itself is no less scandalous.

In *Misery at Sea*, we report on ongoing problems in the Taiwanese DWF fleet, the continued failure of Taiwanese authorities to effectively sanction human rights abuses, and we provide testimony from fishermen whose young lives have been ruined by this broken industry.

A problem that won't go away

Our new investigation, Misery at Sea, delivers a number of compelling case studies that show how, despite earlier cases brought to the authorities' attention, serious problems in Taiwan's seafood supply chains continue to this day. These problems impact some of Taiwan's biggest seafood companies and have serious implications for the global seafood industry. These are problems compounded by the failure of the Taiwan's government and authorities to deliver adequate reform or pursue appropriate sanctions against law-breakers.

The report reveals:

- Convicted human traffickers, who set up and ran a

Cambodian company involved in serious human rights abuses involving dozens of Cambodian nationals, continue to recruit into the Taiwanese fishing industry with impunity from the Taiwanese authorities.

- Evidence of the suffering endured by Indonesian fisherman Supriyanto in the lead-up to his horrific death, and of the failure by the vessel master to prevent his death, and that these facts have been ignored or dismissed by the Taiwanese prosecutor.
- Fishermen convicted of the murder of their Chinese captain aboard a Taiwanese-

owned vessel endured appalling physical and mental abuse for months before the attack. Their harrowing stories do not excuse their actions, but they offer an insight into their appalling working conditions, and show young lives wasted by a broken industry, where abuse seems to be routinely tolerated and even used to ensure that inhumane working conditions and wages are maintained.

- That big traders have a major responsibility to reform if the existing business model, which appears based on human exploitation, is to be ended for good.

A broken system

Endemic human rights abuses and poor environmental standards are encouraged by key elements of the DWF business model.

These include, unsustainable fishing capacity, and low-cost/low standard operations that value volume and profit over quality

and sustainability, driven by the relentless pressure of constant global demand for huge quantities of cheap seafood.

When this model of DWF operations combine with Taiwan's weak regulatory framework, and lack of political will to put pressure on its industry or prosecute

these crimes, the stage is set for serious human rights abuses, dire labor conditions and poor environmental standards that, as this investigation shows, continue to this day.

Action is more needed than ever

European Union (EU) and United States (US) schemes to sanction Illegal, Unreported, and Unregulated (IUU) fishing and human trafficking have provided impetus for some improvements, but as our new investigation makes clear, much more work is needed to improve Taiwan's fisheries.

On the basis of the evidence presented in this new investigation, Greenpeace believes that it is vital to keep the Taiwanese fishing industry under close scrutiny and to maintain pressure on Taiwanese authorities to act to resolve outstanding problems.

Part of that overarching scrutiny should continue to come from the EU maintaining its yellow card category for Taiwan, and from the US Trafficking in Persons (TIP) category II status. These should remain in place to help drive further reform and to send a clear signal to markets around the world that there are serious problems still to resolve in Taiwanese DWF. What emerges in the pages of this report is not just another damning indictment of Taiwan's DWF and those responsible for managing them, but a serious case for the rejection of the broken model of distant water fisheries that operate in many of the world's oceans.

Our concluding recommendations address the situation in Taiwan, but would be equally applicable to any fleet or country running a similarly broken and destructive DWF operation. Sadly, there are many others in urgent need of reform if we are to fully eliminate the human rights abuses and suffering described in this investigation.



Above // A local fishmonger cleans and slices a large tuna fish at the Sinda fish market in Kaohsiung, Taiwan © // Shutterstock.com



Above // Cloudy day in Xizi Bay, Kaohsiung City, Taiwan.

Chapter 1: The lay of the land

Plagued by environmental and human rights abuses,^{1 2 3 4} Taiwan's DWF fleet has become a major embarrassment for a global fishing power that relies on its credibility and reputation for market share.

Often occurring far out at sea, or masked by complex supply chains, this criminal behaviour has increasingly come to light as seafood workers speak out and NGOs and media investigate.

A 2016 Greenpeace report, *Made in Taiwan*,⁵ exposed systemic IUU fishing, egregious human rights abuses, and an ineffective Taiwanese Fisheries Agency (FA) repeatedly failing to uncover, prosecute, or resolve widespread offending.

In this new investigative report, Greenpeace will show that, despite legislative attempts to tackle these serious problems, they continue to exist in Taiwan's seafood industry. These problems involve or impact on key Taiwanese suppliers and consequently global supply chains. Taiwan's governmental and Fisheries Association's actions in response to earlier exposed cases have been largely ineffective.

Greenpeace is far from alone in its concerns about Taiwan's DWF fleet's conduct. In October 2015 the EU issued a "yellow card"⁶ to Taiwan, stating:

"The decision to issue a yellow card to Taiwan is based on serious shortcomings in the fisheries legal framework, a system of sanctions that does not deter IUU fishing, and lack of effective monitoring, control and surveillance of the long-distance fleet.

Furthermore Taiwan does not systematically comply with Regional Fisheries Management Organisation (RFMO) obligations."

At the time of writing, the EU's yellow card remains in place, and Taiwan's DWF industry continues to be beset by allegations of illegal fishing and human rights abuses.

Following the issuing of the EU yellow card, Trafficking in Persons (TIP) reports were published in 2016⁸ and 2017.⁹ These reports found that Taiwanese authorities had met the minimum standards for the elimination of trafficking, but described an environment

where these crimes were not taken seriously enough.

The 2016 TIP report noted that there had been no arrests or convictions for trafficking violations on Taiwanese fishing vessels, but that prosecutors and judges tended to treat trafficking cases as relatively minor crimes. Traffickers appeared to receive lenient penalties, disproportionate to their crimes.

The 2017 TIP report stated that

authorities had demonstrated serious and sustained efforts to address human trafficking, but raised concerns that lenient penalties were disproportionate to serious crimes, and noted that authorities sometimes treated trafficking cases as mere labor disputes.

Similar issues were echoed in the US State Department's 2017 Human Rights Report, which singled out Taiwan's fishing industry:¹⁰

“Forced labor occurred in such sectors as domestic services, fishing, farming, manufacturing, and construction. Foreign workers were most susceptible to forced labor, especially when serving as crew members on Taiwan-flagged fishing vessels.”



Above // View of the city in Kaohsiung, Taiwan

Dealing with issues as serious as human trafficking, forced labor and exploitation on a reactive, case-by-case basis allows human rights abuses to persist.

The drivers for human rights abuses can be found in the

exploitative DWF business model: massive fishing capacity, low cost operations, and a 'volume and profit' over 'value and sustainability' approach.

It is increasingly clear that such a low-cost business model, and

chronic shortcomings within Taiwan's legal and regulatory framework, help create an environment where serious IUU fishing cases, human rights violations and labor abuses are all too common.

“There were numerous reports of exploitation and poor working conditions of foreign fishing crews on Taiwan-flagged long-haul vessels. The Taiwan International Workers' Association and other civil groups urged authorities and ship owners to better protect foreign fishermen.”¹⁰

Distant water fishing: A broken model

Like other global production systems, fishing has become dominated by large retailers and traders operating with a cost-driven business model. The majority of these retailers and traders pursue the cheapest possible products, creating downward pressure in the value chain to reduce costs.¹¹

Because the costs of fuel, equipment, and maintenance are fixed, fishing industry operators have looked at labor costs which are dangerously vulnerable to downward pressure. With little practical protection or oversight, workers in the DWF industry continue to wear the cost of this model.

Fisher recruitment for DWF vessels, particularly tuna longliners,

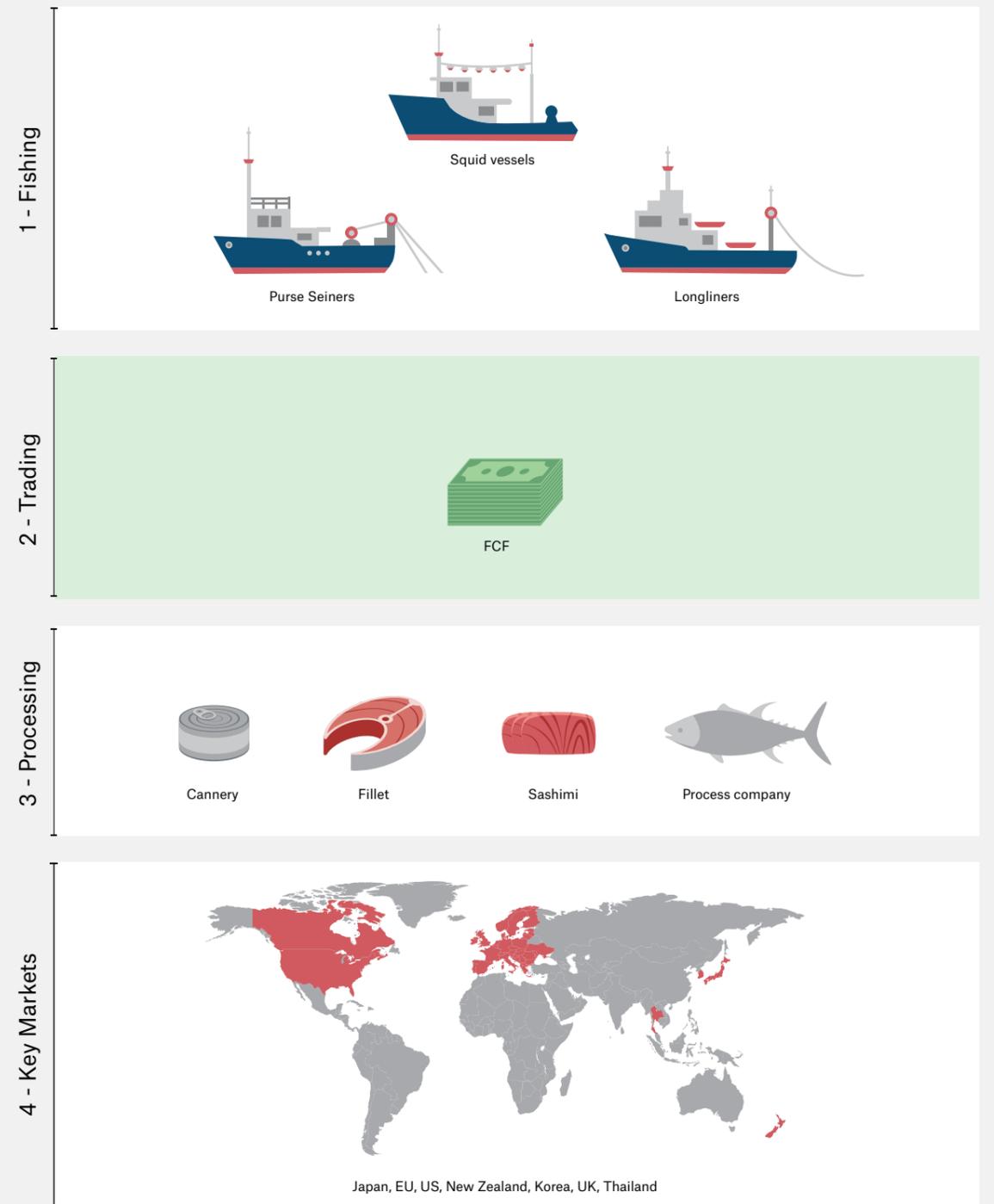
creates additional risks for already vulnerable fishers. Migrant workers are recruited through a "cascade system" which involves a network of labor brokers¹² who "provide space for unscrupulous intermediaries to extract economic rent from vulnerable workers through often coercive practices involving debt bondage and entrapment."¹³

In recent years, high profile news media and NGO reports have exposed the illegal and unethical treatment of migrant workers in the fishing sector, both on land and at sea.¹⁴ Given the scale of Taiwan's DWF fleet and the institutional failures described in this report, it is hardly surprising that Taiwan features regularly in

these types of reports. The cost of inadequate regulations and a continued pressure to reduce costs, is inevitable labor abuse, which, in an industry that operates far out at sea, includes onboard violence, trafficking, and deaths at sea.

The industry insists reported events are not systemic, yet their frequency and seriousness suggests that trafficking, forced labor and exploitation in DWF are not just restricted to fly-by-night operators. As this report demonstrates, globally significant companies may also be tainted by the abuses, and regulators and authorities are failing to tackle these endemic problems.

Figure 1: Taiwan's DWF business model simplified



FCF: The biggest fish in Taiwan

A report focussing on Taiwan's global fisheries would be incomplete without specifically addressing the role of Fong Chun Formosa Fishery Company (FCF), a privately owned company based in Kaohsiung, Taiwan.

Established 40 years ago, with offices and subsidiary companies around the world, and a fish trade volume that places it as one of the world's top three fishing traders, FCF embodies the global reach of Taiwan's distant water fisheries.

FCF handles at least 520,000 metric tons of tuna and 100,000 ton of other fish annually,^{15 16} and supplies brands around the world, including frozen products such as tuna for canning, deep frozen tuna for sashimi and frozen squid,

destined for markets in North America, Europe, and Asia. FCF has more than 30 fishing bases scattered around the globe's key fishing ports which provide supplies, transshipment infrastructure and gasoline filling services to DWF vessels. The company operates more than 600 vessels, and conducts business with processing plants worldwide.^{17 18}

Taiwan, and FCF in particular, are major suppliers to companies in both Thailand and Japan. Thailand is a global leader in seafood processing and canning, and Japan is the world's largest consumer of raw or sashimi tuna. Both countries export processed seafood to markets in the Americas, Europe and Asia, taking Taiwan's tuna to the world.¹⁹

FCF has particularly strong links with Japan. FCF's Japanese subsidiary, FCN International (FCN), is one the largest distributors of seafood from FCF to the lucrative Japanese sashimi market.²⁰ FCN has a similar operating model to FCF and is thought to handle a significant proportion of the Taiwanese tuna that goes to the Japanese market.²¹

Greenpeace has established FCF links to two of the three cases discussed in Chapter 2 of this report. We have found vessels that supply tuna to FCF connected to the Giant Ocean human trafficking case, and to the Tunago No. 61 murder case, where there are also concerns around the exploitation and abuse of crew.

1,140

Distant Water Fishing vessels²²

19,100

Migrant fishermen working on Taiwanese Distant Fishing vessels are hired overseas²³

252

Taiwanese-owned Flag of Convenience vessels²⁴

11,804

Migrant fishermen working on Taiwanese Distant Water Fishing vessels are hired in Taiwan²⁵

Figure 2: Taiwanese fishing activity detected by Global Fishing Watch 2017²⁶

● Fishing activity

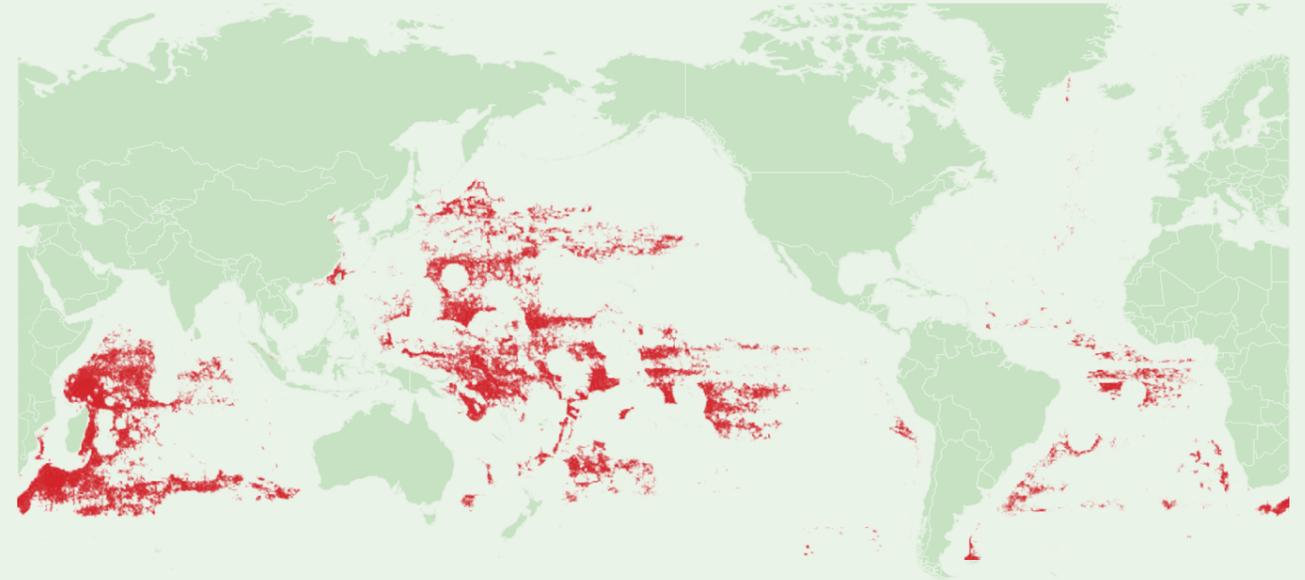
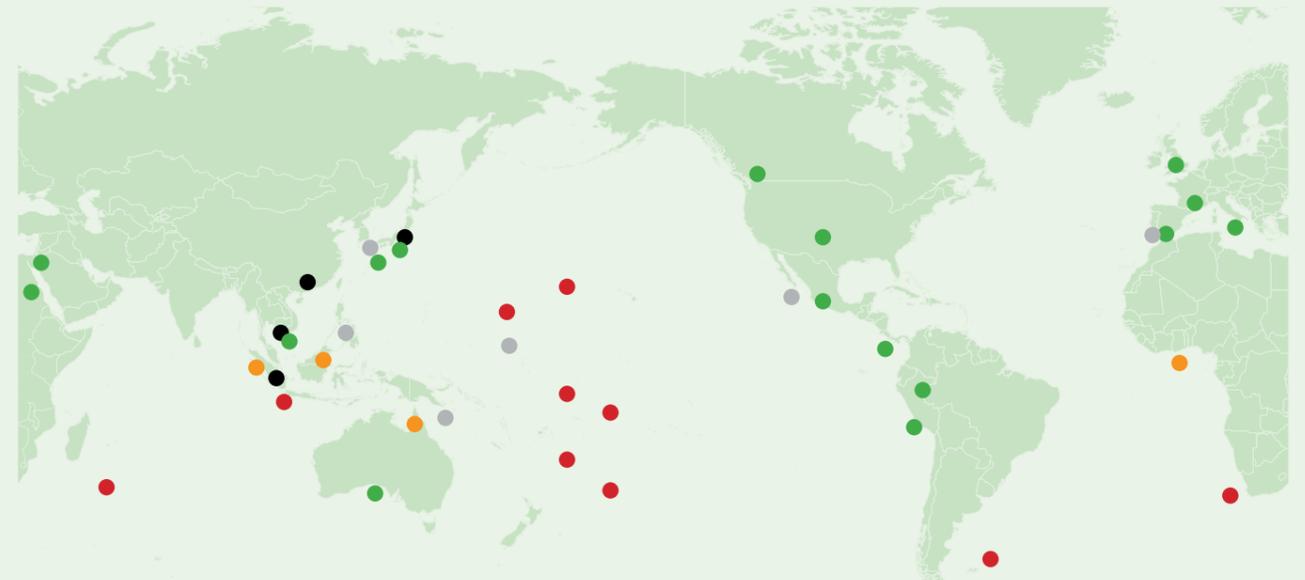


Figure 3: Location of FCF global offices, facilities and partners²⁷

● Subsidiary or office ● Market ● Supplier ● Factory ● Fishing base



Report methodology

Since the release of 2016's Made in Taiwan report, Greenpeace has monitored Taiwan's fishing industry, particularly its DWF tuna fleet. Reports of IUU fishing, labor and human rights abuses have continued to surface.^{28 29} This report is designed to highlight the complex problems plaguing Taiwan's DWF fleet.



Left // Pirate Fishing in Indian EEZ
© // Ronny Sen, Greenpeace

Above // Illegal tuna fishing
in the Pacific Ocean
© // Mark Smith, Greenpeace

Chapter 2 outlines Greenpeace investigations into three cases that exposed entrenched flaws in Taiwan's regulatory regime.

These cases involved human trafficking, the horrific death (or culpable homicide) of a fisherman, and murder.

The investigations into these cases reveal the horrors that too often occur at sea, the exploitation of vulnerable migrant workers who are paid a pittance to work onboard Taiwan's tuna longliners, and the lacklustre response by Taiwanese authorities, particularly the Fisheries Agency. Readers should be advised, some of the images and stories in this section

of the report are harrowing and upsetting.

Using the three cases as references, **Chapter 3** analyzes some of the structural and legal frameworks that enable, and perhaps inadvertently incentivize, illegal activity and exploitation in Taiwan's DWF fleet.

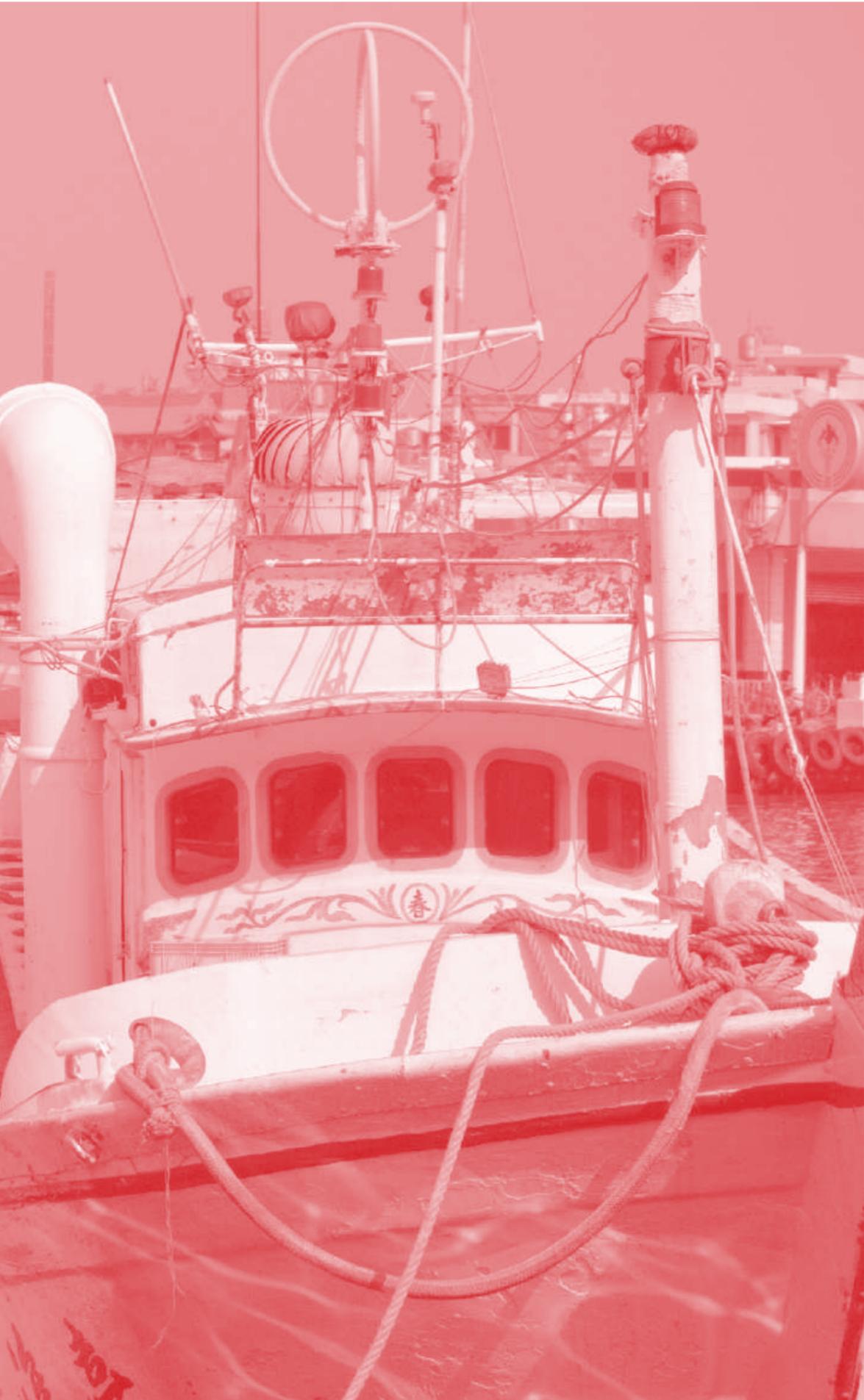
Transshipment at sea, the use of flags of convenience, and the use of front companies abroad which prevent transparency and accountability, continue to thwart attempts to clean up or properly regulate Taiwan's fishing industry.

The compromised role of "Fishermen's Associations", a system

unique to Taiwan, is also addressed in the chapter. The report concludes by discussing how the three cases and framework issues interact, demonstrating that there is a direct correlation between the current fishing business model and human and fisheries crimes at sea.

Greenpeace makes a series of recommendations for urgent action and reform.

To eliminate these crimes requires a fundamental change in the corporate regulatory model, and the elimination of transshipment at sea as well as eliminating the use of flags of convenience by the Taiwanese fishing industry.



Left // Kaohsiung, Taiwan
© // Stephanie Croft

Chapter 2: Misery at Sea

The mistreatment and abuse of migrant workers on fishing vessels has been well documented in both international research and high profile media stories.^{30 31 32 33} While the increasing frequency of stories show a number of factors contribute to the problem, they reveal an exploitative fisheries economy with migrant fishers too often treated as low-cost commodities, paid extraordinarily low rates, overworked and mistreated.

This chapter examines three recent Greenpeace investigations into labor and human rights cases involving Taiwan's distant water fisheries industry, and includes disturbing new revelations about the Giant Ocean case (previously discussed in the 2016 Made in Taiwan report). The investigations revealed alarming new evidence that raises urgent questions about Taiwan's fishing industry, and the way its regulators deal with human rights abuses. While Taiwan has claimed some success in resolving previous cases of abuse,

the report demonstrates a failure to effectively address these cases.

The first section, *Impunity in Taiwan*, focuses on the Giant Ocean human trafficking ring. It exposes a permissive approach by Taiwanese authorities to forced labor and human trafficking on Taiwanese fishing vessels. Greenpeace investigators found convicted human traffickers continue to be involved in the recruitment of migrant workers for Taiwanese fishing vessels, with the full knowledge and consent of Taiwanese authorities.

The second section, *Fishing to Death*, analyzes the 2015 death of Indonesian fisherman Supriyanto at sea. Disturbing new evidence suggests that, despite harrowing photographic and videographic evidence, Taiwanese authorities failed to properly investigate and prosecute.³⁴

The third section, *A History of Violence*, investigates

circumstances around the death of the captain of the Taiwanese longliner, Tunago No. 61. Greenpeace investigators travelled to Vanuatu to interview the six Indonesian crew who were convicted and sentenced to 18 years in prison for murder. The six men face spending the first half of their sentence in Vanuatu, the flag State of the Tunago No 61. Prison-based interviews shed new light on the case, raising questions about the events leading to the captain's death, and Taiwan's hands-off approach in the subsequent investigation, prosecution, and sentencing. With the six young men facing almost two decades in prison, the report asks if the deceased captain is not the only victim in this sad case.

At the end of the chapter, we analyse the cases to see if there are any links to Taiwanese seafood trading giant, FCF.

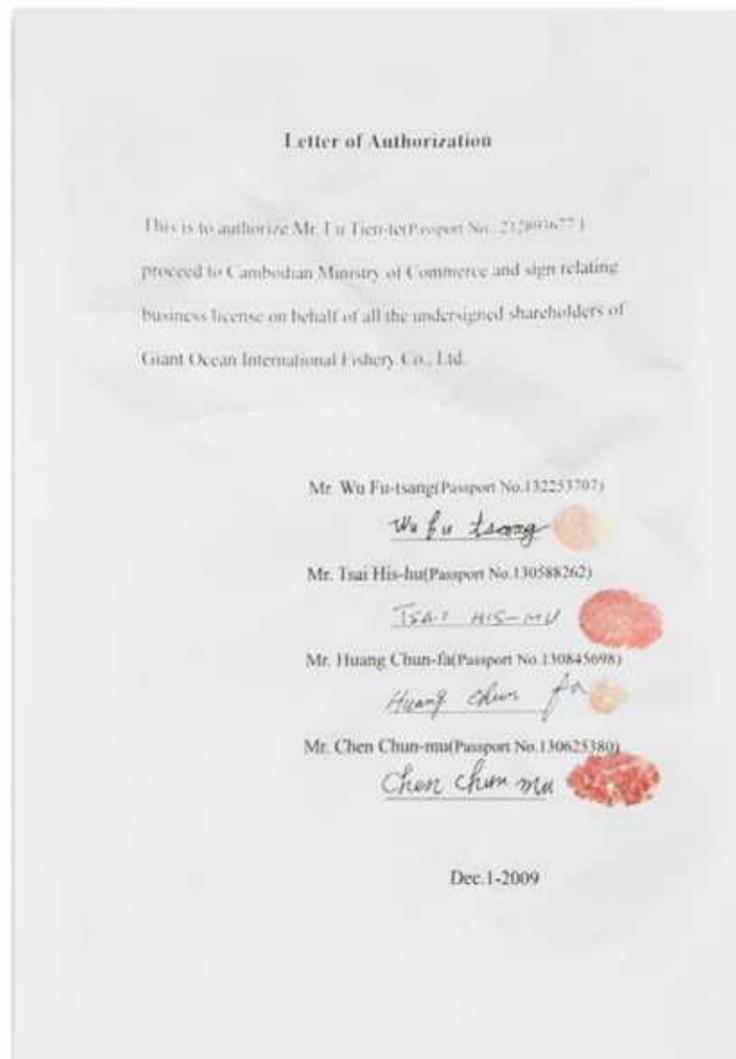
Impunity in Taiwan: convicted human traffickers continue to recruit

Greenpeace has obtained compelling evidence from official Fisheries Agency lists and company records showing that up to five directors and shareholders of Giant Ocean continue to be openly involved in the recruitment of migrant fishers for placement on Taiwanese DWF vessels.

All five were convicted in absentia for human trafficking by Cambodian courts in 2014. For the families of Giant Ocean's victims, this is yet another insult after seven years of injustice.

These men continue to be connected to recruitment with the authorisation of the Taiwanese government.³⁵

Right // Letter of authorization submitted to Cambodian Ministry of Commerce // Confidential Source



The background



Right // Giant Ocean's company registration certificate // Confidential Source

In 2011, the United Nations, NGOs, and Cambodian authorities became aware of a human trafficking ring operating in Cambodia. The company running the ring was Giant Ocean International Fishery Co. Ltd (Pty) (Giant Ocean), a recruitment agency operated by Taiwanese nationals in Cambodia with strong ties back to Taiwan. Giant Ocean was registered with the Cambodian Labor Ministry as a private limited company and had lodged a US\$100,000 surety.

Victims of trafficking onto Taiwanese vessels started to lodge complaints in Cambodia from late 2011, and in May 2012 Cambodian authorities began to formally investigate Giant Ocean. Reports claimed more than 1,000 Cambodian men were recruited by Giant Ocean between 2010 and 2011. Police received over 200 complaints, including 50 cases filed by victims who were supported and represented by Legal Support for Children and Women (LSCW) and USAID's Cambodia Counter Trafficking in Persons Program (CTIP).³⁶

In May 2013, the Cambodian Department of Anti-Human Trafficking and Juvenile Protection arrested Taiwanese national, Miss Lin Yu Shin³⁷(林玉欣), a Giant Ocean employee who was responsible for the recruitment of labor.

The following shareholders and directors of Giant Ocean International Fishery were also charged: ³⁸

- **Lu Tien-Te** 盧天德
- **Chen Chun Mu** 陳春木
- **Wu Fu Tsang** 吳富藏
- **Huang Chun Fa** 黃俊發
- **Tsai His-Hu** 蔡西湖

In April 2014, Lin Yu Shin and the five directors and shareholders were found guilty under Article 10 of Cambodia's 2008 Law on Suppression of Human Trafficking and Sexual Exploitation: "unlawful removal with purpose."^{39 40 41} Ms. Lin was tried in person, while the others were tried in absentia.

Each was sentenced to 10 years imprisonment and ordered to pay compensation to the victims. Ms. Lin was sent to prison to begin her 10-year sentence, and the five Taiwanese nationals have yet to be located by Cambodian authorities.⁴²

Since the sentencing, appeals through the Cambodian courts have continued. Those appeal rights have now been exhausted, except for those relating to pecuniary penalties. The five directors and shareholders are considered fugitives in Cambodia.

Investigations in Taiwan

The Made in Taiwan report highlighted evidence linking Taiwan to the Giant Ocean human trafficking ring in Cambodia. Giant Ocean was providing Cambodian migrant labor to predominantly Taiwanese fishing vessels from 2010 to 2012.

The report raised questions about Giant Ocean operations in Taiwan, and urged Taiwanese authorities to properly investigate the Giant Ocean human trafficking ring.

While attempting to establish what investigations and conclusions Taiwanese authorities had reached, Greenpeace obtained a 2017 PowerPoint presentation from the Ministry of Justice. The presentation had

been prepared by prosecutors for an anti-human trafficking workshop, and explained their approach to the case. It stated that the Prosecutor had reached the following views:

- Giant Ocean International operations were a suspected violation of Article 32 of the Taiwanese Human Trafficking Prevention Act.⁴³
- The Taiwanese courts had no jurisdiction unless crimes occurred on a Taiwanese flagged vessel.
- Evidence provided by Cambodian NGOs LSCW and Winrock International was not considered admissible evidence in Taiwan.

The prosecutor decided to adopt an “administrative ruling” as the disciplinary action on this case, and summoned Giant Ocean shareholders and Taiwanese vessel owners. The prosecutors claimed they were unable to determine whether charges should be laid, despite the verdicts reached in Cambodian courts.

In spite of their Cambodian convictions, and the availability of a large body of compelling evidence from the victims themselves, the five convicted human traffickers appear to have been given a free pass by Taiwanese authorities. This raises serious questions about the authorities’ willingness to take effective measures to prevent human trafficking and forced labor in the fishing industry.⁴⁴

Human trafficking law in Taiwan

Human trafficking is a criminal offence under article 296-1 of Taiwan’s Criminal Code and under Article 32⁴⁵ of the Human Trafficking Prevention Act.

In Taiwan, some crimes are ‘no trial without complaint’ offences, but that is not the case with the Criminal Code or the Human Trafficking Prevention Act.

No complaint is required for human trafficking offences to be investigated or prosecuted by authorities.

In fact, there is an express obligation in the Act (Sections 9 and 11) on the judicial police authority to take action to identify suspected victims of trafficking immediately once they are notified.

Where are the human traffickers now?

There is no evidence that authorities acted to ensure the safety and welfare of Giant Ocean’s victims of forced labor and trafficking, either historically or since the initial offence. This raises serious concerns about the safety and welfare of future victims.

In December 2017, Greenpeace identified new evidence revealing that the five convicted human traffickers were living openly in Taiwan while fugitives from Cambodian justice. On top of this, two of them had officially sanctioned roles working in the recruitment of migrant crew onto Taiwanese fishing vessels, and two others appeared to be involved in recruiting for fishing vessels in Taiwan.

Greenpeace is concerned the convicted traffickers pose an ongoing risk to migrant fishers. It is difficult to understand how, when authorities in Taiwan have not reached a substantive position on the guilt or innocence of the Giant Ocean directors and shareholders, they are able to continue to ply their trade restriction unabated.

Greenpeace believes Taiwan has an obligation to ensure the convicted human traffickers are not allowed to work, in any way, with migrant workers who are vulnerable to trafficking, forced labor and exploitation.

The investigation established:^{46 47 48}



Lu Tien Te

盧天德

Conviction:	Unlawful Removal with Purpose, under The Law on Suppression of Human Trafficking and Sexual Exploitation ⁴⁹
Sentence:	10 years Imprisonment
Time served:	0 years
Where is he now:	Kaohsiung, Taiwan
Current position:	Contact person for the Kaohsiung Fishing Vessel Crew Services Association (社團法人高雄市漁船船員服務促進協會)

The Kaohsiung Fishing Vessel Crew Services Association holds a Fishery Agency issued licence to hire 700 crew.

Tsai His Hu/ Tsai Xi Hu⁴⁸

蔡西湖

Conviction:	Unlawful Removal with Purpose, under The Law on Suppression of Human Trafficking and Sexual Exploitation
Sentence:	10 years Imprisonment
Time served:	0 years
Where is he now:	Unknown
Last known position:	Contact person, for 永欣國際有限公司 (2009)

In 2009, Tsai His-Hu was listed as the contact person for 永欣國際有限公司. Greenpeace has been unable to find records of this company.

Lu Tien Te and Chen Chun Mu are both officially registered with the Fisheries Agency, which means they have been vetted and authorised by the Taiwanese Government to conduct recruiting

activities. Huang Chun Fa and Wu Fu Tsang also appear to be involved in recruiting crew for fishing vessels.^{51 52}

These revelations raise funda-

mental questions about Taiwan's commitment to eliminating exploitation, forced labour and human trafficking from its DWF fleet. This case risks sending a message to the victims of ex-

ploitation, forced labour and trafficking that, in Taiwan, DWF fishing is more important than justice. This is a far cry from Taiwan's claim to being a responsible citizen in global fishing.



Chen Chun Mu

陳春木

Conviction:	Unlawful Removal with Purpose, under The Law on Suppression of Human Trafficking and Sexual Exploitation
Sentence:	10 years Imprisonment
Time served:	0 years
Where is he now:	Kaohsiung, Taiwan
Current position:	Director for Taiwanese Recruitment Agency, Yu Chun Enterprises (友春國際股份有限公司)

Yu Chun Enterprises is currently registered by the Fisheries Agency to employ 399 crew. Yu Chun Enterprises holds an active company registration issued by the Economic Development Bureau of Kaohsiung Government, to provide "Agency Services".



Wu Fu Tsang

吳富藏

Conviction:	Unlawful Removal with Purpose, under The Law on Suppression of Human Trafficking and Sexual Exploitation
Sentence:	10 years Imprisonment
Time served:	0 years
Where is he now:	Kaohsiung, Taiwan
Current position:	Owner/director of a new company, 弘興海洋開發有限公司 (No known English name)

Wu Fu Tsang is the registered operator of a new company, 弘興海洋開發有限公司 (Previous name: 豐星海洋開發有限公司)



Huang Chun Fa

黃俊發

Conviction:	Unlawful Removal with Purpose, under The Law on Suppression of Human Trafficking and Sexual Exploitation
Sentence:	10 years Imprisonment
Time served:	0 years
Current position:	Director, Sheng Fa Fishery Co., Ltd (笙發漁業有限公司)

Sheng Fa is registered with the Economic Development Bureau to provide recruitment services, but does not feature on the Fisheries Agency's list of registered recruitment agents. Investigators visited the office premises in Kaohsiung, finding both the 'new' and 'old' company names listed.



Lin Yu Shin

林玉欣

Conviction:	Unlawful Removal with Purpose, under The Law on Suppression of Human Trafficking and Sexual Exploitation
Sentence:	10 years Imprisonment
Time served:	3 years
Where is he now:	Incarcerated, Cambodia



Left // Tuna on longline fishing vessel in the Pacific Ocean © // Mark Smith, Greenpeace

Right // Crew on longline fishing vessel in the Pacific Ocean © // Mark Smith, Greenpeace

Should Taiwan retain Tier 1 status in the Trafficking in Persons report?

Taiwan continues to be rated as a Tier 1 country in the globally recognised US State Department annual Trafficking in Persons Report.⁵³

Greenpeace analyzed the Prosecutor's position in the Giant Ocean case and compared it with the standards set out by the US

State Department, in particular the US Trafficking Victims Protection Act 2000 (TVPA).^{54 55} It is apparent that Taiwan has repeatedly failed to meet the minimum standards set out in Section 108 (a)(4) of the TVPA;

1. The Prosecutor's decision ignores Article 42 of the Taiwan-

ese Human Trafficking Prevention Act, which states that Articles 31 to 34 of this Act are applicable outside the territory of Taiwan.⁵⁶

2. The use of an administrative ruling in the case fails to meet the standards set out in the United States TVPA. Rather



than a ruling to prosecute, not to prosecute, or deferral of prosecution, the Administrative ruling does not constitute "urgent action" as required by the TVPA.

3. In addition to the offences that occurred in Cambodia and on Taiwanese owned vessels (several of which were Taiwanese flagged, and are subject to Taiwanese law), the acts of trafficking sanctioned by Cambodian Courts were committed by five individuals who faced no punishment in Taiwan and remain involved in Taiwan-based fishing industry recruitment work.

4. Significant evidence, including victim statements, provided to Taiwanese authorities by LSWC, provide sufficient grounds for Taiwan to initiate rigorous investigations and to prompt substantive efforts towards eliminating human trafficking. The investigations should have included the execution of search warrants, obtaining company and fishing vessel documents and records from authorities and formal forensic interviews of witnesses. There is no evidence that any of this has occurred.

5. The prosecutor has failed to utilize the evidence provided

by LSWC. LSWC have acted for and represented many of the Giant Ocean trafficking victims in Cambodia. They have repeatedly communicated with Taiwanese authorities and have made available victim statements to Taiwanese authorities.

Taiwan has failed to provide justice for these victims, and Taiwan continues to allow those responsible to work in recruiting crew for DWF vessels.

Greenpeace remains concerned about the possibility that victims of human trafficking in this case remain trapped at sea.

Below // Fresh tuna fish



Fishing to death: The abuse and death of Supriyanto

The tragic case of Supriyanto and his treatment and subsequent death on the Taiwanese fishing vessel,⁵⁷ Fu Tsz Chiun is one of the most shameful episodes in Taiwan's fishing history. It has never been adequately investigated, and the story of his slow, painful and unnecessary death has never been fully told.

Supriyanto was a 43 year old solo father with three children, from Tegal in central Java, Indonesia. Prior to becoming a fisherman, he worked as a poorly paid bus ticket collector on a route between Tegal and Jakarta.

In the hope of earning more money to help raise his children, he decided to become a fisherman. He began the recruitment process in late 2014 and his final, fatal trip on Fu Tsz Chiun began in April 2015.

On 29 April 2015, vessel operator Chen Chiao-chih applied to the Kaohsiung Fishermen's Association to hire seven Indonesian crew members for the fishing vessel Fu Tsz Chiun. The application was filed with the Kaohsiung City Marine Bureau on 30 April 2015.

The Fu Tsz Chiun set sail from Donggang township on 12 May 2015, and sailed towards the Western and Central Pacific Ocean.

On 26 July 2015 the Donggang Fishermen's Association received a report that one of the Fu Tsz Chiun's crew, Urip Muslikhin, had disappeared from the vessel while fishing in heavy seas on 25 July 2015. The Fisheries Agency directed the captain to search for the missing crew member for at least three days.

On 25 August 2015 at 11:10 pm, Donggang Fishermen's Association received another report, this time that crew member and fisherman Supriyanto had been found dead on board the vessel.

Figure 4: Fu Tsz Chiun's 2015 Pacific journey (MMSI: 416001769)⁵⁸

- Fishing activity detected
- Fishing activity detected following Urip Muslikhin's disappearance
- Supriyanto's death reported
- Fishing activity detected following Supriyanto's death



Images and video of Supriyanto uncovered

Harrowing photographic and video evidence of Supriyanto's final weeks alive emerged following his death. The photos and video raise serious questions about his treatment prior to his death.

Taiwan appears to accept that Supriyanto was abused prior to his death, but is yet to offer any public explanation or detail on the abuse. The horrific nature of the images and video call for a high-level and thorough investigation from relevant authorities. The Fisheries Agency's tepid initial response is deeply concerning.

During this investigation, Greenpeace obtained the vessel tracks for Fu Tsz Chiun in the weeks leading up to, and immediately following Supriyanto's death.⁵⁹

The vessel's fishing activity tracked by Global Fishing Watch appears to contradict official statements about the Fu Tsz Chiun's movements following both deaths.

The Control Yuan⁶⁰ corrective measures document suggests the Fu Tsz Chiun searched for Urip Muslikhin for three days following his disappearance.⁶¹ This is

contradicted by vessel tracking data from Global Fishing Watch, which shows the vessel moving in a pattern consistent with fishing activity after his death. It is not clear from the Fisheries Agency investigation whether the vessel did continue to fish — but it is information that ought to have been available to authorities.

Equally troubling is analytical evidence from Global Fishing Watch, that shows the Fu Tsz Chiun continued to fish, despite Supriyanto's deteriorating condition, including in the days following his death, despite claims that the vessel immediately returned to port.⁶²



Above // Three still series showing the deterioration of Supriyanto on Fu Tsz Chiun // Confidential Source

Left and Below // Still photographs of Supriyanto shortly before his death. // Confidential Source

Supriyanto's agonising death at sea

The death of Supriyanto, while working at sea, was met with an alarming lack of action by Taiwan's authorities, particularly the agency charged with monitoring crewing agencies, vessel owners, and Taiwan's fishing industry. The Fisheries Agency appears to have failed to fulfill its responsibilities, to oversee the operations of the recruitment agency and vessels owners involved.

A post-mortem examination indicated that Supriyanto had died from septic shock from an infection he suffered following a "knee injury" onboard the Fu Tsz Chiun.⁶³ The inadequate Fisheries Agency investigation failed to establish a clear version of events, and to properly explain how a healthy, relatively young man, died at sea.

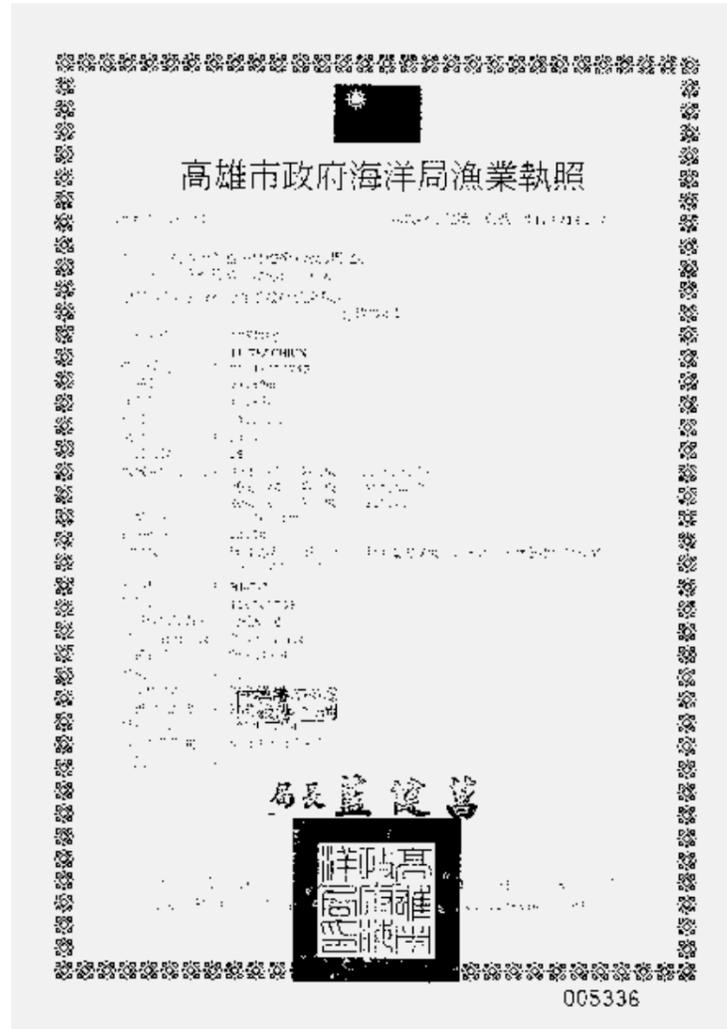
The Pingtung Provincial Prosecutor's Office also conducted a judicial investigation into the death of Supriyanto and Urip Muslikhim. It appears their initial investigation dismissed some evidence because, in their view, the translation of the audio in the video was incomplete. The Prosecutor's Office claimed the Indonesian interpreters were unfamiliar with the Central Javanese dialect spoken in the onboard audio recordings. This is a weak explanation for a lack of action.

Some key phrases left untranslated included allegations that Supriyanto was hurt and abused by engineering crew on board the vessel, and could not walk.⁶⁴ Yet the Prosecutor's investigation determined that the deaths were

accidents and there was no suspicion of homicide or foul play.

The Pingtung Prosecutor Office failed to properly investigate the case, as clearly shown in the Control Yuan report.

When Supriyanto's family in Indonesia, and the Yilan Migrant Fisherman's Union, raised serious concerns about the quality of the investigation and its subsequent findings, the investigation into Supriyanto's death was eventually referred to the Control Yuan for review.



Above // Vessel registration document
// Confidential source

Control Yuan slam fisheries agency investigation

On 5 October 2016 a corrective measures case document was released by Control Yuan. The Control Yuan corrective measures case document discussed the Fisheries Agency investigation, and was highly critical, finding that the Fisheries Agency had been "severely negligent" in the management of employment of foreign crew, and that there

had been a serious violation of the international covenant on economic social and cultural rights,⁶⁵ causing great damage to Taiwan's reputation.⁶⁶

The Control Yuan Corrective Measure case document found that:⁶⁷

Employment Contracts and Exploitative Recruitment

1. Supriyanto had two employment contracts. One contract, signed on behalf of the Taiwanese recruitment agency Jin Hong Company, was submitted to the authorities. A second contract, signed by an Indonesian recruitment agent, was for 'actual performance.'
2. The contract 'actually performed' contained inappropriate terms, including transferring work expenses to Supriyanto, and holding his family liable for (employment) violations. This contract stipulated 16-hour working days. These conditions are "a severe infringement of the foreign crew members' labor rights."
3. The Fisheries Agency was unaware that Supriyanto had two contracts, and failed in its oversight and supervision of both manpower brokers. The Fisheries Agency also failed to de-list the responsible recruitment agency from its list of authorised agencies.

Non- or underpayment of fishers

4. Crew on the Fu Tsz Chiun had their pay unfairly docked. The Fisheries Agency took no action. In fact, the Fisheries Agency was unaware this was inappropriate until the investigation. Being significantly underpaid, the crew "suffered severe infringement of their rights."
5. The Fisheries Agency was remiss in the manner in which it levied executive penalties, revoking the vessel's fishing licence and crew agent's operating licence, but failing to supervise the payment of compensation.

Excessive working hours, lack of medical care and cause of death

6. Supriyanto died after being "abused on the fishing boat Fu Tzu Chiun."
7. The family were initially paid Supriyanto's salary, but not paid insurance or compensation for his death, since the coroner deemed his death due to illness.

Was Supriyanto another victim of forced labor?

“Forced labor is defined as all work or service which is extracted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”⁶⁸

Greenpeace reviewed Supriyanto’s case in detail, and conducted further analysis of the Control Yuan corrective measures case document, and found that in addition to the abuse suffered by Supriyanto, other indicators of forced labor may be present in his case, including:

- **Deceptive recruitment**
- **Exploitation**
- **Physical abuse/violence**
- **Isolation**
- **Abusive working conditions**
- **Abusive living conditions**

One of the more troubling features of this case is that the abuse of Supriyanto appears to have been overlooked by the Fisheries Agency.

There were two deaths on board his vessel within the space of a month, a considerable body of evidence suggesting severe physical abuse, and indicators of forced labor, yet Taiwanese authorities failed to properly investigate the deaths, the vessel owners, and the recruitment agencies responsible for providing crew to the vessel.

The Control Yuan criticised the FA in three key ways:



Above // Fish offloaded at the Donggang fishing port outside Kaohsiung, Taiwan.
© // Paul Hilton, Greenpeace

1. The FA failed to establish that Supriyanto had signed a labor contract with inappropriate and unequal terms of work.
2. The FA failed to evaluate or examine the role of the involved recruitment agencies.
3. The FA failed to conduct a proper investigation.

The Control Yuan has now referred the case back to the Fisheries Agency for review and further action, but there has been no specific recognition or mention of forced labor or human trafficking as factors

or issues to be examined by the Fisheries Agency. The events leading to Supriyanto’s death, and the people and agents involved and responsible, from recruitment to death, must be fully investigated and explained.

A history of violence: Tunago No. 61

On 7 May 2016, the Vanuatu flagged longline fishing vessel, Tunago No. 61 sailed from Kao-hsiung port in Taiwan towards fishing grounds in the Central Pacific. Its 28 crew included six Vietnamese, seven Filipinos and 13 Indonesian men. The captain of the vessel was Xie Dingrong, from China, and the vessel was Taiwanese owned.⁷⁰

On the night of 7 September, with the vessel on the high seas between Easter Island and Fiji, six of the Indonesian crew entered the captain's cabin and attacked and killed him. The next day, the chief engineer contacted the vessel

owners in Taiwan to inform them of the captain's death. The vessel subsequently made its way to Fiji. When the six crew members were interviewed by Fijian police, they admitted their involvement in killing the captain.

The six Indonesians were extradited to Vanuatu in early 2017, where they subsequently pleaded guilty to the captain's murder. The Supreme Court of Vanuatu sentenced the men to 18 years imprisonment, with a minimum non-parole period of nine years, recommending that the crew, once eligible for parole, could be returned to Indonesia to serve the

second nine years of their sentence.

An analysis of the Supreme Court sentencing notes⁷¹ indicates that evidence suggesting the six men had been subjected to discrimination, mistreatment, and verbal and physical abuse by the captain, over an extended period and including the immediate lead up to the captain's death, was a mitigating factor in their sentencing. In spite of noting the mistreatment and abuse, the court determined that it did not amount to a defence of provocation, rather it provided some explanation for what had occurred on board.⁷²

Figure 5: Tunago No. 61 Pacific Journey in 2016 ⁶⁹

- Vessel movement detected
- Fishing activity detected
- Day of captain's death





Right and Above //
Tunago No. 61 crew member
© // Dan Salmon

Current Situation

Greenpeace investigators have analyzed the movement of the vessel and its history and found that the vessel Tunago No. 61 had been involved in previous reports of violent abuse of migrant crew.⁷³

To help understand the events leading to the captain's death, Greenpeace investigators travelled to Vanuatu to interview the six crew members currently serving their sentences on the island of Efate.

The interviews paint a picture of inhumane working and living conditions on board Tunago No. 61, and the abusive treatment of the crew in the months leading

up to the captain's death. All six interviewed men appeared to be traumatized by their treatment, and told remarkably similar stories about the persistent and violent conduct of the captain in the months they were at sea.

The six interviews reveal that the fishing crew were subject to:

- Violent physical abuse, including multiple assaults, even with sticks.
- Severe sleep deprivation.
- Regular verbal abuse.
- Inadequate and inappropriate food, including being forced to eat pork (contrary to their Muslim faith).

- A threat to kill one of them the night before the captain was killed.
- Unsustainably long working days (on average 20-hour work days).

The six men told Greenpeace that their passports were held by the captain, and that they had not been paid in accordance with their previously signed contracts.

The following pages feature excerpts from interviews with some of the incarcerated crew. The excerpts are translated and may be jarring and difficult to read.

I asked the captain for a medicine, he slapped my head. And he kicked me. He also said 'if you come to ask for the medicine again, I'll kill you.'

“

I just wanted to do my work. One day, there was an accident, I got a wound because a part of my body had been cut and torn open by the hook.

For food, because we are all Muslim, we are not allowed to eat pork, but we always get pork for the meal. But we did not have any choice if we do not eat the pork, we would not have any energy to work again.

I was still not angry at that time, because it was just a small accident. After that, when he [the captain] woke up, I did not understand what was the matter with him, he changed, he said....'alarm'....'beep beep'.... then we have to wake up, if we are still sleeping, eating, or doing anything else, then just go home. I don't understand why he was like that.

One day, I did not do anything wrong, but he went to our room and kicked all the boys in my room. He came to our room, and then he started to kick everybody inside the room.

Every night, sometimes I just had 1 hour to sleep. He said 'stay here', and then I had to look around, in case if there was something wrong, I have to report it. But I cried, I only have 1 hour to sleep. I wanted to go back home. The treatment is not humane.



There was a day, one of the crew got wounded by the hook. Others said he had to take a rest, but he still had to work. He got the wound in the afternoon, but he had to work again in the middle of the night.

Every time, during the working time, sometimes when we took a rest or sleep, he will change the working time.

Sometimes when we got sick, when I did not have any energy to work, but the captain still forced us to work. 'Fuck you...go to work!'

I asked him for a medicine, he still asked me to continue my work

and slapped my head. He told my friend, do not ask about it again. And he kicked me. The captain also said to me, 'if you come to ask for the medicine again, I will kill you.'

”

“If just angry and scolding, for me it is not a problem, but it become a problem because hit with a broom, eat have to be faster, asked to get up with the foot, often hit the head / slap, not just once or twice, it was often for about 3-4 months”

Below // Tunago No. 61 crew member © // Dan Salmon

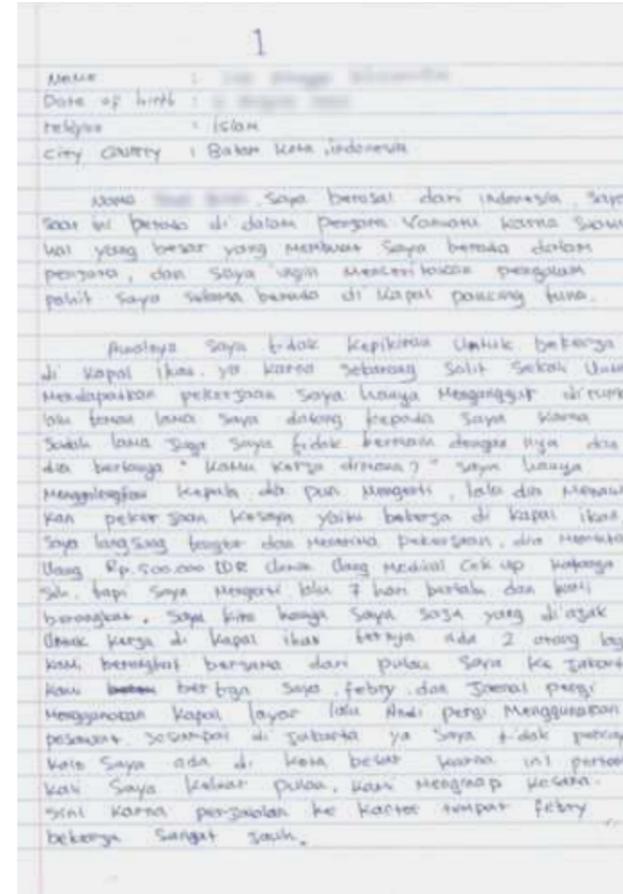


“ I am responsible to rolling up the string. For about 15 hours I had to stand up at the edge of the boat, hit by the waves without any protective equipment. Then I transferred to the mengline that is to untangle the ropes.

Since the bad weather and big waves are coming, a lot of the strings and mengline ropes tangled each other. I was overwhelmed because too many of them and only 2 of us were working in the mengline without any help. The captain came and slapped me twice, I just speechless, I thought maybe it was my fault, but why you have to do it with abusive behavior, but I took the positive things.

There was a time, I transferred the fishes to a bigger boat, I was working on the top of the freezer, but captain asked me to working inside the freezer, I refused it. And he thrown a frozen fish to me, I dodged it, but it slapped my right leg, make my foot wounded.

After that, we worked for 2 days to transfer the fishes, we only took a rest for 4 hours, and then filled the diesel fuel. After filled it, we were walking, the captain said, in the evening have to set the baits.



Above // Tunago No. 61 letter to Greenpeace

“ If just angry and scolding, for me it is not a problem, but it become a problem because hit with a broom, eat have to be faster, asked to get up with the foot, often hit the head / slap, not just once or twice, it was often for about 3-4 months. The captain's behavior is not good for me, even I did not being scolded a lot or being hit a lot.

Not just this time, before in 2014 I went to South Africa, but different boat and different company.

Some friends from the same nation and I not just worked, but also tormented. Not only me, my friends too, such as the men from Garut, Cianjur, and Tegal. Three of them got hit by the captain with the beam block, their butts were hit just because a small things.

It was my first time to work at the boat, I did not anything, tortured, I only have to be patient through those things and waiting for the next berth.

At that time, the captain not only often hit us, there is a guy who had been working for 11 months, his arm sore even ulcerated, swollen, the foot also had boils since had to work often, and only had a little spare time to take a bath, really sleepy, work, sleep, eat, that is everyday things to do.



“We even were prohibited to eat the haul fishes, we only ate the pork, it was forced to eat by the captain”

Below // Tunago No. 61 crew members © // Dan Salmon

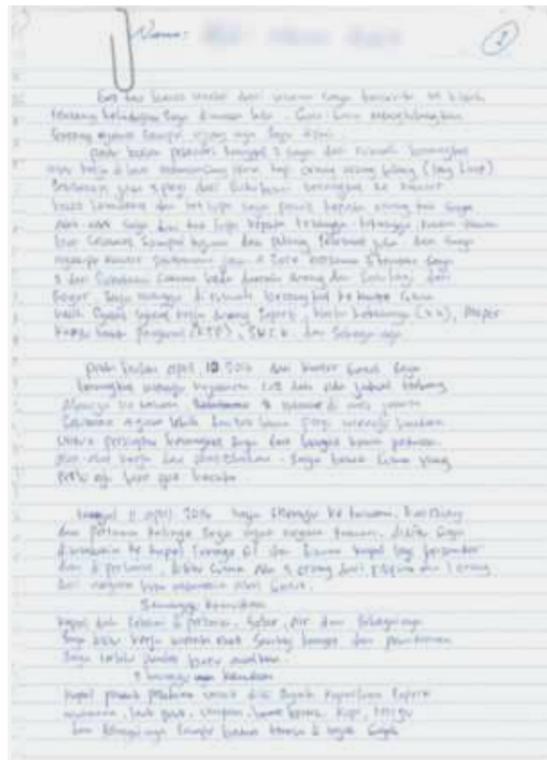


“When we’d just got up from bed, we always got hit by a bamboo stem, when (we) were eating he always watching (us) and we’d just get 5 minutes to finish it all... When working, if the captain saw the Indonesian crews take a break, he would be upset and hit or do some violence things”



Above // Tunago No. 61 crew members © // Dan Salmon

Below // Tunago No. 61 letter to Greenpeace



“On 6, 7 September, it was even getting worse, I finished throw some kilos of the fishes, not just kilos, even tons, I forget.

I did that inside the freezer area for 5 hours, I had a break time just for eat, on 7 (September) I really want to go back home”

Dr. Ian Goodwin’s analysis

Greenpeace referred transcripts of their interviews to forensic psychiatrist Dr. Ian Goodwin,⁷⁴ seeking an opinion on what, if any, features of the crew’s experience at sea were relevant to their offending. His opinion on the case is informative:

“The living and working conditions, as described by the interviewees would clearly have had a significant impact on their mental health. Specifically, they were significantly fatigued, sleep deprived and poorly fed.”

“From a medico-legal perspective, the circumstances of the captain’s murder raise questions around both provocation and diminished responsibility, due to the prolonged and extreme nature of the abuse these men suffered, during the months they were on board for this voyage.”

The interviews raise issues around self-defence, provocation, and diminished responsibility, but suggest

the following indicators of forced labor existed on board Tunago No. 61 prior to the death of the captain.

1. Abuse of vulnerability
2. Deception
3. Physical abuse
4. Isolation
5. Intimidation and threats
6. Abusive working conditions
7. Retention of identity documents
8. Excessive overtime

In spite of these indicators, Taiwan does not appear to have conducted any formal investigation into the recruitment, placement, and treatment of the crew aboard the Taiwanese owned Tunago No. 61 in the months leading up to the captain’s death.

Below // Post Office Box 213, Port Vila, Vanuatu © // Dan Salmon



Yet another example of uninvestigated forced labor in Taiwan's fishing industry?

Down // Vanuatu Prison, Port Vila, Vanuatu © // Dan Salmon

Greenpeace is concerned that Taiwanese authorities are using the vessel's Vanuatu flag as an excuse to avoid investigating or prosecuting possible crimes involving Tunago No. 61.

It is clear substantial parts of the recruitment process took place and were controlled in Taiwan. Given the scale of Taiwan's longline fleet using flags of convenience,⁷⁵ this raises troubling



Above // Five of the Tunago No. 61 crew © // Dan Salmon



Above // Vanuatu prison © // Dan Salmon

questions about whether the use of FOCs is enabling Taiwan to avoid responsibility for the actions of its citizens and businesses at sea. In the tragic case of the Tunago No 61. It appears, yet

again, that the Fisheries Agency has failed to meet the minimum standards of the US TVPA by failing to vigorously investigate and prosecute what to all outward appearances looks like another case

of serious exploitation on board a Taiwanese owned longline fishing vessel.



The FCF connection

FCF's website acknowledges the existence of exploitation and human rights risks in its supply chain. The "FCF Social Accountability Project" prohibits child labor, forced labor and other abuses on board vessels supplying FCF.⁷⁶

However, the Social Accountability Project applies exclusively to FCF's purse seine fleet.

The longline fleet, where human rights and labor abuses appear to be concentrated, has no accountability project or code of conduct.

Greenpeace examined the three longline vessel cases in Chapter Two, in an effort to establish if FCF was at risk of receiving, and therefore selling, tuna from these tainted vessels.



Above // Waves crash against the side of longline fishing vessel
© // Mark Smith, Greenpeace

Did FCF do business with giant ocean vessels?

Vessel identification by victims of exploitation, forced labor and trafficking is often frustrated by fishers' inability to read, the language of vessel markings, or recollection of victims.⁷⁷ Despite this, around a third of Giant Ocean victims were able to name the vessel(s) they were on.

Greenpeace researchers have sighted several business records detailing cooperation between FCF and its subsidiary FCN, and vessels involved in the Giant Ocean case. Our analysis has been divided into two parts; the events leading up to and including the conviction (up to 2014), and the period following the Giant

Ocean shareholders' conviction (2016-17). The records show that FCF and its subsidiary were buying fish from vessels implicated in the human trafficking ring before Giant Ocean shareholder were prosecuted and at least one continued to supply FCF following the Cambodian prosecution.

Giant Ocean vessels which have had a trading relationship with FCF include Wei Ching and Shin Lung 216.⁷⁸

Analyzing 2016 and 2017 records, Greenpeace found that Wei Ching continued to sell fish to Japan via FCF or FCN.

Does FCF do business with Tunago No. 61?

Greenpeace has identified links between Tunago No. 61 and FCF, including from the voyage that resulted in the death of Xie Dingrong.

Just days before the captain's death Tunago No. 61 transshipped with a Shin Ho Chun No. 102, a Panamanian flagged, Taiwanese owned, fish carrier. Greenpeace

have sighted records that confirm FCF has traded with both Shin Ho Chun No. 102, and its sister vessel, Shin Ho Chun No. 101.

FCF have acknowledged to Greenpeace that they trade with both vessels, confirming FCF's link to this tragic case.

Did FCF do business with Fu Tsz Chiun?

Greenpeace did not find any evidence to link FCF with the vessel on which Supriyanto died.

FCF ignored questions from Greenpeace about whether Fu Tsz Chiun was one of their suppliers.



Below // The crew of a tuna longliner at work during a transshipment of frozen fish to a carrier mothership.
© // Juan Vilata



Conclusion

Despite the modest improvements noted in the 2017 US Trafficking in Persons report, the evidence outlined in this chapter suggests that Taiwan's efforts to address modern day slavery, forced labor and labor abuse in the fishing industry are far from effective. They also fail to meet existing legal obligations under the 2012 Taiwanese Human Trafficking Prevention Act, and higher international standards or benchmarks such as those set out in the US Trafficking Victims Protection Act of 2000.⁷⁹

In the Giant Ocean case, convicted human traffickers have been allowed to continue profiting from the recruitment of migrant crew for Taiwanese fishing companies despite being responsible for dozens, if not hundreds, of trafficking victims being placed on

Taiwanese fishing vessels. Taiwan appears to have put this egregious case of human trafficking into the 'too hard' basket.

In both the Tunago No. 61 and Supriyanto cases, there are clear indicators of violence and exploitation, and unanswered questions around forced labor and trafficking. Yet Taiwanese authorities appear to have failed to take any substantive steps to deal with this evidence. Moreover, those involved in placing crew onboard Taiwanese vessels appear to have faced no scrutiny from Taiwan's authorities.

Confirmation that vessels linked with FCF have engaged trafficked labor should ring alarm bells with major seafood retailers around the world.

FCF is a major supplier to global seafood brands, including Chicken of the Sea, Bumble Bee, Princes, Frinsa, and SeaValue.⁸⁰ If its supply chain is tainted with human rights abuses, there is little doubt that tainted seafood is making its way into sushi shops and dinner plates in Asia, Europe and the Americas.

FCF's apparent silence on standards for the treatment of migrant crew on its longline fleet is a glaring gap that needs urgent attention. There are many hundreds of Taiwanese longline vessels operating largely unobserved, and unless they are properly monitored and regulated, abuses will continue unchecked.

Below // Taiwanese Longliner during a tuna transshipment on the high seas in the Indian Ocean.
© // Jiri Rezac, Greenpeace



Chapter 3: Muddied waters: Systemic enablers of misery at sea

This chapter explores the major contributing factors that allow human rights abuses (and IUU) to persist in Taiwan's distant water fisheries.

Throughout 2017, Greenpeace investigators repeatedly received reports from migrant workers on fishing vessels, mostly tuna longliners, forced to work long hours in unhygienic living conditions, receiving wages well below minimum wage, and suffering verbal and physical abuse at the hands of senior crew.⁸¹ These issues have been identified as ongoing by other (local) NGOs who work with migrant crew onboard Taiwanese vessels.⁸²

These reports and the cases discussed in Chapter Two indicate there is a substantial body of evidence that the Taiwanese longline DWF fleet is rife with exploitation. This raises important questions about the role of key actors, and whether Taiwan's government, regulatory bodies, and industry are enabling and inadvertently encouraging an exploitative industry, predicated on low cost migrant labor?

This chapter examines the structural and governance issues in Taiwan's fishing regulatory system that continue to allow abuses to occur, including:

Weak enforcement by regulators: Taiwan's key regulatory agencies appear to regularly fail migrant workers by not properly investigating or sanctioning law and rule breakers. When penalties are imposed, they are often minor and not clear deterrents to new cases.

Incoherent and unenforced laws: Confusing or unclear legislation, creates an environment where offenders are able to slip through legal loopholes. Taiwan's unusual diplomatic status, the complexities of jurisdictional issues at sea, and confusion created by the use of flags of convenience and offshore companies, make the legal landscape difficult to navigate.

The role of recruitment agencies and Fishermen's Associations: The outsourcing of recruitment services to companies based in third countries, involving

Taiwanese intermediaries, creates legal uncertainty, confusing crew and regulators alike. In addition, proxy regulators, like Fishermen's Associations, are fundamentally compromised by conflicts of interest. They provide employment and are therefore responsible, in theory, for ensuring workers' rights are respected, and on the other hand they represent the financial interests of the Taiwanese fishing industry.

The second section discusses in detail how, relative to the cases in Chapter Two, mechanisms such as shell corporations, flags of convenience, recruitment agents, and transshipment at sea, protect individuals, businesses, and corporations from accountability.

For full accountability, there must be complete transparency around who is catching fish, who it is being supplied to, and where it is being sold. The existing conditions make the transparency the industry so urgently needs very difficult to achieve.

Governmental factors

Weak enforcement by regulators

Taiwan's Fisheries Agency (FA) is an arm of the Council of Agriculture. The FA is the regulator responsible for all domestic and international fisheries related matters. This includes supervising and auditing the employment of foreign crew members aboard Taiwanese owned and operated fishing vessels. Its wide ranging powers and resources should enable it to effectively monitor and regulate Taiwan's lucrative fishing industry. However, it appears the FA fails to deliver on this key function.

The Supriyanto and Giant Ocean cases highlight fundamental issues in Taiwan's management of its DWF fleet, and raise questions about the FA's ability to protect migrant fishers onboard Taiwanese flagged vessels from trafficking, forced labor and exploitation.

In Supriyanto's case the Fisheries Agency's negligence, well summarized by Control Yuan, strikes at the core of its duty to protect

the labor rights and working conditions of migrant fishers. Following Supriyanto's death, it was established that the Fisheries Agency conducted no oversight and supervision of the manpower brokers⁸³ involved in Supriyanto's employment and were "severely negligent" in their duty to manage the employment of foreign crew.

This and recent reports⁸⁴ indicate the egregious and widespread violations of human and labor rights evident in the Giant Ocean case are endemic in Taiwan's DWF fleet. The lack of regulatory action in this case is further highlighted by the Fisheries Agency's continued authorization of recruitment agents convicted of human trafficking to work in similar roles in Taiwan. The approval of these employment agents by the Fisheries Agency is a failure in the duty of care towards foreign crew aboard Taiwanese vessels. It is an example of the permissive approach Taiwan's regulators take with these issues.

Below // Yellowfin tuna are offloaded at the Chien-Chen Port, Kaohsiung.
© // Paul Hilton, Greenpeace



A DWF operator can hire crew directly or commission agents authorized by the Fisheries Agency to conduct the overseas crew employment.^{85 86} The fact that the Fisheries Agency authorised convicted Giant Ocean human traffickers to hire crew epitomizes the lack of oversight and permissive behaviour.

There does not appear to have been any Fisheries Agency investigation into the labor situation aboard Tunago No. 61, despite court-documented complaints

about violence and threats aboard the vessel, and strong ownership links with Taiwan. With Taiwanese nationals involved, the fact that Tunago No. 61 was flagged to Vanuatu should not absolve Taiwanese authorities from responsibility.

This is not the first time the treatment of crew aboard Tunago No. 61 has been an issue. The absence of any Taiwanese investigation is troubling.

Incoherent, unenforced laws



Above// Shoppers at the Sinda Port fish market in Kaohsiung, Taiwan
© // Shutterstock.com

International criticism and political pressure from the EU yellow card led Taiwan to make changes to legislation governing its DWF operations in 2016.^{87 88} The law changes targeted problematic fishing practices and vessel management regulations in an attempt to combat IUU fishing.⁸⁹

Authorized by the Distant Water Fisheries Act, the Council of Agriculture implemented the Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members (the Regulations) in early 2017.⁹⁰ The Regulations sought to eliminate the serious exploita-

tion of crew, establishing specific provisions for manning agents and vessel operators. Under the new regulations,⁹¹ the Fisheries Agency is authorised to inspect and investigate human trafficking and labor rights abuses taking place in Taiwanese territory, on land or at sea.⁹²

However, there are notable discrepancies between the Regulations and the International Labor Organisation Work in Fishing Convention (ILO 188), including fewer days of rest, the potential for the deduction of wages,⁹³ and the continuation of a minimum wage below Taiwan's Labor

Standard Act, as well as the absence of mechanisms for effective oversight and supervision.

Under Taiwanese law an employment contract with fair terms of work must be established between a migrant fisher and the Taiwanese vessel operator, or an FA authorised crew agency.

Despite this, Greenpeace has interviewed several migrant crew who reported their only employment contract was with overseas-based brokers and that there was no contract, as far as they knew, with any Taiwanese entity.⁹⁴

Recruitment agents and the role of Fishermen's Associations: A conflict of interest?

Globally, the role of recruitment agencies in enabling human rights abuses at sea is well documented and has received considerable academic, media and law enforcement attention. The issue is particularly acute for Taiwan, because of the size of its DWF fleet and the reluctance of its domestic workers to embark on fishing careers at sea.

Existing research and literature tends to examine the supply side of the forced labor and trafficking equation, focusing on geographic regions such as South East Asia rather than the global picture. The legal frameworks and contributing factors that exist on the demand side of the equation have received much less attention, particularly in Taiwan, perhaps because of its reputation as an advanced economy.

Taiwan's broken business model (as discussed in Chapter 1), contributes to an environment where strong drivers encourage recruiters and vessel operators to exploit vulnerable migrant workers. DWF operators can either hire crew directly, or commission agents authorized by the FA to conduct the overseas crew employment.⁹⁵

To further complicate the labor supply chain, a powerful group of "Fishermen's Associations" play a vital role in Taiwan in the recruitment of migrant crew, alongside their regulatory work and related responsibilities. These dual roles appear to create a conflict of interest, where Fishermen's Associations are mandated to assist the government with regulatory functions,⁹⁶ while at the same time representing the commercial interests of the fishing industry.

How the Fishermen's Associations prioritize their dual roles is not clear, but there will be occasions where they will be required to report or sanction errant DWF operators, and in doing so, act against the interests of the industry itself.

The three cases discussed in Chapter Two raise important questions about the role of recruitment agents, and the involvement of Fishermen's Associations, in placing migrant workers on board vessels where they are exploited.

The ongoing authorization by the government regulator, the Fisheries Agency, of crewing agencies operated by the convicted Giant Ocean human traffickers demonstrates a permissive and troubling approach to grave human rights abuses by the Taiwanese government.

Fishermen's Associations in Taiwan

Fishermen's Associations are generally populated by fishers, as well as vessel and fishing company owners. Different branches are established according to administrative districts and fishing grounds. These Associations combine the characteristics of a

professional business entity and a fishing community entity. Presently, there are 40 Associations in Taiwan: one national and 39 regional, with a total of 420,000 members throughout Taiwan.⁹⁷

Blurring supply chains

Whether the perpetrators of human trafficking, forced labor and exploitation in Taiwan's fishing industry are ever really called to account, very much depends on supply chain transparency. The international police organisation, Interpol, describes global fisheries supply chains as both lucrative and complex.⁹⁸ It is this complexity that frustrates regulators, and those monitoring the fishing industry, who are attempt-

ing to hold industry operators to account. Untangling ownership structures, and assigning legal and financial liability, can be difficult, and requires considerable resources, coordination, and effort.

Those wishing to hide their activities are able to employ a variety of tools and mechanisms to confuse legal responsibility and liability. This section discusses three

regularly used mechanisms: flags of convenience, the use of front companies, and transshipment at sea. The use of each of these mechanisms feature to varying degrees in the cases outlined in Chapter 2. Unfortunately, their use is not yet illegal, but all three mechanisms contribute substantially to ongoing abuses at sea, and any serious attempt to prevent abuse must include investigating closure of these loopholes.

Flags of convenience

A Flag of Convenience (FOC) vessel is defined by the International Transport Workers Federation as one that flies the flag of a country other than the country of ownership. Globally around 35 States have open vessel registries, with enticing conditions for foreign vessel owners, including cheap vessel registration, lax monitoring and control of fishing activities, low taxes, and poor labor regulations.⁹⁹

The FOC regime is regularly used by Taiwan's DWF fleet. In addition to the large Taiwan-flagged fleet, a substantial number of Taiwanese-owned vessels fly a FOC. This benefits vessel operators by help-

ing to circumvent potential quota restrictions and avoid reductions of fishing fleet numbers.¹⁰⁰ Taiwanese ship owners commonly 'flag-out' their fishing vessels to countries like Vanuatu, Panama, and the Seychelles.

Under international law, every state has the right to grant their nationality to vessels registered in their state.¹⁰¹ However, a core criterion is that 'there must exist a genuine link between the State and the ship'.¹⁰²

Not only is the meaning of "genuine link" ambiguous and open to interpretation,¹⁰³ but the use of an FOC has serious impacts on

investigations into exploitation, forced labor, human trafficking and even murder.

The multiple countries with an interest in the investigation into the killing of Tunago No. 61's captain indicate how legal, diplomatic and commercial interests can be far reaching, competing and complicated.

In this instance, the flag state of Tunago No. 61, Vanuatu, has

prescriptive jurisdiction (legislative powers over labor laws) and enforcement jurisdiction (investigation and prosecution of crimes) over the vessel flying their flag.¹⁰⁴ The various roles and responsibilities of Fiji, Indonesia, China and Taiwan are less clear to the accused men, the captain's family and the public in Vanuatu.

The case of the Tunago No. 61 highlights the dangers inherent in a vessel working under an

FOC. The allegations made by the imprisoned crew raise important questions over who has responsibility for investigating the recruitment of crew, their treatment at sea, and the manner in which the vessel was operated. Because the Taiwanese vessel has elected to fly Vanuatu's flag, is Taiwan able to wash its hands of the offending? How could Vanuatu properly scrutinize and sanction an entity based in Taiwan?



Front companies

Fishing operators, like the owners of Tunago No. 61 and many other businesses, use foreign subsidiaries as front companies. When combined with a FOC, this often makes vessel ownership opaque, providing a potential veil of anonymity for those that seek it.

States operating open registries normally require any vessel they flag to be owned by a national citizen or corporation registered in its territory.¹⁰⁵ For a foreign entity to register a vessel under an FOC, that entity will need to set up a company in the state of registration. This creates an environment where the use of FOCs is a driver

for the creation of offshore shell or front companies.¹⁰⁶

While most shell or front companies will not be illegal, they have often been linked to illegal activities including tax evasion, money laundering and fraud.^{107 108 109} This has happened, in part, because the identity of the person(s) who own, control or benefit from these companies is often obscured.

In the course of this investigation, Greenpeace repeatedly attempted to visit the premises of companies, vessel owners, labor recruitment agents and fish suppliers linked to cases of abuse in this

report. Most addresses required scouring multiple vessel registration lists, contracts, company registrations, and other official or open sources. In each case, the beneficial owners were either difficult to find, or at times entirely untraceable.

This is by no means a new problem in global fishing. However, it appears to be a particularly acute issue within Taiwan's fishing industry.



Left // Fishers catching tuna on longline fishing vessel in the Pacific Ocean.
© // Mark Smith, Greenpeace

Below // Post Office Box 1640, Port Vila, Vanuatu
© // Dan Salmon



In 2016, at the time of the Tunago 61 incident, the vessel owners — Tunago Shipping, Lo Shieh Chih — were listed by the WCPFC as situated in a large fishery building in Kaohsiung Taiwan. The listed address for Tunago No. 61 has since changed to a post office box in Port Vila, Vanuatu.¹¹⁰ The registered address was the International Building in downtown Port Vila.

In early 2018, the International Building appeared vacant, with remnant 'European Trust Company' signage on the walls. A second address previously linked to Tunago Shipping is also featured as the contact address for an intriguing collection of offshore entities including fisheries companies, FCF and a Member of Parliament.

Transshipment at sea

Transshipment is the transfer of catch from a fishing vessel to a refrigerated cargo vessel. It can happen inport or at sea. Transshipping at sea allows smaller boats to refuel, restock and remain fishing for extended periods, sometimes for years at a time. Fish caught by longline vessels very often enter the global supply chain, and major markets, after being transhipped at sea.

Transshipment can obscure the origin of catch, at times facilitating illegal, unreported, and unregulated fishing.^{111 112} Human rights abuses and other criminal activity, including trafficking and smuggling, are also enabled by transshipment at sea.^{113 114 115} Victims of forced labor and trafficking have reported being trapped on vessels at sea for up to years at a time.^{116 117 118}

With their ability to track vessel behaviour, electronic monitoring systems provide tools to estimate the global footprint of fishing activity, and offer new insights into vessel behavior.¹¹⁹ In early 2018 Global Fishing Watch and Skytruth analyzed over 22 billion Automatic Identification System

(AIS) messages between 2012 and 2016, and found over 5,500 rendezvous events between a fishing vessel and a larger cargo vessel.¹²⁰ The data suggests that vessels were likely transshipping at sea. Taiwan flagged fishing vessels represented 8% of the suspected global transshipments at sea. That figure did not include FOC vessels owned and operated from Taiwan.



With the assistance of Global Fishing Watch, Greenpeace examined the AIS data tracking for Tunago No. 61. It showed a meeting with the refrigerated vessel, Shin Ho Chun 102, four months after departing Kaohsiung, Taiwan. While both vessels are authorised by the WCPFC to tranship, the transshipment

mechanism is the pivotal point at which fish caught by abused crew enters the supply chains of major markets.

In this case, the Panama flagged Shin Ho Chun 102 is owned by Tunago Shipping whose operating model appears to rely on transshipment at sea for longline caught tuna. Greenpeace have established that Tunago Shipping Company supply links to Taiwan fisheries giant FCF, meaning that events aboard Tunago No. 61 are inextricably linked to FCF's supply chain, and that of FCF's customers.

FCF is a proponent of transshipment at sea. It has more than 30 carriers that rendezvous with fishing vessels at sea and provides a variety of locations to meet with the fishing vessels.¹²¹

FCF's transshipping activities include the transshipment of purse seine catch to Thai canneries, coordinating longline delivery to PAFCO in Fiji, and likely arranging longline catch from the Indian Ocean to European markets via the Fishery Improvement Project (FIP).^{122 123}

Right // Illegal pacific tuna transshipment.
© // Shannon Service, Greenpeace

Left // Illegal Transshipment.
© // Pierre Gleizes, Greenpeace



Impenetrable supply chains

Seafood supply chains can be incredibly complex, involving multiple fishing grounds, processing locations, and market destinations.¹²⁴ Supply chains span regions, states, and companies, which means a single catch can be subject to multiple regulatory jurisdictions and legislative institutions between oceans and markets.¹²⁴

Accountability is the key to protecting human rights. Corporate social responsibility is not enough. Entities at all levels of global supply chains must be responsible for preventing trafficking, forced labor and exploitation in their operations. While govern-

ments and regulators allow the conditions and mechanisms we have outlined in this chapter to exist, they will continue to allow large fishing corporations, like FCF, to profit from global supply chains whilst distancing themselves from exploitation.

Unless these core systemic issues are addressed, the industry will continue to pay lip service to human rights abuses and IUU. This is evident in Taiwan's DWF fleet where despite improvements in the regulatory response to evidence of these issues, there is still much to do before Taiwan's fishing industry is a sustainable, legal, humane business.

Conclusions

With many fishing vessels and companies operating throughout the world, Taiwan is an undoubtedly a major global fishing player. The actions and omissions of the Taiwanese government in relation to the management of fishing activities impact the lives of thousands of people, inside and outside Taiwan, as well as the conservation of global fish stocks. The global reach of this harmful and destructive fleet, combined with Taiwan's failure to deliver responsible fishing policies and practices, is significantly damaging the country's reputation.

From the point of view of the sustainability of fishing activities, the notification by the EU in October 2015, under its IUU Regulation, of the possibility of being identified as a non-cooperating third country in fighting IUU fishing, puts Taiwan on the list of laggard countries when it comes to responsible fisheries.

Two and a half years after the notification, Taiwan is yet to fully address the problems identified.

Further, this report demonstrates that Taiwan's efforts to effectively address modern-day slavery, forced labor and labor abuse, following cases identified over the last few years, are insufficient. In an egregious example, convicted human traffickers in the Giant Ocean case continue to be allowed by the Taiwanese government to profit from the recruitment of migrant crew for Taiwanese fishing companies. In both the Tunago No. 61 and Supriyanto cases, the Taiwanese authorities appear to have failed to conduct an in-depth investigation.

Those involved in placing crew onto Taiwanese vessels involved appear to have faced no scrutiny from Taiwanese authorities.

We argue that the Taiwanese government is failing to meet existing legal obligations under its own national legislation, notably the 2012 Taiwanese Human Trafficking Prevention Act, as well as international standards or benchmarks, such as those set out in the US Trafficking Victims Protection Act of 2000.

The lack of political will in Taiwan to address such important matters is troubling. Not least, Greenpeace has found links between

some of these cases and global fish trader FCF in two of our cases, exposing the responsibility of a global fishing corporation in these abuses and the fundamental need for major companies to move away from a business model which relies on human exploitation.

FCF is a major supplier to global seafood brands, including Chicken of the Sea, Bumble Bee, Princes, Frinsa, and SeaValue: if its supply chain is tainted with human rights abuses, there is high probability that tainted seafood is making its way into sushi shops and dinner plates in Asia, Europe and the Americas.



Left // A longline fishing vessel passes through choppy waters in the Pacific Ocean. © // Mark Smith, Greenpeace

Recommendations

The failure to address the problems identified in this and other reports, despite the seriousness of the cases involved, or the insufficient progress following the notification to Taiwan under the EU IUU regulation, speaks of deep-rooted problems in Taiwan's structures dealing with its fishing activities.

First and foremost, the Taiwanese government needs to step back and re-think its priorities when it comes to fishing. It is clear that there is too much proximity — when not plain conflict of interest — between the government and the fishing industry of Taiwan. A much needed fisheries reform

must reflect the interests of all parties involved, putting at its centre both the rights of workers in the fishing sector and the public's right to a well preserved marine environment. Meeting these rights clearly requires an in-depth reform, as these problems are systemic.

There are common themes driving both IUU fishing and human rights abuses, including under-regulation and inadequate controls by government, and cost pressures arising from overcapacity and overfishing, which encourage and enable fishing companies to break laws, exploit workers and deplete fish stocks. Without adequate seafood traceability from capture to plate, and proper detailed labelling on end products, consumers have little chance to avoid tainted seafood in global food chains.

In summary,¹³¹ Taiwan must take urgent steps to:

- comply with, and ensure the effective implementation of, international fisheries agreements and instruments;
- fully comply with national legislation and international law and standards to prevent human trafficking and labor abuse in its fishing sector, including ensuring adequate resources to investigate and prosecute alleged cases of human rights violations; adopt, ratify and implement international labor standards pertaining to decent work in the fisheries sector;
- ensure best available monitoring, control and surveillance measures are adopted throughout its fisheries control regulations and that known loopholes are addressed, such as through a prohibition of at-sea transshipments;
- put in place legislation ensuring full transparency and traceability of fishing activities and fish supply chains, in order to meet the right of consumers to know the origin of their products and to allow the participation of civil society;
- Taiwanese companies involved in fishing must urgently review their business models and put in place the means to ensure that the human rights abuses and poor environmental standards endemic to parts of this industry are effectively eliminated. We encourage governments, regulators and companies to look at commitments made by Thai Union in 2017 to address such issues in their supply chains.
- conduct an in-depth reform of its fisheries policies, putting sustainability and human rights at the core of its objectives;
- eliminate overcapacity of its fishing fleet and join international initiatives to ensure that overcapacity is eliminated globally, including at Regional Fisheries Management Organizations or through the adoption of measures to implement the sustainable development goals (SDGs), inter alia to eliminate subsidies that contribute to overfishing, overcapacity and IUU fishing;

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49. Article 10: Unlawful Removal with Purpose A person who unlawfully removes another for the purpose of profit making, sexual aggression, production of pornography, marriage against will of the victim, adoption or any form of exploitation shall be punished with imprisonment from 7 years to 15 years.

The offence stipulated in this article shall be punished with imprisonment from 15 to 20 years, when : the victim is a minor, the offence is committed by a public official who abuses his/her authority over the victim, the offence is committed by an organized group. The terms "any form of exploitation" in this Article and Articles 12, 15, 17, and 19 of this law shall include the exploitation of the prostitution of others, pornography, commercial sex act, forced labor or services, slavery or practices similar to slavery, debt bondage, involuntary servitude, child labor or the removal of organs. The consent of the victim to any of the intended purposes set forth in paragraph 1 of this article shall be irrelevant where any of the means set forth in subparagraph 1 of Article 8 of this law is used. This shall apply to the offences stipulated in Articles 15, 17, and 19 of this law as well. https://www.unodc.org/res/cld/document/khm/2008/law_on_suppression_of_human_trafficking_and_sexual_exploitation_html/Cambodia_03_-_Law-on-Suppression-of-Human-Trafficking-and-Sexual-Exploitation-15022008-Eng.pdf

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56. Article 42: This Act is applicable outside the territory of the ROC to the crimes stated in Articles 31 to 34.

57. A potential breach of Section 108 (a)(1) of the United States TVPA.

58. The MMSI is now used by Maan Yih Chyuu NO.33

59. Using AIS and vessel movement patterns, the Global Fishing Watch algorithm identifies commercial fishing vessels, what type of fishing they engaged in, and when and where they fished.

60. Control Yuan is a governmental department responsible for supervising, investigating, and correcting administrative negligence from either central government or local government. (Constitution of Taiwan Article 95 - Article 97). Control Yuan and its members shall receive people's written complaints. According to the enforcement rules of the Control Act on the regulations of accepting and handling people's petitions, a citizen, after finding a public servant guilty of unlawful action or misconduct, shall list the facts and evidence in detail and report them directly to the Control Yuan or its members.

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Glossary

AIS: Automatic Identification System

COA: Council of Agriculture

DWF: Distant Water Fishing

EEZ: Exclusive Economic Zone

EJF: Environmental Justice Foundation

EU: European Union

FA: Fisheries Agency

FCF: Fong Chun Formosa Fisher Company Ltd

FOC: Flag of Convenience

ILO: International Labour Organisation

IUU: Illegal, Unregulated and Unreported fishing

LSCW: Legal Support for Children and Women

MCS: Monitoring Control and Surveillance

NGO: Non Governmental Organisation

RFMO: Regional Fisheries Management Organisation

TIP: Trafficking in Persons

SDG: Sustainable Development Goals

UK: United Kingdom

UN: United Nations

US: United States of America

USAID: United States Agency for International Aid

VMS: Vessel Monitoring System

WCPFC: Western and Central Pacific Fishing Commission

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APPENDIX 6

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Migrant workers aboard S. Korean fishing boats regularly abused and exploited

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Survey of 81 migrant workers reveals disturbing practices



Ari Purboyo, the head of the Korean branch of the Indonesia Fishing Boat Migrant Workers, describes the abusive and exploitative conditions that migrant workers face on South Korean fishing boats in Seoul on Jan. 7. (Park Jong-shik, staff photographer)

Xu Ly Tho (pseudonym), a migrant fishing boat worker from Vietnam, was assaulted with a shovel by South Korean crew members on a boat. At the time, he was attempting to take a brief rest while busily taking down a net in the darkness of early morning after a brief three-hour sleep on a wooden plank.

"I was very hungry, so I ate something, and they hit me on the back with a shovel while preventing me from eating," he said.

Migrant workers who have come to South Korea to work in the fishing industry are being subjected to physical and verbal assault and wage exploitation. At the Girl Scouts Building in Seoul's Jung (Central) District on Jan. 7, the Human Rights Networks for Fishing Boat Migrant Workers announced findings from a survey of 81 migrant workers on South Korean fishing boats.

According to the findings, migrant crew members were chiefly being subjected to verbal abuse, including terms such as "saekkiya" ("son of a bitch") and "ssibal nom" ("fucking asshole"). Two out of three were working extremely long periods of up to 16 hours a day, while 92% reported being unable to take a single day off. Vietnamese worker "A," who worked on a squid-fishing boat in Busan, reported, "They curse at you if you eat a lot, and they curse at you if you don't eat much. They curse at you if you eat quickly, and they curse at you if you eat slowly." Another Indonesian worker "B," who worked on a beltfish boat in South Gyeongsang, said, "The curses just go in one ear and out the other. If you kept them in your mind, they would fill several rooms."

Wage discrimination and deceptive practices qualify as human trafficking

Wage exploitation remained a serious problem, despite the issue receiving major attention in the wake of an international scandal when migrant crew members on the South Korean vessel Oyang 75 left en masse in 2012 after being unable to tolerate the physical abuse and wage exploitation there. Forty-three out of the 63 workers who agreed to answer wage-related questions said they were receiving less than the minimum wage.

“The South Korean crew members in their 60s and 70s didn’t do much work and gave everything to us to do, and they received 3.5 million won (US\$2,988) a month,” A reported. “Even the Korean head cook earned over 3 million won (US\$2,561) a month just for cooking, whereas I received 300,000 won (US\$256) working as head cook.”

Illegal brokers consistently overcharge workers for job placement

Another persistent problem concerned the illegal practice of brokers charging exorbitant “job placement fees.” The survey found that migrant crew members from Indonesia and Vietnam had respectively paid an average of 5 million won (US\$4,270) and 10 million won (US\$8,541) in dispatching fees. In some cases, crew members’ land documents and diplomas were held as security when they went to work on the boats. Some workers also paid “flight deposits” a sum of money paid in advance to ensure against workers fleeing the boats. The study found that Indonesian and Vietnamese crew members had respectively paid an average of 2 million won (US\$1,708) and 4.8 million won (US\$4,099) for flight deposits.

Forced to rely on barges and uninhabited islands in the sea for their accommodations, some workers faced conditions tantamount to imprisonment. Catholic Sister Marie Solina, who surveyed housing conditions for migrant fishing boat workers in Jeolla Province, reported, “They would provide workers with conditions without insulation or heating, completely isolated from any kind of social infrastructure, and then tell them, ‘It’s probably better than a hotel in your country.’”

Jeong Sin-yeong, an attorney with Advocates for Public Interest Law (APIL), explained, “Internationally, human trafficking refers to the act of recruiting or transporting people for purposes of labor exploitation through the use of fraud or deception or exploitation of vulnerable status. [The housing conditions identified in the study] could be seen as amounting to lawful human trafficking.”

“We need to reinforce the public sector’s role in the migrant fishing boat worker recruitment and job placement processes and eliminate wage and accident compensation discrimination based on nationality,” Jeong said.

“We also need to amend the law to prohibit conditions that amount to imprisonment,” she added.

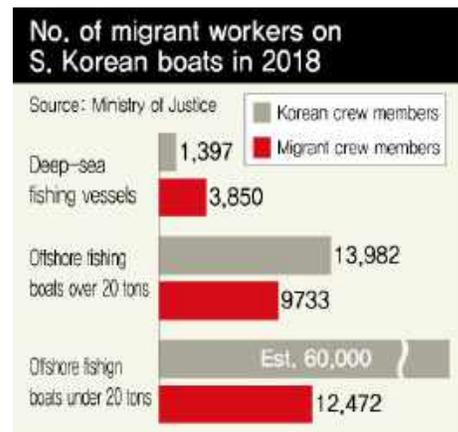
By Lee Wan, staff reporter

Please direct comments or questions to [english@hani.co.kr]

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No. of migrant workers on S. Korean boats in 2018

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APPENDIX 7

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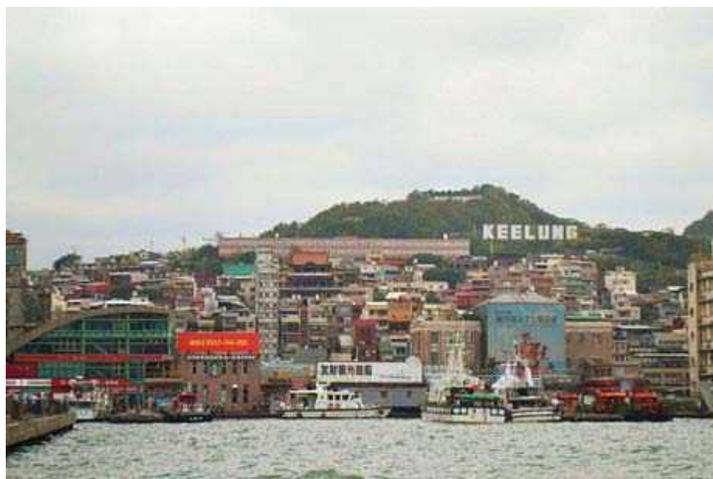
The Dirty Secret of Taiwan's Fishing Industry

Taiwan's systemic inertia has created the perfect environment for the continued exploitation of migrant fishermen.



By **James X. Morris**

May 18, 2018



Keelung Harbor, one of the many ports that are home to Taiwan's commercial fishing vessels.

Credit: James X. Morris

In recent years an increasing number of reports have come out about migrant fishing labor violations occurring on Taiwanese-flagged vessels. These reports are part of a larger body of

journalism focusing on the symptoms of a global fishing industry that has been largely left outside of world regulation standards and exists within an environment traditionally difficult to enforce.

The reports are the same: garnished and unpaid wages, confiscated identification, verbal abuse, beatings, and rumors of murder at sea are common. Equally common to the reports are the tactics Taiwanese-owned fishing vessels use to escape persecution. Flags of convenience, nonregistration of vessels, turning off transponders, and spending time on the high seas where no nation's jurisdiction can reach are all tactics employed to skirt around the law and continue exploiting migrant labor. Many of these cases are textbook examples of human trafficking. Workers are coerced or forced to stay in dismal working conditions against their will, moved about the oceans, threatened with violence, and kept from going ashore in some cases.

To most of the world Taiwan is portrayed as a flourishing multiparty democracy that has come to terms with the excesses and abuse of its authoritarian past, becoming a paradigm of progressivism in Asia. In many ways its image is well-earned. In 2017 its courts ruled in favor of same-sex marriage, a first in Asia. Its legislature features one of the globe's highest rates of representation by both women and indigenous peoples. By all rights it has earned credit where it's due. It is curious then, that such widespread abuses and violence are permitted to occur under its flag, at complete odds with the image it works so hard to cultivate. What is even more perplexing is that the Taiwanese are not aware of it. But therein lies part of the problem.

In 2017 Taiwan passed the Labor Standards Act, a measure meant to empower enforcement of labor violations within Taiwan's jurisdiction. The problem: Several years earlier Taiwan's legislature voted that distant fishing vessels no longer fell under Taiwanese jurisdiction. The island's precarious international position and domestic political indifference have contributed to the problem. Equally frustrating to NGOs monitoring the situation in Taiwan is that the Act is not being enforced to the letter because of resource constraints and bureaucratic confusion.

Taiwan's systemic inertia has created the perfect environment for the continued exploitation of migrant fishermen by brokers and commercial fishing associations. The conditions go from bad to dire.

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This past spring the Environmental Justice Foundation, an international nongovernmental organization focusing on the nexus of environmental exploitation and human rights issues, released their second short documentary on Taiwan's migrant fishermen crisis, "Exploitation and Lawlessness: The Dark Side of Taiwan's Fishing Fleet," which highlights the lack of legal oversight by Taiwan's government for the booming industry and its systematized forced labor, depicting the shocking conditions and abuse migrant workers endure on Taiwan's fishing boats.

A 2015 series by Ian Urbina for the *New York Times* entitled "Outlaw Ocean" paints an even darker picture, placing at least one

Taiwanese fishing vessel at the site of a grisly murder at sea, captured on video, of four men gunned down while floating on debris in the ocean.

The exploitation and abuses happening aboard Taiwanese fishing vessels are not unique. The reports in recent years reflect a systemic problem within the global fishing industry. What makes the Taiwanese issue more interesting is the disproportionate rate in which its fishing vessels seem to appear in stories of abuse, a fact Urbina corroborated during his reporting for the *New York Times* series and for a forthcoming book on the same subject.

“[T]ime and again [Taiwanese fishing vessels appeared] in lots of different places: The coast of Africa, South America, the Philippines, elsewhere — I was encountering workers who had experienced pretty egregious conditions on long haul fishing ships, and Taiwanese tuna longliners seem disproportionately represented in those stories that I was hearing,” he commented for this piece.

“Quite often these were Taiwanese tuna longliners that were fishing the waters between South Africa and Uruguay and I’m not sure why that is.”

Why Taiwanese vessels have suddenly become a media trend may be due to the openness of reporting in Taiwan, the disproportionately large size of Taiwan’s domestic fishing fleet, or the jarring juxtaposition of human trafficking happening under the flag of a flourishing democratic system. Regardless, the issue is severe and attention to it is growing.

The high rates of abuse in the reports from EJF and Urbina are substantiated by Allison Lee, secretary of the Yilan Migrant Fishermen’s Union, based in Taiwan’s Yilan County. She pointed out that the severity of abuse and violence varies depending on the type of work.

“The industry can be very violent for migrant workers. Offshore fishing is very violent. Onshore fishing is not as bad, but even if beatings don’t occur the captains may have bad tempers and verbal abuse is regular” she stated.

“Inshore, approximately 60 percent of the fishermen experience some sort of abuse.”

She estimated that the rate for deep water fishing is much higher.

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Those who complain often find that they are powerless. The labor union itself is severely understaffed and operates on a volunteer basis. It is the only union representing migrant fishermen in Taiwan, and workers from ports all around Taiwan seek out the union for aid. Nonmembers are not turned away, but it makes the work more difficult. The result is that volunteers are under great pressure. Complaints often find their way back to brokers and ship captains who dole out additional abuse.

The Yilan County Labor Bureau, where the union files its complaints, has been slow to take this problem seriously, particularly in instances where abuse happens out of their

jurisdiction.

There is some sign that it is changing. In 2017 Lee was commended for her work by then-U.S. Secretary of State Rex Tillerson and the president's daughter, Ivanka Trump, in Washington. The bureau in Yilan has been taking her filings more seriously since then.

Is the job dangerous for advocates? Not particularly, according to Lee. Her job is not difficult, she explains, but she receives harassment from the industry's side.

"They bother me because I'm bothering them," she laughed.

She wants people who hear of these stories of abuse to know that it's a very small number of corrupt people who are responsible for this problem: "We Taiwanese are not like these people. We have to be aware and not support this criminal behavior. If we know something is wrong we have to speak up."

She believes many Taiwanese care. She's seen it, and she's worked with them. "Why do we have these people who live like slaves? Taiwanese have good hearts."

In 2009 Taiwan passed the Human Trafficking Prevention Act, but there were still many gaps that NGOs and advocates sought to fill. Taiwan's Legislative Yuan passed the 2017 Labor Standards Act in order to address the inadequacies in the existing law and bring about a change in the way that cases of abuse were handled by the government. But its implementation has been empty, according to NGOs, and there is still much more work that needs to be done before migrant labor violations can be halted.

In early 2018 representatives from Greenpeace, the Environmental Justice Foundation, the Yilan Migrant Fishermen's Union, the Presbyterian Church of Taiwan Seamen and Fishermen's Service Center, Serve the People Association, the Taiwan International Workers' Association, and the Taiwan Association for Human Rights established the NGO coalition Human Rights for Migrant Fishers. This group began a regular series of meetings in order to determine how to best address the lack of enforcement of the 2017 law.



Human Rights for Migrant Fishers demonstrates in front of the Presidential Office Building (May 17, 2018). Photo by James X. Morris.

The biggest problem is that agencies do not enforce cases

retroactively, leading to a grandfathering mentality.

“People are still suffering now,” said Lee, who has traveled to Indonesia to investigate the contracts that are being signed with brokers since the passing of the Taiwanese law. Finding new cases to prosecute can trigger retroactive adjustments for ongoing abuses.

“We can't ignore the problems. It's unbelievable. Industry is overprotected. Agencies, vessels and their owners — the whole industry. This law needs to be implemented,” she stated.

Taiwan's commercial fishing industry is organized like a swarm of small and medium enterprises (SME). Because of the SME nature of the industry, and particularly due to Taiwan's heavy reliance on seafood to feed the island's 23 million inhabitants, these fishing companies, vessel owners, and captains have formed commercial fishery associations, groups that enjoy a cozy relationship with the central government's Fisheries Agency. The associations are provided with subsidies for fuel, supplies, and funds by the central government to offset the costs of operating crucial SMEs on the oceans. Government funds are used to pay the migrant laborers, but are first funneled through the brokerage firms responsible for filling the ships with hands.

The relationship between commercial fishing associations and brokers who supply the industry with its cheap workforce is equally comfortable. Brokers receive payment from the fishing associations only if they can fill quotas set by the associations. The associations give the workers' pay to the brokers, who then implement their own tiered system of service fee schemes based on work experience. Many complaints indicate that brokerage firms are skimming additional money from migrant fishermen's income.

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A major problem in tackling human trafficking in Taiwan's fishing industry is acknowledging the size of the problem. According to the EJF, Taiwan's Fisheries Agency counts approximately 26,000 fishermen working on its vessels. By comparison, U.S. figures for Taiwan's fishing fleets indicate that approximately 160,000 people work on Taiwanese fishing boats.

“I'm more inclined to believe the American figures,” said Lee.

This discrepancy of approximately 134,000 people highlights the problem Taiwan faces in understanding just how bad its human trafficking problem really is. Most migrant fishermen on Taiwanese boats are recruited through poorly regulated channels, making the figures more difficult to tabulate.

An EJF briefing published in March highlights some of the systemic issues occurring in Taiwan's fishing industry. They report that Taiwan has one of the world's largest fishing fleets, with more than 1,800 vessels flying their own flag, plus hundreds of other Taiwanese-owned vessels sailing under flags of convenience. Taiwan's distant water fleet operates far from home, and the report indicates many of the catches are offloaded in other countries such as Thailand and Mauritius. A spokesperson for EJF indicates that they have made progress working with Thai authorities, including

more rigorous port inspections and proactive measures by the navy.

The EJF report indicates that nearly 90 percent of Taiwan's distant water vessels fish for tuna in the Pacific, Atlantic, and Indian Oceans. Far in the deep sea, these vessels can spend years away from port with the help of trans-shipments of goods and cargo, making migrant workers on these boats among the most exploited and vulnerable.

Most migrant fishermen in Taiwan are from Indonesia and the Philippines. For the fishermen, the journey begins at home, where a network of local brokers connected with Taiwan-based brokers have arranged quotas with Taiwanese fishing associations. The migrants pay fees to the brokering firms to start their jobs, and continue to pay fees to the brokers while they are employed. Upon arrival in Taiwan the brokerage firms typically collect personal identification documents including passports and Alien Residency Cards — identification cards issued by Taiwan's National Immigration Agency for foreigners living and working in Taiwan. Some migrant fishermen are allowed to make photocopies of their documents in case a problem occurs, but they keep a low profile to avoid problems with police over the lack of authentic documents. The Taiwanese brokers then assign fishermen to their ships.



Taiwan's inshore fishing fleets working at night in the Taiwan Strait. Photo by James X. Morris.

Although modern in comparison to the traditional forms of fishing that the migrants were used to in their home countries, the working conditions are not pleasant. In addition to catching, the workers arrange and mend nets, string hooks on the lines, and process the fish on what are essentially rocking and rolling factories. Work days are long, and the men on the inshore vessels aren't paid for the commute out to the fishing grounds. If the waters are rough the likelihood of injury is high.

The workers on inshore boats sleep in the holds of the ships, small compartments typically at or below the waterline that fit three men but have no room to stretch out. They sleep in awkward positions and relieve themselves in containers. If their boat pulls into port the fishermen take cold showers in dockside facilities.

Beatings are known to occur frequently on the distant water fishing boats but are hard to quantify as these violations occur out

of sight. Although there is evidence in some cases, many other reports reach land through whispers and hearsay. Every source interviewed for this article has indicated that severe beatings on distant water vessels happen with regularity.

For inshore fishermen, the long hours and short nights are interrupted between the months of June and October, Taiwan's typhoon season. During these periods the workers are kept busy by conducting maintenance on the ships. According to sources interviewed for this article, when typhoons hit they are not allowed to seek shelter on land or enjoy a holiday, and are forced to remain on the ships in port.

Quitting is made difficult for migrant fishermen, who have to return to the brokerage firms to collect their identification documents. The brokers, eager to maintain their quotas and payouts from the fishing agencies, do everything in their power to convince the fishermen to stay. In many cases the fees of canceling a contract and returning home are enough to convince them to go back to work. The brokers collect their fees, and the cycle continues.

Institutional ignorance is the most harmful factor in the perpetuation of migrant labor exploitation. Luckily it is also the easiest to remedy.

NGOs have been working tirelessly to bring this systematized servitude out of the shadows of a deeply opaque industry and into the public view. Demonstrations, outreach, education, and lobbying are all tools used to impact public consciousness and effect law enforcement.

The biggest challenge is the willful dereliction of responsibility by legislators who would prefer to push this issue out of Taiwan's legal jurisdiction entirely. NGOs point out that today Taiwanese distant water fishing vessels are not considered to fall under Taiwan's legal code despite their registration. The fact that migrant fishermen have no vote in Taiwan keeps lazy legislators safe. The issue simply isn't important enough for many legislators.

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According to NGOs, education is lacking in Taiwan's courts as well, where justice is a matter of international perspective rather than enforcement of the law. The Yilan Migrant Fishermen's Union indicated that the courts rule against labor complaints, citing that conditions for the laborers, including salaries, are comparatively much higher in Taiwan than in their home countries, and that they are already benefiting from their hard labor in Taiwan. The abuse, exploitation, and beatings, according to the courts, are part of the "benefits" that come from living and working in Taiwan's fishing industry.



Human Rights for Migrant Fishers holds their first press conference as an NGO coalition to address Taiwan's exploitation of migrant fishermen (May 17, 2018). Photo by James X. Morris.

In Taipei, the NGO coalition held their first rally and press conference on May 17 to coincide with the two-year anniversary of President Tsai Ing-wen's inauguration, which is on May 20. Tsai, a member of Taiwan's independence-leaning Democratic Progressive Party is pushing for increasing relations and trade with Taiwan's Southeast Asian partners in her "New Southbound Policy." The NGOs are quick to point out that the countries she wishes to reach out to also happen to be the sources of exploited labor in Taiwan's fishing industry.

The message the coalition wished to send was that if Tsai wants to have a successful New Southbound Policy, then Taiwan's governmental agencies need to enforce their own rules to protect these laborers.

"We want to get a message to the president and the relevant departments: immigration, fishing, and labor," stated Yi Chiao Lee, Greenpeace's Ocean Campaign project leader, who organized and spoke at the press conference.

To this aim, the coalition issued a statement, urging the central government to bring its laws into agreement with international standards, expand the 2017 Labor Standards Act to migrant laborers, increase resources and education on this issue in Taiwan, develop proper channels for migrant fishermen to seek recourse without reprisal, and to work with NGOs to pursue these goals.

There are signs that the issue is making progress, although slowly. Despite its lack of enforcement, the 2017 Act was a step in the right direction. International recognition is bringing down more pressure on the government. NGOs hope that more action will push the relevant agencies to step in line with the new rules outlined for them.

"As local NGOs, we're trying to help the government," said Lee. "But the government has more power than we do. Whenever we bring a message or case to the government they need to take it seriously and help."

NGOs have indicated that a handful of legislators have been crucial in pushing their issues through the government. For this article,

many NGOs indicated that Lin Shu-fen of the DPP has been active in the pursuit of justice for migrant fishermen. Lin appears in the recent EJF documentary. Her office was contacted for this article; however she was unavailable for a statement.

Has the pressure been equal on the fishing industry? EJF's spokesperson indicates it is too soon to tell. At the moment it appears that if change is happening, it will originate in the government first and not the industry.

A spokesperson for the Environmental Justice Foundation stated that discoveries are occurring more, making the problem appear much worse, and putting greater pressure on the government. NGOs are hopeful this pressure will create change.

Lee has seen many people give up on this problem after not seeing immediate results. She feels that the situation is changing, and within five or 10 years there will be an improvement.

Taiwan must now reckon with this skeleton that has been hiding in its closet. Bone by bone it has started tumbling out. The NGOs are working to open the door wider, to expose the systemic problems in Taiwan's industry, and force the government to acknowledge this human trafficking problem that is holding Taiwan's reputation hostage.

James X. Morris is a freelance writer and studying for his PhD in Anthropology and Asia-Pacific culture in Taipei. Follow him on Twitter: @jamesxmorris

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APPENDIX 8

Written Testimony of Ian Urbina
Subcommittee on Water, Oceans, and Wildlife
“Oversight of NOAA’s Report at Illegal, Unreported and Unregulated Fishing”

Thursday, November 14, 2019

2:00 PM

Chairman Huffman and Members of the Subcommittee, thank you for the opportunity to speak today.

My name is Ian Urbina and I have been an investigative reporter for The New York Times for nearly two decades. Five years ago, I began writing a series for the newspaper and after two more years at sea I recently published a book called *The Outlaw Ocean* about the diversity of environmental and human rights abuses occurring offshore around the world. Today, you will be hearing from various subject matter experts. My role here, at least as I understand it, is to offer a broader backdrop for the discussion and perhaps in doing so, stoke a sense of urgency and add weight to the gravity of the policy decisions before you.

There are few remaining frontiers on our planet. But perhaps the wildest, and least understood, are the world’s oceans. Too big to fully police, and under no clear international authority, these immense expanses of water play host to rampant criminality and exploitation. In my time as an investigative journalist, I’ve never done more daunting reporting or witnessed a more urgent need for it.

Over the past several years, this reporting chronicled the story of a Cambodian migrant, who had been shackled by the neck on a trawler catching fish destined for American shelves. Captive at sea for 3 years, this Cambodian was a synecdoche of a wider problem known as "sea slavery" that ensnares tens of thousands of men and boys on fishing boats each year globally.

Off the coast of South Africa, I shadowed a Tanzanian stowaway who, discovered at sea by an unwitting and angry crew, was set overboard on a makeshift dingy and left to die in the middle of the ocean, hundreds of miles from land as a storm approached. This grim phenomenon known as "rafting" has become a more common way to dispose of migrants and stowaways, especially in the wake of new rules imposed after September 11 and more recently new anti-immigration policies that have raised penalties for captains who arrive in port with unplanned guests aboard.

At another point during this reporting, I embedded on a roach-infested Thai purse seiner, where 40 trafficked Cambodian boys worked 20-hour days, barefoot, rain or shine, on a slippery deck, just one misstep from disaster. That first night I tried to sleep on the floor. I was soon awakened by rats crawling across my legs, dozens more scurrying all around me and the rest of the crew. Needless to say, long-haul fishing isn't just the world's most dangerous profession, it's also in many places the most gruesome.

While investigating offshore violence, I spent time on floating armories. These are surreal places, part bunkhouse, part weapons depot that are meant to house private maritime security guards in international waters, just beyond the reach of local government prohibitions against unregistered arms or mercenaries. As the guards waited for their next deployment on ships passing through piracy prone areas, they detailed for me how and why at sea murder can occur with impunity. We discussed a case I

was investigating at the time in which an entire offshore slaughter of a half dozen unarmed men was captured on camera phone footage that had been provided to me, and at the end of the footage, the culprits or witnesses posed for celebratory selfies. To this day, no one has charged or prosecuted the captain who likely ordered those murders.

In the North Atlantic, I joined the longest law-enforcement chase in nautical history. A vigilante conservation group called Sea Shepherd was attempting what no government had been willing to do. That is, these advocates were trying to stop a ship that for nearly a decade had fished illegally and largely unobstructed in Antarctic waters, profiting to the tune of more than \$67 million. Even though Interpol had placed this illegal ship on its so-called Purple Notice list -- which is essentially an arrest-on-sight list -- no one with the authority or responsibility to act did so.

The bottom line is that this realm, which happens to cover 2/3 of the globe, is home to an assortment of extra-legal actors. They range from traffickers and smugglers, pirates and mercenaries, wreck thieves and repo men, to vigilante conservationists and elusive poachers, seabound abortion providers, clandestine oil-dumpers, shackled slaves and cast-adrift stowaways. Many of these actors flourish in the absence of governance. And, importantly, many of the more urgent problems they are countering or creating involve an interplay between human rights and environmental abuses.

Consider, for one example, shark finning, which is banned in more than a dozen countries, but ship captains on tuna longliners often allow their crew to offset poverty wages by cutting off shark fins and selling them at port.

A fleet of South Korean trawlers owned by the Sajo Oyang Corporation that I cover in the book was notorious not only for sexual assault, forced labor, squalid living conditions, but also for engaging in a type of illegal fishing called high grading, which entails gaming the catch quota system by tossing old catch overboard so as to save and register newer fresher catch.

The stakes here could not be higher. Most of you have likely heard these statistics before but they bear repeating: One out of every five fish on American plates comes from pirate fishing vessels. For all the attention we in the media pay toward unintentional oil spills, every three years, ships intentionally dump more oil and sludge into the oceans than the Exxon Valdez and BP spills combined. Over 90 percent of the planet's fishing grounds are depleted, thanks in large part to overfishing. By 2050, some research predicts that the sea will contain more plastic than fish.

Those are just the environmental threats. Now consider the perils facing the more than 50 million people working out there. At least one ship globally sinks every three days. Tens of thousands of boys and men work on ships as human slaves. A \$20-billion private security force operates at sea and when these mercenaries kill, governments rarely respond because no country holds jurisdiction in international waters.

So, what does any of this have to do with IUU or NOAA? I might suggest three relevant cautions.

First, a key revelation of this journalism is that, generally speaking, the biggest problem is not a lack of law, but rather a lack of enforcement. The prerequisite for true enforcement is almost always monitoring. Think here of mandatory crew manifests, independent vessel identification numbers, VMS/AIS or other vessel tracking, port state inspection regimes, supply chain auditing, bar-code fish tracking, on board cameras, chain of custody rules, public and centralized comprehensive blacklists of

schofflaw vessels, government-funded satellite monitoring, rules on reporting violence at sea, public access to crime data, consumer driven certification -- solutions exist, what's needed is political will.

Second, in pondering solutions to IUU, it would be perilous to ignore the way that environmental abuses contribute to and derive from human rights and labor crimes. Whatever fixes you consider for IUU, it seems prudent to consider not just the fish but also the fishers. In my humble opinion, it is ill-advised to push policy fixes that help to ensure that a fish hasn't been caught using illegal gear or ensuring that it hasn't been pulled from water where it's forbidden, without also ensuring that the people doing the actual fish were not sea slaves.

Finally, and here I know I do not need to tell any of you this, the time for action is now. When it comes to this woefully out-of-sight, out-of-mind realm, solutions exist to many of the most vexing challenges. More often, however, what has been missing is political will.

Thank you again for your time.

APPENDIX 9

Ship of horrors: life and death on the lawless high seas

From bullying and sexual assault to squalid living conditions and forced labour, working at sea can be a grim business - and one deep-sea fishing fleet is particularly notorious. By Ian Urbina

Main image: Photograph: Bluegreen Pictures/Alamy Stock Photo

Thu 12 Sep 2019 01.00 EDT

On the night of 14 August 2010, the captain of a South Korean trawler, the Oyang 70, left Port Chalmers, New Zealand, for what would be his final journey. The ship was bound for fishing grounds about 400 miles east in the southern Pacific Ocean. When it arrived three days later, the captain, a 42-year-old man named Shin Hyeon-gi, ordered his crew to cast the net over the vessel's rusty stern. As the men worked furiously on the illuminated deck, the ship soon began hoisting in thousands of pounds of a lithe, slender fish called southern blue whiting, which writhed and flapped across the deck. With each haul, the silvery mound of fish grew.

A type of cod, blue whiting was sometimes ground up into fish sticks or imitation lobster. More often it was pelletised and sold as protein-rich food for farmed carnivorous fish such as salmon. At about 9¢ per pound, blue whiting was a low-price catch, which meant the Oyang 70 had to catch a lot to make a profit. As the crew pulled in the net, tonne after tonne of the fish slid to the deck - 39,000kg in all, a decent haul.

The battered, 74 metre ship was long past its prime. The average age for distant-water fishing boats in the South Korean fleet was 29, and the Oyang 70 was 38 years old. Port captains called it "tender" - a euphemism for unstable. A month before it set sail, a New Zealand inspector ranked the ship as "high risk", citing more than a dozen safety violations, including the fact that one of the ship's main doors below deck was not watertight. The inspector later cleared the ship to sail after its operator claimed that all problems had been fixed.

One of the Oyang's unsolved problems was the man at the helm. Shin had replaced the previous captain, who fell overboard in a drunken stupor and drowned. When the ship cast its first net that day, Shin had been at the helm for nine months. Former crew members referred to him as an "angry man" - sullen, prone to screaming and almost always carrying around a bottle of clear liquid. Deckhands debated whether it was water or grain alcohol. None was reckless enough to ask.

Shin drove his men hard. As the first net was pulled that night, they sorted the squirming, oily mound on the aft deck, quickly heaving the fish down a chute to the ship's interior to make space for the next haul.

One floor down, in the ship's factory, more than a dozen men stood cramped before the "slime line", a conveyor belt, wielding knives and operating circular saws. Their job was to remove heads, guts and bycatch, while the valuable part of the fish continued down the line for packing and freezing. The men needed roughly half a day to fully process the first catch. But before they made it through the load, Shin ordered the men on deck to put the net back in the water. Work continued almost nonstop over the next 24 hours.

At about 3am on 18 August, the ship's first mate frantically roused Shin from his sleep. The net was too full, the first mate told him. It was pulling the boat under. Water in the engine room was already several feet deep. The crew on deck was begging to cut the net.

The captain jumped from his bunk and raced to the bridge. But instead of ordering the net cut, he demanded that the bosun, the man in charge of the deckhands, command them to keep hoisting. That order would be Shin's last.

For the Sajo Oyang Corporation, which operated the vessel, the poor treatment of workers and the dismal condition of its ship was nothing unusual. Time and again, Sajo Oyang abused its crew members, often treating them with the same disregard as the bycatch in its nets - as a distraction and annoyance. Sometimes, that disregard cost men their lives. The infamy of the Sajo Oyang fleet was well known in maritime circles.

The vastness of the seas made it difficult to chase down bad actors - finding the criminals in the first place was often impossible. What stood out about the story of the Oyang ships was that safety risks and violations, and the persistent mistreatment of workers, were hiding in plain sight. But at every turn, inspectors and regulators largely shrugged off their responsibilities, often with a crass disdain for the lives at stake.

Aside from the eight Korean officers, the crew of the Oyang 70 consisted of 36 Indonesians, six Filipinos and one Chinese. The officers derided the Muslims on board as "dogs" or "monkeys". The drinking water was often brown and tasted of metal, workers would later tell investigators and lawyers. After a certain point, the only food on board for the crew was rice and the fish they caught. Men were docked pay if they ate too slowly. The crew described the ship as "a floating freezer"; the heater on board barely worked. The shared toilet lacked running water. There were so many cockroaches that a crew member later said he could smell them cooking as they fell on to the hot engine block.

The Oyang 70 was known as a stern trawler, towing a long, cylindrical net from behind. The ship's most intense work happened in the dark, because blue whiting is a schooling fish that lives near the seabed, and is more easily caught at night, when it feeds on plankton, small shrimp and krill closer to the surface.

As the crew struggled with the net on 18 August, everyone on board knew it was more fish than the boat could handle. No one knew by how much, though, because there were no batteries in the net's weight sensors. The cost of replacing the ship's trawl net was more than \$150,000. The price of losing a net full of fish would be the captain's job.

As the net was winched up the stern ramp in the early morning darkness, it looked like a monstrous whale. At the chute, the net mouth opened and the whale regurgitated a flood of fish, so much that the hold soon clogged. The closed end, or "cod" end, of the net stretched down into the sea behind them. Trailing the ship, this mesh cylinder stretched nearly 30 metres. At the far end underwater, the net bulged to cover an area the size of six tennis courts. More than five tonnes of fish were on the ship's slipway, while around another 100 tonnes remained underwater - easily worth more than \$20,000.

Other captains would later testify that this catch was more than double the size of a "bag" that they would have been willing to pull on to a ship of its size. Behind the ship, the bloated net began dragging the Oyang 70's rudder deep underwater, jutting its bow awkwardly toward the inky sky.



The Oyang 70 trawler. Photograph: Bodley Head

Most captains would have immediately identified how dangerous the situation had become. It takes a rare, almost instinctual calm and spatial acuity to steady a ship of this size while reading the tides, countering gusts and directing a dozen men scrambling on deck. This is especially true when hoisting a large, heavy net, which has to be carefully centered behind the ship.

Shin lacked this instinct. He was not calm, nor was his ship stable in the best of circumstances, and certainly not when his net suddenly slipped to the port side, abruptly tipping the Oyang 70 to a 15-degree list. In the factory below deck, the men on the slime line continued working, even as the ship tilted and as the water rose to their knees. In a desperate attempt to right the ship, Shin ordered some of the men to move any heavy equipment they could budge to starboard and tether it there.

heads into the ocean. At the same time, dead fish and debris clogged the ship's scuppers, trapping on board the water that should have drained off. The door to the engine room below, which also should have been sealed, was open. So, too, was the fish hold.

Everything began flowing in the wrong direction. Water bubbled up through floor drains and sprayed in through portholes, and walls became waterfalls. The ability of a boat to flush its decks is as essential as humans' ability to breathe. Water always needs to be leaving the vessel faster than it is entering. When it's not, problems multiply quickly. The crew had stacked flattened cardboard boxes over the generator in a futile effort to protect it from the water coming in from above. Soon, the drainage pumps shut off. Even before the Oyang 70 began taking on water, the ship was off-kilter because the captain had ordered most of the boxed fish to be stacked in one hold, rather than spread across two. The ship's fuel tanks had not been filled to maximum, adding to the Oyang's instability because of internal sloshing.

At about 4am, a heated argument erupted on the bridge. The chief engineer was in tears and screaming in Korean at the captain, pleading with him to cut the net. The captain finally gave in. The bosun put on a harness and shimmied on to a section of the mesh, knife in hand. Other crewmen followed, all slashing frantically at the net. Too little, too late - the ship continued to roll over.

What had been obvious before was now unavoidable: the Oyang 70 was going down. Chaos overtook the ship. On the bridge, Shin made a distress call on the VHF radio. Men began leaping into the sea. Only the Korean officers wore life jackets. The Oyang's rescue boat was in the water. But it, too, had been overturned by the waves.

The water temperature before dawn that morning was about 6C. The ship had 68 survival suits, designed to insulate against the cold - more than enough for the 51 men on board. None of the crew put one on. It is unclear if any of them knew how.

Greed, not water, sank the Oyang 70. The ship had tried to swallow too much fish; the ocean swallowed the ship instead. The last men off the drowning ship said that they saw Shin in the wheelhouse, refusing to abandon his post or put on a life jacket. Hugging a pole and clutching his clear bottle, he was muttering in Korean and crying. The Amalal Atlantis, a New Zealand-flagged fishing boat, heard the VHF call and headed to the scene, arriving an hour later. Much later and the 45 men it rescued would likely have frozen or drowned.

Several of the survivors suffered acute hypothermia. Rescuers never recovered the captain's body. Among the five other crew members who died, three were found frozen, floating in a lifeboat. On land, a preventable disaster like this might have spelled the end of a company. Not so on the open ocean.

In the world of deep-sea fishing, the Sajo Group is a leviathan. Founded in 1971, the group oversees a huge fleet of more than 70 fishing ships. The company's slogan is "Nature is delicious". By 2010, the group had made more than \$1bn in annual revenue, millions of dollars of which came from fish pulled from New Zealand waters.

The Sajo Oyang's corporate presence in New Zealand was structured like Russian dolls: larger companies enveloping subsidiaries, and subsidiaries of subsidiaries. The men who worked on the boats were recruited and contracted not by the Sajo Oyang company directly, but by agencies based in Indonesia, Myanmar, South Korea and elsewhere. By outsourcing the recruitment, logistics and payroll of foreign crews, the company centralised profits and decentralised liability.

The sinking of the Oyang 70 made headline news in New Zealand. To handle damage control, the company tapped a pugnacious lobbyist and spokesman named Glenn Inwood, who was famous for representing several other controversial industries, such as whaling and tobacco.

About eight months after the Oyang 70 sank, its replacement, the Oyang 75, arrived at Lyttelton Port in New Zealand. Shortly before it departed again for the fishing grounds, Inwood gave reporters a tour of the new vessel, which he hailed as a model of the highest labour and fishing standards. But even Sajo Oyang's deft fixer couldn't control the publicity surrounding what happened next. Early on the cold morning of 20 June 2011, a parishioner went to her church in Lyttelton, where she discovered 32 Indonesian men hiding in the nave. Shivering and distraught, the Indonesian men had fled the "model" Oyang 75 while the ship was being unloaded.



Crew members of the Oyang 70 rescued after it sank. Photograph: Bodley Head

Waking up at about 4am, the Indonesians had snuck off the ship while the captain was still asleep. Because they were Muslim, the men had wandered the streets looking for a mosque; finding none, they took refuge in the church instead.

One by one, the men described to church officials and later to government investigators their captivity on a ship of horrors. A chief engineer broke a deckhand's nose for inadvertently bumping into him. Another officer punched a crew member in the head so often that he lost part of his vision. Insubordinate crew were sometimes locked in the refrigerator. Others were forced to eat rotten fish bait. On good days, shifts lasted 20 hours. Sometimes they worked for 48 hours straight. "I often thought about asking for help," Andi Sukendar, one of the Indonesian deckhands, said in court papers. "But I didn't know who to ask."

they bathed so that he could chase them as they ran naked back to their bunks. In the galley, he approached the men from behind and jabbed them with his exposed erection. When they passed him in the halls, he grabbed their genitals. Other Korean officers made advances, the crewmen said, but none were as aggressive as the bosun. He assaulted deckhands while they showered. He climbed into their bunks at night when they were sleeping.

"The bosun tried to teach me how to have sex with him but I refused," one crew member recounted. Others were not able to stave him off.

I wish I could say I was surprised by these reports. But what I read was sickeningly familiar. The expanse of the sea and the dictatorial power of officers over crews allow abusive behaviour that is often only uncovered when a ship sinks.

As police interviewed the Oyang 75's crew in Lyttelton, the ship's owner refused to pay for their accommodation or food, claiming that they no longer worked for him. The bosun was fired and quickly sent back to Korea, avoiding prosecution in New Zealand. The people in Indonesia who had recruited the men to the ships repeatedly called the crew members' families, pressuring them to be quiet and not talk to reporters or lawyers.

Over the next year, a New Zealand journalist, Michael Field, and two University of Auckland researchers, Christina Stringer and Glenn Simmons, investigated further. Interviewing dozens of crewmen from several Sajo Oyang company vessels and hundreds of men from other foreign ships fishing in New Zealand waters, they revealed a broad pattern of abuse.

Beyond the abhorrent working conditions on its ships, the Oyang fleet was putting entire ecosystems at risk with its fishing practices. One ship was impounded in Russia for illegal fishing and later fined in New Zealand for discharging thousands of gallons of used engine oil into the sea. Two other Sajo Oyang ships had been caught in New Zealand's waters dumping hundreds of thousands of dollars' worth of fish overboard, a practice known as high-grading, used to circumvent catch quotas and make room for fresher or more valuable fish.

Meanwhile, workers on Sajo Oyang ships described meals speckled with dead bugs and mattresses riddled with biting mites, men hiding in closets from violent officers, and rapes that occurred in nearby bunks that they felt powerless to stop. Crewmen recounted being issued torn hand-me-downs and ill-fitting boots, tattered jackets and gloves. Captains kept the sailors' passports and certification papers to ensure they could not leave.

On one of the company's other ships in New Zealand's waters, a deckhand accidentally crushed his finger under a heavy roll of rope. When it was later amputated, he was sent immediately back to work below deck, causing his wound to reopen. He woke up at night to find cockroaches crawling on it, drawn by the dried blood. An engineer told investigators that the crew was only allowed to wash garments with seawater in bags used for fish processing, leaving him little choice but to wear rancid-smelling work clothes every day. Another man who worked in the ship's storage area described food flecked with bugs; he ate it anyway, because he was so hungry.



Fishing trawlers in Busan, South Korea. Photograph: DPA/Alamy

The story of the Oyang fleet was also a story about entrapment. Why did men take these jobs? Once they saw how bad the conditions were, why didn't they flee immediately?

Most of the crew members on the Sajo Oyang ships were from Tegal in central Java, Indonesia, and had been recruited by through an intricate system of debt bondage. They had signed contracts in English, a language they did not speak. Typically, their salary was about US\$235 per month - a fraction of the minimum wage required under law, at least while they worked in New Zealand's waters.

From this wage, labour agents deducted expenses such as "currency variations", "transfer fees" and medical checkups, which, in some instances, amounted to 30% of their earnings. To get the jobs, the men often had paid more than \$175 in fees - more than a month's salary for some. And, as collateral, they often handed over their most prized possessions to ensure the completion of their two-year contracts: home deeds, car registrations and, in one case, the land grant certificate for a community mosque.

Breaching the contracts would bring economic ruin to their families. One deckhand on another vessel, the Oyang 77, put up his elementary and junior high school graduation certificates. In his small village, such records are irreplaceable. If he failed to get the papers back, he would be unemployable. The documents were "the only things of value he had", one affidavit said.

News of the scams and abuse in this work rarely made it back to the small villages where new crew members were recruited, because those who had been tricked were too ashamed to talk about it or to warn others. Even those who knew the risks were willing to try their luck, because they were desperate for work.

As the conditions on these ships came to light in New Zealand, the public was horrified and lawmakers began cracking down. The fishing industry went on the offensive. Inwood, the industry's all-purpose fixer, led the charge, arguing that working long hours was a standard practice on all fishing ships. The failure to pay wages was the fault not of the Sajo Oyang company but of manning agents in Indonesia who were responsible for handling such matters. Koreans tend to be more physical and vocal than Indonesians, he argued. Some of the abuse allegations on the ships were supposedly misunderstandings stemming from these cultural differences.

"During its entire period of operating in New Zealand, Sajo Oyang, its officers, crew and representatives have never been the subject of a prosecution," Inwood wrote in a letter to the editor of a New Zealand newspaper in July 2012. "That is a rare accomplishment in an industry as highly regulated as the New Zealand fishing industry."

Other fishing companies argued that the problems in the Sajo Oyang fleet were isolated and should not be used to justify new regulations. Meanwhile, the Sajo Oyang company worked to protect its brand.

While reporting in Auckland in the spring of 2017, I met with Christina Stringer, one of the two University of Auckland researchers who had brought to light many of the abuses in New Zealand's waters. She recounted how, at one point during her investigation into foreign fishing fleets, she and her research partner, Glenn Simmons, were dining at a local Chinese restaurant with several Indonesian crew members from one of the Oyang ships. The men were living in safe houses at the time and, having no income, were dependent on the kindness of strangers to eat. The former boss of the crew happened to be dining at the same restaurant, and after he took pictures of the crew with his cell phone and made some calls, a group of men appeared outside the restaurant, glaring at the crew as they waited for them to leave. Simmons hustled the crew to a car out the back and managed to lose the group, though not without a chase.

The company had good reason to fight the bad publicity. The New Zealand government had begun issuing fines: NZ\$420,000 for the Oyang 75's dumping of low-value catches to replace them with more valuable fish, NZ\$10,500 for illegally dumping oil at sea, and NZ\$120,000 for when the Oyang 77 tossed more than 50 tonnes of fish overboard.

Pressure was also mounting from abroad. The US State Department released its annual Trafficking in Persons Report in June 2012, which explicitly faulted New Zealand for poor treatment of foreign fishing workers. In response, New Zealand took a drastic step. In August 2014, the parliament passed a law expelling all foreign fishing vessels from its national waters. Fishing companies had two years to comply, and were given the option of "reflagging" to New Zealand and operating under its full legal jurisdiction.

The law was meant to better protect the roughly 1,500 foreign nationals working on foreign-chartered vessels in its waters by forcing these ships to comply with New Zealand's labour standards. It was a bold move, because it would cost New Zealand hundreds of millions of dollars in foreign investment as fishing companies moved elsewhere rather than shoulder the added burden and cost of the new regulations. To fish in New Zealand's waters, all crew had to be provided with access to personalised bank accounts in which to deposit wages, observers would be required on virtually all foreign-owned fishing vessels, and there would be independent audits of wages.

The existence of forced labour on fishing ships was not a revelation. Stories of sea slavery had been reported for more than a decade on boats from Thailand, Taiwan and elsewhere. But no country had ever acted as aggressively as New Zealand did in response.

Still, seafarer unions and lawyers for the fishing boat workers questioned whether the government had gone far enough. They argued that the effect of New Zealand's law would be to push bad behaviour elsewhere as the worst scofflaws simply opted to leave New Zealand's waters and set up shop in jurisdictions that exert even less control over foreign fishing fleets. The Oyang 75 subsequently travelled to east Africa, near Mauritius, while the Oyang 77 sailed to an area near the Falkland Islands.

The horrors that repeatedly befell the hapless crews of Sajo Oyang ships were infuriating and tragic. More importantly, though, they illustrated the chaotic, desultory nature of maritime regulation. Forcing companies to follow labour laws, to observe fishing regulations and to abide by national boundaries requires robust enforcement regimens, constant vigilance and a dogged dedication to a higher legal - if not moral - code. But usually, it requires something else, too, an ingredient that is often missing: participation and cooperation of the men on the receiving end of abuse.

Before one of the investigators left the Oyang 75, one of the workers on board, a 28-year-old Indonesian man named Purwanto, pulled him aside. Purwanto seemed genuinely puzzled why anyone would take an interest in the conditions of his work, whether he was satisfied and paid. "No one has ever asked about us before," said Purwanto, who had been working on the ship for a year. "Why do you want to know about life on the ship?" he asked. The investigator and the union inspector responded that they were simply checking for labour violations. Purwanto said that even if there were violations, it didn't matter - he needed the job, so he would not say anything more. There was nothing else for him back in Indonesia, he said. "This is the best we can get."

This is an edited extract from The Outlaw Ocean: Crime and Survival in the Last Untamed Frontier by Ian Urbina, published by The Bodley Head on 19 September and available at guardianbookshop.co.uk

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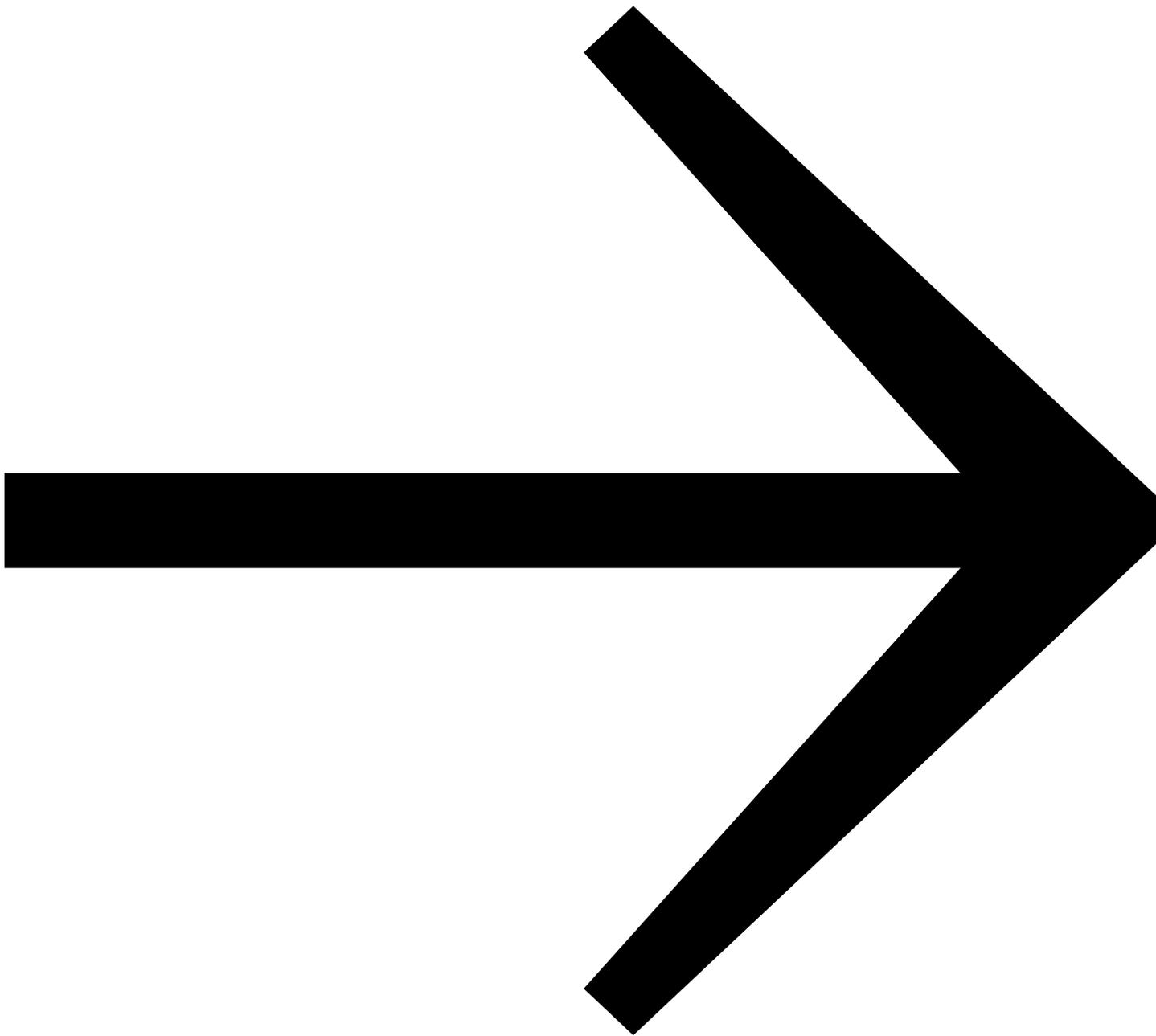
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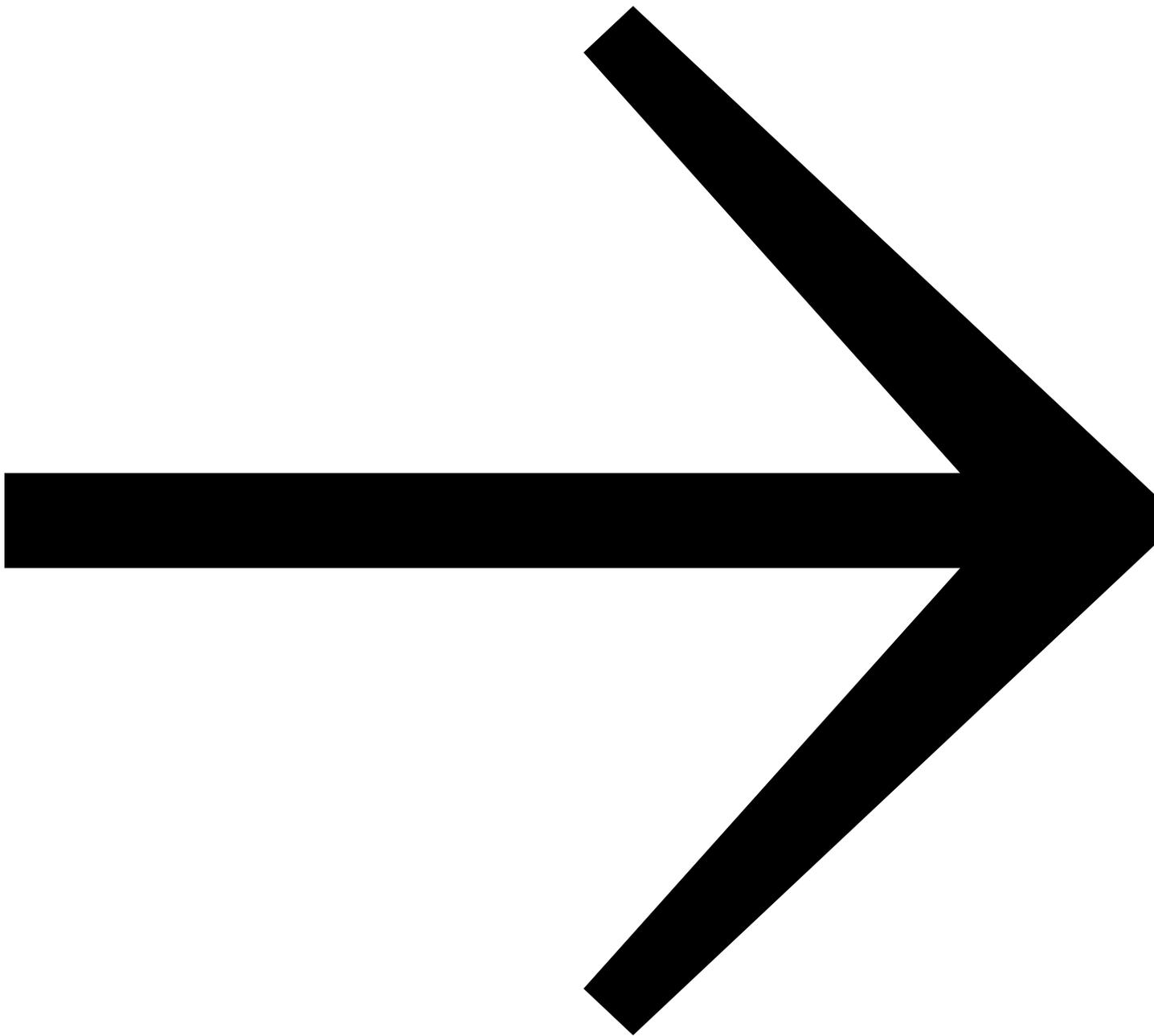
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APPENDIX 10



REPORT ON HUMAN TRAFFICKING, FORCED LABOUR AND FISHERIES CRIME IN THE INDONESIAN FISHING INDUSTRY



REPORT ON HUMAN TRAFFICKING, FORCED LABOUR AND FISHERIES CRIME IN THE INDONESIAN FISHING INDUSTRY



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Special thanks go to Mr. Steve Hamilton, Deputy Chief of Mission IOM Indonesia, who was instrumental in the rescue of the victims of trafficking in Benjina and Ambon and was insistent that the research reach a wide audience to prevent future exploitation of fishers both in Indonesia and internationally.

FOREWORD



***Susi Pudjiastuti,
Minister of Marine Affairs and Fisheries
of the Republic of Indonesia***



Let us give praise to the Allah SWT who has graced us with His blessing and guidance so that the Joint Research regarding Human Trafficking and Forced Labour in the Indonesian Fishing Industry and Fisheries Crime can be completed. The writing of the report which constitute a cooperation between the Task Force to Combat Illegal Fishing (Task Force 115), the Ministry of Marine Affairs and Fisheries (KKP) and the International Organization for Migration (IOM Indonesia) should be appreciated, considering this report is the first and only comprehensive and critical report which depict the human trafficking and forced labour in the fishing industry situation in Indonesia.

Under the leadership of the Jokowi Administration, KKP established three main pillars to function as the mission of the Ministry of Marine Affairs and Fisheries (KKP), namely sovereignty, sustainability and prosperity. Those 3 (three) main pillars are then translated into several policies, beginning with the moratorium policy as well as the analysis and evaluation of fishing vessels that were built overseas. Through this policy, based on a report by the Associated Press, the Task Force for the Prevention and Eradication of Illegal Fishing uncovered slavery practices in Benjina. The finding was then followed by the Ambon case, a discovery of slavery within the fishing industry, which according to the case, was the biggest involving slavery in the 21st century.

Legal and non-legal remedies have been made, in order to impose upon the perpetrators the appropriate punishment as well as assure that the victims receive remedial rights, restitution and repatriation to their home countries. In March 2016, 8 (eight) defendants were found guilty by the Tual District Court and, with the assistance of IOM Indonesia, 1500 victims have returned to their home countries.

Aside from the human trafficking case within the domestic fishing industry, human trafficking is also perpetrated in foreign fishing boats which involve Indonesian crews. Through Task Force 115, Indonesia have uncovered and conducted legal process towards human trafficking cases which involve international illegal fishing boats such as FV. Viking, FV. Jiin Horng No. 106 and FV. Hua Li 8. Finally, on July 2016, Task Force 115 apprehended human trafficking perpetrators onboard a Chinese fishing boat operating in Iran. These efforts constituted an initial step in terms of KKP's seriousness in protecting Indonesian crews overseas.

Human trafficking is a modern form of slavery and one of the worst forms of treatment in regards to the violation towards the dignity of man. Unfortunately, the human trafficking issue in fisheries has yet to be comprehensively identified with a lack of adequate legal instruments, which makes workers on fishing boats susceptible to acts of slavery. For that reason, Greenpeace categorized the work on fishing boats to be identical to '3D' (dirty, dangerous and demeaning).

As an initial step of my concern towards this issue, I have stipulated the Minister of Marine Affairs and Fisheries Regulation Number 35 year 2015 on the Fisheries Human Rights System and Certification. This regulation has become the prerequisite of fishing business permit as well as fish capture permit and obligates fishery businessmen to comply to human rights protection standards. That being said, Indonesia still has homework towards the approximately 250.000 Indonesian crews on foreign vessels operating across continents that remain unprotected.

In the future, through this report, by engaging the ministry and other agencies,

there needs to be a discussion on how to resolve the human trafficking issue which involves Indonesian crews on foreign vessels. I hope the Joint Research on Human Trafficking and Forced Labour in the Indonesian Fishing Industry and Fisheries Crime can become a reference for cross-sectoral stakeholders, in developing systems and regulations, in order to prevent and eradicate human trafficking in the fishing industry

Jakarta, August 2016
Minister of Marine Affairs and Fisheries



Susi Pudjiastuti

FOREWORD



***Professor Mike Hardy
Executive Director
Centre for Trust, Peace and Social Relations,
Coventry University***



Maritime spaces create both opportunities and challenges for coastal communities and for wider society worldwide. The research described in this Report underlines the real and measurable problem of ungoverned maritime spaces and the transnational organised criminal networks that thrive under the cover of apparently legitimate fishing and other businesses. This study highlights how shortcomings in maritime security policy in this part of the world are creating major negative impact on communities and especially on vulnerable individuals, placing both at risk of active organised crime.

Maritime security is a multidimensional and multifaceted contemporary challenge for the economy, for food, energy and political security. Illegal, unreported and unregulated fishing, provides a powerful example of the nexus between maritime and human security, encapsulating all the dimensions and risks. This nexus represents the conceptual approach that this report aims to highlight. It remains a 21st Century tragedy that human smuggling, trafficking and forced labour should continue to flourish.

Coventry University's Centre for Trust, Peace and Social Relations (CTPSR) has worked closely with the International Organisation for Migration (IOM) Indonesia and the Ministry for Marine Affairs and Fisheries (KKP) throughout the several last years, committed to raise awareness, build capacities in Indonesia, contribute to the improvement of a common understanding of maritime security through the human security lens and disseminate research findings which will support these joint efforts. I am confident that this particular report will make a significant contribution towards putting this issue firmly on the international agenda.

By reaching a multi-stakeholder audience that embraces policy makers, practitioners, academics, NGOs and civil society, we seek to establish a community of maritime security practice, improve governance and inter-agency collaboration and enhance maritime security in the biggest archipelagic country of the world. We are very pleased to be aligned with President Joko "Jokowi" Widodo's vision for Indonesia as a global maritime axis.

Our overarching responsibility, however, remains to vulnerable people and their communities and to support the elimination of human suffering and exploitation of vulnerable individuals by the illicit activities of transnational organised crime.



Professor Mike Hardy
Executive Director
Centre for Trust, Peace & Social Relations
Coventry University

FOREWORD



Mark Getchell
Chief Of Mission IOM Indonesia

In 2015, IOM Indonesia worked closely with the Ministry of Marine Affairs and Fisheries, the Indonesian National Police, the Directorate General of Immigration and other Indonesian Government agencies in the mass rescue, support and repatriation of foreign fishers in Benjina and Ambon. The scale of the exploitation and abuse made it one of the largest cases of human trafficking for labour exploitation to ever be uncovered.

Following the rescue, IOM Indonesia conducted interviews with the fishers and collected firsthand accounts of deceptive recruitment, abuse, non-payment of wages and even murder. The heartrending stories of these fishers could not be left untold. As a result, IOM Indonesia embarked on a collaboration with the Ministry of Marine Affairs and Fisheries, the Presidential Task Force on the Prevention and Eradication of Illegal, Unreported and Unregulated Fishing (IUU Fishing) and Coventry University in the research and drafting of this important report. This report documents exploitation on a massive scale in an industry where abuses continue to take place globally.

The unique collaboration between IOM, the Government of Indonesia and Coventry University has enabled the issues of human trafficking, forced labour, fisheries crimes and IUU fishing to be considered from a multi-disciplinary

perspective. This report provides an insight into the fishing industry, the fishers and their exploiters.

As Chief of Mission of IOM Indonesia, I have had many occasions to meet the fishers and to travel to areas where the exploitation took place. I have also had the pleasure of working closely with Minister Susi Pudjiastuti and the Ministry of Marine Affairs and Fisheries in exploring ways to combat trafficking in the fishing industry and promote the human rights of fishers.

It is important that these tragic events not be forgotten and that this report be used by governments to inform their ongoing law enforcement efforts and policy making. The report should also prove useful to the social sector in encouraging the provision of support services to victims of trafficking and to the private sector and consumers in respectively highlighting the criminal activity and exploitation potentially underpinning their profits or the fish on their plate.

The rescue of the fishers in Benjina and Ambon led to governments in the Association of Southeast Asian Nations (ASEAN) focusing on the fishing industry and the exploitation of fishers. Although this focus is in its early days, the signs are encouraging that governments sincerely want to combat both human trafficking and IUU fishing. Much still remains to be done.

It is my hope that this report can serve as a catalyst for governments, non-government organisations, the private sector and consumers alike to take concerted action against human trafficking in the fishing industry. The human trafficking cases documented in Benjina and Ambon, while quite significant, still only represent one small snapshot of the much larger global exploitation and abuse of fishers. It is the scale of this exploitation that demands broad collaboration in order to effectively combat it.

Jakarta, July 2016

Chief Of Mission IOM Indonesia



Mark Getchell

EXECUTIVE SUMMARY

In 2015 the mass rescue of foreign fishers trafficked for labour exploitation on Illegal, Unreported and Unregulated (IUU) fishing vessels in Benjina and Ambon highlighted the lack of adequate policing of the fishing industry and a lack of scrutiny of working conditions on vessels and in fish processing plants.

The case highlighted the expansive nature of this transnational criminal venture. Victims were recruited from numerous countries and forced to work illegally within Indonesia. National laws and regulations were breached and international conventions ignored. Front companies were established and illegally caught fish transshipped in the Indonesian EEZ and boundary areas, thus preventing interception by the Indonesian authorities. Ultimately the catch entered the global supply chain and was handled by legitimate suppliers of fish, unaware of its provenance and the human toll behind the catch.

The situation in Benjina and Ambon is symptomatic of a much broader and insidious trade in people, not only in the Indonesian and Thai fishing industries, but indeed globally.

This research provides a glimpse into a far-reaching and well-entrenched criminal industry operating alongside the legitimate fishing industry, and often overlapping. The situation represents the spread of transnational organized crime at sea and the threat it poses as a maritime security threat to nations, and a human security threat to fishers, seafarers and fishing communities.

Human Trafficking and Forced Labour in Indonesia fishing industry is characterized by:

- systematic and highly organized deceptive recruitment and exploitation of fishers and seafarers from multiple source countries in South East Asia;

- witness testimony of murder and the unlawful disposal of corpses;
- extreme cases of labour exploitation with fishers working in excess of 20 hours per day up to 7 days per week; and
- a lack of awareness at the local level of human trafficking and forced labour and associated criminal activity.

IUU fishing in Indonesia is characterized by:

- overlapping Indonesian government legislation and regulations has created confusion over the responsibilities of key government bodies responsible for the oversight of worker recruitment, conditions, and monitoring of fishing companies, manning agencies, and fishing vessels;
- collaboration of more than 2 people: double-flagged vessels are registered in two different countries. This act of forging the deletion certificate is done by at least the ship-owner, the backers and field actors;
- suspected commission of serious criminal offences: illegal fishers violate numerous laws, from deactivating the transmitter, using prohibited and destructive fishing gear, illegal transshipment, forging vessel documents and the logbook;
- foreign masters working illegally for indefinite periods of time: although there has been a national law prohibiting the use of foreign crews, there are still lots of foreign fishing masters working on board vessels undertaking lengthy voyages. This shows that there is considerable planning to conduct the crime;
- the pursuit of profit and/or power: the very reason for fisheries crime is to gain more profit and financial benefits with the least minimum effort in regards to compliance and exploiting the corruptible tendencies of some high level authorities and politicians;
- operating at an international level: illegal fishers operate in multiple countries, fish in various areas, fly flags of convenience and land their catch directly to another State, and sell the fish in the international market at high cost; and
- using commercial or businesslike structures: most illegal fishing operations are managed using large companies, often established with foreign investment, have valid licences, yet they are violating laws and evading taxes.

RECOMMENDATIONS

- That port authorities record the movements of vessels, particularly foreign affiliated vessels;
- That port officials fisheries investigators be trained in identifying indicators of human trafficking , forced labour and IUU fishing;
- Minimise overlapping regulation / authority between Government agencies;
- That all deaths on board fishing vessels or in port are investigated and an autopsy performed;
- That Flag States take more responsibility for the actions of IUU Fishing vessels flying under their flags;
- Efforts to establish a global vessel record (registry) are supported;
- Support increased inspections and accessibility to fishing vessels and remote fish processing plants;
- Support an increased role for investigators (navy, marine police and fisheries) to conduct inspections of fishing vessels for evidence of trafficking and IUU fishing;
- Conduct human rights due diligence and human rights audits on fishing companies before issuing licences;
- Establish centres for fishers and seafarers at ports (centre for fishers to report abuse, injuries, deaths and seek protection);
- Support multi-agency inspections and investigations at ports;
- Introduce a multi traceability policy to prevent human rights violations and reduce IUU fishing; and
- Increase and consumer awareness of human trafficking in the fishing industry.

LIST OF ACRONYMS

AIS	Automatic Information System
AP	Associated Press
COI	Certificate of Identity
DGI	Directorate General of Immigration
EEZ	Exclusive Economic Zone
FAO	Food and Agriculture Organization
Fisher	A person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel (Work in Fishing Convention)
FOC	Flags of Convenience
GDP	Gross Domestic Product
ILO	International Labour Organization
INP	Indonesian National Police
IOM	International Organization for Migration
ITF	International Transport Workers' Federation
IUU	Illegal, Unreported and Unregulated (Fishing)
KKP	Ministry of Marine Affairs and Fisheries
Lao PDR	Lao People's Democratic Republic
MLC	Maritime Labour Convention
MoSA	Ministry of Social Affairs
NGO	Non-Governmental Organization
PSC	Port State Control
PSMA	Port State Measures Agreement
RFMO	Regional Fisheries Management Organisation
Satgas	Task Force
Seafarer	Any person who is employed or engaged in any capacity on board a seagoing ship (Maritime Labour Convention)
SIKPI	Fish Freight Permit
SIPI	Fishing Permit
SIUP	Fishery Business Permit

LIST OF ACRONYMS

TD	Travel Document
TiP	Trafficking in Persons
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNODC	United Nations Office on Drugs and Crime
UPI	Fish Processing Units
VMS	Vessel Monitoring System
VoT	Victims of Trafficking

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METHODOLOGY AND RESEARCH LIMITATIONS

The report draws from investigations conducted by the Ministry of Marine Affairs and Fisheries (KKP) and Indonesia Presidential Task Force to Combat Illegal Fishing into IUU Fishing and the assessments conducted by the International Organization for Migration (IOM) Indonesia with fishers and seafarers, both foreign nationals and Indonesians, who were identified as victims of trafficking and provided IOM assistance.

The research on human trafficking in the Indonesian fishing industry comes from three specific sources of research:

1. IOM Indonesia screening interviews of 1342 fishers rescued from Benjina and Ambon in 2015;
2. Questionnaires administered to 285 foreign fishers from Benjina and Ambon; and
3. IOM Indonesia interviews with 283 returned Indonesian fishers and seafarers.



Picture 1:
IOM Indonesia
conducting an
interview with a
fisher
(Source: IOM)

INTRODUCTION

During 2015 the Indonesian Ministry of Marine Affairs and Fisheries (KKP) and the International Organization for Migration (IOM) Indonesia responded to an Associated Press (AP) investigative story on trafficking and collaborated in the unprecedented rescue of foreign fishers trafficked for labour exploitation in the Indonesian fishing industry in Benjina and Ambon. The fishermen were recruited from Cambodia, Myanmar, Thailand, and Lao PDR and worked under exploitative conditions in Indonesian waters. The AP story had identified fishers it believed to be victims of trafficking. When the KKP, Indonesian National Police (INP) and IOM arrived at the location, more fishermen appeared from the surrounding areas, all claiming to have been exploited and abused. An estimated 1342 fishers sought assistance. Unfortunately the fishing companies involved in the exploitation of the workers were able to repatriate most of the Cambodian and Thai nationals before they could be interviewed by the police.

The scale of labour trafficking into the fishing industry is believed to be extensive however little empirical data has existed to support this claim. After the rescue operation IOM Indonesia conducted structured questionnaire based interviews with 285 of the trafficked fishermen. These interviews provide the basis for the research and analysis in this report. The report represents one of the largest qualitative assessments conducted on victims of labour trafficking internationally. The interviews also yielded extensive information on the dynamics of Illegal, Unreported and Unregulated (IUU) fishing conducted by foreign vessels in Indonesia. As such they provide invaluable data for agencies combating transnational organized crime at sea.

The case highlighted the expansive nature of this transnational criminal venture. Victims were recruited from numerous countries and forced to work illegally within Indonesia. National laws and regulations were breached and international conventions ignored. Front companies were established and

illegally caught fish transshipped in the Indonesian EEZ, thus preventing interception by the Indonesian authorities. Ultimately the catch entered the global supply chain and was handled by legitimate suppliers of fish, unaware of its provenance and the human toll behind the catch.

Trafficking into the fishing industry is not new yet it has gone largely unpunished for too many years. The situation in Benjina and Ambon is symptomatic of a much broader and insidious trade in people, not only in the Indonesian and Thai fishing industries, but indeed globally.

This research report considers the international ramifications of Benjina and Ambon as a glimpse into a far-reaching and well-entrenched criminal industry operating alongside the legitimate fishing industry, and often overlapping. The situation represents the spread of transnational organized crime at sea and the threat it poses as a maritime security threat to nations, and a human security threat to fishers, seafarers and fishing communities.

Illegal, Unreported and Unregulated (IUU) Fishing and Maritime Security

Illegal, Unreported and Unregulated (IUU) fishing in Indonesia is a maritime security threat and needs to be regarded as such. While IUU fishing itself is not regarded as a transnational crime, it does involve transnational criminal activity such as trafficking in persons. The seriousness of the crimes committed at sea reinforces the need for IUU fishing in Indonesia to be regarded as a serious maritime security threat.

The Secretary General of the United Nations in his 2008 report to the General Assembly, under the title “Oceans and the law of the sea” addressed maritime security.¹ After making clear that there is no universally accepted definition, but that different versions and meanings are attributed to the term depending on the context and the user, he identified seven specific threats to maritime security: Piracy and armed robbery at sea; terrorist acts involving shipping; offshore installations and other maritime interests; illicit trafficking in arms and

¹ UN (2008). Oceans and the law of the Sea. Report of the Secretary General UN General Assembly. A/63/63.

weapons of mass destruction; illicit traffic in narcotic drugs and psychotropic substances; smuggling and trafficking of persons by sea; illegal, unreported and unregulated fishing; and intentional and unlawful damage to the marine environment.²

The UN Secretary General urged states to broaden their approach to maritime security from the state-centric 'narrow conception' to a human-centric approach. He stressed that new evolving threats go beyond the use of force and state boundaries, reflecting the human insecurity conditions ashore; these cannot be addressed through the traditional means such as projections of naval power and use of force by naval assets, therefore a more collective maritime security response is required.³

Maritime security is a contemporary multidimensional security challenge, which entails several threats (such as maritime piracy, human trafficking, smuggling, etc.) that challenge international security. However, their metamorphosis in their contemporary form and in the globalised marine environment, results in the proliferation and increasing involvement of non-state actors in maritime security issues and inevitably in transnational organised crime activities. In this framework, the lack of an internationally accepted definition demonstrates maritime security's multidisciplinary nature but also the broad spectrum of the involved stakeholders.⁴

The existing and adopted maritime security strategies conceptualise and approach maritime security from a distinct lens, based on local/regional distinctiveness, prioritisation of interests and the significance of each threat in their own context.⁵ Although most of the mapped maritime security threats have a place in all the reviewed strategies, their prioritisation is different. Each actor includes more (or less) threats, broadens and deepens the contested concept according to his own risk assessment, involved actors and emerging threats.⁶

² UN. (2008). *Op Cit*, p33.

³ UN. (2008). *Op Cit*.

⁴ Chapsos, I. (2016). Is Maritime Security a Traditional Security Challenge? *Exploring the Security Landscape: Non-Traditional Security Challenges*. A. J. Masys, (ed). Switzerland, Springer International Publishing. p74.

⁵ AU (2014). 2050 Africa's Integrated Maritime (AIM) Strategy, African Union; EU (2014). European Union Maritime Security Strategy, European Union. 11205/14; and UK (2014). The UK National Strategy for Maritime Security London.

⁶ Chapsos, I. (2016). *Op Cit*. p74.

In this framework, IUU fishing remains on the top of the maritime insecurities' list in all the above strategies, and involves complex webs of actions and entities, which have undermined international conservation and management efforts.⁷

Distinguishing and defining the three components of IUU fishing, the term Illegal specifically refers to "fishing which is conducted by national or foreign vessels in waters under the jurisdiction of a state, without the permission of that state, or in contravention of the laws and regulations of that state."⁸ Unreported fishing refers to (intentional and unintentional) fishing activities "which have not been reported, or have been misreported to the relevant national authority, in contravention of national laws and regulations," or similar lack of reporting or misreporting to regional fisheries management organizations.⁹ Finally, Unregulated fishing is another broader term which includes "...fishing conducted by vessels without nationality, or those flying the flag of a country not party to a Regional Fisheries Management Organisation ¹⁰ (RFMO), or more generally fishing in a manner which contravenes the regulations of the RFMO, [...] or in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law".¹¹

IUU fishing is another challenge which highlights the transnational and cross-boundary nature of maritime insecurity, irrespectively of states' sovereign territories, since it has been reported in many different regions and in international waters and zones under littoral states' jurisdiction.¹²

Furthermore, and on several occasions it has established links with organised crime networks and activities; a precondition for the perpetrators is to remain 'under the radar' and use the fishing industry as a legitimate business cover for their illicit activities. This complexity and multidimensionality of maritime security in general and crime in the fishing industry in particular, is highlighted in a comprehensive study where the UN Office on Drugs and Crime (UNODC)

⁷ Committee on Fisheries (2007). *Combatting illegal, unreported and unregulated fishing through monitoring, control and surveillance. Port State measures and other means*, Twenty Seventh Session edn., Translated by FAO. COFI/2007/7.

⁸ Bondaroff, P., et al. (2015). *The Illegal Fishing and Organised Crime Nexus: Illegal Fishing as Transnational Organised Crime*, Global Initiative Against Transnational Organized Crime and The Black Fish. p12.

⁹ *Ibid.*

¹⁰ See European Commission, 'Regional fisheries management organisations (RFMOs)', available online from http://ec.europa.eu/fisheries/cfp/international/rfmo/index_en.htm [accessed March 2016].

¹¹ Bondaroff, P., et al. (2015). *Op Cit.*

¹² Chapsos, I. (2016). *Op Cit.*p67.

examined and reported criminal activities in the fishing industry. It exposed the extent of forced labour and abuse in the fishing industry, where both children and fishermen are trafficked by organised crime networks.

In parallel, these networks are involved with illegal fishing —both in terms of their practices and focus on endangered species—‘laundering’ illegal catches in the international fisheries market, which can be achieved only with fraudulent documents, transshipments and corruption. As if this was not enough, it also reveals that in most of the cases, these organised crime networks exploit the fishing industry operators’ skills and knowledge of the maritime domain and recruit them in order to expand their illicit activities. Hence, fishing vessels are most often used as the legitimate business cover to facilitate smuggling of migrants, and trafficking of drugs and weapons.¹³ In a similar vein, another UNODC report on transnational crime in SE Asia, exposes the extent to which human trafficking, smuggling of migrants, forced labour and sexual exploitation are directly and/or indirectly linked to the fishing industry.¹⁴

The discussed findings lead us to the obvious but required distinction between IUU fishing and fisheries crime. Although the two have a conceptual correlation and interconnection by default, they are distinct by scope and nature: the former mainly entails fisheries management issues such as the extraction of marine living resources and falls with the focus of the Food and Agriculture Organization (FAO). The latter though, as discussed earlier, includes a whole range of criminal offences, such as document fraud, trafficking and smuggling related crimes, money laundering, etc., mainly perpetrated by organised crime networks, hence falls under the mandate of the UNODC.¹⁵ Again, as already discussed in detail with regards to the definition of maritime security, fisheries crime lacks an accepted legal definition. Thus, fisheries crimes can be defined as “...those criminal offences defined as such in domestic law (including, but not limited to, such offences in marine living resources acts) committed within the fisheries sector”, with the ‘fisheries sector’ referring to the entire value chain from vessel registration to sale.¹⁶

¹³ UNODC (2011). *Transnational Organised Crime in the Fishing Industry*. Vienna, United Nations Office on Drugs and Crime.

¹⁴ UNODC (2013). *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment*, United Nations Office on Drugs and Crime. pp6,7,9,16.

¹⁵ Palma Robles, M. (2014). “Fisheries crime: bridging the gap.” Retrieved 17 March, 2016, from <http://cimsec.org/fisheries-crime-bridging-conceptual-gap-practical-response/12338>.

¹⁶ Witbooi, E. (2015). “Towards a new ‘fisheries crime’ paradigm: challenges and opportunities with reference to South Africa as an illustrative African example.” *Marine Policy* 55: pp43-44.

Another enabling factor for this challenge too, is again coastal states'—and even more developing states'—inefficient and insufficient monitoring, control and surveillance of fishing activities, even over vessels flying their flag. This already difficult task of addressing IUU fishing becomes even more complicated due to the practice of numerous fishing vessels registered with countries other than the country of ownership, commonly known as Flags of Convenience (FOCs— or open registries). As the International Transport Workers' Federation¹⁷ (ITF) reports, ship owners are encouraged to register their vessels in FOCs by cheap registration fees, low or no taxes, and freedom to employ cheap labour. Some FOCs have poor safety and training standards and no limitations in terms of the crew's nationalities, which from a security perspective creates a security gap. Thus, more effective flag states' and port states' control, as well as market related measures, could significantly contribute to eliminating the phenomenon.



Picture 2: IUU fishing vessels in Indonesian Waters (Source: KKP)

The Fishing Industry in Indonesia

Indonesia is the largest archipelago country in the world with 17,504 islands which spread out with a coastline of 99,030 kilometres making it the second

¹⁷ See International Transport Workers' Federation (ITF), 'Defining FOCs and the problems they pose', available online from <http://www.itfseafarers.org/defining-focs.cfm/languageID/1> [accessed March 2016].

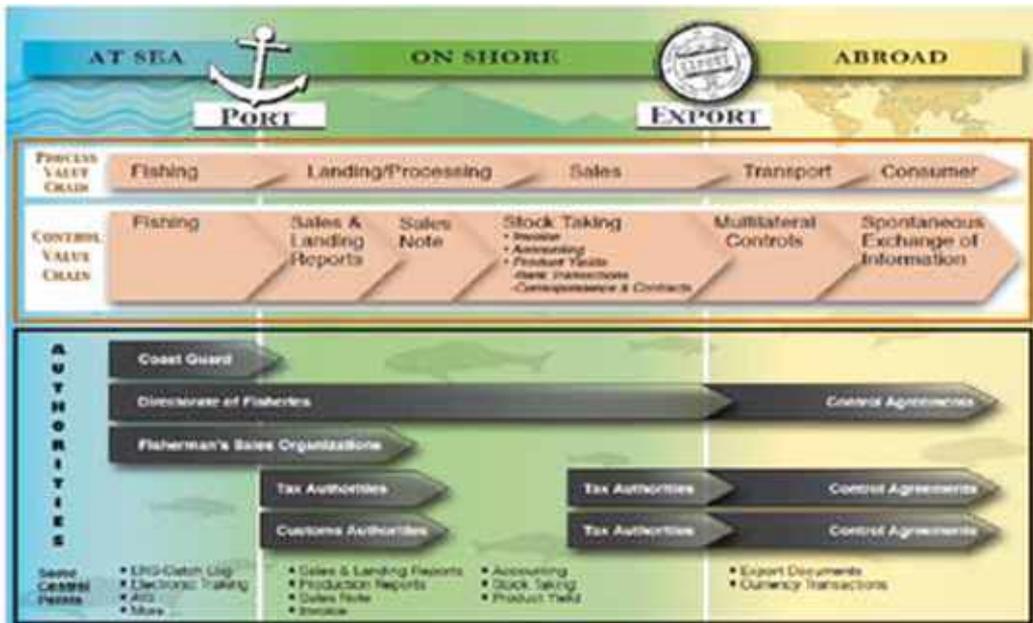
Table 1. Marine capture fisheries: major producer countries

2012 Ranking	Country	Continent	2003	2011	2012	Variation		
						(Percentage)		
			(Toones)					
1	China	Asia	12,212.188	13,536.409	13,869.604	13.6	2.4	
2	Indonesia	Asia	4,275.115	5,332.862	5,420.247	27.0	1.7	
3	United States of America	Americas	4,912.627	5,131.087	5,107.559	4.0	-0.5	
4	Peru	Americas	6,053.120	8,211.716	4,807.923	-20.6	-41.5	
5	Russian Federation	Asia/Europe	3,090.798	4,005.737	4,068.850	31.6	1.6	
6	Japan	Asia	4,626.904	3,741.222	3,611.384	-21.9	-3.5	
7	India	Asia	2,954.796	3,250.099	3,402.405	15.1	4.7	
8	Chile	Americas	3,612.048	3,063.467	2,572.881	-28.8	-16.0	
9	Viet Nam	Asia	1,647.133	2,308.200	2,418.700	46.8	4.8	
10	Myanmar	Asia	1,053.720	2,169.820	2,332.790	121.4	7.5	
11	Norway	Europe	2,548.353	2,281.856	2,149.802	-15.6	-5.8	
12	Philippines	Asia	2,033.325	2,171.327	2,127.046	4.6	-2.0	
13	Republic of Korea	Asia	1,649.061	1,737.870	1,660.165	0.7	-4.5	
14	Thailand	Asia	2,651.223	1,610.418	1,612.073	-39.2	0.1	
15	Malaysia	Asia	1,283.256	1,373.105	1,472.239	14.7	7.2	
16	Mexico	Americas	1,257.699	1,452.970	1,467.790	16.7	1.0	
17	Iceland	Europe	1,986.314	1,138.274	1,449.452	-27.0	27.3	
18	Morocco	Africa	916.988	949.881	1,158.474	26.3	22.0	
Total 16 major countries			58,764.668	63,466.320	60,709.384	3.3	-4.3	
World total			79,674.875	82,609.926	79,705.910	0.0	-3.5	
Share 18 major countries (percentage)			73.8	76.8	76.2			

longest coastline in the world after Canada. The geographical nature of Indonesia means that it has a vast sea area of 5,193,250 km² or 75% of Indonesia's total area. 65% of the total 467 regencies/cities in Indonesia are located in the coastal area. Looking at this geographical context, it can be concluded that the main strength of Indonesia is in the sea.

The vast area of Indonesian sea provides incentives in the form of abundant and promising marine and fisheries resources to be exploited and explored to support national development. Indonesia's marine wealth among others is as the largest *marine mega-biodiversity* in the world with 8,500 fish species, 555 seaweed species and 950 biota species associated with coral reefs. Indonesia has potential development for capture fisheries. FAO data in *The State of World Fisheries and Aquaculture* shows that Indonesia is the second biggest producer of capture fisheries in the world after China with the amount of fish production reaching 5,420,247 tons in 2012 (7.3% of global fish production)¹⁸.

Figure 1. Fisheries Sector Value Chain



(Source: "Evading the Net: Tax Crime in the Fisheries Sector", OECD 2013)

¹⁸ FAO, 2014, *The State of World Fisheries and Aquaculture*, p.10.

Based on the data from the Ministry of Marine Affairs and Fisheries in the Marine and Fisheries Basic Data Analysis 2014 (Analisis Data Pokok Kelautan dan Perikanan 2014), the production of captured fisheries reached 6.20 million tons, the highest in Southeast Asia. This export contributes to the country's income in the form of fisheries exports valued at US\$ 4.64 billion.¹⁹ From the labour point of view, it is estimated that 3.8 million Indonesians are working in the downstream to the upstream of the fisheries industry. The types of fisheries business include activities in the sea (fishing), activities in the fishing ports (landing, processing and selling fish) and exporting fish abroad (transporting and consumption).

Of the 3.8 million workers, a total of 2,641,967 of whom are working as fishers (boat crew/Captain/fishing master) at sea in 550,000 on fishing boats, and the other 913,788 working in other fisheries industries such as Fish Processing Units (Unit Pengolahan Ikan - UPI).²⁰

Indonesian fisheries resources have not been managed well in the past. Consequently, the potential natural wealth of Indonesia's fisheries resources has not benefited the Indonesian people. One of the causes has been the growth of illegal, unreported and unregulated fishing (IUU Fishing). IUU fishing activities have become a crime that is harming the Indonesian economy as well as violating the country's sovereignty. IUU Fishing leads to an estimated US\$20 billion worth of lost revenue²¹ and approximately 65 percent of Indonesia's coral reefs are considered threatened from it.²²

IUU Fishing also disrupts the business of small fishermen as it decreases the stock available to them significantly. Because of IUU Fishing the prospects for Indonesian fishermen has fallen, and fishing as a profession is no longer as viable as it used to be. Data from the Badan Pusat Statistik/Central Bureau Statistics Indonesia (BPS) show that based on Census data for the period 2003-2013, the number of traditional fishermen has decreased from 1.6 million to 864,000 households. According to BPS, 0.9 million people (18%) of 47.3 million poor people work as fishermen. As the second biggest producer of captured fish in the world, Indonesia is in fact excluded from the top ten global fishing exporters due to IUU Fishing activities.

¹⁹ Pusat data dan Indormasi Kementerian Kelautan dan Perikanan, *Analisis Data Pokok Kelautan dan Perikanan 2014*.

²⁰ Greenpeace, 2013, *Laut Indonesia dalam Krisis*, p. 2.

²¹ Sri Mulyani Indrawati, *The Case for Inclusive Green Growth* (2015). source: <http://www.worldbank.org/en/news/speech/2015/06/09/the-case-for-inclusive-green-growth>

²² *Ibid.*

Minister of Marine Affairs and Fisheries Policy in Releasing Moratorium on Fishing Vessels

Since being appointed as the Minister of Marine Affairs and Fisheries in October 2014, Susi Pudjiastuti has introduced a vision of Indonesian maritime and fisheries policy focused on sovereignty, sustainability and prosperity. This vision has been formulated into various strategic policies including the moratorium policy for ex foreign vessels²³ which was introduced from October 2014 until April 2015. The moratorium policy was then extended to October 2015. According to the Minister of Marine Affairs and Fisheries, the moratorium on ex foreign vessels was a temporary halt on the issuing and extending of business licenses for captured fishing in the Republic of Indonesia Fishing Management Area imposed on ex foreign vessels.²⁴

The moratorium policy was only imposed on ex foreign vessels for the following reasons:

1. Ex foreign fishing vessels have the ability to exploit marine resources greatly and could suppress the recovery cycle of the fishery ecosystem. As a country included in the Coral Triangle, Indonesia should preserve its sea ecosystem with their best efforts to ensure food availability for its people and for the rest of the world;
2. Ex foreign fishing vessels have an enormous plundering capacity. This decreases the number of fish available for the traditional fishermen. The country's commitment to provide prosperity through natural resources for its people becomes difficult to realize and social conflict can occur as a result of this reason (the capacity of ex foreign vessels is 100-600 GT); and
3. Low compliance of ex foreign vessel operators with Indonesian legislation.

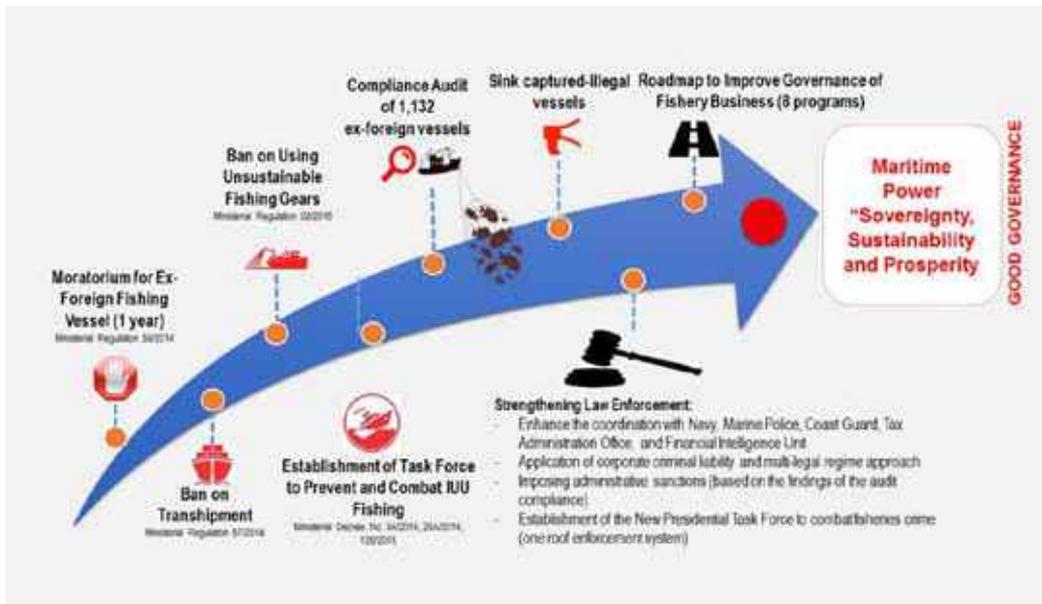
²³ An Ex foreign vessel is a fishing vessel which was built abroad according to Article 1 of Minister of Maritime Affairs and Fisheries Regulation No. 56 Year 2014.

²⁴ Minister of Maritime Affairs and Fisheries Regulation No. 56 Year 2014 on Moratorium of Licenses in Fishing Business Activities in Republic of Indonesia Fishing Management Area Article 1 Subsection (1).

Besides the moratorium policy implementation, the Minister of Marine Affairs and Fisheries also imposed a ban on transshipment in the Ministerial Decree of Ministry of Marine Affairs and Fisheries No. 57/PERMEN-KP/2014 on Captured Fishery Business in the Indonesia Fishery Management Area (Permen KP 57/2014). This prohibition has banned boats offloading their catch at sea to transshipment vessels.

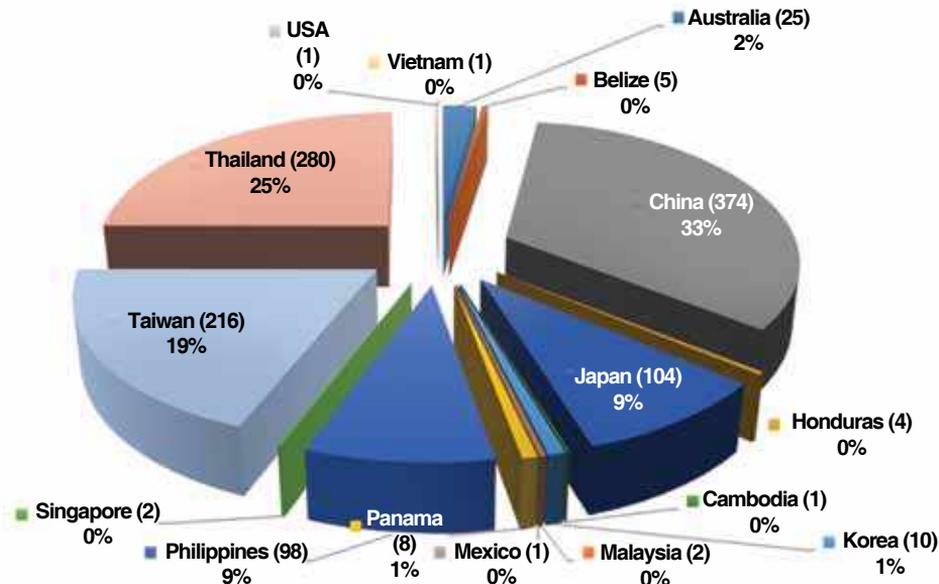
Along with the implementation of the moratorium and transshipment ban, the Ministry of Marine Affairs and Fisheries also issued a ban on the use of unsustainable fish nets that could harm the sea resources ecosystem such as trawls and seine nets. This prohibition was issued under the Ministerial Decree of the Ministry of Marine Affairs and Fisheries No. 2/PERMEN-KP/2015 on Prohibition the Usage of Trawls and Seine Nets in Indonesia Fishery Management Area (Permen KP 2/2015). The combination of the moratorium policy, transshipment ban and ban on unsustainable capturing equipment ban is a policy combination to prevent and to solve Indonesian fisheries resource exploitation. These policies are beginning to achieve the vision of the Indonesian fisheries sector under the leadership of Minister Susi Pudjiastuti, these being sovereignty, sustainability, and prosperity (Figure 2).

Figure 2.



The moratorium policy mandates the implementation of compliance analysis and evaluation of fishing vessels and companies who use vessels built abroad. Based on the licensing data from the Ministry of Marine Affairs and Fisheries on 3 November 2014 when the moratorium started, there were 1,132 ex foreign vessels operated in Indonesia (Graph 1).

Graph 1
Country of origin



An environmental analysis was conducted by representatives of various institutions in the joint Task Force on the Prevention and Eradication of Illegal, Unreported and Unregulated Fishing (IUU Fishing) including the Police, Navy, Directorate General of Sea Transportation Ministry of Transportation, Directorate General of Tax and Directorate General of Customs and Excises.

The team conducted a compliance audit of fishing companies and fishing vessels operating from 2013-2015. The audit covered the following compliance aspects:

1. The legality of the establishment of a limited liability company / corporation
2. Compliance on the ownership of the tax identification number
3. Validity of limited liability company / corporation domicile

4. Obligation of vessel monitoring system/automatic information system (VMS and AIS) activation
5. Compliance in owning /partnering with a fish processing unit
6. Unlawful landing of catches
7. Violation of transshipment at sea
8. Using foreign seamen and captain
9. Using prohibited fishing gear
10. Violation of fishing ground
11. Compliance of tax payment
12. Compliance of tax reporting
13. Vessels and companies indicated conducting fisheries crime and fishery related crime

Based on the results of document analysis and field inspections conducted in 17 regions on 1,132 vessels, all the companies and vessels violated fisheries and fisheries related regulations (100%). The violations divided as the following:

1. Using foreign seamen and captain (67%)
2. Not landing the fish in the fishing port (29%)
3. Trafficking in persons and forced labour (10%)
4. Using illegal fuel (23%)
5. Fishing outside the fishing ground (47%)
6. Deactivating the vessel monitoring system (VMS) (73%)
7. Using prohibited fishing gear (2%)
8. Transporting goods to and from the territory of Indonesia without going through customs authorities (37%)
9. Transshipment at sea (37%)
10. Not owning /partnering with a fish processing unit (24%)
11. Forgery of fishing logbook record (17%)

Other than the violation of fisheries legislation, were fisheries related crime including:

1. corruption;
2. money laundering;
3. tax violation;
4. customs related crime;
5. immigration related crime;
6. illicit drugs trafficking; and
7. human rights violations (human trafficking, forced labour and child labour)

Based on the results the following fisheries crime and fisheries related crime were identified:

Fisheries Specific Criminal Activity

The IOM Indonesia administered questionnaires on IUU fishing further supported many of the findings of the KKP environmental assessment, highlighting the consistent violation of Indonesian fisheries legislation and regulations. Some of these violations included the following:

Using illegal fuel

89% of fishers had witnessed the refuelling of vessels at sea. This was in violation of Indonesian fisheries law which stipulates that the harbour master must oversee refuelling activity.

Transshipment at sea

78% of fishers stated that they had witnessed the transshipment of the catch at sea. Larger vessels from their own company had collected the fish, and in other cases the catch was transferred to cargo ships and other large vessels for export.



Picture 3: Transshipment Vessel (Source KKP)

Transporting goods to and from the territory of Indonesia without going through customs authorities

The transshipment of fish was not the only activity. 55% of fishers had seen the movement of goods between larger vessels and their fishing vessels. This included the transfer of cigarettes, electronic goods, food, beverages, and fishing equipment.

Reflagging Fishing Vessels

The fishing vessels operating from Benjina and Ambon reflagged on a regular basis. 48% of fishers witnessed vessels reflagging at sea. 61% of these noted that the Thai flag was replaced with the Indonesian flag.

Figure 3. Modus Operandi of Fisheries-Related Crime

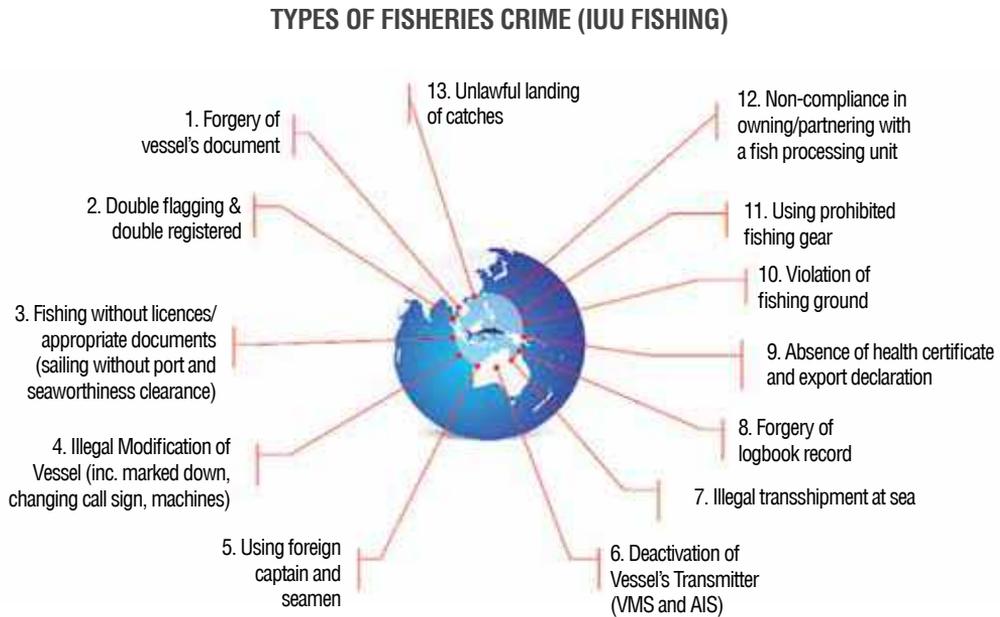
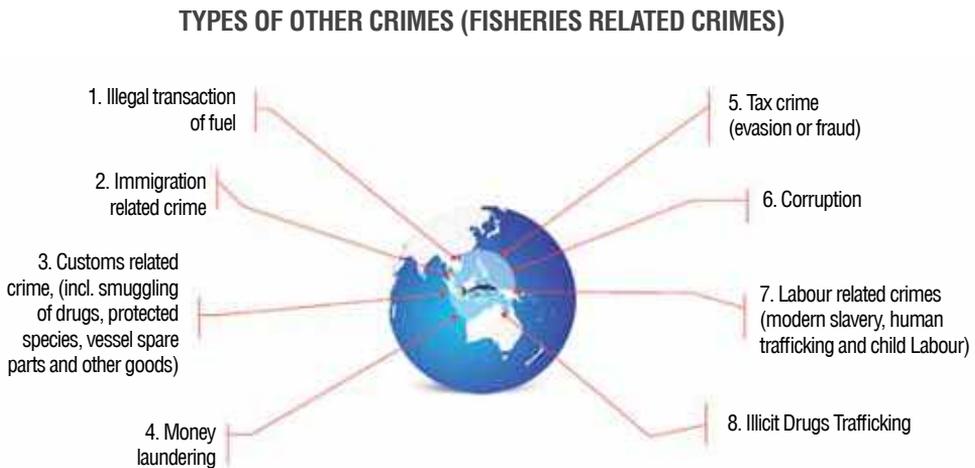


Figure 4. Modus Operandi of Fisheries-Related Crime



The finding of serious human rights violations was unpredicted by the environmental analysis team. Following up on the report from Associated Press on suspected slavery in Benjina, the team conducted a field inspection and comprehensive investigation into the slavery allegations. The team also

found human rights violations in Ambon.²⁵ The findings not only revealed violations of labour rights, but also violations of personal freedom and the right to live (Figure 5 & Figure 6).

Figure 5.

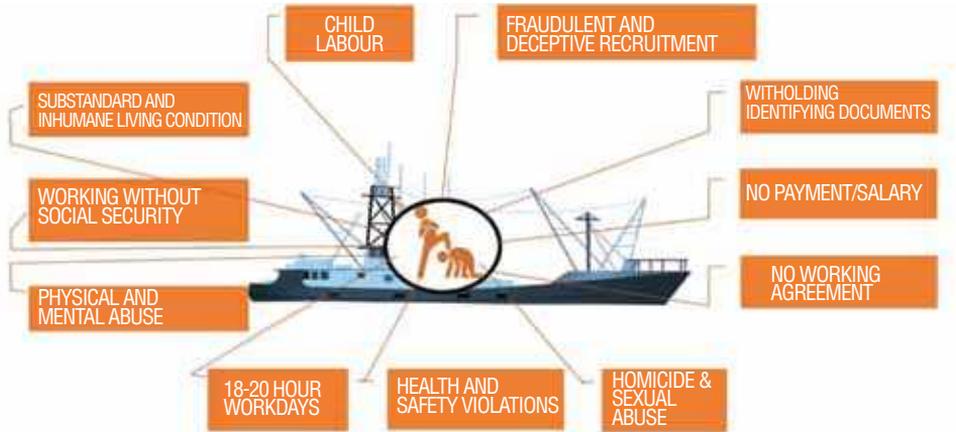
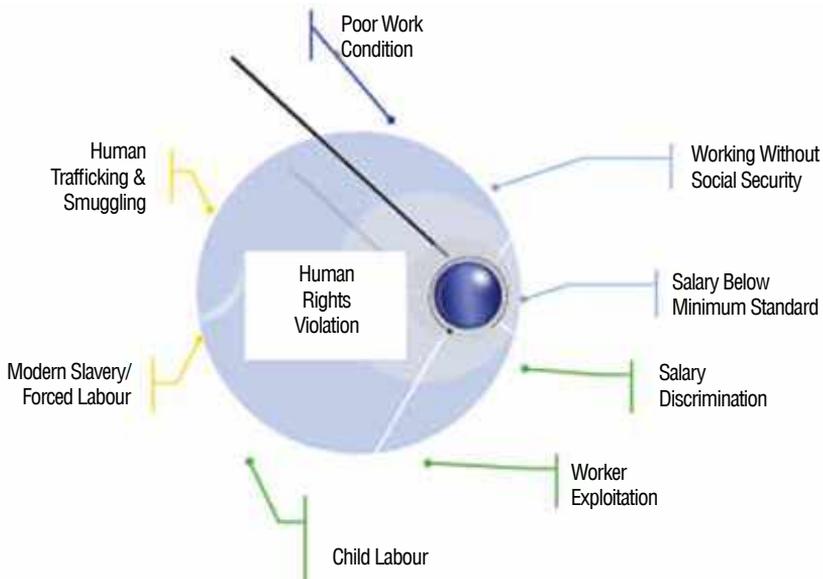


Figure 6.



²⁵ From the findings of the audit at least 168 of the 1132 (14.8%) ex-foreign vessels were involved in trafficking in persons and forced labour. The audit findings also found that 635 of the 658 foreign crew in Benjina and 373 of the 385 crew in Ambon were victims of trafficking. The crews worked for ±18-22 hours per day for 7 days a week with only 2-4 hours of rest time. They also suffered physical and mental abuse during work on the fishing boat.

Based on the environmental analysis, the Ministry of Marine Affairs and Fisheries (KKP) conducted an investigation in Benjina and then Ambon, Maluku. This investigation by the KKP and the Task Force on Prevention and Eradication of IUU Fishing concluded that thousands of migrant workers from Myanmar, Cambodia and Lao PDR in Benjina and Ambon were victims of trafficking.

The results of the investigation encouraged the KKP to evacuate approximately 700 Myanmar seafarers from Benjina to Nusantara Tual Fishing Port gradually between April and May 2015. This action was followed by the evacuation of 400 Myanmar seafarers from various areas in Ambon to temporary shelter at Nusantara Ambon Fishing Port. Based on interviews and verifications conducted by the International Organization for Migration, there were 682 Myanmar seafarer in Benjina, and 391 Myanmar seafarers in Ambon assessed as being victims of trafficking.

The report was presented by Minister Susi Pudjiastuti to President Joko Widodo who afterwards followed up on 7 April 2015 in Istana Negara by ordering the then chief of the Indonesian Police, General Sutarman, to form a special Task Force to combat trafficking in persons in Benjina.²⁶

Based on the investigations by the Task Force of Police, it was confirmed that there were 8 suspects of trafficking in persons (TIP) in Benjina. Five of them were captains from Thailand and the others were company employees²⁷. Police also confirmed that there was one suspect of TIP in Ambon who was a vessel's captain with Thai nationality.²⁸

Enforcement of Criminal, Administrative and Civil Law

In order to enforce the law and legislations related to fisheries, especially related to the policy of Ministry of Marine Affairs and Fisheries under the administration of President Joko Widodo and Minister Susi Pudjiastuti, the

²⁶ <http://www.cnnindonesia.com/nasional/20150407172900-20-44867/usut-kasus-benjina-jokowi-minta-polri-bentuk-satgas-terpadu/> (accessed on 16 Februari 2015).

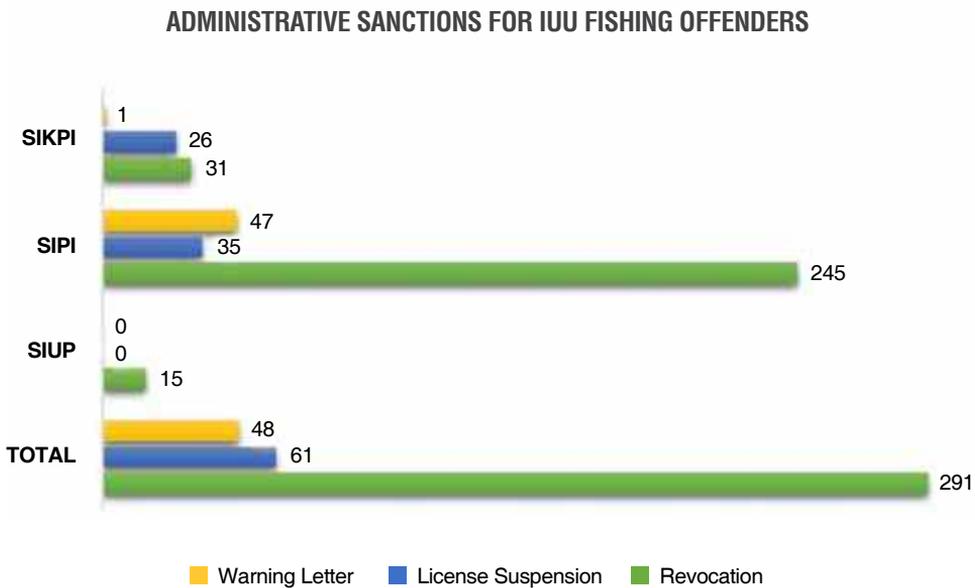
²⁷ <http://www.cnnindonesia.com/nasional/20150513172949-12-53149/polisi-bakal-ada-tersangka-baru-kasus-perbudakan-benjina/> (diakses pada tanggal 16 Februari 2015).

²⁸ <http://news.liputan6.com/read/2287325/45-abk-asal-myanmar-diringkus-jajaran-bareskrim-polri> (accessed on 16 Februari 2015).

Ministry implemented several administrative and criminal law enforcement efforts.

Based on the findings, 100% of the investigated vessels had committed violations of fisheries and fisheries related regulations. In response to the findings, Minister Susi Pudjiastuti ordered administrative sanctions by revoking and freezing their fishing permit (SIPI), fish freight permit (SIKPI) and fishery business permit (SIUP) as well as issuing warnings. From 1,132 vessels, 769 of them conducted severe violations and 363 vessels conducted general violations.

Graph 2



The Ministry of Marine Affairs and Fisheries (KKP) through the Task Force on the Prevention and Eradication of IUU Fishing started to conduct criminal law enforcement by a multi-door approach where the law enforcement was not only based on Fisheries Law but also based on other related laws including Shipping Law, Environment Protection and Management Law, Elimination of Corruption Law, and the Prevention and Eradication of Money Laundering Law.

As a follow up to the implementation of the environmental audit, investigating officers from the Navy, Water Police and PPNS PSDKP conducted criminal law enforcement. Some of these are still under investigation and the others has been decided by the court. These cases include the MV. Hai Fa case and the MV. Silver Sea 2 case. Several companies are still under investigation with the total number of vessels being 324 from 15 companies. Meanwhile, in order to implement the court execution and court orders to illegal fishing vessels, the Joko Widodo administration has destroyed 176 fishing vessels until August 2016.

Table 2. Total Ships Sunk by KKP, Indonesian Navy and the Marine Police Between October 2014 - February 2016

No	Maritime Flag	Total
1	Philippines	43
2	Vietnam	46
3	Thailand	21
4	Malaysia	16
5	Indonesia	18
6	China	1
7	Papua New Guinea	2
8	Belize	1
TOTAL		148

The Relationship Between Market Demand, Overfishing, Illegal Fishing, and Human Trafficking

"...international demand for cheap seafood is perpetuating a brutal trade in vulnerable humans and the collapse of entire marine ecosystems" (EJF, 2014)²⁹.

Fisheries products are the most globally traded commodities. In 2010 there were 57 million tons of fish entering the global market with an export value of

²⁹ Environmental Justice Foundation, 2015, *Pirates and Slaves: How Overfishing in Thailand Fuels Human Trafficking and the Plundering of Our Oceans*. p5.

US\$125 billion³⁰. Market demand for fisheries products has been increasing, especially in the last decade. Unfortunately the increase in market demand is not followed by enough availability of fisheries resources. The captured fishing sector (other than aquaculture) is decreasing. The number of fish in the sea is continuously decreasing, it has even finished in some fishing grounds.

The decrease in fish stock in several fishing grounds has been caused by the mismanagement of the fisheries industry that allows the use of fishing equipment that are not environmentally friendly, the mismanagement of issuing fishing licenses that are not matching the resources capacity, and the number of fishing vessels that have exceeded the quota, and illegal fishing activities. These factors have resulted in huge exploitation that has caused overfishing. The FAO has predicted that 29.9% of the global fish stock has perished and been over-exploited. More than half of the global fish stock (57.4%) has been fully exploited and the fisheries business cannot be developed further. Only 12.7% of fish stock is capable of being developed. However these fishing grounds are generally only full of fish with low selling values³¹.

Overfishing, illegal fishing and the scarcity of fisheries resources has had an effect negatively towards fishermen in terms of work, forced labour and trafficking in persons.³²

The vanishing fish stocks in territorial seas has caused traditional fishermen who could initially fish easily around the coastal area to stop work in the fishing sector. With minimal education and the need to earn a living, they have been forced to work as crew on fishing vessels. The fishing vessels who employ them also have to sail further to fishing grounds with available fish, often at the outermost areas of Indonesian territory and sometimes in the territory of other countries.

This has caused traditional fishermen who have no professional fishing skills to become migrant workers. The wages of employees in the fisheries business with distant fishing grounds can reach 30-50% of the operational fishing cost.³³ In order to keep the product's price competitive, the companies use cheap

³⁰ FAO, 2012, *Guidance on Addressing Child Labour in Fisheries and Aquaculture (Rome and Geneva)*, p. 49.

³¹ FAO, *Ibid*, p. 53.

³² ILO, *Caught at Sea, Loc Lit*, p. 5.

labour without any work accident and safety protection insurance. Research from the FAO and United States Institute for Occupational Safety and Health found that fishermen were at more risk of work safety issues in competitive fisheries rather than in quota-based fisheries.³⁴

To be able to operate freely in other fishing grounds, operators of organized illegal fishing register their fishing vessels with a country that is not capable or not willing to be fulfill its international responsibility of ensuring the compliance of its flagged vessels to national and international laws. This enables these fishing companies to get the maximum profit with minimum risk. The victims are the fishermen who work in the vessels. Fishermen tend to be neglected, receive no protection and are subject to inhumane treatment.

This explains what happened in the Benjina case. The foreign investment company in Benjina was a foreign company based in the British Virgin Islands (BVI) (Being registered in the BVI with ownership in Thailand has been one of the main characteristics of organized transnational illegal fishing operators in Indonesia). Fishing vessels are generally ex Thai and some open register countries such as Panama (operating far from their original countries), and fishermen from Myanmar, Cambodia and Lao PDR (migrant workers).

In order to operate illegally in Indonesia, the Thai vessel's owner bribes local authorities in Indonesia, and changes their flag to the Indonesian flag. This process was described by the Associated Press during their investigation:

*"Illegal Thai boats are falsely registered to fish in Indonesia through graft, sometimes with the help of government authorities. Praporn Ekouru, a Thai former member of Parliament, admitted to the AP that he had bribed Indonesian officials to go into their waters, and complained that the Indonesian government's crackdown is hurting business"*³⁵

"In the past, we sent Thai boats to fish in Indonesian waters by changing their flags," said Praporn, who is also chairman of the Songkhla Fisheries

³³ Agnew & Barends, 2004, *Economic Aspects and Drivers of IUU Fishing: Building Framework*, 180-181.

³⁴ FAO, 2012, *Guidance on Addressing Child Labour in Fisheries and Aquaculture*, *Ibid*, 154-155.

Association in southern Thailand. "We had to pay bribes of millions of baht per year, or about 200,000 baht (\$6,100) per month."³⁶

The fishers and seafarers are treated inhumanely by working years without payment, trapped by debt, no repatriation, placed in remote areas with tight control that makes it impossible to escape, and a working environment where they are vulnerable to accidents. Responding to the human trafficking cases in fisheries in an AP interview, Patima Tungpuchayakul, manager of Labour Rights Promotion Network Foundation, a Thailand NGO working in labour protection stated:

"The employers are probably more worried about the fish than the workers' lives," she said. "They get a lot of money from this type of business."³⁷

Human Trafficking in the Fishing Industry

The fishing industry is a harsh work environment demanding physical endurance and an ability to operate in geographically isolated areas. By its very nature the industry exacts a physical and psychological toll on fishers and seafarers working in it. What then distinguishes this harsh environment from the one experienced by foreign and Indonesian fishers and seafarers in this current study? The key differences are the way in which they have been recruited (deceptively) and the working conditions (exploitative and lacking payment). The fishers and seafarers in this study have been trafficked for the exploitation of their labour on board fishing vessels and in ports and fish processing plants.

In December 2000, the United Nations General Assembly signed and adopted the "Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially

³⁵ <http://bigstory.ap.org/article/98053222a73e4b5dab9fb81a116d5854/ap-investigation-slavery-taints-global-supply-seafood> (accessed on 13 Februari 2016).

³⁶ <http://bigstory.ap.org/article/98053222a73e4b5dab9fb81a116d5854/ap-investigation-slavery-taints-global-supply-seafood> (accessed on 13 Februari 2016).

Women and Children” (or commonly known as the Trafficking Protocol). The Protocol is an important component of the United Nations Convention against Transnational Organized Crime. The Protocol also provides an internationally recognized definition of trafficking in persons and at the same time serves as the first universal legally-binding tool in the fight against human trafficking.³⁸ The Protocol aimed to supply a comprehensive legal framework to facilitate global partnership in investigating and prosecuting trafficking. At the same time, the Protocol was established to provide protection and assistance for the victims of trafficking.

According to the Protocol on Trafficking in Persons trafficking is defined as³⁹:

“... the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal, manipulation or implantation of organs”

The TIP definition is constructed of three different aspects. First, is the action aspect that focuses on the recruitment, movement and concealment of the victim. Second, the means by which the victim ends up in an exploitative situation. Third, the purpose of the exploitation. In Indonesia the crime of trafficking in persons is covered by *Law No. 21 of 2007 on the Eradication of the Criminal Act of Trafficking in Persons*.

International mechanisms exist for the protection of victims of trafficking and for preventing the exploitation of fishers and seafarers. Unfortunately some of these mechanisms are difficult to enforce in the maritime environment, they may be applicable to seafarers but not fishers, or they have not been adopted by countries in the region.

³⁸ Preamble of the Trafficking in Persons Protocol, par. 2, retrieved <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>.

³⁹ *Ibid*, Art. 3

United Nations Convention Against Transnational Organized Crime and the Protocols Thereto

In New York, on the 15 November 2000, the General Assembly approved the Convention against transnational Organized Crime by Resolution 55/25. The Convention entered into force on 29 September 2003. Thus, 41 articles and three protocols structure the Convention:

- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
- Protocol against the Smuggling of Migrant, by Land, Sea, and Air
- Protocol against the Illicit Manufacturing of Trafficking in Firearms, their parts and components and ammunition

Regarding Article 1 of the Convention, its purpose is to “promote cooperation to prevent and combat transnational organized crime more effectively”. With this purpose, the Convention defines the term vessel as: “any type of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water, except a warship, naval auxiliary or other vessel owned or operated by a government and used, for the time being, only on government non-commercial service”.

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

The Trafficking Protocol, also known as the Palermo Protocol was adopted by the United Nations in 2000. It requires a comprehensive international approach for better prevention and efforts to combat trafficking in persons. The Protocol tends towards facilitating global partnership in investigating and prosecuting trafficking. It provides as well, protection and assistance for the victims of trafficking in persons “with full respect for their Human Rights”.

The Protocol provides a definition on trafficking in persons understood as, “*the recruitment, the transportation, transfer, harboring or receipt of persons, by means of threat or use of force or others forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others forms of sexual exploitation,*

forced labour or services, slavery or practices similar to slavery, servitude or the removal, manipulation or implantation of organs”.

Consequently, Indonesia has translated the Protocol in its own legislation in 2007 and defines trafficking in persons as *“the recruitment, transportation, harboring, sending, transfer or receipt of a person by means of threat or use of force, abduction, incarceration, fraud, deception, the abuse of power or a position of vulnerability, debt bondage or the giving or receiving of payments benefits to achieve the consent of a person having control over another person, whether committed within the country or cross-border, for the purpose of exploitation or which causes the exploitation of a person”.*

The TIP definition is constructed of three different aspects. First, is the action aspect that focuses on the recruitment, movement and concealment of the victim. Second, the means by which the victim ends up in an exploitative situation. Third, the purpose of the exploitation. In Indonesia the crime of trafficking in persons is covered by Law No. 21 of 2007 on the Eradication of the Criminal Act of Trafficking in Persons.

International Maritime Law

United Nations Convention on the Law of the Sea (UNCLOS)

The United Nations Convention on the Law of the Sea, also known as the “Constitution of the Oceans”, constitutes a globally recognized regime that deals with every matter linked to the law of the sea. Indeed, more than 400 articles and 9 annexes structure the Convention. It was opened to signature in 1982 but entered into force in 1994.

The flag under which a ship flies determines the competent tribunal, the standards of construction and maintenance of the ship as well the labour conditions on the ship for Fishermen. Despite the regulation for the ship’s owner to fly the flag of its State, many of them use *flags of convenience*. This practice involves the registration of the ship or fishing vessel under another State to reduce operating costs and avoid international, regional or national maritime regulations.

Indonesia signed and ratified it through a national law in 1985.

International Convention and Treaties

Maritime Labour Convention

The International Maritime Labour Convention was established in 2006 and entered in force in 2013. It is also known as the “Seafarer’s Bill of Rights”. The Convention prescribes permanent and specific standards as well as detailed guidance to establish adequate working and living conditions on a ship. It also encourages the ship owners to demonstrate fair competition. Indeed, article 3 stipulates that State Parties must be compatible and respect the fundamental rights of freedom of association and collective bargaining. State Parties also work for the elimination of all forms of forced or compulsory labour, the effective abolition of child labour and the elimination of discrimination in respect of employment and occupation. Moreover, the Convention states in article 4 that ship owners shall provide a safe and secure workplace, fair terms of employment, health protection, medical care, welfare measures, and other forms of social protection.

Indonesia has not ratified this Convention yet. Otherwise, the Convention has still a widespread effect. Indeed, when a vessel flies a flag from a non-signatory State to the Convention and enters a port of a signatory State, it has to observe the rules and regulations of the Convention. If it does not, it may be subject of prosecution, arrest and penalties for non-compliance with the Maritime Labour Convention. In fact, this condition can be very relevant for Indonesian ships and vessels. Indeed, around Indonesia, many States have ratified the Convention such as: Australia, China, Myanmar, Thailand, Vietnam, Malaysia, Singapore, and the Philippines.

International Convention on Standards of training, Certification and Watchkeeping for Seafarers

This Convention was first signed in 1978 in London, then was ratified in 1984 and entered into force in 1984. The Convention was the subject of major amendments in 1995 and in 2010 (Manila Amendments). Its first objective is to establish basic requirements, technical aspects for vessels and minimum standards on training, certification and watch-keeping for seafarers that States are obliged to meet or exceed. Indonesia ratified it by a Presidential Decree adopted in 1986.

Maritime Law related specifically to fishers

Torremolines Protocol and Cape Town Agreement

This protocol was first established in 1977 as a Convention to regulate the Safety of Fishing Vessels. It contains safety requirements for “the construction and equipment of new, decked and seagoing fishing vessels”. The Convention has never been ratified, and in 1993 it was changed to the Torremolines Protocol. The Protocol has a focus on “the general trend in modern designed fishing vessels, if they are to be economically profitable, must include improvements in machinery and fishing gear, improvements in safety features as a whole and better working conditions for fishermen”. The Cape Town Agreement signed in 2012 fills in the gaps of the Protocol and tends towards its ratification. But still, it has not been ratified by enough States and consequently its provisions are not in force.

ILO Work in Fishing Convention

The ILO Work in Fishing Convention (WIF Convention) was signed in 2007. Completed by the Work in Fishing Recommendation, this Convention aims to protect the Rights of Fishermen as well as promoting their working conditions. It involves among others the establishment of minimum requirements for work on board vessels, conditions of service, accommodation and food, occupational safety and health protection, medical care and social security. Despite these protective provisions, Indonesia has not ratified the Convention yet, and only 8 States have; which cannot permit the Convention to enter into force at this stage (August 2016).

ILO Forced Labour Convention

The ILO Forced Labour Convention 1930, as ratified by Indonesia through Law No. 19 Year 1999, stipulates all state parties suppress the use of forced or compulsory labour in all its forms within the shortest possible period. Rather than giving definitive scope of forced labour, this convention provided an open-ended definition of forced labour without listing specific prohibitions. In terms of prevention, the convention prescribes the government not to issue permits upon the forced or compulsory labour for the benefit of private individuals,

companies or associations. This convention also demands state parties to provide any measures to eliminate forced labour. Along with this convention, Protocol and Recommendations on forced labour are adopted. The Protocol to Convention 29 explicitly links forced labour and human trafficking. It states that "...the context and forms of forced or compulsory labour have changed and trafficking in persons for the purposes of forced or compulsory labour, which may involve sexual exploitation, is the subject of growing international concern and requires urgent action for its effective elimination..."; and "the measures referred to in this Protocol shall include specific action against trafficking in persons for the purposes of forced or compulsory labour." The Protocol also recognizes gaps in implementation of Convention 29 regarding "prevention, protection, and remedies". The Protocol a quo demonstrates forced labour as form of exploitation happening when someone is trafficked.

Seafarer's Identity Documents Convention (revised) 2003

Indonesia ratified the Seafarer's Identity Documents Convention (revised) 2003 through the enactment of Law No. 1 year 2008. This convention prescribes each member state to issue to each of its nationals who is a seafarer and makes an application to that effect a seafarers' identity document conforming to the content and form as ruled in convention a quo. Article 7 of the convention also prescribed that the identity document shall remain in the seafarer's possession at all times. The owner or the master of the vessel do not have the right to hold the documents. In practice they do hold them as a means to prevent fishers from leaving the vessel.

The role of the International Maritime Organization

The International Maritime Organization (IMO) is a specialized agency of the United Nations and sets global standards on the security, safety and environmental performance of international shipping. Through the years, IMO has promoted the adoption of more than 50 Conventions and Protocols related to maritime security and safety. IMO provides technical assistance to developing countries in order to reach the international standards of Maritime Conventions. The technical assistance involves training but also expertise. Indonesia has been a member of IMO since 1961, and applies provisions and recommendations of IMO by incorporating them in its own national legislation.



Picture 4: IUU Fishing Vessel (Source KKP)

Human trafficking in the fishing industry primarily occurs in two different contexts. The first context involves trafficking in persons (fishers and migrant workers) for the purpose of labour exploitation or forced labour both at sea and in shore-based operations. The activities in a sea-based operation include fish processing on board fishing vessels, fish farming on aquaculture installations at sea, or capturing marine resources from rafts, vessels or fishing platforms. Examples of activities in shore-based operations include work at ship repair yards, work at ports (repairing nets or lines, sorting fish or shellfish), shore-based harvesting of marine resources, and work at fish processing plants.⁴⁰ The second context involves trafficking in persons (women and children) for the purpose of organized sexual exploitation by fishers and seafarers.

⁴⁰ Elaine Pearson, "Chapter 3: Fisheries" in *Mekong Challenge: Underpaid, Overworked and Overlooked: The Realities of Young Migrant Workers in Thailand (Volume 2)*, ILO, 2006, p. 122, retrieved from <http://www.no-trafficking.org/content/pdf/ilo-fishing-vol2-eng.pdf>.

International studies of trafficking in the fishing industry show commonalities in practice of trafficking irrespective of the geographical location. This includes: Trafficked children who were forced to work on rafts and canoes in inland fisheries in Ghana,⁴¹ Sierra Leone, and other West African countries;⁴² Young migrant workers in the Thai fishing industry;⁴³ and Ukrainian fishers and seafarers working in Russia and South Korea.⁴⁴

The UNODC identified four phases that are common with trafficking in persons in the fishing industry. These include: initial recruitment (or in some cases abduction); transportation or potentially illegal transfer (entry) from one country (origin) to another (destination); exploitation on board fishing vessels; and the subsequent phase of profit laundering.⁴⁵ While the recruitment, transfer, and laundering stages are common to trafficking practices in other sectors, the exploitation conducted on fishing vessels is, in fact, a particular attribute only to the fisheries sector.

Victims of trafficking in the fishing industry are subjected to excessive workloads and inhumane working conditions, migrant fishers and seafarers and also a harsh living environment. This has included being placed in small, shared sleeping quarters, often without beds, and lacking hygienic cooking facilities and adequate food resources.⁴⁶ As a result, many have become ill and severely malnourished due to a lack of food combined with excessive work and irregular sleeping hours.⁴⁷ The absence of any legal framework that regulates and governs the standardization of living and working conditions on board fishing vessels, as in merchant vessels by the Port State Control (PSC), is presumed to be one of the primary factors that increases the exploitation degree of the victims of trafficking.⁴⁸

⁴¹ Through "Yeji Trafficked Children Project (YTCP)" IOM Ghana has rescued up to 700 children trafficked into the industry from 2002-2011, retrieved from <https://www.iom.int/files/live/sites/iom/files/What-We-Do/docs/IOM-Ghana-CT-2013-Update.pdf>.

⁴² Brian O'Riordan, "Senegal: Child Labour: Growing Pains", in *Samudra Report* No.44 2006, International Collective in Support of Fishworkers (ICSF), p. 12-13, retrieved from http://www.icsf.net/images/samudra/pdf/english/issue_44/2527_art02.pdf; See Rebecca Surtees, "Child Trafficking in Sierra Leone", UNICEF, 2005, p. 38, retrieved from http://www.childtrafficking.com/Docs/unicef_05_ctsl_0108.pdf.

⁴³ See Pearson, *Op cit*.

⁴⁴ Surtees, R. (2012). *Trafficked at Sea. The Exploitation of Ukrainian Seafarers and Fishers*. IOM & Nexus Institute: Geneva.

⁴⁵ UNODC, "Trafficking in Persons: Global Patterns", 2006, p. 57, retrieved from <http://www.unodc.org/mwg-internal/de5fs23hu73ds/progress?id=jhXdQH69GO>.

⁴⁶ Environmental Justice Foundation (EJF), "All at Sea: The Abuse of Human Rights Aboard Illegal Fishing Vessels, EJF, 2010, p. 10, retrieved from <http://ejfoundation.org/mwg-internal/de5fs23hu73ds/progress?id=oWH3hWfU/Q>.

⁴⁷ Rosenberg (Ed.), *Op cit*, p. 111.

⁴⁸ John Withlow, "The Social Dimension of IUU Fishing", OECD, 2004, p. 5 par. 8, retrieved from <http://www.oecd.org/greengrowth/fisheries/31492524.PDF>.

Previous research also points to the existence of violence—not limited to physical, but also psychological, and sexual abuse—against fishers and seafarers committed by the owner of the ship or senior crew members who are affiliated with the owner and recruitment agencies.⁴⁹ Minor mistakes, laziness, and insubordination were not only punished with beatings and whippings, but also in some cases victims were confined or chained when they were on board the vessel at sea.⁵⁰ Reports also indicate that crew members were murdered or thrown overboard to die when injured or sick.⁵¹ Evidence also exists of victims being abandoned in the case of fishers who fell overboard.⁵² The current study lends credibility to these accounts with numerous victim statements outlining murder, physical assault, and the disposal of victim’s corpses at sea and on land.

In order to prolong the exploitative situation and maximize the labour of the victims, traffickers usually apply several means of control. First, threats of violence which are mostly in the form of physical and psychological abuse. Second, coercion in the form of physical confinement and the confiscation of documents limit a victim’s freedom of movement. Third, fraud or deception that hinders the victims in knowing initially the real situation of their work and payment. Lastly, debt bondage that traps the victims of trafficking in a spiral of debt.

When compared to trafficking in persons in other sectors, exploitation in the fishing industry is among the most severe. This has been supported by research undertaken by the International Labour Organization (ILO) in 2006 which concluded that “Fishing workers are among the most exploited when compared with other migrant sectors. Working conditions on the fishing boats are even worse than those in the fish processing. Being forced to work is not uncommon on fishing boats.”⁵³

⁴⁹ For example the case of Cambodian seamen trafficked and exploited in Thai fishing industry, in UNIAP, “Exploitation of Cambodian Men at Sea: Facts About the Trafficking of Cambodian Men on Thai Fishing Boats, 2009, p. 5, retrieved <http://www.no-trafficking.org/mwg-internal/de5fs23hu73ds/progress?id=oqi2gz1brQ>.

⁵⁰ See reports by International Transport Worker’s Federation (ITF), “Out Sight, Out of Mind: Seafarers, Fishers & Human Rights, 2006, p. 22, retrieved from <http://www.itfseafarers.org/files/extranet/-1/2259/HumanRights.pdf>.

⁵¹ Jon Gorvett “Traffickers Prey on Cambodian Men” The New York Times, January 12, 2009, retrieved from http://www.nytimes.com/2009/01/12/world/asia/12iht-traffic.1-405492.html?_r=0.

⁵² UNIAP, *Op cit.*

⁵³ Pearson, *Op cit.* p. 82.

Victims consider themselves helpless since there is no way to escape when they are trapped in the middle of the ocean, as stated by one victim: “we were always thinking of escaping...there was no way, though. We were powerless. The sea itself was our prison.”⁵⁴

Historical Background of Trafficking and Forced Labour in the Fishing Industry, Case Study: The *Jermal* Case

Indonesia is a major source of human capital for human trafficking and also a destination and transit country for foreign victims of trafficking. In 2015 alone, more than 1000 fisherman from Myanmar, Cambodia, Thailand, and Laos were found stranded in Ambon and Benjina. They were trafficked from their home country, mostly by means of deception, forced to work over 20 hours per day on a boat in the middle of the sea, with little to no chance of escape.

Human trafficking for labour exploitation in the Indonesian fishing industry is not new. In 1999 the International Labour Organization (ILO) conducted a study of forced child labour on fishing platforms known as *jermals*.⁵⁵ A *Jermal* is a wooden structure often situated miles from the shore which consists of a 20-40 square metre platform and a small wooden hut for sleeping quarters and fish processing. Almost all of the labour force working on these platforms were young boys under the age of 14.⁵⁶ They were recruited from villages with the promise of three months’ work on offshore fishing platforms and large salaries. However, the recruiters did not explain the conditions of work clearly. The boys then suffered from excessive working hours, unsanitary working conditions, physical abuse and sometimes sexual abuse. As a result of being stranded on the *jermals* they were unable to attend school.⁵⁷

⁵⁴ Gorvett, *Op Cit*.

⁵⁵ International Labour Organization. (2013). *Caught at Sea: Forced Labour and Trafficking in Fisheries*. ILO: Geneva. p7. Retrieved from http://www.ilo.org/wcmsp5/groups/public/---ed_norm/--declaration/documents/publication/wcms_214472.pdf.

⁵⁶ *Transnational Organized Crime in the Fishing Industry* (Vienna: UN, 2011), 48, retrieved from <http://www.unodc.org/mwg-internal/de5fs23hu73ds/progress?id=W2HpMV8BpT>.

⁵⁷ Rosenberg, R. Trafficking of Women and Children in Indonesia. (Jakarta: ICMC), 20, retrieved from <http://www.solidaritycenter.org/mwg-internal/de5fs23hu73ds/progress?id=kJ83WQgAAB>.

The Government of Indonesia recognized that child labour on jermals was one of the worst forms of child labour and prohibited the practice under law. Although rarely used in describing the jermal case, the government also recognized the practice as a form of trafficking because children were taken from their families and forced to work in exploitative and isolated conditions. Since 2000, actions by Indonesian law enforcement agencies and NGOs have resulted in the removal of many children from *Jermal* platforms.⁵⁸ As a result of ILO's International Programme on the Elimination of Child Labour (IPEC), the employment of children in *jermal* fishing platforms has been reduced significantly.⁵⁹ Trafficking on *jermals* represented only one component of human trafficking in the Indonesian fishing industry and trafficking has continued in other areas with less law enforcement scrutiny or interest from international organizations.

Indonesians, however, have not been the only victims of trafficking in the Indonesian fishing industry. In fact, they represent a minority when compared to the number of foreigners trafficked to Indonesia to work as fishermen since 2011. These people, mostly from Cambodia and Myanmar (but also Lao PDR and Thailand), were deceptively recruited into the fishing industry. Brokers targeted villages in Myanmar, Cambodia, and Lao PDR and promised men lucrative job opportunities as fishermen in Thailand. When they had left their villages and commenced on the journey to their new employment it became clear that the promises and conditions would not be met. Unfortunately for many, this realization came too late, often when the boat had already left Thailand to go to Indonesia, and there was no way for them to escape.⁶⁰ Instead of lucrative salaries they were faced with no pay, or a token pay, excessive working hours often exceeding 20 hours a day, and unsanitary and unhealthy conditions. This represented the 'best case' scenario. For most it meant human trafficking for labour exploitation, forced labour, physical, sexual, and psychological abuse, with no prospect of escape.

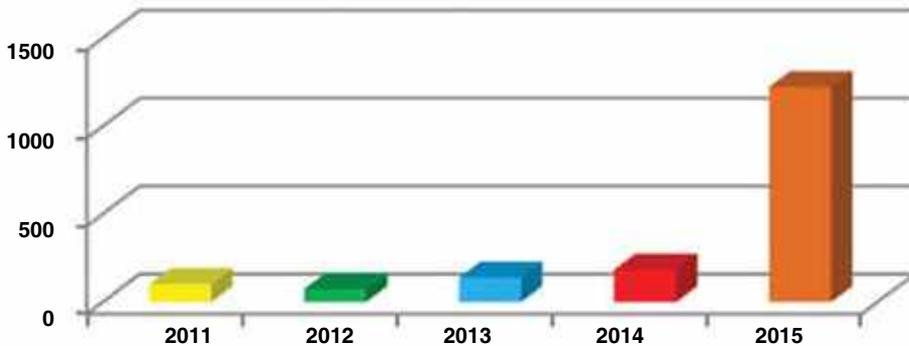
⁵⁸ *Ibid*, 111.

⁵⁹ Sebastian Mathew, "Children's Work and Child Labour in Fisheries: A Note on Principles and criteria for employing children and policies and action for progressively eliminating the Worst Forms of Child Labour in fisheries and aquaculture" (paper presented at FAO Workshop: Child Labour in Fisheries and Aquaculture, Rome, April 14-16 2010), retrieved from http://www.faoilo.org/fileadmin/user_upload/fao_ilo/pdf/WorkshopFisheries2010/WFPapers/MathewICSFChildLabourFisheriesFinalNote.pdf.

⁶⁰ The boat in question was a Thai fishing boat but they changed their flag into Indonesian when they arrived in Indonesia

The number of fishermen Victims of Trafficking (VoT) assisted by IOM Indonesia remained stable from 2011 to 2014, averaging 124 VoT per year. In 2015 the number suddenly exploded to 1222 (Graph 3). The sudden increase in the number of assisted victims was due to the coverage by Associated Press regarding the story of slavery in Benjina. The headline, “Slaves may have caught the fish you bought” was given global coverage. The Government of Indonesia, represented by the Indonesian Fisheries Minister, Susi Pudjiastuti, took swift action to respond to the situation.⁶¹ With a strong commitment from the Government of Indonesia, IOM managed to identify thousands of VoT in Benjina and Ambon and repatriate them back home.

Graph 3. Trend of Foreign Fisherman VOTs Assisted by IOM (2011-2015)



Despite being identified in Indonesia, all of the foreign fisherman assisted by IOM Indonesia were employed by the Thai fishing industry. How they get stranded in Indonesia is inherently tied to the history of the Thai fishing industry which has experienced a rapid modernization and industrialization of the fleet since the 1970s and 1980s. With the introduction of trawl fishing via the Philippines under a joint Thai-German Government initiative, the industry changed dramatically. The trawl fishery of Thailand grew from just over 2,600 registered vessels in 1969 to over 11,000 in 1982.⁶² This situation eventually led to overfishing.⁶³ By the 1980s, Thailand’s fishery exploitation capabilities were already comparable to those of a

⁶¹ “Your seafood might come from slaves,” New York Times, March 25, 2015, retrieved from <http://nypost.com/2015/03/25/your-seafood-might-come-from-slaves/>

⁶² International Labour Organization, *Employment practices and working conditions in Thailand's fishing sector* (Bangkok:2013), 10.

⁶³ Janofsky, *Thailand: The overfishing underclass*, 2012.

high-income country, far exceeding the resource management capabilities of the Thai Government.⁶⁴

The fishing industry has been among the main industries in Thailand (Graph 4). As can be seen from the statistics, Thailand was the third largest exporting country of fish and fishery products in 2012. Many Thai people rely on this industry.

Graph 4. Leading exporting countries of fish and fishery products in 2012.



During that time the other countries in the region began declaring national Exclusive Economic Zones (EEZs) under the UN Law of the Sea Convention (UNCLOS), which had a profound impact on the activities of the Thai fishing fleet within the region. Much of what had previously been considered international waters now fell under the jurisdictions of other countries in the region. However, Thai fishing vessels often entered these EEZ without permission to fish, leading to seizures of Thai trawlers in Vietnam, Myanmar, Philippines, Indonesia, and Malaysia. However, these arrests acted as no real deterrent because they represented only a tiny proportion of the Thai fleet, which responded to the increased regulation of fishing areas by investing in faster vessels, detection equipment, and weapons so as to avoid arrest. In addition, violent clashes between Thai trawlers and fishing vessels from Myanmar, Vietnam, Indonesia, and other countries began occurring as a result of these illegal activities.⁶⁵

⁶⁴ International Labour Organization, *Employment practices and working conditions in Thailand's fishing sector*, 11.

⁶⁵ *Ibid.*

As a response, Thailand started entering into joint venture arrangements with countries within the region during the late 1990s to allow its fleet to fish legally in their EEZs. However, illegal, unreported, and unregulated (IUU) fishing in foreign waters remained common. Such practices have been incentivized by the inability of Thai authorities to control the number of vessels fishing in their own territorial waters, which encourages Thai vessels to seek larger catches outside of their sovereign fishing grounds. IUU fishing and associated activities thus continue to pose a grave threat to national, regional, and international efforts to ensure the long-term sustainability of fisheries.⁶⁶

The situation is further complicated because of the overlap with the EEZs of its maritime neighbors, creating legitimate confusion among fishers as to where the borders of the EEZs have been delimited.⁶⁷ Indonesia, as one of the important fishing sources, has been a convenient target of illegal operators for years.

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

VICTIM PROFILE AND DATA

Foreign Victims of Trafficking in the Indonesian Fishing Industry

In general, economic factors are believed to be the primary factor that drives both foreign victims of trafficking in Indonesia and Indonesian victims of trafficking abroad to migrate for better employment. For foreign workers, disparities in the level of economic development, exchange rates and wage levels (except for Thai nationals) between Thailand, Cambodia, Myanmar and the Lao People's Democratic Republic (PDR) serve as a migratory pull factor that attracts migrants from the neighboring countries to find better employment in Thailand.⁶⁸

Table 3 shows the comparison of GDP (PPP) Per Capita between Thailand and its neighboring countries.⁶⁹ The table depicts the existence of a significant gap between Thailand's GDP with its neighbors, with Thailand's GDP more than four times larger than Cambodia's GDP and three times as large as the Lao PDR's and Myanmar's GDP. Thailand is attractive for labour migrants who want to gain a benefit from its economy.

**Table 3. GDP (PPP) Per Capita of ASEAN Countries
October 2015 (USD)**

Country	GDP (PPP) Per Capita (USD)
Thailand	16.081
Cambodia	3.486
Laos	5.335
Myanmar	5.164

⁶⁸ Jerrold W. Huuget & Sureepom Punplung, "International Migration to Thailand", IOM Thailand, 2005, p. 5, retrieved from <https://publications.iom.int/books/international-migration-thailand>.

⁶⁹ Retrieved from <http://www.imf.org/external/ns/cs.aspx?id=28>.

Aside from economic difficulties and poverty, some studies have indicated that non-economic factors may also contribute to the migration of people out of their respective countries. In past years migrants moved from Myanmar because of conflict and slow economic growth (due to the economic sanctions before 2012), but also to avoid forced labour in development projects undertaken by the previous Government of Myanmar.⁷⁰ Other groups, mostly those who lived near the borders, found their way to Thailand in order to search for better access to health and education services as well as for work opportunities.

Myanmar nationals constituted the majority of the victims, followed by Cambodians, with much fewer victims from Thailand and Lao PDR. Most of the victims came from the provinces bordering Thailand (Figure 7).

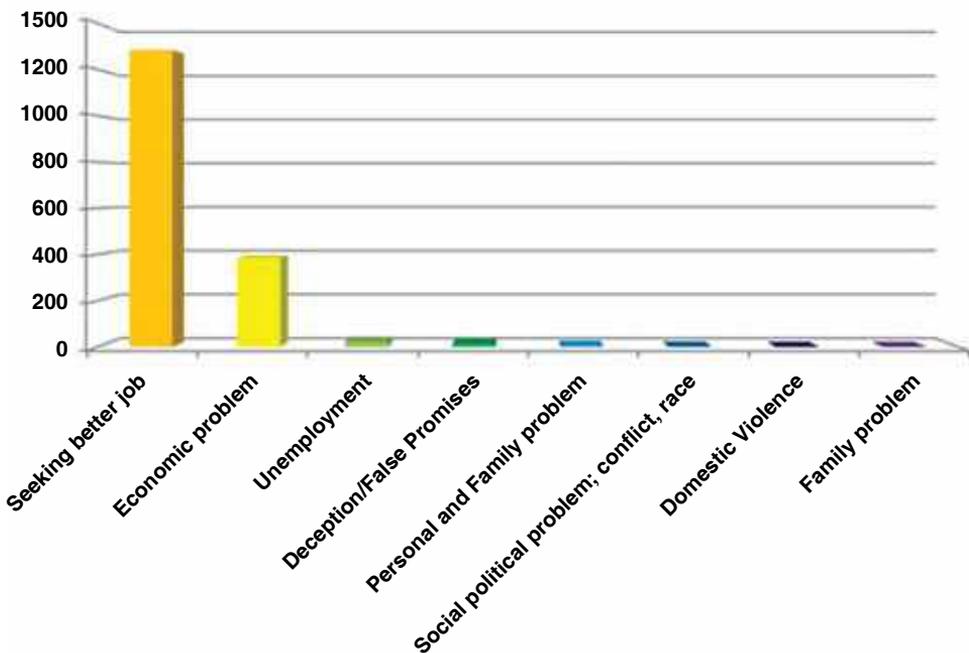
Figure 7. Province Origin of Foreign Fisherman VOT in Indonesia (2011-2015)



⁷⁰ Supang Chantavanich, "Myanmar Migrants to Thailand and Implications to Myanmar Development", in *Policy Review Series on Myanmar Economy No. 7 October 2012*, Bangkok Research Center IDE-JETRO, p. 1, retrieved from <http://www.ide.go.jp/English/Publish/Download/Brc/PolicyReview/07.html>.

The range of reasons that induced foreign victims of trafficking to leave their homes and travel to Thailand in the first place are outlined in Graph 5. The data was collected by IOM Indonesia during interviews with victims of trafficking from Cambodia, Myanmar, and Lao PDR (1718 individuals) in Indonesia from 2011-2015. The primary reason for migration in 74.8% of cases was to seek a better job. Victims of trafficking who chose this reason as their major motivation for leaving their homes were described as those who had worked previously in any sector, whether related to fishing or not, prior their employment in the fishing industry in Thailand. They decided to leave their jobs in their respective countries in order to obtain different jobs abroad, which could provide them with better payment.

Graph 5.
Reasons to Leave Home (Migration)

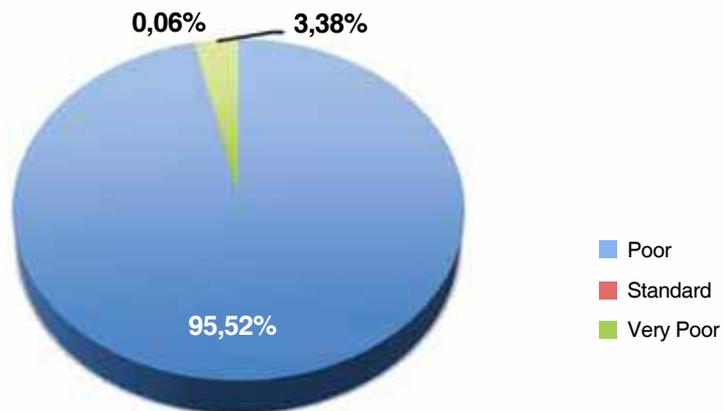


A second reason for migration in 22.4% of cases were economic problems. The victims were assumed to have experienced economic difficulties within their families and because of the situation they were pushed to leave Myanmar in order to look for higher earnings to sustain their families at home. Most

victims that fell under this category were the head of the family (married) or the breadwinner within their families (single). Many respondents interviewed by IOM Indonesia had a shared expectation of a high level of wage in Thailand compared with the level of wage in their respective countries. Thus, working in Thailand had been something that young uneducated people were encouraged to do in order to alleviate their families' financial problems. It is not surprising then that when recruiters came to their villages with a promising job offer in Thailand, villagers would accept the offer.

Graph 6 shows the economic condition of the foreign victims prior to being trafficked into the fishing industry in Indonesia. Almost all of the victims considered themselves to be "poor" (95.52%) followed by a small numbers of victims who regarded themselves as very poor at the time they were trafficked. Poverty was an important factor in the vulnerability of individuals towards trafficking as it limited prospects for better employment.

Graph 6.
Economic Status of Foreign VOT in Indonesia
2011-2015



On the Thai side, as a consequence of the economic boom in 1980s and 1990s, Thailand started to experience a great shortage of labour and a growing demand for unskilled labourers in a number of labour intensive sectors in the early of 1990s, including its fishing industry.⁷¹ The rapid economic growth

⁷¹ Supang Chantavanich, "Factors Affecting Thailand Immigration Policies During 1992-2004", ISS, 2007, retrieved from, http://www.iss.nl/content/download/8391/81651/file/Panel%205_Supang.pdf.

also affected the preference of Thai workers in choosing their occupation. Over the past two decades, a remarkably large number of Thai workers have left the fishing industry and increasingly numbers of other (Thai) workers have considered the fishing industry as less attractive due to its low level of wages (compared to other sectors), harsh working conditions, and risks that involved in the occupation.⁷² The extreme scarcity of local workers in 3-D (dirty, dangerous, and difficult) work, like the fishing industry, has opened up opportunities for many migrant workers from Myanmar, Cambodia and Lao PDR. This has provided an opportunity for workers to escape the difficult situations in their respective countries and meet the demand for unskilled workers in the Thai labour market.⁷³

This situation along with the geo-economic circumstances of its less developed neighbors, encouraged the private sector in Thailand to view workers from neighboring countries as a solution to overcome the problem of labour scarcity in Labour-intensive industries. The Government of Thailand was later pushed by Thai businesses to allow the employment of migrant workers from the three countries as unskilled or low-skilled workers in various sectors such as fisheries, fish processing, manufacturing, agriculture and domestic work. Businesses in Thailand not only benefit from the existence of migrant workers in terms of labour supply, but also from the efficiency that they bring in the production and operational processes.

It is obvious that the rise of a country's economy is always followed by the rise of its national wage level. Therefore, hiring local workers would automatically eliminate the Thai fishing industry's low production costs and its competitive advantage in both the national, and more importantly, international markets. While the labour element is usually a small portion within the total production cost, for small and medium labour intensive industries, like the fishing industry, labour costs are a critical factor in suppressing the production cost.⁷⁴ Over past decades, the economy of Thailand has progressively relied on the supply

⁷² Pearson, *Op Cit*, p. 113.

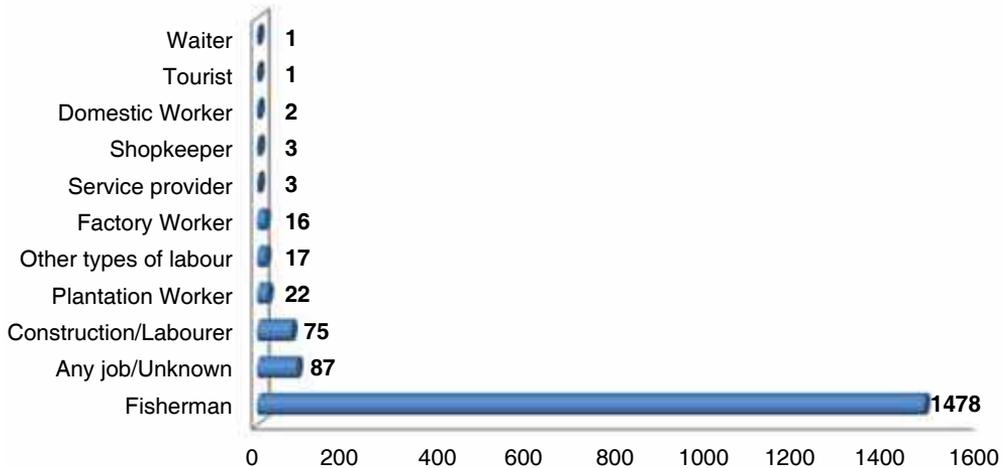
⁷³ Supang Chantavanich and Premjai Vungsiriphisal, "Myanmar Migrants to Thailand Economic Analysis and Implications to Myanmar Development," in Hank Lim and Yasuhiro Yamada, *Economic Reforms in Myanmar: Pathways and Prospects*, BRC, 2012, 214-215, retrieved from http://www.ide.go.jp/English/Publish/Download/Brc/pdf/10_06.pdf.

⁷⁴ Dennis Arnold and Kevin Hewison, "Exploitation in Global Supply Chains: Burmese Migrant Workers in Mae Sot, Thailand", in *Journal of Contemporary Asia* Vol. 35 No 3, 2005, p. 3, retrieved from http://www.burmalibrary.org/docs3/EXPLOITATION_IN_GLOBAL_SUPPLY_CHAINS.pdf.

of relatively low-waged migrant workers from its less developed neighbors. This has been met through the deployment of foreign labour, both illegal and legal. In 2008 the Thai Ministry of Labour admitted the necessity to employ 1.2 million low-skilled foreign workers in Thai labour market.⁷⁵

Data gathered by IOM Indonesia from interviews with all foreign victims of trafficking in the fishing industry in Indonesia from 2011-2015, indicated that the majority the victims had already been informed about the kind of job the recruiters were going to give them. Victims were promised a variety of work (Graph 7) by agents at the beginning of the recruitment process. The majority of them who were working in the fishing industry (86%), felt that the job promised to them at the beginning was similar to the actual job they acquired. Only small numbers of the victims considered themselves as being cheated due to differences in the type of work between the promised and the actual. In fact, among those who regarded themselves as being victims of fraudulent recruitment, more than half of them were not informed clearly about the type of job they were going to undertake (categorized as “unknown”).

**Graph 7.
Promised Work**



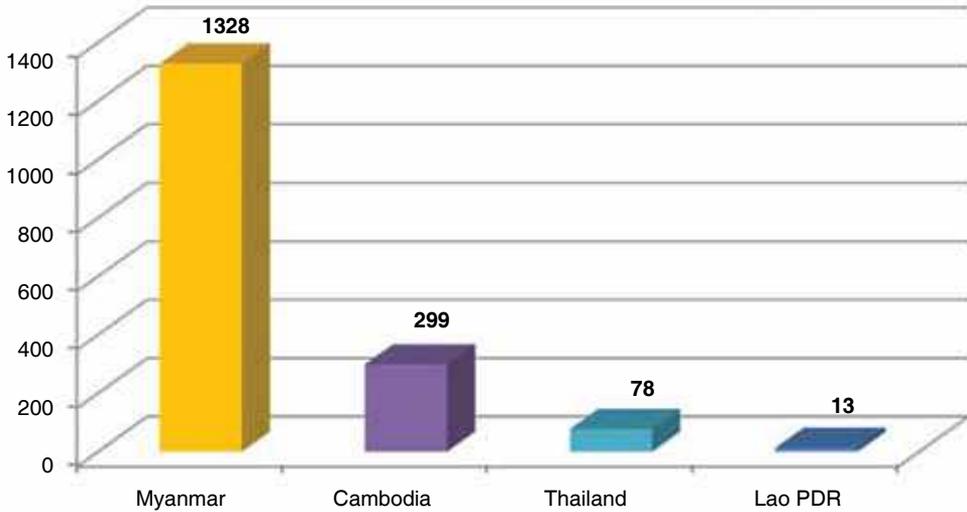
⁷⁵ Boot, W. 2008 in Khen Suan Khai, “Thailand’s Policy towards Irregular Migration: Situation Analysis of Burmese Migrant Workers under Thailand’s Migration Policy”, MFU, p. 3, retrieved from <http://connexion.mfu.ac.th/2015/ejournal/Vol.1%20No.1%202012/125%20Thailand%E2%80%99s%20policy%20towards%20Irregular%20Migration.pdf>.

Foreign Labour migrants' perceptions of the Thai fishing industry were also important in motivating them to migrate. There was a misperception that working in the fishing industry was an easy occupation. Working on a fishing boat, to most of the victims from Myanmar, Cambodia and Lao PDR was perceived as not requiring any special training and expertise, only strength and durability. There was also a perception among the victims about the easiness of saving money while working in fishing industry compared to work in other land-based sectors even though the wage was lower. They believed that working on board a fishing vessel at sea would allow them to save some or even all of their wages, not only due to their lodging and daily needs being provided by the fishing company, but also because there was no place to spend their wages as they were at sea.

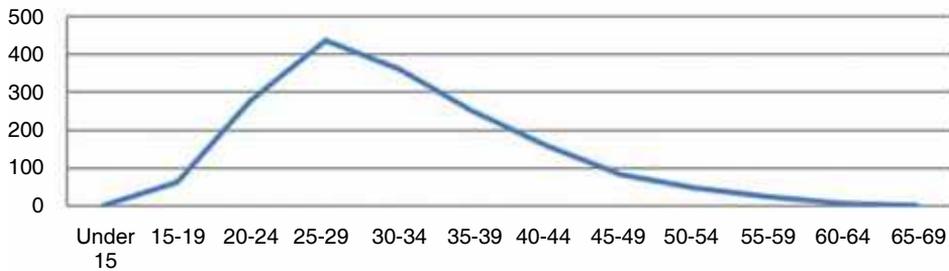
Lastly, the simplicity of the working requirements and "safety" in the fishing industry. Some of the respondents explicitly mentioned about the cost they would have to pay to acquire documents (such as an ID card), should they want to work in factories. Although all sectors in Thailand require registration or legal documents for foreign workers to work, the majority of the fishing companies still accept undocumented or unregistered foreign unskilled workers and are reluctant to register their present employees due to the high costs they would have to spend on them. Therefore, it is not surprising that the fishing industry has become a temporary safe-haven for migrant workers without documentation to avoid arrest compared to work on land where the risk of being caught is much higher.

The majority of victims were young adults and adults within the age range of 20 to 34 (Graph 8). The reason for this is that traffickers are more likely to target impressionable young people with limited life experience which makes them easier to be deceived. The majority of foreign victims had a low level of education (Graph 10). The lower the education, the higher the number of victims. Eligibility for gainful employment in Southeast Asia is largely determined by the level of education. Most well-paid job opportunities are only available to those with higher education, closing the door on those with lower education. The Labour market which limits options for people with elementary education makes these people an ideal target for traffickers.

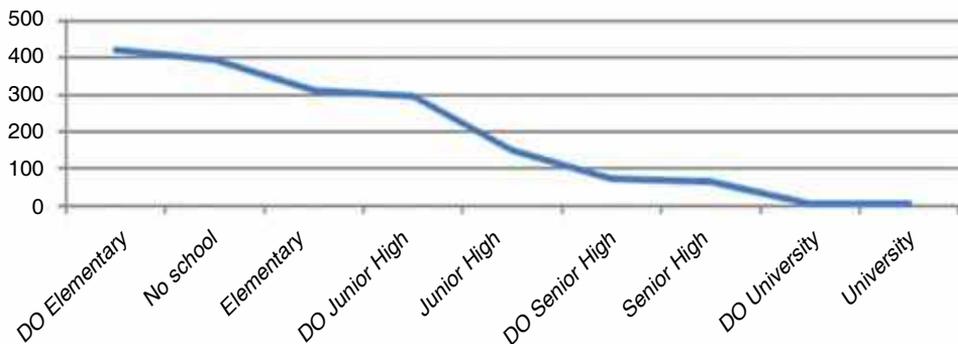
Graph 8.
Nationality of Foreign VOT in Indonesia (2011-2015)



Graph 9.
Age of Foreign VOT in Indonesia



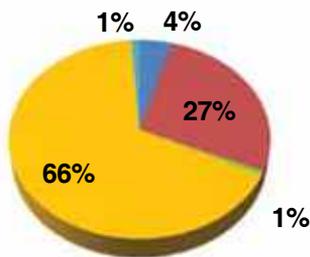
Graph 10.
Education Level of Foreign VOT in Indonesia



The tendency for traffickers to target single people was highlighted by the survey which found that 66% of victims were unattached (Graph 11). The complexity of family situations in Southeast Asia is generally determined by marital status, as individuals who are single will be more likely to go overseas since they only have responsibility to their immediate family members, consisting of parents and siblings. Married individuals, on the other hand, are less likely to go overseas because of their responsibility not only to their parents and siblings, but also their spouse and children.

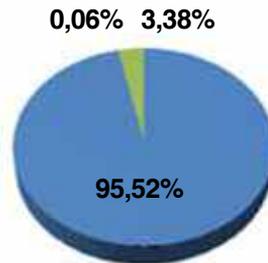
The single factor common to most victims was their economic situation. An overwhelming majority of the victims claimed that they were poor or very poor at the time when they were trafficked to be exploited as fisherman (Graph 12). Less than one per cent of victims claimed to have a standard living condition. This distribution of data shows that the poor and very poor are prime targets for traffickers because they have limited options for employment.

Graph 11.
Marital Status of Foreign VOTs in Indonesia



- Divorced
- Married
- Separated
- Single
- Widow/er

Graph 12.
Economic Status of Foreign VOTs in Indonesia

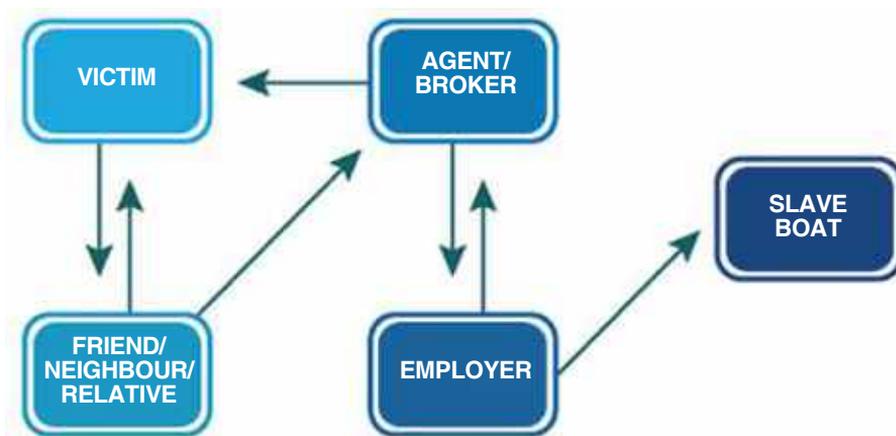


- Poor
- Standard
- Very Poor

Indonesian Victims of Trafficking in the Foreign Fishing Industry

Since most of Indonesian victims of trafficking into foreign fishing industries did not involve illegal entry to any particular country, the complexity of recruitment was less than compared to foreign trafficked individuals in the Thai and Indonesian fishing industries. Another particular distinction in Indonesian victims of trafficking was the fact that recruitment by the recommendation of relatives and friends was more common than by themselves (Figure 6).

Figure 8.
Pattern of Recruitment and Movement of Indonesian Victims Abroad



The majority of Indonesian fishermen victims of trafficking assisted by IOM Indonesia worked on Taiwanese fishing vessels. In general, there are two types of placement for Indonesian fishermen who work on a Taiwanese vessel. Firstly, there is official placement (Government to Government), where the fishermen are placed through BNP2TK on Taiwanese vessels that only operate only in Taiwanese waters. Due to the official nature of this placement, Indonesian fishermen usually obtain an alien resident certificate which guarantees their rights under Taiwanese Law. As such, they are less vulnerable to labour

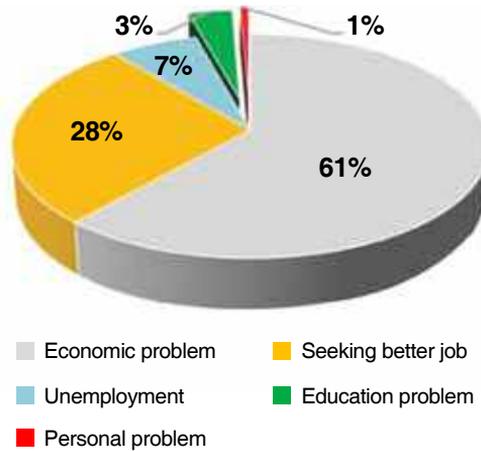
exploitation and abuse. Secondly, there is Letter-Guaranteed placement in which Indonesian fishermen are placed directly by the manning agencies without the involvement of both governments (Private to Private).

Most of the vessels that fall under this type of placement operate beyond Taiwanese waters (including Trinidad and Tobago, Ivory Coast, and South Africa). As a result of the absence of the government and the remote location of the fishing operation, Indonesian fishermen who work under this type of placement are more vulnerable and face a higher potential of being exploited and abused. Most of the Indonesian trafficked fishermen assisted by IOM Indonesia fall within this category.

Most of the trafficked Indonesian fishers and seafarers that IOM Indonesia assisted from 2011-2015 were reluctant to look for information on fishing opportunities themselves or apply directly to the employer or recruitment agencies. They tended to trust people they already know (not just a new acquaintance) who had experience working in the foreign fishing industry. Recruitment agencies have to approach the potential target initially in order to gain their trust before persuading or deceiving them to enter the industry. In addition to that, during the early phase of recruitment, all of the Indonesian victims interviewed already possessed basic information about the kind of job (sector) they would be doing. Victims of trafficking from Myanmar, Cambodia, and Lao PDR did not possess that information about their proposed jobs. Recruitment agencies did not provide a range of jobs to the Indonesian victims. Instead, they only stated the job and information about the place (country or fishing ground) the victims were going to for the work.

Indonesian victims of trafficking considered “economic problems” as the primary factor that encouraged them to work in foreign fishing industries (Graph 13). The second reason was to look for “better employment”. In this category, the opportunity to work abroad was expected to provide individuals with higher and better earnings in comparison to the earnings they would have earned in Indonesia.

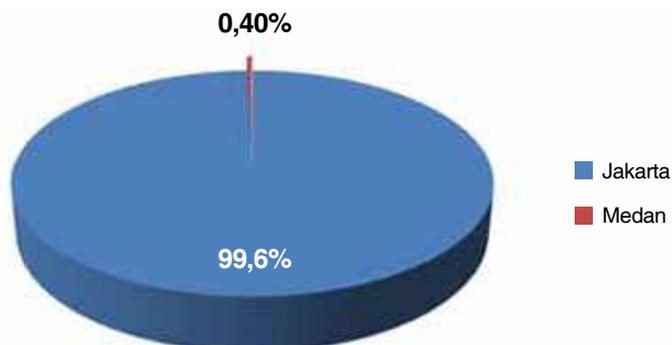
Graph 13.
Reasons to Work Abroad (Indonesian VOT in Foreign Fishing Industries 2011-2015)



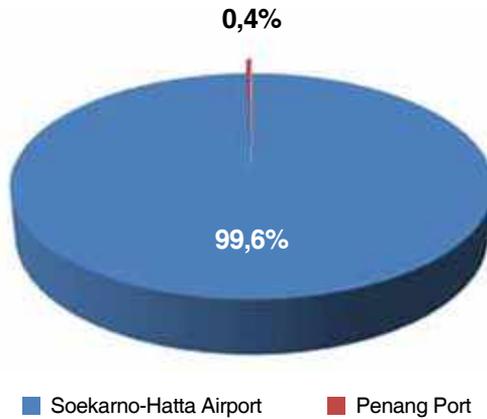
After the recruitment process, the trafficked persons enter the phase of movement and transfer. Though all of the Indonesian victims of trafficking in foreign fishing vessels possessed basic legal and valid travel documents (passport and visa), there were still a minority of Indonesian seafarers whose work documents were forged, mostly by recruitment agencies.

Interviews conducted with the fishers and seafarers highlighted only two key points of departure were used in the movement process. These were Jakarta and Medan (Graph 14).

Graph 14.
Departure Cities of Indonesian VoT Abroad

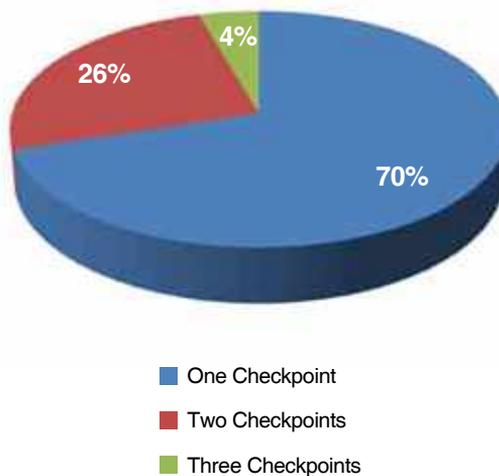


Graph 15.
Name of Departure Port or Airport

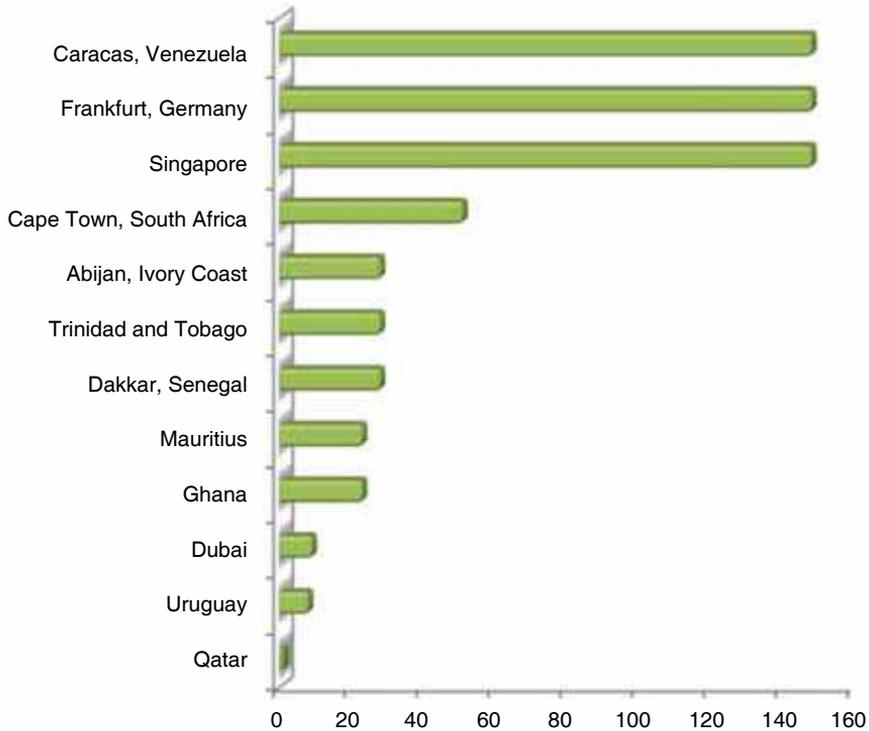


Additionally, only two exit points existed for Indonesian victims to reach their employers abroad (Graph 15). Individuals would use Soekarno-Hatta International Airport in Jakarta to fly to their workplace or go to Medan before taking a boat to Penang in Malaysia where they were taken by the employers’ or brokers’ vessels. Once the journey had begun to the workplace, the victims encountered between one and three international checkpoints before arriving at the workplace (Graphs 16 & 17).

Graph 16.
Total Number of Checkpoint Passed During Movement

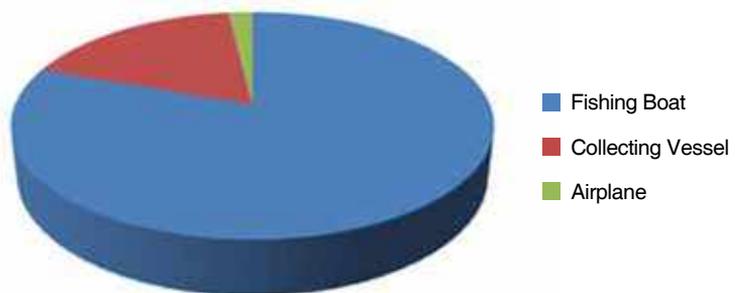


Graph 17.
Name of Checkpoint Passed during Movement



As a result of the remoteness of the workplaces, the victims were transported by a variety of means to the fishing grounds (Graph 18). The majority of Indonesian victims were transported to their work location utilizing a fishing boat. A minority were moved using collecting vessels. Only small numbers of victims were moved using an airplane.

Graph 18.
Method of Transportation



Unlike the situation with the foreign fishermen in Indonesia, labour recruitment overseas is regulated by the Government of Indonesia. The placement of Indonesian fishermen abroad is managed through several regulations (Table 4).

Table 4.
**Indonesian Government Regulations Relevant to Recruitment
Into Fisheries Abroad**

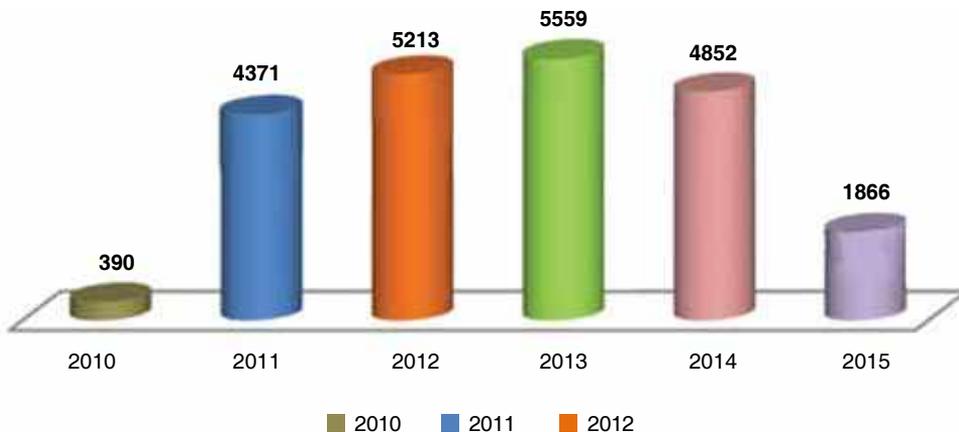
Presidential Regulation	Government Regulation (Presidential Regulation) Number 7 Year 2000 on Seamanship
Ministry of Transportation	Ministerial Regulation (Ministry of Transportation) Number 84 Year 2013 on Mechanism of The Recruitment of Seafarer
Head of BNP2TKI	Head of BNP2TKI Regulation Number 03/KA/1/2013 on the Mechanism of Placement and Protection of Indonesian Fishermen at Foreign Fishing Vessel
Head of BNP2TKI	Head of BNP2TKI Regulation Number 12/KA/IV/2013 on the Mechanism of Recruitment and Placement and Protection of the Seafarer on Foreign Vessel

Two of the regulations specifically manage Indonesian fishermen abroad, these are the *Ministerial Regulation (Ministry of Transportation) Number 84 Year 2013 on Mechanism of The Recruitment of Seafarer* and *Head of BNP2TKI Regulation Number 03/KA/1/2013 on the Mechanism of Placement and Protection of Indonesian Fishermen at Foreign Fishing Vessel*. Ever since the enactment of the regulations, the Indonesian government has been actively sending Indonesian fishermen abroad. The placement data from BNP2TKI for the period 2010 to 2015 showed a significant increase. In 2010 the Indonesian Government only sent 390 fishermen overseas, while in 2011 it sent 4371 fishermen abroad. In 2012 the Government allowed 5213 fishermen to work overseas with highest movement being in 2013 with 5559 fishermen abroad.

According to the labour statistics (Graph 19), the placement of Indonesian fishermen abroad decreased in 2014 and 2015. This decrease can be attributed to a new policy to review the placement of Indonesian fishermen abroad. This policy was influenced by the high number of cases of exploitation faced by

fishermen abroad. For example in 2011, The Indonesian Government assisted 27 Indonesian fishermen who were employed in South Korea as fishermen on the *Melilla* 203 fishing vessel. Upon their arrival in South Korea, those 27 Indonesian fishermen were transferred to the *Melilla* 203 which travelled to New Zealand waters. The working conditions on *Melilla* 203 were very poor and the fisherman were forced to work excessive working hours and were treated as slave labour. In addition, some of the fishermen were also subjected to sexual and physical abuse on this Korean-flagged ship.⁷⁶ This case became the centre of attention for both the Indonesian and New Zealand governments.

Graph 19.
Number of Indonesian Fishermen Abroad 2011 – 2015



*Source: BNP2TKI data on Placement and Protection of Indonesian Worker Overseas 2010 – 2015

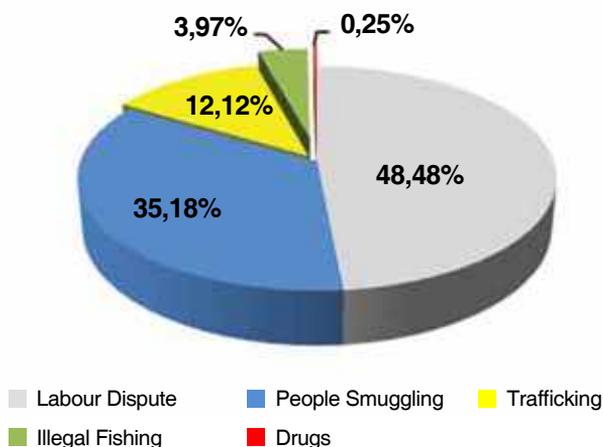
In July 2012, a further 203 Indonesian fishermen were rescued from trafficking activities in Trinidad and Tobago territorial waters. These fishers worked for the Kwo Jeng Trading Co. Ltd Company in Taiwan. These fishermen were promised work in Taiwan and lured with offers of a large salary. Instead, they were transported to Trinidad and Tobago and suffered physical and psychological abuse. They were subjected to excessive working hours, denied proper food and medical assistance request, and had restricted freedom of movement.

⁷⁶ Hamish Clark, Fishermen claim unpaid wages, sexual abuse,|| <http://www.3news.co.nz/Fishermen-claim-unpaid-wages-sexualabuse/tabid/421/articleID/232989/Default.aspx>

Their identity documents were confiscated by the captain and they were bound with debt. Similar cases also occurred in 2013, where 119 Indonesian fishermen in African countries were also victims of Trafficking. In 2015 there were 26 Indonesian fishermen in Angola and 55 Indonesian fishermen in Peru who suffered from exploitative situations.⁷⁷

Indonesian fishermen working internationally have also found themselves involved with labour disputes, IUU fishing, and other crimes at sea (Graph 20). According to the Ministry of Foreign Affairs, for the period 2012-2015, the Indonesian government assisted 2,368 Indonesian fishermen abroad who had experienced IUU related crimes. The main cases experienced by Indonesian Fishermen were labour disputes (1148 cases), people smuggling (833 cases), Trafficking in Persons (287 cases), illegal fishing, (94 cases) and drugs abuse (6 cases).⁷⁸

Graph 20.
Number of Indonesian Fishermen who Encountered IUU-related cases Abroad



Among the 2368 fishermen who had experienced IUU problems, 12.12% or 287 of the fishermen suffered from trafficking cases. Most of them were trafficked to East Asia and South East Asia (97 fishermen), South Africa (135 fishermen),

⁷⁷ Akibat Dualisme Aturan, Banyak ABK TKI di Luar Negeri Jadi Budak, <http://buruh-online.com/2015/07/akibat-dualisme-aturan-banyak-tki-abk-di-luar-negeri-jadi-budak.html>

⁷⁸ Rekapitulasi Kasus ABK 2012-2015, Kompilasi Data Penanganan WNI di Luar Negeri, Direktorat Perlindungan Warga Negara dan Bantuan Hukum Internasional, Ministry of Foreign Affairs.

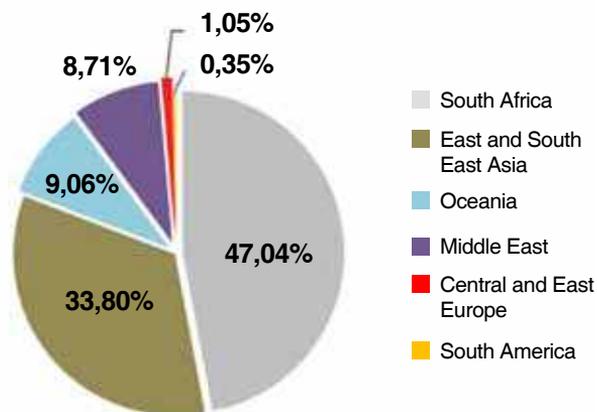
the Middle East (25 fishermen), Oceania (26 fishermen), Central and Eastern Europe (3 fishermen) and South America (1 fisherman).

IOM Indonesia has assisted Indonesian fishermen abroad who have been victims of trafficking. The first case was referred from the Indonesian National Police to IOM in October 2005. A 27 year old fisherman was recruited by an individual broker to work in Malaysia as a construction worker. He was transported from Nangroe Aceh Darussalam via mixed transportation to Malaysia. Once he arrived he was sent to the vessel and employed as a fisherman. He worked for 3 months without receiving any salary and adequate food and water. He experienced physical and psychological abuse.

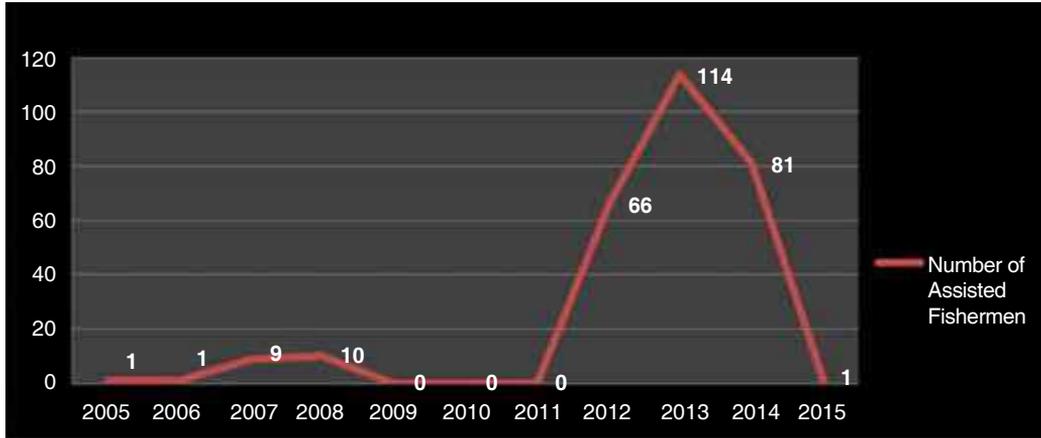
The second case was received by IOM in 2006, involving one fisherman from Sambas. He was trafficked to Malaysia by an agency, suffered from psychological abuse, faced excessive working hours and denied medical assistance and adequate food. He was rescued by Police and referred to IOM by the Indonesian Embassy. In 2007 IOM received a referral for 9 fishermen from West Kalimantan who were trafficked through a legal agent to Malaysia as fishermen.

The number of Indonesian fishermen has increased year by year, and in 2013, IOM Indonesia received referrals for 114 Indonesian fishermen who were trafficked abroad. Graph (21) illustrates the number of Indonesian fishermen assisted by IOM since 2005 – 2015.

Graph 21.
Trafficked Fishermen in Destination Regions

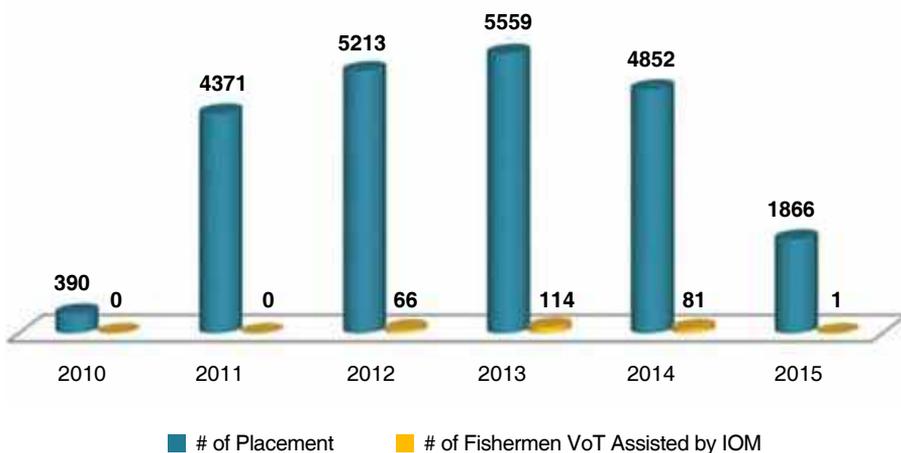


Graph 22.
Number of Indonesian Fishermen Assisted by IOM since 2005 - 2015



According to the IOM data, the trafficking of Indonesian fishermen abroad has increased significantly since 2011. When compared to the BNP2TKI’s data on the placement of Indonesian fishermen abroad, there are similarities in the increasing number of placements and cases. When the number of placements is high, the number of the cases also increased.

Graph 23.
Comparison of Placement Number and Trafficking Case faced by Indonesian Fishermen

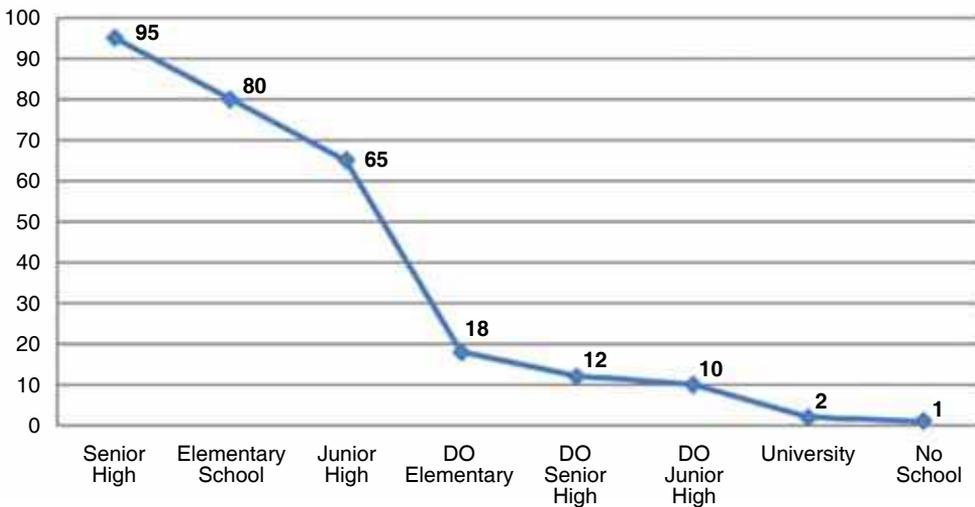


Education

The relationship between education attainment and the proportion of victims of trafficking is negative. It would appear that the lower the education, the higher the number of victims.

In contrast with the education level of the foreign fishermen who were trafficked in Indonesia, the fishermen from Indonesia had a higher level of education. This has been influenced by the government regulation and requirements for Indonesian fishermen to work abroad. The Indonesian government has regulated that fishermen should meet basic requirements to secure overseas employment opportunities, such as completing basic security training and undergoing training which is confirmed by the issuance of a certificate of competency and proficiency.

Graph 24.
Educational Background of Indonesian Fisherman VOT
(2011-2015)



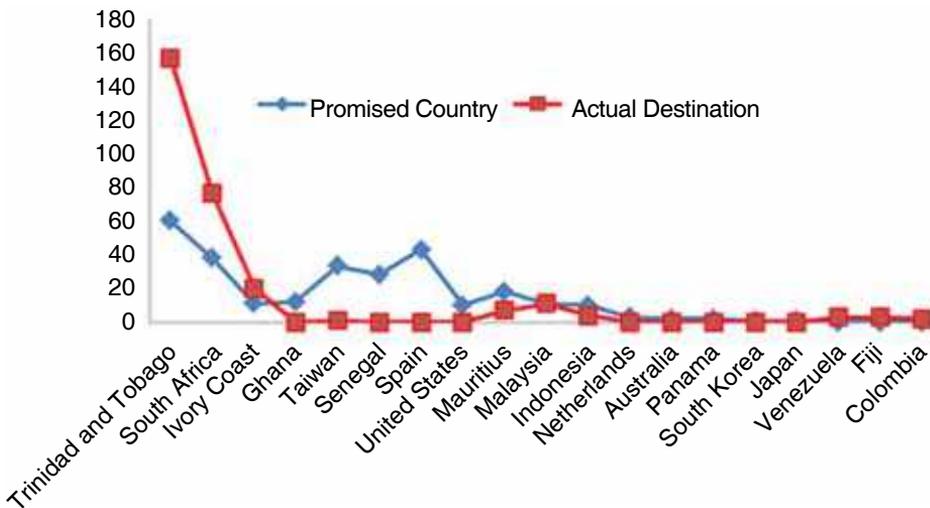
Promised Jobs

Recruiters mostly promised victims gainful employment in the fishing industry, accounting for 98 percent of recruitment. Two percent of victims reported that the recruiter offered to find them work but did not specify the job category. In both instances, the recruiter did not deceive the victim about the type of activity, as they either knew or were not informed that their labour would be used in the fishing industry. Even though 98 per cent had been informed about the work as fishers, they had been manipulated in the destination countries, where their working conditions and working period were not as originally anticipated.

13 percent of victims reported that the actual employment in the fishing industry was in the promised destination, including Indonesia, Ivory Coast, Malaysia, Taiwan and Trinidad and Tobago. 87 per cent claimed that the actual destination was different to the one that was promised. Most fishermen (21% or 60 fishermen) were promised work in Trinidad and Tobago, 43 in Spain, 38 in South Africa, 33 in Taiwan, and 28 in Senegal. The rest of the fishermen were promised work in various countries such as Malaysia, United States, Ghana and Japan. Whereas the actual destination countries were dominated by Trinidad and Tobago (156 fishermen), South Africa (76 fishermen), Ivory Coast (20 fishermen), and Malaysia (11 fishermen). Graph 25 provides detail on the promised country and actual destination country.

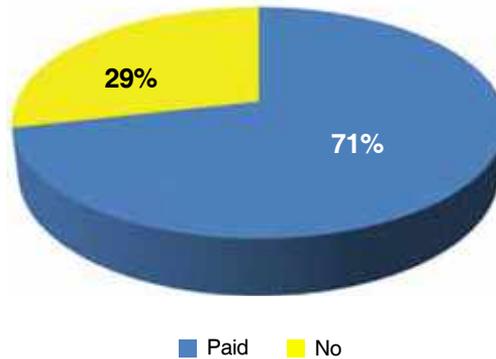
Graph 25.

Promised *vis-à-vis* Actual Destination Country



Recruitment fee

Graph 26.
Recruitment Fee

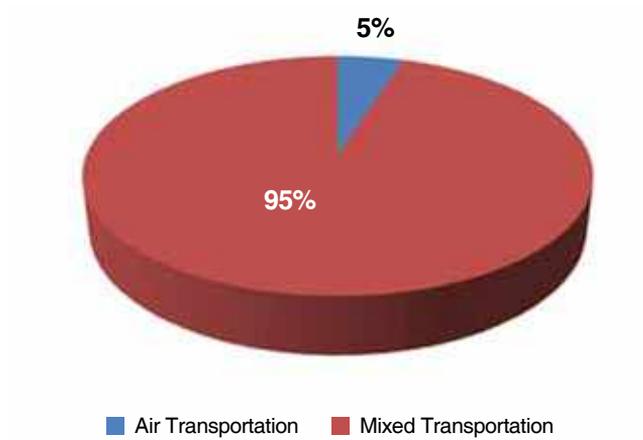


In many cases traffickers charged the victim a recruitment fee. This fee is charged for transportation, accommodation and document issuance expenses. IOM data show that from 283 fishermen, 202 of them (80%) were required to pay a recruitment fee. Among those who paid the fee, 176 victims were required to sign debt contracts a day before their departure while the remaining 29 victims claimed to have paid a recruitment fee of \$2,000 to \$4,000 directly to the recruitment agency.

Movement Process

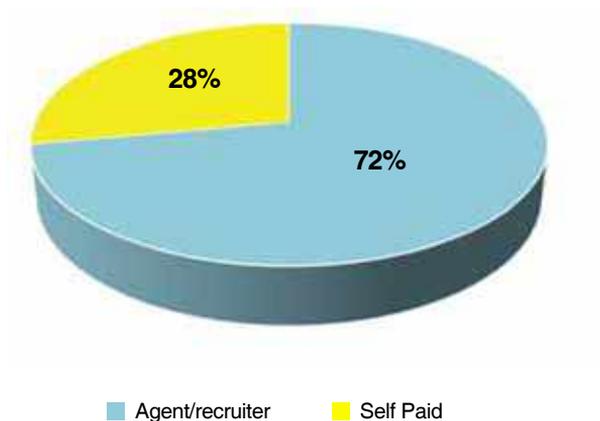
The method of transport has much to say about the way in which the victims arrived on the vessel of exploitation. Two thirds of victims reported that the trafficking network used a combination of land, air and sea-based modes of transport. Generally, victims were moved from their home village to the capital city via land transportation. Afterwards, the victims moved through air transportation to the coastal location at the promised destination country, then transported to the vessel at sea.

Graph 27.
Means of Movement



Transportation expenses were normally borne by the recruiter but over 28 percent of victims reported that they paid the costs by themselves. 72 percent reported that the movement fees were paid by the recruiter. However these 72 percent victims confirmed that they should pay back the movement fees once they started work. Their salary would be deducted for these expenses

Graph 28.
Payers of Movement

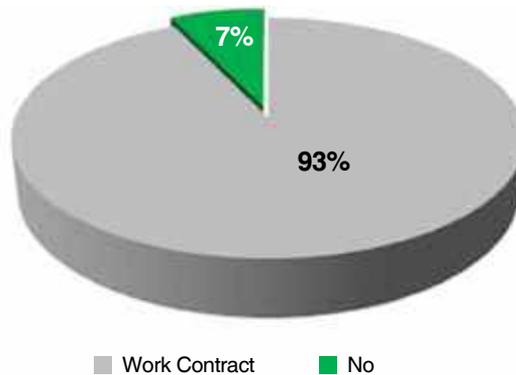


Work Contract

The study found that 263 victims were employed under a work contract and only 20 did not have a contract. Of 263 of victims who had contracts, 95% of them were recruited by a legal recruitment agency and less than 5% or 12 of them were recruited by an individual broker. In addition, the recruitment services of a family member were reported for only one case.

The twenty fishermen who were employed without a work contract were recruited by an individual broker (middleman) or a friend. A few of the fishermen reported that they were recruited by a legal recruitment agency. Legal recruitment agents tended to organize contracts while the individual recruiter or middleman were not likely to do so.

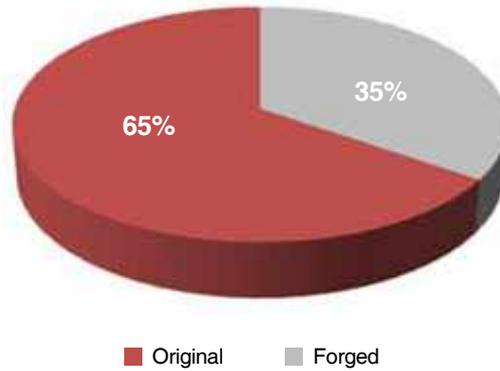
Graph 29.
Availability of Working Contract



Document Falsification

The victims' primary document was a seaman's book, and it was confirmed by 275 victims that they possessed the document and it had been arranged through the recruitment agency. Eight victims reported that they had never possessed a seaman's book, although it is the primary travel document for seafarers who land or operate in a foreign country's territory. In addition, of the 275 victims with a seaman's book, 96 reported that their document was falsified, such as details of their date of birth or name and address.

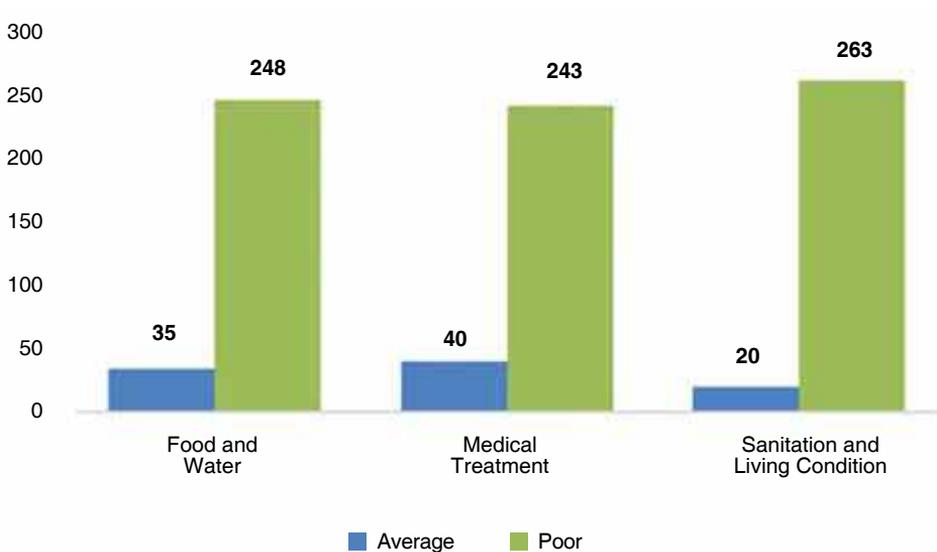
Graph 30.
Document Originality



Quality of Life

Victims reported that their quality of life in the place of exploitation was generally poor. An overwhelming majority of victims deemed that their living quarters were unsanitary and claimed that they were denied adequate food, water and medical treatment.

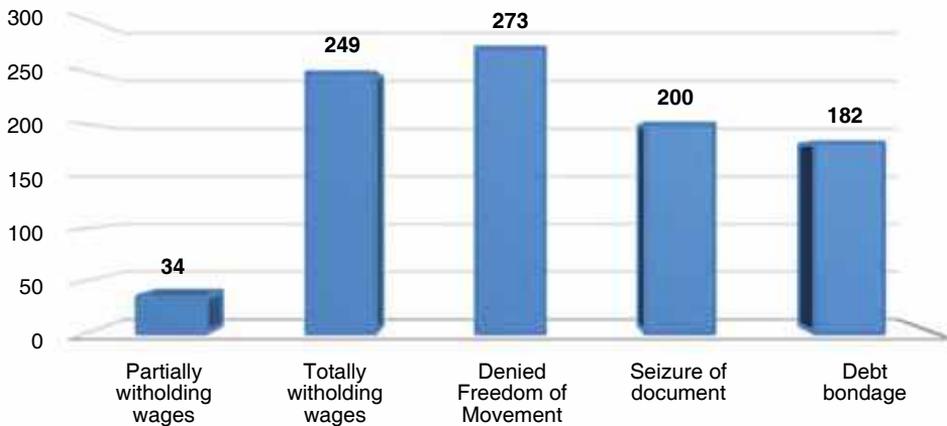
Graph 31.
Quality of Life



Mechanisms for Control

Traffickers used various methods to prevent victims from leaving the place of exploitation when the opportunity to do so presented itself. Almost 96 percent of victims reported that the trafficker restricted their movement.

Graph 32.
Means for Control

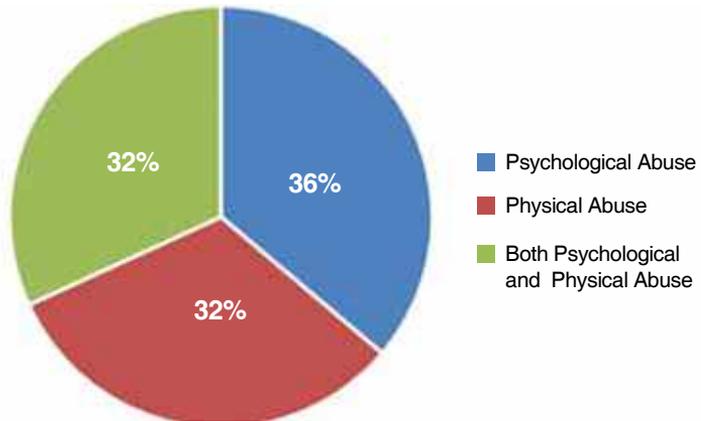


More than 88% of the victims reported that the employer kept their salary and did not allow them to take their own money at all, while 12% of the victims reported that their partial salary had been kept by the employer or trafficker. 71% of fishermen had their identity documents, including but not limited to the seaman's books, confiscated and by the trafficker. Debt was also used as a means of control with 64% of victims reporting that they had a debt with the trafficker.

Abuse

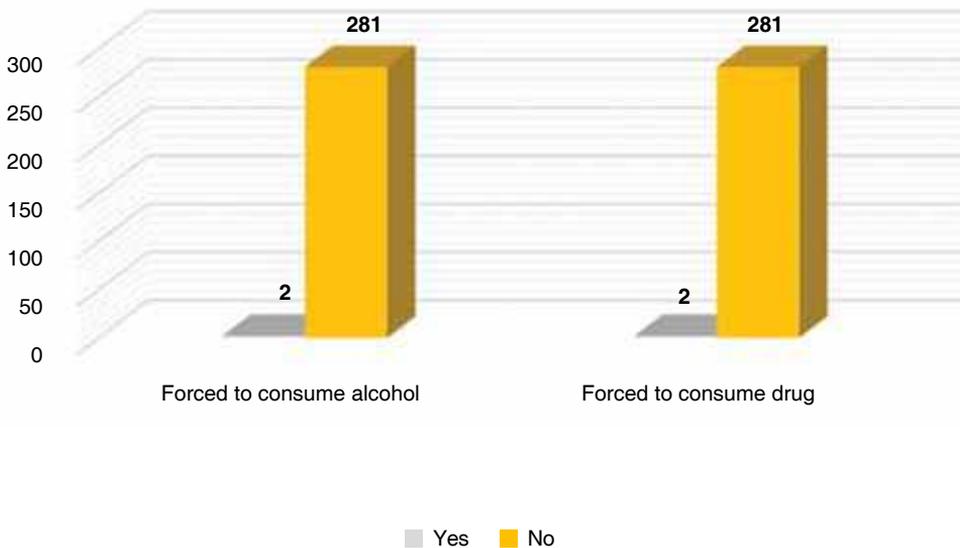
Over 83 per cent of victims reported that the trafficker psychologically abused them. Additionally, 94 per cent of victims experienced psychological abuse. It was also common for victims to experience both psychological and physical abuse with 82% having experienced both. None of the Indonesian victims reported experiencing sexual abuse.

Graph 33.
Type of Abuse



A minority of victims reported that the trafficker forced them to consume alcohol and use drugs. Two victims were forced to use drugs and consume alcohol

Graph 34.
Forced to Consume Alcohol/Drugs

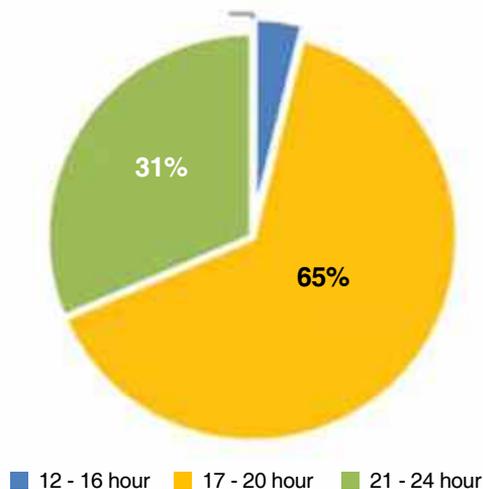


Labour Exploitation

The exploitation involved abuse of labour rights. This was the case for 88% or 249 victims who reported that they were not paid for the work that they had performed for the trafficker. Another 12%, or 34 victims, reported being partially paid. Only 7 victims were allowed to keep their wages. The rest of the 27 fishermen confirmed that their partial salary was taken by Boat's Captain.

As well as payment issues, 99 per cent of victims also reported that the trafficker required them to work excessive hours. This included 65 per cent of victims who claimed that they worked between 17 and 20 hours per day. Another 31% of the reported that they worked for 21-24 hour and 4% worked for between 12-16 hours. None of the victims reported working less than 12 hours per day.

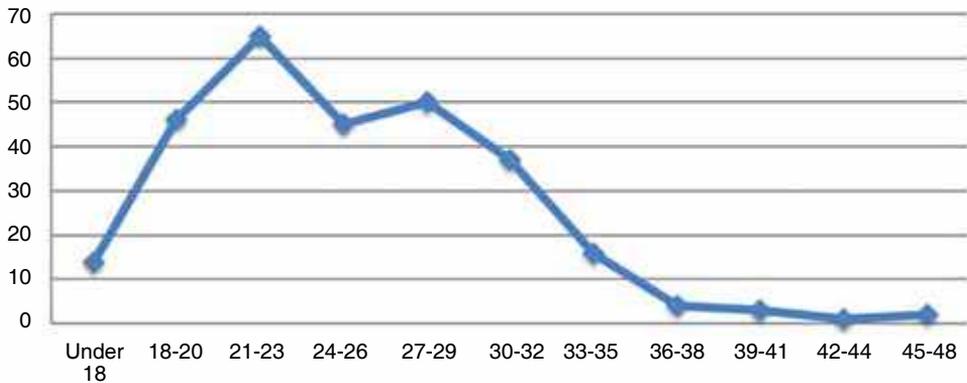
Graph 35.
Working Time



Age

IOM data show that among the 283 Indonesian VoT, 5% of them or 14 of the fishermen were underage, while the largest proportion was 23% (or 65 fishermen) were in the 21-23 age category. This was followed by the 27-29 age group (18% or 50 fishermen); 18 – 20 age and 24 – 26 age (each group consist of 16% or 45 fishermen); and the 30-32 age group with 13% or 37 fishermen. There were far fewer fishers and seafarers who were 33 and above.

Graph 36.
Age of Indonesian Fisherman VOT (2011-2015)

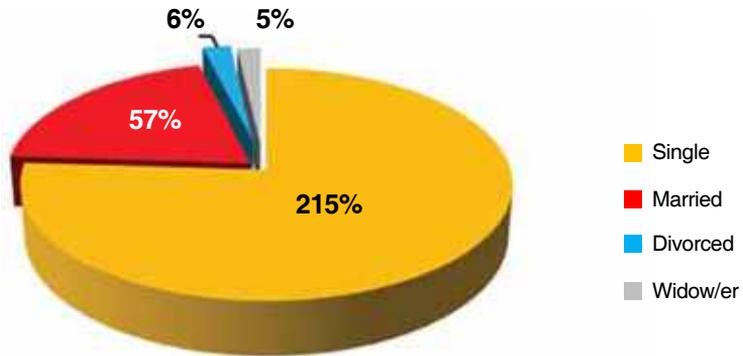


It appears that traffickers mainly targeted Indonesian males in the 18 – 30 age brackets for recruitment. People within 18 -30 ages are well known for their dynamism, productivity, and have strong motivation as well as being full of hope and dreams. They can be lured with offers of high income and a better life overseas. Generally, younger victims are more likely to be single, whereas older victims tend to be married, divorced or widowers. This family status also has influence on why the traffickers targeted younger people within 18 -30 age group.

Family Situation

The majority of victims (76%) reported that they were single, while 20% of them were married, 2% divorced and 2% were widowed. Among the 76% or 215 fishermen with single status, 190 were in the 18-30 age brackets. This indicates that traffickers target young men with simple family situations for exploitation. Younger single victims may be targeted because of their limited life experience, while victims who are married are targets because of expectations to make greater financial contributions.

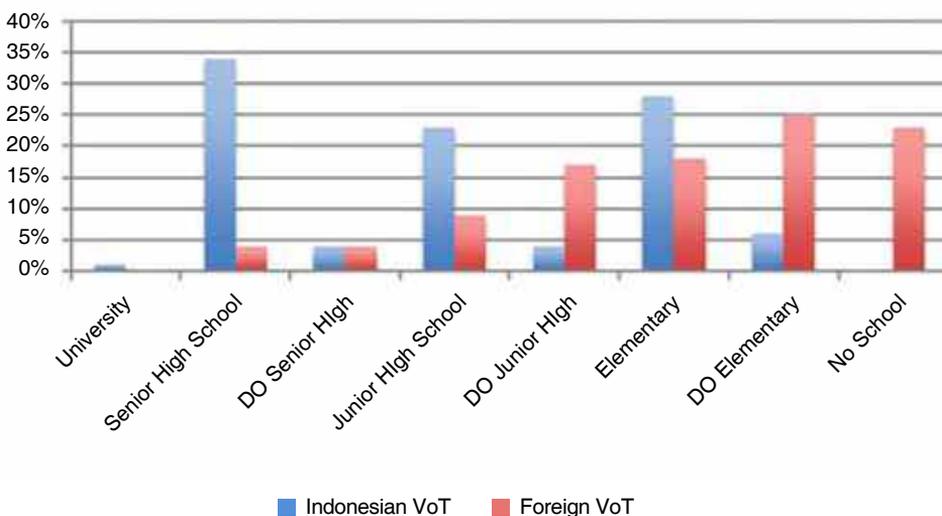
Graph 37.
Marital Status of Indonesian Fisherman VOT (2011-2015)



Educational Level

One interesting motivating reason with Indonesian victims was related to ‘education problems’. This was unlike the foreign VoT in the Indonesian fishing industry who did not state this as a motivating factor. There was a significant difference in the educational background of foreign victims compared to Indonesian victims of trafficking abroad.

Graph 38.
Educational Background of Victims of Trafficking (Both Categories)

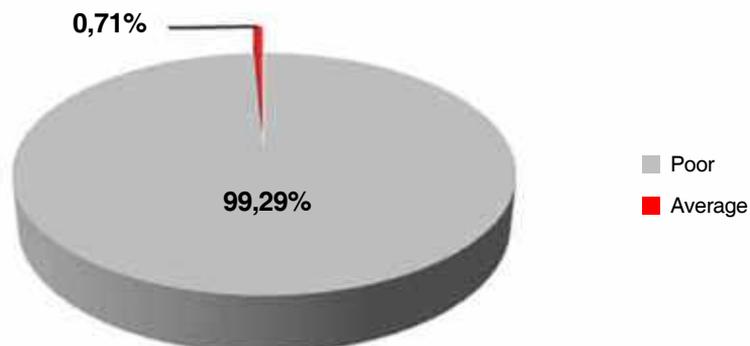


Most of the Indonesian victims of trafficking had completed some secondary schooling (Junior and Senior High School) (Graph 38). This was the opposite situation to foreign victims of trafficking in Indonesia. The emergence of education considerations as a reason to work abroad is found reasonable and logical. Individuals who fall within this category explained that by working abroad, they could earn higher wage, which at the end would be used to fund their further or pending studies. It is clear that victims initially saw an economic advantage and benefit from working in foreign fishing industries compared to work in the similar industry at home. Although education appears to play a pivotal role in preventing people from being trafficked, in Indonesian victims of trafficking it did not prevent Indonesian victims from falling into the trafficking cycle.

Economic Status

In terms of economic status, there was no significant distinction between the foreign and the Indonesian victims of trafficking. An overwhelming majority of victims identified themselves as being economically disadvantaged (Graph 39). A smaller proportion of less than one per cent claimed to be average in their economic position. This data supports the assumption that individuals coming from disadvantaged economic status are more likely to be trafficked than those in an economically advantaged group. Similarly, victims with average means are also believed to be motivated by the desire to obtain better employment in terms of the position and salary rate.

Graph 39.
Economic Status of Indonesian VOT (2011-2015)



Place of Origin

Traffickers will frequently target victims who live in remote areas. As for fishermen assisted by IOM, 62.9% (178 fishermen) came from Central Java, 21.2% (60 fishermen) from West Java, and 4.9% (14 fishermen) from West Borneo (Figure 9).

Figure 9.
Place of Origin Indonesian Fisherman VOT (2005-2015)



Fishermen from Central Java, generally come from the north and south part of Central Java such as Pemalang, Tegal, Pekalongan, Batang, Brebes, Cilacap, Purworejo, Pati, Rembang. These areas are well known as a source of fishermen because they are located on the coastline of Java. Only 8 fishermen were recruited from inland Central Java from Wonosobo, Banyumas and Klaten. Most of the victims from West Java, 56% of them (36 victims) originally lived in coastal areas, such as Indramayu, Subang and Cirebon and Ciamis. South Sulawesi was also a popular source of trafficked fishers. This can be accounted for by the fact that people from South Sulawesi are renowned as good seafarers, able to read navigation maps, and have a good knowledge of the sea, fishing and vessels.

RECRUITMENT AND MOVEMENT

Foreign Victims of Trafficking in Indonesia: Pre-Departure

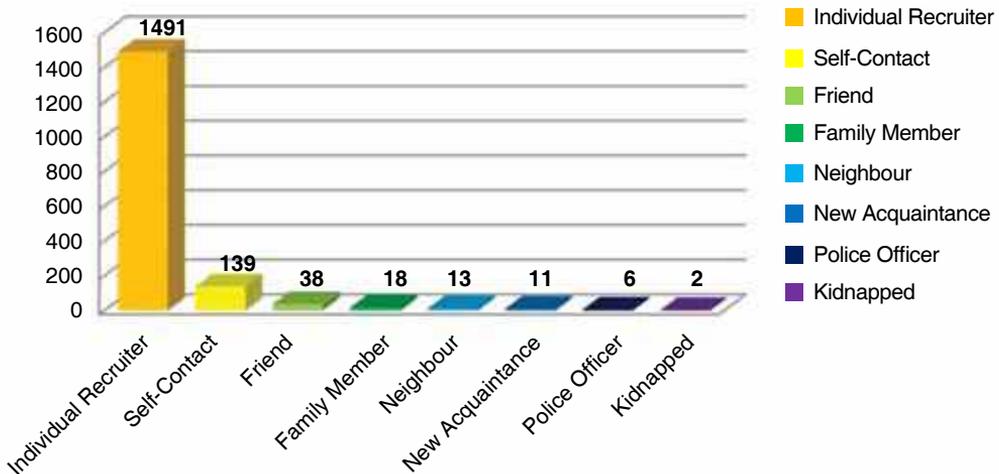
In general, there were three types of recruitment that were utilized by agents to recruit foreign migrants from Myanmar, Cambodia and Lao PDR into the Thai fishing industry, they included:

1. Agents or brokers who resided in one of the three countries and Thailand looked for potential migrant labourers in coordination with the employers. These agents usually charged a recruitment fee to the migrants in the form of a cash advance or debt, by allowing the migrants to work at the first place and later deduct the fee from their salaries once or through installment.
2. Recruitment conducted by the agents based on the request of the employers wherein the fee for recruitment was borne by the employers.
3. Recruitment that occurred when the potential workers deliberately looked for the job in person or through friends or relatives who had previous experience working in the fishing industry or at least had a channel or contact in that industry.

Individual brokers were found to have more ability in convincing potential workers to work in the fishing industry compared to members of the family or other relatives (Graph 40). More than three quarters of recruitment was performed by a broker or individual recruiter, who was unknown to the victims. According to some victim testimonies, a single broker was able to recruit dozens of people from a village. Potential recruits were given a brief description about the job in Thailand and told that it could earn them more than \$300 a month. This was enough to attract workers. In several cases, young people immediately asked their parents' permission to go to Thailand along with the recruiter. A smaller percentage (less than four percent) facilitated the

process by themselves, or with assistance from their family members, relatives, friends, neighbors, or new acquaintances. A small percentage (less than one percent) were involuntarily (forceably) recruited.

Graph 40.
How Victims Were Recruited

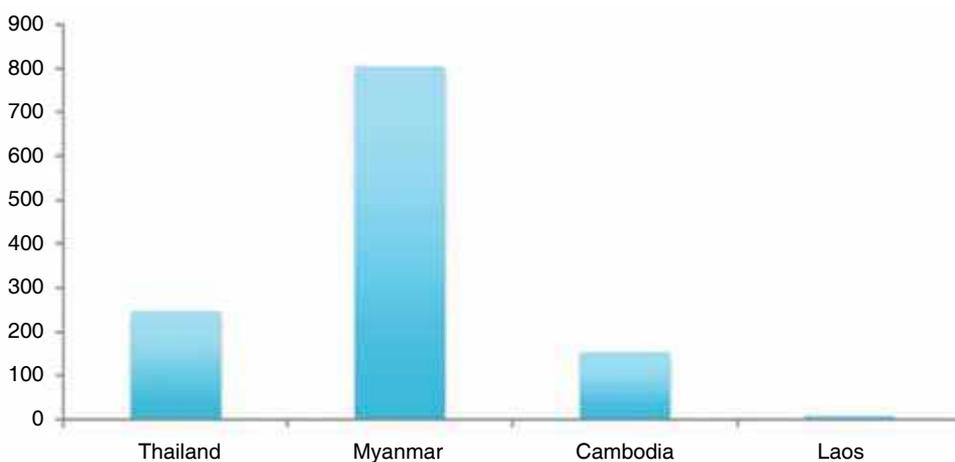


Recruiters from Myanmar dominated (66%) the nationality of recruiters in villages (Graph 41). A reason that may best explain this phenomenon may be because the majority of the victims were Burmese nationals and that in order to successfully attract a high number of potential targets, the recruiters must have the capacity to speak the local language fluently. Therefore, locals are presumed to have a better chance of convincing or deceiving their fellow nationals compared to foreigners.

Recruiters were mainly from the country of origin of the victims except for the case of Thai recruiters. A number of Thai recruiters were found to be successful in recruiting people outside of Thailand. While language was an essential element, nationality also determined the success of the recruitment process. Thais with some local language ability, had a high chance of making locals believe their stories; not because of the language but because of the recruiters' nationality as a country that was more developed than the country where they organized the recruitment. It appeared that people from less developed areas were more prone to trust people from more developed regions compared to those who came from the same socio-economic position. In the case of Lao

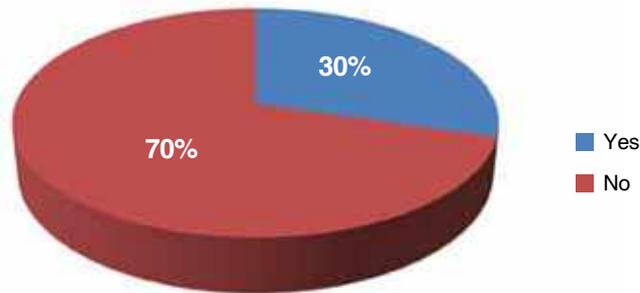
PDR, the low number of Lao recruiters can be attributed to the similarity in language spoken both in Lao PDR and Thailand. This similarity in language also decreased the possibility of Lao recruiters being involved in the process since Thai recruiters could conduct the recruitment directly. The similarity in language in both countries could also account for the low numbers of Lao victims in the Indonesian fishing industry, since most Lao nationals would have gone to Thailand directly to find work.

Graph 41.
Recruiters Nationality in Home Village



The majority of the trafficked fishers and seafarers to Indonesia had not had any previous work experience in Thailand before accepting the position on the fishing vessel (Graph 42). Approximately 70 percent of them stated that their present job was their first job in Thailand. The remainder admitted that they had previously worked in Thailand. Individuals who did not possess any previous work experience in Thailand had a higher possibility of being deceived and trafficked compared to those who had already worked there. Adequate knowledge and experience of the actual work conditions and environment in Thailand could prevent potential victims from being trafficked by employers or recruiters.

Graph 42.
Previous Working Experience in Thailand



For the victims that had previous work experience in Thailand, the majority of them had worked in a similar industry previously (Graph 43). The majority of workers who had previously worked in the Thai fishing industry found themselves in the same cycle when their contracts with their previous employer ended. Through personal connections with new employers or friends working in similar companies, they obtained information about vacancies on the fishing vessels that would sail for Indonesia, including the salaries they would obtain from the operation.

Most of the trafficked persons found their way to Thailand via irregular channels. In the case of victims from Myanmar, there were three types of entry that were found to be common: Firstly, crossing the border using land-based transport, alone or with relatives or friends and paying a sum of money to the Thai border officials for entry; Secondly, crossing the border (land-based border) alongside the recruiter and allowing the recruiter to arrange a permit entry at the border; and thirdly, entering Thailand via its coastal territory, wherein several cases involved the use of people smugglers (as opposed to traffickers) to avoid Thai coastal patrols. For Cambodians and Lao PDR nationals their entry to Thailand was mostly performed through land-based border crossings, accompanied and facilitated by their brokers. For less than 10,000 baht a safe crossing and entry to Thailand could be provided to migrants who desired to enter Thailand for work purposes.⁷⁹

⁷⁹ Jeerold Huget, *op cit*, p. 5

Graph 43.
Previous Work Experience in Thailand (Sector)

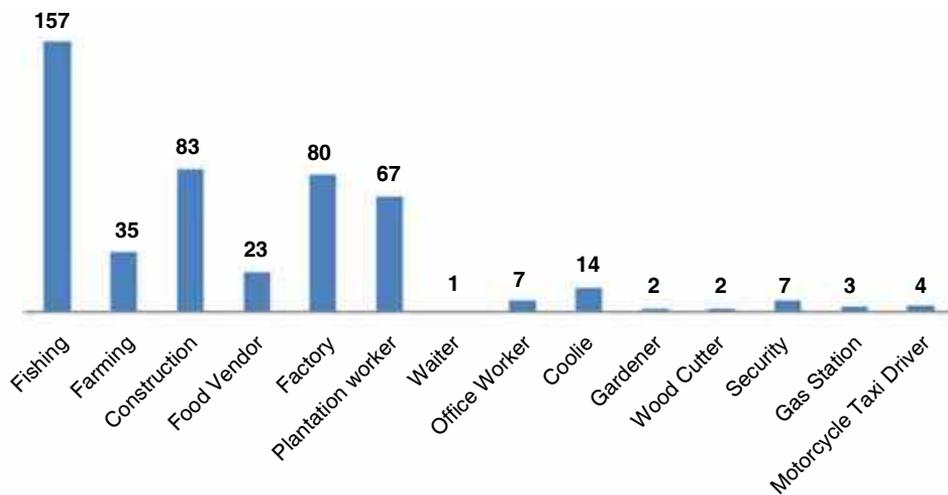


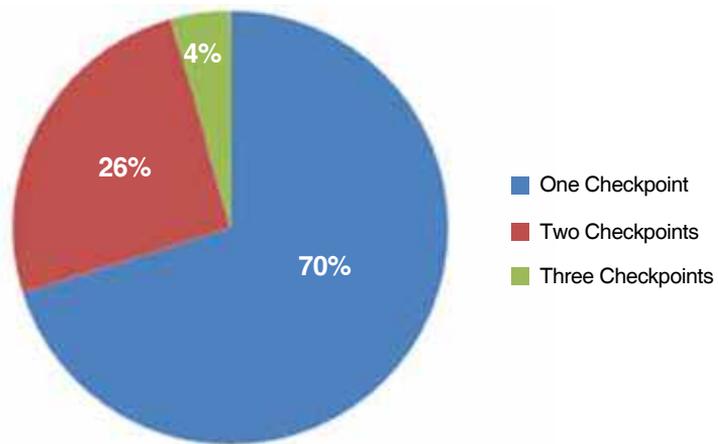
Table 5 displays the border crossings that were used by all the foreign victims who were trafficked to Indonesia and interviewed by IOM Indonesia (2011-2015). In several cases victims were required to make multiple border crossings (Graph 44).

Table 5.
Name of Borders Used by Migrants to Enter Thailand

Name of Border	Percentage of Crossing
Cambodia - Battambang Province	1.70%
Cambodia - Koh Kong	0.26%
Cambodia - Lam Area	7.33%
Cambodia - Malai District	3.93%
Cambodia - Nang Chan	0.13%
Cambodia - O'Smach	0.13%
Cambodia - Pak Khlong	0.39%
Cambodia - Poipet Town	10.86%
Cambodia - Prey Veng Province	0.26%
Cambodia - Siem Reap Province	0.52%
Laos - Chong Mek	0.13%
Laos - Savannakhet	0.52%
Myanmar - Bago Province	0.26%
Myanmar - Kawthaung	39.01%

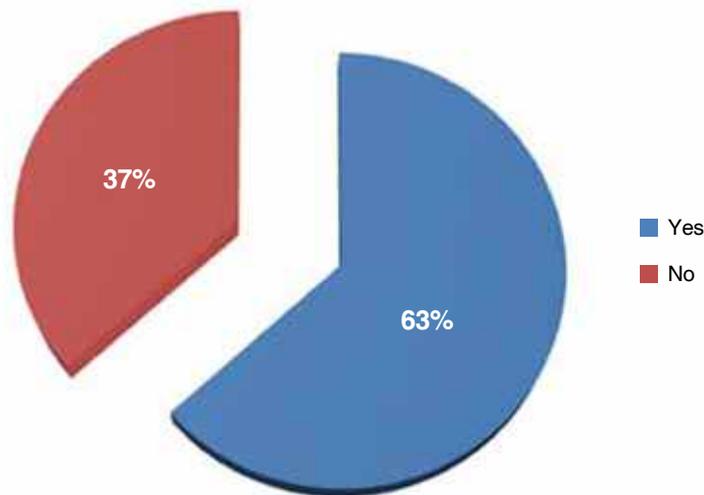
Name of Border	Percentage of Crossing
Myanmar – Myawaddy	5.76%
Myanmar - Rakhine State	0.26%
Thailand - Bang Trakouen	1.31%
Thailand – Liem	0.65%
Thailand - Mae Sot	4.45%
Thailand - Nong Khai	0.13%
Thailand - Phaya Tone Zu	14.92%
Thailand - Preah Vihear	0.13%
Thailand – Ranong	3.93%
Thailand - Than Phyu Zayat	2.49%

Graph 44.
Numbers of Checkpoint During the Movement



The majority of the migrant workers were not directly transferred to employers but were instead transferred to one or more agents before reaching their final destination. Graph 45 provides information about the numbers of trafficked persons that were referred to another agency prior their employment in Thai fishing industry. More than 60 percent of the respondents admitted to being moved to a different recruitment agency after reaching Thailand, while less than 40 percent stated that they were directly referred to their employers shortly after arriving in Thailand.

Graph 45.
Transfer to Other Agency After Arriving in Thailand



Previous IOM Thailand research identified several common routes that are used by both people from Myanmar and Cambodia to reach Thailand:⁸⁰

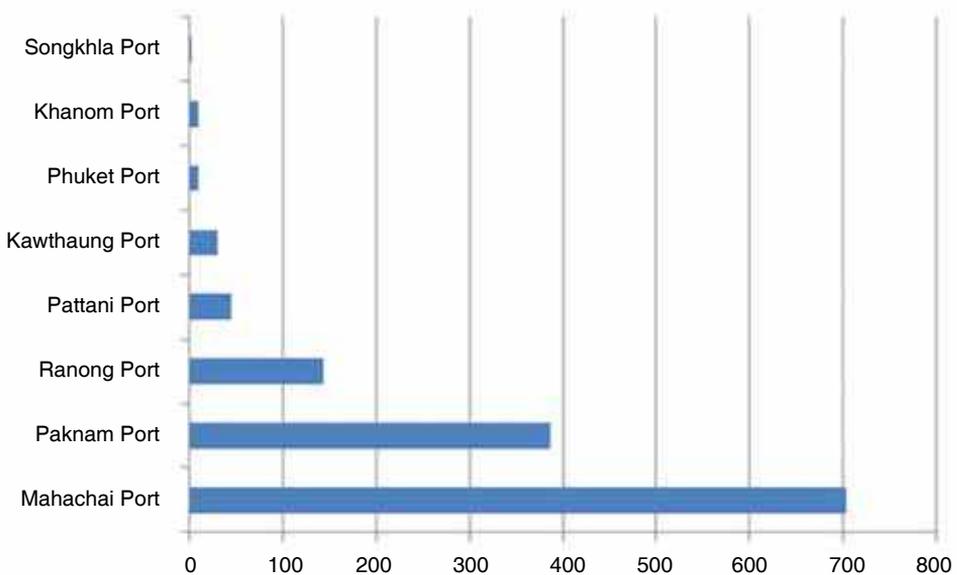
1. Victims from Myanmar are trafficked from Kawthaung (Tanintharyi region) in Myanmar to Ranong in Thailand. From Ranong the trafficked persons are moved onto fishing boats operating out of Mahachai, Songkhla, Pattani, Surat Thani, or Trang. Another common route that is frequently used to transport victims of trafficking is to take them to Mae Sot (Tak province, Thailand) from Myawaddy (Kayin State) in Myanmar. Victims of trafficking are later transferred and distributed to Sakhon, Samut Prakan, Songkhla, or Chonburi. The last route takes the victims through the Three Pagodas Pass border crossing into Sangkhlaburi, and followed by their transfer to Samut Sakhon. Though the last route is less commonly used by traffickers, recent trends have indicated there has been an increase in the use of the route as an alternative route for trafficking.

⁸⁰ Philip Robertson, "Trafficking of Fishermen in Thailand", IOM Thailand, 2011, p. 26, retrieved from <http://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/countries/docs/thailand/Trafficking-of-Fishermen-Thailand.pdf>.

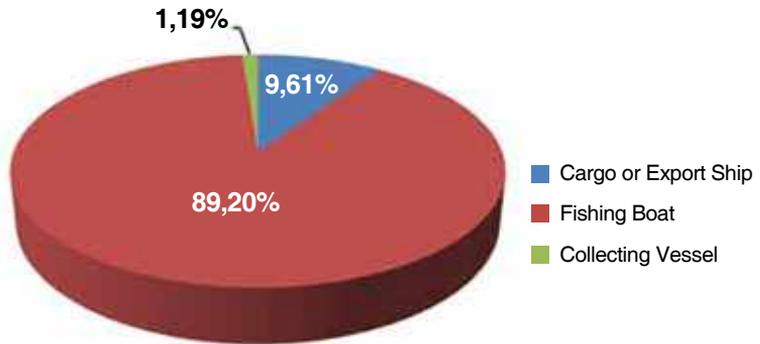
- For victims of trafficking from Cambodia, the most frequent route used by traffickers is to reach Aranyaprathet by crossing at Poipet. From Aranyaprathet, the victims are moved to Pak Nam of Samut Prakan district, Chonburi, or Rayong. Another group of trafficked persons are transported from Battambang to Chantaburi and from Koh Kong to Trat, with similar destinations to Prakan, Rayong or Chonburi. In some cases, victims are transferred between boats operating out of ports on Thailand’s eastern seaboard (i.e. Trat and Rayong) to fishing boats that operate out of Pattani, into Malaysian and Indonesian in response to seasonal weather patterns.

The journey of the fishers and seafarers to Indonesian waters started from several ports around Thailand (Graph 46). Mahachai Port, in Samut Sakhon Province, has become the primary port used for departing migrant fishers and seafarers to Indonesia. Samut Sakhon is known as one of the principal destinations for foreign unskilled or low skilled labourers who want to work in Thailand, particularly foreign workers from Myanmar.

Graph 46.
Departure Port Prior to the Arrival in Indonesian Waters

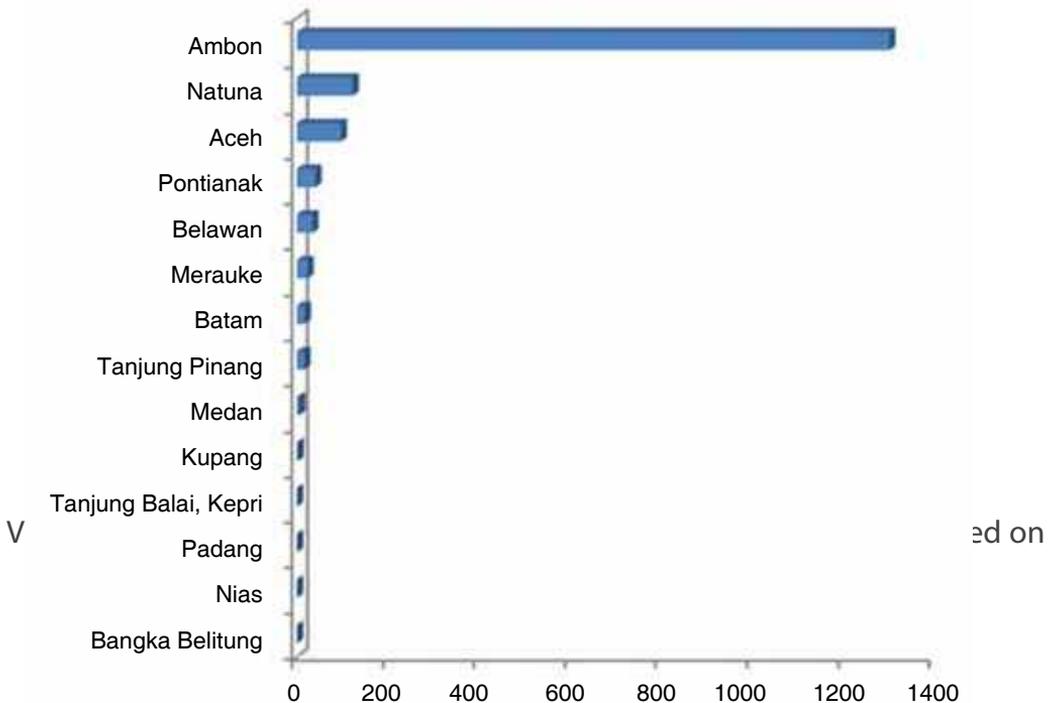


Graph 47.
Method of Transportation to Indonesia



Not all of the trafficked foreign fishers and seafarers used fishing vessels to reach Indonesia. A small amount came to Indonesia both via cargo or export ship and collecting vessels. It is interesting to note that foreign individuals could evade the immigration checks and monitoring processes of the Indonesian coastal authorities when entering Indonesia on cargo ships (or in a collecting vessel) as they were not legally allowed due to their status as fishermen.

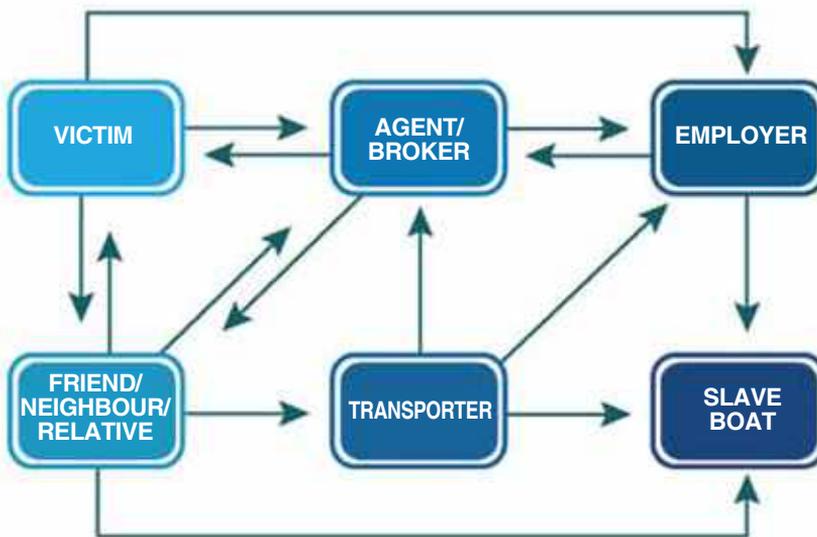
Graph 48.
Arrival Point in Indonesia



the data, Ambon was the key entry Port for victims of trafficking in the fishing sector. There are two particular reasons that may best explain the preference of Ambon for the traffickers. Firstly, Ambon is the city where most of the Indonesian companies which have joint ventures with Thai fishing companies reside. To ease the management and coordination at the operational level, moving all the trafficked fishermen to Ambon was the most convenient option they had. Secondly, Ambon's geographical location placed it close to their target fishing grounds —mostly in Arafura Sea and other seas in the eastern part of Indonesia.

In summary, there was more than one way for foreign victims of trafficking in the fishing industry to be trafficked to Indonesian territory. Based on the findings during the assessment period, it is clear to say that self-recruitment, friends, new acquaintances, relatives, brokers, or recruitment agencies were utilized and all could lead to an individual being trafficked into the fishing industry. Figure 10 illustrates the overall recruitment and movement process of foreign victims of trafficking from Myanmar, Cambodia, and Lao PDR, and Cambodia to be trafficked by Thais into the Indonesian fishing industry.

Figure 10.
Recruitment and Movement Process of Foreign Trafficked Persons to Indonesia



CONTROL MECHANISMS

Crimes Against the Person

The human rights abuses, including trafficking in persons, uncovered during the investigation were extensive as were the range of fisheries crimes, and fisheries related crimes. The primary focus of the investigations in Benjina and Ambon were trafficking in persons offences. The seriousness of the allegations and the scale of TiP offences inadvertently overshadowed other criminal offences. Primary amongst these were the claims of murder made by victims of TiP.

Murder

There is much anecdotal evidence of the killing of fishermen by captains or other crew members in previous research. Aside from a few unconfirmed reports of killing, there is little witness testimony. The Benjina and Ambon cases in particular highlighted the murder of crew members with several victims of trafficking providing graphic accounts of witnessing the disposal of bodies in collusion with local officials.

“In Benjina port, every time my ship harbored, I have seen 1-2 dead bodies floating on the sea, I had even helped and carry one of the body who happened to be a Burma. The port officer will take away those body and dry them out on the edge of the beach, wrap them with plastic, and burn them in Benjina island. Most of the dead bodies were Burma and Thai” (Cambodian male fisher, a).

“If a crew is dead, the captain would ask assistance from the local government to burn the body on an island across the Benjina island” (Cambodian male fisher, b).

“While on board, I often heard the news from the boat radio that several boat crews had died, either falling to the ocean, fighting or killed by the other crews. While I was working on the boat, I saw with my own eyes more than 7 dead bodies floating in the sea. Prior to leaving Benjina, I also saw 2 dead bodies, they were Thai crews, floating in the sea” (Cambodian male fisher, b).

“I was forced to carry fetid Thai dead body to the boat” (Myanmarese male fisher, b).

Accounts of deaths at sea and at port during fishing operations appear to be quite common according to the victim statements. A more sinister account relates to the transshipment vessel or export ship. This vessel remains in international waters and resupplies the smaller fishing vessels and stores their catch. It is also supposedly responsible for returning crew members to Thailand (and from there they go home to Myanmar, Cambodia, Laos, or stay in Thailand). One victim statement suggested that the promise of returning home was a lie and that fishermen were killed at sea by being thrown overboard.

“I was not brave enough to return home with the export ship because I heard that they threw Myanmar nationals to the sea once they were on the waters” (Fisherman).

This account resonates with labour trafficking of Ukrainian fishermen where there were suggestions of ‘no return’ for crew members. In previous research, EJF conducted interviews with victims who had been trafficked from Myanmar into the Thai fishing industry. Two interviewees reported witnessing the torture and murder of a fellow crewmember and the murder of at least five other individuals.⁸¹

⁸¹ Environmental Justice Foundation. (2013). *Sold to the Sea: Human Trafficking in Thailand’s Fishing Industry*. EJF: London. p9.

A UNIAP report with 49 Cambodian fishermen on Thai vessels claimed that 59% of interviewees stated that they had witnessed the captain of the vessel murder a crew member.⁸² This included one witness stating that he had seen two people decapitated by two captains.⁸³

Interviews conducted by IOM in Thailand with fishermen from Myanmar and Cambodia found that they had witnessed the murder of colleagues by captains, particularly, '... when they were too weak or sick to work'⁸⁴.

The Benjina and Ambon victim of TiP statements contain very detailed information on the unlawful disposal of human remains both on land and at sea. There would appear to have been no accountability for the loss of life of fishers and seafarers working in IUU fishing in Indonesian waters. Whether the person was murdered or died of an accident or natural causes, there was no post mortem conducted or investigation instigated. The next of kin and other family members may never have been informed of the death.



Picture 5: Part of the cemetery in Benjina used to bury victims of trafficking (Source: KKP)

⁸² UNIAP. (2009). *Op Cit.* p5.

⁸³ *Ibid.*

⁸⁴ IOM Thailand. (2011). *Trafficking of Fishermen in Thailand.* IOM: Bangkok. p25.

Attempted Murder

It would appear from witness testimony that some fishers and seafarers also came very close to being killed by the captain or other crew members. The most popular form of attempted murder was to throw crew members into the sea in an attempt to drown them.

"...I met with one of my old colleague who warned me about my captain that he tried to kill my colleague by putting him into the cage and locked and thrown into the ocean because my colleague requested to let him go back. Luckily my colleague could managed to break the cage and escaped but some other people had died due to the captain.... I got into a fight with the captain one day and he tried to shoot me with a gun and I ran away from his boat" (Male Myanmar Fisherman, a).

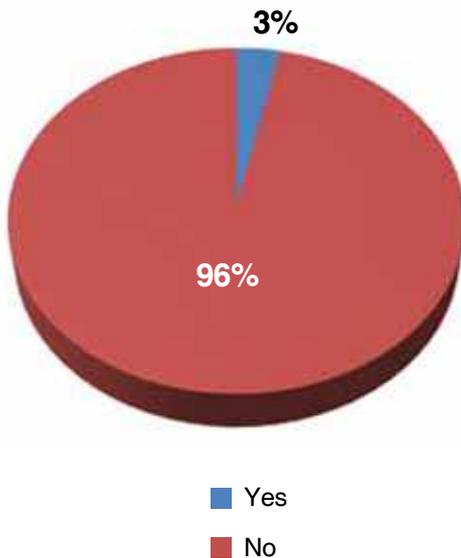


Picture 6: Visible head injuries on a rescued fisher (Source: KKP)

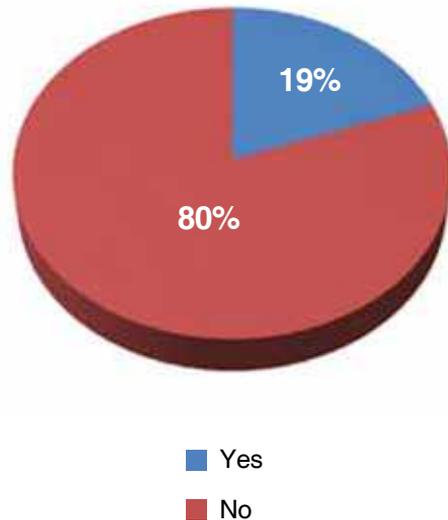
Working Conditions and Exploitation

Most victims in the fishing industry were not employed under a work contract. The victims' primary document was the seaman's book, which was only issued to 30 per cent of victims although it is the primary travel document for seafarers who land or otherwise operate in a foreign country's territory. Myanmar nationals accounted for 83 per cent of these victims. No victims from the Lao PDR possessed a document. 87 per cent of victims from Myanmar and 85 per cent from Thailand also lacked documents. 50 per cent of Cambodians reported not having a seaman's book.

Graph 49.
Work Contract

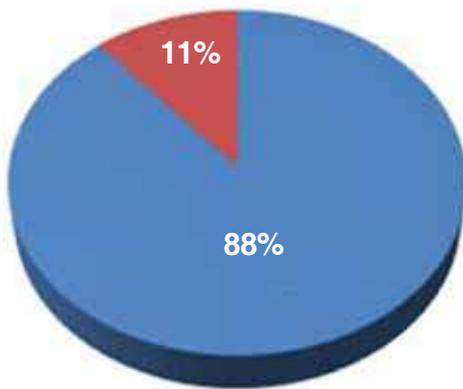


Graph 50.
Have Documents



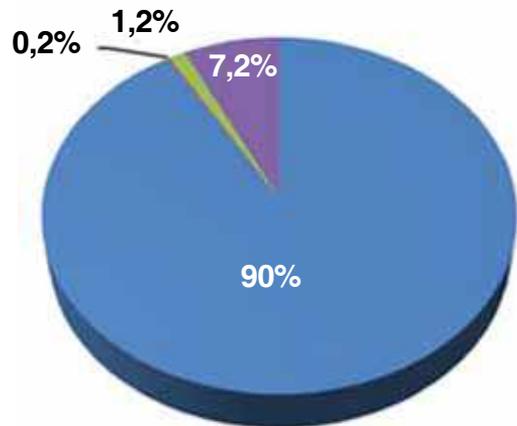
The overwhelming majority of victims with a seaman's book reported that it contained false data. The proportion of victims with such documents was highest among nationals from Cambodia (78 per cent) and Myanmar (77 per cent). Of the 12 victims from Thailand, 67 per cent held seaman's books containing false data. Victims reported that they held onto their documents in less than one per cent of cases. 90.9 per cent of victims identified the employer as the person who held their documents. Legal recruitment agents held documents in 20 per cent of cases, and 3 per cent of victims reported that another recruiter held their documents. Less than 1 per cent of victims claimed that their documents were held by a police officer.

Graph 51.
Forged Documents



■ Yes
■ No

Graph 52.
Holder of Documents

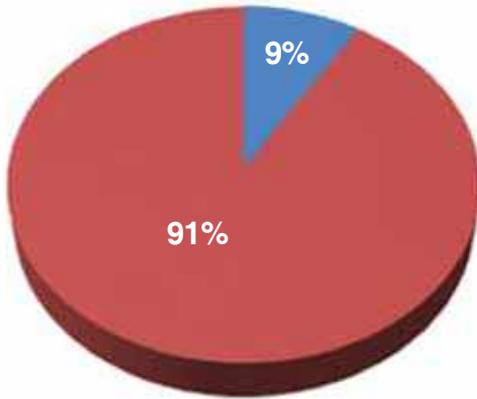


■ Employer
■ Victim
■ Agent/Recruiter
■ Undocumented

Traffickers use various methods to prevent victims from leaving the place of exploitation. Confiscation of the victim's identity documents is one of those methods. Another method involved debt. 9 per cent of victims reported that they owed a debt to the trafficker. The majority of victims reported that the debt was to repay the recruitment fee. A much smaller proportion claimed that it was related to transportation expenses.

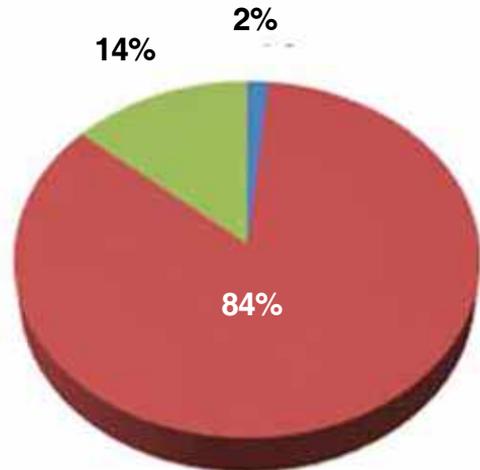
The fact that victims were working at sea and far away from their home was enough to make the idea of escaping impossible for most of them. The remoteness of the working environment and inability to escape was further exacerbated by the traffickers who restricted their victims' freedom of movement to varying degrees. When the boat was docked in port, several guards were placed around the boat to prevent victims from escaping. More than three quarters of victims reported that they were partially denied the ability to move freely on board the vessel when it was at sea and in port. In 14 per cent of cases, victims claimed that the trafficker totally denied them freedom of movement.

Graph 53.
Debt to Employer



■ Yes
■ No

Graph 54.
Denied Freedom of Movement

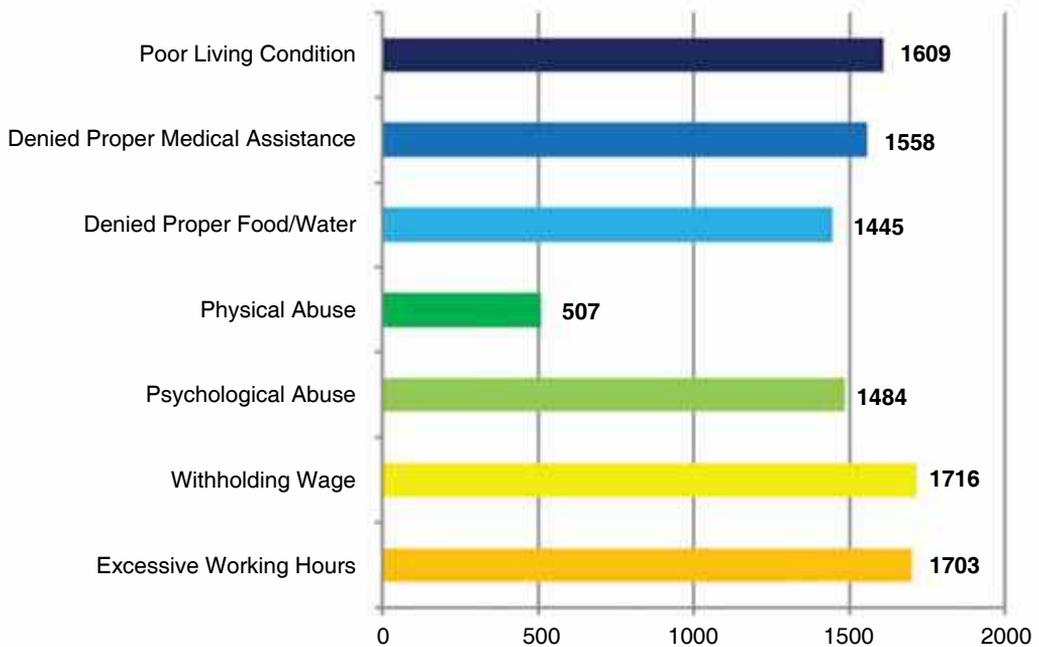


■ No restriction
■ Partially Denied
■ Totally Denied

A hallmark of human trafficking in the global fishing industry is the exploitation of victims' labour. 99 per cent of victims reported that the trafficker required them to work excessive hours. In-depth interviews with 285 victims in one location revealed more details about the length and timing of work. Almost 78 per cent of victims claimed that they worked between 16 and 24 hours per day. This happened because most boats cast their fishnets four times a day, effectively doubling their earning capacity and also increasing their victim's workload.

Over 86 per cent of victims reported that the trafficker psychologically abused them. It was common for victims to be told that they were never going home, that they had been sold, and no one would ever rescue them. Victims were threatened with assault or death and were forced to witness skippers beat and kill other crew members.

Graph 55.
Types of Exploitation



30 per cent of the victims who experienced psychological abuse also suffered physical abuse. This ranged from getting beaten, getting whipped with poisonous stingray tails, having ice blocks thrown at them, and being shot. Victims usually experienced this physical abuse when the skippers believed that they were being lazy. Victims even experienced physical abuse when they complained that they were sick. Requesting to leave the boat was a death sentence for some victims according to witness testimony. Accounts suggest that those who did find themselves chained on the deck in the middle of the day or locked in the freezer.

94 per cent of victims reported that the living conditions on the boat were awful. Victims slept in small, cramped, low-ceilinged rooms together without any mattress or pillow. Some boats had the sleeping quarters near the engine room, making it very hot. When the workload was too much they would miss meals. The meals were far from adequate as reported by 84 per cent of victims. It consisted of mainly fish and water every day.

91 per cent of victims reported that they were denied proper medical treatment. The only medical assistance on board the boat was an injection of an unknown drug, referred to by victims as 'Yakanam'. This was a combination of white powder and liquid administered by syringe. Victims reported that it was used as a painkiller and to treat a variety of health conditions and was used frequently by the skippers when a victim was too sick and unable to work. After getting injected the victim reportedly no longer felt pain and was able to continue to work.

Aside from these abuses, the victims didn't get their wage. 40 per cent of victims reported that they were not paid for the work that they performed for the trafficker. Of the 60 per cent who were paid, 99 per cent reported that the trafficker partially withheld wages. Victims were usually paid after they had completed their trip, which was usually 3-4 months. After 4 months, they were paid \$200 or less, which was less than what they were promised (around \$260/month). The skippers explained to victims that the rest of their money was with the company and could only be received once they returned to Thailand. However, without being able to return to Thailand, the victim was never able to get the rest of their wages.

ASSISTANCE FOR VICTIMS AND THE LEGAL PROCESS

Return Assistance

IOM Indonesia has received referrals and assisted trafficked fishermen who have been stranded in Indonesian waters since 2005 through its Counter-Trafficking Unit. In total, there have been 2,001 fisherman assisted by IOM Indonesia. Among these victims, 283 were Indonesian and 1718 were foreigners.

Between 2011 and 2015 the number of trafficking cases involving fishermen, mostly foreigners, continued to increase. The largest caseload was in 2015. The victims were referred to IOM Indonesia following the implementation of a moratorium on foreign fishing vessels by the Indonesian Minister for Marine Affairs and Fisheries at the end of 2014. Since that time IOM Indonesia has been cooperating closely with the Ministry to assist the fishermen in need.

In 2015 alone, IOM Indonesia identified and assisted a total of 1,342 fishermen, of which 77% were Myanmar nationals, 10% Cambodian, 11% Thai and 1% from Lao PDR. These fishermen were stranded in nine areas across Indonesia (Table 6).

Table 6.
Assisted Foreign Fishermen
from 7 April 2015 to 31 January 2016

No	Location	Nationalities				Screened Fishermen	Returned Fishermen	Fishermen Who Passed Away	Remaining Fishermen
		MM	KH	LO	TH				
1	Ambon	383*	3	6	80	472	421	2	49
2	Tarempa	44	33	0	30	107	105	0	2
3	Belawan	23	0	0	0	23	21	0	2**
4	Pontianak	35	2	0	0	37	36	0	1
5	Tanjung Balai	4	0	0	0	4	4	0	0
6	Tanjung Pinang	38	3	0	0	41	29	0	12
7	Benjina	508	96	8	42	656	654	0	2***
8	Kupang	2	0	0	0	2	2	0	0
9	Bau Bau****	1****	0	0	0	1****	1****	0	0
	Total	1037	137	14	152	1342	1272	2	68

* 383 Myanmar nationals including 2 Myanmar national referred from Benjina Case.

** 2 remain fishermen in Belawan, one run away from Belawan Immigration and one refused to return and has been referred to UNHCR for asylum seeker.

*** 2 remain fishermen in Benjina refused to return home and went missing

**** Upon an in-depth interview, the fisherman who was originally from the Ambon case, in this regard the number is not counted

In collaboration with various stakeholders, IOM Indonesia provided a range of assistance to the fishermen, including return assistance, shelter assistance, logistical assistance, health care assistance, and also legal assistance.

Return Assistance for Victims to Countries of Origin

IOM Indonesia facilitated the return of 1,648 foreign fishermen to their home countries up to 31 January 2016. Several dozen fishermen remained in Indonesia in 2016, and two Myanmar nationals had passed away. The return assistance was provided through collaboration between the IOM Mission in the country of origin, Embassies, and the Directorate General of

Immigration (DGI) of Indonesia. The Embassies issued each fisherman with a Certificate of Identity (Col) or Travel Document (TD) to enable the immigration office in Indonesia to issue a formal exit document to leave Indonesia. The IOM Mission in the fisherman’s home country closely coordinated with the government in the home country to assist with airport assistance, arrangement of onward transportation to the fishermen’s home villages, as well as providing reintegration assistance for those in need. IOM Indonesia is still considering means to return the remaining trafficked fisherman to their homes.

Provision of Food and Non-Food Assistance

The Benjina and Ambon rescue represented a major logistical effort for the Government of Indonesia and IOM Indonesia. IOM provided food and drinking water supplies to 275 fishermen who were staying at the Ambon Port of Fishery’s compound, those who were staying on the boats, and those who stayed with foster families, until they were returned to their home countries. Similar assistance was also provided to 45 fishermen who were sheltered in Jakarta.

After the rescue IOM provided non-food assistance to victims including hygiene kits (Toiletries for a month) and clothing which were provided to 392 fishermen in Ambon. This support was provided on a monthly basis.

During the support period, IOM provided food to 978 fishermen and non-food items to 1050 fishermen who were stranded in Benjina and Ambon. Table 7 provides detailed information on food and non-food distribution to fishers and seafarers.

Fishers and seafarers from Benjina were provided with hygiene supplies, clothing and daily meals, while for those in Ambon, such assistance was only given to those who stayed at the Ambon Port of Fishery.

Table 7.
Number of Fishermen Assisted with Food and Non-Food Item

Location	Hygiene Supplies	Clothing	Daily Meals (3 times a day)
Ambon Port of Fishery	392	392	320
Tual Port of Fishery	658	658	658

Health Assistance

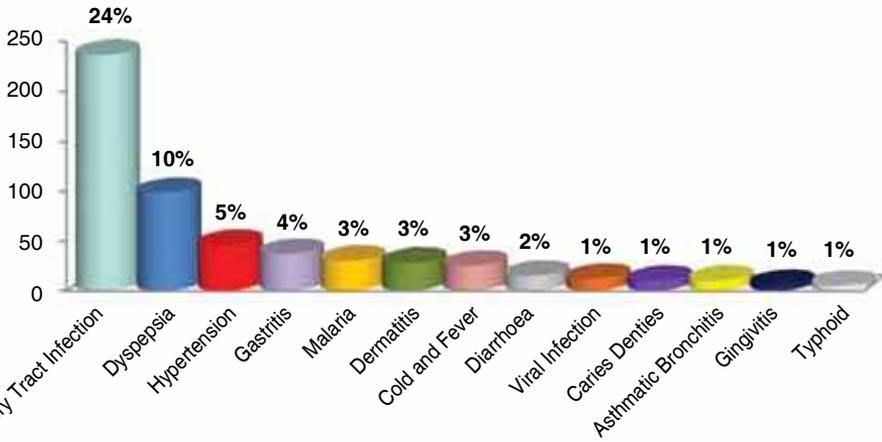
Up to 31 January 2016, IOM Indonesia had been continuously providing health care assistance to the fishermen in need. Fishermen received health care assistance, with one receiving in-hospital treatment. Some of the fishermen also received additional health care, including medical clearance prior to their departure to home countries.

In total 994 fishermen received health care assistance from IOM, of which 658 of them were fishermen in Benjina and 336 fishermen in Ambon. Among the 994 fishermen, 843 of them were Myanmar nationals, 96 Cambodian nationals, 42 Thai nationals, and 13 Lao nationals. In addition, out of the 994 fishermen who received health care, 18 of them also received in-patient care. In-patient care was provided to 2 per cent of the fishermen who suffered from a range of conditions including Myalgia, Typhoid, Gastritis and bone fractures. One of the fishermen also received intensive health care and needed to be evacuated to Makassar due to a complicated disease.

Additionally, 44% fishermen were provided medical clearance support prior to their return to their home country. The medical clearance was provided at least 3 days before their departure. Most of the fishermen were declared fit to travel and only a few of them were required to undergo another medical check before departure.

Medical reports on the victims indicated a range of health issues they had faced while at sea. These included upper respiratory tract infection, dyspepsia, typhoid, respiratory infection, and dermatitis.

Graph 56.
Health Issues Faced by Fishermen



WORKING AND LIVING CONDITIONS MAY HAVE CONTRIBUTED TO THE LARGE NUMBER of fishermen who suffered from upper respiratory infection. Some of the fishermen also suffered from multiple infections and disease.

Shelter Assistance

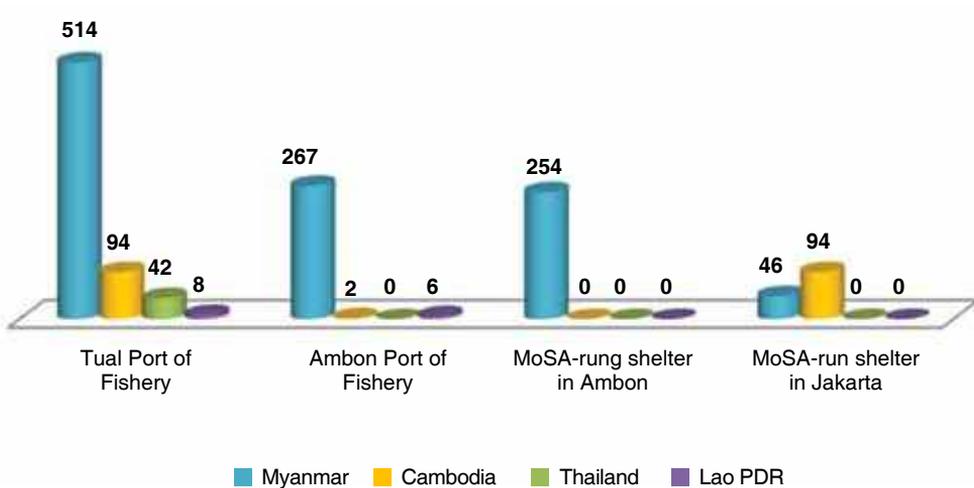
Temporary shelter was provided to the fishermen in Ambon. In providing the temporary shelters, IOM worked closely with governments at both the national and sub-national level including the Ministry of Social Affairs (MoSA) and the Ministry of Marine Affairs and Fisheries. MoSA were actively involved in providing shelter assistance, while IOM assisted MoSA by providing minor renovations to shelters, providing a fee for cleaning services, and the provision of security guards. The Government coordinated with Ambon and Tual Ports of Fishery in providing the venue and/or compound for victims, while IOM provided support.

IOM provided continuous support to the fishermen while they were in temporary shelter. The number in shelters reduced as victims were repatriated to their home countries. In early 2016 there were 154 fishermen were being provided with temporary shelters in Ambon and Jakarta, with 109 of them

staying at temporary shelters in the Ambon Port of Fishery compound. 45 of them were transferred from Ambon to Jakarta “illegally” by the company and rescued by the Indonesian National Police. After the rescue they were then sheltered at RPTC (*Rumah Perlindungan Trauma Center* – Ministry of Social Affairs (MoSA) run shelter) in Jakarta until their return to their home country on the 21st of October 2015.

In total, 978 fishermen from the Benjina and Ambon case were assisted with temporary shelter facilities, of which 826 of them were Myanmar nationals, 96 Cambodian nationals, 42 Thai nationals, and 14 were Lao nationals. Those fishermen from the Benjina case who were rescued and sheltered at Tual Port of Fishery were later transferred to a MoSA-run shelter in Ambon while they were waiting for international flights home.

Graph 57.
Assisted Fishermen with Shelter Facility in Each Location



Reintegration Assistance

IOM’s support to the victims did not end once they had been repatriated. Upon their return home, IOM Cambodia assisted 84 Cambodian fishermen

with livelihood support. 41 of them were assisted with farming cattle, 18 with raising pigs, 7 to buy motorcycles to be a motorcycle taxi driver, and 6 were assisted to establish traditional grocery stalls. In addition, 5 fishermen decided to take skills training courses such as a driving course and mechanics course.

IOM Myanmar also provided reintegration assistance to the repatriated fishers and seafarers in collaboration with the Government of Myanmar. IOM Myanmar coordinated with the Government of Myanmar to prepare and develop an action plan for the returned fishermen and discussed the sustainability of reintegration support and coordinated with the local authority to identify the fishermen's needs.

The reintegration process for Indonesian victims has also been implemented well. 3 victims continued their studies and worked their way towards providing legal aid and advocacy for justice for victims of trafficking in the future. 18 victims were assisted in fish farm activity and have saved some revenue to buy new fish along with their food amounting to 9 tons and also use that revenue for further maintenance. 10 victims were assisted in building a photocopy and printing business in Jakarta and received approximately \$104 income per month. 27 victims were assisted in developing their own fishing boat which gave them \$1324 income per month by catching fish to be sold to local customers.

The assistance was given based on an in-depth consultation with the fisherman. In the first stage IOM staff assisted the fisherman in developing a business plan. The business plan was developed by considering the fisherman's background, the availability of resources, and the sustainability of the activity. Each fisherman was required to submit a budget estimation, and state their commitment to the business plan in order to receive assistance from IOM. IOM supported the fishermen through direct assistance in purchasing the needs of their small business and delivering the items to the fisherman. IOM also continued to support the activity by monitoring the development of each fisherman's business.

Legal Assistance

The Benjina case was referred by the prosecutor to the Aru Islands District Court in Tual. The INP worked closely with the Agency for the Protection of

Victims and Witnesses (*Lembaga Perlindungan Saksi dan Korban – LPSK*) and the Attorney General’s Office to prosecute the suspects from the company, PT. Pusaka Benjina Resource (PBR).

The first hearing was held on 17 November 2015 and the second on 4 December 2015. The hearing involved the participation of two of the victims who had suffered from exploitative and abusive working condition under the *Taikong* (Boat Master) and also the fishing company during their work.

The trafficking in persons cases in Benjina and Ambon were tried in court with the verdict given on 10 March 2016. The Tual State Court decided that the 8 defendants were guilty of trafficking in persons in Benjina with each perpetrator sentenced to three years in jail and ordered to pay fines of Rp 160 million or serve six more months in jail. The five defendants who were captains had to pay a total of Rp 773,300,000 (seven hundred and seventy three million and three hundred thousand rupiah) in compensation to their 11 crew members who had been categorized as victims by the court. Meanwhile for the trafficking in persons cases in Ambon, police have confirmed two suspects.

Out of 470 fishermen who were stranded in Ambon, the INP conducted investigations into the cases of 45 fishermen who were brought illegally to Jakarta by the company.

Salary Settlement

An effort was made to negotiate on behalf of victims for their lost wages. The salary negotiation process was only undertaken for the fishermen from Ambon as the fishermen from Benjina were in the process of being repatriated to their home countries after their rescue. The Government of Indonesia, particularly the KKP through its IUUF Task Force and the respective governments of the fishermen initiated a salary negotiation process between the fishermen and the 3 major companies in Ambon that were responsible for the fishermen they had employed.

To conduct the process, the IUUF Task Force collaborated with the Immigration Office, the INP, and the Ministry of Manpower, while, IOM took part as an observer in the salary negotiation process. Most of the fishermen who were involved in the salary negotiation were from Myanmar, aside from

one Cambodian fisherman. The Laotian and Thai fishermen were not involved in the salary negotiation process as they had been taken care of by their own governments and most of them did not have any salary disputes.

Among the 487 fishermen in Ambon, there were 373 Myanmar fishermen and one Cambodian who were able to achieve a settlement and receive their remaining salary from the companies. 87 fishermen did not submit salary claim, 12 fishermen could not because their company was located in Benjina, and 7 others were unable to because they did not know their boat's name. There are still 4 Myanmar fishermen who are still waiting for their salary payment and 3 Myanmar fishermen whose salary claim was rejected by their company.

Overlapping Authority

Indonesia has regulated the placement of Indonesian migrant workers ever since the enactment of Law No. 39/2004. However, the law put more emphasis on land-based workers, whilst sea-based workers, which includes fishers and seafarers, is said to be further regulated by other specific ministerial regulations.

The placement of land-based Indonesian migrant workers in general is different compared to the placement of sea-based workers. Furthermore, the sea-based work is also divided into several categories, each of which has a particular type of placement management, such as those who work in fishing, transport, and merchant vessels. These differences include: type of boat, area of operation, type of load, working time, salary, and the required skills.

While those who work in merchant and transport vessels enjoy protection from various international conventions, such as the International Maritime Organization's (IMO) International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), individuals who work on fishing vessels are not covered to the same degree as their counterparts. The fact that the Indonesian Government has not ratified several international conventions that regulate individuals who work on fishing vessels, such as IMO's Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F) is strongly believed to be a factor that has resulted in less protection for fishers and seafarers.

The lack of both national and international regulations to protect Indonesian workers in foreign fishing vessels makes them more vulnerable to exploitation and abuse. The data from BNP2TKI in 2013, for example, showed that among Indonesians who work on foreign fishing vessels, 92% of them were found to

encounter multiple problems related to their work. On the contrary, only 8% of Indonesians who work in either foreign transport or merchant vessels faced difficulties.

The problem faced by Indonesian workers in foreign transport or merchant vessels were mostly related to Labour disputes, which could be solved solely by the Indonesian Seafarers Union (KPI). However, the workers in foreign fishing vessels have to face much larger problems including: a comparatively small wage (compared to other types of sea-based work) which is mostly paid irregularly; exploitative working contracts; and forcedly involved in illegal fishing activities.

The increasing cases of Indonesian fishers who have been exploited on foreign fishing vessels has driven BNP2TKI to take an initiative by enacting the Head of BNP2TKI Regulation No. 3/2013 about the Management of Placement and Protection of Indonesian Fisherman in Foreign Vessels. Although BNP2TKI is not a ministry, thus not eligible to enact a regulation, the absence of any ministerial regulation on the issue allowed the BNP2TKI's regulation to serve as an effective law to protect Indonesian workers on foreign fishing vessels.

Through the BNP2TKI Regulation No. 3/2013, the procedure for the placement of Indonesian workers on foreign fishing vessels has been reaffirmed. Previously, anyone could send any Indonesian to work on a foreign fishing vessel as long as they had a relationship with the owner of that vessel. The 2013 law regulated that any placement of Indonesian workers on foreign fishing vessels must be done through a legal entity known as the Indonesian Fisherman Placement Agency (P4TKI). Furthermore, Indonesian workers on foreign fishing vessels are also required to apply for an Indonesian Migrant Worker Card (KTKLN), in order to ensure monitoring by BNP2TKI. Several Government to Government placements are also arranged by BNP2TKI, most notably to Taiwan and South Korea, where BNP2TKI oversees all of the recruitment and placement process.

In October 2013, the Ministry of Transportation enacted Ministerial Regulation No. 84/ 2013 about the Recruitment and Placement of Seafarers. The regulation enacted by the Ministry of Transportation in reality overlaps with the BNP2TKI's regulation in several areas. For example, the Ministry of Transportation's regulation that states a seafarer candidate to only prepare a Seaman's Book

and Seafarer Identity Document (SID). Under Ministry of Transportation's regulation, KTKLN is therefore deemed unnecessary because of the mobility aspect of the seafarer. Furthermore, the Ministry of Transportation also regulates that a manning agency is required to have a license to business published by Ministry of Transportation (SIUPPAK) in addition to the business license which BNP2TKI already regulated.

Most of all, the Ministry of Transportation's regulation overlaps with the Ministry of Manpower's authority to regulate seafarers, who are considered as a migrant worker under Law No. 39/2004. The regulation also overlaps with the Ministry of Marine Affairs and Fisheries (KKP) authority to regulate fishermen, which is considered as a seafarer by Ministry of Transportation's new regulation. The inclusion of fisherman in Ministry of Transportation's Law creates another barrier for fisherman candidate to work abroad in the form of Basic Security Training (BST) when normally, fisherman only needs to complete a Basic Security Training for Fisherman (BST-F), arranged by KKP, in order to be placed as a fisherman abroad.

The involvement of Ministry of Transportation in the placement management of Indonesian workers in foreign fishing vessels creates confusion among manning agencies. When normally they only need to undertake the BNP2TKI's administrative process, the enactment of Ministry of Transportation's new regulation creates more administrative process that lengthens the previous processing time and increase the administrative cost. In the end, the numerous hoops they have to jump through to fulfill their client's application to work as a fisherman in foreign vessels forced the manning agencies to find alternative ways and shortcuts to speed up the process.

Some agencies choose to go with lobbying route, paying some amount of cash to government's officials, in order to be prioritized. This route, however, causes an increase in administrative cost for applicants. Other agencies choose to maintain the price as cheap as possible but at the cost of forging applicant's documents, such as BST certificate and seamen book. Neither route is ideal. Indonesian migrant worker candidates are trapped in a position to choose between an expensive legal job and cheap illegal job. Otherwise, they have to wait for a longer period (at least a year) before being sent to work abroad.

There are four main government bodies that are involved in the management of fishing crew recruitment and placement in Indonesia. These are: the Ministry of Marine Affairs and Fisheries (KKP); the Ministry of Manpower; the National Agency for Placement and Protection of Indonesian Workers (BNP2TKI); and the Ministry of Transportation. The Ministry of Marine Affairs and Fisheries regulates the operational aspects of the fishing vessel, including licensing, and crew. The Ministry of Manpower has the authority to regulate the placement of Indonesian migrant workers in the field of maritime affairs, as mentioned under article 28 Law Number 39/2004 about the Placement and Protection of Indonesian migrant workers.

The regulation has a primary focus on the placement and protection of land-based workers and as a result sea-based workers are mandated through its derivatives. To complement the role of the Ministry of Manpower, BNP2TKI was established under Presidential Decree Number 81/2006 with the principal task being to undertake the placement, service, and oversee Indonesian migrant workers both at home and abroad. The Ministry of Manpower has the authority to pass rules and regulations on the placement and protection of Indonesian migrant workers, while the BNP2TKI serves as the implementator of policies made by the Ministry of Manpower. In reality, the separation of the authority of both institutions is vague as a result of overlapping policies and this leads to legal uncertainty.

The other institution with overlapping authority is the Directorate General of Sea Transportation, of the Ministry of Transportation, which has the authority to formulate and implement policies related to sea transportation, including fishing activities. There is a potential for operational confusion due to the overlapping policies of the four institutions. Table 8 illustrates the overlapping regulations passed by the four institutions, respectively. The table 8 sets categories to locate all relevant government agencies and their respective authorities, and identifies overlapping domains. Core among the overlapping domains are these critical areas:

- Source of Authority
- Manning Agency Registration & Licensing
- Establishment of Branch Offices for Manning Agencies
- Appointment of Harbormaster
- Monitoring Activities

- Vessel Operating License
- Crew Admission
- Recruitment of crew
- Seafarer's Employment Agreement
- Monitoring System
- Responsibility for Penalty

Table 8
Scheme of Overlapping Authority of Institutions Related to Trafficking in Persons in IUU Fishing

Category	Ministry of Marine Affairs and Fisheries	Ministry of Transportation	Ministry of Manpower and Transmigration	National Authority for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI)
Source of Authority	Referring to the authority to manage fishing vessel and crew arrangement to Law No. 31/2004 jo. Law No. 45/2009	Referring to the authority to manage fishing vessel and crew arrangement to Law No. 17/2008	In charge of developing Ministerial Regulations on arranging the placement of Indonesian Overseas Workers in the position of fisherman (article 28 Law No. 39/2004)	To implement the policies enacted by the Ministry of Manpower and Transmigration, so as it is not capable of developing a regulation on recruitment and placement of vessels' crew
Registration and License for the Company of the Fishing Vessel	Registering the Agent of the Fishing Vessel's Crew as the Recruitment Agent of the Fishing Vessel's Crew (Regulation of Ministry of Maritime and Fisheries Affairs No. 35/2015)	Issuing the Business License for Crew Recruitment and Placement (SIUPPAK) (Article 4 of Ministry of Transportation Regulation No. 84/2013)	Issuing the Recruitment and Placement License (SIPPTKI) for Private Indonesian Manpower Supplier Company (Law No. 39/2004)	Registering The Ship Manning Company (P2K) that has SIPPTKI (Article 2 section II Chief Regulation of BNP2TKI No. 12/KA/IV/2013)
Establishment of branch office of the Fishing Vessel Company	(does not regulate)	Issuing the approval of the establishment of crew's agency branch offices (Article 9 (9) Ministry of Transportation Regulation No. 84/2013)	(does not regulate)	Issuing the Recruitment and Placement License (SIPP) for Seafarer Recruitment and Placement Services (P5) (Article 3 and 4 Section III Chief Regulation of BNP2TKI No. 12/KA/IV/2013)
Appointment of a Port Master	Appointing a Port Master in a Fishing Port (Article 42 Law No. 45/2009)	Assigning a Port Master (Article 207 (2) Law No. 17/2008)	(does not regulate)	Registering The Ship Manning Company (P2K) in di BNP2TKI to become the authority of the company to establish a branch office (Article 6 Section II Chief Regulation of BNP2TKI No. 12/KA/IV/2013)
Monitoring the Activities of the vessel at Sea	Through a Port Master, monitoring the activities of the vessel (Article 42 law No. 45/2009)	Monitoring the operation of the vessel and its crew (Article 5 Ministry of Transport Regulation 70/2013)	(does not regulate)	(does not regulate)

Category	Ministry of Marine Affairs and Fisheries	Ministry of Transportation	Ministry of Manpower and Transmigration	National Authority for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI)
Operation License for the Fishing Vessel	<p>Responsible for registration related matters and Fishing Vessel Operation License, both Indonesian-flagged and ex-foreign-flagged vessel (Law No. 45 Year 2009 jo. Law No. 31/2004, Article 3 Ministry of Maritime and Fisheries Affairs No. 35/2015)</p> <p>Through a Port Master, issuing the Port Clearance (Article 44 (1) Law No. 45/2009 Law No. 31/2004)</p> <p>Through fisheries inspector, issuing the Warrant of Operation (SLO) (Article 44 (2) Law No. 45/2009 Law No. 31/2004, Ministry of Maritime and Fisheries Affairs Regulation No. 45/2014)</p> <p>Issuing and/or revoking the Fishery Business License (SIUP), Fishing License (SIP), and Shipping Vessel License (SIKPI) (Article 32 Law No. 45 Year 2009 jo. UU 31/2004, Ministry of Maritime and Fishery Affairs Regulation 45/2014)</p>	<p>Requiring the completed documents of seaworthiness for the issuance of Port Clearance (Article 7 jo. Article 5 Government Regulation No. 51/2002)</p>	(does not regulate)	(does not regulate)
The Required Documents of the Crew	(does not regulate)	<p>Mustering the obligatory Seaman's book (Article 25 (3) Ministry of Transportation Regulation No. 84/2013, article 224 Law No. 17/2008)</p> <p>Issuing the obligatory Certificate Of Competency (Article 4 Government Regulation No. 7/2000)</p>	(does not regulate)	<p>Issuing the Overseas Worker's ID Card (KT/KN) (Article 10 Section III Chief Regulation of BNP2TKI No. 12/KA/IV/2013)</p>
Determining the Recruitment System of the Vessel's Crew	<p>Determining the requirement for the recruitment system of fishing vessel's workers and crew (Article 6 Ministry of Maritime and Fisheries Affairs Regulation No. 35/2015)</p>	<p>Determining the requirement for fishing vessel's crew recruitment and its method (Article 13 Ministry of Transportation Regulation No. 84/2013)</p>	(does not regulate)	<p>Determining the requirement for fishing vessel's crew recruitment and its method (Article 6 Section III Chief Regulation of BNP2TKI No. 12/KA/IV/2013)</p>

Category	Ministry of Marine Affairs and Fisheries	Ministry of Transportation	Ministry of Manpower and Transmigration	National Authority for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI)
Seafarer's Employment Agreement	Through a Port Master, ratifying the Seafarer's Employment Agreement (PKL) (Ministry of Maritime and Fisheries Regulation No. 35/2015)	Monitoring the agreement of the vessel's owner and the agency, as well as working contract between the agency and the crews (Article 21 Ministry of Transportation regulation No. 84/2013)	(does not regulate)	Through the Agency for the Service, Placement and Protection of Indonesian Overseas Workers (BP3TKI) knowing the Placement Agreement of Seafarer between the Seafarer Recruitment and Placement Services (P5) and the fisherman. (Article 7 Section III Chief Regulation of BNP2TKI No. 12/KA/IV/2013)
Monitoring the Activities of the Vessel and Agency	Determining the system and issuing the Certificate of Human Rights in fishery for the fishing vessel (Article 4 and Article 8 Ministry of Maritime and Fisheries Affairs Regulation No. 35/2015)	Ratifying the Seafarer's Employment Agreement (PKL) (article 25 (3), Ministry of Transportation Regulation No. 84/2013) Monitoring the fulfillment of the welfare of the crew as stipulated in the Seafarer's Employment Agreement (PKL) (Article 151 Law No. 17/2008)	(does not regulate)	(does not regulate)
Imposition of Penalty	Issuing and/ or revoking the license issued by the Minister (Article 41 (4) Law No.45/2009 jo. Law No. 31/2004)	Evaluating the performance of the crew agency (Article 12 Ministry of Transportation Regulation No. 84/2013)	(does not regulate)	(does not regulate)
		Withholding the Business License for Crew Recruitment and Placement (SIUPPAK) in a case of the legal violation of an agency of company (article 33 Ministry of Transportation regulation No. 84/2013)		

Lack of Strong International Legal Framework

The trafficking of fishers and seafarers has become a major issue in recent years as more cases come to light. Isolation at sea, limited contact with authorities on land and at sea, and the identity of fishing vessels with obscure ownership enables trafficking and other crimes to take place. In Indonesia the Anti-Trafficking Law 2007 provides the authorities with the mechanism to combat trafficking however difficulties exist in the investigation and prosecution of crimes at sea due to the isolated nature of the crimes. The situation for fishers and seafarers is worsened because Indonesia is not yet a party to several comprehensive international conventions.

There are several international conventions regarding seafaring and the activity of fishing vessels or merchant ships that have been in force for several decades. It is unfortunate that until now, Indonesia has not yet ratified important international conventions to improve the protection of both Indonesian and foreign seafarers and fishers. Indonesia has ratified some conventions however their impact has been minimal and may be attributed to a lack of government political commitment to fully adopt and actualize the provisions. The International Convention on Standards of Training, Certification and Watch-keeping for Seafarers (STCW) is one of the relevant conventions which entered into force and was actively adopted in Indonesian national law. The Government of Indonesia has not yet ratified some other crucial conventions, such as the Maritime Labour Convention (MLC) and ILO Work in Fishing Convention. The absence of willingness to ratify such conventions has led Indonesia with minimum exposure towards regional and international cooperation in strengthening protection for Indonesian seafarers and/or fishers.

CONCLUSIONS AND RECOMMENDATIONS

Fishers and seafarers are a special category of worker and, given the global nature of the seafood industry and the different jurisdictions that they may come into contact with, need special protection, especially in relation to contact with public authorities. Not only must they contend with multiple jurisdictions, they can also be confronted with complex laws and procedures in a language they do not understand.

In addition to the hardships of the workplace, fishers and seafarers face particular legal vulnerabilities. They may find themselves without access to justice due to the limitations within the systems of governance of certain flag states. They also lack legal protection due to inadequate employment agreements. Because they do not have any collective bargaining agreements or individual contracts, they did not receive any wages during their period of employment and were subject to inhumane treatment. The vast majority of seafarers from the major labour supply countries find their positions through the services of manning agents. Fishers and seafarers find themselves paying fees for jobs or taking cuts of their salary for spurious administrative services and non-existent social security.

While discrimination according to nationality has been entrenched in the fishing industry, vessel owners consider cost savings on crews from developing countries to be a legitimate tool in achieving competitive rates. Such a practice has inherent problems including concern over adequate training, and cultural and language barriers in mixed crews.

Fishers and seafarers are dependent on the ratification and effective implementation of international conventions to protect their fundamental rights. They rely on the responsible engagement of flag states, port States and labour supply States. However, it cannot be denied that a worker's legal status does not fully guarantee his or her safety from exploitation

at the destination, notwithstanding it does reduce the possible scope of exploitation to a large extent. Considering the above conclusion, the following points are taken into account as recommendations:

- It is recommended that the use of Flags of Convenience by Fishing and Fisheries Support Vessels should cease. Flag States should ratify all existing international conventions in regards to fisheries responsibilities, in order to provide a comprehensive legally binding framework. The international community should exert pressure to end the exploitation of Flags of Convenience. This should include a new and binding implementing agreement to the UN Law of the Sea framework that sets out enforceable measures to ensure that the Flag States fulfill their responsibilities under the United Nations Convention on the Law of the Sea (UNCLOS) and other existing instruments.
- The problems of international registry and vessel identification system for fishing vessels bound by internationally agreed regulations can be addressed by supporting FAO moves towards establishing a global vessel registry that provides greater transparency in the identification of fishing vessels. The international community should also strengthen its technical and financial support for developing coastal states and FRMOs, giving them capacity to more effectively control national and international waters. Another important move would be supporting the full and timely exchange of all relevant information among all Port States, Coastal States, Flag States and regional fisheries bodies globally.
- In regard to working conditions this should be addressed by the Ministry of Labour in both Indonesia and Thailand. It would be timely to revise the Labour Protection Act (LPA) to ensure that workers employed on board fishing vessels are fully protected under labour law, in the same way workers are in other sectors. In addition, there should be closer monitoring of recruitment agencies in Indonesia and Thailand. This is aimed at curbing the spurious administrative services and non-existent social security which demand the workers to pay money in advance otherwise their wages will be deducted. There should be further engagement on the discussion of a standard minimum wage for all workers. A regular dialogue should take place among employers to find strategies to address forced overtime and ensure a payment mechanism is in place for overtime work in line with labour laws.

- Another problem is the inaccessible workplace that fishing boats represent and the fact that they are rarely inspected because of this reality. Fishers and seafarers employed on board the boats are even more vulnerable since they are out at sea with nowhere to escape if there is any sign of abuse or exploitation. It is recommended that the Ministry of Labour in both countries establish close cooperation with the respective ministries, local governments, and also non-government organizations (NGO) in order to develop practical strategies for local inspectors to be able to access small or home fish processing factories, especially if there is any indication that labour exploitation might be occurring.
- It is recommended that the Ministry of Defence discuss with Navy officials whether their mandate could be extended to regularly inspect conditions on fishing boats to ensure that at least the minimum working conditions are maintained, children are not employed on boats and any cases of forced labour can be identified.
- It is recommended the Ministry of Labour in both countries ensure a more appropriate registration process for migrants in the fishing sector is established. The registration period for migrant workers employed aboard fishing boats should be extended or made more flexible in order to help them to register easily when they return ashore.
- It is recommended that the Police authority engage in high-level dialogue with the Ministry of Labour to ensure employers holding workers' original documents are penalized or create a mechanism where workers who hold a copy of the documents can have their working status verified by checking with the employer.
- The Indonesian government obligates fishing companies to ensure compliance with human right instruments as a licensing requirement for capturing and transporting fish, and fisheries business.
- A human rights compliance assessment is applied by conducting a human rights due diligence and human rights audit. Companies who comply and have a human rights certificate are entitled to operate in the fisheries sector.

- Develop a database of national and international fishing vessels (among others in RPOA IUU Fishing Vessels List, RFMO IUU Vessels List, FAO Global Record of Fishing Vessel, International Transport Workers Federation (ITF) Vessels Registry and Data Base Interpol) which lists the compliance performance of vessels, including labour and human rights aspects which can be accessed publicly. This listing will be an important instrument on the Port State Control regime and when flag states conduct inspections.
- Capacity building programs for law enforcement and port officers on the typology and modus operandi of human rights violations in the fisheries industry are needed. This understanding is needed to solve trafficking cases effectively. Supervising officers at the port are mostly unaware of the forms of human rights violations taking place within their jurisdiction, especially trafficking in persons. This lack of knowledge concealed the trafficking in persons activities in Benjina and Ambon from being uncovered.
- The Port authority in partnership with the Ministry of Labour and Ministry of Social Affairs could establish migrant and seafarer centers at ports. These centers would inform boat crews of their rights and provide assistance in cases of human rights violations. The existence of a migrant and seafarer center at a port would be more effective if Indonesia ratified the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA). The PSMA is comprised of provisions which could indirectly identify and prevent trafficking in persons in fishing vessels. Chief amongst the provisions are: pre-entry notification when the vessel enters the port (article 8); inspection at port (article 12); fish landing port requirements (article 7); and blacklisted vessels list provision at the Regional Fisheries Management Organization (RFMO). Currently Indonesia is in process of ratifying the PSMA through a President Regulation.
- Support the conduct of inspections and multidisciplinary investigations at fishing ports conducted together by the port authority, labour inspectors, human rights commission, police and other necessary elements.⁸⁵

⁸⁵ One form of partnership in preventing trafficking in persons is The ITF Blue Certificate. ITF has 600,000 seafarers as members, dan one quarter of Flag of Convenience (FOC) Vessels are covered by ITF agreements which signifies the ITF's acceptance of the wages and working conditions on board. Certification compliance is monitored by a network of over 130 ITF inspectors in ports throughout the globe. Read *Fish Wise, 2014, Trafficked II: An Updated Summary of Human Rights Abuses in the Seafood Industry*, p. 33.

- A multi traceability policy should be developed to provide food safety, IUUF and human rights violations traceability before captured fish enter the national and international markets. The multi traceability policy is very important considering the supply chain in fisheries business is very difficult to trace, especially in the captured fisheries⁸⁶.
- There is a need to increase consumer awareness on how important it is for the fisheries product to comply with the respect for human rights⁸⁷. “Money may be able to buy a lot of things, but it should never, ever be able to buy another human being”⁸⁸. Consumers should also be aware of a message by one of the victims of trafficking in Benjina:

“If Americans and Europeans are eating this fish, they should remember us,” said Hlaing Min, 30, a runaway slave from Benjina. “There must be a mountain of bones under the sea. ... The bones of the people could be an island, it’s that many.”⁸⁹

⁸⁶ Logan Kock, VP of responsible sourcing for Santa Monica Seafood explained that “The supply chain is quite cloudy, especially when it comes from offshore,” - look at: <http://www.seafoodsource.com/news/supply-trade/27883-associated-press-links-slave-fishing-labor-to-thai-union-prominent-u-s-firms#sthash.fXMFHACt.dpuf>.

⁸⁷ One of the efforts to raise consumer awareness of trafficking in persons and forced labour especially in the supply chain, including in the fisheries business, was from the IOM MTV Exit Project in Myanmar. They produced some films and music videos with famous artists in Myanmar. This film has successfully increased awareness of labour candidate in fishing vessels and consumer of fisheries product on the condition of trafficking in persons in fisheries industry. <https://www.youtube.com/watch?v=aVyA8afsutM>.

⁸⁸ <http://www.state.gov/secretary/remarks/2015/01/236950.htm> (accessed on 13 Februari 2016).

⁸⁹ <http://bigstory.ap.org/article/98053222a73e4b5dab9fb81a116d5854/ap-investigation-slavery-taints-global-supply-seafood> (accessed on 13 Februari 2016).

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APPENDIX 11

Shining a Light: The Need for Transparency across Distant Water Fishing

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Executive Summary

Commercial fishing is big business, with a complex global seafood supply chain and over 56 million people working on vessels to support it. In the past several decades distant water fishing (DWF) has expanded its size and reach across the ocean and around the world. Despite its importance to international trade and economics, the industry largely remains a mystery. It is shrouded in an opaque operating system that limits information about where vessels operate, who owns them, the amount of fish that is caught, how fish is shipped and transshipped to market, the human labor practices onboard, and the access arrangements to other nations' waters. This lack of transparency is accompanied by a dearth of research and data regarding the scale of the industry, the motivations of its proprietors, and the impact these fishing practices are having on coastal countries and marine fisheries. The clandestine nature of the industry has led to illicit activities and increased illegal, unreported, and unregulated (IUU) fishing, all of which threaten the long-term sustainability of global fisheries.

This report identifies the top DWF fleets in the world, where they operate, their motivations and economic impact, and their connections to IUU fishing and illicit activity. Specifically, the Stimson research team analyzed automatic identification system (AIS) data to determine the top ten DWF fleets and the top 20 countries where they operated from 2015 to 2017. The report further illuminates the top five DWF fleets, which account for nearly 90 percent of DWF efforts. China and Taiwan represented nearly 60 percent of all global DWF effort in other countries' waters from 2015 to 2017, with Japan, South Korea, and Spain each representing about 10 percent of the DWF fishing effort. These vessels primarily fish in three regions: the Pacific, East Africa, and West Africa, with Kiribati, Seychelles, and Guinea-Bissau receiving the highest numbers of DWF vessels in their exclusive economic zones (EEZ) within each region, respectively.

The report finds that DWF fleets are driven by three primary factors: economics, the degree of

governance and enforcement capacity, and political influence. Economic incentives in the form of subsidies, the market value of the fish type, and the proximity of various fisheries to markets all drive the actions of DWF fleets. In addition, DWF vessels are more likely to engage in coastal countries where governance enforcement capacity is low, increasing the risk that a DWF vessel will engage in IUU fishing in a developing coastal nation's EEZ. Finally, quid pro quo deals and a lack of transparency regarding access agreement between coastal nations and DWF fleets has led to accusations of corruption.

Overall this incentive structure paints a picture of exploitation of coastal nations' resources, with these countries experiencing negligible short-term gains at the cost of long-term marine destruction. Evidence from the two case studies in this report – Seychelles and Mauritius – support this view, that a lack of capacity, IUU fishing, and the perception of corruption lead to overexploitation of fisheries.

Ultimately, this report argues the current fishing industry is unsustainable. The challenges that DWF fleets pose to coastal countries' resources and the fishing industry, particularly the expanding Chinese fleet, will persist unless there is a significant global shift towards sustained fisheries management. This challenge is rooted in the low level of transparency that persists across the industry, including intentionally ambiguous reporting by DWF fleets – little to no insight into vessel ownership, the conditions aboard such ships, or access agreements – and the significant gap in understanding the movement and extent of DWF fleets and support vessels due to AIS and Vessel Monitoring System (VMS) technology not being mandated abroad these vessels. The international community, DWF states, coastal nations, and the industry itself must improve transparency and accountability for DWF fleets while taking the necessary steps to safeguard global fisheries for future generations. Without such improvements, over-utilization of fishery resources will continue unabated, with devastating consequences for the security of our oceans.

Recommendations

Mandate AIS and VMS and Engage the Maritime Insurance Industry

DWF fleets that engage in IUU fishing exploit an opaque regulatory system that fosters secrecy and severely lacks transparency. To improve transparency and tracking of IUU vessels, the United Nation's International Maritime Organization (IMO) and Food and Agriculture Organization (FAO) Joint Working Group on IUU Fishing should work together to develop a legal framework to combat IUU fishing. This legal framework should mandate that AIS be turned on at all times for fishing ships and support vessels that assist in transshipment. Furthermore, fishing and coastal nations must mandate VMS aboard fishing vessels, and share that data publicly to engender trust in the industry. The maritime insurance industry can also serve as an important lever by stipulating that all vessels must always have AIS and VMS on in order to acquire insurance.

Require Standardized and Publicly Available Fisheries and Landing Data and Enforcement Tools

Fisheries landing and catch data collected at the national level, should be standardized and shared among coastal states, DWF fishing nations, and relevant regional bodies, including RFMOs to minimize misreporting of catch. AIS and VMS data should also be standardized and made public. In addition, observer coverage should be expanded and supported by mandated electronic monitoring systems to limit the potential for corruption and abuse aboard vessels. Recent technological advances have transformed the capacity to review and utilize this data in a timely manner to support fisheries management and enforcement strategies.

Demand Seafood Traceability

Tracking all seafood across the supply chain is essential to combat IUU fishing and seafood fraud, and help sustainably manage fisheries. Major seafood importing countries should mandate traceability systems for all fish species as a requirement for market access. Furthermore, information should be standardized and made public for catch verification. Requiring seafood to be traced from point of harvest through to the marketplace, including transshipment and processing, will deter seafood fraud and help combat IUU fishing. The European Union's existing IUU Fishing Regulation and the U.S. Seafood Import Monitoring Program, although different in their implementation, both mandate seafood traceability programs and should be replicated and required in additional seafood markets.

Ensure Access Agreements and Company Information is Public

Coastal countries and DWF nations should make access agreements publicly available to help dispel concerns about corrupt practices that plague the industry. Moreover, to increase transparency, coastal states should make foreign vessel registries, the accompanying vessel ownership and company information publicly available as a requirement to gain access to coastal country waters. The Fisheries Transparency Initiative – a global initiative which seeks to improve fisheries transparency at the nation level – provides a solid foundation for countries to improve the transparency of their fishing industry. However, the Fisheries Transparency Initiative is a new program with voluntary membership, and as such it should be closely monitored to assess its impact to improve transparency in the DWF industry. Finally, improving transparency across the industry will help address labor abuses aboard DWF vessels, as they often spend extended periods of time at sea without visiting port.

Expand the Mandate and Capacity of Regional Fisheries Management Organizations (RFMOs)

RFMOs have limited authority and audit capacity to ensure their members are compliant with fishery management regimes and that the data they collect is accurate. RFMO member states determine the management strategies and ultimately are guided by a desire to access fishery resources. As such, RFMO secretariats and sub-committees have very little power to ensure that stocks are not being overfished. Given this, RFMOs such as the Indian Ocean Tuna Commission should have increased authority and audit capacity to ensure that fishing countries are compliant with data reporting standards and catch documentation to assist in verification of catches. In the event that vessels are not compliant or are found to be engaged in IUU fishing, RFMOs should have the power to penalize the offending flag states.

Reinvest Revenues in Management and Enforcement

Coastal countries targeted by DWF fleets often lack capacity to monitor and protect themselves against IUU fishing, which creates a cycle where countries are robbed of potential revenue that could instead be dedicated to fisheries management. Coastal nations should reinvest at least half of the revenue derived from access agreements with foreign vessels into fisheries management, enforcement, and prosecution, to help tackle IUU fishing and sustainably manage fisheries over the long term. This includes dedicating sufficient resources to ensure there are trained personnel who can monitor and review DWF vessels operating in the waters of coastal countries, as well as increasing observer coverage on board vessels. Elevating the status of fisheries enforcement and monitoring officers and providing professional opportunities for growth will help retain qualified personnel.

Accede to and Implement the Port States Measures Agreement

Coastal countries and DWF nations should accede to the Port States Measures Agreement (PSMA) and professionalize fisheries monitoring and enforcement capacity where fish are landed. Funds from access agreements, development assistance, and international governmental organizations should be used to implement the PSMA. This will help standardize and professionalize fisheries monitoring and enforcement through the agreement's capacity-building assistance for developing countries. Accession to PSMA should also be a requirement for all flag states and coastal counties exporting seafood to other foreign markets.

Improve Accountability of Flag States

DWF countries have an obligation to ensure that their flagged vessels are not engaging in illicit practices such as labor abuses and IUU fishing. The top five fleets display varying levels of commitment to these tenants. The European Union's existing IUU Fishing Regulation provides an important framework in helping to improve countries' commitment to combatting IUU fishing. Upon receiving yellow cards from the European Union, two of the top DWF fleets – Taiwan and South Korea – made improvements to their fisheries regulations and other measures to ensure that fish originating from these countries were not IUU caught. Other DWF actors should seek to build similar mechanisms to incentivize greater transparency throughout the industry. Similarly, the European Union should consider evaluating China's status, as China is the world's top producer of seafood as evidence suggests that some of their vessels are engaging in IUU fishing around the world.

End Fisheries Subsidies that Enhance Vessel Capacity

Subsidies to DWF fleets play a critical role in supporting the industry, distorting economic incentives while allowing fleets to stay at sea longer. DWF states should level the playing field by ending harmful economic subsidies to their fleets that artificially increase the value of fishing, incentivize overfishing, and undermine long term fishery health. Fishery subsidies that enhance the fishing capacity of DWF vessels, such as vessel modernization, tax incentives and rebates, and fuel subsidies, should be ended.

Elevate Ocean Management and IUU Fishing to the Green Belt and Road

China's foreign policy, including its continued support for its DWF industry, is inextricably tied to the Belt and Road Initiative (BRI). In response to criticisms that the BRI and its vast infrastructure projects do not have sufficient environmental safeguards, China has been promoting the Green Belt and Road, or "high quality development", an approach which seeks to align the BRI to the UN's Sustainable Development Goals.¹ The second Belt and Road Forum, held in April 2019, signaled this new direction by introducing more targeted financing, contingent on the environmental and social health of the projects. However, the Green Belt and Road pivot has tended to focus on energy, climate change, and green finance. As the top DWF nation, China has an opportunity to demonstrate global leadership in the fight against IUU fishing and promote transparency across the seafood supply chain. By adding ocean management and sustainable fishing to the Green Belt and Road Initiative, China can play a leading role in providing more transparency across their industry.

Glossary of Terms

TERM	DEFINITION
Automatic Identification System (AIS)	AIS is an automatic tracking system that uses vessel transponders to track vessel movements. It is required by the International Maritime Organization on ships over 300 gross tons and cargo vessels over 500 gross tons. However, it is only required to be turned on when entering port, meaning vessels can turn them off and on at will when at sea.
Bilateral Access Agreement	An agreement between a coastal country and a foreign government to acquire a license to fish within a coastal countries exclusive economic zone.
Charter Agreement	A lease agreement between a foreign vessel and a company based in the coastal country. The coastal country company rents the foreign vessel, including renting its crew to carry out fishing operations in the coastal country's exclusive economic zone.
Distant Water Fishing (DWF)	The practice of commercial fishing vessels operating outside the territorial waters of their countries of origin, usually extending their range of action to faraway places.
Flags of Convenience	The practice of registering a vessel under the flag of a country other than that of the vessel's owner in order to avoid financial charges or restrictive regulations in the owner's country.
Illegal, Unreported, and Unregulated Fishing (IUU Fishing)	Describes the breadth of illicit capture fishing activities conducted by fishers. Illegal fishing refers to fishing activity done in contravention of fisheries management measures and relevant laws. Unreported fishing refers to fishing activities that are not reported or have been misreported to authorities. Unregulated fishing refers to fishing activities that occur in areas outside of fisheries management regimes, such as the high seas.
Indian Ocean Tuna Commission (IOTC)	Established in 1996, the Indian Ocean Tuna Commission is an intergovernmental organization that co-ordinates the regulation and management of tuna in the Indian Ocean.
Joint Venture Agreements	A partnership agreement set between the coastal country company and the foreign company.
Longliners	A method of fishing whereby baited hooks are attached to a longline behind the vessel.
Agreement on the Port State Measures Agreement (PSMA)	An agreement to prevent, deter, and eliminate illegal, unreported, and unregulated fishing.

TERM	DEFINITION
Purse Seiners	A method of fishing that employs a fishing net, called a seine, that hangs vertically in the water with its bottom edge held down by weights and its top edge buoyed by floats.
Regional Fisheries Management Organizations (RFMOs)	An international body made up of countries that share an interest in managing and conserving fish stocks in a particular region. These include coastal states, whose waters are home to at least part of an identified fish stock, and DWF fleet states, whose fleets travel to areas where a fish stock is found.
Sustainable Fisheries Partnership Agreements (SFPA)	An agreement between the European Union and a non-EU country, where the EU gives financial and technical support in exchange for fishing rights.
Squid Jigger	A method of fishing that employs baited hooks fastened together with radiating points for catching squid.
Top 5 DWF Fleets	China, Taiwan, Japan, South Korea, and Spain.
Top 10 DWF Fleets	China, Taiwan, Japan, South Korea, Spain, United States of America, Vanuatu, France, Russia, and Italy.
Top 20 Coastal Countries	Kiribati, Solomon Islands, Vanuatu, Micronesia, Papua New Guinea, Marshall Islands, Seychelles, Madagascar, Mauritius, Guinea-Bissau, Mauritania, Angola, Tuvalu, Sierra Leone, Cook Islands, Mozambique, Tokelau, Republic of the Congo, Guinea, and the Falkland Islands.
Trawler	A method of fishing whereby a fishing net is pulled/trawled along the seabed.
United Nations Convention for the Law of the Sea (UNCLOS)	An international agreement which defines the responsibilities of states with respect to their use of the world's oceans, including the management of marine natural resources.
Vessel Monitoring Systems (VMS)	A tool that track the activity of vessels on the water. VMS is often employed by fisheries management authorities to ensure that vessels are not engaging in IUU fishing.

Introduction

Distant water fishing (DWF) fleets have roamed the ocean for centuries. Yet in recent years, globalization and innovation have enabled these fleets to become more efficient in their operations. Industry improvements – including refrigerated vessels, at-sea processors, and transshipment – have allowed DWF vessels to remain at sea for longer periods of time, helping them to catch more fish farther from home. Moreover, these improvements complicate the supply chain, as fish are increasingly handled by more operators, including transshipment vessels, processors, and suppliers. This increasing supply chain complexity, along with the lack of publicly available information about DWF fleets, from access agreements and vessel ownership to vessel operations and catch and landing data, makes it exceedingly difficult to develop an accurate picture of DWF activity.

However, incremental changes are transforming the monitoring and enforcement of the DWF industry. Technological improvements such as vessel tracking systems and other monitoring capabilities have helped to enhance oversight of DWF fleets. Recent policy initiatives to track seafood across the supply chain, such as the European Union's Illegal, Unreported, and Unregulated (IUU) Fishing Regulation and the U.S. Government's Seafood Import Monitoring Program, as well as the implementation of international treaties such as the Port State Measures Agreement (PSMA), provide the foundation for limiting illegally caught fish from entering markets. These efforts have the potential to increase the transparency of the operations of DWF fleets over time. Despite these improvements, a lack of transparency across the industry persists and significant gaps in understanding DWF fleets remain. Research continues to reveal that some foreign vessels show a disregard for management regimes – both on the high seas and in other countries' waters.

Some DWF vessels engage in IUU fishing, register with different country than where they are from (known as flying flags-of-convenience), work under front companies, utilize forced labor, and even traffic in illicit commodities. Criminal DWF fleets working

in foreign exclusive economic zones (EEZs) pose a critical threat to local economies as they strip jobs away from domestic fishers and undermine the food security of communities. Moreover, fleets that engage in IUU fishing jeopardize fisheries management and threaten marine ecosystems. In addition, experts argue that labor abuses aboard DWF vessels exist due to the long periods of time the vessels spend at sea without visiting port. These practices undermine a fair, rules-based playing field for compliant DWF vessels.

This report identifies the top DWF fleets in the world, where they operate, and their impact and motivations for engaging in illicit activity. Specifically, the Stimson research team analyzed automatic identification system (AIS) data to identify the top ten DWF fleets and the top 20 countries where they operate. This analysis served as the foundation for the project's qualitative research and was supplemented by over 50 interviews with government officials, non-governmental organizations, and the private sector representatives across the globe. Furthermore, to better understand the challenges posed by DWF fleets, the Stimson Center conducted field research in Mozambique and Seychelles, meeting with governmental officials, non-governmental representatives, and businesspeople across the fishing industry. The team witnessed first-hand the complexities of the industry and the impact of DWF fleets on coastal counties. The research team also gathered anecdotal evidence of government corruption related to interactions between DWF fleets and the coastal countries.

With these findings, this report identifies recommendations designed to support greater transparency in the DWF industry. Moreover, the report identifies areas for improved compliance of national and regional fisheries management regulations by DWFs globally. By highlighting specific actions that coastal countries and DWF countries responsible for their fleets can take to inspire greater accountability in fisheries management regimes, this report is intended to help actors deter IUU fishing and other illicit practices carried out by some DWF fleets.

Overview of the Project Goals and Methodology

The composition of DWF fleets has drastically shifted in the last 30 years – when the most comprehensive analysis of this industry was last conducted.² Recognizing the changing landscape of fleets, this report provides an updated qualitative assessment of the DWF vessels operating globally. The report identifies the top ten DWF fleets and the coastal states targeted by these vessels. It describes the scale of fishing activity and size of the fleets, including the recent growth of some fleets, such as the Chinese fleet, and the shrinkage of other fleets, such as the Spanish fleet. This information provides an important foundation to guide the core of the project: to understand the motivations of the newly emerging fleets, as well as to understand the implications of their activities today.

The proliferation of technologies such as AIS and vessel monitoring systems (VMS), and the increasingly public nature of this data provide an improved understanding of global fishing activities. Public platforms such as Global Fishing Watch have tapped into this vast repository of data and are now able to use algorithms to identify when and where a fishing vessel may be fishing, what type of fishing gear is likely being used, and even to estimate fishing effort.³ With these new research methods, fisheries experts and management and enforcement officials can better understand fishing activities on the water, including the extent of industrial fishing and the economic incentives behind such practices.⁴

Partnering with Global Fishing Watch, the Stimson Center used AIS data from 2016 to 2017 to identify the top ten fleets globally and the top 20 coastal states where the fleets operate. To narrow the scope of the project, DWF is defined as fishing activity that occurs by a flag-state vessel in a non-neighbor country's EEZ. The research revealed that the top ten DWF fleets are starkly divided: The fishing activities of the top five fleets accounted for 89 percent of the top ten fleet's fishing activities, which is represented in Figure 2. Given these stark differences in the level of fishing

effort, Stimson decided to focus its research and analysis on the top five fleets globally to determine the motivations and activities of the fishing fleets. The top 20 coastal countries were divided among four regions: Pacific, East Africa, West Africa, and South America. The four regions and the coastal countries within each provided the basis for research and analysis on DWF activities, particularly IUU fishing.

This data was supplemented by a broad review of current activities of DWF vessels, including a review of existing fisheries management and enforcement strategies employed by the coastal countries, historic and current financial and political support, and oversight of DWF fleets by their national governments. Stimson conducted interviews with experts focused on fisheries management in some of the top coastal countries and regions, as well as experts focused on the DWF fleets themselves. Field research focused on East Africa due to the variety of DWF fleets operating in the region. Mozambique and Seychelles were specifically selected to provide a comparative regional analysis given that each country has vastly different fisheries management regimes, monitoring and enforcement capacities, and political motivations and challenges. The two countries also provide important case studies in the use and proliferation of charter agreements and joint-ventures. These interviews informed the research and analysis, and ultimately helped to shape the report's policy recommendations. A complete anonymized accounting of the interviews are found in the Appendix.

It is important to note the limitations to this report's analysis. The main source of data is AIS, which is only required on vessels over 300 gross tons and can be turned off at a moment's notice.⁵ As such, AIS does not fully capture the activities of all DWF fishing vessels on the water. Some vessels – known as dark targets – purposefully do not transmit AIS signals in order to hide their activities from authorities.⁶ Additionally, in some areas of the world, particularly in Southeast Asia, there are

often so many vessels transmitting AIS signals that the area becomes too crowded to accurately assess fishing activity in the waters.⁷

Recognizing these challenges, Stimson and Global Fishing Watch identified four fleets potentially missing from our list of top ten DWF fleets: Vietnam, Indonesia, Philippines, and Thailand. The team analyzed Indonesian VMS data and available literature, including Regional Fisheries Management Organization (RFMO) registries, IUU vessel lists, and news reporting in these countries to assess whether they should be included in the top ten list. However, while Stimson determined that there was much anecdotal evidence to suggest these four countries have vessels that operate in other countries' waters, the overall evidence was not

sufficient enough to include them in the top ten of DWF fleets. Consequently, Indonesia, Vietnam, Philippines, and Thailand were not included within the top ten DWF fleets in this report. In addition to AIS and VMS coverage challenges, research focused on flagged vessels to determine their countries of origin, rather than vessel ownership. Reviewing existing research and news reporting, Stimson's research and analysis have indicated that many vessels from the top fishing countries identified in this report have additional vessels operating under flags-of-convenience or utilizing structures like joint ventures and charter agreements to access other countries' waters. However, due to the lack of transparency surrounding these arrangements, these vessels are not captured in this report.

What is Distant Water Fishing?

Communities have long travelled vast distances of the ocean in search of important commodities such as spices, minerals, and fish. Centuries before the concept of EEZs, fishing vessels benefited from the vast wealth of the global ocean. However, the introduction of relatively recent technological advances such as steel hulls, diesel-fuel engines, refrigeration, and the introduction of support vessels altered the entire landscape of the industry, allowing vessels to access any part of the ocean for extended periods of time.⁸

Following the Second World War, countries began to push the boundaries of the previous principles of freedom of the seas. In the 1950s, the United States extended its jurisdiction over all resources on its continental shelf, and a number of countries extended their three mile territorial sea claims to 12 miles.⁹ Meanwhile, DWF fleets vessels became more prevalent – and contentious battles between fishing countries and coastal states ensued, even precipitating nearly two decades of confrontations between Iceland and the United Kingdom from the 1950s to 1970s.¹⁰ As a result of these developments, a global debate emerged about countries' rights and jurisdictions over the ocean, which ultimately led to the creation of the United Nations Convention on the Law of the Sea (UNCLOS), which entered into force in 1994. Among the many issues addressed in UNCLOS, it stipulated that coastal countries are solely responsible for the management of their natural resources within their 200-mile EEZ, including fisheries.¹¹ Furthermore, under Article 62 of UNCLOS, coastal countries can determine their domestic fishing capacity, and any untapped and excess capacity may be sold to other countries.¹² These rules governing the activities of foreign vessels are key as fishing countries and private companies can negotiate and purchase access to another country's coastal waters.

What types of agreements determine access to coastal countries' waters for a DWF fleet?

There are four main categories of agreements governing access to another country's waters: *bilateral access agreements*, *private company agreements*, *charter agreements*, and *joint-venture agreements*.¹³ With a bilateral access agreement, the coastal country negotiates directly with a foreign government to grant access to their waters. The agreement will often set the number and type of allowable foreign vessels into the coastal country's waters. The license will also set out terms such as the price – sometimes a flat fee and/or a fee determined by the amount of catch – the target species, and the time period, as well as often setting quotas on the quantity of fish allowed to be captured. In the event that a foreign country has not set a bilateral agreement with a coastal country for access to its waters, a private company can negotiate directly to obtain access to fisheries of the coastal country. Private company agreements follow a similar pattern: they set out a specific timeframe in which a vessel is allowed to fish, the species of fish, and often times include a quota. In both of these cases the foreign vessel will retain the flag of its country of origin.

In addition to bilateral access agreements and private company agreements, foreign vessels may also utilize charter agreements and joint venture agreements to access another country's fishery resources. A charter agreement is a lease agreement set between a foreign vessel and a company based in the coastal country. The coastal country company essentially rents the foreign vessel, including renting its crew to carry out fishing operations. Often the

flag of the foreign vessel remains despite being rented by the coastal country company. A joint venture agreement differs slightly in that there is a partnership agreement set between the coastal country company and the foreign company – often with the coastal country company owning at least 51 percent of the venture. In both cases, the expectation is that there will be significant knowledge transfer from the foreign company to the coastal country company, especially since both charter and joint venture agreements often require a proportion of the crew to be from the coastal country.

In addition to the four primary ways in which foreign vessels can gain legal access to coastal countries' waters, the use of shell companies is also prevalent in the industry. In coastal countries where foreign fishing may be banned entirely, such as Ghana, there is evidence that foreign companies will work with locals to set up a front company, which hides the true beneficial owner behind the fishing operations. With hidden beneficial owners, it is difficult to sanction the true owners of DWF vessels, and instead captains and local companies are held responsible, which does not effectively target the entire network that supports these illicit activities.

Many experts argue that the revenue from access agreements with foreign vessels is low and often not well distributed to fisheries ministries and local communities, remaining in the capital and leaving the local “fishers both without fish and without the dollars.”¹⁴ In East Africa, some countries along the coast are beginning to take steps and shift policies in an attempt to capture more revenue from foreign vessels accessing their waters or to encourage the development of a domestic, industrial fishing industry. Mozambique increased license fees nearly 100 times more than they were previously priced in an attempt to encourage joint venture partnerships with local companies.¹⁵ Tanzania banned foreign fish imports with the intent to boost local businesses,¹⁶ while Kenya banned most foreign vessels from its waters and opted to develop its domestic fishing industry and facilities to support it.¹⁷

Subsidies: An Economic Tool that Enhances Fishing Capacity

While access agreements determine the ways in which foreign vessels are allowed to fish in other countries waters, subsidies play a critical role in the DWF industry, distorting the true costs of operating

a fishing vessel. In general, there are three types of subsidies that DWF vessels may receive: subsidies that enhance the level of fishing effort, including fuel and vessel modernization and construction; subsidies that contribute to improved management of fisheries; and subsidies that improve services infrastructure such as ports and harbors.¹⁸ Experts have argued that fishing capacity-enhancing subsidies contribute to overfishing, particularly in coastal countries that have low capacity to monitor and enforcement fisheries management regimes.¹⁹ The most recent estimate of the global fishing industry found that Asian governments subsidize their fleets the most at 43 percent.²⁰ Complicating this further is the fact that the Chinese Bureau of Fisheries recently shifted the way it reports subsidies statistics, such that the statistics are now lumped together in broad terms, making it difficult to determine what types of subsidies Chinese DWF vessels may be receiving from the government.²¹ Moreover, recent research found that some high seas fishing would be unprofitable if it were not for fishing subsidies that distort the true operating costs for the DWF industry.²² These vessels are likely contributing to overcapacity, leading to declining fishery resources, which globally are over 90 percent fully fished or overexploited.²³ This link has implications for the DWF fleets operating in other countries' EEZs, where subsidies also likely contribute to overfishing in those waters, especially given the low level of monitoring and enforcement of some coastal countries.

When subsidies and unreported fishing are combined, studies also show a curious trend in which seemingly unprofitable companies are reapplying for licenses each year.²⁴ The combination of subsidies and unreported fishing seems to enhance the profitability of these companies. In general, the foreign vessels in this study are likely operating legally with licenses provided by the host governments. But some may also be engaged in unreported fishing. In countries with weak governance and low capacity to monitor fishing activities, the least compliant operators will take advantage of such weaknesses. For example, in Somalia, only in late 2018 did the national government begin licensing foreign vessels. However, in conversations with regional and national experts on fisheries crime in Somalia, all of the individuals fully and openly acknowledged that vessels operated in Somali waters for years prior to these authorizations – even though AIS showed no vessels operating there.

The Role of Transshipment in the DWF Industry

While subsidies and access agreements help determine where DWF vessels may fish, understanding where DWF vessels may offload catch is also important. Some DWF vessels may not offload catch in the coastal country in which they operate. Vessels, particularly longliners that primarily target tuna, utilize support vessels to get their fish to market. The practice of transshipment, the use of support vessels to offload or “transship” catch from a fishing vessel, is critically important to the economic viability of the DWF industry. Transshipment involves a refrigerated cargo vessel, known colloquially as a reefer, rendezvousing with a fishing vessel to offload catch.²⁵

While this process helps sustain fishing operations at sea for longer periods of time, it presents a number of complications. Transshipment vessels are difficult to monitor outside of port, which is why transshipment is often banned on the water. However, vessels like tuna longliners often can acquire exemptions from transshipment bans, and

utilize reefer vessels to offload their catches at sea. While observers exist for transshipment encounters, often the observer coverage is low. The low level of monitoring creates significant challenges to traceability of seafood as illegally caught fish can be laundered with legally caught fish at this stage. Furthermore, transshipment allows fishing vessels and their crews to stay at sea for longer periods of time, sometimes up to a year. Research has linked the practice of remaining at sea for extended periods of time without visiting port to labor abuses.²⁶

AIS analysis of the vessels in the top five DWF fleets operating in non-neighboring EEZs revealed that most vessels were only engaged in a small proportion of transshipment activities. According to AIS analysis, South Korea likely engaged in the most transshipment activity, with nearly 20 percent of the fishing activity in coastal countries’ waters potentially transshipped. This was followed by stark drop off for the other four fleets, as described in Table 1. These findings raise concerns about how DWF catch is being landed, and whether DWF vessels landing catch at port or transshipment events by turning off their AIS to avoid detection.

TABLE 1: PROPORTION OF FISHING ACTIVITY FROM THE TOP FIVE DWF FLEETS POTENTIALLY TRANSSHIPPED

Data based on AIS Activity from 2016 to 2017

DWF FISHING COUNTRY	PROPORTION OF FISHING ACTIVITY POTENTIALLY TRANSSHIPPED
South Korea	19.45%
Japan	9.96%
Taiwan	3.82%
China	2.91%
Spain	0.30%

Which Fleets are the Most Prolific?

Up until the 1990s, the DWF industry was dominated by three major fleets: The Soviet Union, Japan, and Spain.²⁷ Following the collapse of the Soviet Union in 1989 and shifting political

and economic priorities, new fishing fleets soon emerged as global DWF powerhouses. As Russia and European countries shuttered or downgraded operations, Chinese and Taiwanese fleets grew and are now the leading fleets globally. Stimson's research and analysis confirmed this shift and identified the top 10 DWF fleets between 2016 and 2017 as follows.

FIGURE 1: TOP TEN DISTANT WATER FISHING FLEETS BASED ON AIS DATA FROM GLOBAL FISHING WATCH, 2016-2017



As Figure 2 indicates, China and Taiwan represented nearly 60 percent of all global DWF effort in other countries' waters from 2015 to 2017. Japan, South Korea, and Spain each represented about 10 percent of the DWF fishing effort in other countries' waters. From 2016 to 2017, the top five fishing fleets represented 89 percent of the DWF fleets' operations, indicating a need to focus research efforts on these fleets. The remaining

sections of this report focus on understanding the motivations and activities of the top five DWF fleets.ⁱ It places their operations in the context of the four major regions they target (the Pacific, West Africa, East Africa, and South America).

ⁱⁱ Therefore, the report provides an in-depth look into the phenomenon in two countries: Mozambique and Seychelles.

- i. Stimson narrowed the scope of distant water fishing to exclude neighboring EEZs as we wanted to highlight and understand why vessels who operate far from home.
- ii. China, South Korea, and Taiwan all operate in South America, but their fishing effort is not high enough meet the threshold for top 20 coastal countries where fishing occurs.

FIGURE 2: PROPORTION OF FISHING EFFORT BY THE TOP TEN DWF FLEETS BASED ON AIS DATA FROM GLOBAL FISHING WATCH, 2016-2017.

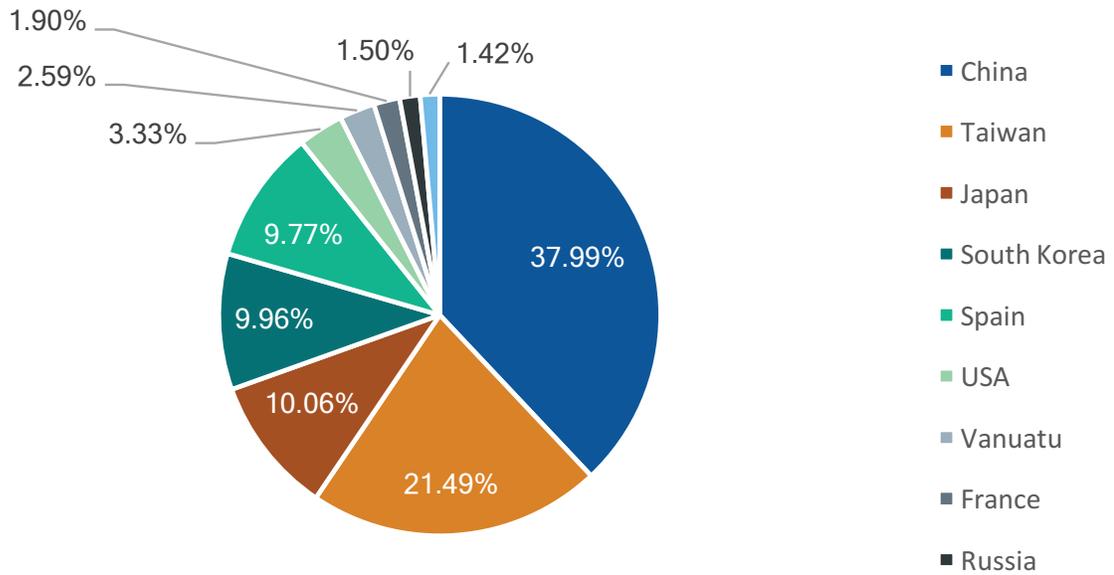
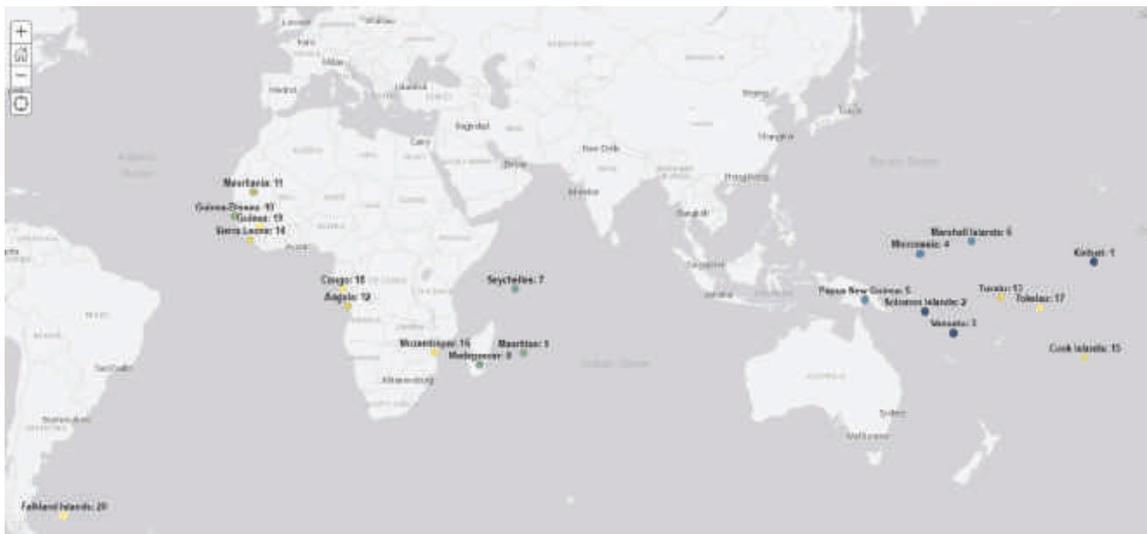


FIGURE 3: TOP TWENTY COASTAL COUNTRIES TARGETED BY DISTANT WATER FISHING FLEETS BASED ON AIS DATA FROM GLOBAL FISHING WATCH, 2016-2017.

Not pictured is the Falkland Islands.

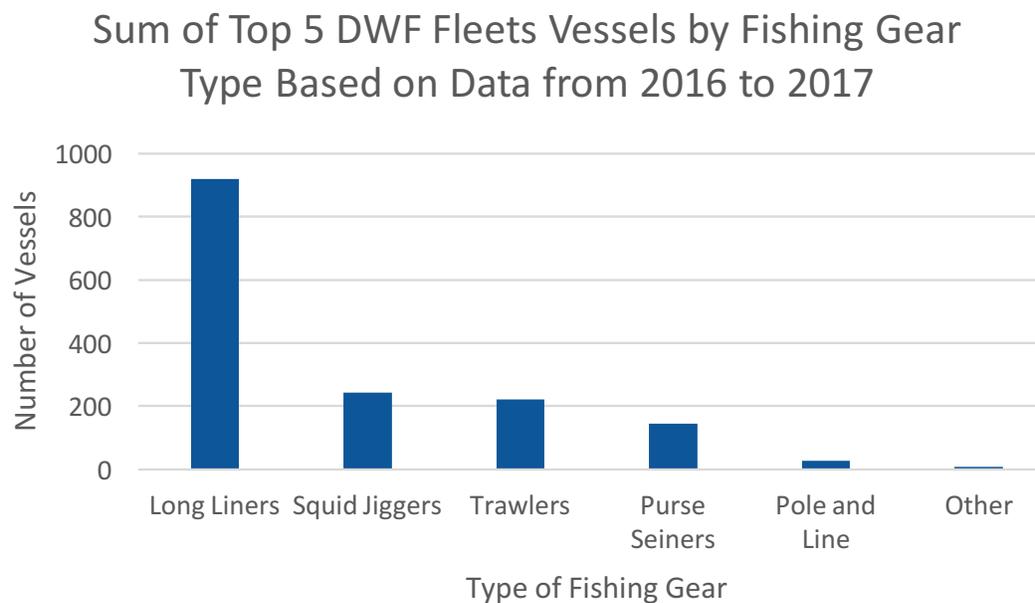


Understanding the Activities of the Top Five Fleets

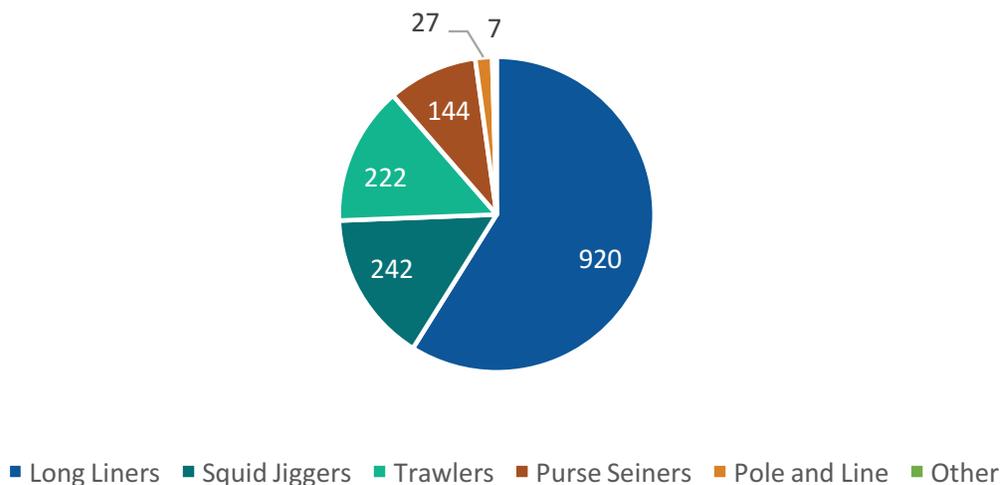
The top five fleets' activities targeted four main regions of the ocean: the Pacific, West Africa, East Africa, and South America – and primarily used four types of fishing gear: longlines, squid jigging, trawling, and purse seining. These vessels are significant in size, usually ranging from 20 to 90 meters in length, and sometimes even longer. At

first glance, these regions and vessels do not appear to have much in common. However, the types of fishing gear employed often helps determine where in the world the fleets may operate, and provides important insight into their similarities. Over two-thirds of the DWF vessels were either longliners or purse seiners – fishing vessels that target tuna and tuna-like species (Figure 4). Tuna are valuable species, with a single bluefin tuna having the potential to be sold at market for upwards of USD \$3 million.²⁸

FIGURE 4: AGGREGATE OF TOP FIVE DWF FLEETS' VESSELS BY GEAR TYPE, 2016-2017



Sum of the Top 5 DWF Fleets' Vessels by Fishing Gear Type Based on Data from 2016 to 2017



Many longliner vessels do not visit and offload catch at ports in the countries in which they fish, and instead utilize carrier vessels to support their operations through resupplies, refueling, and transshipment. This is largely due to the fact that their fishing operations would be economically infeasible if they did offload their catch at port, given the fact that they tend to fish far away from port.²⁹

Given the potential for IUU-caught fish to be laundered with legal catches, many countries and regional organizations have taken steps to ban transshipment. Furthermore, port infrastructure and access to facilities pose additional challenges for longline vessels since ports frequently are not set up to support offloading from these vessels. For example, Port Victoria in Seychelles is not configured to handle the longline fleet, so the vessels therefore rely on transshipment vessels to bring the catch to market.³⁰ Furthermore, in the Western Indian Ocean, about 90 percent of the catch by longliners is transshipped, while the remaining catch is often landed in Mauritius or Cape Town.³¹

In sum, transshipment presents a clear challenge for the transparency of the DWF industry, as it provides the opportunity to launder IUU caught fish into the seafood supply chain. In addition to complicating the traceability of seafood, transshipment also allows fishing vessels to stay at sea for longer periods of time – enabling a practice that many experts link to forced labor and other illicit activities.³² Finally, transshipment denies coastal countries a valuable source of revenue, often costing them three times the added value of the captured fish.³³

The remaining fishing activities of the top five fleets were those carried out by trawlers and squid jiggers. Trawlers from China, Spain, and South Korea plied the western coast of Africa, with the top five coastal countries they targeted being Guinea Bissau, Mauritania, Angola, The Republic of Congo, and Sierra Leone. Trawlers have indiscriminate impact on the local ecosystems, damaging the seafloor as they capture anything in their path, including bycatch while destroying important habitats such as seagrasses and coral reefs.³⁴ This, in turn, reduces catches for local communities, increasing the price of fish and jeopardizing the economic livelihoods of fishers.³⁵ One expert from the World

Bank emphasized this worrying trend, highlighting one example in Gabon, where Chinese trawlers are targeting small, pelagic species to be processed into fish meal that is then fed to tilapia farmed in China. The farmed tilapia is then exported back to Gabon for sale.³⁶ The price differential is stark as the Chinese, farm raised tilapia is three to four times less than domestically caught fish, ultimately crushing the local industry in a place where fish makes up a significant portion of the diet.³⁷

The final tranche of fishing activity was carried out by squid jiggers that primarily targeted South America, including the Falkland Islands, Argentina, Peru, Uruguay, and Chile, as well as a portion of fishing effort expended in the waters of the Republic of the Congo. South America is home to one of the world's richest squid fisheries, however inadequate data hampers effective management of the resource.³⁸ Moreover, in recent years, the media has covered the arrival of foreign vessels in the South Atlantic waters, some of which resulted in tense encounters with law enforcement.³⁹ In Argentina, the Argentine Naval Prefecture has interdicted foreign vessels believed to be engaged in IUU fishing, and recently, media coverage has indicated that the Argentine fishing industry has rallied against granting Chinese DWF vessels access to Argentine waters.⁴⁰ In fact, from 2016 to 2017, Chinese-flagged vessels were the primary DWF fleet operating in the Argentine EEZ, while in neighboring Falkland Islands their presence was limited to three vessels and instead nearly 75 Taiwanese vessels and nearly 40 South Korean vessels represented over 97 percent of all fishing effort.⁴¹

Ports Utilized by the DWF Fleets

Across the world, DWF fleets utilize a variety of ports to offload fish or to resupply their vessels during their journey at sea. The ports most utilized by the top DWF fleets are:

- Dakar in Senegal
- Conakry in Guinea
- Majuro in Marshall Islands
- Suva in Fiji
- Nouadhibou in Mauritania

Two of the top ports visited by DWF fleets from 2016 to 2017 were located in West Africa. This may mean two things: either the ports of Dakar and Conakry are essential in maritime trade and resupply point for DWF vessels, or some of the fishing activities of these fleets are not visible on AIS. Of the top ten DWF fleets Stimson analyzed, only two fleets fished in the Senegalese EEZ. In the two-year period analyzed, two Italian vessels were active in Senegalese waters for a total of 47 days and 33 Spanish vessels were active for a total of 1,851 days. Putting this activity in context, the 20th most fished coastal country, the Falkland Islands, experienced over 3,700 days of fishing activity by top DWF fleets in the study – which indicates that Senegal is not experiencing a high level of fishing activity from DWF fleets in comparison to other coastal countries. However, given the variation of vessels visiting the port, this more likely supports the understanding of the Port of Dakar’s historic importance and strategic placement as the most western port in Africa. Conversely, only one fleet frequented the port of Conakry in Guinea: China. Between 2016 and 2017, Guinea was ranked as the 19th most fished EEZ by DWF fleets in the time period of this study – experiencing a total of 4,107 days of fishing activity by DWF vessels. Of this number, 37 Chinese-flagged vessels represented over three-quarters of the fishing days in Guinean waters, indicating the importance of the Guinean port to the Chinese fleet’s operations.

These ports broadly support the DWF industry, including resupplying, refueling, offloading catch, and activities critical to the operations of a DWF vessel. However, DWF vessels do not always land catch at port and instead rely on transshipment vessels to carry the catch to market. The ports most frequented by transshipment vessels after a potential transshipment from a DWF vessel are:ⁱⁱⁱ

- Port Louis in Mauritius
- Busan in South Korea
- Papeete in French Polynesia
- Singapore
- Cape Town in South Africa

Critically, eight out of ten ports indicated above are party to the Port State Measures Agreement (PSMA), which indicates a level of commitment to ensure that IUU caught fish do not enter the supply chain. However, the difference between these top ports indicates a need to conduct an evaluation of the capacity gaps at each port, particularly the ability to validate the landings from vessels.

As outlined above, a number of critical features of the DWF industry – the use of transshipment, the abuse of subsidies, the types of access agreements, and the ports used by DWF fleets – provide important context for understanding the motivations of DWF fleets and implications for why a fleet operates where it does, which is the remaining focus of this report.

What Motivates the DWF Fleets Operations?

Overall, Stimson’s interviews and research uncovered three main motivations for DWF operations to travel and fish in various regions of the world. In order of importance, the number one driver is economics, the second is the degree of governance and capacity for enforcement, and the third is political influence.



Senegalese navy officer conducts routine inspection of a fishing vessel operating in Senegal’s EEZ. Source: Wikimedia Commons.

iii. For a potential transshipment encounter to be counted, DWF vessels had to conduct at least 24 hours of fishing within a foreign EEZ to be considered.

Economics

AIS data, qualitative analysis, and interviews confirmed the common belief among fisheries experts that DWF fleets are driven to certain areas of the ocean based on economic incentives. In this view, the primary economic drivers are fish type, access to the fishery, and proximity of the fishery to relevant markets. As one interviewee succinctly articulated, fishing fleets are primarily driven by where the fish are, as well as how easily and cheaply they can get the fish to market.⁴² Moreover, many of the top DWF fleets' countries have exhausted their domestic fisheries. For example, China's fisheries have nearly collapsed, and in Europe, 87 percent of the Mediterranean's 47 fish stocks are overfished.⁴³ As countries experience decreasing productivity at home, their demand for fish products continues to grow, creating additional economic incentives to fish further afield.

DWF vessels target areas based on the species of fish available to catch – more often fishing in areas where there are highly valued species, such as tuna or squid. Over two thirds of the top five DWF fleets target tuna, 15 percent target squid, and 14 percent utilize trawl fishing that primarily target pelagic and shrimp species. Meanwhile, these vessels must also consider the operational costs, including the cost of acquiring licenses and ease of accessing the market. A majority of the coastal countries targeted by DWF vessels are considered developing countries by the World Bank. Moreover, many have local, artisanal fleets and lack the domestic capacity to target valuable species at a commercial level. Therefore, these coastal countries often sell access to their fishery resources to DWF vessels.

In some countries, the revenue from access agreements significantly contributes to national budgets, particularly in the Pacific. In Kiribati, fisheries agreements accounted for 60 percent of the government's revenue;⁴⁴ while in the Federated States of Micronesia, fees from licenses represented 21 percent of the government's revenue in 2014.⁴⁵ This reveals that many governments are highly reliant on fisheries agreements with foreign vessels as a major source of revenue for their countries. While at first glance this may seem mutually beneficial, the fees from foreign fishing

licenses are not well distributed across the national government or down to the local fishing communities. Experts interviewed argued that fees are often not well distributed to programs that support capacity building for fisheries management and enforcement.⁴⁶ Ensuring that revenues from access agreements are invested back into fisheries management and enforcement is critical for improving the capacity of coastal countries to monitor DWF vessels.

While the value of fish and the license fees play important roles in determining DWF destinations, accessibility to viable ports for offloading and processing catch, as well as resupplying, is also a critical determinate of where vessels travel. Some coastal countries have both the highly valued species targeted by DWF fleets and well-equipped ports that DWF vessels will visit to offload catch. This is the case in the ports of Majuro in Marshall Islands, Port Louis in Mauritius, Nouadhibou in Mauritania, Honiara in Solomon Islands, and Tarawa in Kiribati. Everything from processing facilities to appropriate dock infrastructure influences where a DWF vessel may visit and land its catch. Without such facilities, DWF vessels rely on refrigerated transshipment vessels to ensure their catch gets to market and they are properly resupplied while at sea.

For example, longliners require different port facilities than purse seine vessels.^{iv} In Seychelles, DWF longliners operating there are unable to dock at Port Victoria to either offload or transship catch. Therefore, they either transship to reefers at sea, or visit other ports – like Port Louis in Mauritius – that are equipped to handle longliners. Coastal countries recognize the importance of developing domestic capacity at ports, including port infrastructure and a system of businesses that support the seafood industry. Representatives interviewed in coastal countries saw port development and modernization as a means to entice vessels away from other frequently used ports. However, development and modernization efforts generally do not directly address concerns relating to the lack of enforcement capacity.

iv. See Glossary for definitions of these types of vessels.

Governance and Enforcement Capacity

While economic forces and business calculations are critical considerations that influence the operations of DWF vessels, fisheries governance and enforcement also play important roles. The DWF vessels most likely to engage in IUU fishing are attracted to countries lacking robust fisheries management regimes. Those countries often also lack the capacity to effectively monitor, enforce, and prosecute perpetrators that violate existing fisheries laws. Existing literature on the economics of crime confirms this analysis, and identifies three main factors that drive actors to participate in criminal activity: low monitoring and enforcement; low penalties for infractions; and high rewards associated with the crime.⁴⁷ Put simply, vessels engage in IUU fishing because it pays.⁴⁸ Ultimately, interviewees emphasized that a vessel engaging in IUU fishing will not likely leave a fishing ground unless there are no more fish, the vessel is interdicted by authorities, or the vessel can make more money elsewhere.

In many of these coastal countries, funding and support for fisheries management and enforcement is often a low priority, especially when financial resources are already constrained. Without the necessary resources – both in terms of qualified personnel and adequate financing – the management of fisheries becomes a significant challenge. In the coastal countries targeted by DWF fleets, there is often a lack of trained personnel, and retaining high-quality personnel is difficult due to low salaries. The lack of highly trained personnel and low retention rates are closely connected with a shortage of resources, stemming from a low prioritization of fisheries management and training.

In some coastal countries, fisheries ministries often lack the necessary management and enforcement tools to succeed. For example, in both Mozambique and Seychelles, while fisheries officials expressed pride in their mission to ensure the longevity of fisheries resources for their respective countries, their enthusiasm was dampened by the reality that the fisheries ministries have such limited budgets, preventing effective management of fish stocks. Even in Seychelles, a country where the fishing industry is one of the primary economic engines and is significantly supported by the government, interviewees articulated challenges with retaining high quality fisheries enforcement officers and technical advisors to develop and implement robust stock assessments.⁴⁹ In Mozambique, the

combination of crippling government debt and the nascent nature of the recently created Ministry of Sea, Inland Waters, and Fisheries result in a politically weak and resource-strained institution, creating conditions that can be exploited by criminal DWF vessels.

Political Influence

Another important factor influencing DWF fleets' operations is political influence. The allocation of natural resources like fisheries is inherently political and selective – with government authorities providing access to the resource to some, but not all parties. In addition, increasing scarcity of fisheries resources has intensified the geopolitical importance of accessing the fisheries of coastal countries.

Within the context of declining global fish stocks, DWF nations are increasingly incentivized to access new fisheries at any cost. There are widespread accusations that these fleets acquire access to fishery resources by exploiting corrupt practices, institutions, and officials.⁵⁰ Moreover, there are real concerns that foreign access agreements can be influenced by quid pro quo, tacit agreements, and coercion where infrastructure or targeted development assistance may translate into access of natural resources or even further in some cases outright corruption.⁵¹ Instances of such influence exist across the DWF industry – such as Chinese vessels acquiring exemptions for transshipment in Ghana in the early 2000s, or even tying access to fisheries with other assistance packages like infrastructure development in Mozambique.⁵²

While there is no systematic evidence of corruption in the DWF industry, a lack of transparency surrounding the industry, including access agreements and beneficial ownership of joint-ventures and charter agreements, can breed a perception of corruption. Interviewees in Ghana succinctly expressed this sentiment, particularly in regard to the Chinese DWF fleet. With no transparency, those outside the process are left to assume the worst – that corrupt officials make poor decisions to the detriment of local industry.⁵³ Another common refrain shared by many interviewees was that even if the public is aware of the terms of the access agreement, they are not aware of the back-door deals or “the contents of the brown paper bag slipped under the negotiating table.”⁵⁴

When pressed to share information about foreign access agreements, coastal states, particularly those in the Pacific, argue that access agreements should not be made public as it will undermine their negotiating positions with DWF vessels and intrude on their sovereignty.⁵⁵ However, a lack of transparency in the industry breeds both the opportunity for, and a perception of, corruption. It provides the opportunity for corrupt officials to take advantage of the system, insulates bad actors from detection, perpetuates poor labor standards, and provides an opportunity for IUU caught fish to enter the supply chain. Steps to make access agreements, beneficial owners, and vessel activity more transparent are critical to creating greater accountability and sustainability in the use of increasingly dwindling fisheries resources. Efforts to encourage coastal and DWF countries to sign on to transparency endeavors like the Fisheries Transparency Initiative are crucial to address these concerns.

A Deeper Dive: The Top Five Fleets

While the motivations discussed in the previous section provide a broad explanation for why the top five DWF fleets operate where and how they do, there is a need to put these motivations in the context of the historic and current support and policies of the fleet's home governments. This analysis is important to understanding the level of oversight and accountability that each country provides their DWF fleet, and ultimately offers important context for the fleets' activities, from IUU fishing to the use of poor labor practices.

China

The Chinese DWF fleet is the largest, most prolific in the industry today, with vessels operating in every region of the world. Less than a third of the estimated 3,000 DWF vessels are captured in this

project given that the parameters of this research focused on fishing in non-neighboring EEZs. The Chinese fleet's fishing activity dwarfed the activities of other DWF fleets, with Chinese vessels representing almost 40 percent of all top ten DWF fishing fleets' activities in other countries' EEZs. Not only was the Chinese DWF fleet large, but it contained a wide variety of vessels: longliners, trawlers, squid jiggers, purse seiners, pole and line, pot and traps, and more were utilized. Of the top five DWF fleets in the study, the Chinese vessels were among the least engaged in transshipment according to AIS data of likely transshipment encounters after fishing activity in the top 10 coastal countries, likely transshipping only three percent of Chinese fishing activity. However, it is probable that not all transshipment encounters were captured since it is easy for vessels to turn AIS off at any moment.

FIGURE 5: DISTANT WATER FLEET FROM CHINA

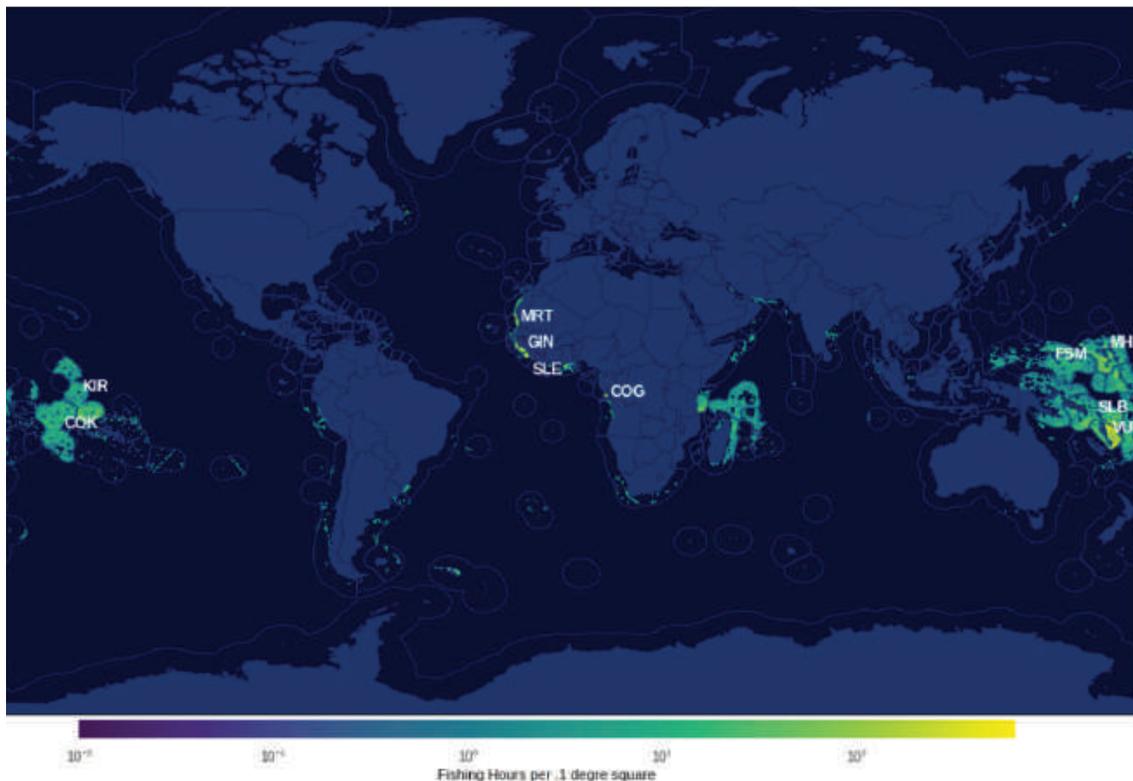
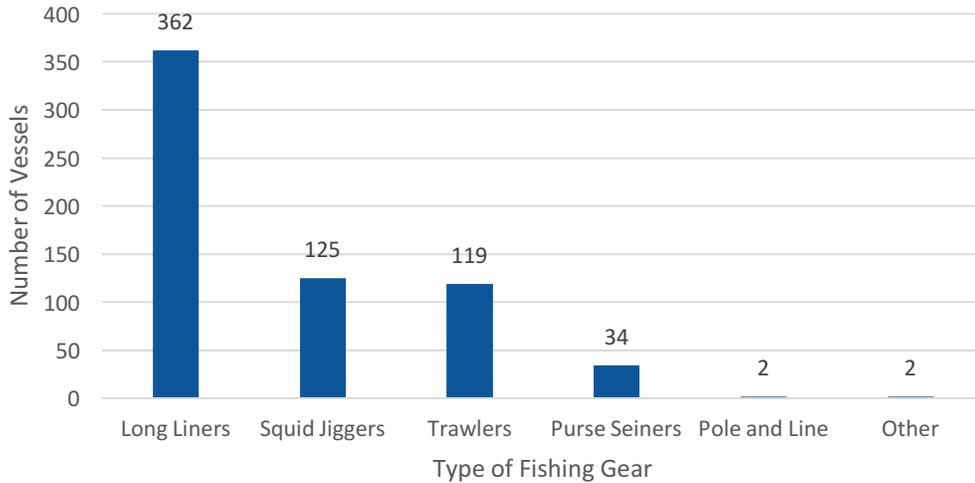


FIGURE 6: DISTRIBUTION OF CHINESE DWF VESSELS BASED ON AIS DATA



In 1986, China introduced the National Fisheries Law, which set the stage for China’s burgeoning DWF fleet. The law outlined the need to incorporate fisheries into economic planning policies, encouraging the development of fishing capacity and production on a domestic and international scale.⁵⁶ Critically, the law also pushed for the creation of offshore fishing, announcing that the “state shall give support or preferential treatment in the form of funds, materials and technology, and in matters of taxation.”⁵⁷ Most importantly, the National Fisheries Law provides context for the current state of Chinese fisheries because it led to overfishing and the collapse of domestic fisheries, affecting the livelihoods of fishers across the country. Coinciding with the National Fisheries Law was the closures of fishing grounds. These closures encouraged fishing beyond China’s waters to quell food security concerns that resulted from dwindling domestic stocks as well as to provide employment opportunities for displaced fishers.⁵⁸

At the beginning of the 21st Century, the “going out policy” encouraged a more strategic and holistic approach for China’s DWF fleet, as the distant water fleet became closely affiliated with their growing global presence.⁵⁹ The 2010s continued to be marked by a desire to expand their global reach, an aspiration that the DWF fleet supported. Since then, vessels have continued to be upgraded and modernized with financial support through subsidies from the central and provincial governments. These subsidies have helped Chinese DWF fleets to be more productive in exchange for giving China eyes on waters in the far reaches of the world.⁶⁰

Experts now see China’s DWF fleet utilized in three ways. The first is to meet growing demands for seafood at home, with Beijing currently requiring its fleet to send an estimated 60-65 percent of its catch back to Chinese markets. The second is to assert territorial control over historical claims in the South China Sea, which is often done with the support of Chinese Coast Guard vessels.⁶¹ The third is the connection between the expanding presence of China’s DWF fleet and the government’s economic interests abroad that are associated with the Belt and Road Initiative (BRI). The BRI is a multi-billion-dollar infrastructure and development initiative designed to connect China with key economic corridors in the rest of the world.

Most recently, the Chinese flagged fleet has come under greater scrutiny due to IUU fishing activities abroad. Interviewees expressed concerns about the low level of oversight imposed on the Chinese-flagged fleet in distant waters. Concerns included both apprehensions about Chinese companies operating front companies that distort benefits to the owner of the vessel, as well as worries about joint-venture and/or charter agreements that are predatory and not mutually beneficial for companies in coastal countries.⁶² Recently, the Chinese government has instituted some policy changes in response to this heightened pressure after incidents of IUU fishing were chronicled. For example, last year, the central government proposed amendments to the key fisheries laws. The laws now include stricter regulations on the use of flags of convenience by Chinese companies.⁶³ Additionally, the Ministry of Agriculture, which houses the

Bureau of Fisheries, made public statements that it would deny black listed vessels, vessels that are known to engage in IUU fishing, from accessing ports in China, effectively complying with some certain components of the PSMA.⁶⁴ Despite these acts of compliance, China has yet to sign onto the PSMA and concerns about IUU fishing of their fleet in other countries' waters continues to be prevalent.

Beijing publicly stated that it plans to cap the number of DWF vessels at 3,000 vessels by 2020.⁶⁵ However, experts believe otherwise since Beijing and the provincial governments continue to subsidize their fleet's operations, including funding for vessel modernization such as upgrades to increase hold capacity and engine capacity.⁶⁶ These subsidies are a significant threat to the sustainability of ocean resources because they make DWF fishing economically viable when otherwise they would not be.⁶⁷ Moreover, in conversations with Chinese academics specializing in fisheries, who often have close relationships with the government, many expressed skepticism about the need to address the unreported component of IUU fishing. These experts argued that the government sees illegal fishing as a serious problem that needs to be

addressed, but that other components of IUU fishing are more pressing concerns.⁶⁸ This sentiment provides important context for the activities of Chinese DWF fleets abroad and the oftentimes low level of oversight by the flag state, the People's Republic of China.

Taiwan

The second largest DWF fleet globally is the Taiwanese fleet. From 2016 to 2017, there were 414 Taiwanese flagged vessels fishing in non-neighboring EEZs, which represented over 20 percent of the top ten DWF fishing fleets' fishing activities during that period. In fact, three-quarters of the Taiwanese vessels in the study were longliners targeting tuna fisheries in the Pacific and Indian Oceans. In fact, Taiwan's DWF fleet supplies an estimated 50 percent of the sashimi grade tuna globally.⁶⁹ Their vessels often utilize transshipment vessels to bring their catch to market and to facilitate longer periods at sea. Based on AIS data of likely transshipment encounters after fishing activity in the top 10 coastal countries, Taiwanese vessels likely transshipped less than four percent of their fishing activity to reefer vessels.⁷⁰

FIGURE 7: DISTANT WATER FLEET FROM TAIWAN

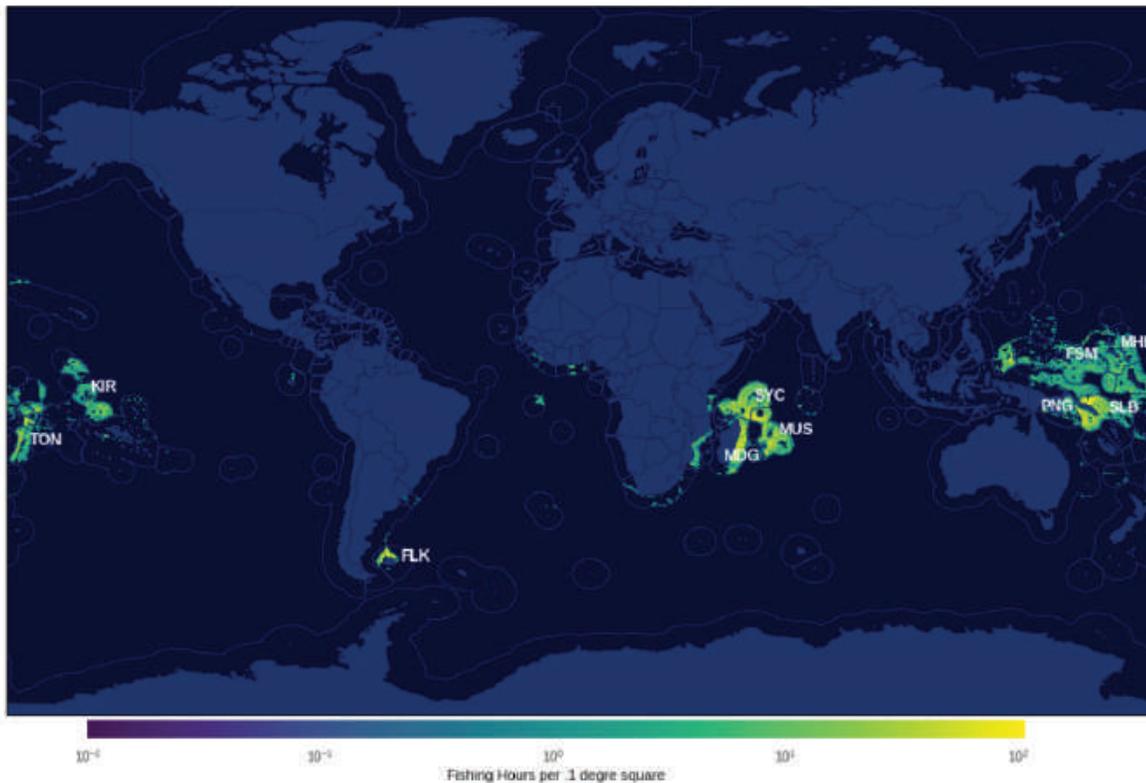
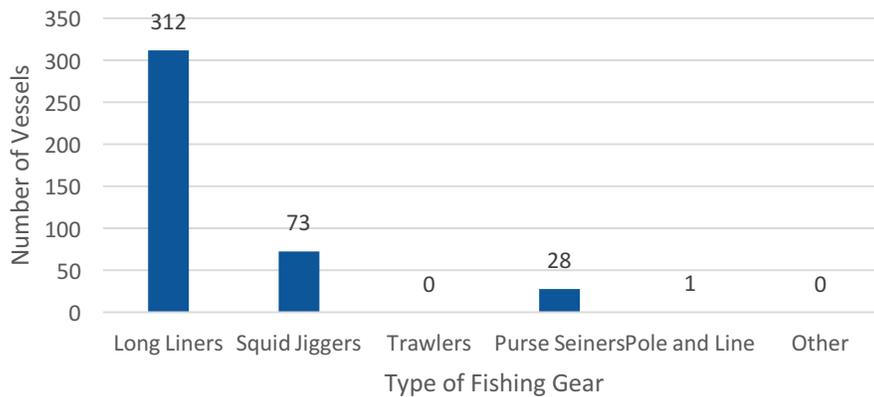


FIGURE 8: DISTRIBUTION OF TAIWANESE DWF VESSELS BASED ON AIS DATA



The Taiwanese fleet first developed in the 1950s and 1960s in response to overfishing and collapsing fish stocks in their waters, coupled with concerns about economic security for Taiwanese fishers.⁷¹ The shift coincided with the government policy, “Every Fisher Has His Boat”, in which the government significantly subsidized the DWF fleet by encouraging citizens to purchase vessels in order to become a part of their growing industry.⁷² Government support for the DWF fleet continued through the 1980s and 1990s as subsidies to build small-scale vessels were replaced by subsidies for the construction of industrial, often longliner, vessels.⁷³ In the early 2000s, the Taiwanese fleet faced accusations of IUU fishing practices and was sanctioned by the Regional Fisheries Management Organizations (RFMOs), which manage specific species of fish or geographic areas of the ocean, and the International Commission for the Conservation of Atlantic Tunas (ICCAT).⁷⁴ Many saw this as an opportunity for significant reform and improvement of oversight for the fleet’s operations. However, Taiwan’s fishing fleet has recently come under additional scrutiny for poor labor practices and IUU concerns.

In 2015, the European Union issued Taiwan a “yellow card” as part of the European Commission’s IUU Fishing Regulation, which is designed to prevent IUU-caught fish from entering the European market.⁷⁵ In giving out a “yellow card”, the European Commission provided Taiwan with a warning: either address IUU fishing concerns or risk receiving a “red card” and have all seafood products denied entry to the European market. In response, Taiwan underwent significant changes to its fisheries management laws. In 2017, Taiwan renewed its Act

for Distant Water Fisheries, mandating tougher regulations for fishing activities of Taiwanese vessels abroad.⁷⁶ The law comprehensively addressed many fundamental concerns about the DWF fleet, including requiring all vessels to have either an active VMS on board or an electronic-log system to help monitor the vessels’ activities.⁷⁷ Some experts expressed concerns about the level of political will necessary to implement the Act, given competing priorities of addressing food security to fulfill demand for seafood at home and addressing job security for fishers.⁷⁸ Despite those worries about implementation, Taiwan’s “yellow card” was lifted in July 2019 and a joint task force between the European Commission and the Taiwanese government was created, indicating progress in the fight against IUU fishing.⁷⁹ However, concerns about labor abuses aboard Taiwanese vessels remain significant, with migrants being lost at sea,⁸⁰ fishermen enduring slave-like conditions aboard vessels,⁸¹ and vessels continuing to utilize flags-of-convenience despite effectively being operated by Taiwanese captains and businesses.⁸²

Even as Taiwan makes strides in addressing the major concerns associated with its fishing fleet abroad, its complicated international status makes it difficult to maneuver in many international bodies. Globally, this can limit Taiwan’s position in the fisheries space. In particular, within the RFMOs, Taiwan typically enjoys access as a “fishing entity,” but has minimal or no decision-making power.⁸³ As the second largest and most significant DWF fleet globally, Taiwan’s complicated status prevents meaningful engagement and opportunities to

encourage greater accountability in the realm of fisheries management.

Despite these challenges, Taiwan still has access to rich tuna fisheries globally. Improvements can be made to ensure that the fleet is more compliant with relevant international, regional, and the domestic fishing laws. In particular, over 300 of the Taiwanese vessels in this study are longliners, who often transship their catch to carrier vessels at sea rather than offloading it at port. Transshipment represents a major challenge to oversight and accountability in this stage of the supply chain. Improving transparency would be a significant step forward to managing the issues related to the Taiwanese fleet.

Japan

From 2016 to 2017, Japan operated the third largest DWF fleet globally, with 162 fishing vessels active in waters from Southern and Eastern Africa to the Pacific. Nearly the entire fleet was made up of vessels specializing in tuna, such as longliners, purse seiners, or pole and lines, ergo they primarily targeted tuna species. Based on AIS data of likely transshipment encounters after fishing activity in the top 10 coastal countries, as much as 10 percent of Japanese fishing activity was likely transshipped, making the fleet the second largest to likely engage in transshipment of the top five fleets in the study.

FIGURE 9: DISTANT WATER FLEET FROM JAPAN

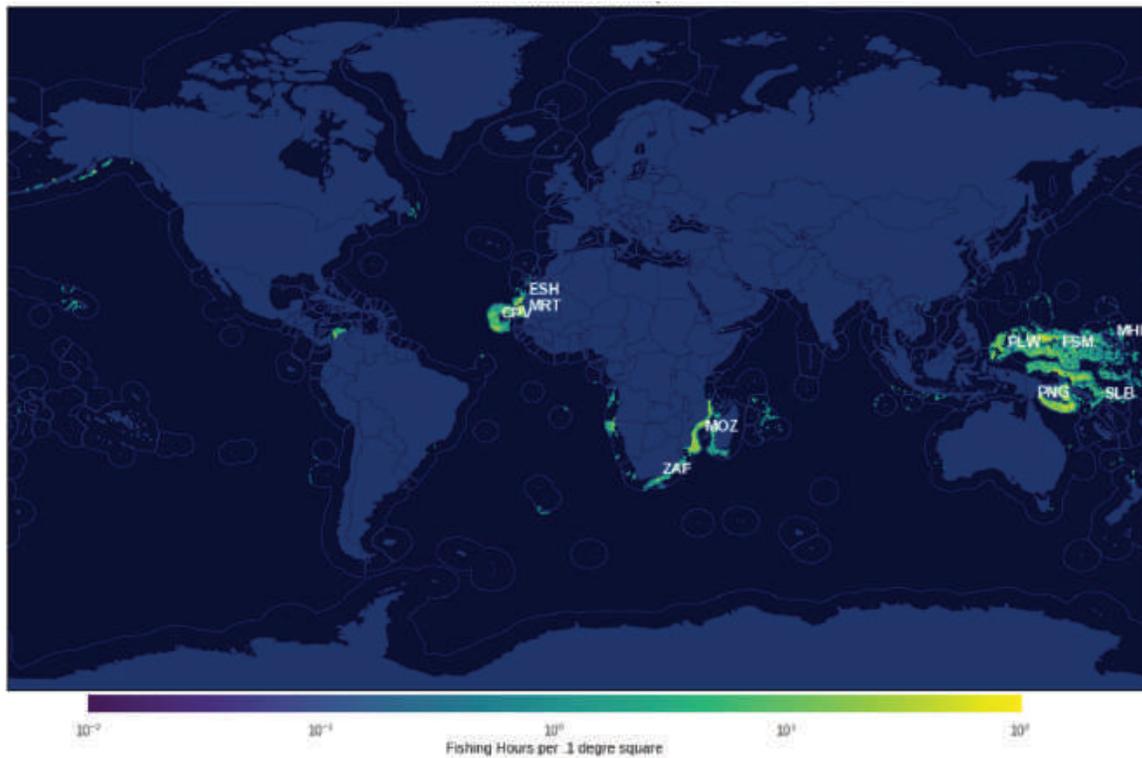
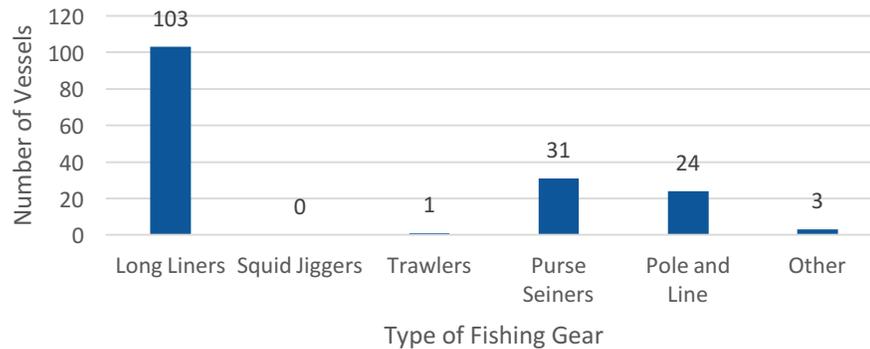


FIGURE 10: DISTRIBUTION OF JAPANESE DWF VESSELS BASED ON AIS DATA



In the early 1930s, it was estimated that Japan had one of the largest DWF fleets in the world, operating long distances from home and supported by the government. At the end of World War II, the Japanese fishing industry (including its DWF fleet) was seen as an important kick-starter for the economy, and as a useful means of addressing food security concerns, leading to further expansion of the fleet.⁸⁴ Similar to the other top fleets operational in the 1980s, the Japanese fleet witnessed a downturn with the introduction of EEZs under UNCLOS, coupled with the realization that the global fishing industry was overdrawing its resources.^{85 86}

In more recent years, the fleet has further waned in size, despite Japan continuing to have one of the highest demands for fish in the world. In December 2018, the Japanese National Diet (Parliament) approved major changes to the Fisheries Act, an act that had not been amended in over 70 years. The new changes significantly de-emphasized the World War II era's focus on fisheries exploitation and shifted focus to better fisheries management and sustainable use.

The fleet is governed by the Ministry of Agriculture, Forestry, and Fisheries (MAFF), with oversight provided by the fisheries agency. Japanese vessels are still required to obtain a license from the central government, and each vessel is required to operate using VMS.⁸⁷ However, the Japanese fleet still receives subsidies in support of their operations, predominately in the form of insurance and the development of services infrastructure.⁸⁸

In addition to the support provided to its own fleet, Japan also provides assistance to fishing industries in many countries, including helping to develop local fishing ports, supporting capacity-building efforts, and even serving as a donor to the Pacific Islands Forum Fisheries Agency.⁸⁹ This practice is similar to that of the European Union's Sustainable Fisheries Partnership Agreements (SFPAs), which stipulate that funding and capacity building be dedicated to improvements in the fishing industry. While in Maputo, Mozambique, Stimson researchers saw the many items that the Japanese development agency funded to support the fishing sector and the local port. While the Japanese provide assistance for capacity development and clearly state that subsidies should not encourage overcapacity and overfishing, their fishing agreements with coastal countries lack transparency, an important step in indicating the country's serious commitment to the long-term health of fisheries globally. Overall, though Japan's fishing agreements lack transparency and their fleet receives subsidies, the sentiment around the Japanese fleet is that it is generally more compliant in comparison to Chinese DWF vessels.

South Korea

South Korea operated the fourth largest DWF fleet based on AIS analysis from 2016 to 2017. The 198 South Korean flagged vessels were active across the world, including in the Pacific, off the coast of Argentina near the Falklands, and in East Africa.^v The longliner vessels operated in the waters off the

v. Though South Korea has more vessels than Japan, it is ranked at number four because our analysis is based on fishing activity and not number of vessels. South Korea has a different composition of vessels in its fleet, particularly with the squid jiggers.

coast of East Africa, while the squid jiggers focused their efforts in South America where the squid fishery is richer. The South Korean fleet seemed to engage the most in transshipment of the top five fleets in the study. Based on AIS data of likely

transshipment encounters after fishing activity in the top 10 coastal countries targeted by the South Korean fleet, South Korean vessels transshipped nearly 20 percent of their fishing activity.⁹⁰

FIGURE 11: DISTANT WATER FLEET FROM SOUTH KOREA

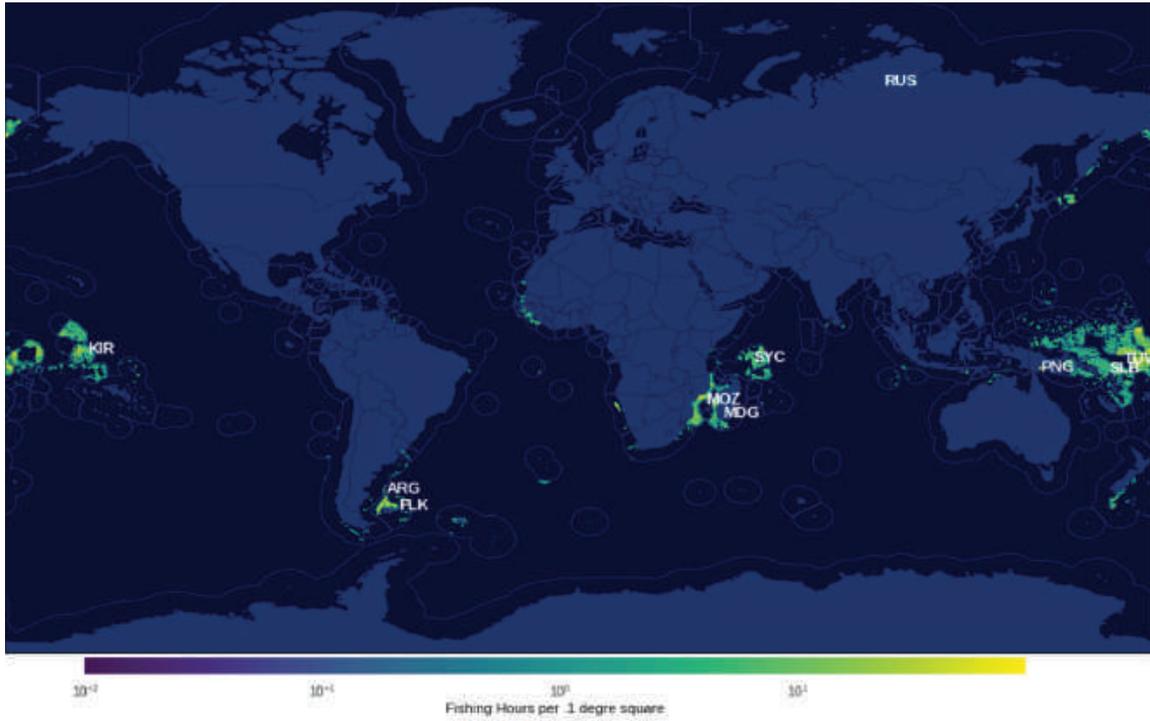
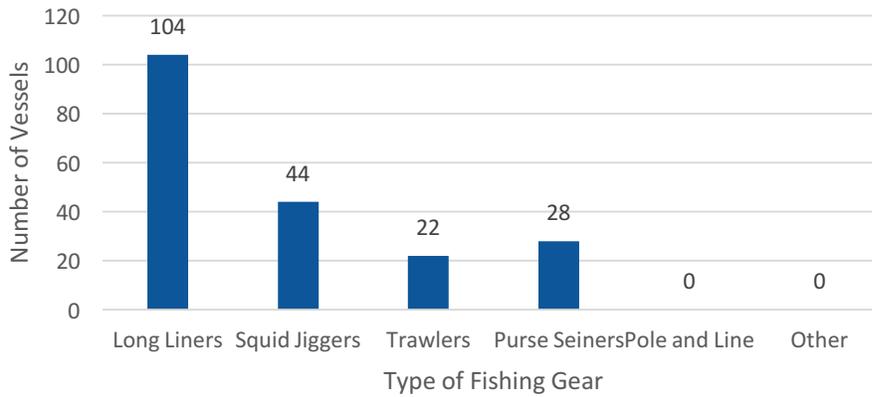


FIGURE 12: DISTRIBUTION OF SOUTH KOREAN DWF VESSELS BASED ON AIS DATA



The South Korean fleet has been active since the 1960s when the government first introduced a 5-year plan that explicitly outlined the desire to expand the DWF fishery.⁹¹ This plan pushed South Korean vessels far and wide, with DWF catches peaking in the late 1980s and early 1990s. In just thirty years, the catches from the South Korean DWF fleet grew from 656 tonnes in 1962 to over 1 million tonnes in 1992.⁹² Today, the number of vessels in the fleet has shrunk, but the capacity and power of the vessels has slightly expanded.⁹³

Similar to other top countries supporting large DWF fleets, the South Korean government provides subsidies for its fleet, often in the form of insurance- and service-based subsidies related to marketing and management. Few of these subsidies are used to enhance the capacity of fishing vessels.⁹⁴ The management of fisheries is overseen by the Ministry of Oceans and Fisheries, which oversees the Distant Water Fisheries Development Act, among many other relevant fisheries laws. In 2013, the European Commission handed the South Korean government a “yellow card”, which required that significant improvements be made to address IUU fishing concerns or risk the banning of South Korean exports to the European Union. To address the concerns that prompted the “yellow card”, the Distant Water Fisheries Development Act was amended.⁹⁵ Those amendments stipulated that a DWF vessel must have VMS on board, obtain permission to fish in foreign country waters, and must report to the ministry about joint ventures, among other things.⁹⁶

Despite these efforts to improve the industry, recent reporting has highlighted challenges to the South Korean fleet’s compliance with international fisheries and labor laws, including

utilizing unfair labor practices and engaging in IUU fishing.⁹⁷ Reports of labor abuses on board South Korean vessels continue.⁹⁸ Experts often link labor abuses with longer periods of time spent at sea without visits to port, which are also facilitated by support vessels that transship catch and provide resupplies.⁹⁹ Most importantly, of the top fleets analyzed in this research, the South Korean fleet engaged most frequently in transshipment of its catches as compared to the other top ten fishing fleets. While transshipment facilitates easier and quicker movement of catches to market, it also provides opportunities to launder IUU caught fish with legally caught fish, and it extends the time that vessels can spend at sea. Improving oversight and transparency of these transshipment events is an important step forward for the South Korean fleet, as it would improve their level of compliance and aid international efforts to combat IUU fishing and labor abuse in the fishing industry.

Spain

Spain operated the fifth largest DWF fleet from 2016 to 2017, with its operations primarily focused on fisheries in West and East Africa.¹⁰⁰ The fleet contains a significant number of trawlers, which specialize in fishing for pelagic species and other fin fishes. The fleet is regulated by two entities: the European Union and the Kingdom of Spain. According to publicly available data from the Spanish Ministry of Agriculture, Fish, and Environment, the Spanish DWF fleet included 64 flagged vessels operating in foreign country waters, 61 trawlers, and 3 longliners in 2017.¹⁰¹ Based on AIS analysis of likely transshipment encounters after fishing in the fleet’s top 10 coastal countries, the Spanish fleet engaged in the least transshipment – less than one percent of all fishing activity.

FIGURE 13: DISTANT WATER FLEET FROM SPAIN

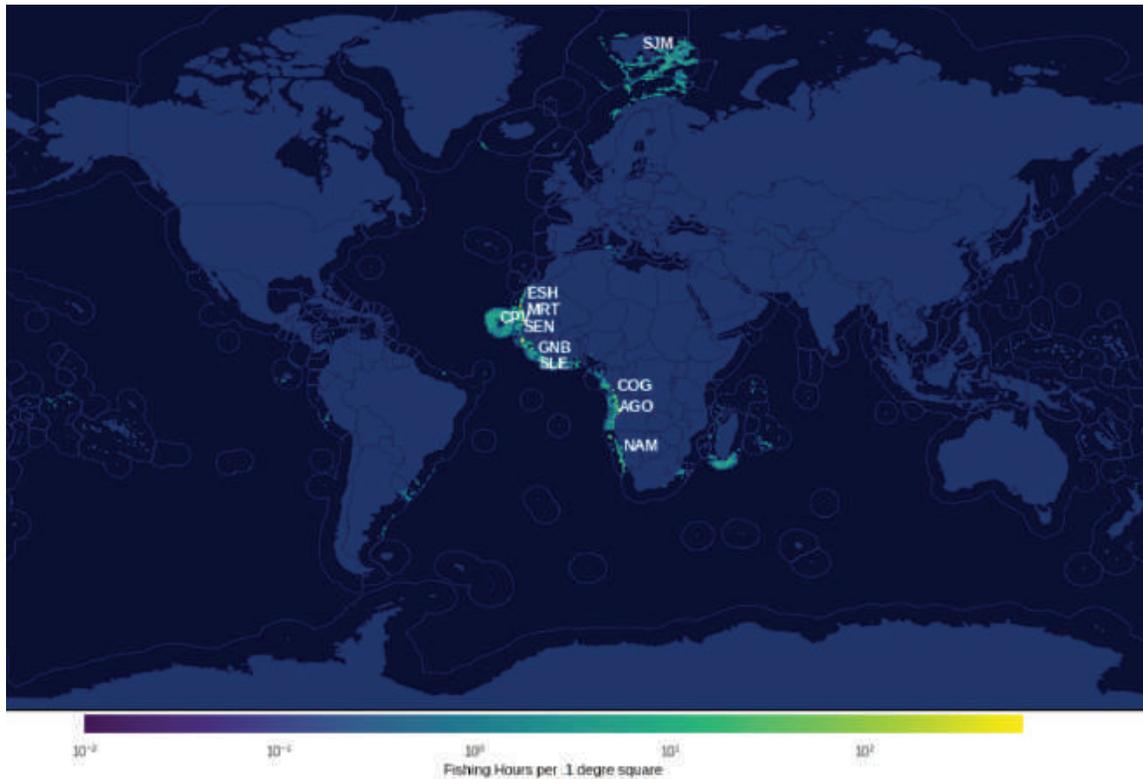
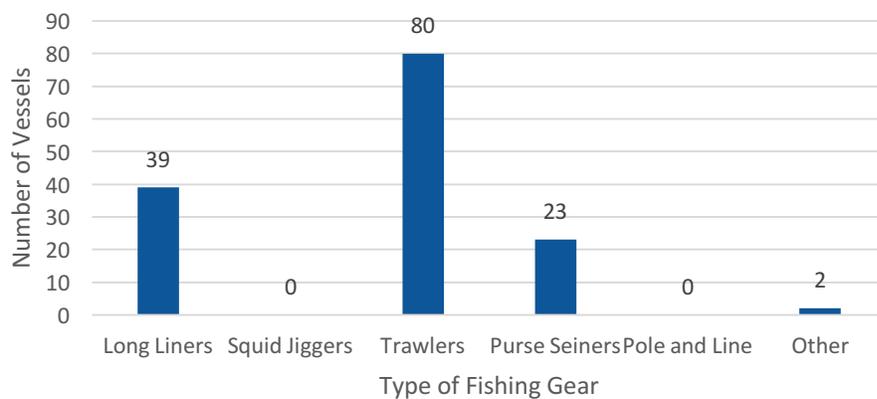


FIGURE 14: DISTRIBUTION OF SPANISH DWF VESSELS BASED ON AIS DATA



The Spanish fleet has fished distant waters for centuries, often in pursuit of economic and food security. An estimated 87 percent of the Mediterranean’s fish stocks are overfished, pushing vessels further afield. Despite the reduced fish stocks, the fleet has been reduced in the last 20 years due to stricter controls and oversight

stipulated by the European Commission across the European member states. However, Spain still operates the largest DWF fleet out of the European Union member states in terms of fishing capacity, representing nearly 24 percent of the overall European fleet.¹⁰² Collectively, the European DWF fleet represents 18 percent of the gross tonnage

for all European vessels, including small and large scale ones.¹⁰³ According to OECD statistics on government support to fisheries, Spain's DWF fleet receives very few subsidies, unlike the four other top DWF fleets.¹⁰⁴ However, this may change as the European Union considers renewing subsidies to the DWF fleet during the upcoming negotiations for the 2020 budget.

The Spanish fleet usually acquires access to coastal countries' waters through the EU's bilateral agreements or SFPAs.^{vi} These agreements posted on the European Commission's website are transparent and outline the access rights, funding structures, allowable catch, and other terms. According to the online and publicly available SFPAs, the Spanish fleet had active vessels in the waters of in a handful of African nations from 2016 to 2017, including Cape Verde,¹⁰⁵ Guinea-Bissau,¹⁰⁶ Mauritania,¹⁰⁷ and Senegal.¹⁰⁸ However, according to AIS data, vessels were also active in Angolan, Congolese, Western Saharan, Namibian, and Sierra Leonean waters. Taking a closer look at Guinea-Bissau, according to publicly available information, the SFPA outlines opportunities for 14 purse seiners and longliners and 9 pole and line vessels fishing for shrimp and fish/cephalopods at 2,500 and 2,900 gross tonnage, respectively. Ultimately, from 2016 to 2017, there were only a handful of purse seiners and longliners, and instead far more trawlers operating in Guinea-Bissau's EEZ.

In cases such as the one described, each flag state within the EU is responsible and accountable to its flag state duties. While the vessels themselves are held to high standards of compliance to international labor and fisheries laws and behaviors abroad, some interviewees suggested that complying with the laws hinders fishing competition. It is recognized that certain international fleets using the same waters are known to engage in IUU fishing and labor abuses. It's also common knowledge that these fleets take advantage of weak governance structures and enforcement of coastal

In 2020, the European Union will pass a new budget. In the runup to the budget negotiations, the European Commission put forward a fisheries funding proposal that recommended similar funding levels. The priorities remain at the levels of previous fisheries budgets, which limited subsidies to the DWF fleet. However, in April 2019, the European Parliament countered this proposal and requested additional funding to subsidize vessel construction and modernization of the European fleet. The current debate moves to a trilogue between the European Council, the European Parliament, and the European Commission, who will negotiate a budget deal that will guide the future of their fishing operations. Experts have argued that the proposal to dedicate funding to vessel modernization and construction runs counter to EU priorities and undermines negotiations in other areas, including at the World Trade Organization in Geneva, where fisheries subsidies are at the top of the priority list.

states by engaging in illegal business practices such as bribing officials or submitting fraudulent catch documentation. The Spanish fleet, and more broadly the European fleet, have argued that the playing field is not level and they are hamstrung to stay competitive.¹⁰⁹

In addition to the Spanish-flagged fleet, Spanish companies also participate in joint-ventures and charter agreements. For example, in Seychelles the domestic tuna fishing fleet is jointly owned by Spanish and French companies, with Seychellois partners. During Stimson's field research in the Seychelles, experts admitted that even if these agreements indicate Seychellois majority ownership, they would not be surprised if the distribution of benefits were entirely different, with European partners receiving greater benefits than the Seychellois partners.

vi. It is important to note that the member states in the European Union are also free to directly negotiate with coastal countries for access to their waters.

Case Studies: Mozambique and Seychelles

The following case studies are based on interviews with dozens of experts in government, the NGO community, and private sector in Mozambique and Seychelles. The interviews were conducted in person during April 2019 in the capitals of each country: Maputo and Victoria. Mozambique and Seychelles were selected due to the diversity of flagged fleets operating in the region, which included China, Taiwan, Japan, and South Korea. Additionally, the case studies provide important insight into the implications of DWF fleets that can be applied more broadly for coastal countries targeted by these fleets. In fact, the field work in Seychelles and Mozambique confirmed two main assumptions about DWF motivations: Profitability is central to the decision-making process for DWF vessels; and some of the least compliant DWF vessels are attracted to coastal countries that have low capacities to monitor and enforce their fisheries management regimes. Moreover, in conversations with experts on the ground in each country, one sentiment was consistently shared: fisheries resources are being overexploited both by domestic and foreign fishermen, often to the detriment of local communities and economies, and the capacity to address these concerns needs to increase if valuable fisheries are to enjoy long-term sustainability.

Distant Water Fishing in Mozambique

The Republic of Mozambique lies in southeastern Africa, bordering Tanzania to the north and South Africa to the south. The country's coastline is significant: at 2,700 kilometers, Mozambique's coast is the third longest in Africa. Its fisheries resources are rich – with species ranging from pelagic and demersal fish, as well as shrimp, crustaceans, and tuna. Fishing activities represent three percent of the national GDP;¹¹⁰ an estimated 350,000 artisanal fishers represent 85 percent of the fishing effort in the country, while the remaining 15 percent of fishing effort is captured by the semi-industrial and industrial fishing fleet.¹¹¹ Though a small proportion

of the fishing activities, the semi-industrial and industrial fishing sectors represent nearly 60 percent of the country's catch value.¹¹² From 2016 to 2017, vessels from Japan, Taiwan, South Korea, China, Portugal, Spain, and Russia operated in Mozambican waters. A majority of the vessels were longliners from Japan, South Korea, and Taiwan, while the remaining were a few trawlers from China, and just two from Portugal and Russia.

In early 2019, the Mozambican government released its “Sea Policy and Strategy,” which outlined major policy goals and challenges facing the maritime space in the country. Among the many issues discussed in the report were fisheries. The report outlined that the primary concerns currently facing Mozambican fisheries are the lack of technical knowledge and capacity to monitor and enforce fisheries management, particularly due to concerns about overfishing.¹¹³ While identifying some structural weaknesses that allow IUU fishing to persist, the document lacks specificity and does not indicate a clear path forward to tackle the challenges. In reality, the capacity at all levels of the government to monitor and enforce fisheries regulations is weak. In private interviews with government officials, private sector representatives, and non-government organizations, the sentiment was clear: the government lacks capacity and political will to effectively manage and enforce the fisheries regulations that are currently in place. However, as detailed below, recent policy shifts have exacerbated these challenges.

A Desire for Local Investment: A Shifting Policy and a Global Trend?

Until recently, foreign vessels targeting tuna each typically paid an access fee to fish in Mozambican waters – often around USD \$32,000 per vessel for a year of access. Foreign vessels have also historically gained access by developing a bilateral fisheries agreement, as was common with the European fleet. These two types of agreements set clearly defined access rights to a fishery, within a specific time frame (often one year). These agreements

typically lack transparency, with the exception of the European SFPAs, which are publicly available online. Foreign vessels from China, Taiwan, Japan, South Korea, and the European Union utilized these agreements until 2018, when the Mozambican government shifted its policy on access rights for foreign fleets. The Republic of Mozambique significantly increased the price of traditional access agreements – from USD \$35,000 to USD \$200,000.¹¹⁴ Under the previous rate, about 30 to 50 foreign vessels frequented Mozambican waters.¹¹⁵ With the newly increased rates, only two vessels have pursued agreements in 2019. Instead, foreign vessels are now encouraged to pursue charter agreements and joint-venture agreements with Mozambican counterparts. Joint-ventures and charter agreements existed prior to this new policy, but were not as widely used as traditional access agreements.

Tanzania and Kenya have recently taken a similar approach to Mozambique by increasing access fees to encourage joint ventures and charters, while also indicating that the government will invest in processing facilities and port infrastructure to ensure that their economies capture the most value from their fisheries.¹¹⁶ This is critical as coastal countries often lose three times the added value of the catch when it does not land in the country.¹¹⁷ Processing countries, like Seychelles and Mauritius, are then able to capture that added value. One sentiment shared by interviewees from some southern and eastern African countries is that these governments and industries want to see more of the economic benefits derived from their natural resources. As such, they have shifted policies that reflect this goal: increasing access fees and encouraging development of the domestic fishery sector including vessels, knowledge transfer, and processing facilities to rival others in the region.

A charter agreement occurs when a 100 percent Mozambican-owned company uses a foreign vessel to fish – essentially, renting a foreign vessel. A joint-venture agreement sets out a partnership between a Mozambican and foreign company – with at least 51 percent of the company required to be Mozambican-owned, and the remaining amount owned by a foreign entity. Officials in the government emphasized that this policy change was designed to encourage private investment and facilitate a transfer of knowledge and capital to Mozambicans to help develop their domestic fishing industry. Since the creation of this

policy, government officials noted that about 10 Mozambican companies currently operate under charter agreements, while other foreign companies have pursued joint-venture agreements. While Stimson researchers were not able to acquire an official government estimate, upon visiting the Port of Maputo, Stimson viewed several vessels operating under the joint-venture system, including the majority of vessels from China, a few from South Korea, one from South Africa, one from the United States, and one from Spain.¹¹⁸

Previously, European Union vessels operated in Mozambican waters under a Sustainable Fisheries Partnership Agreement (SFPA), which was a bilateral fishing agreement negotiated between the EU and non-EU countries. Since 1987, the EU and Mozambique had bilateral fishing agreements, with the most recent agreement expiring in 2015. The recent agreement provided access to Mozambique's tuna fishery for Spanish, French, Italian, Portuguese, and British vessels in exchange for nearly EUR 1 million in financial contributions, and yearly fees paid by the vessels.¹¹⁹ When the agreement expired in 2015, it was not renewed. Mozambicans cited concerns about underreporting and misreporting of EU vessel catches, as well as general concerns that Mozambique does not see commensurate financial benefit. Meanwhile the Europeans have argued that the fees are comparable to those in the other nearby regions, and that concerns about misreporting of catches were unfounded.

Low Trust in Government and the Perception of Corruption in the DWF Industry

Though the shift to increase access agreement fees is recent, many of the people interviewed expressed skepticism in the implementation of the policy and if it would have any real impact supporting the development of the domestic fishing industry. One fisheries official remarked that although the government has put in place all the right policies and legislation that are intended to benefit the local economy, foreign companies and countries always find loopholes to take advantage of the agreements.¹²⁰

Many interviewees openly expressed the pitfalls and emerging concerns associated with the joint-venture partnerships that have emerged in the last year. They questioned if there has been or will be any real transfer of knowledge and tangible gains for

the domestic fishing industry. One expert argued that the structure of these agreements is inherently flawed, with the Mozambican partners always at a disadvantage. They argued that Mozambican companies, due to their lack of expertise in fisheries, are often unaware of their rights and obligations and are therefore unable to ensure due diligence and compliance by the chartered or joint-venture vessels, and so it is likely that catch is unreported or underreported.¹²¹

Another common theme in many of the conversations Stimson researchers had while in Maputo was that decision-making on national policy in the fishing industry is influenced by political calculations. Interviewees expressed that political decisions drive the access agreements, with little to no concern for the environment or conservation of fisheries resources. Often competing interests and deals with foreign countries supersede environmental and conservation priorities. One interviewee even expressed that civil servants feel pressured to allow agreements with foreign companies to go through and that there is little room to negotiate for a better deal given this pressure from above.¹²²

Further exemplifying this, a high-ranking official in the Ministry of Sea, Inland Waters, and Fisheries recently receiving threats from foreign fishing companies. In one instance, an individual associated with a Chinese fishing company threatened the government official that if the Ministry were to revoke the company's license for IUU fishing violations, they would bring harm upon the government official's children.¹²³ In spite of this threat, the government official emphasized that they still felt empowered to do their job and would carry out the impending reprimand on the non-compliant vessels. Even as this official stated their intention to follow through, the perception of a quid pro quo with the Chinese government, Chinese operators, and high-ranking Mozambican officials was evident throughout Stimson's time spent in Maputo.

Corruption quickly emerged as a common theme in interviews with private sector, non-governmental, and even governmental interviewees. In one meeting with a private sector representative, as the individual discussed the allocation of access

agreements, joint-ventures, and charters to foreign companies, they pointed to the "white elephant" in the window known as the Maputo-Katembe bridge, which was built by the Chinese. The individual remarked: "There's no free lunches. They're taking our natural resources."¹²⁴ The individual also went on to express that it is widely believed – in and outside of government – that the recently arrived Chinese vessels were given access in return for the infrastructure projects across the country. Moreover, the recently arrived vessels are seen as not complying with fisheries regulations, and that the vessels will be here for a few years, capture everything that they need and collapse the stocks in the process.¹²⁵ This opinion was in stark contrast to the perceptions of other non-Chinese foreign entities utilizing the joint venture system: European and Japanese joint ventures have operated in Mozambique for decades and are invested in the long-term viability of the fishery, whereas the Chinese are invested in the short term, with little concern for long-term effects on the health of the fishery and the impact it may have on Mozambican communities. The overwhelming sentiment shared within government, the nongovernmental community, and among business people is that capacity and political will hamper real progress to address IUU concerns carried out by domestic and foreign vessels alike.

Political Will and Low Capacity: Pitfalls to Mozambique's Fisheries

Stimson's interviews with government, non-governmental, and private experts highlighted a widespread belief that foreign fleets – including those that operate under traditional access agreements or through charter and joint-venture partnerships – are engaging in some level of IUU fishing. Government officials recognize that enforcement capacity is weak, with no patrol vessels capable of monitoring offshore waters. They further concede that some foreign-flagged vessels are more compliant than others. Historically, the Japanese and European fleets were seen as less likely to engage in IUU fishing, while Chinese and Taiwanese vessels were engaged in more illicit fishing practices. Given the recent policy change that increased the price of licenses for foreign vessels, many experts noted that in the last 18 months, Chinese vessels

– many of which are operating under Mozambican flags – have arrived in the country. Individuals expressed concerns regarding these vessels, ranging from fears that the foreign vessels are illegally fishing within the three nautical mile zone excluded for artisanal fishers, to claims of trafficking illicit goods, to general concerns about IUU fishing by these fleets.¹²⁶

To the frustration of many interviewees in the private sector and NGO community, the Ministry of Fisheries is aware of these problems – but has not responded forcefully yet. As one former government official articulated, “We are making laws, we’re making laws, but we’re not caring about compliance.”¹²⁷ In conversations with government officials, they acknowledge that some of these problems may occur, but then push back on the assumption that they can immediately address the problem, often citing capacity and political will as barriers.

Increasing compliance and enforcement is central to improving fisheries management in Mozambique. In the past decade, the government displayed strong commitment to addressing these challenges: acceding to the Port State Measures Agreement, engaging regionally in the development of the Monitoring Control Surveillance (MCS) Center coordinated by Southern African Development Community (SADC) and a member of the Fish-I Taskforce; working bilaterally and multilaterally with neighbors to conduct joint patrols; and passing strong fisheries management rules. However, political will to continue to address these issues shows signs of wavering. Previously, the Ministry of Fisheries operated a re-purposed fishing vessel as a patrol boat, but funding constraints and shifting political priorities have left the vessel to rust away in the Port of Maputo.

Another challenge is the lack of engagement from the Ministry of Defense, which has more assets but a weaker mandate to conduct anti-IUU patrols. Improving transparency in the industry, including making access agreements publicly available and requiring VMS be turned on at all times, complemented with increased capacity to monitor and take action against perpetrators, is critical to ensuring the longevity of Mozambique’s fisheries.



Joint venture Chinese vessels in Mozambique. Source: Stimson Center.

Distant Water Fishing in Seychelles

While Mozambique revealed capacity challenges and distrust in government institutions tasked with implementing strong fisheries management, research and interviews in Seychelles exposed a heavy reliance on the fisheries industry in the economy – often to the concern of interviewees. Furthermore, capacity challenges, including difficulties retaining high quality fisheries officials, were prevalent despite the high prioritization of fisheries in the government.

The Republic of Seychelles is an island country 300 miles off the east coast of Africa. Situated within the rich tuna fishery of the Indian Ocean, the country has significantly developed its fisheries sector as an important component of its national economy. It is estimated that the fisheries sector represents anywhere from 8 to 20 percent of national GDP and employs nearly 17 percent of total population.¹²⁸ Many experts in Seychelles estimate that the actual figures are likely much higher; the government is currently in the process of analyzing



Industrial tuna vessels in Seychelles. Source: Stimson Center.

these figures for publication at the end of 2019.^{vii} Further exemplifying the centrality of the fishing industry in Seychelles, fisheries products make up an estimated 90 percent of total exports from the country, as the capital Victoria is home to the world's largest tuna canning facility, which processes 80 percent of all tuna caught in the Indian Ocean.¹²⁹

The Seychelles Fishing Authority is responsible for fisheries management in conjunction with the Seychelles Coast Guard. Working bilaterally with foreign fishing vessels, the government negotiates access rights to the waters, often with no quotas associated with the agreements, and uses flat license fees and fines when there are infractions.¹³⁰ From 2016 to 2017, AIS data showed that longline vessels and purse seiners from Taiwan, China, and South Korea operated in Seychelles, with a smaller number of vessels flagged from France, Italy, and Spain. Consisting of purse seiners, the European fleets operates under a structured SFPA agreement between the EU and Seychelles. In many ways, the incentives driving foreign fishing to Seychelles are similar to Mozambique: vessels are attracted to specific fish species. However, other factors come into play for Seychelles, including access to the processing factory and efficient

turnaround times for vessels that visit port to resupply or offload catch.

Interviewees in Seychelles generally viewed the European fleet as highly compliant and likely not engaged in IUU fishing given its historical activity, as well as the high degree of observer coverage on board the European vessels.¹³¹ Furthermore, most interviewees expressed positive sentiment towards the European bilateral agreements as they are transparent and directly contribute to capacity building in the fisheries industry. Conversely, interviewees shared a more skeptical sentiment towards Asian fleets operating in the waters. As the Asian vessels are long-liners, they do not visit Port Victoria to offload their catch and instead transship to support vessels.¹³² From 2016 to 2017, there were 149 longline vessels operating in Seychellois waters, which represented nearly 93 percent of all fishing activity in Seychelles by foreign vessels captured by AIS.¹³³

These transshipment instances are supposed to be monitored and reviewed by relevant authorities, which would include the Indian Ocean Tuna Commission (IOTC), Seychelles Fishing Authority, and the authority where the transshipment vessels land their catch. However, many interviewees expressed skepticism about the oversight of these vessels. Currently, the observer coverage of vessels in the Indian Ocean is at 5 percent, which raises questions about compliance and oversight of these vessels. In conversations with officials from the IOTC and fisheries experts in Seychelles, the IOTC has little authority to ensure compliance of the vessels operating in the Indian Ocean. In particular, interviewees expressed concerns about misreporting of yellowfin tuna since it was assigned by the IOTC as an over-exploited fishery in the region.¹³⁴ Interviewees argued that the quota placed further onus on the fisheries officers in Port Victoria, who are already struggling to meet basic requirements of their jobs, and ultimately expressed concerns about whether or not the quota will be effective.

While many foreign vessels are active in Seychelles, there are a significant number of joint-venture and charter vessels, too. Interviewees indicated that there are 44 licensed purse seiners operating in

vii. The Republic of Seychelles is currently conducting a new assessment of the contributions of the fisheries sector to the economy. Many of the experts we spoke with in Victoria estimated that the contributions are much higher than this estimate given that important components of the value chain, including those who directly and indirectly support the industry were not often incorporated in previous estimates.

Seychellois – 28 of which are French and Spanish, 13 of which are Seychelles-flagged joint ventures with a European company, and 3 that are Mauritian-flagged but joint ventures with a European company. In discussing the practice of joint-ventures and charters, many experts remarked that while on paper these vessels must be split 51 percent Seychellois and 49 percent foreign-owned, in reality joint ventures may not actually be as beneficial to local fishers in developing the industry - a view shared by interviewees in Mozambique as well. However, in stark contrast to joint-ventures and charters executed in Mozambique, many Seychellois interviewees expressed a more positive view that these foreign companies did not seem to engage in IUU fishing practices, and invested in the longevity of their business operations in the country.

Long-Term Sustainability and Capacity Challenges

At a local level, experts voiced concerns about the extensive fleet of foreign vessels operating in Seychellois waters and the impact on local communities and the country. Interviewees expressed worries about the overreliance on the fisheries sector in the country, and believed that without proper management, there may be significant overexploitation that could ultimately lead to the collapse of some critical stocks. These concerns are not entirely unfounded as the IOTC imposed a quota limit on yellowfin, the first time it is ever implemented a limit of this kind. Given these concerns, interviewees expressed a need to enact strict quota limits on fish stocks. A shift to this management strategy would need to be complemented by robust capacity building in order to ensure that there is significant enforcement at ports when vessels offload catch, as well as improved measures to monitor transshipment activity at sea. However, the difficulty in retaining highly qualified and trained professionals is an additional barrier to improving fisheries management and enforcement in the country.¹³⁵

In addition, there is a growing sentiment in the region to develop domestic port capacity, thereby encouraging foreign vessels to land and process catch and increase national revenue.¹³⁶ However,

concerns about increasing competition in the region, overexploitation of fisheries resources, and the continued reliance on fisheries as a main source of economic growth present a clear challenge for Seychelles moving forward. The potential to innovate and reshape the national economy exists given that the Government of Seychelles received USD \$15 million in “blue bonds” coordinated by the World Bank and the Global Environmental Facility. The USD \$15 million will be invested in projects that support the “marine protected areas, improved governance of priority fisheries and the development of the Seychelles’ blue economy.”¹³⁷ However, in meetings with representatives in the government and non-governmental community, dispersal of the bonds to viable projects has been slow-moving.¹³⁸ And even while there is the potential for diversified investment in the blue economy, the government plans to pursue an extension of Port Victoria to accommodate long line vessels.¹³⁹

At a regional level, interviewees expressed frustrations with the IOTC, which is hampered by debates between coastal countries and fishing countries over quota allocations, thus preventing a discussion on management strategies. Furthermore, the IOTC Secretariat lacks authority to ensure compliance and impose sanctions – as is the case with any RFMO. Often the data submitted to the compliance committee by IOTC member states is incomplete and not up to the standards set by the RFMO.¹⁴⁰ The Secretariat staff are aware of compliance issues with member states, but do not have the mandate to increase accountability and can only provide guidance. Expanding the mandate and the authority of the IOTC, as well as other RFMOs, is critically needed in order to ensure the health of fisheries globally. Given that the IOTC is located in Seychelles and the country enjoys one of the world’s richest tuna fisheries, there is also a need (and an opportunity) to capitalize on the overlapping priority of sustaining the fishery in the long run. As the fishing industry is one of most significant contributors to the Seychellois economy and the migratory patterns are interconnected – with overfishing in one country’s waters having spillover effects in another country – it is within the economic interests of the Seychelles to strive for more robust accountability in the region.

Conclusion: The Need for Improved Transparency in the DWF Industry

DWF fleets are prolific, operating across the globe in other countries' waters. Their operations are largely opaque as they fish far from shore, often with little oversight from their home countries or accountability in the regions where they fish. From 2016 to 2017, the top ten fleets represented 278,519 fishing days carried out by nearly 1,800 vessels. However given the limitations of AIS data, it is likely that the true figure is much higher. The top five DWF fleets during the research period were China, Taiwan, Japan, South Korea, and Spain. The majority of the DWF fleets operated in the Pacific, as well as in East and West Africa. These vessels utilized a wide variety of ports across the globe, and commonly engaged in transshipment after fishing in another coastal countries' EEZ.

Stimson's research and analysis found that DWF vessels are primarily motivated by the economic promise of potential profits to be earned from the fishery resources that coastal countries sell to DWF vessels. In addition to this business calculation, DWF vessels are attracted to coastal countries' which exhibit weak fisheries management and enforcement capacity – revealing that the weaker capacity in a coastal country to monitor DWF vessels, the more likely DWF vessels are to engage in IUU fishing and other illicit activities.

DWF vessels operate where public and private entities can exert political influence. Access by DWF nations to key government ministries in coastal nations is not uncommon. Some flag state countries assist their DWF fleets by supporting non fishery-related infrastructure projects or economic development in coastal countries. In addition, nations see value in expanding DWF fleets as a sign of geopolitical strength. Concerns about corruption and quid pro quos plague interactions between coastal countries and DWF fleets. Whether perceived or real, greater transparency is needed to build trust in the government and the industry. Overall, political influence and bargaining often push

resource management to the periphery, with fishery resources viewed as a means of generating revenue, often to the detriment of the long-term health and sustainability of the resources themselves.

Access agreements incentivize coastal countries, a majority of which are considered least developed countries by the United Nations, to prioritize short-term revenue opportunities. However, the funds generated from these agreements are not consistently reinvested into coastal communities and the local fishery sector, nor are they reinvested in fisheries management, enforcement, or local training. As a result, DWF vessels land catch in other countries' ports, further depriving coastal nations of additional income. In the future, coastal countries should consider rebalancing their approach to foreign vessels in their waters, requiring increased transparency and accountability of these fleets throughout their operations as a requirement for access agreements. This should be accompanied by significant investment in fisheries management and enforcement regimes within coastal countries to ensure the long-term health of fishery resources.

DWF and the challenges it poses to coastal countries' marine resources and the fishing industry will persist unless there is significant shift towards improved fisheries management, accountability of flag-state responsibilities and overall transparency throughout the seafood industry and supply chain. These challenges are rooted in the low level of transparency that persists across the industry, and particularly the Chinese DWF fleet, including intentionally ambiguous subsidy reporting by DWF fleets; little to no insight into vessel ownership, human labor on ships, or access agreements; and the significant gap in truly understanding the movement and extent of DWF and support vessels due to a lack of mandates for AIS and VMS. Without such improvements, over-utilization of fishery resources will continue unabated.

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Prior to joining Stimson Yozell served as a Senior Advisor to the U.S Secretary of State where she advanced U.S. policies in the international arena related to ocean, climate, and wildlife protection. She also served as the Deputy Assistant Secretary at the National Oceanic and Atmospheric Administration; was a Regional Director for Marine Conservation at The Nature Conservancy; a Vice President at Battelle Memorial Institute; and worked for in the U.S. Senate. She holds an MPA in Public Administration from Harvard University and a BA in Political Science from the University of Vermont.

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About Stimson

The Stimson Center is a nonpartisan policy research center working to protect people, preserve the planet, and promote security & prosperity. Stimson's award-winning research serves as a roadmap to address borderless threats through concerted action. Our formula is simple: we gather the brightest people to think beyond soundbites, create solutions, and make those solutions reality. We follow the credo of one of history's leading statesmen, Henry L. Stimson, in taking "pragmatic steps toward ideal objectives." We are practical in our approach and independent in our analysis. Our innovative ideas change the world.

About the Environmental Security Program

The Environmental Security program explores the suite of environmental threats, both human and natural, that have the potential to undermine national, regional, or global security. The increasingly complex and transnational drivers of environmental challenges compromise ecological, economic, and food security – and ultimately can foster destabilization and geopolitical tension. Through its engagement with unconventional stakeholders, the Environmental Security program works to identify the roots of these threats to peace and stability and put forward innovative solutions.

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Appendix

INTERVIEWEE	AFFILIATION	TYPE OF INTERVIEW	DATE
Interviewee 1	University of Washington	In person	January 2019
Interviewee 2	Intergovernmental Organization	In person	February 2019
Interviewee 3	Non-Governmental Organization based in U.S.	In person	February 2019
Interviewee 4	U.S. Department of State	Via telephone	February 2019
Interviewee 5	Non-Governmental Organization based in U.S.	Via telephone	March 2019
Interviewee 6	Non-Governmental Organization based in Norway	Via telephone	March 2019
Interviewee 7	University of British Columbia	Via telephone	March 2019
Interviewee 8	Non-Governmental Organization based in U.S.	Via telephone	March 2019
Interviewee 9	International Organization based in Seychelles	Via telephone	March 2019
Interviewee 10	Non-Governmental Organization based in U.S.	Via telephone	March 2019
Interviewee 11	Non-Governmental Organization based in U.S.	In person	March 2019
Interviewee 12	U.S. Department of State	Via telephone	March 2019
Interviewee 13	Non-Governmental Organization based in U.S.	In person	March 2019
Interviewee 14	Nanyang Technological University	Via telephone	March 2019
Interviewee 15	Non-Governmental Organization based in U.S.	In person	March 2019
Interviewee 16	U.S. Department of State	Via telephone	April 2019
Interviewee 17	Non-Governmental Organization based in Madagascar	Via telephone	April 2019

INTERVIEWEE	AFFILIATION	TYPE OF INTERVIEW	DATE
Interviewee 18	Intergovernmental Organization	In person	April 2019
Interviewee 19	Government of Seychelles	In person	April 2019
Interviewee 20	Government of Seychelles	In person	April 2019
Interviewee 21	Government of Seychelles	In person	April 2019
Interviewee 22	Private Fishing Business based in Seychelles	In person	April 2019
Interviewee 23	Private Fishing Business based in Seychelles	In person	April 2019
Interviewee 24	Non-Governmental Organization based in Seychelles	In person	April 2019
Interviewee 25	Private Fishing Business in Seychelles	In person	April 2019
Interviewee 26	Non-Governmental Organization based in Seychelles	In person	April 2019
Interviewee 27	Non-Governmental Organization based in Seychelles	In person	April 2019
Interviewee 28	Non-Governmental Organization based in Seychelles	In person	April 2019
Interviewee 29	Government of Seychelles	In person	April 2019
Interviewee 30	Government of Seychelles	In person	April 2019
Interviewee 31	Fishing Port of Maputo	In person	April 2019
Interviewee 32	Non-Governmental Organization based in Mozambique	In person	April 2019
Interviewee 33	Non-Governmental Organization based in Mozambique	In person	April 2019
Interviewee 34	Norwegian Ministry of Foreign Affairs	In person	April 2019
Interviewee 35	Norwegian Ministry of Foreign Affairs	In person	April 2019
Interviewee 36	Government of Mozambique	In person	April 2019

INTERVIEWEE	AFFILIATION	TYPE OF INTERVIEW	DATE
Interviewee 37	Government of Mozambique	In person	April 2019
Interviewee 38	Government of Mozambique	In person	April 2019
Interviewee 39	Non-Governmental Organization based in Mozambique	In person	April 2019
Interviewee 40	Government of Mozambique	In person	April 2019
Interviewee 41	Private Fishing Business in Mozambique	In person	April 2019
Interviewee 42	Government of Mozambique	In person	April 2019
Interviewee 43	U.S. Department of State	In person	April 2019
Interviewee 44	Private Fishing Business in Mozambique	In person	April 2019
Interviewee 45	Government of Mozambique	In person	April 2019
Interviewee 46	Intergovernmental Organization	Via telephone	April 2019
Interviewee 47	Government of Somalia	In person	April 2019
Interviewee 48	Non-Governmental Organization based in Norway	In person	April 2019
Interviewee 49	Government of Kenya	In person	April 2019
Interviewee 50	Non-Governmental Organization based in Ghana	Via telephone	May 2019
Interviewee 51	Non-Governmental Organization based in South Korea	Via email	July 2019
Interviewee 52	Non-Governmental Organization based in Ghana	Via telephone	July 2019
Interviewee 53	European Commission	Via telephone	August 2019
Interviewee 54	European Commission	Via telephone	August 2019

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APPENDIX 12



Business & Human Rights
Resource Centre



Out of Sight: Modern Slavery in Pacific Supply Chains of Canned Tuna

A SURVEY & ANALYSIS OF COMPANY ACTION

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Executive Summary

The Pacific is home to the world's largest tuna fisheries, providing almost [60%](#) of the world's tuna catch, worth [US\\$22 billion](#) (out of [US\\$42 billion](#) globally) in 2016, and demand is growing. Yet reports of severe human rights abuses, including forced labour, slavery, human trafficking and child labour, are rife. Modern slavery is endemic in this industry, where the tuna supply chain is remote, complex and opaque. Few stories leak out about conditions but, when they do, they are often horrendous: with migrant workers bought and sold as unpaid slaves, and tossed overboard if they complain or get injured.

In this context of abuse, the buyers – canned tuna companies and supermarkets – have an obligation to ensure their supply chains are not infested with slavery. Increasingly, they also have legal obligations under UK and Australian modern slavery laws.

Between November 2018 and January 2019, Business & Human Rights Resource Centre invited 35 canned tuna companies and supermarkets - representing 80 of the world's largest retail canned tuna brands - to answer a [survey](#) on their approach to human rights challenges, including modern slavery. We also reviewed publicly-available information on the websites of the 35 survey companies.

Our research reveals a pattern of policy over practice. While two thirds of surveyed companies have adopted corporate human rights policies, there is little or no action to implement them. Without urgent and decisive action, there is a danger these public policies become a fig-leaf for abuse: providing the majority of laggard companies with 'plausible deniability' while slavery continues unabated.

Perhaps the most worrying finding is that not one company disclosed having found a single worker in modern slavery in their supply chains.¹ This is despite recurrent [reports](#) of abuse. Either weak policy is an unprecedented panacea in this industry, or the policy-alone approach is not ending the denial of liberty, and dignity, for those enslaved in the industry. It may, however, be providing buyers with an expedient cover of respectability so as to facilitate global trading in goods contaminated with slavery.

¹ Thai Union, Bumble Bee Foods/ Clover Leaf Seafoods did refer to concerns having been raised by a third party, but did not provide details.



The good news is that, of the 20 companies that responded, all have made a public commitment to respect human rights which includes addressing modern slavery. 54% (19 companies) also reported requiring their immediate suppliers to prohibit modern slavery. **Thai Union, Simplot and Tri Marine** demonstrate greater leadership by applying this prohibition throughout their supply chains.

However, only a small, but welcome, cluster of leading companies are translating policies into practice and taking practical steps to address these risks. **Thai Union, Bumble Bee Foods and Clover Leaf Seafoods** have implemented multiple actions which include digital traceability of fish, protections for migrant fishers and restrictions on recruitment fees and on trans-shipment (see [pages 18-19](#)). Unfortunately, these companies appear to be outliers, with the vast majority unable to demonstrate a strong practical response to modern slavery.

Collaboration with external stakeholders, especially workers in supply chains, is crucial for developing meaningful corporate responses to modern slavery. Some companies are engaging with external stakeholders, but the nature and extent of engagement is unconvincing, and direct collaboration with workers in supply chains and their unions is rare. A significant proportion (43%) are members of at least one

key multi-stakeholder initiative (MSI). Only **Thai Union** provided detailed information about its MSI engagement. **Thai Union** was also the only company able to name a workers' organisation it was in dialogue with. Workers' organisations have demonstrated to many companies in more advanced sectors, such as apparel, that they know which companies the slave-users are, how they operate, and how to avoid them.

Having a robust human rights due diligence process is essential to prevent human rights abuse. 50% of surveyed companies reported having a human rights due diligence process, but only **Thai Union** was able to outline its procedure in detail. Only 20% of surveyed companies reported having mapped their entire supply chain to trace tuna through all linked suppliers to source. Only one company – **Metro AG** – could identify the Pacific countries from which it sources its tuna.

Complaint and remedy mechanisms also play a crucial role in eliminating modern slavery. Most respondents reported having a complaints system for their direct employees, where the risk is less, but access for higher-risk supply chain workers is generally low, with only 17% (six companies) reportedly facilitating this. Additionally, most companies failed to provide details of any corrective plan to address cases of modern slavery once identified, and only **Coles Group** outlined detailed steps.

Key findings:

Tuna companies are failing to support their policies with practical action on modern slavery.

- Two thirds (24 companies) have a public human rights policy.
- Half (18/35) report having a human rights due diligence process.
- But only one company (**Thai Union**) could outline its due diligence procedure in detail.
- Only 4/35 companies – **Thai Union, Kraft Heinz Australia, Target** and **REWE Group** – reported having due diligence policies and procedures that specifically address the risk of modern slavery in supply chains.

Tuna companies' supply chains are opaque, with only 20% (7/35 companies) reporting they have mapped their supply chains in full.

Companies are generally failing to enforce their human rights standards in their supply chains with only 3/35 companies cascading modern slavery prohibitions throughout their entire supply chain.

A majority of tuna companies do not extend their complaints system to workers in their supply chains.

- 60% of companies (21/35) have a grievance mechanism for reporting complaints and cases of alleged human rights abuse.
- But only six of these complaints mechanisms are available to supply chain workers (**Thai Union, Bumble Bee Foods, Clover Leaf Seafoods, Kaufland, Metro AG** and **Coles Group**).

Tuna companies are engaging with external stakeholders, but not with workers and their representatives.

- 23% of companies (8/35) reported engaging with external stakeholders including suppliers, business partners, government and non-governmental organisations, while 43% (15/35) participate in at least one key multi-stakeholder initiative.
- 45% (16/35) have policies requiring the company and its suppliers to support the right to freedom of association and collective bargaining.
- But only one company – **Thai Union** – mentioned engagement with a trade union (International Transport Workers Federation).

A few committed tuna companies (Thai Union, Bumble Bee Foods and Clover Leaf Seafoods) are working consistently to improve their approach to human rights, with innovative measures to address modern slavery, such as digital traceability of fish, and measures designed specifically to protect migrant fishers from abuse.

Key recommendations:

This under-performing sector needs to urgently organise to learn from the few leading companies, like **Thai Union, Aldi South Group, Bumble Bee Foods, Clover Leaf Seafoods** and **Metro AG**, on how to take robust action to eliminate slavery from their supply chains. Without collective action, and clear communication of zero tolerance by the majority of buyers, unscrupulous operators in tuna fishing fleets will continue to tolerate the scourge of slavery, bringing the whole industry into further disrepute.

Companies should take action to implement rigorous **human rights due diligence** processes. They should scrutinise risk in their supply chains, performing 'deep dive' analysis, beyond their immediate suppliers, to identify high-risk areas and take bold action to eliminate risk. The supply chains should be made transparent to allow public accountability, and facilitate cooperation with civil society, as is now standard among leading companies in the apparel and ICT sectors.

Companies should **collaborate** with external stakeholders and partners, especially workers and trade unions, to identify risks and victims, design and implement effective elimination measures, and build public awareness.

Companies should tackle the dearth of complaints, by ensuring an open, no-retribution **complaint and whistle-blower mechanism**, as adidas and others have implemented in more progressive sectors. Only when workers feel safe will they provide the vital evidence about victims and perpetrators that is needed to take action and end abuse.

Companies should tackle **remedy**, by establishing clear and well-publicised remediation plans that encourage workers to come forward, and explain their response when modern slavery is detected.

Companies must work, both individually and in collaboration across sectors, to introduce comprehensive **human rights training** which addresses modern slavery in fishing, share this training with sub-contractors and workers in their supply chains and assess its **effectiveness**.

Company Evaluation

	Policy	Human Rights Due Diligence	Supply Chain Visibility	Remedy	Practical Actions	Stakeholder Engagement
Thai Union	●	●	●	●	●	●
Aldi South Group	●	●	●	●	●	●
Bumble Bee Foods	●	●	●	●	●	●
Clover Leaf Seafoods	●	●	●	●	●	●
Metro AG	●	●	●	●	●	●
Century Pacific Foods	●	●	●	●	●	●
Aldi Nord	●	●	●	●	●	●
Target	●	●	●	●	●	●
Woolworths	●	●	●	●	●	●
Simplot	●	●	●	●	●	●
Coles Group	●	●	●	●	●	●
Tri Marine	●	●	●	●	●	●
Ahold Delhaize	●	●	●	●	●	●
Kraft Heinz Australia	●	●	●	●	●	●
REWE Group	●	●	●	●	●	●
Conga Foods	●	●	●	●	●	●
Kaufland	●	●	●	●	●	●
Kroger	●	●	●	●	●	●
Organico Realfoods	●	●	●	●	●	●
Safcol	●	●	●	●	●	●

	Policy	Human Rights Due Diligence	Supply Chain Visibility	Remedy	Practical Actions	Stakeholder Engagement
Tesco PLC	●	●	●	●	●	●
Walmart	●	●	●	●	●	●
Costco	●	●	●	●	●	●
Carrefour	●	●	●	●	●	●
Lidl	●	●	●	●	●	●
Starkist Co.	●	●	●	●	●	●
Alliance Select Foods	●	●	●	●	●	●
American Tuna	●	●	●	●	●	●
Raincoast Trading Co.	●	●	●	●	●	●
Wild Planet	●	●	●	●	●	●
Supervalu	●	●	●	●	●	●
Hi-Q Food Products	●	●	●	●	●	●
Ocean Brands	●	●	●	●	●	●
Pegasus Food	●	●	●	●	●	●
C-Food International	●	●	●	●	●	●

We assessed companies' responses to our [survey questions](#), supplemented by a review of publicly-available information on companies' websites, and assigned a score, where:

- | | | |
|-----------------------|--------------------|------------------------|
| Responders | ● Leading practice | ● Starting out |
| Non-Responders | ● Making progress | ● At the starting line |

Company Survey

Between November 2018 and January 2019, Business & Human Rights Resource Centre invited 35 major canned tuna brand-owners, headquartered in different geographic regions, to respond to our [survey on human rights in Pacific tuna fishing operations and supply chains](#).

Our survey questions were developed in consultation with the [International Transport Workers Federation](#); [Greenpeace](#); [Liberty Asia](#); the [Fiji Trades Union Congress](#) and advocates, researchers and academics, including [Christina Stringer](#), University of Auckland. The survey included 15 questions covering six core areas:

1. Policies and Public Human Rights Commitments
2. Human Rights Due Diligence and Supply Chain Awareness
3. Practical Actions to Address Modern Slavery in Supply Chains
4. Remediation, Grievance Measures and Reported Complaints
5. Overcoming Obstacles
6. External Stakeholder Engagement

We selected companies using desk-based research to identify the largest canned tuna brands globally, including supermarket retailer private label lines, by reference to market share and revenue, while also representing a geographic mix of countries of domicile. **Of the 35 companies surveyed, 20 responded.**

We excluded general statements by companies. Companies not specifically responding to our survey questions were categorised as non-responders. All company responses and non-responses are available on our web platform, '[Out of Sight: Modern Slavery in Pacific Supply Chains of Canned Tuna](#)' and summarised in the Appendix.

The quality of answers varied significantly. While all 20 respondents provided evidence of having adopted a public human rights policy, survey responses in other areas were generally poor and lacked detail. **Thai Union** was the only company that consistently provided detailed responses to each survey question. Other respondents provided detail in some survey areas, while disclosing only basic information in others. Respondents providing limited information generally scored lower than those disclosing more widely on their efforts to address modern slavery. Limited disclosure generally equated with fewer actions and a more limited approach to human rights.

Overall, there was a poor level of detail provided in response to key questions on human rights due diligence processes, practical actions and remediation measures. It is evident that most companies need to significantly step-up their efforts to identify, address and prevent modern slavery in their global supply networks and provide redress for abused workers.

Context: Pacific Tuna Industry

The Pacific tuna industry is a **global heavyweight**, with much of the world's tuna supply chains originating in this region. As demand for cheap seafood grows, canned tuna has emerged as a highly popular and lucrative food source – it is a favoured protein among increasingly urban global populations.

The **growing demand for cheap seafood** is one of the key drivers of human rights abuses in the Pacific tuna industry. Traditionally, the major markets for canned tuna were the US, Europe and East Asia. Now, tuna consumption is increasing rapidly across the globe, with a 50% increase in imports to Latin America and the Middle East from 2012 – 2017. Increased demand has led to illegal fishing practices and associated human rights abuses as profit margins drop. Labour costs are estimated to comprise between 30% and 50% of total fishing costs. In an increasingly competitive market, these costs are circumvented by reducing workers' pay, safety and living conditions.

The effect of **diminishing returns** has increased pressure on vessel owners and captains to chase profit and has contributed to the widespread use of **forced, trafficked and slave labour** in fishing. As a sector, fishing persists as a high-risk industry for modern slavery. Workers are often required to pay hefty recruitment fees, leading to debt bondage. Once on-board vessels, workers can be at sea for months, and face daily human rights concerns - grinding work with inadequate food, water, sleep and rest breaks; cramped, dirty and dangerous conditions with limited protective equipment or safety training; regular physical and verbal abuse and even [death](#). Pay may be inadequate or deferred indefinitely.

James Clifford, Compliance Officer at the Ministry of Fisheries and Marine Resources, Solomon Islands, has inspected countless foreign vessels, mainly Taiwanese, engaged in tuna fishing in Solomon Islands waters. He describes the conditions on board many vessels as *“beyond the human capability of working”*.





Fishing in the Pacific

Fishing has historically been a traditional occupation among Pacific Island communities, mostly in coastal waters. In recent decades, the industrialisation of fishing has dramatically altered the nature and extent of Pacific fishing operations. Tuna is the cornerstone of this industry. The Western and Central Pacific Ocean region extends from the Bering Sea in the north to New Zealand in the south, and incorporates the Pacific Island Countries (PICs) where in 2017 almost [60%](#) of the world's tuna originated. This sector is expected to generate more than US[\\$300 million](#) in additional revenues for the region by 2040.

Industrial tuna fishing is carried out mostly by modern foreign distant-water fishing fleets, operating in PICs under licence. In recent years, industrial operators from East and Southeast Asian countries have emerged as major actors, with foreign-owned vessels from China, Indonesia, Japan, Korea, the Philippines, Taiwan and Thailand [increasingly common](#) in PIC waters.

Within the exclusive economic zones of PICs, of the 1,500 registered fishing vessels present at any one time, approximately [1,200](#) will be foreign vessels extracting tuna for supply to the global tuna trade. Foreign fishing creates employment opportunities and can generate [substantial revenues](#) for PICs, but has significant accompanying risks. **Awareness of human rights standards and practices among fleet operators can be low**, allowing abuse to flourish. [Instances of human rights abuse](#) in the Pacific tuna fishing industry are common.

Drivers of Abuse

Fishing Industry Practices

Factors embedded into the business practices of large, industrial fishing operators facilitating human rights abuses include **complex supply chains**, **trans-shipment** and **flagging**:

Complex international networks in the fishing, processing and distribution of canned tuna products allow human rights abuses to stay hidden. Numerous vessels, ports, processing plants and distribution channels operate across a web of countries involving countless actors, reducing transparency in supply chains, hindering regulatory oversight and facilitating abuse.

Trans-shipment is when fish catches are collected **at sea** and transported to port by giant refrigerated cargo ships. It enables fishing vessels to be restocked and refuelled **at sea** and to stay out for longer periods without docking. The process can result in workers being trapped on fishing vessels for **potentially years at a time**. Trans-shipment creates challenges in supply chain traceability and facilitates [illegal activities](#), including slavery. When fish catches from multiple vessels are combined, it is difficult to [trace](#) fish back to an individual vessel.



Flagging is another major enabler of abuse. General practice is that a vessel will be assigned a “flag” by a nation state, allowing them a form of territorial integrity. The “flagged” vessel is subject to the laws of that state, and the system then relies on states to regulate their flagged vessels to ensure compliance with international law. This system presents **huge regulation gaps** – including protections against **human rights abuses**. The diminished capacity of states to enforce regulations at sea is exacerbated where [flags of convenience](#) from countries with weak labour laws or governance structures are used, resulting in on-board exploitation and abuses going unchecked and unremedied.

Workforce Characteristics

Human rights abuses – forced labour, slavery and human trafficking – are linked to falling productivity and returns in the fishing industry. Diminishing returns further exacerbate vulnerabilities in the seafood workforce, including **lack of unionisation** and reliance on **migrant workers**.

Migrant workers are particularly vulnerable to abuse due to lack of official documentation, reduced bargaining power, language barriers and diminished safety nets. These factors are aggravated by spending extended periods at sea, during which time workers are physically isolated, with few options for escape or reporting abuse. There are frequent reports of identity documents being confiscated, trapping workers in forced labour; the supply of forged identity documents rendering men stateless; and captains leaving crew [stranded on remote islands](#) as punishment, or simply because they are no longer required for work.

A family perspective on a deceased Fijian crewmember of a Taiwanese fishing vessel

The story of Salote Kaisuva, the widow of Fijian Crewman Mesake, was recently reported by [Human Rights at Sea](#). Salote recalls: *“I could see that the company was just using the men as slaves and not even giving them a rest of one week before calling them back to work at sea.”*



Legal Standards in the Fishing Industry

There are international legal standards that prohibit the use of modern slavery in fishing, notably:

- **Universal Declaration of Human Rights**, Article 4, prohibits slavery.
- **United Nations Guiding Principles on Business and Human Rights** (2011) articulate the responsibility of companies to respect human rights and establish a set of concrete steps to avoid causing harm.
- **Sustainable Development Goal 8** (Decent work and economic growth), Target 8.7, requires measures to end modern slavery.
- **International Labour Organisation Convention Concerning Forced or Compulsory Labour**, 1930, No.29 prohibits forced labour.
- **International Labour Organisation Protocol of 2014 to the Forced Labour Convention**, 1930.
- **International Labour Organisation Work in Fishing Convention**, 2007, No.188 outlines standards of employment necessary to respect and uphold human rights in commercial fishing operations.
- **International Labour Organisation's Declaration on the Fundamental Principles and Rights at Work** supports the elimination of all forms of forced or compulsory labour and the abolition of child labour.
- **Nauru Agreement**, a regional agreement developed by eight PICs, adopts minimum standards to encourage sustainable fishing practices.

Some nations are taking action locally to address supply chain abuses. New Zealand has introduced [innovative legislation](#) requiring foreign charter vessels fishing in New Zealand waters to be “reflagged”, and to submit to New Zealand’s national **labour and health and safety** regulation. Crews of reflagged ships must have a New Zealand bank account and vessels are subject to independent audits. While laudable, this approach does place a significant burden on New Zealand to regulate all flagged vessels, and many PICs may not have the resources to replicate such a model.

National modern slavery reporting laws – the UK’s *Modern Slavery Act* 2015, Australian *Modern Slavery Act* (Cth) 2018 and *California Transparency in Supply Chains Act* 2010 – also seek to address the issue, by requiring companies to disclose efforts to address modern slavery in their operations and supply chains. Fourteen survey companies have reported under these laws.

Multi-Stakeholder Initiatives

Despite legal standards, human rights abuses continue at sea. A number of multi-stakeholder initiatives have recently launched to address persisting abuse. Two key frameworks, attracting the highest levels of engagement by survey companies, are the [Seafood Taskforce](#) and the [Tuna 2020 Traceability Declaration](#). Without adequate review systems in place, however, it is difficult to identify and track the efficacy of actions emerging from such commitments.

The Seafood Taskforce is an industry-led initiative aimed at tackling human rights abuses in fishing. It focuses on illegal, unreported and unregulated fishing in Thailand and by Thai vessels and aims to develop supply chain oversight. Its work plans include traceability of entire supply chains from vessel to retailer, development of relevant codes of conduct, increased accountability and sustainable fishery improvement projects. The Taskforce includes a notable list of consumer brands, including **Walmart, Thai Union, Target** and **Bumble Bee Foods**. The Taskforce provides training and resources to its members on matters such as responsible recruitment and engaging in government advocacy.

The Tuna 2020 Traceability Declaration is a non-legally binding declaration that developed from multi-stakeholder dialogue at the United Nations' Ocean Conference in June 2017. The Declaration focuses on implementation of Sustainable Development Goal Target 14.4: *“By 2020, effectively regulate harvesting and end overfishing, illegal, unreported and unregulated fishing and destructive fishing practices and implement science-based management plans, in order to restore fish stocks in the shortest time feasible, at least to levels that can produce maximum sustainable yield as determined by their biological characteristics”*. The Declaration has been endorsed by some major tuna retailers but key actors, including many of our survey companies, are missing. Supporting national governments are few in number (Federated States of Micronesia, Grenada, Marshall Islands, Nauru, Palau and the Solomon Islands). The United States, Canada, Thailand, China and Taiwan, which headquarter many major consumer brands, are also absent.

Local regulatory observers “disappeared”

Observers ensure compliance with labour laws, rules set by international organisations and consumer advocacy groups. Observers face an increasingly threatening environment with [reports](#) that, in recent years, a number of fisheries observers from the Pacific Islands have **died in suspicious circumstances** on board fishing vessels in the course of their work. **Charlie Lasisi**, a 26-year-old observer with PNG's National Fisheries Authority, was an observer on board a Philippines purse seine ship Dolores 838. After raising concerns about practices on board the ship, Lasisi disappeared in 2010. [Lasisi's father said](#), *“We don't know why they killed him. The people that killed my son, their passports were taken from them in Port Moresby. Are they still in the country have they left, I wonder... if my son was killed on the boat, what is their punishment?”*

Survey Findings

Our [survey](#) focused on six key areas: (1) *Policies*; (2) *Human rights due diligence and supply chain awareness*; (3) *Practical actions*; (4) *Remediation*; (5) *Obstacles* and (6) *External stakeholder engagement*. The following survey findings are drawn from the information provided by companies in their survey responses. We also reviewed publicly-available information on the websites of the 35 survey companies.

Policies & Public Human Rights Commitments

We asked companies whether they have made a public commitment to respect human rights that addresses modern slavery and applies throughout the company's supply chains, including via a standard supplier code of conduct or responsible sourcing policy.

Just over **two thirds**² of surveyed companies (24) have publicly committed to respecting human rights. **All** respondents (20 companies) were able to demonstrate evidence of such a commitment in a standalone Human Rights Policy, or as part of a Supplier Code of Conduct, sustainability or CSR reporting. All respondents have also made a commitment to address modern slavery and forced labour, and 19 of these extend this commitment to their immediate suppliers, most commonly through supplier codes of conduct or individual supplier agreements.

While most respondents require immediate suppliers to adhere to modern slavery standards, only **three** reported having a policy, or contractual clauses in their standard supplier agreements, to cascade modern slavery prohibitions through their entire supply chains. These companies – **Thai Union**, **Simplot** and **Tri Marine** – require sub-contractors to adhere to the company's prohibition against modern slavery. Notably, **Thai Union** has a separate policy that not only requires suppliers to prohibit the use of 'forced or compulsory labour', but also requires this prohibition to apply to all fishing vessels used by suppliers from which **Thai Union** sources.

² Based on survey responses, and publicly-available company information.



Due Diligence & Supply Chain Awareness

Knowledge of supply chains is crucial for companies to monitor and address both actual and potential instances of modern slavery. Only **20%** (seven companies) reported having mapped their entire supply chains – **Thai Union, Bumble Bee Foods, Clover Leaf Seafoods, Coles, Organico Realfoods, Aldi Nord and Aldi South Group**. The other **80%** (28) either did not indicate, or reported having mapped only in part.

14% (five) identified the specific FAO (Food and Agriculture Organisation of the United Nations) areas in the Pacific where their sourced tuna is caught – **Thai Union, Century Pacific Food, Conga Foods, Metro AG and Woolworths**. Only **Metro AG** could identify specific source countries. The rest were unable to clearly **identify source countries for their tuna**. Companies need to do more to achieve visibility throughout their entire supply chains to detect and prevent persisting abuse.

Businesses should carry out human rights due diligence to *'identify, prevent, mitigate and account for how they address their adverse human rights impacts'*, including those to which it is directly linked through its business relationships.³

We asked companies about their human rights due diligence processes and the steps involved. The information provided was generally poor and did not evidence the existence of established, effective due diligence procedures. **50%** (18) of companies indicated conducting some form of due diligence. Two companies – **Safcol** and **Tri Marine** – provided no information about their human rights due diligence processes at all. Only **22%** (eight) could outline the basic due diligence steps in their processes, with **half of the responses**

merely noting the fact of a due diligence policy or process, without further detail.

While most respondents included human rights as a general due diligence consideration, only four companies – **Thai Union, Kraft Heinz Australia, Target** and **REWE Group** – have due diligence policies and procedures that specifically address the risk that workers in their supply chains may be subject to conditions of modern slavery.

Only **20%** (seven companies) reported tracking the **effectiveness** of their response – **Thai Union, Bumble Bee Foods, Clover Leaf Seafoods, Kraft Heinz Australia, Aldi South Group, Target** and **Metro AG**. A smaller number still, only **11%** (four), **communicate externally** on their human rights due diligence efforts – **Thai Union, Conga Foods, Aldi South Group** and **REWE Group**.

We also asked companies about how they **prioritise** human rights risks when identified. Nearly **40%** (13) have some form of risk prioritisation process. However, **Woolworths** was the only company to provide a detailed explanation of its risk prioritisation methodology.

Companies are generally faltering in their human rights due diligence efforts, with some yet to initiate this process at all. While half were able to provide some level of information about their approach to due diligence, this was generally limited in detail and substance, focusing only on the initial identification of risks, rather than also managing and acting on those risks. Companies are either unaware of, or simply not acting so as to meet, their human rights due diligence requirements.

³ [UN Guiding Principles on Business and Human Rights](#), principle 17.

Practical Actions to Address Modern Slavery in Supply Chains

We asked companies about **practical steps** they are taking to ensure modern slavery does not occur in their own operations (including subsidiaries) or in their tuna supply chains. In particular, we were interested in identifying the extent to which fishing sector companies are responding to the challenges of modern slavery by introducing a **smart mix of practical steps** to tackle the issue at different points along the supply chain.

The survey responses revealed that, although companies have begun taking limited steps in the right direction, compelling concrete action against modern slavery is the exception, rather than the rule.

Thai Union, Simplot, Aldi South Group, Bumble Bee Foods and **Clover Leaf Seafoods** are demonstrating leadership and have implemented the most practical steps, in terms of both number and variety, to combat modern slavery. **Thai Union** provided detailed information outlining how the company conducts employee human rights training in conjunction with the Migrant Worker Rights Network (MWRN) and Labor Rights Promotion Network (LRPN), the company's digital traceability program, its Ethical Migrant Recruitment Policy which contains specific protection for migrant workers, and engagement with external stakeholders.

Human rights & modern slavery training

30% (11) are conducting human rights training. Training topics varied across the responding companies – the rights of workers, human rights risks, responsibilities of companies and remediation for instances of modern slavery. **Bumble Bee Foods** and **Clover Leaf Seafoods** both stated that formal training on human trafficking and modern slavery is not provided as they believe that *“mitigating associated risks is attained through supplier guarantees, periodic assurance audits and third party audits...”*⁴ Companies should take a proactive approach to addressing human rights abuses, which includes comprehensive training, and not shift responsibility onto suppliers.

⁴ [Bumble Bee Seafoods Supplier Code of Conduct](#).



Digital traceability of fish

25% (nine) reported applying **digital traceability** to their canned tuna products so that contents of a canned product can be ‘traced’ to its original catch. Companies reporting traceability measures include **Thai Union, Bumble Bee Foods, Clover Leaf Seafoods, Simplot, Century Pacific Foods, Conga Foods, Aldi Nord, Aldi South Group** and **Metro AG**.

Bumble Bee Foods and **Clover Leaf Seafoods** use an in-house traceability database which screens all tuna entering their supply chains for the legality of harvest and ‘*other commitments associated with the International Seafood Sustainability Foundation*’. **20%** (seven) reported having an online feature permitting consumers to digitally trace their purchased canned tuna products to be informed of the products’ origins. Online features include **Bumble Bee Foods’ [Trace My Catch](#)**, **Clover Leaf Seafoods’ [Trace My Catch](#)**, **Simplot’s [Trace Your Fish](#)**, **Conga Foods’ [Tuna Traceability](#)**, **Aldi Nord’s [Transparency Code](#)**, **Aldi South Group’s [Check Your Product](#)** and Metro AG’s PROTrace application for mobile devices.

Better practice example: Thai Union’s digital traceability program uses satellite connectivity and mobile applications to enhance digital traceability through ‘*electronic Catch Data and Traceability systems*’. Part of this program includes ‘Fish Talk’ chat applications which **connect workers at sea to onshore operations**, allowing crew members to communicate with family and friends onshore. An independent evaluation reportedly found that ‘Fish Talk’ chat applications have increased worker morale and retention of workers on board fishing vessels.

Third-party recruitment & labour hire agencies

Reliance on third-party recruitment and labour hire agencies can be risky and companies’ efforts to provide oversight are lagging. Only **14%** (five) of companies reported prohibiting recruitment fees – **Thai Union, Bumble Bee Foods, Clover Leaf Seafoods, Century Pacific Food** and **Tri Marine**. Only **Thai Union** reports having oversight of its recruitment process through application of its Ethical Migrant Recruitment Policy.

Protections for migrant workers

Migrant workers, away from the safety of kinship and friendship networks, and often experiencing language barriers, are particularly vulnerable to exploitation and abuse. Only four companies – **Thai Union, Bumble Bee Foods, Clover Leaf Seafoods** and **Target** – have introduced specific measures aimed at protecting migrant workers, and **Thai Union** was the only company to provide detailed information about its measures, which include a separate company policy and engagement with the Migrant Worker Rights Network.

| Sourcing restrictions

Trans-shipment, the practice of offloading fish catches onto transport ships at sea, enables fishing vessels to stay at sea for extended periods, and facilitates abuse.

23% (seven) of companies indicated having restrictions on sourcing tuna from vessels engaged in trans-shipment. Two of these – **Safcol** and **Simplot** – ban sourcing tuna from trans-shipped tuna catches. Others – **Thai Union, Bumble Bee Foods, Clover Leaf Seafoods, Tri Marine** and **Aldi South Group** – only allow trans-shipment from vessels using long-line fishing methods (which involves longer periods at sea) if they also have an independent observer on board to monitor worker conditions.

Foreign vessels operating in the Pacific under [flags of convenience](#) may be registered to countries where labour laws are lax, or not observed, permitting captains to operate fishing vessels with little regard to human rights. No company adequately addressed this issue.

Illegal fishing is often [directly linked](#) with human rights abuses. Only **26%** (nine) of companies indicated a policy against sourcing from **IUU (illegal, unregulated and unreported) fishing vessels**.

| Independent supply chain auditing

Social audits are increasingly used by companies to meet due diligence requirements. Nearly **half** (15) of the survey companies reported using independent auditors to check their own operations and/or those of suppliers. However, experience in other sectors, particularly the garment industry, has revealed that a [social auditing approach](#) amounts to little more than a **tick-the-box exercise**, is ineffective in capturing human rights abuses, and is largely failing to protect workers.

Identification of issues through auditing may sometimes yield useful results, but should only form part of a broader approach to human rights due diligence. Companies must also implement practical **additional due diligence measures**, which would include acting on findings and tracking the effectiveness of their responses.

| Other practical steps

Metro AG conducts **country visits** and **Coles Group** requires processing facilities in Thailand to be registered with the Supplier Ethical Data Exchange (Sedex) and to '*provide full visibility of information*'.

Remediation, Grievance Mechanisms & Reported Complaints

Businesses should have ‘*processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute*’.⁵ We asked companies if they have a **grievance mechanism for workers**, including fishers in their supply chains, for raising human rights concerns, and whether complaints about human rights concerns connected with Pacific tuna have been reported via their complaints mechanism. We also asked companies whether they have a **corrective, or remediation, plan** to respond to actual instances of modern slavery, once identified.

Grievance mechanisms

60% (21) of survey companies have a **grievance mechanism** for reporting complaints and instances of human rights abuses. A further three – **Simplot, Tri Marine** and **REWE Group** – are in the process of developing a complaints-handling system. **37%** (13) provided information, albeit limited, about how their grievance mechanism operates. Systems vary, involving a mix of methods including reporting complaints via an **online form, telephone hotline, email, suggestion boxes** as well as **internal reporting** directly to supervisors or others. The most commonly reported method is through **online forms**. **17%** (six) of companies offer workers more than one reporting method.

While the majority of companies have established a grievance mechanism, it is evident that companies need to improve access. Only **17%** (six) were accessible to workers in the company’s supply chains – **Thai Union, Bumble Bee Foods, Clover Leaf Seafoods, Kaufland, Metro AG** and **Coles Group**.

Not a single company reported on specific steps to inform either their own employees, or supply chain workers, about the existence of the company’s complaints system. **Kraft Heinz Australia** reported that ‘*workers are encouraged to report abuses via the hotlines available*’, and others noted that they provide employees with training on human rights, but no company indicated explicitly informing workers about how to report abuse.

Anonymity and freedom from intimidation are crucial to encourage workers to report complaints without fear of reprisal. **30%** (11) reported having systems which allow complaints to be made anonymously, and in different languages to facilitate access for foreign workers.

Woolworths was the only company to identify specific languages – it offers a telephone hotline in Thailand for workers of its suppliers there available in Thai, Burmese, English, Malay and Khmer.

⁵ [UN Guiding Principles on Business and Human Rights](#), principle 15(c).

Remediation plans

Once a concern is communicated, companies must have an established remediation plan for addressing reported problems. **Nearly half** (17) reported having some form of remediation plan to respond to human rights abuses identified in their own and their suppliers' operations. However, this section of the survey was generally poorly answered and few companies could provide significant detail.

17% (six) require remediation steps to be implemented within a predetermined timeframe. **23%** (eight) stated that **business relationships with suppliers may be suspended or terminated** if remedial action is not taken in line with the company's human rights policies. **Metro AG** said '*remedial actions may also include monetary compensation*'. **Coles Group** was the only company to provide a detailed step-by-step process demonstrating how it responds to instances of modern slavery. This includes specific steps to address instances of child labour, bonded labour, forced labour and the withholding of workers' identification documents, and follow-up audits.

Reported Complaints

We asked companies whether human rights concerns connected with Pacific tuna had been reported via the company's complaints mechanism. **Not a single company reported having received a complaint in connection with its Pacific tuna procurement via this mechanism.** We also asked companies how many instances of modern slavery, related to tuna procurement from the Pacific, had been identified in 2018. **No companies reported having identified specific instances of abuse in 2018.** **Thai Union** did mention 'concerns' were raised by a third party, and improvement plan being put in place, but did not provide details.

[Allegations](#) of modern slavery in Pacific tuna fishing operations are common and there are concerns it is [on the rise](#) in the region. The fact that no company has identified recent cases highlights the limitations of current corporate approaches to human rights.

Overcoming Obstacles

We asked companies about challenges in implementing human rights commitments and taking action against modern slavery in tuna supply chains, and their strategies for overcoming them.

29% (10) of companies detailed specific obstacles to implementing human rights commitments, most commonly:

- difficulty in monitoring and regulating fishing operations in remote seas;
- difficulty in monitoring recruitment agencies;
- complexity of companies' global supply chains;
- higher risks involved for vessels using longline fishing methods (at sea for longer periods without returning to port);
- [limitations of social audits](#) in detecting modern slavery (see [page 19](#)); and
- employees' knowledge of what constitutes a human rights violation.

Thai Union and **Ahold Delhaize** were the most forthcoming about the obstacles they face. The most commonly cited strategy to overcome human rights challenges involved working with external stakeholders.

External Stakeholder Engagement

23% (eight) reported engaging with **external stakeholders** including suppliers, business partners, government and non-governmental organisations. However, only one company – **Thai Union** – mentioned engagement with a **trade union** (International Transport Workers Federation). Despite this, **45%** (16) indicated that their company policies require that both the company, and its suppliers, support the **right to freedom of association and collective bargaining**.

■ Participation in regional or sectoral multi-stakeholder initiatives

We asked companies about their participation in regional, or sectoral, MSIs to address modern slavery including in fishing. **43%** (15) are members of the [Seafood Taskforce](#), [Tuna 2020 Traceability Declaration](#) or [Bali Process Government and Business Forum](#). The **Seafood Taskforce** and **Tuna 2020 Traceability Declaration** aim to improve sustainability in companies' fishing operations by increasing transparency and accountability of fishing vessel operations. The **Bali Process Government and Business Forum** aims to combat human trafficking and labour exploitation by engaging public and private sectors to develop policies and legal protections for victims of labour abuses. It does not formally incorporate civil society participants.

Conclusion

Most companies are failing to take effective, practical action to stamp out slavery from global canned tuna supply chains. A small cluster of leaders are making strides and **translating human rights policies into practice**. In general, **company policy is not supported by concrete action and most need to lift their game on human rights due diligence and develop greater supply chain visibility**, beyond tier 1 suppliers.

The risks of egregious human rights abuses in the fishing industry are extremely high. The fact that 15 companies (nearly half) operating in this high-risk sector did not respond to us is concerning. Companies must step up their efforts to engage on human rights. We need to see far **more collaboration** between brands and external stakeholders, especially workers and their unions, to ensure companies develop, implement and embed meaningful and effective responses to end modern slavery at sea.

Better practice examples identified in survey responses include:

- **Thai Union** has a robust **human rights due diligence procedure** which details specific actions in the due diligence process, rather than aspirational statements. The Thai Union Diligence Framework comprises several pillars – *policies, assessment of risks, prevent, detect, remedy, continuous monitoring and disclosure*.
- **Coles' remediation plan** to respond to instances of modern slavery consists of detailed, stepped processes to address different forms of modern slavery abuses identified.



Key Recommendations:

Companies should:

- Introduce, review and implement robust **human rights due diligence measures** throughout supply chains; work **collaboratively** with and involve NGOs, workers and trade unions in their due diligence process.
- Undertake comprehensive **supply chain mapping and scrutiny**, including immediate suppliers and sub-contractors, to identify high-risk areas and take bold action to eliminate risk.
- Develop **effective complaint and whistle-blower mechanisms**, in line with the UNGPs and in consultation with affected stakeholders, which are accessible and communicated to supply chain workers, for reporting abuse safely and without fear of reprisal.
- Take immediate action to ensure they have clear, comprehensive, and tested **remediation plans** dedicated to addressing modern slavery, so they can act quickly and decisively when abuses are detected or suspected – this should include remediation for affected individuals, as well as established consequences for abusers.
- Design, resource and implement **effective internal reporting and monitoring systems** to ensure obligations are met under new modern slavery reporting regimes, including the UK and Australian **Modern Slavery Acts**.
- Develop comprehensive **training** on modern slavery for employees, management, contractors and supply chain workers at all levels of the supply chain – and measure and assess the **effectiveness** of this training.
- Develop and implement an **integrated, cross-departmental approach to human rights** which is thoroughly embedded across both the organisation and its external relationships.

Governments & policy-makers should:

- Promote and implement the **UN Guiding Principles on Business and Human Rights**.
- Effectively implement **human rights reporting regimes**, including ensuring adequate oversight and introducing financial penalties to strengthen regimes if they are found to be lacking.
- Introduce **mandatory human rights due diligence** by companies and comprehensive guidance on processes.

Civil society organisations should:

- Provide **education** to vulnerable workers on their human and labour rights when engaging with employers, recruiters and sub-contractors.
- **Monitor, research and analyse** corporate efforts to address modern slavery to identify leading company practices involving new, innovative approaches to human rights by companies, as well as calling out instances of poor or inadequate practice by laggards.
- **Work collaboratively** with governments and companies in identifying, monitoring and assessing actions by companies and governments to prevent modern slavery and ensure that concrete and effective action is taken to end it.

Appendix: Company Responses & Non-Responses

	Country of HQ	Tuna Brands	Response
Ahold Delhaize	Netherlands	Stop 'n' Shop, Giant, Delhaize, Albert, Alpha Beta, Superindo	●
Aldi Nord	Germany	Ocean Steamer, Fjorden's, Espanisimo	●
Aldi South Group	Germany	Ocean Rise, ARMADA, ALMARE Seafood, Cucina Nobile, Gourmet, Feines aus Spanien, Saponi di Mare, Natura Felice, Faro Verde, Primana, Northern Catch	●
Alliance Select Foods International Inc	Philippines	Superfish, Sea Harvest, Sunbell, Bestunaku, Hagoromo <i>(held via ownership of PT. Aneka Tuna Indonesia)</i>	●
American Tuna	USA	American Tuna	●
Bumble Bee Foods LLC ⁶	USA	Bumble Bee, Wild Selections, Brunswick	●
C-Food International LLC	Lebanon	Trébon, Siblou, Sirella, Adriana	●
Carrefour SA	France	Carrefour	●
Century Pacific Food	Philippines	Century Quality, Century Tuna, Blue Bay, 555, Fresca Tuna	●
Clover Leaf Seafoods	Canada	Clover Leaf	●
Coles Group	Australia	Coles, Wild Tides	●
Conga Foods Pty Ltd	Australia	Sole Mare Tuna	●
Costco	USA	Kirkland Signature	●
Hi-Q Food Products	Thailand	Roza	●
Kaufland	Germany	K-Classic Thunfisch	●
Kraft Heinz	Australia	Greenseas	●
Kroger	USA	Kroger	●
Lidl	Germany	Nixe	●

⁶ Bumble Bee Foods LCC and Clover Leaf Seafoods share the same parent company and certain company policies which is reflected in mirrored survey responses. Bumble Bee Holdco S.C.A. owns Bumble Bee Foods S.à r.l. which owns Bumble Bee Foods LLC and Connors Bros. Clover Leaf Seafoods Company.

	Country of HQ	Tuna Brands	Response
Metro AG	Germany	Aro, Metro Chef, Makro Chef, Fine Life	●
Ocean Brands	Canada	Ocean's, Gold Seal	●
Organico Realfoods Ltd	UK	Fish4Ever	●
Pegasus Food Co., Ltd.	Thailand	Golden Fresh	●
Raincoast Trading Company	Canada	Raincoast Trading	●
REWE Group	Germany	Ja!, Rewe Beste Wahl, Berida	●
Safcol Australia Pty. Ltd	Australia	Safcol	●
Simplot	Australia	John West (Australia)	●
Starkist Co.	USA	Starkist	●
Supervalu	USA	Wild Harvest	●
Target	USA	Simply Balanced, Market Pantry	●
Tesco PLC	UK	Tesco	●
Thai Union Group	Thailand	John West (UK), SEALECT, Mareblu, Petit Navire, Chicken of the Sea, Genova	●
Tri Marine	USA	Ocean Naturals	●
Walmart	USA	Great Value	●
Wild Planet Foods Inc	USA	Wild Planet	●
Woolworths Group	Australia	Woolworths Branded, Essentials	●



Business & Human Rights Resource Centre

June 2019

Business & Human Rights Resource Centre is an international NGO that tracks the human rights impacts (positive & negative) of over 8,000 companies in over 180 countries making information available on its eight language website. We seek responses from companies when concerns are raised by civil society. The response rate is 73% globally.

Our survey questions were developed in consultation with the International Transport Workers Federation; Greenpeace; Liberty Asia; the Fiji Trades Union Congress and advocates, researchers and academics, including Christina Stringer, University of Auckland. The briefing paper was prepared with the assistance of **Amit Dogra** and **Olivia Kelly**. We acknowledge and thank them for their contributions.

For questions about this briefing paper, please contact:

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APPENDIX 13



HUMAN RIGHTS AT SEA



Human Rights at Sea

Case Study

A Family Perspective in their Own Words

Salote Kaisuva, the widow
of Fijian crewman Mesake,
who worked on Taiwanese
Longliners.



Human Rights at Sea

CASE STUDY - IN THEIR OWN WORDS

“The vessel berthed early before I could get to the wharf (which is not far-distant) and I saw my husband staggering along the path to our house, bent over and clutching his stomach; I could see in his eyes that he was approaching death.”

Salote Kaisuva

Human Rights at Sea hears the first-hand testimony of the widow of a Fijian crewman who died after over thirty years operating as crew for Taiwanese long-liner fishing vessels. The following case study highlights the conditions and challenges faced by fishing crews, and the effect on the family members left behind after the loss of the main source of family income. The study is aimed at exposing and educating those who do not understand the background to, and the context of, commercial fishing in the Pacific region.

www.humanrightsatsea.org/publications/

Background

“ I am the widow of Mesake Kaisuva, a crewman who died on 4 February 2013.

Mesake was born on 31 December 1962. His father beat him very often; his schooling was irregular. In 1983, when just 21 years of age and shortly after our marriage, he was recruited as a crewman by the Burns Philp Shipping agent and from that time on, 30 years, he was a crewman until his death.

My husband’s wage was F\$15 a day, or F\$105 a week. We were given F\$100 advance as his salary for the whole month. It was all that was left after a gross of cigarettes (valued at F\$150) and other deductions (for his on-board food, and clothing such as boots and jacket) were taken off his salary. **As a wife, I would ensure that the F\$100 was spent carefully as it was all that we had to accommodate us for a whole month until the next pay;** I tried my best to accept that amount. After every three months, his vessel would return: we would look forward to seeing him again, and the company would pay his next salary after taking deductions.

The contract was between the Master of the vessels and individual crew. Deductions from pay were determined by the captains of the vessels. The majority of crew on the boats were Asians, and about four would be Fijians. We learned that the Asians (Chinese) were farmers who had been offered work in Fiji on farms; we would see them arrive together on a bus (from the airport), carrying their suitcases; their wages were less than the Fijians’ wages.

There were about 18-23 crew on each vessel. When the boats changed over the foreign crew, the four Fijians would be retained, to train the new crew. **But nowadays, Fijian crew are only hired when there is a shortage of crew.** The Fijians were employed only as deckhands. As they are physically stronger than the Asians they did the heavy work of line hauling, stacking fish, unloading, and restocking ice and equipment. **The Fijian crew were given the heaviest duties.**

While Mesake was working on the boats, we stayed with my parents in Kalekana because we did not have our own house. Our children loved living with their grandparents. My parents supported our family because we didn’t get much from my husband’s wage. It was painful for much of the time when he came back every three months: it took a month working at the wharf, getting the fish out of the vessel and into the freezer, but if the men did not go to work their pay got deducted. Usually, there would be only F\$500- 600 left from his three months’ pay. As a fisherman’s wife, I always looked forward to receiving a lump sum of money for the three months, **but I could see that the company was just using the men as slaves and not even giving them a rest of one week before calling them back to work at sea.** ”



Salote Kaisuva in the doorway of her tin house

Human Rights at Sea

CASE STUDY - IN THEIR OWN WORDS

“ His work continued; sometimes the men were transferred from vessel to vessel. But they were treated in the same way, whatever vessel they were on. Once a fishing company did offer him F\$18 a day, which he thought would be better than the first company’s offer, but after deductions it was all the same. I continued looking after the family, children attending school, paying for school fees, bus fares, food at home... In addition, **our eldest, Maria Wati was frequently ill from asthma** and was often admitted to hospital. My parents were very supportive of my situation.

Because of my difficulties at home, **I often visited the company office (in Suva) for assistance, but was always rejected.**

As a couple, we always shared the difficulties the crewmen faced while at sea: they slept for only three hours after working up to 18-20 hours each day; their clothes were always wet (20 hours of each day in wet clothes). Although food had been stocked for a three-month trip, it often was short so they had only fish to eat (although the Captain and senior crew had better food). Hearing the stories my husband shared with me, made me ‘feel’ for the crewmen at sea and the sacrifices they went through every three months for their families.

I wanted a house of our own for our family, so in 1997 I asked for a piece of land at Waiqanake from my mother’s maternal side. We had to buy the house materials in order to build a house on that piece of land; and I also cleared the land: mangroves and swamp ferns. Even though my husband was still at sea, I tried my best to get a roof over our heads. Although that roof was only on top of a small tin shed we were proud and happy to live in it. So each time my husband, Mesake, returned he would come straight home instead of going to my parents’ home in Kalekana. My husband was so proud of what we had achieved, and relieved that we had a house of our own which we owned.

We tried to extend the shed (our house) because the children were growing up and needed privacy; we managed to extend a little. Our everyday lives depended on how I could work out our daily living with only F\$100 every month received from my husband for all those years.

The children had grown and **we had to withdraw two of the boys (Apolosi Baleigasau and Joseva Vunibobo) from school because we could not pay their school fees.** The two of them joined their father: Apolosi in 2001 at 16 years of age, and Joseva in 2003, also at 16 years of age. Then the youngest, Mesake, started sailing in 2013. The father and Apolosi and Joseva joined a Taiwanese boat, De Sheng Fa no. 2 and sailed on the same vessel until 2006 when each of them sailed on different Taiwanese boats. I thanked God for protecting them and keeping His faith in us, which kept us believing in ourselves. The men sacrificed together to keep this family living. Years passed by and the two boys and their father got to understand and speak the Asian language.



When **Apolosi** first went to sea he was excited and happy to have a job and to go on his first trip to sea. But later he told me more: he said that you have to be strong to take up this kind of work; you have to sacrifice for the cold weather, sleepless nights, lack of food, cramped and dirty conditions of the ship, bedbugs and cockroaches; they were always tired but had to keep going in order to get their work done.

As days passed, my husband, Mesake, started to get stomach aches and back pain. That is when we decided to send our second son, Joseva, off to sea. **It transpired that Joseva experienced the same things as did Mesake and Apolosi: there was no change in their work conditions.** They received F\$18 a day, but cash-in-advance increased to F\$200, so we could buy coffee, tea, Milo, toiletries, noodles, biscuits and other things. And as always, it really hurt me to see them go back to sea after hearing their stories.

Joseva told me that the fishing process involves putting bait on long lines that are dropped into the sea from the early hours of each morning, and the process can take up to nine hours. Then in the late afternoon the work of hauling in the lines would begin and would go well into the night. Then the work of gutting, weighing and cleaning the fish would begin and finally the fish were hung on hooks in the blast freezer. Then the process of baiting and dropping the lines would start again. There was also the work of stacking frozen fish in the cold freezers. In this way, for each up day there was up to 20 hours of hard labour (at F\$15 to F\$18 a day) and in between, four hours of sleep and maybe two hours for meals and a little rest.

The catch was usually albacore, bigeye and yellowfin tuna; they also caught marlin, swordfish and other bycatch including sharks (from which the crew make some money from sale of shark fins). Sometimes, huge sharks got entangled in the lines and the ship’s propellers and it was a lot of work to disentangle them.

The captain deducted the cost of feeding the crew from their wages, including the cost of cigarettes and ‘discipline’. The food they eat is poor in quality and sometimes they had to eat fish for days when food stocks had run out. Sometimes they are asked to work ‘overtime’. The vessels are out at sea for about three months, then often less than a week ashore after each trip before the vessel sails again. ”

“Through the hard times I faced, I would cry, but I’d hide my tears so that the children would not know how sad I was, and how hard it was for me.”

Human Rights at Sea

CASE STUDY - IN THEIR OWN WORDS



“ After six years at sea, Joseva had to give up the job, and this is why: on 9th March 2009, an incident happened on the De Sheng Fa no. 2 which started when the men finished the morning session of hauling in the lines and went to get their breakfast. But when they got to the galley, the Chinese cook told them that breakfast was finished and there was no food. **There was a heated argument during which the cook chased Joseva around the vessel with his kitchen chopper, finally hacking him three times at the knee.** Even though Joseva was bleeding heavily, the Captain ordered that he had to continue working, and to drink a lot of water to compensate for his bleeding. There was a big fight on the ship because of this, my husband (his father) insisting that the Captain take the vessel back to port so that Joseva could be treated.

At that time, I received a phone call from Mesake, asking me if anyone from the office had contacted me about our son's injuries on board; I said 'no, no-one called me'. After he told me what happened, I visited the Police Station and reported the case, telling them when the vessel would arrive in port. I waited at the wharf but I could not see them getting off, we heard later that they'd taken him straight away to a private doctor on Rewa Street.

The doctor recommended that Joseva be taken to the CWM Hospital because the doctor could not treat him; Joseva was admitted for an operation and stayed in hospital for six days. Joseva's wound was a really bad cut; I cried when I saw his cut leg. Afterwards, the hospital gave us a letter about his injuries and told us to claim for compensation: he received only F\$3,000. I then realised that the welfare of the crew was not a company concern - instead, their main concern was making money.

My husband and other son, Apolosi, went back to sea but after a while they transferred to another fishing company based at Fiji Fishing Company. They stayed with that company for quite some time, but both of them started getting back pains because of carrying the heavy fish and wearing wet gear for 18-20 hours each day.

In 2012, I received news from the fishing company that my husband was sick and had been transferred to a vessel on its way back to Fiji; the company told me to arrange transport to take him home, that made me wonder how sick he was. **The vessel berthed early before I could get to the wharf (which is not far-distant) and I saw my husband staggering along the path to our house, bent over and clutching his stomach; I could see in his eyes that he was approaching death.** I hid my tears and the pain I felt, and took him to Dr de Asa in Ratu Sukuna Road; but the doctor just gave him a prescription for some gastric medicine. After a few days there was no improvement so I took him to the CWM Hospital where he was admitted. However, he got much worse and after one week the hospital told me that they couldn't treat him anymore and so they were sending him home, with ten morphine tablets for pain relief.

I started counting the days: my mind was spinning, thinking that at this stage of life we had nothing to share between us but days of retirement happiness together. All we'd had, had been years of work and struggle to keep the family together and hoping for something better for our children and their families. ”

Human Rights at Sea

CASE STUDY - IN THEIR OWN WORDS

“Mesake, my beloved husband and father of our children, died on 4th February 2013. I felt such pain, and I often cry when I look at our grandchildren, young Mesake, and Laisa. I was heartbroken; only God knows how much my family wished him alive.”

Salote Kaisuva

“ I asked for assistance for the funeral expenses from the company and they gave me F\$5,000. **They also promised work for me at the company but it did not happen at all - I could see that they were just comforting me and did not care at all.** I know that there are many more people facing the same problems that we faced and I wish that someone would hear our cries. It has been really difficult, sharing what my husband went through as a crewman. He has passed away because of the years of work for the fishing companies, yet they offered very little assistance. We continue to struggle to live a decent life.

My son, Apolosi gave up sailing in 2015; only his younger brother, Mesake Junior, is still sailing. **Both Apolosi and Joseva suffer from disabling cramps and back aches that prevent them from going to work for days on end.** Furthermore, they cannot assist their mother in chopping firewood, cleaning up the compound, and farming vegetables.

When he can, Apolosi works as a welder at Hume Industries, Wailada Estate; he is married with four children. Our other son, Joseva Kaisuva, is now 35 years old. He started his family in 2011 when he had to leave the vessels because of his injury. He now has three children (his wife had two children from an earlier marriage). He has back pains which often prevent him from going to work at Carpenters Tyre Centre in Walu Bay (Suva) where he now works as a tyre fitter at the rate of F\$30 net a day, when he is able to work. A deduction for the National Provident Fund is taken from his pay, unlike on the vessels where deductions were for his own ‘cost’ of work. Joseva’s wage at Carpenter’s Tyre Centre is between F\$140 and F\$150 a week, supplemented by a social welfare benefit allowance. My brother and family now live in my deceased parents’ house in Kalekana. I live in Wailekutu with 12 other people in a two-room, tin and timber ‘house’ which also has a kitchen area. I work as an office assistant at the Catholic Parish in Suva, and have applied for Workers Compensation at the Department of Labour for my husband but so far have not been told how much benefit I’ll receive. I am 54 years of age.

There are a lot of unemployed young people at Kalekana who are keen to work on fishing vessels despite the harsh conditions and low pay.

My husband and sons worked on eight Taiwanese (China Taipei) longliner vessels over the 30 years. One of them was the De Sheng Fa no. 2. ”



Salote, children Maria & Apolosi, grandchild Laisa

Disclaimer

The content and detail within this Case Study has been provided to Human Rights at Sea by the family of Mesake Kaisuva. 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 text and pictures have been acknowledged where able. Any omissions or factual inaccuracies may be alerted by writing to: enquiries@humanrightsea.org. The opinions, perspectives and comments are solely those of the author supported by the evidence disclosed.

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HUMAN RIGHTS AT SEA

“There was a heated argument during which the cook chased Joseva around the vessel with his kitchen chopper, finally hacking him three times at the knee.”

Salote Kaisuva

World Map:
Mesake Kaisuva, a Fijian crewman who worked on Taiwanese Longliners



Human Rights at Sea **CASE STUDY** A Family Perspective in their Own Words

Salote Kaisuva, the widow of Fijian crewman Mesake, who worked on Taiwanese Longliners.

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.



We thank the NGO Pacific Dialogue for their support in bringing this case to international attention.

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APPENDIX 14

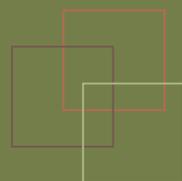


International
Labour
Office

Caught at sea



Forced labour
and trafficking
in fisheries



Caught at Sea

Forced Labour and Trafficking in Fisheries

International Labour Office (ILO)

Governance and Tripartism Department - Special Action Programme
to Combat Forced Labour (SAP-FL)

Sectoral Activities Department (SECTOR)

2013

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Preface

Two centuries after the abolition of the transatlantic slave trade, at least 20.9 million people continue to work under coercion, largely in the informal and illegal economy (ILO global estimates 2012). About 90 per cent of today's forced labour is extracted by private agents, primarily in labour intensive industries such as manufacturing, fishing, agriculture and food processing, domestic work and construction.

Since the adoption of ILO's new strategic policy framework in 2010, the office is putting increased emphasis on the development of industry specific solutions to eliminate forced labour from global value chains. Fishing and aquaculture have turned into global industries which employ a high number of migrant workers vulnerable to trafficking and forced labour. ILO therefore commissioned the present report to discuss available evidence and to facilitate global dialogue on strategies to eliminate forced labour in the fishing industry. ILO's Conventions, in particular the Forced Labour Convention, 1930 (No. 29) and the Work in Fishing Convention, 2007 (No. 188), provide important guidance on the way forward and can help create a level playing field across the industry.

On 19–20 September 2012, the ILO's Special Action Programme to Combat Forced Labour (SAP-FL) and the ILO Sectoral Activities Department (SECTOR) in cooperation with the International Training Centre of the ILO (ITC-ILO) in Turin, Italy, organized a consultation on forced labour in the fishing sector with ILO tripartite constituents, as well as relevant inter-governmental organizations, NGOs and experts. This meeting provided perspectives from different countries around the world and we extend our gratitude to the experts who generously shared their knowledge. We would also like to thank ITC-ILO for hosting the meeting and for providing the space for an open discussion. The outcome of this Consultation is provided in Appendix IV.

We would further like to express our appreciation to all those who contributed to this report, in particular to Ms Eve de Coning (ILO consultant), who is the main author of this paper, as well to Ms Beate Andrees, Mr Jean-Marie Kagabo (SAP-FL), Ms Emily Sims (EMP/MULTI), Mr Brandt Wagner, Ms Julia Lear and Mr Stewart Inglis (SECTOR) for their inputs. An initial draft report and valuable comments were received from Professor Jem Bendell and Annekatrin Ellersiek which we acknowledge with gratitude.

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Executive summary

Recent in-depth studies have described and analysed severe cases of forced labour and human trafficking in the fisheries sector. Whereas the fisheries sector counts among the most important economic sectors providing food security and employment worldwide, these studies reveal that, on board fishing vessels, fishers - many of them migrant workers - are subjected to extreme forms of human rights abuses, including forced labour and human trafficking.

This report examines recent literature on forced labour and human trafficking in the fisheries sector, with the focus on fishing vessels engaged in commercial marine fisheries. The report considers institutional and legal frameworks as well as multistakeholder initiatives that have the potential to impact fishers' safety and working conditions.

Valuable input was received from the participants at an ILO consultation in Turin, Italy, in September 2012. The main questions answered in this report are: What do we know about forced labour and human trafficking in the fisheries sector (Chapter 1)? Which institutional and legal frameworks exist to combat this problem (Chapter 2)? Finally, what are the main issues that will inform our discussion on how to move forward (Conclusion)?

The literature surveyed for this report describes severe instances of labour abuse. Migrant workers in particular are too often deceived and coerced by brokers and recruitment agencies and forced to work on board vessels under the threat of force or by means of debt bondage. Victims describe illness, physical injury, psychological and sexual abuse, deaths, and their vulnerability on board vessels in remote locations of the sea for months and years at a time. Fishers are forced to work for long hours at very low pay, and the work is intense, hazardous and difficult. Capture fisheries have amongst the highest occupational fatality rates in the world.

Recent trends within the fisheries sector, including overfishing, illegal fishing and a shift in sourcing the workforce from developed to developing States mean that more relatively low cost migrant workers are employed by the fisheries sector. Lack of training, inadequate language skills and lack of enforcement of safety and labour standards make these fishers particularly vulnerable to forced labour and human trafficking. There are also strong indicators that forced labour and human trafficking in the fisheries sector are frequently linked to other forms of crime, such as transnational organized fisheries crime and corruption.

Most States, and consequently most flag States, have committed to criminalize and combat forced labour and human trafficking as members of the ILO, and ratifying parties to the ILO Forced Labour Convention or the United Nations Trafficking in Persons Protocol. At sea, flag States have primary responsibility under international law to ensure compliance with international and national laws on board vessels flying their flag. Some States are however unable or unwilling to meet their flag State responsibilities. These act in breach of their obligations under international law, and may also act in breach of fundamental human rights instruments.

Forced labour and human trafficking can be combatted through improved regulation and control through implementation of safety and labour standards. ILO and the International Maritime Organization (IMO) have established a number of binding legal instruments that will improve fishers' safety and working conditions (the ILO's Work in Fishing Convention (No. 188), the IMO's Torremolinos Protocol and the IMO's Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (TCW-F), as well as non-binding recommendations and codes, some of which were developed jointly between ILO, the Food and Agriculture Organization (FAO) and IMO. With the exception of the STCW-F, as of March 2013 none of the binding legal instruments are in force. The slow pace of ratification of conventions inhibits effective flag and port State control of safety and labour standards in the fisheries sector, and undermines important opportunities to prevent and detect instances of forced labour and human trafficking on board fishing vessels. The absence of binding legal frameworks also contributes to a lack of transparency with respect to information on vessel identity, ownership and movement. This undermines effective investigation and prosecution of crimes committed on board fishing vessels.

Forced labour and human trafficking in the fisheries sector are complex and multi-faceted problems. Tailor-made measures are required to effectively prevent and combat these crimes. While this report presents some useful entry points on the way forward, it also raises important questions that should be considered for further analysis and debate:

- How could flag States better exercise their authority and responsibility to enforce regulations over fisheries sector vessels registered under their flag?

- How to foster ratification and/or implementation of binding legal instruments ensuring fishers' safety and decent working conditions?
- How to foster coordinated port State control over fishing vessels?
- How to regulate and control private recruitment agencies so as to avoid situations where migrant workers are recruited to work on vessels under false pretences and highly abusive working conditions?
- How to ensure that States develop fisheries management and conservation policies that positively influence working conditions on fishing vessels engaged in commercial fishing operations in their waters and thus help prevent forced labour and trafficking of fishers?
- How to set up a coordinated internal and cross-border multi-agency law enforcement cooperation, intelligence gathering and information sharing, as a comprehensive justice sector response to forced labour and human trafficking at sea?
- How to encourage transparency in the fisheries sector across the value chain, from persons consuming the fish back to the fishers who produced or captured it?
- How to develop multi-agency policy and technical assistance for States in need, in order for them to implement legal frameworks pertaining to the fisheries sector in the most effective manner?
- How to conduct comprehensive and coordinated research that will help to better understand the problem of deceptive and coercive labour practices in the fisheries sector?

Acronyms

AIS	Automatic Identification System
CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
COFI	Committee on Fisheries, FAO
CSR	corporate social responsibility
EEZ	Exclusive Economic Zone
EJF	Environmental Justice Foundation
EU	European Union
FAL	Convention on Facilitation of International Maritime Traffic, 1965
FAO	Food and Agriculture Organization of the United Nations
IFHR	International Federation for Human Rights
HRW	Human Rights Watch
HSTF	High Seas Task Force
HSVAR	High Seas Vessels Authorization Record
ICAT	Inter-Agency Coordination Group against Trafficking in Persons
ICONS	International Commission on Shipping
ILO	International Labour Organization
IMO	International Maritime Organization
IOM	International Organization for Migration
IPEC	International Programme on the Elimination of Child Labour
IPOA-IUU	International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
ISO	International Organization for Standardization
ITF	International Transport Workers' Federation
IUU	Illegal, Unreported and Unregulated (fishing)
MLC	Maritime Labour Convention, 2006
MMSI	Maritime Mobile Service Identity
MOU	Memorandum of Understanding
MSC	Marine Stewardship Council
MSI	Multistakeholder initiative

NAFO	Northwest Atlantic Fisheries Organization
NEAFC	North East Atlantic Fisheries Commission
NGO	Non-governmental Organization
NPOA-IUU	National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
OECD	Organisation for Economic Co-operation and Development
PSC	Port State control
PSM	Port State measures
PSMA	Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
RFB	Regional Fishery Body
RFMO	Regional Fisheries Management Organisation
SAI	Social Accountability International
SOLAS	International Convention for the Safety of Life at Sea, 1974
SSF	Small-Scale fisheries
STCW	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978
STCW-F	International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995
UN	United Nations
UN.GIFT	United Nations Global Initiative to Fight Human Trafficking
UNCLOS	United Nations Convention on the Law of the Sea, 1982
UNIAP	United Nations Inter-Agency Project on Human Trafficking
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Convention against Transnational Organized Crime
VHF	very high frequency (radio frequency)
VMS	Vessel Monitoring System
WTO	World Trade Organization

Introduction



The fisheries sector makes a crucial contribution to global food security, human welfare and economic prosperity, and is particularly important to coastal communities in many developing States (FAO, 2012a). Regrettably, a string of recent reports have indicated that certain segments of the sector harbour some of the worst forms of human rights abuse, forced labour, and human trafficking (Surtees, 2012; Stringer et al., 2011; Robertson, 2011; de Coning, 2011; EJF, 2010; Derks, 2010; Brennan, 2009; UNIAP, 2009; UNIAP, 2007; Pearson et al., 2006ab). These reports suggest that forced labour and human trafficking take place on board fishing vessels because of the isolation of the workplace, strong competition within the industry and the ready supply of vulnerable workers, many of them migrant labourers. The reports also demonstrate the urgency of the problem and the current lack of coordination and attention that would help prevent and combat forced labour and human trafficking in the fisheries sector.

The purpose of this desk review is to consolidate existing knowledge about forced labour and human trafficking in the fisheries sector and to identify institutional and legal frameworks and multistakeholder initiatives that have the potential to positively affect fishers' safety and working conditions. Part I of the desk review provides a background to the main actors, activities and trends affecting fishers' working conditions and reviews and consolidates the literature on forced labour and human trafficking in the fisheries sector, particularly that taking place on board fishing vessels. Part II outlines international and institutional legal frameworks pertaining to forced labour, human trafficking, and fishers' safety and working conditions, as well as market measures in the form of international instruments which provide guidance to business on respecting workers' rights and voluntary multistakeholder initiatives to encourage social responsibility in the sector. Attached to the desk review are four appendices. Appendix I defines and explains the key terms 'forced labour', 'human trafficking', and 'slavery', as well as the way in which these terms and their legal and institutional frameworks supplement one another. Appendix II contains a list of multistakeholder initiatives, including ecolabels and certification schemes to ensure environmental sustainability in the fisheries sector. Appendix III shows the results from a brief review of individual companies that have attempted to develop responsible value chain policies and procedures on fish and refer to ILO standards



and conventions in their Codes of Conducts. Appendix IV contains a summary of the discussions of the ILO consultation on combatting forced labour and human trafficking in the fishing sector held in Turin, Italy, on 19-20 September 2012.

According to ILO's most recent count (2012, p. 13), about 20.9 million people are caught up in forced labour, coerced and deceived by their recruiter or employer and trapped in situations from which it is difficult to escape. Besides the human costs, ILO estimates that victims of forced labour and human trafficking are underpaid wages totalling US\$19.6 billion (ILO, 2009, pp. 31-32), income that could otherwise have helped improve the prosperity of victims, their families, and local communities. Industries vulnerable to forced labour include construction, agriculture and horticulture, mining, logging, food processing and packaging, restaurant and catering, transportation, domestic services, factory work (mainly textiles and garments) and sex and entertainment (ILO, 2008, p. 9). Less attention has been given to forced labour and human trafficking in the fisheries sector. This has changed in recent years, owing to studies such as ILO's Mekong Challenge Report, published in 2006, which identified the fisheries sector in the Greater Mekong sub-Region as being particularly vulnerable to coercive and deceptive labour practices (Pearson et al., 2006a).

ILO plays a central role in the prevention of and fight against forced labour and human trafficking globally. In 1998, governments, workers and employers' organizations adopted the ILO Declaration on Fundamental Principles and Rights at Work, calling upon States to eliminate all forms of forced labour. ILO is also the depository of the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105). ILO has taken a lead role in raising awareness about forced labour and in assisting governments to establish and implement laws, policies and action plans. ILO also develops training materials and assists States to implement innovative programmes to curb forced labour.

Closely related to the fight against forced labour and human trafficking is the development of sector-specific labour standards that set uniform minimum employment conditions. Until recently the fisheries sector lacked a holistic legal framework to secure fishers' working conditions. This gap was filled in 2007 when the International Labour Conference adopted the Work in Fishing Convention (No. 188), which together with other labour and safety standards, will contribute to preventing and curbing forced labour and human trafficking in the fisheries sector.



1. Understanding forced labour and human trafficking in the fisheries sector

1.1. The fisheries sector

The fisheries sector covers a range of economic activities related to the capturing, harvesting, processing, and trading of marine and fresh water living resources¹ at sea and in lakes, rivers, canals and coastal zones. In addition, fish processing may take place on board fishing vessels and on land. Vessels may be engaged in capturing or harvesting operations, as well as in processing, packaging, and transporting fish transhipped at sea or in port. The primary focus of this desk review is the forced labour and human trafficking of fishers taking place at sea aboard vessels engaged in commercial (as opposed to subsistence or recreational) fishing. ‘Fishers’ in this context refers to any person working on board sea-going fishing vessels. ‘Fish processors’ or ‘fish workers’ are persons engaged in land-based fish processing. ‘Commercial fisheries’ includes both industrial and small-scale fisheries.²

The process of capturing or harvesting, transhipping, processing, packaging and trading marine living resources is known as a ‘fishing operation’. Some fishing operations are structured as joint ventures in which the joint venture entities collaborate on the various aspects of the fishing operation, such as crew, supplies, knowhow, infrastructure (vessels) and access to fishing licences.³ For the purpose of this report, ‘fishing operators’ refers to the corporate entities behind the fishing

¹ ‘Marine and fresh water living resources’ includes fish, shellfish, marine mammals, marine and fresh water algae and plants, and corals.

² ‘Small-scale fisheries’ is not an internationally defined term and there are no uniform criteria that distinguish small-scale fisheries from industrial fisheries. However, whilst recognizing the challenges inherent in defining an essentially diverse segment of the fisheries sector, the proposed FAO International Guidelines for Securing Sustainable Small-scale Fisheries (2012b) suggests a number of criteria that law and policy makers may want to take into account when defining small-scale fisheries, including cultural ties and geographic origin of fishers, knowledge and technology, ownership and fishing unit structures, as well as formal and informal labour relations (See Articles 2.3.–2.5. of the proposed International Guidelines for Securing Sustainable Small-scale Fisheries (FAO, 2012b, p. 4)).

³ This practice and its problems in the context of labour abuse are well documented in New Zealand (Stringer et al., 2011).



operation. The fishing operator may be the registered owner⁴ or charterer of the fishing vessel, a joint venture entity, or the skipper or fishing master⁵ or other senior crew on board the fishing vessel. Employment contracts, or other forms of work agreements, are commonly entered into between fishers and fishing operators or senior crew, often facilitated by recruitment agencies or brokers.⁶

Fish production in capture fisheries is supplemented by a growing aquaculture or fish farming industry. 'Aquaculture' refers to the farming of marine and fresh-water species using fresh water, brackish and seawater in inland and coastal areas. 'Fish farmers' or 'aquaculturalists' refer to persons engaged in the aquaculture industry.

Fishing and fish trade are among the earliest globalized industries and represent a sector steeped in culture and traditions. Today the fisheries sector, in its broadest definition, is one of the world's largest employers. About 38 million people work in capture production. According to the FAO, in 2010, fishers, fish farmers and those supplying services and goods to them would have assured the livelihoods of about 660–820 million people, or about 10–12 per cent of the world's population (FAO, 2012a, pp. 43, 46).

Fish is one of the most traded commodities globally and is of particular importance to developing countries (FAO, 2012a, p. 67). Some 57 million tons of fish were exported in 2010. The following year States exported fish to the value of US\$125 billion (FAO, 2012a, p. 68). The demand for and trade in fish has increased steadily over a number of decades (ibid.).

However, despite this, capture production has declined over the last several years. Rather, the increase in overall global production is due to enhanced fish farming in the aquaculture sector. Wild fish stocks are subject to high levels of overfishing and most, if not all, commercially exploited fish stocks are fully or over exploited. FAO estimates that 29.9 per cent of global fish stocks are depleted, over-exploited or in recovery

4 The Work in Fishing Convention, 2007 (No. 188) uses the term "fishing vessel owner", which is defined as "the owner of the fishing vessel or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with the Convention, regardless of whether any other organization or person fulfils certain of the duties or responsibilities on behalf of the fishing vessel owner".

5 Fishing vessels often operate with two masters: a navigational master and a fishing master. Unlike merchant vessels, where the navigational master has supreme authority over the vessel, navigational masters aboard fishing vessels can fall under the authority of the fishing master.

6 But they could also be entered into between the recruitment agency and the fisher (ILO, 2010b).



(2012a, p. 53). More than half (57.4 per cent) of fish stocks are fully exploited and capture production cannot expand in these fisheries. Only 12.7 per cent of fish stocks are capable of expanded production, at this point mainly low value species.

Illegal fishing contributes significantly to the decline in global fish stocks. In 2009 a research team consisting of seven British and Canadian marine biologists and economists estimated that between 11 and 26 million tons of fish totalling US\$10 to 23.5 billion are lost to illegal fishing every year (Agnew et al., 2009). The researchers found that developing countries along the West African coast were particularly vulnerable to illegal fishing, with about 37 per cent of all reported catches in the region being caught illegally between 2000 and 2003. Other vulnerable regions identified were the Western Central Pacific (34 per cent of reported catches caught illegally), the Northwest Pacific (33 per cent), and the Southwest Atlantic and the Eastern Indian Ocean (both 32 per cent).

Overfishing, illegal fishing and declining fish stocks have led to a number of changes that affect fishers. The following are among the changes that may have a negative impact on working conditions and may contribute to situations of forced labour and trafficking:

First, migrant workers from developing States are increasingly used to crew fishing vessels. Most fish stocks are found in coastal regions above the continental shelf. The gradual depletion of these fish stocks has meant that fishing operators, both small-scale and industrial, must go further out to sea to locate abundant fishing grounds (FAO, 2012a, p. 155). Long-distance fishing requires more sophisticated infrastructure and in coastal regions with declining fish stocks, fishers who were previously self-employed in small-scale fisheries are now being recruited as employed crew. Long-distance fishing operations also require more crew who are willing to stay at sea for prolonged periods. At the same time, employment in fishing has been decreasing in capital intensive economies, in particular in most European countries, North America, and Japan. Several factors may account for this, including the application of policies to reduce over-capacity and less reliance on human power owing to technological developments (FAO, 2012a, p. 42). On the other hand, there has been an increase in fishers in a number of developing States, particularly in Asia, many employed as migrant workers.



Second, increased crew costs are cut by hiring low-cost labour. Long-distance fishing operations are labour intensive and crews' wages can account for between 30 and 50 per cent of operating costs. The use of low-wage migrant labour has meant that these costs can be cut considerably (Agnew and Barnes, 2004, pp. 180–181), which may increase the fishing operators' profit margins and give them a competitive advantage.

Third, fiercer competition may affect fishers' safety. Declining fish stocks has meant an increase in fisheries management measures, some of which may undermine the safety of fishers. Recent research coordinated by FAO and the United States Institute for Occupational Safety and Health found that fishers take greater risks in competitive fisheries than in quota-based fisheries (FAO, 2012a, pp. 154–155).

Fourth, more sophisticated and organized transnational illegal fishing operations place fishers in a vulnerable position. Fisheries crime is associated with high profits and a low risk of detection (de Coning, 2011, pp. 109–111). Globalization has meant that many long-distance fishing operators are structured as transnational corporations. In 2011, the United Nations Office on Drugs and Crime (UNODC) commissioned a study that found examples of the involvement of transnational fishing operators in habitual and organized forms of fisheries crime (de Coning, 2011, pp. 103–109). These transnational fishing operators make use of secrecy jurisdictions and register their vessels in open international registers to avoid law enforcement measures (High Seas Task Force, 2006; Gianni and Simpson, 2005). They also choose to register their vessels in flag States that are unable or unwilling to meet their international responsibility or exercise their criminal law enforcement jurisdiction (Österblom et al., 2010). Transnational fishing operators and operations engaged in organized crime pose real challenges to effective compliance measures and law enforcement and require a high degree of trans-boundary law enforcement coordination and cooperation, which is currently lacking.⁷ Fishers aboard vessels engaged in transnational organized fisheries crime therefore have little or no protection from abuse.

⁷ INTERPOL's Environmental Crime Programme has launched in February 2013, Project SCALE, a pilot project aimed at coordinating transnational fisheries criminal law enforcement efforts.

1.2. Forced labour in fishing: reviewing the evidence

1.2.1. Overview of recent reports

Forced labour and human trafficking of fishers in the fisheries sector is not a new phenomenon. Yet, the changes in the fisheries sector in recent years, combined with increased globalization, competition, and the mobility of migrant workers, have probably exacerbated the problem. Early references to forced labour in the fisheries sector are found in the context of child labour. In 1999 and 2000, ILO conducted a number of studies of forced child labour in Indonesian fisheries, particularly on fishing platforms known as *jermals* (Davis, 2003; Ahmed and Boulton, 1999; Manning, 1999). Much of this research was carried out under the ILO's International Programme on the Elimination of Child Labour (IPEC) project 'Fishing and footwear sectors programme to combat hazardous child labour' (ILO, 2010). Child labour on *jermals* is believed to have since subsided. The use of child labour in the fisheries sector elsewhere has also been documented in a number of other studies, many of which were summarised by Mathew in *Children's Work and Child Labour in Fisheries* presented during the FAO-ILO workshop on child labour in fisheries and aquaculture held in 2010. Based on the outcomes and recommendations of this workshop, the FAO in cooperation with the ILO published *Guidelines for Addressing Child Labour in Fisheries and Aquaculture* (2012, pp. 16–21) which provide an outline of current child labour practices in the fisheries sector.

A limited number of reports focus on the general or worldwide phenomenon of forced labour and human trafficking in the fisheries sector. One of the first of these was the International Commission on Shipping (ICONS) Report *Ships, Slaves and Competition* published in 2000, on labour exploitation and abuse on board seagoing vessels, both merchant and fishing vessels (Morris, 2000). The report is based on extensive consultations with stakeholders and makes particular reference to the fishing sector. The report concludes among others that 'the worst abuses seem to be associated with fishing' (Morris, 2000, p. 2). The report also contains an annex dedicated to the fisheries sector with an overview of some of the abuse and challenges that fishers experience; the main regulators of the fisheries sector; strengths and weaknesses of the international legal framework that may protect fishers from abuse; and references to the 2000 initiative to improve flag State responsibility.





Moreover, in 2006 the International Transport Workers' Federation (ITF) published the report *Out of Sight, Out of Mind, Seafarers, Fishers & Human Rights* (ITF, 2006). This report is an overview of the main forms of abuse to which seafarers and fishers are subjected, based on anecdotal information obtained through ITF's affiliates and relationships with non-governmental organizations (NGOs) in the sector. The main abuses recorded are the abandonment of seafarers and fishers in port; the use of manning agents; corruption and blacklisting of crew; and criminalization of crew and the lack of access to justice. The report also contains a separate section with particular focus on physical abuse and unsafe working conditions in the fisheries sector (ITF, 2006, pp. 19–23).

Finally, in 2011 UNODC published an issue paper entitled *Transnational Organized Crime in the Fishing Industry* (de Coning, 2011). Its objective was to examine the occurrence and vulnerability of the fisheries sector to transnational organized crime and related crimes. Chapter 2 of the report covers human trafficking and contains an overview of the types of exploitation taking place in the fisheries sector; the means used for exploitation; who the traffickers and the victims are; the main trafficking flows; and the links between human trafficking in the fisheries sector and other forms of crime, in particular illegal fishing and corruption. The report considers corruption in the context of some international ship registers that are established by foreign corporate entities in developing States, which may be a factor in the lack of compliance with flag State responsibilities under international law. The report is based on a desk review of selected studies, academic articles, and media reports documenting instances of human trafficking in the fisheries sector, supplemented by interviews with experts and stakeholders.

Most reports, however, examine forced labour and human trafficking in the fisheries sector of a particular region. Over the last decade there has been a focus on forced labour in the fisheries sector of the Greater Mekong sub-Region, with numerous studies, academic articles and media reports documenting this practice. Among the first of these was the ILO report on migrant workers in Thailand *The Mekong challenge: underpaid, overworked and overlooked* of 2006 (Pearson et al., 2006a). The report is based on a survey of migrant workers, employers and recruiters in four sectors (agriculture, fishing (on boats and in processing), manufacturing and domestic work) and places particular emphasis on examining the demand side of labour exploitation, that is, employers and recruiters engaged in labour exploitation. Chapter 3, Volume II, of the report is devoted to the fisheries sector and consists



of results from surveys and interviews with employers and migrants (Pearson et al., 2006b). It contains findings on, among others, general characteristics of migrants and employers; employers' attitudes and preferences regarding migrant workers; forms of labour exploitation experienced by migrants; and recruitment processes.

The United Nations Inter-Agency Project on Human Trafficking (UNIAP) has also been instrumental in documenting the vulnerability of migrant fishers to labour exploitation in the Thai fisheries sector. UNIAP regularly publishes Strategic Information Response Network (SIREN) case analyses from the Greater Mekong sub-Region. Two of these (UNIAP, 2009; UNIAP, 2007) concern the exploitation of Cambodian men on Thai fishing vessels. The 2007 SIREN case analysis documents the trafficking process of 10 men and one boy from Cambodia in stages of recruitment, transport, abusive labour practices on board a Thai fishing vessel, the return to port in Thailand and the eventual arrest and deportation of the fishers to Cambodia. The 2009 case analysis provides a report of the experiences of 49 Cambodian trafficking victims, assessed over an 18-month period, who escaped Thai fishing vessels. The focus is on recruitment, exploitation and post-escape experiences and it contains a number of recommendations pertaining to law enforcement and coordination, livelihood alternatives and trafficking prevention.

In 2009 the Solidarity Center published the report *Out of Sight, Out of Mind: Human Trafficking & Exploitation of Migrant Fishing Boat Workers in Thailand* (Brennan, 2009). The report is based on in-depth interviews with migrant workers who had worked on Thai fishing vessels operating out of the Thai port of Samut Sakhon. The study presents the main findings from the survey, focusing on issues of recruitment, working conditions and abuse at sea, opportunities to leave employment, payment practices and the extent of exploitation and human trafficking.

Moreover, in an article appearing in the *Asian Journal of Social Science* in 2010 entitled *Migrant Labour and the Politics of Immobilisation: Cambodian fishermen in Thailand* Derks analyses the abuse of Cambodian migrant fishers on Thai fishing vessels (Derks, 2010). In the article, Derks describes the mobility of migrant workers from Cambodia across borders, at sea and between boats. She argues (p. 930) that some of the harsh practices among Thai fishing vessel owners and senior crew are attempts to immobilise these workers in order to bind them to their employers. Derks maintains (p. 931) that migration policies,



provincial regulations, working conditions and payment modalities do not necessarily enslave or bond these workers in the classical sense (for example through contract or debt bondage), but that they nevertheless bind this essentially flexible and disposable labour force to Thai fishing vessels. Derks calls for a more nuanced view of labour abuses in the Thai fisheries sector and argues that concepts such as ‘force’ and ‘freedom’ of fishers must be seen in the context of the labour arrangement process and the fisheries sector in general.

In 2010 Human Rights Watch published a report entitled *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand*, which provides insight into human trafficking of migrant fishers from Burma and Laos into the Thai fishing industry through 82 interviews with migrant workers and relatives (HRW, 2010, pp. 60–61). The report highlights (pp. 76–77) the problem experienced with the Migrant Worker Registration System and the issuance of identification cards to protect fishers from arrest. The report moreover contains a number of recommendations to Thai government agencies, regional organizations, ILO and other States and donor organizations (pp. 93–100).

The abuse of fishers in Thai fisheries was also the topic of the 2011 International Organization of Migration (IOM) report *Trafficking of Fishermen in Thailand* (Robertson, 2011). The report considers recruitment, living and working conditions and abuse of fishers in the Thai fisheries sector, as well as the institutional and regulatory framework pertaining to human trafficking of fishers at both national (Thai) and international levels. The report is based on a desk review and interviews with fishers, interlocutors and informants. It also contains (pp. 29–34) a comprehensive list of recommendations, which cover areas such as data collection, recruitment, legal and regulatory reform, prevention, prosecution, protection and capacity development.

Abuse of fishers on board Thai fishing vessels is widely reported in the media. For instance, in the *Murder at sea* documentary, Al Jazeera described the fate of Burmese fishers escaping Thai fishing vessels and swimming ashore to the Indonesian island of Tual (Al Jazeera, 2008). In 2011, CNN, as part of the Freedom Project, aired a story about two Cambodian fishers that claimed to have been held captive on board a Thai trawler (CNN, 2011). Stories about labour abuse on board Thai fishing vessels also feature regularly in the printed press (de Coning, 2011).



A number of studies have focused on abusive, coercive and deceptive labour practices in the fisheries sector outside the Greater Mekong sub-Region:

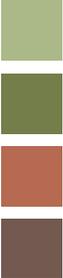
In 2006, IOM published a report describing an ‘oblast-specific’ form of trafficking of seafarers, including fishers, onto vessels using recruitment agencies in Kaliningrad Oblast based on cases reported in the media (Tyuryukanova, 2006, pp. 53–57).

In 2008, ITF issued a report entitled *Migrant Workers in the Scottish and Irish Fishing Industry*, which posed the question whether some of these practices constituted ‘forced or compulsory labour or just plain modern day slavery’ (ITF, 2008, p. 2). The report is a compilation of cases of abusive working conditions experienced by migrant fishers in the Scottish and Irish fisheries sector.

A case of trafficking of Ukrainian men into the fishing industry was analysed by Surtees in the 2008 IOM report *Trafficking of Men – A Trend Less Considered, The Case of Belarus and Ukraine* (p. 60). The report is based on IOM case files and examines, among others, the profiles of 33 victims of human trafficking aboard two Russian fishing vessels, their recruitment, transportation, transit and exploitation experiences, as well as issues relating to identification and assistance. The 2008 report is followed by a more focused study on human trafficking of Ukrainian seafarers (predominantly fishers) into Turkey, Russia and South Korea (Surtees, 2012). In the 2012 study Surtees examines the outcomes of two rounds of interviews with 46 seafarers, assisted by IOM or its NGO partners, between 2005 and 2010. The report provides in-depth insight into the background of the victims; the recruitment patterns (including issues such as the role of recruitment agencies, contracts and agreements, and recruitment fees); transportation to vessels and embarkation, exploitation and abuse at sea; opportunities for identification and escape; and rescue and assistance post-trafficking.

In 2010, the Environmental Justice Foundation (EJF) published a report on cases they had come across that amounted to human rights abuses on board fishing vessels off the coast of West Africa. The *All at sea* report provides, amongst others, photographic and documentary evidence of human rights abuses and labour exploitation on board a number of vessels of various nationalities engaged in illegal fishing operations within and outside the exclusive economic zone (EEZ)⁸ off West African

8 A maximum of 200 nautical miles from the baselines; Article 57 of the Law of the Sea Convention.



littoral States. The report also highlights the responsibility of flag States to exercise their jurisdiction over vessels on their register in accordance with international law and the failure of some flag States to adhere to their obligations (EJF, 2010, pp. 18–20).

New Zealand's regulatory responses to human rights abuses of foreign fishers in New Zealand are moreover examined by Devlin in a 2009 article appearing in the *Australian and New Zealand Maritime Law Journal*. The article was a response to the 2005 case of the *Sky 75* in which ten Indonesian fishers claimed that their wages of US\$200 per month had not been paid (Devlin, 2009, p. 82). In 2011, the problem of abuse of foreign fishers in New Zealand's fisheries sector was again highlighted in the working paper *Not in New Zealand's Waters, Surely? Labour and Human Rights Abuses aboard Foreign Fishing Vessels* by Stringer et al. This paper followed a number of cases that had resulted in loss of life, as well as allegations of human rights abuses in the New Zealand foreign chartered fishing vessel fleet (Stringer et al., 2011, p.3). The paper examines the role of institutions governing labour conditions in the global fisheries industry and contains an overview of labour and human rights abuses revealed during semi-structured interviews with some 144 fisheries industry representatives and foreign crew. It is anticipated that a further study will be released shortly, focusing on human trafficking into the fisheries sector through Singapore. Issues surrounding the use of foreign charter vessels, particularly allegations of mistreatment of crew and compliance with New Zealand's employment, fisheries and vessel safety laws, as well as the wider dynamics of the deep water fishing industry in New Zealand was also examined in the *Report from the Ministerial Inquiry into Foreign Charter Vessels in New Zealand* (Ministry of Agriculture and Forestry,⁹ New Zealand, 2012). The Inquiry issued a broad range of recommendations and determined that mistreatment had occurred on a small number of vessels.

Research into deceptive and coercive labour practices in the fisheries sector is not comprehensive or coordinated. Rather, a common denominator of most empirical research conducted on forced labour and human trafficking in the fisheries sector is that it is case driven or coincidental to broader research questions into, for instance, conditions of migrant labourers or criminal activities at sea. The literature is therefore fragmented and often anecdotal, providing little insight into the prevalence of forced labour and human trafficking in the fisheries sector. The uncoordinated and coincidental nature of current research may explain why the focus of

⁹ The Ministry of Agriculture and Forestry has since become the Ministry of Primary Industries



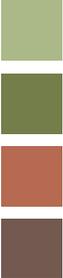
these reports is on identifying the victims, their experiences and, in a few instances, their abusers, but less attention (with notable exceptions) has been brought to this problem in the context of the global fishing industry. Hence, although the literature provides insight into the supply side of forced labour and human trafficking in the fisheries sector, there are still many unexplored issues pertaining to the demand side (cf. Stringer et al., 2011; Pearson et al., 2006ab). In particular, the current literature provides little insight into the marketplace for fish and the manner in which fisheries management and conservation regulations and trade in fish affects the vulnerability of the sector to forced labour and human trafficking.

Studies into the social consequences of the fish trade and fisheries management and conservation are found primarily in the context of fisheries crime or illegal, unreported and unregulated (IUU) fishing. Two contributions of note are contained in the 2004 Organisation for Economic Co-operation and Development (OECD) publication *Fish Piracy: Combating Illegal, Unreported and Unregulated Fishing*. In chapter 11 of this publication, Agnew and Barnes (2004) consider how the economics of IUU fishing impacts on social aspects such as the use of cheap migrant workers. Moreover, in chapter 13, Whitlow (2004) outlines the social dimensions of IUU fishing and provides examples of unfair contractual terms and abuse experienced by fishers on board vessels engaged in IUU fishing. The discussions of both chapters are conducted against the background of key drivers in the industry itself, in particular the competitive advantages achieved through cost-cutting measures that make migrant fishers vulnerable to exploitation. Similar analyses from the licit fisheries sector are lacking, however.

1.2.2. What is known about victims and perpetrators?

It is recognized that most fishing operations provide acceptable, often good, conditions for fishers, and that there are recruitment and placement services operating in a legitimate and non-abusive manner. However, there is evidence that some fishing vessel operators and recruitment agencies are engaged in practices that are abusive and quite often fall into the categories of forced labour and trafficking. These practices, described below, not only violate the fundamental principles and rights at work of fishers, but also damage the reputation of the fisheries sector as a whole and, through their practices, undermine those in the sector competing through legal, fair and morally acceptable means.

The common theme of the literature reviewed in this study is that it describes instances of labour exploitation and human rights abuses that



could constitute forced labour or human trafficking for the purpose of forced labour. The sources are not always clear as to whether the described practice meets the legal definitions of forced labour or human trafficking found in international legal instruments (see further Appendix I). The vagueness surrounding the identification of victims and perpetrators appears to reflect a more widespread problem of uncertainty regarding the definitions of these terms and the conditions that must be satisfied in order to identify victims and perpetrators of forced labour and human trafficking.

This desk review solves this dilemma by regarding the sources as describing instances of coercive and deceptive labour practices. Coercive and deceptive labour practices may amount to forced labour and human trafficking and are therefore taken as indicators that forced labour and human trafficking have occurred. It is important to keep in mind that this is a simplification for the purposes of the desk review and does not necessarily reflect an opinion on the facts of the cases discussed in the literature.

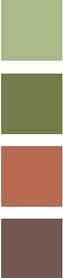
By far the most studied occurrence of forced labour and human trafficking in the fisheries sector is that which takes place in the Greater Mekong sub-Region and in particular the Thai fisheries sector (CNN, 2011; de Coning; 2011; Robertson, 2011; Derks, 2010; HRW, 2010; Brennan, 2009; Al Jazeera, 2008; UNIAP, 2007, 2009; Pearson et al., 2006ab). The ILO, in collaboration with tripartite constituents and stakeholders, is currently addressing the problem of forced labour in the region through the Tripartite Action to Protect Migrants within and from the Greater Mekong Sub-region from Labour Exploitation (the TRIANGLE Project). This does not mean that the Greater Mekong sub-Region is the only area that is vulnerable to this form of forced labour and human trafficking, or even the most vulnerable. The number of studies over the last few years into deceptive and coercive labour practices in other countries and regions, such as New Zealand (Stringer et al., 2011; Devlin, 2009); Russia, Turkey, and South Korea (Surtees, 2012, 2008; Tyuryukanova, 2006); Ireland and Scotland (ITF, 2008) and West Africa (EJF, 2010), indicates that forced labour and human trafficking in the fisheries sector is an underground and underexplored problem in many parts of the world and that further research may reveal the vulnerability of the fisheries sectors to these forms of coercive and deceptive labour practices in other regions. The UNODC report noted that “instances of human trafficking in the fishing industry are reported to take place in most major regions of the world” and that “it is likely that human

trafficking for the purpose of forced labour on board fishing vessels is underreported” (de Coning, 2011, pp. 56–57).

Descriptions of migration and trafficking flows into marine activities, as opposed to terrestrial ones, can cause some conceptual challenges. Migration and trafficking flows are often described in terms of ‘source’, ‘transit’ and ‘destination’ countries. There is no uniform understanding of the terms ‘transit’ and ‘destination’ countries in cases of sea-based activities. It is as yet unclear whether these terms should reflect for instance the geographical location of the vessel, States with close links to the vessel, or the jurisdictional capacity of States (in particular flag States). It is anticipated that future research into migration and trafficking flows at sea will have to develop a common frame of reference to ensure compatible data (de Coning, 2011).

Fishers are perceived to be particularly vulnerable to deceptive and coercive employment practices for a number of reasons. Fishing vessels, especially in the long-distance fishing fleet, can stay in remote areas of the sea for several years at a time, and tranship fuel, stores, crew and fish at sea (Robertson, 2011; Coning, 2011; EJF, 2010). Fishers aboard these vessels will find it difficult to report abuse, injuries, and deaths and seek assistance for their own protection. Also, relatively few fishers are members of trade unions. In some fisheries written employment contracts are also scarce (Robertson, 2011). Fishers are frequently asked to surrender their identity documents to the master of the vessel while on board and their movements in foreign ports may be restricted (e.g., Surtees, 2012; Robertson, 2011; Derks, 2010; ITF, 2008; Pearson et al, 2006ab). The ability of family and friends to communicate with the fisher while at sea is subject to the availability of and access to cell phones or other communication equipment aboard. The tracing of a particular vessel will depend, among others, on the extent to which the fishing vessel releases radio or satellite signals (Surtees, 2012). An additional factor contributing to fishers’ vulnerability is the irregularity of pay and lack of transparency around pay. Also, by paying workers with a share of the catch, it incentivizes them to work excessive hours. The transnational nature of fishing operations taking place across multiple maritime zones means that fishers must often rely on the protection of the State in which the vessel is registered (EJF, 2010; ITF, 2006) (see further section 2.1., below). Some of these registries are established in States that are unable or unwilling to adequately protect fishers and thus leaving them in a vulnerable position.





As mentioned earlier, fishing vessels are increasingly operated with crew from diverse countries who speak different languages. Migrants can be unskilled and sometimes illiterate labourers from low-income regions occupying junior positions as deckhands. Rigid lines of authority and lack of communication between senior and junior crew can fuel conflict and abuse on board fishing vessels (de Coning, 2011; Derks, 2010). Moreover, the recruitment process in which migrant labourers are sourced by recruitment agencies in one jurisdiction and employed by fishing operators in another, means that fishers can easily be deceived by these agencies or by fishing operators when embarking the fishing vessel and can be coerced into accepting employment contracts or agreements on lesser terms than initially discussed (e.g., Surtees, 2012, 2008; Stringer et al., 2011; EJF, 2010; ITF, 2008). Many migrant workers also lack proper documentation, which places them at risk of detention and deportation to their country of origin, and prevents victims of abuse from seeking assistance and protection from governmental officials (Robertson, 2011).

Fishers on board vessels engaged in fisheries crimes are particularly vulnerable to abuse (de Coning, 2011; EJF, 2010; High Seas Task Force, 2006; Gianni and Simpson, 2005; Whitlow, 2004). Such vessels engaged are often substandard, owing to the possibility that the vessel may be detained or seized (Whitlow, 2004). Nor will these vessels have a government-appointed scientific observer that could otherwise have served as a neutral third party presence aboard (see section 2.2.3., below). Fishers on board these vessels are less likely to know who their employers are, as fishing operators engaged in transnational organized fisheries crimes will try to hide their identity behind shell companies and secrecy jurisdictions (EJF, 2012; Gianni and Simpson, 2005). These operators frequently register their vessels in States that are unable or unwilling to adhere to internationally accepted safety and labour standards and exercise their law enforcement jurisdiction over the vessel (Österblom et al., 2010) (see further section 2.2., below). Fishers are also vulnerable to sanctions by coastal States for their participation in illegal fishing activities, as often it is the vessel, and not the fishing operator, that is targeted by fisheries law enforcement agencies (EJF, 2010).

The literature emphasizes the vulnerability of migrant workers to deceptive and coercive labour practices in the fisheries sector (e.g. Robertson, 2011; Stringer et al., 2011; Derks, 2010; EJF, 2010; UNIAP, 2009, 2007) vis-à-vis other sectors (Olivie, 2008; Pearson et al., 2006ab;



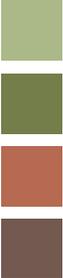
Wille, 2001). This is explained by reference to factors such as poverty, inexperience, and naivety of some migrant workers (Brennan, 2009), which makes them vulnerable to exploitation by some fishing operators, brokers and recruitment agencies. Derks (2010) also makes the argument that the mobility of migrant workers, that is, their ability to move between employers, is met with a systemic immobilisation effort and that some of the coercive and deceptive labour practices experienced in the Thai fisheries sector must be seen in the context of an otherwise highly mobile workforce.

The vast majority of reported victims of deceptive and coercive labour practices in the sea-based fisheries sector are male.¹⁰ This does not exclude the possibility that women could also be recruited for forced labour or human trafficking on board fishing vessels. Yet the sources reviewed seem to suggest that this would be rare. Work aboard fishing vessels is labour intensive and physically straining. The physical capability of the workforce is therefore a decisive consideration in the recruitment process (Pearson et al., 2006b, pp. 150–155). The few reports of women or girls being subject to forced labour and human trafficking on board fishing vessels are in the context of sexual exploitation (de Coning, 2011) or child labour (Zdunnek et al., 2008). Women are also reported as victims of forced labour and human trafficking into the land-based fish processing sector (Solidarity Center, 2008).

Because most reported victims of forced labour and human trafficking on board fishing vessels are male, this is an important consideration for institutional responses. In the IOM report *Trafficking of men* – a trend less considered Surtees points out that the men who were surveyed did not view themselves as ‘victims’ of abuse. This would mean that they are less likely to report abuse or make use of victim assistance services (p. 91):

In some cases, men may not see themselves as either trafficked or exploited. Far too commonly, exploitation is a normative aspect of migrant labour and many migrant workers may see their trafficking as bad luck rather than a serious human rights violation. This lack of awareness of their own exploitation has a direct and serious impact in terms of decisions about identification and assistance. In essence, one will not accept or seek out intervention when one does not recognise that one has been exploited.

¹⁰ Globally more men (69%) than women (40%) are victims of labour exploitation in the private economy (ILO, 2012, p. 14).



The literature (Mathew, 2010; Zdunnek et al., 2008; Wille, 2001) indicates that the use of children for forced labour or human trafficking in the fisheries sector is probably not uncommon. This seems particularly to refer to boys in their mid to late teens when they are hired as deckhands aboard fishing vessels (Wille, 2001). Forced labour of children is among the ‘worst forms of child labour’, according to ILO’s Worst Forms of Child Labour Convention, 1999 (No. 182) (Article 3(a)).

Children are also employed in artisanal fisheries, such as African inland fisheries (Zdunnek et al., 2008), and elsewhere (Mathew, 2010; Cruz and Ratana, 2007). For example, cases of children being trafficked from their home villages and traded as commodities for monetary benefits through middlemen to faraway destinations unknown to both parents and the children to work as fishers are reported from Ghana (Sossou and Yogtiba, 2009).

Abuses in the recruitment of fishers

Abuses in the recruitment process are relatively well documented in the literature. Although the practice differs from region to region, a common theme is the use of brokers and recruitment agencies (Surtees, 2012; Robertson, 2011; Derks, 2010; Brennan, 2009; UNIAP, 2009, 2007). The brokers locate fishers in their home villages, along migrant smuggling trajectories and in ports. Sometimes brokers charge a fee to be paid against future earnings, which could become a cause of debt bondage (Derks, 2010; Brennan, 2009; ITF, 2008). Victims may also be transferred from one broker to another, and their debt could be augmented in the process (UNIAP, 2009). Brokers source fishers for recruitment agencies or fishing vessels directly (de Coning, 2011). The poor reputation of some segments of the fisheries sector has led brokers to deceive, drug or abduct fishers to crew fishing vessels (Robertson, 2011, de Coning, 2011; Derks, 2010; Brennan, 2009). Migrant fishers report that they are not aware that they will be working on fishing vessels until they find themselves in the harbour (Robertson, 2011).

Fishers may have to transit to a foreign port to meet a vessel. Recruitment agencies will facilitate employment contracts, travel arrangements and visa requirements on behalf of fishing operators. There is some uncertainty regarding the identity of the actual employer in cases when an employment contract has been entered into with a manning agent and not the vessel owner, operator or manager (ILO, 2010b).



There is a close relationship between migrant smuggling and human trafficking in the recruitment process (see further Appendix I). In some cases, brokers and recruitment agencies may facilitate illegal cross-border transfers of migrants, which may result in human trafficking for the purpose of forced labour. There are also anecdotal reports about the involvement of organised migrant smuggling networks such as the Chinese snakeheads in trafficking migrant workers into the fisheries sector (Treverton et al., 2011).

Abuses on board vessels

The literature provides comprehensive descriptions of how many fishers are exploited on board fishing vessels. What stands out is the severity of abuse, even when compared to forced labour in other sectors or other forms of human trafficking (Olivie, 2008; Pearson et al., 2006a; Wille, 2001). As noted above, the literature reviewed for this desk review is generally case driven. It is therefore possible that the authors describe the more severe instances of exploitation and their accounts may not necessarily be representative of the average exploitation experience.

Fishers are primarily exploited for their labour. Capture fishing is labour intensive, hazardous, hard and difficult (Derks, 2010). Intensive periods of hard work take place when fishing grounds are reached. Fishers have been forced to work for 18–20 hours a day, 7 days a week, in adverse weather conditions while operating hazardous machinery (Robertson, 2011; EJF, 2010; Brennan, 2009). Fishers may not rest for days when fishing grounds are reached (Stringer et al., 2011). Accommodation can be inadequate, with reports of cramped living quarters without proper mattresses, blankets, ventilation and noise reduction (Stringer et al., 2011; Robertson, 2011; EJF, 2010; Brennan, 2009). Hygienic standards are poor. Vessels may not have toilets and ablution facilities and fishers are required to wash on deck in salt water (Stringer et al., 2011; EJF, 2010; Devlin, 2009). In some instances food is scarce, and fishers have had to survive on fish bait and rice (Stringer et al., 2011) or rotten meat and vegetables (Devlin, 2009). Fresh water is also rationed (Stringer et al., 2011; Surtees, 2008).

It is a common complaint among fishers subject to abuse that they suffer from exposure injuries from seawater and the sun owing to the lack or an inadequate supply of protective clothing (Surtees 2012; Stringer et al., 2011). Prolonged exposure to seawater may cause rashes and other skin ailments and also more severe medical conditions in



colder climates (Surtees, 2012). Particularly inexperienced fishers often suffer seasickness (Derks, 2010). The literature reveals that fishers frequently complain that medical care is lacking and that masters will not return the vessel to shore to seek medical care for fishers (Surtees, 2012; Stringer et al., 2011; Devlin, 2009; Brennan, 2009). At the ILO's Tripartite Meeting on Safety and Health in the Fishing Industry it was noted that the fisheries sector has one of the highest fatality rates of the employment sectors (ILO, 1999). Sleep deprivation, illness and malnourishment make fishers accident prone and there are reports that fishers are drugged to keep working, despite fatigue (Stringer et al, 2011; Derks, 2010).

There are a number of reports of severe physical and psychological harm and even deaths (Stringer et al., 2011; Robertson, 2011; Brennan, 2009). In addition, novice fishers are unskilled and lack the requisite training (Derks, 2010). The authority of the master and senior crew is enforced with violence, physical and psychological abuse and intimidation (e.g., Surtees, 2012; Stringer et al., 2011; Robertson, 2011). Migrant workers may find it hard to understand senior crew if they do not speak the same language, and may be abused as a result. Fishers report that they have witnessed colleagues being beaten who subsequently suffered permanent injury. In extreme cases, fishers have been murdered and the bodies disposed of at sea (Robertson, 2011; Brennan, 2009). The lack of oversight into the number of fishers on board vessels means that loss of life at sea may take place without repercussions. The following excerpt from the 2011 IOM report *Trafficking of fishermen in Thailand* provides an interesting example of how Myanmar has sought to prevent injury and deaths of fishers at sea (Robertson, 2011, pp. 28–29):

During the course of the research, an important exception to the abusive, and sometimes deadly, labour management practices was identified on Thai fishing boats operating in Myanmar territorial waters under the terms of a fishing concession from the Government of Myanmar to the Government of Thailand. In Myanmar, the SPDC Navy requires that all crew on fishing boats (with the exception of the captain and his top officers) be Myanmar nationals with a Myanmar identification card. To ensure this, the Myanmar Navy inspects Thai fishing boats in Kawthaung before allowing them to fish in Myanmar territorial waters. An inspection of the workers is carried out and a crew list compiled.

Upon leaving Myanmar territorial waters, the boat is required to return to Kawthaung for inspection. If any injuries or disappearances

of crew members are identified at this inspection, the captain is liable to significant fines.

A missing crew member, for example, is a 70,000 baht fine, payable to the Myanmar authorities, ostensibly to help the family of the deceased man. Fishing captains based in Ranong say the boat owners force the captain to pay any such fines out his own pocket. By placing such a premium on each of the crew members, the Government of Myanmar has made the fishermen too expensive to wantonly injure or kill, thereby serving to protect them from abuse.

Wages are as low as US\$200 per month or less (EJF, 2010; Devlin, 2009; Brennan, 2009). Some fishers will be paid the equivalent of a percentage of the catch or on completion of the contractual period ('the share system'), which could be years (Derks, 2010; Brennan, 2009). Fishers that leave employment before this time will forfeit their wages. Some contracts require fishers to pay for 'extras' such as cigarettes and food aboard the vessel, as well as the costs of meeting the vessel in port and repatriation, which will be deducted against future earnings (Stringer et al., 2011; EJF, 2010). There are also numerous reports of fishers who are not paid as agreed or not paid for overtime (HRW, 2010; Devlin, 2009). Some fishers therefore leave their service indebted and are forced to take employment on another fishing vessel (Surtees, 2012).

At sea, fishers are unable to leave the vessel and are held captive until the vessel reaches port or interacts with another vessel at sea (Brennan, 2009). There are also reports of fishers that jump ship in the vicinity of land and swim ashore (Brennan, 2009; Al Jazeera, 2008). In extreme cases, fishers are locked in their cabins or in storage rooms in port to prevent them from escaping before the vessel returns to sea.

Identification of the perpetrators differs in the contexts of forced labour and human trafficking. In cases of forced labour the employer is the perpetrator. In cases of human trafficking the perpetrators are any person involved in the 'recruitment, transportation, transfer, harbouring or receipt' of persons for the purpose of human trafficking, including brokers, recruitment agencies, corrupt border or port officials, migrant smugglers, senior crew on board vessels and the fishing operator deriving profit from the exploitation.

Least is known about the profit-deriving fishing operator (de Coning, 2011). A notable exception is the *Not in New Zealand's waters* paper. In





this paper, Stringer et al. 2011, place the New Zealand fisheries sector within the framework of a global production network and value chain (p. 6):

Within the fishing industry, companies are increasingly hiring migrant labour from under-developed and developing countries which provide a ready stream of cheap labour (Bloor and Sampson, 2009). Undeniably, a key driver of the globalised fishing industry is the price of the labour itself (Morris, 2002). "Ship-owners consider cost savings on crews from developing countries to be a legitimate lever in achieving competitive rates" (ITF, 2006, 24). While labour standards in many countries may be comprehensively regulated within the physical borders of a nation-State, issues of regulation for a global industry, such as the fishing industry is problematic as labour outsourcing allows companies to evade national labour agreements (Bloor and Sampson, 2009; Dicken, 2007; Sampson and Bloor, 2007).

More needs to be known about the business entities and the marketplace for fish caught by victims of forced labour and human trafficking (see also section 1.2.1., above). Relevant questions may include the extent to which cost savings stemming from the use of forced labour and human trafficking and substandard vessels influence the prices of fish; and how these potential cost savings affect the competitiveness of the legitimate industry.



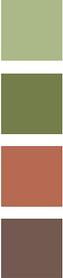
2. Tackling forced labour and human trafficking in the fisheries sector: legal and institutional frameworks and multistakeholder initiatives

2.1. Preliminary note on regulating sea-borne activities

Activities at sea can be reclusive and hard to monitor. The worlds' oceans are subject to a different jurisdictional regime from land. The jurisdictional regime applicable to sea-based activities is the starting point for all interventions at sea and is therefore an important consideration when discussing measures to prevent and combat forced labour and human trafficking in the fisheries sector.

The United Nations Convention on the Law of the Sea, 1994 (UNCLOS) governs State jurisdiction over vessels and activities at sea. The basic regime set up by UNCLOS divides the worlds' oceans into maritime zones in which coastal States' jurisdiction over vessels and activities in coastal near regions are gradually abandoned to the State in which a vessel is registered,¹¹ known as a 'flag State', as the vessel moves out into waters beyond national jurisdiction (mostly consisting of the 'high seas'). Importantly UNCLOS confers primary jurisdiction over fishing vessels to the flag State (Articles 92 and 94 of UNCLOS). This means that the flag State bears primary responsibility for regulating vessel activities and enforcing its laws on board fishing vessels at sea. Jurisdiction over registered vessels is never abandoned on the high seas: the responsibility remains with the flag State.

¹¹ The general rule is that States are free to set the conditions for the registration of vessels on their vessel register (Article 91 of UNCLOS). Once registered, the vessel is entitled to fly the flag of the registering State and will take its nationality. Article 91 of UNCLOS moreover provides that there 'must exist a genuine link between the State and the ship', but States' interpretation of what this entails differ greatly, with some States allowing registration of vessels with only minimal connection to the flag States, such as allowing the registration of shell companies as registered owners of vessels. An attempt to rectify this lack of consistency was attempted with the establishment of the United Nations Convention on Conditions for Registration of Ships of 7 February 1986, but the Convention never received sufficient ratifications to be brought into force.



In addition, a coastal State may regulate and control fishing vessels and their activities when the vessel is in its territorial sea (within 12 nautical miles of the baselines along its coast) or, in relation to fishing activities, in its EEZ (a maximum of 200 nautical miles from the baselines). Moreover, foreign States may board and inspect vessels on the High Seas in a few defined instances, including on reasonable suspicion that a vessel is 'engaged in the slave trade' (Article 110(1)(b) of UNCLOS). UNCLOS also provides (perhaps redundantly) 'that any slave on board any ship, whatever its flag, shall *ipso facto* be free' (Article 99).

Flag State responsibility means among others that flag States must exercise their jurisdiction over social matters on board vessels on their register (Article 94(1) of UNCLOS). Moreover, States have signed up to a number of international agreements to promote and respect human rights, eliminate forced labour and child labour and prevent and combat human trafficking and transnational organized crime. These obligations extend to vessels flying their flag and the persons on board them.

Unfortunately, some flag States are unwilling or unable to meet their obligations under international law. Many are not members of international legal frameworks established to protect fishers at sea. In addition, some flag States, known as 'open registers' (Swan, 2003), allow fishing operators to register vessels owned by shell companies, which facilitates anonymous ownership of vessels (OECD, 2003, 2004). Typically these commercial international registers are established as corporate entities and operate with nominal connection with the flag State. UNODC has noted concerns about allegations of corruption in the establishment of some of these commercial international registers (de Coning, 2011). The flag State, however, does remain responsible under international law for the vessel, sometimes to the exclusion of other States. The result is that some States have amassed large fleets over which they do not have the capacity to effectively exercise their flag State responsibility. Criminal activities and abuse on board these vessels may therefore be undetected or unaddressed. Fishing operators that wish to engage in deceptive and coercive labour practices and other criminal activities, such as fisheries crime, money laundering and illicit traffic in drugs may make use of the secrecy, lower standards, and lax law enforcement that registration in some of these international commercial registries entails.



The widespread use of international commercial registries in flag States that are unable or unwilling to exercise their international responsibilities has led to the creation of an alternative form of control and law enforcement through the use of port State jurisdiction (Oya Özçayır, 2004). Ports and harbours are situated within the internal waters of the coastal State (referred to in this context as the 'port State') and thus within their territorial jurisdiction. This means that the port State can require vessels that arrive in port to satisfy its rules and regulations. However, port States are generally disinclined to interfere in the 'internal economy' of the vessel (Churchill and Lowe, 1999). Yet, some internationally accepted minimum labour standards are now enforced through port State control (PSC) regimes. The adoption of the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), and, more recently, the Maritime Labour Convention, 2006 (which enters into force for ratifying States in August 2013), has led to increased focus on working conditions on merchant ships.

PSC has become an effective tool to ensure compliance with international safety regulations and labour standards in merchant shipping and is carried out through a regionally coordinated regime by means of a number of Memoranda of Understanding (MOUs).¹² These MOUs enforce a uniform system of PSC throughout the membership region, and the members of the MOUs share information, set inspection targets, and cooperate on enforcement. Unfortunately, fishing vessels are not included in these regional MOU arrangements. And, whereas some port States do conduct unilateral PSC of fishing vessels, this is mostly uncoordinated among port States. Unseaworthy fishing vessels or fishing vessels engaged in illegal activities often make use of or move to ports with lax control and law enforcement regimes (the problem of 'displacement'). The availability of these ports undermines other States' unilateral attempts to inspect and control fishing vessels and will remain a problem in the absence of regional agreements that prevent vessels from opting for more favourable ports. It must, however, be added that long-distance fishing vessels often transship their catch and are supplied and bunkered at sea and therefore, unlike merchant vessels, they need only occasionally arrive in port. Finally, it is important to keep in mind when examining criminal activities at sea that all States have jurisdiction over their nationals for crimes they commit or are complicit in wherever they occur (Lowe and Staker, 2010). It is, after all,

¹² About nine regional PSC MOUs have been established around the world, of which the two most active are the Paris and Tokyo MOUs. Paris MOU has 27 member States in Europe (including Russia) and North America (Canada). Tokyo MOU has 18 member States (Pacific seaboard States) and four States with observer status.



persons (including companies) – and not vessels – that commit crimes. States can criminalize and prosecute their own nationals’ involvement in illegal activities on board foreign vessels in any maritime zone.

2.2. International legal and institutional frameworks

2.2.1. Labour standards

The relationship between employer and employees is addressed in international legal instruments. The ILO has two fundamental Conventions on forced labour, adopted in 1930 and 1957 respectively. Under the first Forced Labour Convention (No. 29), members undertake to suppress the use of forced labour in all its forms within the shortest possible period. At the time it was adopted, particular concerns were the exaction of forced and compulsory labour from native populations during the colonial period. The ILO’s Abolition of Forced Labour Convention (No. 105) was adopted at the height of the cold war, and lays its emphasis on the immediate abolition of forced labour exacted by the State for economic or political purposes. Conventions Nos. 29 and 105 are among ILO’s most ratified conventions.¹³ Moreover, Article 3(a) of ILO’s Worst Forms of Child Labour Convention, 1999 (No. 182), provides that all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour are regarded as the ‘worst forms of child labour’. Convention No. 182 came into force in 2000 and has 175 ratifications to date.

The International Labour Conference is instrumental in the creation of international labour standards through a tripartite consultation with governments, employers’ and workers’ organizations. In 1998 the International Labour Conference adopted the Declaration on Fundamental Principles and Rights at Work and its Follow-up. The Declaration provides that the elimination of forced labour is among the four¹⁴ core labour standards that all ILO member States, including flag and port States, must respect, promote, and realize, even if relevant conventions have not been ratified (Clause 2(b)). The Declaration makes it clear that these rights are universal, and that they apply to all workers in all States - regardless of the level of economic development. It particularly mentions groups with special needs, including the unemployed and migrant workers.

¹³ 177 ratifications for C. 29 and 174 for C. 105

¹⁴ Other fundamental principles and rights at work are the freedom of association and the effective recognition of the right to collective bargaining, the effective abolition of child labour and the elimination of discrimination in respect of employment and occupation.



In recent years, the persistent use of forced labour has been the subject of growing international attention, with particular reference to human trafficking. The relationship between ‘forced labour’ and ‘human trafficking’ is canvassed in Appendix I. Human trafficking is defined by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Trafficking in Persons Protocol) which is a supplement to the United Nations Convention against Transnational Organized Crime (UNTOC). The Protocol is widely ratified with 147 member States, who undertake to criminalize human trafficking (Article 5) and establish policies, programmes and other measures to prevent and combat human trafficking and protect and assist trafficking victims (Article 9(1)). UNODC is the guardian of UNTOC and the Protocol. ILO and UNODC, together with a number of other inter-governmental and UN agencies,¹⁵ cooperate on combating human trafficking through the Inter-agency Coordination Group against Trafficking in Persons (ICAT).¹⁶

In addition to the fundamental labour conventions, there are other ILO standards that ensure, among others, that policy makers can regulate, implement and inspect work-place conditions while retaining the competitiveness of local industry. A well-regulated sector provides opportunity for control and inspection and increases the chances that irregular activities and abusive practices are identified and reported, investigated, prosecuted and penalized. A well-regulated sector can also level the playing field and thereby give the industry an incentive to comply with the law and retailers and consumers the possibility of influencing their purchasing patterns (see voluntary multistakeholder initiatives in section 2.3., below).

ILO has identified that work on board fishing vessels is in need of sector-specific international regulation (ILO, 2007). For a long period the fisheries sector was regulated by sector-specific labour standards in a number of binding and non-binding ILO legal instruments. In 2007 the International Labour Conference therefore adopted the Work in Fishing Convention (No. 188), which revises several existing ILO fisheries-related labour Conventions.¹⁷ Convention No. 188 is supplemented by the Work in Fishing Recommendation, 2007 (No. 199).

¹⁵ The UN Children’s Fund (UNICEF), the Office of the High Commissioner for Human Rights (OHCHR), the International Organization for Migration (IOM) and the Organization for Security and Co-operation in Europe (OSCE).

¹⁶ Established in 2006 by ECOSOC Resolution 2006/27 of 27 July 2006; see <http://www.unodc.org/unodc/en/human-trafficking/2010/inter-agency-coordination-group-against-trafficking-in-persons-icat.html>.

¹⁷ Minimum Age (Fishermen) Convention, 1959 (No. 112); Medical Examination (Fishermen) Convention, 1959 (No. 113); Fishermen’s Articles of Agreement Convention, 1959 (No. 114); Fishermen’s



Convention No. 188 contains a number of important provisions that, once in force and widely ratified, could significantly improve working and living conditions of fishers and help prevent and combat the worst forms of labour exploitation experienced by victims of forced labour and human trafficking on board fishing vessels (see Table 1). The Convention already guides States to regulate their fisheries sectors in order to prevent labour abuse. States that have committed to the elimination of forced labour and human trafficking in the fisheries sector should, at a minimum, implement core provisions of the Convention, such as requirements for crew lists (Article 15), minimum age (Article 9), written work agreements (Articles 16–20) and medical examination (Article 10), even if the Convention is not yet in force. Progress towards ratification has been slow. However, in May 2012, representatives of the European Union's employers' and trade unions in the sea fisheries sector signed an agreement, which is an important step towards implementing Convention No. 188 at EU level. In addition, labour standards on board other ships (including such vessels as dedicated fish carriers) will be regulated by the Maritime Labour Convention, 2006 (MLC), which as noted above, will enter into force in August 2013.

Competency Certificates Convention, 1966 (No. 125); Accommodation of Crews (Fishermen) Convention, 1966 (No. 126); Hours of Work (Fishing) Recommendation, 1920 (No. 7); and Vocational Training (Fishermen) Recommendation, 1966 (No. 126).

TABLE 1

Examples of how Convention No. 188 will help prevent such exploitation	
Forms of exploitation	Recruitment services and agencies may not charge the fisher for their services or blacklist fishers (Article 22(1)-(3)). Private services agencies must be certified or licensed or otherwise regulated. If private employment agencies are used, they must be regulated. (See also the ILO Private Employment Agencies Convention, 1977 (No. 181)).
Exploitative recruitment practices involving coercion and deception, and recruitment fees, which may lead to debt bondage	Fishers must have a written work agreement signed by both parties and in conformity with C.188 and Annex II, a copy of which must be made available to the fisher and to other concerned parties (Articles 16-20). It is the fishing vessel operator's responsibility to ensure that fishers have the required work agreement (Article 20). The agreement is to set out certain specified particulars that cover information on the fisher, fishing vessel owners, method of payment, etc.
Lack of (written) employment contracts and changes in contractual terms	Fishers that are paid a wage (not a 'share of the catch') must be paid monthly or regularly (Article 23). Fishers must be provided a means to transmit payments (wages and shares) to their families at no cost (Article 24). Fishers must have a written work agreement (see above). Food and water shall be provided by the fishing vessel owner at no cost to the fisher (unless there is a collective agreement to the contrary), and cannot be deducted from the fisher's payment (Article 27(c)). See also Paragraphs 14-15 of Recommendation No. 199.
Non- or under-payment of fishers	Fishers shall be entitled, subject to the conditions set by the member State or the serious default of the fisher's work agreement obligations, to repatriation at the fishing vessel owner's cost or, if the owner fails to pay, the flag State (Article 21).
Abandonment in port	Fishing vessels must carry a crew list and a copy of the crew list shall be provided to an authorized person ashore and communicated to the harbour authorities at departure (Article 15). See also IMO Convention on the Facilitation of Maritime Traffic, 1965 (FAL).
Loss of life at sea	





Examples of how Convention No. 188 will help prevent such exploitation	
Forms of exploitation	
Excessive working hours, fatigue, and lack of rest	Fishing vessels must be safely and competently manned and fishers must be given regular periods of rest to ensure safety and health (Article 13). Fishers on board vessels at sea for more than three days must, with exception, be provided a minimum of ten hours of rest in a day or 77 hours in a seven-day period (Article 14).
Inadequate and intolerable accommodation and ablution facilities, malnourishment, and lack of uncontaminated food and fresh water	New fishing vessels and, if reasonable and practicable, existing vessels, shall be fitted according to Annex III of C.188. The Annex requires that accommodation has amongst others adequate headroom, does not have direct openings to fish rooms or machine rooms, is adequately insulated, has emergency escapes, is exposed to limited noise and vibration, is ventilated, adequately heated and air-conditioned, has adequate lighting (if possible, with natural light) and is located in an area with limited motion and acceleration. No more than six persons should sleep in the same room, and the sleeping rooms of larger vessels should have between 1, 5 and 2 square meter floor areas for each fisher. Larger vessels must have a mess room with a refrigerator and facilities to make hot and cold drinks to be available to fishers at all times. Cooking equipment shall be provided on board and larger vessels shall have a separate galley, which must be well lit and ventilated and properly equipped and maintained. Vessels must have sufficient toilets, washbasins and tubs and showers for all crew on board and they must meet minimum standards of health and hygiene. Fishers must have access to both cold and hot fresh water. Food and potable water must be sufficient for the duration and nature of the voyage and have suitable nutritional value. See also Paragraphs 16-34 of Recommendation No 199, (FAO/ILO/IMO) Code of Safety for Fishermen and Fishing Vessels, and the (FAO/ILO/IMO) Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels.

Forms of exploitation

Examples of how Convention No. 188 will help prevent such exploitation

Work related injuries, illnesses, and lack of medical care

Fishing vessels must carry appropriate medical equipment and supplies and have radio or satellite communication equipment on board to access medical advice (Article 29(a) and (d)). Fishers have a right to medical treatment ashore and to be taken ashore in a timely manner for treatment of serious injury or illness (Article 29(e)). Fishers on board larger vessels shall, if consistent with national law and practice, be provided with free medical care on board the vessel and whilst in foreign port (Article 30(f)). Fishers shall be trained in handling the vessel's gear (Article 31(b)), and fishers on board larger vessels shall be provided appropriate personal protective clothing and equipment, receive safety training, and be reasonable familiarized with equipment and the methods of operation (Article 32(3)). Fishers must have a valid medical certificate attesting to their fitness to perform their duty before taking on work on board a fishing vessel (Article 10(1)).

Use of child labour

The minimum age of fishers is 16 years, but could be 15 years if the child is no longer subject to compulsory schooling and is engaged in vocational training to become a fisher (Article 9(1)). Fishers less than 18 years of age shall not (with exceptions) work at night (Article 9(6)). Activities that are likely to jeopardize the health, safety or morals of young persons shall not be undertaken by persons under the age of 18 (Article 9(3)). This provision reflects Article 3(1) of ILO's Minimum Age Convention, 1973 (No. 138). ILO in cooperation with FAO (2012) has issued guidance for addressing child labour in fisheries and aquaculture. The guidance stresses the need to work with communities to address child labour in the informal sector. It also provides an action framework to combat child labour in the fisheries sector through prevention strategies (poverty alleviation, education, consumer awareness, corporate social responsibility, and technological improvements), extraction and rehabilitation and protection and safety measures for children in employable ages.

Inability to alert family or friends of abuse

Annex III provides that all fishers shall have reasonable access to communication facilities, to the extent practicable, and at a reasonable cost not exceeding the full cost to the fishing vessel owner. Annex III applies to new vessels and, when reasonable and practicable, existing vessels.





Regulation is not effective without compliance. An important aspect of Convention No. 188 is its allocation of responsibility for safety aboard the vessel and enforcement and compliance. A clear allocation of responsibility for activities aboard vessels may assist in the identification of perpetrators of forced labour and human trafficking offences. Article 8 of Convention No. 188 provides that the fishing vessel owner (fishing operator) has the overall responsibility to ensure that the skipper has the necessary resources and facilities to comply with the provisions of the Convention. Issues such as salaries, food and medical supplies and maintenance and construction of vessels are likely to be influenced by the fishing operator. Whereas exploitation of fishers would normally be metered out by senior crew, senior crew aboard fishing vessels may not be the only or true profiteers and are possibly also victims of their circumstances (de Coning, 2011). Fishing operators are also likely to gain profit from the criminal activity and may be in a better position than senior crew to influence and put an end to abusive practices. Fishing operators' participation in forced labour and human trafficking offences must be recognized and investigated. At the same time, the involvement of senior crew should not be underestimated. This is reflected in Article 8(2) of Convention No. 188, which provides that the skipper remains responsible for the safety of fishers and the safe operation of the vessel.

Convention No. 188 also contains provisions on the responsibility for enforcement and compliance with its provisions. The Convention follows a familiar pattern from regulations pertaining to merchant shipping, in which the flag State has the primary responsibility to ensure that vessels on its register adhere to the provisions of the Convention through inspections, reporting, monitoring, complaint procedures, appropriate penalties and corrective measures (Article 40). Larger and long-distance vessels are required to carry a "valid document" issued by a competent authority (or a 'recognized organization') indicating that the vessel has been inspected at least every five years (Article 41). A flag State that receives a complaint or obtains evidence that a fishing vessel that flies its flag does not conform to the requirements of this Convention must take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found. In addition, member States may carry out port State control (PSC) of vessels if they receive a complaint or obtain evidence that a fishing vessel does not adhere to the provisions of Convention No. 188 (Article 43(2)). As seen above, PSC can be an effective supplement to flag State control. The 'no more favourable treatment' provision in Article 44



means that member States must apply this Convention in such a way as to ensure that the fishing vessels flying the flag of any State that has not ratified this Convention do not receive more favourable treatment than fishing vessels that fly the flag of any Member that has ratified it. However, Convention No. 188 does not specifically address the issue of international or regional coordination of PSC between coastal States.

2.2.2. Safety at sea

The International Maritime Organization (IMO) is the London-based United Nations' specialised agency with responsibility for safety and security at sea. Over the years IMO has established a comprehensive legal framework regulating safety and security of life and vessels at sea. Although many of IMO's legal instruments are directed at merchant vessels, some are also applicable to fishing vessels and may have a significant impact on fishers' working and living conditions.

The most important legal instrument to ensure safety of life and vessels at sea is the International Convention for the Safety of Life at Sea, 1974 (as amended) (SOLAS). Fishing vessels, however, are generally exempted from SOLAS, unless specifically included (Regulation 3(a)(vi)/I). Regulations to enhance the safety of fishers' lives at sea are contained in the Protocol relating to the 1977 Torremolinos Convention on the Safety of Fishing Vessels (the Torremolinos Protocol), 1993. The Torremolinos Protocol is not yet in force but applies to EU member States through Directive 97/70/EC of 11 December 1997. It is hoped that the Town Agreement,¹⁸ signed in October 2012, will enable sufficient ratification of the Protocol to bring it into force (IMO, 2012). However, even if it does come into force, the Torremolinos Protocol is an outdated legal instrument, based on a convention established in 1977 and due for revisions. This is in contrast to SOLAS, which came into force in 1980, and has since been subject to a continuous revision process by means of a tacit acceptance procedure to keep abreast with changes in technology and the political context (Article VIII). SOLAS has many effective measures that could be incorporated into an updated version of the Torremolinos Protocol.

Safety at sea instruments are important for preventing and combating forced labour and human trafficking on at least two grounds. The most obvious reason is that technical specifications relating to the protection

18 Cape Town Agreement of 2012 on the Implementation of the Provisions of the the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977.



of crew, life rafts and jackets, fire protection, safe construction of vessels and radio communication may all contribute to protecting fishers from harm and improving their living and working conditions. Mandatory safety regulations would constrain cost savings stemming from utilizing unseaworthy fishing vessels, a problem that is particularly acute for fishers who have been trafficked or forced to work onboard vessels engaged in fisheries crime, owing to the likelihood the vessel will be detained (de Coning, 2011).

Moreover, safety at sea instruments are also important from a broader crime prevention and law enforcement point of view. SOLAS contains a number of control, inspection and transparency enhancing mechanisms, driven primarily by a desire to improve seaworthiness and prevent loss of life at sea. Importantly, safety at sea instruments that improve the transparency in the fisheries sector can facilitate intelligence gathering and the opportunities to trace, inspect, investigate and prosecute vessels and vessel operators engaged in forced labour and human trafficking. As noted above, control with compliance certificates and inspections of vessels are important occasions for interaction with vessels and crew while the vessel is in port. Coastal States must establish agencies and units dedicated to PSC. These agencies develop expert knowledge and become a point of contact for complaints, as well as for law enforcement officers and crime intelligence analysts engaged in combating and preventing crime. Allegations of non-conformity with safety at sea regulations give inspectors occasion to board and inspect the vessel, and the possibility of alerting law enforcement officials to suspected instances of severe labour exploitation that may amount to forced labour and human trafficking.

Safety at sea instruments can potentially improve the transparency of fishing vessel identity, ownership and movement. This information is important for gathering data and intelligence about high-risk vessels and directing limited resources towards control and inspection of these vessels. For instance, PSC MOUs currently make active use of information sharing and vessel profiling to facilitate control and inspection of vessels that are more likely to be unseaworthy. Unlike the current text of the Torremolinos Protocol, SOLAS has a number of transparency enhancing provisions that could potentially become a feature of a revised Torremolinos Protocol.

As to vessel identity, SOLAS Chapter XI-1 provides that all larger merchant vessels must be allocated a ship identification number (IMO



number) by IHS Fairplay¹⁹ (Regulation XI-1/3). The IMO number must be permanently marked on the vessel's hull. Currently most fishing vessels are not required to obtain an IMO number, which can severely hamper targeted law enforcement and criminal investigations of these vessels. FAO is attempting to rectify this situation by creating a global record for fishing vessels (see 2.2.3., below).

SOLAS requires merchant vessels to carry documentation containing information about the vessel's registered owner and the owner's company, which are assigned an IMO Unique Company and Registered Owner Identification Number (Regulation XI-1/3-1). Although there is little transparency in the allocation of identification numbers (it is technically possible to register a shell company) (IMO, 2004), this measure could allow law enforcement officers to trace ownership interests, which could be useful in gaining information about owners and operators' involvement in forced labour and human trafficking. However, chapter XI-1 of SOLAS does not apply to fishing vessels and the Torremolinos Protocol does not have an equivalent provision.

Finally, Chapter V of the Annex to SOLAS requires all vessels of size (including fishing vessels) to have VHF-transponders on board (automatic identification system or AIS) (Regulation V/19.2.4), although flag States may exempt fishing vessels from this requirement (Regulation V/1.4.3). AIS is an important navigational tool to notify other vessels nearby of the vessel's presence, speed and direction. These radio signals can however also be picked up from shore, and recently by satellite, which makes it possible for law enforcement officials to track vessel movement and detect unusual behaviour at sea. Each vessel's AIS transponder is also supposed to have a unique vessel identifier (Maritime Mobile Service Identity or MMSI) and the vessel's identity may be traced using this number. AIS data is easily accessible on a number of websites on the Internet, which makes it possible for next of kin and law enforcement officials to track the position and movement of vessels with victims of forced labour and human trafficking and anticipate their next port of call (see Surtees, 2012). Unfortunately, many fishing vessels are not required to have AIS. And although many fishing vessels have AIS for navigational reasons and to avoid collisions at sea, persons on board these vessels have been known to disengage the transponder when they reach the fishing grounds or when they engage

¹⁹ IHS is a publicly traded company with headquarters in Englewood, Colorado, United States. IHS Fairplay (formerly Lloyd's Registered Fairplay) is based in Surrey, United Kingdom, and is the sole authority for identifying and assigning IMO numbers (www.imo.org, <http://www.imonumbers.lrfairplay.com>).



in criminal activities. The Torremolinos Protocol contains provisions on radio communication equipment in Chapter IX, but these are not yet in force.

Another IMO instrument with particular applicability to fishers' safety and working conditions is the International Convention on Standards for Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), 1995. Like the Torremolinos Protocol, STCW-F is the sister-convention of a similar instrument that applies to merchant vessels.²⁰ Also, like the Torremolinos Protocol, ratification of STCW-F has been slow, and the Convention entered into force only in September 2012 when the fifteenth State ratified, seventeen years after the instrument's adoption. Lack of training is a problem experienced among fishers who are vulnerable to forced labour and human trafficking, and the absence of compulsory uniform training standards means that fishing operators can gain a competitive advantage by crewing their vessels with under-qualified and cheap workers. The STCW-F sets mandatory training standards for crews manning and operating fishing vessels. Formal training of senior officers is also important to ensure that they are familiar not only with the technical aspects of fishing operations, but also with safety standards applicable to crew (Paragraph 14.1.7. of Appendix to Regulation II/1 of the Annex to STCW-F). Compliance with STCW-F will be controlled and inspected through PSC (Article 8 of STCW-F).

ILO, IMO and FAO have jointly produced a number of publications aimed to improve safety and health of fishers and safety of fishing vessels. These include the Document for Guidance on Fishermen's Training and Certification, and the revised Code of Safety for Fishermen and Fishing Vessels, 2005 and Voluntary Guidelines for the Design Construction and Equipment of Small Fishing Vessels, 2005. More recently, the three agencies have prepared recommendations on safety of fishing vessels, including the Safety Recommendations for Decked Fishing Vessels of less than 12 Meters in Length and Undecked Fishing Vessels, which applies to smaller fishing vessels not covered by the Code of Safety, 2005 or the Voluntary Guidelines, 2005.

²⁰ The International Convention on Standards of Training, Certification and Watchkeeping of Seafarers (STCW), 1978, as amended.

2.2.3. Fisheries management and conservation

The Food and Agriculture Organization of the United Nations (FAO) is a Rome-based UN special agency tasked, among others, with improving agricultural productivity (including fishing). FAO has taken a leading role in the international coordination of global fish stock management and conservation and has developed a number of important legal and policy frameworks that States may adopt in their fisheries management and conservation efforts. More detailed advice on fisheries management and conservation of fish stocks beyond national jurisdictions or that migrate between maritime zones is organized regionally through a number of Regional Fisheries Bodies (RFBs) (Rayfuse, 2004, pp. 42–48).²¹ Whereas most RFBs work closely with FAO, they were not all established by FAO and some predate FAO (Palma et al., 2011, pp. 202–203). At present there are about 43 RFBs (www.fao.org).²² Some 20 of these RFBs have a management (regulatory) mandate and are known as Regional Fisheries Management Organizations (RFMOs). Among the most prominent RFMOs are the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), North East Atlantic Fisheries Commission (NEAFC), Northwest Atlantic Fisheries Organization (NAFO) and the five tuna RFMOs.²³ The RFMOs typically regulate quotas, gear, and season restrictions, transshipments, vessel tracking and inspections at sea and in port. A few of these RFMOs also have a law enforcement mandate.

Although the instruments, regulations and policy frameworks of FAO and the RFMOs primarily concern fisheries resources management and conservation, they affect fishers' safety and working conditions (FAO, 2012a). The FAO Code of Conduct for Responsible Fisheries (Code of Conduct), 1995, is a voluntary guideline for responsible conservation of fisheries resources, fisheries management and fisheries development. In addition, the Code recommends several social responsibility policies for the fisheries sector. In Article 6.17 it advises in broad terms that 'States should ensure that fishing facilities and equipment as well as all fisheries activities allow for safe, healthy and fair working and

21 Article 8 of the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, 2001 (Fish Stocks Agreement).

22 This number may have changed as new RFBs are in the process of formation. FAO has committed to provide its technical and administrative support to its own RFB with a view to strengthening their effectiveness, and to promote collaboration and consultation among all RFB on matters of common concern.

23 The five tuna RFMO/As are Commission for the Conservation of Southern Bluefin Tuna (CCSBT); Inter-American Tropical Tuna Commission (IATTC); International Commission for the Conservation of Atlantic Tuna (ICCAT); Indian Ocean Tuna Commission (IOTC); and Western and Central Pacific Fisheries Commission (WCPFC); see <http://www.tuna-org.org>.





living conditions and meet internationally agreed standards adopted by relevant international organizations'. More specifically, the Code provides that State policies should enhance the training and competency of fishers (Article 8.1.7.), ensure compliance with health and safety standards (Article 8.1.5.) and make certain that fishers are entitled to repatriation (Article 8.2.9.).

Social responsibility is also promoted by the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU), 2001, established within the framework of the FAO Code of Conduct for Responsible Fisheries. The IPOA-IUU calls for an integrated approach to fisheries policy through State action plans that address all the economic, social and environmental impacts of IUU fishing (Paragraph 9.3.). Although the IPOA-IUU does not specifically address fishers' living and working conditions, it does request that flag States ensure that vessels on their register hold a valid authorization to fish in waters beyond its jurisdiction and that such authorization is contingent on compliance with applicable international conventions and national laws and regulations pertaining, among others, to maritime safety (Paragraph 47.7).

Fisheries management and conservation policies can both facilitate and deter forced labour and human trafficking in the fisheries sector. For instance, a Ministerial Inquiry into the use and operation of foreign charter vessels in 2011–2012 found that the practice of allowing foreign charter vessels access to fisheries in New Zealand Exclusive Economic Zone (EEZ) made it difficult to investigate and enforce compliance with safety and labour standards on board these vessels (Ministry of Agriculture and Forestry, 2012). In response, the New Zealand Government decided it would require all vessels fishing within its EEZ be registered in New Zealand by May 2016 (New Zealand Government, 2012). The Government's decision to move to a mandatory reflagging regime is now the subject of discussion in the Parliament. All vessels fishing within New Zealand's EEZ will then be subject to New Zealand's prescriptive and enforcement jurisdiction in labour matters.

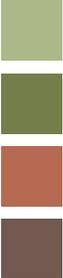
Most fishing within States' EEZs takes place subject to fishing licenses issued by the coastal State. States therefore potentially have great leverage when developing fisheries policies to influence fishers' working conditions in their waters. This is recognized by ILO's Work in Fishing Recommendation, 2007 (No. 199), which in Paragraph 55 calls

upon coastal States to require compliance with Convention No. 188, when issuing licenses to fish in their EEZ.

Other significant contributions of fisheries management and conservation regulation and policies to the prevention and suppression of forced labour and human trafficking of fishers are the control, oversight and transparency-enhancing measures created primarily to address contraventions or circumventions of fisheries regulations. For instance, the FAO Code of Conduct (Article 7.7.3.) and the IPOA-IUU (Paragraph 24.3) call for control of fishing vessel activities with satellite-based vessel monitoring systems (VMS) that supplement automatic identification system (AIS) as fishing vessel tracking devices. Many Regional Fisheries Management Organizations (RFMOs) and flag States require fishing vessels to have VMS on board, which, like AIS, could assist families, next of kin and law enforcement officers to trace the location and movement of vessels and fishers. An important limitation, however, is that unlike AIS, VMS is satellite based and the data is received by the flag State, RFMOs or the coastal State who tend to treat the data as confidential. Data may therefore be difficult to access (European Commission and Joint Research Centre, Ispra, 2008, p. 14). A further potential crime prevention measure is the transshipment restriction placed by a number of States and RFMOs on fishing vessels licensed to fish in their exclusive economic zones (EEZ), often requiring these activities to take place in port in order to monitor catch and landings. Requiring vessels to tranship in port may improve fishers' chances of notifying authorities of abuse and prevent fishers from being transhipped into forced labour or human trafficking at sea. Finally, some States and RFMOs also require fishing vessels to have an independent scientific observer on board the vessel to verify catch data. The presence of an independent third party on board fishing vessels could also have a deterrent effect on deceptive and coercive labour practices.

The fisheries sector is large and multifaceted and there are great differences between large industrial operations and smaller community-based fisheries. The particular needs of smaller, community-based fisheries can easily be overlooked. To rectify this, FAO has drafted, in 2012, international guidelines to supplement the Code of Conduct to assist States develop policies that secure sustainable small-scale fisheries. In May 2012, FAO tabled a zero draft of the International Guidelines for Securing Sustainable Small-scale Fisheries (SSF Guidelines). The current draft contains a number of provisions aimed at improving small-scale





fishers' working conditions. Of particular note is the call for all States to ensure that ILO Conventions concerning occupational health and unfair working conditions of fishers, as well as international guidelines issued by FAO, IMO and ILO for sea safety in small-scale fisheries,²⁴ are transferred into national legislation and implemented (Paragraphs 7.5. and 7.11.). The SSF Guidelines also make special mention of the need to implement protection for children and post-harvest fish workers in accordance with relevant ILO Conventions (Paragraphs 7.6.-7.8.). States are requested to develop and implement national strategies to ensure improved safety at sea and occupational health in small-scale fisheries through, among others, safety-at-sea awareness programmes, training and certification, and construction standards (Paragraph 7.12.). The 2012 Guidelines is the only FAO instrument that specifically identifies the vulnerability of migrant workers and notes that States and small-scale fisheries actors should 'understand, recognise and respect the role of migrant fishers and fish workers' (Paragraph 6.11.).

Another fisheries compliance tool that may in the future contribute to preventing and combating forced labour and human trafficking is port State control (PSC) of fisheries management and conservation regulations. PSC is an integral part of fisheries compliance measures, known as port State measures (PSM). A number of States inspect and control vessels' compliance with fisheries management and conservation regulations, either as part of their national plans of action to prevent, deter and eliminate IUU fishing (NPOA-IUU) or through their participation in Regional Fisheries Management Organizations (RFMOs). Regional port State measures (PSM) cooperation through RFMOs is encouraged by the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU) (Paragraphs 62 and 64). Moreover, there is a move towards more uniform PSM regimes worldwide. An important development in this regard is the adoption of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA) in 2009. Although PSMA is not yet in force, FAO anticipates that the requisite number of ratifications will be achieved soon. PSMA contains provisions regarding the entry of fishing vessels into port, covering issues such as pre-entry notification (Article 8) and in-port inspections (Article 12) and States are required to designate ports for landing fish (Article 7). Greater transparency with vessel activities at sea and movement in and out of port may help families locate fishers suspected of being victims of forced labour and human

²⁴ See www.safety-for-fishermen.org



trafficking, and focus the attention of victim assistance programmes on designated ports where foreign fishing vessels are likely to arrive. In addition, regular control and inspection of fishing vessels in port may have a general preventive effect and could give victims a chance to notify authorities of abuse on board vessels.

As in the context of safety of vessels at sea, the lack of transparency of vessel identity and ownership is a problem from the point of view of fisheries crime law enforcement and compliance with fisheries management and conservation regulation. Over the years, a number of attempts have been made to improve the transparency of vessel identity and ownership in the context of fisheries compliance. For instance, the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (the Compliance Agreement), 1993, sought to establish a record of fishing vessels authorized to fish on the High Seas (the High Seas Vessel Authorization Record (HSVAR)) (Article IV). Yet, very few States submit data to HSVAR (FAO, 2008b) and access to this data is restricted to member States that provide information, to the exclusion of other States, private persons or organizations. Another vessel identity transparency measure has been to require flag States to keep a record of vessels flying their flag, which is called for in both the Code of Conduct (Article 8.2.1.) and the IPOA-IUU (Paragraph 42). IPOA-IUU moreover recommends that flag States keep a record of the vessel manager or operator, beneficial owner and ownership history (Paragraphs 42.3–42.5). However, these are non-mandatory unilateral measures and the continued need for greater transparency in the fisheries sector internationally has urged FAO to consider the establishment of a Global Record of fishing vessels (FAO, 2008b). In 2010, FAO organized a technical consultation, which recommended that all fishing vessels above 12 metres in length should be provided with a Unique Vessel Identifier (UVI) (similar to the IMO number for merchant vessels) and that in addition larger vessels should provide the name and address of the registered owner, previous flags and vessel names and eventually information about the parent company of the registered owner and ship manager (FAO, 2010). At its thirtieth session in July 2012, the Committee of Fisheries (COFI) (a subsidiary body of FAO Council) gave FAO continued support for the development of a Global Record using a phased approach (FAO, 2012c, pp. 10–11). Once established, the Global Record could potentially assist investigation and law enforcement of fishing vessels and operators suspected of involvement in forced labour and human trafficking offences.



2.3. Market measures

2.3.1. International instruments which provide guidance to business on respecting workers' rights

Workers' right to freely choose their employment, free from threats or coercion, is recognized as a human right. There are three key instruments which affirm this right and give guidance to companies on how to ensure respect for this right in their operations.

The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (most recently updated in 2006) provides guidance for voluntary initiatives of companies. This guidance is relevant whether the companies take action individually, collectively in industry initiatives or in collaboration with other stakeholders. The instrument speaks to both expectations of companies and actions governments should take to protect workers' rights and create an enabling environment for responsible business. It encourages dialogue between enterprises, particularly MNEs and large domestic enterprises and government and social partners on areas of mutual interest. It also encourages dialogue between the governments of host and home countries to collaborate on areas of mutual concern, such as forced labour. It also emphasizes the importance of good industrial relations as a key means of respecting workers' rights.

The OECD Guidelines for Multinationals (most recently revised in 2011) also address the issue of forced labour. They apply to both OECD member states and others which have voluntarily adhered to them. The text of this instrument has been brought fully into line with the MNE Declaration, and the ILO and OECD frequently collaborate to jointly promote both texts. National Contact Points provide a means for bringing complaints of failure of MNEs to comply with the provisions of the Guidelines and could be used to raise issues concerning forced labour in fishing. The most recent update includes a section on human rights and the scope includes supply chains of multinationals.

The UN Framework and Guiding Principles on Business and Human Rights could also be used to engage with business to tackle forced labour in fishing. The Framework reaffirms the duty of governments to protect all workers within their territory from violations of human rights, including the right to freely choose employment; the duty of business to respect the human rights of workers; and the duty of both government and business to provide a remedy in cases of violation



of human rights. These instruments also emphasize the obligation of business to exercise due diligence to avoid violations of human rights, including in the supply chain.

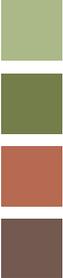
Each of these instruments provides valuable guidance and protection for workers and incorporates business responsibilities that can strengthen labour conditions in the fisheries sector.

2.3.2. Voluntary multistakeholder initiatives

‘Multistakeholder initiatives’ (MSIs) refer to voluntary initiatives that supplement government regulation to improve the social and environmental performance of transnational companies or their sub-contractors in the value chain. Many multistakeholder initiatives include governments, inter-governmental and regional organizations, worker’s organisations, NGOs and private companies that cooperate to encourage corporate social accountability and sustainable business practices through, for instance, participation in certification and labelling schemes that set environmental and social responsibility standards, and monitor, audit and verify compliance with these standards to promote good business practices and dialogues between stakeholders (ILO, 2009; Utting, 2002). Market actors, such as retailers, can have great influence on business practices in the value chain. For instance, the New Zealand Ministerial Inquiry into the use and operation of Foreign Charter Vessels (2012) found that the poor working conditions on board these vessels caused concerns among global seafood retailers and could harm the reputation of New Zealand’s seafood industry. These were important factors in the decision to require these vessels to reflag to New Zealand.

A number of multistakeholder initiatives (MSIs) are currently used to improve compliance with environmental standards in order to ensure sustainable fisheries, often through ‘ecolabelling’ or certification schemes, and a few of these certification schemes include social responsibility in their certification process. Appendix II to this report contains a list of ecolabel and certification schemes currently in use in the fisheries sector.

Multistakeholder initiatives (MSIs) often refer to ILO’s prohibition of forced labour, as well as other ILO Conventions and Recommendations pertaining to basic labour standards, to assess compliance with social responsibility standards (ILO, 2009). Other standards exist, including Social Accountability International’s (SAI) SA8000 standard. SAI is a



non-profit organization based in the United States. SA8000 was drafted in 1996 and is based on ILO and UN Conventions, as well as national laws (www.sa-int.org). SA8000 involves an independent verification method similar to that found for quality management systems in the International Organization for Standardization' (ISO) programmes through external audits.

Although multistakeholder initiatives (MSIs) have not yet been widely used to ensure social responsibility in the fisheries sector, it is recognized that in some segments MSIs have 'played a prominent role in building social consensus on business concerns, including forced labour'. Yet, a number of concerns are attached to the use of MSIs to ensure adherence with social responsibility standards. First, as pointed out by ILO in the 2009 Cost of Coercion Report, it is important to balance the voluntary nature of MSIs with the legal obligation to prohibit forced labour and human trafficking (p. 63). The ultimate responsibility to ensure compliance with forced labour and human trafficking obligations is on States, and not on multistakeholder initiatives (MSIs). Second, it is important that MSIs adopt a consistent approach to ILO's prohibition on forced labour, based on ILO's legal framework and the jurisprudence of its supervisory bodies (ILO, 2009). Inconsistent use of standards and the development of new codes of conduct could lead to ambiguity and undermine the ongoing process internationally to combat forced labour and human trafficking. Third, the practice of using ecolabels and certification schemes may potentially be harmful to developing States and small-scale operators. The certification process can be costly and the entry requirements can therefore be too high and may exclude small-scale enterprises or enterprises in developing countries, and may also be problematic in the context of the World Trade Organization's (WTO) rules on technical barriers to trade (Ponte, 2006). Ecolabels in the fisheries sector have therefore come under criticism (Wilson, 2011; Ponte, 2006; Gardiner and Kuperan Viswanathan, 2004). In 2005, FAO issued guidelines for ecolabelling fish and fishery products, which include the principle that ecolabelling schemes shall be non-discriminatory and not create unnecessary obstacles to trade and allow for fair trade and competition (Principle 2.5). Fourth, a problem associated with some ecolabels has been that political considerations may influence the allocation and withdrawal of the label. In cases where environmental and social responsibilities are linked in the same label, the withdrawal of a label for political reasons could come at a high cost to the companies involved, as it could unjustly imply that the business has been involved in unethical conduct towards its employees.



A further challenge associated with MSIs is the traceability of marine living resources in the supply chain. The European Union, which is the world's largest market for imported seafood (FAO, 2012a, p. 72), requires traceability of seafood in order to ensure food safety and avoid entry to the market of illegally caught fish. The EU Common Fisheries Policy directs that all fish 'be traceable at all stages of production, processing and distribution, from catching to harvesting to retail stage' (Article 58(1) of Council Regulation No 1224/2009). EU Council Regulation 1005/2008 requires that all fishery products imported into the Community is accompanied by a catch certificate, which must be validated by the flag State of the fishing vessel (Article 12). However, traceability of seafood is undermined by a lack of documentation at all stages of the supply chain, mixing of products and illegal, unreported and unregulated fishing (Boyle, 2012, p. 13). In particular, there is some indication that seafood is vulnerable to mislabelling and other forms of document fraud (ibid.). In a recent study published by FishWise it was pointed out that traceability in the seafood industry's supply chains was challenging due to the lack of a standardized electronic traceability system (Boyle, 2012, pp. 10–11). The author suggests that several factors, such as limited resources and expertise, business confidentiality concerns and a lack of interest within the larger food industry may have stymied the development of a better traceability system in the seafood sector.

Among the existing market based initiatives to improve the social and environmental performance of fishing, it is worth mentioning the Marine Stewardship Council (MSC), as several companies in the supply chain have subscribed to its standards and requirements and are members of its governance structures. The MSC helps consumers concerned about overfishing and its environmental and social consequences to increasingly be able to choose seafood products which have been independently assessed against certain standards. An increasing number of restaurants, supermarkets and fishmongers are sourcing fish bearing the MSC logo.²⁵

25 www.msc.org / http://www.unilever.com/images/es_Unilever_FSI_brochureII_tcm13-13238.pdf



Conclusion

Moving forward: knowns and unknowns, opportunities and challenges

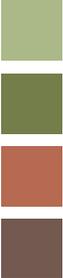
Although research into forced labour and human trafficking in the fisheries sector is in its early stages, there is already sufficient evidence of the practice to make some general observations about current knowledge, gaps, and measures to prevent and combat the problem.

It must be reiterated that, though the sector does suffer from challenges with respect to forced labour and trafficking, a large portion of the industry do not engage in such abusive practices and treat their crews well. This report is aimed at addressing practices that violate the rights of fishers and also damage the profitability and public image of the operators, owners and other important players.

Nevertheless, labour exploitation in the fisheries sector is experienced as severe, and the practices described are extreme instances of cruel and inhumane treatment. The fisheries sector has one of the highest mortality rates in the world. In addition, fishers, in particular the increasing group of migrant workers in the fisheries sector are vulnerable to severe forms of exploitation and abuse. Once on board a vessel, fishers' movements are restricted and the possibility of escape is limited. As fishing vessels can stay at sea for long periods, abuse can take place for years without intervention. Oversight and control of labour practices are difficult, owing to the remote location and transboundary movement of vessels. Also, forced labour and human trafficking at sea must be understood in the context of a crime complex at sea involving, among others, fisheries crime and corruption. The link between forced labour, human trafficking and fisheries crime in particular is emphasized in the literature. However, there are still gaps in our knowledge about the scale of the problem and there is a need for further comparative studies of labour conditions and exploitation in legal and illegal fisheries.

Much is known about push factors, such as poverty and political unrest, the vulnerability of migrant workers and the trafficking process, but less is known about pull factors, such as the demand for migrant labourers in a fiercely competitive industry with a reputation for poor labour practices. There is still a need to better understand the marketplace for fish and how this market affects fishers' working conditions. Further





research should explore and analyse pull factors and the demand side of forced labour and human trafficking in the fisheries sector, taking into account the existing research into fisheries management and conservation policies. At the same time it is important that research treat the industry objectively and that awareness campaigns encourage and promote good business practices. Improved organization of fishers globally and an on-going social dialogue will be essential in this process. Voluntary multistakeholder initiatives, social responsibility certification and other ‘hook to plate’ transparency measures may potentially also have a role to play in ensuring this, but an important precondition is that these initiatives must remain voluntary and do not replace government regulation and law enforcement.

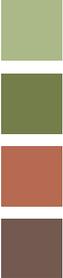
The vast majority of States, and consequently most flag States, are committed to tackling forced labour and human trafficking. Also, most States are committed to promote and respect basic human rights, which extends to vessels flying their flag. Widely ratified international legal instruments, such as Convention No. 29 and the Trafficking in Persons Protocol, require States to criminalize forced labour and human trafficking and strive towards the elimination of these practices. Most flag States are members of these instruments, and forced labour and human trafficking of fishers on board vessels registered in these flag States should be criminalized and eradicated. Still, a number of flag States are unable or unwilling to meet their responsibility under international law. In particular, significant implementation gaps exist with respect to the eradication of forced labour in the areas of prevention, victim protection and compensation.²⁶ This is in breach of their obligations under international law and is potentially also in violation of fundamental human rights, such as freedom from slavery. An important measure will be to raise flag States’ awareness of forced labour and human trafficking in the fisheries sector and emphasize to these States that their responsibility to criminalize, prevent and combat forced labour and human trafficking extends to vessels flying their flag. Awareness raising campaigns ought to be followed up with technical support to vulnerable flag States and regions to enable States to conduct inspections, investigations and prosecutions of forced labour and human trafficking of fishers on board fishing vessels. An

²⁶ In February 2013, the ILO convened a Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation. The experts concluded that despite the broad reach of Convention No. 29 and the measures taken to date by member States, significant implementation gaps still needed to be urgently addressed in the areas of prevention, victim protection, compensation, enforcement, policy coherence and international cooperation. See ILO: “Conclusions adopted by the Meeting”, Final Report, Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, Geneva, 2013 (TMELE/2013/7), pages 39-41.



important measure will be to tailor existing indicators of forced labour, forced labour and human trafficking tool kits, and national plans of action and policy frameworks to prevent and combat forced labour and human trafficking to the particularities and challenges inherent in inspecting, investigating and prosecuting crimes taking place at sea and the vulnerability of fishers to labour exploitation.

Whereas flag States bear primary jurisdiction over vessels flying their flag, there is increasing recognition internationally of all States' jurisdiction over their nationals, wherever they may be. 'Control over nationals' is an emerging policy in fisheries management and conservation (Paragraph 18 of the IPOA-IUU; FAO, 2002; Edeson, 2000), encouraged among others by the General Assembly in its Resolution 66/68 of 2011 on sustainable fisheries (p. 11). Control of nationals could be an equally important supplementary measure in the context of forced labour and human trafficking in the fisheries sector, in lieu of effective exercise of flag State prescriptive and enforcement jurisdiction. Yet, in order to effectively exercise control over nationals, States need to criminalize their nationals' participation in forced labour and human trafficking abroad and have access to information about their nationals' involvement in these activities to facilitate investigation and prosecution of suspected offenders. Yet, the overall lack of transparency in the fisheries sector may make it difficult for States to ascertain the involvement of their nationals in criminal activities taking place on board fishing vessels. As noted above, the use of open registries, which allows beneficial owners of vessels to record a shell company as the registered owner of vessels on its ship registry, effectively hides the identity of the true owner of these vessels and hampers investigation of offenders. At most, law enforcers may be able to ascertain the identity of senior crew on board a vessel where it is suspected that criminal activities are taking place. However, senior crew may not be the true profiteers of the fishing operation and could have limited ability to influence the practice. Rather, control of and profits from these offences may be located with the land-based fishing operator or recruitment manager. Transparency enhancing measures, such as the FAO Global Record initiative, could improve investigations and prosecutions of nationals engaged in forced labour and human trafficking in the fisheries sector. A possible implementation and revision of the Torremolinos Protocol may enhance transparency in vessel identity, ownership and movement data. As to vessel tracking, it is likely that technological advancements will help facilitate land-based surveillance of activities at sea in the future.



States have great scope to prevent and combat forced labour and human trafficking in fisheries taking place in their waters or by persons on board vessels on their registries using their fisheries policy leverage. Most fisheries today are subject to quotas and licences, and it is within the sovereign right of all States to impose social responsibility conditions on fishing operators obtaining a fishing licence.²⁷ Many States disqualify vessels and operators that have been engaged in illegal fishing and fisheries crimes from obtaining fishing quotas and licences. Arguably fishing operators that have been found guilty of severe labour violations or human rights abuses against their crew, such as forced labour and human trafficking, could similarly be disqualified. New Zealand is an example of a State that in 2012 decided to leverage its fisheries management policies to ensure compliance with its labour laws on board vessels licensed to fish in its waters.

Although comprehensive legal regimes have been established to secure fishers' safety and minimum working standards, the legal frameworks suffer from inadequate ratification and implementation by States. Despite severe abuse taking place on a significant number of fishing vessels, most instruments have not been sufficiently ratified to come into force or they take the form of voluntary codes or recommendations. The lack of ratification of binding legal instruments pertaining to the fisheries sector is often explained by reference to the costs to a large and complex employer vulnerable to global competition. However, it could also be argued that by not ratifying these legal instruments, States then subsidise their own fishing fleets to ensure their competitiveness internationally. A result is that, rather than uplifting the livelihood of all, bad practices drive out good in lieu of external regulation and control. States that wish to regulate their industries and protect fishers may find it difficult in light of fierce competition and prevailing labour practices. The challenge is to break this cycle of indeterminacy and ensure that all fishers – regardless of factors such as their status as migrant workers, the nationality of the fishing operator, the maritime zone in which the vessel is found or the flag State in which the vessel is registered – are protected from labour exploitation. Improved ratification of existing legal instruments could ensure a more uniform adherence to minimum safety and working conditions in the fisheries sector. Intervention

²⁷ Though not a binding instrument, the Work in Fishing Recommendation, 2007 (No. 199), provides, in paragraph 55, that "A Member, in its capacity as a coastal State, when granting licences for fishing in its exclusive economic zone, may require that fishing vessels comply with the requirements of the Convention. If such licences are issued by coastal States, these States should take into account certificates or other valid documents stating that the vessel concerned has been inspected by the competent authority or on its behalf and has been found to be in compliance with the provisions of the Convention."



could come in the form of awareness-raising campaigns to improve public knowledge about forced labour and human trafficking in the fisheries sector to promote ratification of binding legal instruments. It could moreover be explored whether States need technical assistance to implement legal frameworks pertaining to the fisheries sector. Ratification of binding legal frameworks is however not a precondition for their implementation. Some States are already expressing a need to ensure that forced labour and human trafficking in their fisheries sectors does not take place. ILO could provide these States with necessary technical assistance, legislative gap analyses and training based on existing legal frameworks, such as Convention No. 188. It should also be assessed further how regional instruments²⁸ on trafficking in human beings can supplement and strengthen ILO's initiatives.

Yet, even if States did ratify and implement internationally agreed minimum labour standards in their own jurisdictions, there would still be the problem of control and law enforcement. In merchant shipping, the response has been to implement port State control (PSC) and improved transparency through IMO numbers, combined with coordinated information sharing, inspection targets and law enforcement through regional cooperation agreements (the MOUs). Importantly, the MOUs coordinate PSC of both IMO and ILO instruments, and do so en bloc regionally. At present, PSC arrangements for fishing vessels are anticipated in IMO, ILO and FAO legal instruments. Possible measures to explore include the way in which PSC of fishing vessels can be coordinated regionally between the national agencies responsible for labour standards, seaworthiness and fisheries management and conservation. An anticipated potential complication is the reliance on Regional Fisheries Management Organizations (RFMOs) to conduct port State control (PSC) within the framework of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA). Regional Fisheries Management Organizations (RFMOs) are not mandated to ensure compliance with labour standards and safety at sea regulations, and it may prove more advantageous to enter into arrangements with MOUs to ensure regional compliance. Members of RFMOs are often both coastal States and flag States, and may represent some, or all, fishing interests in a certain maritime zone, often on the high seas. This means that the member States may be geographically scattered. Also, RFMO member States are

28 It is worth mentioning the European Union Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims (Directive 2011/36/EU) which sets out minimum standards to be applied throughout the European Union in preventing and combating trafficking in human beings and protecting victims.



affiliated primarily in their capacity as flag States and participants in the fishery and not in their capacity as port States. Member States of MOUs, on the other hand, are port States and their role is to ensure uniform compliance and avoid displacement of non-conforming vessels within a region. The MOUs already coordinate inspections of safety and labour standards on board merchant vessels and has developed relevant expertise. MOUs could therefore arguably be in a better position than RFMOs to ensure regional compliance with labour and safety standards on board fishing vessels.

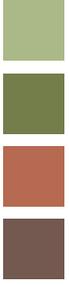
A comprehensive response to forced labour and human trafficking at sea requires coordinated internal and cross-border multi-agency law enforcement cooperation, intelligence gathering and information sharing. A number of States have already established multi-agency units involving labour inspectorates, maritime and harbour authorities, coastguard, police, customs and immigration and fisheries agencies to tackle the multi-faceted problems arising from crimes committed at sea, including forced labour and human trafficking of fishers. At the international level, law enforcement coordination is not yet conducted in a similar manner, although organizations such as INTERPOL may have the infrastructure and capabilities to facilitate cross-border information sharing and mutual legal assistance, as well as crime pattern analyses. Government agencies investigating forced labour and human trafficking in the fisheries sector would need to be alerted to the existence of these services. Again, improved transparency in the fisheries sector pertaining to vessel identity, ownership and movement would facilitate cross-border intelligence gathering and improve intelligence-led police investigations of forced labour and human trafficking offences. Government agencies would moreover need to be alerted to the potential of existing legal instruments, such as the United Nations Conventions against Transnational Organized Crime and the Trafficking in Persons Protocol, to facilitate mutual legal assistance, extradition and information exchange.

Finally, whereas coordination is required between inspectors and law enforcement within States and between States, cooperation and partnership is required between international agencies, government, workers' and employers' organizations, and civil society organizations at regional and international level to develop effective policies to tackle forced labour and human trafficking in the fisheries sector. An example of such partnerships is the TRIANGLE Project²⁹ in the Greater Mekong

29 http://www.ilo.org/asia/whatwedo/projects/WCMS_145664/lang--en/index.htm

sub-Region, a cooperation project between the ILO, its constituents and civil society in Cambodia, Lao PDR, Malaysia, Thailand and Vietnam, aimed at reducing the exploitation of labour migrants through improved recruitment and labour protection policies and practices. Improved cooperation and coordination between international agencies (ILO, IMO, FAO, INTERPOL, UNODC and IOM), regional organizations and governments, and workers' and employers' organizations, NGOs and civil society may contribute to the development of more effective policies and implementation of legislative frameworks through improved knowledge and awareness of forced labour and human trafficking in the fisheries sector, better identification of gaps, challenges and lessons learned to tackle the problem and strengthened institutional capacity to effectively prevent and combat this criminal activity.





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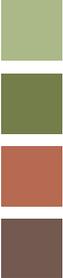
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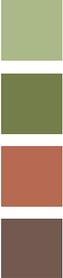
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Appendix I

Legal definitions

1. 'Forced labour'

The ILO Forced Labour Convention, 1930 (No. 29), defines 'forced or compulsory labour' ('forced labour') as 'all work or service which is exacted from any person under the menace of any penalty and to which the said person has not offered himself voluntarily' (Article 2(1) of Convention No. 29). 'Work and services' includes all types of work, employment or occupation, whether legal or not. 'Any person' refers to adults and children of any nationality. 'Menace of penalty' embraces all forms of criminal sanctions and other forms of coercion, including threats, violence, retention of identity documents, confinement, non-payment or illegal deduction of wages, or debt bondage (for instance owing to advances in recruitment/brokerage fees). A test is whether a person is free to leave employment without losing any rights or privileges. 'Voluntary' means that workers must give their free and informed consent when entering employment and during the employment relationship. Free and informed consent is negated by deception or coercion of the employer or recruiter.

Forced labour does not refer only to labour exploitation or poor working conditions. Rather, forced labour is a severe human rights violation and a restriction on human freedom. Inspection authorities should look for the following indicators (ILO, 2008, pp. 18-19):

Physical violence, including sexual violence

- Does the worker have any sign of maltreatment, such as bruises?
- Does the worker show signs of anxiety?
- Is there any other sign of mental confusion or traces of violence?
- Do supervisors/employers demonstrate violent behaviour?

Restriction of freedom of movement

- Is the worker locked up at the workplace?
- Is the worker forced to sleep at the workplace?



- 
- Are there visible signs which indicate that the worker is not free to leave the workplace due for example to barbed wire or the presence of armed guards or other such constraints?
 - Is the worker constrained from leaving the workplace?

Threats

- Does the worker make statements which are incoherent or show indoctrination by the employer?
- Do the workers report any threat against themselves, their co-workers or family members?
- Is there any sign that the worker is subject to racketeering or blackmail (with or without the complicity of the employer)?
- Does the worker show anxious behaviour?
- Are workers forced to work excessive (unpaid) overtime or to carry out tasks that they prefer not to do, and are the workers threatened if they refuse?
- Is the worker in an irregular situation (e.g. migrant workers) and threatened with denunciation to the authorities?

Debt and other forms of bondage

- Does the worker have to repay high recruitment or transportation fees? If so, are these deducted from the salary?
- Is the worker forced to pay excessive fees for accommodation, food or working tools that are directly deducted from the salary?
- Has any loan or advance been paid that make it impossible to leave the employer?
- Are work permits bound to a specific employer? Has there been any complaint about the employer before?

Withholding of wages or non-payment of wages

- Does the worker have a regular employment contract? If not, how are wages being paid?
- Is there any illegal wage deduction?



- Has the worker received any wages at all?
- What is the amount of the wages in relation to national statutory requirements?
- Do the workers have access to their earnings?
- Have the workers been deceived about the amount of their wages?
- Are wages paid on a regular basis?
- Is the worker paid in-kind?

Retention of identity documents

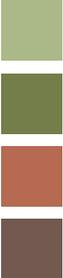
- Are the identity documents of workers in their own possession? If not, are they kept by the employer or supervisor? Why?
- Does the worker have access to the documents at all time?

2. 'Human trafficking'

Article 3(a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplements the United Nations Conventions against Transnational Organised Crime, 2000 ('the Trafficking in Persons Protocol') defines 'trafficking in persons' or 'human trafficking' as

the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

There are three elements to the definition of 'human trafficking': an 'act' conducted for the 'purpose' of exploitation (including forced labour) by the use of particular 'means', for example threat of use of force or other forms of coercion, abduction, fraud or deception, abuse of power, or abuse of position of vulnerability. The 'act' is defined broadly to cover all the common stages of human trafficking: recruitment, transport and



exploitation. Human traffickers could therefore be brokers, recruitment agencies, employers or anyone else (such as senior crew on board a vessel or a corrupt port or border official) who recruits, transports, transfers, harbours or receives a trafficking victim.

Smuggling of 'boat people' or refugees at sea is often mistakenly referred to as 'human trafficking'. Smuggling of migrants is done to allow the entry of migrants across State borders illegally, often against a fee, and is conceptually distinct from human trafficking in law.³⁰ The 'victim' of a migrant smuggling offence is the State, and not the migrant, although international law seeks to prevent criminalisation of smuggled migrants, and many States have undertaken to protect and assist them (Articles 5 and 16 of the Smuggling of Migrants Protocol). In practice, migrant smuggling and human trafficking will often be linked: migrants may have been smuggled into a human trafficking situation or a migrant smuggling operation in itself may evolve into human trafficking.

3. 'Slavery' and 'institutions and practices similar to slavery'

The definition of 'slavery' is found in the Slavery Convention, 1926. 'Slavery' is associated with some or all the elements of the exercise of ownership over a person. According to Article 1 of the Slavery Convention, 'slavery' is 'the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised' and 'slave trade' includes 'all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves'. The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956, adds debt bondage, serfdom, servile marriages and certain forms of child labour as 'institutions and practices similar to slavery' (Article 1). The Statute of the International Criminal Court defines 'enslavement' in Article 7(2)(c) as 'the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children'.

³⁰ The Protocol against the Smuggling of Migrants by Land, Sea and Air supplementing the United Nations Convention against Transnational Organized Crime (the Smuggling of Migrants Protocol) defines 'migrant smuggling' as 'the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.'

Appendix II

Ecolabels and multistakeholders' initiatives in the fisheries sector³¹

- Marine Stewardship Council (MSC) (www.msc.org)
- Friend of the Sea (www.friendofthesea.org)
- Iceland Responsible Fisheries (IRF) (www.responsiblefisheries.is)
- Alaska Seafood Marketing Institute (ASMI) (www.alaskaseafood.org)
- Responsible Fishing Scheme (RFS) (www.rfs.seafish.org)
- Sustainable Fisheries Partnership (www.sustainablefish.org)
- Carrefour 'pêche responsable' (www.carrefour.com)
- Clean Green of the Australian Southern Rock Lobster Fishery (www.southernrocklobster.com)
- Dolphin Safe of Earth Island Institute (www.earthisland.org/dolphinsafetuna/)
- Ecofish (www.ecofish.com)
- Fair-fish (www.fair-fish.ch)
- FishWise (www.fishwise.org)
- Marine Ecolabel Japan (www.melj.jp)
- AIDCP/Dolphin Safe (www.iattc.org/dolphinsafe)
- KRAV (www.krav.se)
- Naturland (www.naturland.de)

³¹ This is a non-exhaustive list and no assessment of the effectiveness of these ecolabelling schemes was made





Appendix III

Individual companies policies

There is a variety of voluntary partnerships that involve business to address forced labour, which have been chronicled already by the ILO.³² Some companies have attempted to develop responsible value chain policies and procedures on fish and refer to ILO standards and conventions in their Codes of Conducts. The table below shows the result from a brief review of individual company commitments that relate to forced labour and/or the fish value chain. It is of course a non-exhaustive list and no assessments of the effectiveness of these policies were made.

Company		Standards/Initiatives		
Name/Country	Type	General	Fishing	Labour/Fishing
ALDI, Germany	Retailer	ILO OECD	FAO fishing zones regulation MSC member SFP member	
ASDA, UK	Retailer	ILO	MSC member SFP member	
Aqua Star, US	Retailer		Best Aquaculture Practices (certified) Some industry initiatives related to environmental concerns, e.g. Seafood Watch	
BJ's Wholesale, US/Canada	Retailer		Member of SFP	
Biomar, Denmark	Fish feed producer		Environmental initiatives, e.g. BioSustain	
Dansk Supermarked Denmark	Retailer	ETI		
Espersen, Denmark	Processor	ETI		

32 Public-Private Partnerships to End Human Trafficking and Forced Labour: New Business Solutions to a Global Challenge. Programme for the Promotion of the Declaration: SAP-FL, 19 April 2007, Hong Kong, China. See http://www.ilo.org/sapfl/Events/NonILOevents/WCMS_082539/lang--en/index.htm



Company		Standards/Initiatives		
EWOS, Norway	Fish feed producer	Environmental Standards	Environmental and safety initiatives, e.g. in line with WHO/ UNEP/ ILO International Programme on Chemical Safety	
Findus, UK	Producer & retailer	ILO OECD	Member of MSC Member of SFP "Fish for Life" and most recently Findus is campaigning against discarding fish on sea	
GENERALE CONSERVE SpA, Italy	Trader		"Friend of the Sea" certified Conservation certificate SA8000	SAAS accredited
GENCOSAR SRL, Italy	Processor			SAAS accredited
Highliner Foods, Canada	Processor & marketer	ILO	Member of MSC Member of Global Aquaculture Alliance's Best Aquaculture Practices (certified) Member of the Agriculture Stewardship Council (ASC)	Certified by ILO Maritime Labour Convention
Investment Commerce Fisheries	Processor			SAAS accredited
Corporation (INCOMFISH), Vietnam				
Loblaw, Canada	Retailer	ILO OECD	Member of the MSC Environmental initiatives, i.e. jointly with the WWF and the MSC	
McDonalds, US	Restaurant	ILO OECD	Member of MSC Finalist for the 2009 Seafood Champion award	
OSM, Norway	Vessel Company			First company certified by the ILO Maritime Labour Convention



Company		Standards/Initiatives		
Marks & Spencer, UK	Retailer	GRI	Environmental Initiatives	
Multiexport Foods , Chile	Wholesale seafood		ISO 14001 ISO 9001 Intl. Food Standards (IFS) Member of SFP	
Norpac Fisheries, US	Exporter		Member of MSC Good Manufacturing Practice (GMP)	
Publix, US	Retailer		Aquaculture Certification Council Inc. Member of MSC Global Aquaculture Alliance (GAA). Member of SFP	
Phillips Foods, US	Processor		Member of SFP Global Standard for Food Safety	
Raley's , US	Retailer		Member of SFP	
Sainsbury, UK	Retailer	ILO ETI	Member of MSC Member of SFP Own initiatives, e.g. the "Sustainable Fish" Initiative	
Slade Gorton, US	Retailer and processor		Member of SFP Safe Quality Food Best Aquaculture Practices (certified)	
Sobey's, Canada		Global Social Compliance Programme	Member of SFP Member of Global Consumer Goods Forum Member of Global Social Compliance Programme (GSCP)	Code of Conduct (2009, p.10): "We are in the process of defining supply-chain goals for sustainability. These goals will include ethical and fair labour practices, environmental management, packaging reduction and sustainable seafood harvesting."



Company		Standards/Initiatives		
Tesco, UK	Retailer	ILO OECD	Member of SFP Member of ETI Member of MSC Member of establishing Sedex (Supplier Ethical Data Exchange), "Trading Fairly" Initiative involving Fishing Industry	Challenge identified in the 2010 CSR Report: "• We need to find ways to help our suppliers deliver progress on difficult issues, such as labour standards, which may be outside our direct control". Responsible is the Fish Sustainability Working Group
Trader Joe's, US			Due to pressure from, i.e. Greenpeace, Trader Joe's announced that they will shift their seafood purchases to sustainable sources by December 31, 2012.	
Vietnam Fish One Co Ltd., Vietnam	Processor			SAAS accredited
Walmart, US	Retailer	ILO OECD	Member of SFP Member of MSC Better Work Programme	
ZF America, US/China	Farmer & processor	ISO 9001.2000	Member of SFP Member of MSC	

Internet links for above-mentioned companies:

- http://www.aldi.com.au/au/html/company/sustainable_seafood.htm#more_about_MSC
- <http://your.asda.com/sustainability-policies>
- <http://www.aquastar.com/>
- <http://www.aquaculturecertification.org/>
- <http://www.bjs.com/>
- <http://www.biomar.com/en/Corporate/From-raw-material-to-the-dinner-table/Raw-materials/>
- <http://www.dsg.dk/da/Pages/Forside.aspx>
- <http://www.espersen.dk/?Id=976>
- <http://www.ewos.com/portal/wps/wcm/connect/ewoscom/com/frontpage>
- <http://www.findusgroup.com/web2009/>
- <http://www.asdomar.it/>
- <http://www.gencosar.it/>
- http://www.highliner.com/site/eng/fish_tips_types.asp
- <http://www.incomfish.com/>
- <http://www.loblaw.ca/>
- <http://www.mcdonalds.com/us/en/home.html>
- http://www.osm.no/news_archive.asp
- <http://corporate.marksandspencer.com>
- <http://www.salmex.com/site/> <http://www.multiexportfoods.com/site/>
- <http://www.norpacexport.com/>
- <http://www.publix.com>
- <http://www.phillipsfoods.com/about-Phillips-Retail/CorporateResponsibility.aspx>

<http://www.raleys.com/www/>
<http://www.j-sainsbury.co.uk/>
<http://www.sladegorton.com/>
<http://www.sobeyscorporate.com>
<http://www.tesco.com/corporate>
<http://scmgreen.com/category/>
<http://walmartstores.com/>
<http://zfamerica.com/default.aspx>





Appendix IV

Summary of the tripartite consultation on forced labour and trafficking in the fisheries

(ITC-ILO, Turin, Italy, 19-20 September 2012)

About the meeting

The meeting was convened to obtain comments and inputs from ILO tripartite constituents, other intergovernmental organizations, non-governmental organizations and experts on (a) the development of a broad ILO strategy to prevent and combat forced labour and human trafficking in the fisheries sector and (b) a draft desk review on the issue. The revised desk review is distributed separately.

The ILO estimates that 20.9 million people are working in conditions of forced labour worldwide. Recent reports of severe human rights abuses and exploitation aboard fishing vessels have led to calls for greater international attention to forced labour, human trafficking and safe and decent working conditions of fishers.

The consultation was organized by joint cooperation of the ILO's Special Action Programme to Combat Forced Labour (SAP-FL) and the Sectoral Activities Department (SECTOR). It was hosted by the International Training Centre (ITCILO).

The purpose of the consultation was to solicit informal comments and inputs, rather than achieve official consensus and recommendations. The consultation was held using interactive discussion methods (Q&A session, market place, working groups) subject to the Chatham House rule. The purpose of the Chatham House rule is to facilitate free and open discussions by allowing participants to express their opinion without subsequent attribution. This report respects the Chatham House rule.

Participants

Participants representing governments, employers' and workers' organizations, intergovernmental and non-governmental organizations and other experts attended the meeting.





Summary of discussions - Day I

The meeting commenced with an overview of the terms ‘forced labour’, ‘human trafficking’ and “fisheries”. It was pointed out that ILO has developed indicators³³ of forced labour that can be adjusted to the specific context of work in the fisheries sector.

The fisheries sector is the subject of well-developed international legal frameworks pertaining to working conditions at sea (the Work in Fishing Convention, 2007 (No. 188)); safety at sea (Torremolinos Protocol of 1993 Relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977); training of fishers (the Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (STCW-F Convention)); as well as a number of codes, guidelines and recommendations on safe construction of fishing vessels and fishers’ working conditions. A common denominator of these instruments is, to date, the lack of political commitment to bind member States. In September 2012, the STCW-F Convention entered into force with 15 ratifications, 17 years after its adoption. A diplomatic conference to sign an implementation agreement of the Torremolinos Protocol was planned for October in Cape Town this year, nearly twenty years after the Protocol’s adoption. Convention No. 188 was negotiated with broad endorsement of all tripartite constituents (governments, workers’ and employers’ organizations), but has to date only received two ratifications (as of 15 October 2012) and is not yet in force.

Several participants expressed impatience with the slow rate of ratification, saying that immediate and widespread ratification of these standards should be a priority. However, some participants also urged that action be taken to protect fishers from deceptive and coercive labour practices even before these instruments come into force. It was emphasized that member States, including most flag States, are parties to the forced labour and human trafficking instruments and have a responsibility under international law to exercise their prescriptive and enforcement jurisdiction over vessels flying their flag. The meeting moreover, heard the experiences of one State that had recently taken action to bring vessels fishing within its exclusive economic zone under effective regulatory control by requiring such vessels to be registered (fly the flag) in the State.

33 Available at http://www.ilo.org/public/libdoc/ilo/2011/111B09_351_engl.pdf

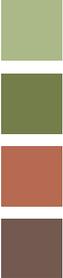


In view of the difficulties some countries may experience in the ratification of Convention No. 188, some participants suggested that key elements of this convention (provisions concerning crew list, a copy of which remains ashore, medical certificate and signed work agreement) could be easily translated into national legislation and would then become strong tools in the fight against forced labour in the fishing sector.

The need to address forced labour and human trafficking holistically was a recurring theme of the consultation. A number of participants highlighted that forced labour and human trafficking are linked to fisheries management policies and the problem of flags of convenience, i.e., flag States that are unable or unwilling to exercise their responsibilities in accordance with international law, for example as provided in Article 94 of the United Nations Convention on the Law of the Sea (UNCLOS).

Forced labour and human trafficking could also be regarded as a maritime security issue and opinions were raised that the problem is connected to other forms of crimes at sea, such as fisheries crime, illicit traffic in drugs and weapon trafficking, as well as up- and down-stream crimes including migrant smuggling, money laundering, corruption and tax, customs and document fraud. It was also suggested that activities at sea must be addressed together with land-based activities, including fish processing, trade, aquaculture and work in ports and harbour areas. At the same time several participants stressed that there is a need to pay attention to particular problems associated with certain segments of the sector, such as small-scale fisheries or inland fisheries, which experience problems with, for instance, hazardous child labour. It was also suggested that the experiences gained from intervention measures in these segments of the sector could be extrapolated to other segments.

Many participants called for strengthened cooperation and coordination at multiple levels. These participants expressed a need for not only improved cooperation and coordination between intergovernmental organizations and agencies but also bilateral and multilateral cooperation and coordination at the State level. A few participants also spoke about their experiences with coordination and cooperation within States, highlighting the need to bring together various agencies with a mandate to regulate and control fishing vessels or fishers, e.g., labour authorities, coast guard, fisheries agencies, customs, police and



harbour and maritime authorities. The need for information sharing and adequate training was also emphasized.

Several participants stressed the significance of liaising with social partners, citing the social partner's agreement to implement Convention No. 188 at the EU level. It was pointed out that social partners, employers' and workers' organizations play a particularly important role in the ILO structure and will be vital to the process of finding solutions and implementing measures to address the problem of forced labour and human trafficking in the fisheries sector.

A number of participants raised the problem of inadequate monitoring, control and enforcement of fishing vessel activities and fishers' safety and working conditions. On the High Seas the flag State has prescriptive and enforcement jurisdiction and should monitor and control fishers' working conditions and investigate and enforce forced labour and human trafficking offences. Again, the problem of flag States that are unable or unwilling to adhere to their international responsibility was stressed. It was pointed out that other States have a limited right to board and inspect foreign vessels on the High Seas if there are 'reasonable grounds to suspect' that the vessel is 'engaged in the slave trade' (Article 110(1) (b) of UNCLOS).

Important opportunities for monitoring and control of fishing vessels could be used when such vessels are in port. A number of participants noted the important role of port State control (PSC) authorities. However there is a need to strengthen and improve port State control of labour conditions and safety matters on fishing vessels. In this regard, participants suggested that existing memoranda of understanding (MOUs) (such as the Paris MOU on port State control) may be appropriate forums to coordinate port State control of these issues on fishing vessels. It was also suggested that Regional Fisheries Management Organizations (RFMOs) could have a role in coordinating the monitoring of such conditions.

A recurring theme during the consultation was the lack of transparency in the fisheries sector, which hampered effective law enforcement. Issues raised were the lack of knowledge about vessel identity, ownership and movements at sea. It was pointed out that fishing vessels can be registered in jurisdictions that hide the identity of the beneficial owner; and fishing vessels' movements and transshipments are difficult to trace because fishing vessels are not necessarily required to constantly



report their positions by radio or satellite. A question was also raised about who should receive and process this data when it is available. Participants suggested that this lack of transparency combined with the remoteness of the workplace makes investigation and law enforcement of forced labour and human trafficking offences in the fisheries sector particularly challenging.

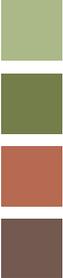
A number of participants highlighted the need for awareness-raising about the problem of forced labour and human trafficking in the fisheries sector and the need to improve data and our knowledge of key drivers of the practice. It was also pointed out that both the industry and States need assistance to identify measures to effectively address the problem.

Some participants expressed the need for ‘hook to plate’ accountability and suggested that more needs to be known about the use of catch documentation certificates to improve transparency in the fish production, trade and distribution chain. Participants also raised the issue of multistakeholder initiatives (such as, Corporate Social Responsibility (CSR), and voluntary audits) as supplementary means to improve transparency in the labour supply chain and law enforcement. It was pointed out that, for instance, major retailers can send strong signals and that their decision to avoid purchase of fish from fisheries with instances of forced labour and human trafficking has had major influence on law and policy makers. It was, however, stressed by a number of the participants that these initiatives should remain voluntary.

The day concluded by noting the complex, multifaceted and non-linear nature of the problem of forced labour and human trafficking in the fisheries sector. A consequence is that it is hard to predict the effect of intervention measures and that intervention measures are likely to lead to a displacement of the problem. The problem of forced labour and human trafficking in the fisheries sector is also expected to evolve over time, which means that the effect of interventions will have to be evaluated on a regular basis.

Summary of discussions - Day II

During day II, the participants were split into working groups, tasked with discussing possible responses and identifying priorities for a global action programme. The main topics of the working group discussions are summarised below:



Law and policy

There are opportunities within the existing international legal framework to protect fishers from being victims of human trafficking and subject to forced labour at sea. The following are some of the opportunities identified:

The ILO has developed indicators of forced labour as part of Special Action Programme to Combat Forced Labour (SAP-FL) and ILO efforts to tackle forced labour and the conditions that give rise to it. These indicators could be adjusted to help understand the extent, location and characteristics of forced labour in the fishing sector.

The relationship between human trafficking and forced labour in the context of the fishing sector could be explored so as to better understand the applicability of the existing legal framework regarding human trafficking, (e.g. the Trafficking in Person Protocol).

Other instruments that were considered particularly important to addressing conditions of work (including safety) in the fishing sector are:

- IMO International Convention on Standards of Training, Certification and Watch-keeping for Fishing Vessel Personnel, 1995 (STCW-F);
- IMO Torremolinos International Convention for the Safety of Fishing Vessels, superseded by the 1993 Torremolinos Protocol (Torremolinos Protocol);
- ILO Work in Fishing Convention, 2007 (No. 188) and Recommendation (No. 199)
- United Nations Convention on the Law of the Sea, 1982 (UNCLOS);
- IMO Convention on Facilitation of International Maritime Traffic, 1965 (FAL Convention);
- FAO Code of Conduct for Responsible Fisheries;
- FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.



The existing use of port State control to regulate international merchant shipping, mostly organized through regional agreements, means that port States already have experience and tools that could be extended to cover the inspection of fishing vessels. Increased control of fishing vessels by port States would contribute to the identification of human trafficking and forced labour. The ILO's Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention, 2007 (No. 188), could be used to guide port State control efforts regarding labour conditions on fishing vessels.

Most countries with significant coastlines have national plans of action or legislation regarding their fisheries and fisheries policy. These plans and policies predominantly focus on fisheries management and quotas. Amendments to these national plans of action and policies to include a social dimension could provide the necessary recognition and a foundation for further efforts to address the living and working conditions of fishers.

A number of IGOs and NGOs already provide assistance to victims of human trafficking and forced labour, though few focus on victims in the fishing sector. There are certain issues to acknowledge when considering victims' assistance: the difference between human trafficking and forced labour and the different laws concerning them, the links between human trafficking and forced labour and fisheries crime, the difference between criminal and civil responses and measures to avoid the criminalization of the victims themselves.

Research, knowledge sharing and the supply/value chain

The supply/value chain in the fishing sector can be traced from persons consuming the fish back to the fishers that produced it.

The fishing sector and the products it produces can be classified and organized in different manners, for example:

- by sub-sector, fish can be 'wild' from capture fisheries or 'farmed' from aquaculture;
- by destination, fish can be for local consumption (domestic markets) or for export;
- by product, fish can be fresh, frozen, dried or canned;

- 
- by operator in capture fisheries, different size vessels, types of catches, inland or offshore, duration at sea, flag of vessel, nationalities of owners or fishers, joint venture or otherwise;
 - by location of processing, fish can be processed ashore, on board fishing vessels, in export processing zones (EPZs), or a combination of the three;
 - by labour supply, fishers can be recruited through public agencies, private employment agencies and informal, social or family networks.

Research into organization of the sector and the value chain could help identify pressure points and help target action or focus efforts to target human trafficking and forced labour in the fishing sector. This would determine if there were any links between certain fishing practices or operations with forced labour. Research into underlying and driving factors could demonstrate ways that human trafficking and forced labour could be addressed in an institutional manner and research that enables the problem to be understood and scaled is useful for advocacy purposes.

Communication and awareness

When considering the use of communication and awareness in efforts to tackle human trafficking and forced labour in the fishing sector, it is important to determine the main audiences. These audiences should be subject to a 'hit-and-engage' campaign and not a 'hit and run' campaign. Audiences to keep in mind include:

- Media - it is important to get the media involved with the campaign;
- Government officials - a communication and awareness campaign should focus on political decision-makers such as ministers, and technical agencies and their personnel such as fisheries enforcement officers;
- Inter-governmental agencies - their influences, particular expertise and knowledge are essential to addressing human trafficking and forced labour in the fishing sector;
- Consumers - they are a main audience because they can be used as leverage and as a means to exert political pressure;



- Fishing operators - to make them aware of the regulations and the penalties for a level of involvement in human trafficking and forced labour;
- Migrant workers - to make them aware of their rights, risks and how to seek assistance if they fall victim to human trafficking or forced labour;
- Other audiences, particularly potential workers in labour supply States, could be targeted through specialist communication activities.

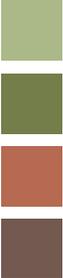
The following main messages to communicate were identified:

- The important message to transmit is what the problem of human trafficking and forced labour in the fishing sector is, who it impacts and how. This could involve ‘humanizing’ the issue (i.e. giving it a face).
- The highlighting of good practices as part of the main message is crucial because it indicates how the problem can be addressed.
- The message can be ‘widened out’ to attract further interest and attention by linking the problem to other issues (or crimes) such as drugs, tax evasion and IUU fishing.

The ILO could try to reach out beyond its normal tripartite structure in the context of a communications and awareness campaign for tackling human trafficking and forced labour in the fishing sector. Activities should be measured, monitored and reviewed to see if there is an impact. A communications strategy should be open to using all types of media, such as film and other forms of social media since they are inexpensive. However, care should be taken to incorporate all aspects of the issue so as not to alienate members of the fisheries sector.

Representative organizations of employers and workers in the fishing sector

The level of organization of employers and workers in the fishing sector will be important to the ability to address human trafficking and forced labour. There is a low union density of fishers and representative organizations of employers in the fishing sector are fragmented and dispersed. The main international workers’ organizations are the



International Transport Workers' Federation (ITF) and the International Union of Food-workers (IUF).

Representative organizations of employers and fishers could work to drive out illegal practices, raise standards in the sector and help move others from denial to acceptance of the problem. There should be recognition that the 'mutual enemy' is the criminal and those that choose to ignore the crime for financial gain. The cooperation of the social partners is important to the establishment of safe reporting systems using third parties based on some indicators, such as no licence or changing flags. An international system would be ideal, but based on facts with no blacklisting until a case is proven. Other important actions for the social partners to engage in together include the promotion of international inspection and an international registry system, the sharing of good practices and promotion of traceability (ITF/IUF Fisheries Programme should be noted) and the facilitation of union access to processors. The International Organization of Employers (IOE), the International Trade Union Confederation (ITUC) and other global organisations and national federations can help to coordinate the actions of employers and workers in the fishing sector.

Cooperation and coordination

The group identified some of ILO's strategic partners to strengthen the legal and institutional framework internationally, regionally and nationally: the United Nations Organization for Drugs and Crime (UNODC), INTERPOL, the Food and Agriculture Organizations (FAO), the International Organization for Migration (IOM), the International Maritime Organization (IMO), the regional economic communities (RECs), the regional fisheries management organizations (RFMOs), the ministries responsible for labour, justice, immigration, foreign affairs and all those authorities concerned with maritime and fisheries affairs.

A strategy should be developed that makes use of the existing structures and fora. There are examples where this has been done in the past, such as the child labour in agriculture partnership (ILO/IPEC, ILO/SECTOR and FAO) that was developed through agreed principles of cooperation.

Further action should be taken to address the root causes of human trafficking and forced labour in the fishing sector. Specific activities, which should be identified following further consultation, would include the exchange of information of stakeholders in an organized

manner, the development of an action plan and the exploration of all avenues and sources for funding this work.



APPENDIX 15

New Zealand's turbulent waters: the use of forced labour in the fishing industry

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Abstract *In this article, we make an empirical and conceptual contribution to the emerging debate on unfree labour in the context of labour chains and global value chains. We recast an historical view of poor labour practices aboard some foreign charter vessels fishing in New Zealand's waters as something more nefarious. Applying the International Labour Organization (ILO) and European Commission (EC) operational indicators of human trafficking for forced labour to 293 interviews, we evaluate the extent to which we can consider migrant fishing crew aboard South Korean vessels as victims of forced labour. We find that they are indeed victims of forced labour and that there is a need to extend the ILO/EC operational indicators to take into account exit strategies. Specifically, there is insufficient recognition of deception, exploitation and coercion at the point of exit, which can prevent a trafficked victim from exiting the employment relationship. Thus, it is crucial to take account of all stages, from recruitment to exit, to understand fully unfree labour in labour and global value chains.*

Keywords UNFREE LABOUR, TRAFFICKING FOR FORCED LABOUR, GLOBAL VALUE CHAINS, NEW ZEALAND'S FISHING INDUSTRY

When does the supposedly free employment of migrant workers become 'unfree'? How can we recognize and act upon a lack of freedom or trafficking if we are inclined – at least when it involves 'us' and not a faraway country – to dismiss disturbing accounts or regard them as employment disputes? Such questions have become relevant in New Zealand, a country that prides itself on its 'clean green' image and, in

the context of the fishing industry, its ‘pristine’ waters. Since 1979, New Zealand charter companies, and subsequently quota holders, have been contracting foreign charter vessels (FCVs) to fish significant portions of their quota entitlements. In the shadow of these contractual arrangements, there have been recurring accounts of labour abuses and other nefarious practices aboard these vessels. As early as 1996, members of parliament were discussing the exploitation of foreign crew. As one such MP (Kelly 1996) argued:

What has happened is that the New Zealand fishing industry is being developed on the backs of foreign Third World exploited labour. ... We have had accusations of people being beaten and whipped ... many of them have not been paid. ... The industry cannot embarrass the rest of the country by allowing this to happen.

A decade later, the government belatedly introduced a soft regulation in the form of a voluntary ‘Code of Practice on Foreign Fishing Crew’, but claims of physical, psychological and wage abuse persisted (see Devlin 2009; MUNZ 2009, 2011). In 2011, Indonesian crew members from a number of South Korean FCVs walked off vessels berthed in New Zealand ports because of exploitative labour treatment by their Korean officers (Simmons and Stringer 2014; Stringer et al. 2014). This led to an unprecedented public outcry, a ministerial inquiry and the New Zealand government’s subsequent undertaking to regulate the activities of FCVs. Until then, New Zealand authorities had viewed accounts of abusive labour practices as isolated incidents of breaches of employment law or workplace bullying. This may have begun to change but, in our view, eliminating such practices requires a clearer understanding of when and how supposedly free labour becomes unfree – in other words, an ability as well as a willingness to recognize human trafficking for forced labour.

Our motivation in writing this article comes from a wish to recast what people view as poor labour practices that occur sporadically in the fishing industry as something more widespread and systemic. We find that forced labour-linked trafficking has evolved in the context of ‘labour chains’, which in turn have evolved in interaction with global value chains (GVCs), or global production networks (GPNs). Scholars have been slow to examine the unfree labour dimensions within GVCs/GPNs, but this is beginning to change and our article makes an empirical and conceptual contribution to this emerging research stream. Applying International Labour Organization (ILO) and European Commission (EC) operational indicators of human trafficking to abusive labour practices on certain FCVs operating in New Zealand’s waters, we evaluate the extent to which we can consider migrant fishing crew as trafficked persons. Barrientos et al. (2013) argue that the distinction between free and unfree or trafficked labour is not a categorical one, but a continuum, with multiple dimensions, occurring at various points in an employment relationship. Even allowing for these gradations, our findings suggest unambiguously that crew on these FCVs in New Zealand waters are the victims of trafficking, as defined by the ILO/EC indicators, and that there is a need for a concerted effort to eliminate that practice.

This study suggests that it may be necessary to modify the ILO/EC operational indicators themselves. Specifically, we find insufficient recognition of deception, exploitation and coercion at the point of *exit*. This affects the ability to leave a relationship, as well as the conditions of exit. Thus, we argue for the need to encompass the entire span of employment, from recruitment to exit, in forming judgements about trafficking.

We structure the article as follows. In the second section, we discuss the existence of forced labour in global 'labour chains' acquired through the use of unfree labour or trafficking. We position our understanding of labour chains in the context of GVCs/GPNs and the growing recognition of the need to study labour in this context. After a general discussion, we focus on the fishing industry. In the third section, we discuss our methodology and introduce ILO/EC operational indicators of trafficking in human beings. We then evaluate the interviewees' accounts to identify whether and to what extent trafficking for forced labour has taken place. In the fourth section, we relate empirical evidence to the operational indicators and to an entry–exit framework. We added 'exit' because there was a gap in the existing indicators. The fifth and sixth sections respectively comprise a discussion and conclusions. This article is ambitious in that, in its attempt to provide clarity and greater accuracy to our understanding of trafficking, as well as in drawing on an extensive and compelling body of interview material, it is both practitioner (policy maker) and research oriented.

Human trafficking, forced and unfree labour

The International Labour Organization (ILO) (2012) estimates claim that there are 20.9 million slaves – individuals without control (or agency) over their rights and working conditions – worldwide. By definition, the limitation or loss of agency reduces a person to a commodity, or trafficked person (Wheaton et al. 2010). Annual profits from forced-labour trafficking are estimated at \$US 51 billion (ILO 2015). Kara (2011) estimates the return on investment to be between 300 and 500 per cent per victim. To date, forced labour has received disproportionately less attention than sex trafficking in the academic literature (cf. Smit 2011; Strauss 2013; Zhang 2012). This may be because it is difficult to quantify, for it is 'not always clear as to whether the described practice meets the legal definitions of forced labour or human trafficking found in the international legal instruments' (ILO 2013: 14). Furthermore, some national laws fail to recognize forced labour or, in particular, the trafficking of men (Yun 2011). There is uncertainty about what actually constitutes a 'pure' case of forced labour (Skeldon 2011) and a general reluctance to see the phenomenon as systemic (Phillips and Mieres 2015).

Human trafficking is an opportunistic response to the desire by some businesses and/or individuals to increase their profits on the one hand and the necessity of victims to sustain themselves and their families on the other. Traffickers are the intermediaries who match and supply labour to employers, taking advantage of the difference between low wages and high unemployment in source countries and labour demands in destination countries (Wheaton et al. 2010). The context of the

industry is an important consideration. Trafficking tends to occur where demand for labour is high and regulatory frameworks governing labour are weak (Crane 2013); it is most often associated with labour-intensive industries such as agriculture, construction, manufacturing and fisheries (Bakirci 2009; Belser 2005; Kara 2011; UNODC 2011), particularly industries incorporated into GPNs (Phillips and Mieres 2015). Crane (2013: 54) notes that ‘primary industries that have become uncompetitive because of low market prices and high costs with existing technologies might perceive the necessity of coerced labor brought as close as possible to zero cost to survive’.

The extant literature on human trafficking often uses related terms such as bonded labour, forced labour, modern slavery and unfree labour, among others. While some researchers use these terms interchangeably, others (such as Rogaly 2008; Wheaton et al. 2010) have sought to establish semantic boundaries. According to the ILO (2013), trafficking can occur for the purpose of forced labour. Strauss (2012) positions forced labour as a subset of unfree labour. Lerche (2007: 430) issues a caution about conflating the terms human trafficking and forced labour, for it ‘tends to take away the focus from the incidence of forced labour among non-trafficked migrants’. Notwithstanding scholarly debates, there is consensus that ‘restrictions on workers’ freedom’ underpin such terms (McGrath 2013: 1007). McGrath (2013: 1006) suggests that each term in reality ‘represents a multi-dimensional concept’ and that we should approach them all in this way. While, we use the term unfree labour as an encompassing category (Strauss 2012), we use ‘trafficking for forced labour’ specifically to operationalize the category’s core set of practices, as the ILO/EC indicators propose.

Two key international definitions contribute to the meaning of human trafficking for forced labour. The first, set out in the ILO Forced Labour Convention 1930 (No. 29), defines forced labour as ‘all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily’ (Article 2(1)). The ILO based its definition on two fundamental concepts – the ‘involuntary nature of work’, wherein a worker is forced through a lack of consent into a situation and the ‘menace of penalty’ by which they are kept there through, for example, coercion, non-payment of wages or debt bondage (ILO 2005: 6). However, it is a challenge to ‘distinguish between direct coercion or menace of penalty and involuntary labour that stems from extreme poverty and lack of alternative livelihood’ (monitoring organization quoted in Dottridge 2012: 11).

The second definition is found in the United Nation’s Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (hereafter Trafficking in Persons Protocol), which seeks to establish a legal framework to prevent and punish people trafficking, and also to assist victims of trafficking in respect to their human rights (UNODC 2011). The Trafficking in Persons Protocol, Article 3 (UNODC 2004: 42) defines ‘trafficking in persons’ as follows:

The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of

fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

The definition contains three elements – the ‘act’, the ‘purpose’ and the ‘means’. The ‘act’ covers stages from recruitment to deployment, for the ‘purpose’ of exploitation, through a range of ‘means’ by which the person is controlled or rendered forced.

Forced labour chains

Forced labour is an undercurrent of modern capitalism, characterized by increasing and fragmented complexities in patterns of production and trade (Lerche 2007; McGrath 2013). Globalization has both required and facilitated a restructuring of labour markets (Phillips and Sakamoto 2012), leading to the creation of flexible labour markets in which the distinction between developed and developing markets is progressively blurred (Strauss 2012). In the last decades of the twentieth century, manufacturers and producers in many developed countries began to reverse the long-term trend towards vertical integration and turned to outsourcing some or even all of their production. The sourcing activities of powerful retailers increasingly crossed national borders, in increasingly complex arrangements imperfectly captured by the dichotomy of markets and hierarchies (Gereffi 1994; Gereffi et al. 2005). One stream of research has studied this under the banner of ‘global value chains’, focusing on firms, governance and the ways upgrading can be achieved (Coe and Jordhus-Lier 2011; Coe et al. 2008). Another stream, under the banner of ‘global production networks’, placed more emphasis on the ‘institutional, societal and territorial embeddedness of those linkages’ (Barrientos 2013: 1064). Our purpose here is not to debate the characteristics, strengths and weaknesses of these respective approaches (cf. Neilson et al. 2014), but to explore the relatively under-developed dimension of labour use and abuse associated with these chains or networks.

According to Phillips and Mieres (2015: 252), research demonstrates ‘a clear correlation between the extent of outsourcing and location and incidence of forced labour’. Because each sphere of a production network embodies it, labour is critical for understanding the structure and functions of GPNs (Cumbers et al. 2008; Rainnie et al. 2011). However, GVC/GPN labour chain analysis seldom acknowledges labour, particularly ‘invisibilized’ workers, except during periods of overt labour action (Cumbers et al. 2008; Stringer et al. 2014). When firms outsource production, they simultaneously outsource the labour used in that production, and this applies to every link in the chain. By using a similar logic to production outsourcing, it is also possible – and has become increasingly easy in many countries – to outsource (or insource) labour itself, in other words to secure labour from external parties to undertake work without creating a formal employment relationship. Barrientos (2013: 1065) sees such labour contracting as ‘a logical extension of the commercial dynamic through which global outsourcing is implemented by global buyers.’ In other words, there is a close link between labour contracting and GVCs/GPNs.

Like outsourcing production, contracting in labour has become increasingly complex in that it involves a range of intermediaries and relationships with different degrees of formality. Frances, Barrientos and Rogaly (as discussed in Barrientos 2013: 1062) describe a ‘complex “cascade” system of labour supply, involving networks of labour intermediaries’, which extends well beyond the simple ‘triangular’ employment relationship in which the employer and the party for whom the work is carried out differ. It may involve formally registered companies that supply temporary or fixed-term workers on a formal contract, but these workers in turn may come from informal or unregistered intermediaries with progressively less transparent sourcing and employment arrangements. The complexity – and often opacity – of this system heightens the potential for economic, physical, mental and sexual abuse. Such abuse can occur for a number of reasons, such as when the price paid to the contractor fails to cover the cost of worker wages and benefits, or when contractors seek to extract an additional surplus (Barrientos 2013). The former leads to rights abuses (wages below the minimum wage, non-payment of benefits and so forth) and the latter to ‘unfree labour’, for example when workers are unable to exit a relationship freely (Barrientos 2013; Strauss 2013). In practice, rights abuses and unfree labour practices often intertwine and, as Barrientos points out, there are degrees of abuse and lack of freedom – a continuum rather than a categorical distinction.

Lerche (2007) highlights the need to ‘acknowledge the fluidity of actually occurring levels of unfreedom’ within labour chains. Increasingly, researchers are beginning to explore the nuances of ‘free’ versus ‘unfree’ labour and the different forms that ‘unfreedom’ can take (Barrientos et al. 2013; Bastia and McGrath 2011; Lerche 2007; Skeldon 2011; Strauss 2012). Workers may in fact enter into unfree employment voluntarily, but then find that they lack the agency to withdraw from it (Skeldon 2011). Workers may voluntarily enter such employment through poverty or a lack of alternatives, what John O’Neill (2011) refers to as ‘compulsion by necessity’. There is often an expected exit point, which also superficially suggests voluntary employment (Barrientos 2013), while a need to repay debts incurred at entry or during employment can create the lack of freedom. Workers may also become unfree between entry and exit, for example through the imposition of ‘runaway insurance.’

Thus, the lack of freedom and exploitation associated with it can occur at the recruitment stage, within the labour process itself, or when the worker attempts to end the employment relationship (O’Neill 2011). While some definitions of unfree labour focus principally on the point of entry and the labour relationship itself, Barrientos et al. (2013: 1039) contend that the constraints that stop a person leaving the labour arrangement, or ‘unfreedom at the point of exit’, are the defining characteristic of unfree labour. Nonetheless, academic literature to date has paid scant attention ‘to the resolution of unfree labour and trafficking, that is, how workers exit unfreedom’ (Bastia and McGrath 2011: 11). In these authors’ view, the trafficking language ‘does not reflect migrant workers’ own understandings of these experiences’ (Bastia and McGrath 2011: 9).

Fishing industry

Forced labour takes place in a range of contexts. It is widespread in the fishing industry, where severe abuse involving cruel and inhumane treatment of fishermen (EJF 2010; Surtees 2013; Yea 2012) is common. According to UNODC (2011: 36), 'although variances do exist, human trafficking often appears to require close cooperation between fishing vessel operators and intermediary brokers and recruitment agencies.' Specialized labour intermediaries, known as manning agents, supply the labour the fishing companies request and, for this service, they extract fees from both the crew and the employer. Against a background of poverty in source countries, competition for employment in the fishing industry can be intense, which can lead to bribery and debt bondage (EJF 2009, 2010). Excessive recruitment fees, loans or travel expenses (sometimes inflated), or the manning agent charging high interest and exchange rates can create debt bondage. In turn, debt bondage can constitute 'workers' subsequent unfreedom' (Barrientos et al. 2013: 1040; see also Phillips and Mieres 2015). By its very nature, the location of the work, which is at sea and often isolated for months on end, puts fishermen in a precarious position. These fishermen are often exploited in terms of conditions and wages, subjected to severe physical and sexual abuse and denied the ability to exit the labour relationship (de Coning 2011; EJF 2010; ITF 2006; Stringer et al. 2014; Surtees 2008, 2012).

According to the ILO (2013), research into the labour chain in the fishing industry is fragmented. Past research has focused largely on recruitment and conditions on board vessels, with less attention given to the point of exit (ILO 2013). In the light of this growing and serious problem, which researchers are only just beginning to address, but which is difficult to capture, complex and definitionally challenging, we cautiously proceed. In the following section, we discuss our research methods, and then introduce the ILO/EC operational indicators. With these indicators, we then examine the working conditions of foreign fishing crew aboard South Korean FCVs operating in New Zealand waters to determine the extent to which forced labour is present in the labour chain, which we extend with an incorporation of 'exit'. We also discuss how crew responded to their various abuses, engaged in acts of resistance, or contested their working conditions.

Methods

In 2011, there were 27 foreign charter vessels (FCVs) fishing in New Zealand's waters; 13 were South Korean flagged, manned by South Korean officers and migrant crew from low cost labour countries elsewhere in Asia. On average, there were 32 migrant crew and 6 South Korean officers on each vessel. Between 2011 and 2014, we conducted semi-structured interviews with 293 informants, the majority of whom were foreign crew, mostly from Indonesia, but also from Burma, China and the Philippines. We also interviewed fishing industry personnel in Indonesia and New Zealand, along with key individuals from government and non-governmental organizations. Those we interviewed included former observers who had worked for the New Zealand Ministry of Fisheries¹ collecting data for the effective management

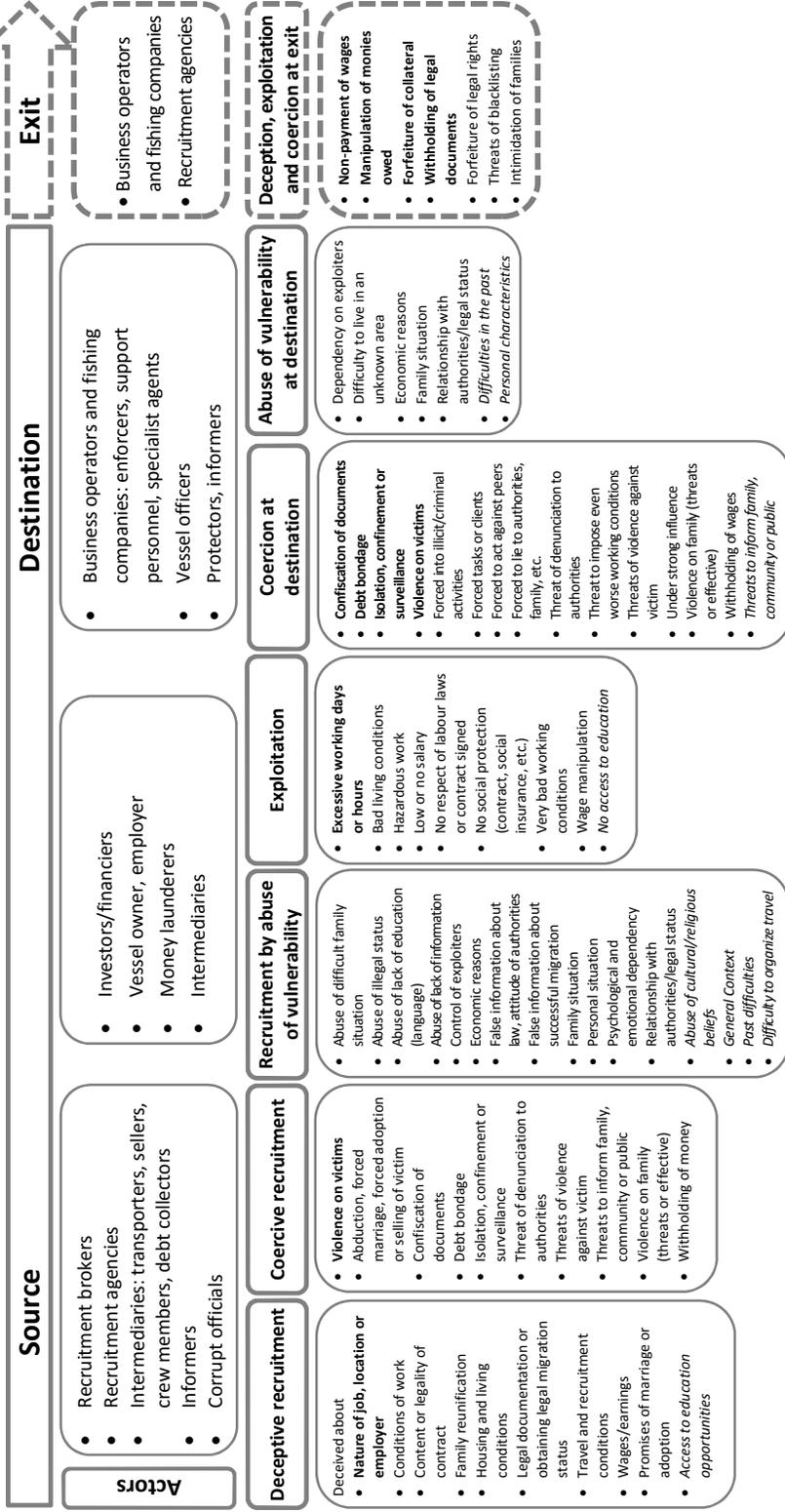
of fisheries. The former observers provided important insights into labour conditions aboard the vessels. Taken together, the crew had worked on 19 different South Korean vessels fishing in New Zealand waters over a period from 1998 to 2013; many had also worked on vessels in other waters. In some instances, we interviewed the entire migrant crew on a particular vessel.

We initially obtained access to the Indonesian crew through the Indonesian Society in New Zealand, after which we employed a snowballing strategy. We used Indonesian translators to conduct the interviews, which lasted from between one and four hours, and we then arranged follow-up interviews with many crewmembers. It took time and effort to build enough of a rapport with the interviewees to make them feel comfortable about sharing aspects of their experiences with us. On occasion, we used dual translators for rigour. We recorded the interviews, with five exceptions – two because the crew in question were in prison awaiting deportation for deserting their vessel because of mistreatment and three whom we interviewed at Christchurch International Airport by telephone. The latter had less than 24 hours' notice of their departure and their agents had escorted them to the airport. They were sending them home before the completion of their contract with no satisfactory explanation of why. The nature of the subject matter meant that this type of research was not without challenges for our interviewees and translators, as well as for us (see Stringer and Simmons 2014).

We evoked the Official Information Act (1982) to obtain official documents, observers' handwritten diaries, Ministry of Fisheries and Department of Labour reports, Immigration New Zealand Approval in Principle documents and ministerial communications. We also obtained Indonesian, Korean and New Zealand employment contracts, manning-agent wage-calculation sheets, pay slips, crew bank statements, evidence of recruitment fees paid to agents, receipts for security and deeds of security. These documents allowed us to verify the interview data.

We set the semi-structured interviews against the ILO/EC operational indicators of trafficking in human beings. One can use four sets of operational indicators to identify human trafficking.² These come under the six dimensions of trafficking identified in the Trafficking in Persons Protocol (also known as the Palermo Protocol) – deceptive recruitment (including transfer and transport); coercive recruitment; recruitment by abuse of vulnerability; exploitation; coercion at destination; and abuse of vulnerability at destination. There are strong, medium and weak indicators for each dimension. A dimension is considered minimally 'positive' if there are (1) two strong indicators; (2) one strong indicator and one medium or weak indicator; (3) three medium indicators; or (4) two medium indicators and one weak one (ILO and EC 2009: 3). Combining the six dimensions, workers can be classified as successful (no deception, exploitation or coercion), as exploited (no deception or coercion), or as victims of deception and exploitation (without coercion) or trafficked (deception, exploitation and coercion) (ILO and EC 2009). We based our trafficking framework for the fisheries industry on the ILO/EC indicators (see Figure 1). This figure outlines what form exploitation can take and who the possible exploiters might be. We now present our empirical findings, starting with recruitment.

Figure 1: Trafficking for forced labour framework (extended to include exit dimension)



Note: strong indicators are in bold text; medium in regular text, weak indicators in italics.

Source: Derived from ILO and EC 2009; Wheaton et al. 2010; Schloenhardt 1999; and extended by authors (dashed boxes).

Forced labour in New Zealand waters

Point of entry

The crew mostly came from the Tegal region in Central Java, a region with low standards of education, widespread poverty, high levels of unemployment, and a large percentage of people living below the poverty line (approximately \$US 75 per month). Crew were recruited through social networks, recruitment brokers or directly through manning agents. Working on a foreign fishing vessel where crew can earn upwards of \$US 250 a month was seen as an attractive employment opportunity.

To obtain work, the fishermen had to pay their manning agent a fee and sign over collateral, which could include education certificates, professional qualification certificates, land certificates, house titles and collateral belonging to relatives (interviewees 20, 42 and 48). The more lucrative the position or attractive the location, the more likely would emerge a bidding or bribery situation (interviewees 24, 57 and 50). One Jakarta-based manning agent justified the collateral: 'If the crew run away, Korean agents will claim costs such as air fares from the Indonesian agents and that's why we need security. It's hard for us to sell their houses, but motorbikes are easy to sell' (interviewee 202).

The Indonesian fishermen we interviewed had all signed an employment contract promising them a wage of between \$US 250 and \$US 500 a month depending on their position aboard the vessel. In fact, unbeknownst to them, there were actually three different contracts – an Indonesian, a South Korean and a New Zealand one – each designed to meet the regulatory requirements of the respective country. The crew were unaware of the existence of the Korean and New Zealand contracts. When they saw the copy of their New Zealand contract, they either said that their signature was forged or that they recalled signing a blank or partially covered piece of paper – 'they forced us to sign papers and we don't know what it is about' (interviewee 53). Thus, they did not know they were entitled to the New Zealand minimum wage (\$NZ 12.50 (\$US 7.50) for the period 1 April 2009 to 31 March 2010), plus an additional \$2 (\$US 1.20) an hour as specified in the Code of Practice. Although the fishing crew entered into a voluntary contractual agreement with manning agents, in effect from this moment onwards many became trafficked victims 'induced by deceit and false promises' (UNODC 2011: 23). Very few of the crew we interviewed were properly informed of their rights and none knew that the New Zealand minimum wage applied to them.

Exploitation of crew on board

Typically, crew would sign up for a two-year contract. They would spend 20 to 40 days at sea during the fishing season, before returning to port to unload their catch, restock the vessel and return to sea. In the majority of cases, they were in port for less than 48 hours. They could not easily leave their vessel and security guards were sometimes employed to 'watch and follow' them. Injured crew usually had to remain below deck while in port and commonly had any requests to see a doctor denied.

Aboard the fishing vessels, crew lived in horrific, slum-like conditions with a lack of proper food and water. One former observer recounted how they 'lived like rats' (Stringer et al. 2014), while another, a member of the crew (interviewee 20), explained how 'the [officer] would turn off the water to stop us using it. ... I slept on my duvet on the wooden base, as [there was] no mattress. I got bedsores.' New Zealand's Ministry of Primary Industries later seized a South Korean FCV under the Fisheries Act for illegally dumping quota fish. The ministry deemed the rat-and-lice-infested vessel a health risk and professionally fumigated it (McNeilly 2014).

Food rationing was common: '[we were] forced to ration meat, none after 20 days ... always 50 per cent less food than ... we ask for ... when [we] run out of food, [we] have to eat fish' (interviewee 40). Indeed, crew on one vessel had to eat rotten fish bait to survive. They suffered wage cuts to cover the costs of pork products and alcohol – items that the Indonesian crew, the majority of whom were Muslim, did not consume on religious grounds.

As noted (by interviewee 106), there was also a lack of medical care available for those who were sick:

In June 2011 [name withheld] complained of [a] high temp[erature], [he was] very weak and pale and always vomiting after eating, so [had] no appetite. Boson told him he was lazy and forced him to work. After 15 days, he got worse and captain gave him some medicine, but declined to take him to a doctor. When docked in Timaru the company immediately sent him home. He texted a few days later to say he had typhoid.

One member of the crew dislocated his arm when he fell over the side of his vessel. Although the vessel was berthed in port when the accident happened, the captain still denied him medical treatment (interviewee 197).

The crew worked excessively long shifts. One member (interviewee 20) reported having to work 53 hours without a break, while for others 20-hour shifts were common. On average, during the 2011 hoki-fishing season, crew from one vessel (interviewees 90 and 91) worked, under threat of violence and other forms of coercion, between 18 and 30-hour shifts with only a few hours' sleep between shifts. The agent had told one member (interviewee 197) that he would work six hours on and six hours off, but instead he had to work 18-hour shifts. When he contacted his agent to seek recourse, the latter merely said, 'that is your problem'.

Crew frequently had to sign blank or false timesheets that recorded fewer hours than they had worked: 'I was told they would deduct \$NZ 1000 [\$US 790] if I do not sign' (interviewee 20). One (interviewee 210) admitted to having forged signatures on crew timesheets: 'after I had completed this and gave the captain the timesheets, the captain smiled as he was happy at what I had done.' One officer confirmed that crew worked a minimum of 12-hour shifts, but that they routinely recorded much lower hours on the timesheets. He (interviewee 199) was of the opinion that the incorrect recording of crew hours was standard practice across all FCVs.

Unspecified illegal deductions and skimming money from pay entitlements occurred at each stage of their employment. In some cases, crew had an agreement with the agent to pay 50 per cent of their wages monthly to their families with the remainder paid at the end of their contract. However, the companies or operating agents often withheld the wage payments and final payments for months and, in many cases, made unreasonable deductions. The fishermen did not even receive their entitlements under the Indonesian contract: 'I [interviewee 20] was offered \$US 450, but only paid \$US 240 and [my] family got no money for [the] first six months as [the] agent kept it all.' Our analysis of employment contracts, pay slips and bank statements revealed that, on average, crew earned a net income of between \$NZ 6700 and \$NZ 11,600 (approximately \$US 5500–15,800) per year. This meant some crew were paid as little as \$NZ 0.49 (\$US 0.35) per hour.

Physical abuse and inhumane punishments were common. Crew were punished for seemingly no reason or for minor infractions: 'every time I [interviewee 58] asked for something I always got slapped or verbally abused first.' As one (interviewee 59) pointed out, extreme tiredness was a compounding factor:

After working long shift, [I was] very sleepy and slipped down stairs, so [I] reached out to steady myself, but touched a Korean officer. ... He punched me in the back of my head, then punched me another six times in the face. My nose was bleeding, eyes very painful, head really hurt. [I had a] swollen face, one eye bleeding and could only see blurry.

Yet another (interviewee 47) reported that 'there was a time when they punished me because I connected the wrong cable. They told me to stand up [on deck in poor weather] from 1 until 6 o'clock in the evening'.

Incidents of sexual abuse were common and ranged from indecent exposure by Korean officers (a form of control and intimidation) to groping and rape. The following quote (by interviewee 58) is representative of many accounts of sexual abuse:

Suddenly [officer B] came and tried to kiss me. I tried to stop his body pushing up against mine to the point that I fell. ... [Officer B] then pushed his penis on my body just like he was having sexual intercourse. It didn't stop here. When I tried standing up, [officer B] hugged me quickly from behind and again pushing his penis onto my bottom. I couldn't stand it and I felt repulsed and disgusted ... and he kept pushing it onto me.

One member of the crew (interviewee 103) witnessed a Korean officer repeatedly raping another member of his team: 'my crew mate [was] raped in my cabin, beneath my bunk, many times on each trip [between] 2007 and 2009. ... To make us shut our mouths the officer paid money.' What is telling about these two quotes is that the Korean officers never tried to conceal their actions. The Indonesian crew were in a particularly vulnerable position because the perpetrators could abuse them in public without any risk of having to answer for their actions.

Point of exit

Although the ILO/EC indicators do not cover the point of exit, we include it because the interviews highlight its importance. As we shall see, it is crucial to take account of all stages, including exit, to understand trafficking for forced labour of fishing crew.

There were four different points of exit. First, for some members of the crew the relentless abuse became so unbearable that they deserted their vessels. Second, others returned home before the completion of their contract either on their own initiative or because the captain sent them home, often with no explanation. Third, crew returned home on the completion of their Indonesian contract. Fourth, in 2011 crew from a number of South Korean FCVs walked off their vessels, claiming abuse and the non-payment of wages. Let us look at these in turn.

First, between 1994 and 2011, 550 foreign crew jumped ship while in New Zealand ports (Stringer et al. 2014). One deserter (interviewee 91) said 'I couldn't handle it anymore ... minimum [work] is 15 hours a day. ... Normally, [we had] only four hours' sleep, including time for meals. ... [I was] sleepy but hungry. If I ate, I lost the time for rest.' Following the desertion of one seaman, an advertisement placed in a local paper, the *Otago Daily Times*, offered a reward of \$NZ 1000 (\$US 660) for information about the deserter's whereabouts. For another deserter, the consequences were far-reaching. He paid a manning agent \$US 3000 in recruitment fees and forfeited three months' wages as collateral. He had also given the agent 'special power' over his brother, meaning that his brother became liable for the conditions of his contract. While on board the vessel, Korean officers frequently hit and fondled this particular member of the crew – his desertion placed his family in debt bondage for six years. His brother was fined \$NZ 15,000 (\$US 12,300) and the court seized his house until the fine was paid (interviewee 198).

Second, the captain would dismiss crew if they had ongoing illnesses, were unproductive or perceived to be troublesome. Others chose to return home early rather than suffer the intolerable working and living conditions. There, the severe contractual penalties their manning agents imposed on them for having broken their contracts left them with no security, increased debt and fewer opportunities. Fines ranged from \$US 2000 to \$US 10,000, even if crew were seeking refuge from abuse. Their agents seized their collateral and ultimately blacklisted them and, in some instances, refused to pay out the portion of their retained wages.

Third, even those who complete their contract might face penalties. Many were short-changed the bonus payments owed them. The envelope of cash handed to them at the departure gate at the airport would contain no calculation sheets and the crew had no recourse to the full amount of money owed them. Furthermore, once home, the manning agents often delayed or withheld the final wage payments and the return of their securities.

Fourth, in 2011, seven of the crew from a New Zealand chartered South Korean vessel took industrial action over wage abuse and forced labour conditions. Over the next few months crew from other vessels followed suit. Word had spread among the crew of various vessels about their entitlements under New Zealand law. Knowledge

of this deception, coupled with a small core group prepared to stand up to the abuse, provided the catalyst for other crew members to engage in industrial action and exercise agency to change their circumstances (Stringer et al. 2014). In such a precarious work environment, few, if any, had ever before put up such resistance. This propelled a group of New Zealand lawyers to act for the crew on a *pro bono* or contingency fee basis to ensure that members of the crew received their wage entitlements, including back pay. They approached the employers, the Department of Labour, which only offered basic mediation support, and Immigration New Zealand, which encouraged the crew to leave New Zealand and advance their claims from Indonesia. In fact, the authorities cancelled the New Zealand work visas of some members of the crew and served Deportation Liability Notices on them. Even though the crew had New Zealand lawyers acting for them, when faced with no income, their families inevitably became desperate and felt compelled to borrow money or sell off their possessions to buy food. This effected their children's education because there was no money available for school fees (interviewees 35–44, 43–57).

Ultimately, all crew returned home, as they were unable to sustain themselves in New Zealand. This set the scene for many to accept 'Peace Agreements' from their Korean employer, which involved being offered a partial financial settlement to withdraw all claims – civil and criminal – and forego legal representation and advocacy. Some had little choice but to accept the offer due to being jobless and blacklisted. Over time, the financial offers were increased and many were intimidated into accepting them. Others did so, albeit unwillingly, out of desperation. Many of those who did failed to understand that, by so doing, they had waived their legal rights. For some, however, their lawyers were able to negotiate a better settlement than the Peace Agreements offered, but significantly less than the wages owed to them. To date, none of our interviewees has received his full legitimate wage entitlement under New Zealand law.

On returning home, many of the crew struggled to overcome the guilt and shame they felt from the repeated violence, corporal punishments and degrading sexual abuses they had suffered aboard their vessels. As there were no support services available to them in New Zealand or their home country, few obtained closure on their brutal and inhumane treatment. Many carried the guilt of being unable to stop the abuse of their fellow men. One (interviewee 187) lamented that 'we don't talk to each other about it, we try to forget.'

Discussion: mapping the data

Using the ILO/EC derived indicators of human trafficking for forced labour (Figure 1), we mapped our informants' responses (Table 1). It is important to recall that, to qualify for classification as trafficked, it is necessary to fulfil one each of the act, means and purpose elements of the offence, each of which we base on combinations of strong, medium and weak indicators. The results show that the majority of crew who participated in this study met both the United Nations and ILO/EC criteria of trafficked persons. There were without question differences in exploitation along and

within the six dimensions – deceptive recruitment, coercive recruitment, recruitment by abuse of vulnerability, exploitative working conditions, coercion, and abuse of vulnerability. Depending on the level of exploitation, some crew met one or two criteria while others met them all. Crew recounted psychological compulsion, induced indebtedness, the withholding and non-payment of wages as well as the retention of identity documents. At no time were they advised about the real nature and hours of their work, that unreasonable amounts would be deducted from their pay, and that they would be required to perform duties completely unrelated to fishing, such as giving the ship's captain a full body massage. Officers ruled with an iron fist – brutal beatings and cruel punishments were common. In this climate of fear, the crew had no choice but to submit to sexual abuse, including rape. This climate of fear prevailed even after the crew exited their vessel.

As deception, exploitation and coercion can also occur at the point of exit and even after exit, we extend the ILO/EC operational indicators to recognize this (see dashed boxes Figure 1). It is important to include the exit dimension, which acknowledges not only the person's ability to exit but also the conditions of exit, to highlight an ignored aspect of trafficking research. The addition of the point of exit makes more visible the exploitation, deception and coercion of crew occurring in earlier stages of the trafficking chain. Including the exit dimension sheds a different light on the other six dimensions, making them much more comprehensive and, importantly, it brings the framework closer to the lived experience of people. Indeed, crew were fearful of dubious wage deductions and the withholding of securities upon exit. Because wages were often unreasonably withheld, crew continued to comply or else face financial hardship and even blacklisting in their hometown. Through this addition, we hope to contribute to the development of theory pertaining to unfree labour in GVCs/GPNs.

The crimes aboard South Korean FCVs operating in New Zealand waters constituted transnational trafficking and are also covered by a number of offences under the New Zealand Crimes Act (1961), including crimes of aggravated assault, fraud and sexual assaults. Each of these is subject to serious penalties including imprisonment. Despite these legal provisions, to date there have been no charges brought, for the authorities tended to view crimes of the kind we have documented as incidents of workplace bullying. Some government agencies did not consider crew matters such as aggravated assault to be part of their mandate. This undoubtedly allowed the situation to continue and, indeed, inhibited the members of the crew from resisting or exercising their agency. In early 2011, a Department of Labour official wrote to the New Zealand police stating that 'my view hasn't changed in that this is in essence an employment dispute that the police wouldn't get involved in' (Confidential communication 2011). In 2011, following public outrage, the New Zealand government announced a ministerial inquiry into the foreign charter sector, which resulted in wide ranging regulatory reforms, including the requirement that vessels be reflagged as New Zealand vessels by 2016. The Bill, passed into law in 2014, will bring foreign crew directly under New Zealand labour, health and safety, and criminal laws. Similarly, the South Korean government launched an investigation and subsequently enacted changes to protect migrant fishing crew. The regulatory changes in both New

Table 1: Indicators of forced labour in the New Zealand fishing industry

ILO Indicators	Empirical Evidence	Prevalence
Deceptive Recruitment		
Deceived about the nature of the job, location or employer	Yes	1
Deceived about conditions of work, wages/earnings	Particularly hours of work and deductions	1
Deceived about content or legality of work contract	Yes	1
Deceived about housing and living conditions	Especially food	1
Deceived about travel and recruitment conditions	Especially costs and agent fees	1
Coercive Recruitment		
Confiscation of documents	Passports	1
Debt bondage	Loans and collateral (e.g. land titles)	1
Recruitment by Abuse of Vulnerability		
Abuse of difficult family situation	Impoverished family situation	1
Abuse of lack of information, education and language	Translation of visa application forms and employment agreements withheld	1
Economic reasons	Yes	1
<i>Difficulty to organise travel</i>	To a degree	3
Exploitation		
Excessive working days or hours	Inhumane hours	1
Bad living conditions	Substandard	1
Hazardous work	Substandard safety equipment provided	1
Wage manipulation, low or no salary	Yes	1
No respect of labour laws or contract signed	Laws and contract deliberately flouted	1
No social protection (contract, social insurance, etc.)	Yes	1
Very bad working conditions	Unacceptable conditions	1

Table 1: (continued)

ILO Indicators	Empirical Evidence	Prevalence
Coercion at Destination		
Confiscation of documents	Passports and seaman books	1
Isolation, confinement or surveillance	Confinement and surveillance while in port	3
Violence on victims	Can be daily	1
Forced into illicit/criminal activities	Forced to dump fish, rubbish and toxic waste	1
Forced tasks or clients	Forced to provide sexual services	2
Forced to lie to authorities, family, etc.	In respect to illegal activities	1
Threat of denunciation to authorities	Immigration in particular	1
Threat to impose even worse working conditions	Corporal punishment regime used	1
Threats of violence against victim	Including severe punishments	1
Under strong influence	From employers and bosons (enforcers)	1
Withholding of wages	Yes	1
Abuse of Vulnerability at Destination		
Dependency on exploiters	Yes	1
Economic reasons	Debt bondage and dependent family situation	1
Family situation	Limited contact	1
Relationship with authorities/legal status	Fearful as forced to engage in illegal activities	1
Deception, Exploitation and Coercion at Exit		
Non-payment of wages	Final wages withheld	2
Manipulation of monies owed	Manipulated to lower amounts	1
Forfeiture of collateral	Through desertion and fines	4
Withholding of legal documents	Through failing to complete contract	4
Forfeiture of legal rights	Pressured to forgo legal representation	1
Threats of blacklisting	For non-compliance	1
Intimidation of families	For non-compliance	3

Note:

- (a) Strong indicators are in bold text; medium in regular text, weak indicators in italics.
 (b) Prevalence of abuse: 1. an estimated 76 per cent or more of crew subjected; 2. 51–75 per cent subjected; 3. 26–50 per cent subjected; and, 4. up to 25 per cent subjected.

Source: Created from ILO and EC 2009; and extended by the authors.

Zealand and South Korea will help reshape practices in the fishing industry, but by themselves will not guarantee the elimination of forced labour. There has to be a willingness to identify trafficking and bring prosecutions against traffickers and the handlers of victims.

Conclusion

Our findings show that forced labour has been widespread among a number of South Korean FCVs for many years and that intermediaries played a key role in the erosion of worker agency. The working conditions for crew were exploitative and inhumane. For decades, politicians and officials in New Zealand were misled about the extent to which migrant crew were being coerced and abused. Employers commonly gave false information on work visa applications, fabricated timesheets and forged other documents, such as bank transactions of payments to crew. Since New Zealand operators oversaw the operations of these vessels, including equipment, food, medical supplies and wages, they ought to have known of the exploitative conditions. Cost savings to these operators would have flowed from reduced insurance, health and safety measures, substandard equipment and accommodation, low wages, increased working hours and inadequate food (UNODC 2011).

Reinforcing Barrientos et al. (2013) and Bastia and McGrath (2011), we stressed the importance of including exit strategies in the ILO/EC framework because there are ‘different time-scales of unfreedom’ (Bastia and McGrath 2011: 10) and because the temporary nature of forced labour needs further exploration. We have contributed to the debate on possible and actual exit strategies for forced labour and, in so doing, highlighted the importance of labour chains – whether free or unfree – to GVC/GPN analysis. As Phillips and Sakamoto (2012: 309) state, ‘the “normal functioning” of GPNs thus deserves close scrutiny in explanations of how and why “slave labour” persists in the global economy.’ For years, crew aboard many FVCs were structurally defenceless against the exploitation of fishing companies and intermediaries eager to maximize their economic returns along the GPNs. This began to change in 2011 when some crew exercised their agency. In effect, they challenged the GVCs/GPNs, on which they relied for their jobs, unintentionally triggering a potential reshaping of the economic landscape, which is beyond the scope of this article to explore. Here, we discussed how crew were able to exit their forced labour situation, with particular attention to those who exited *en masse* through acts of resistance. From trafficked victims subject to deceit, intimidation and abuse, over time some crew exercised their agency to reshape the labour environment for future crew. Despite this, however, they left their abusive work situation unpaid, destitute, blacklisted and with little personal recourse to justice. This must change.

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Notes

1. Now the Ministry for Primary Industries.
2. There was one set each for adults and children in labour and sexual exploitation. We will only consider adults in labour exploitation here.

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