

# 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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This document should be cited as:  
EJF (2019)  
BLOOD AND WATER: Human rights abuse in the global seafood industry

## 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](http://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    |       |   |

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## 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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup>

However, this lucrative global business is under threat from IUU fishing which now accounts for up to 30% of catches in some regions.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup>

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.<sup>8/9/10</sup> 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,<sup>11</sup> 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.<sup>12</sup>

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.<sup>13/14/15</sup>

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.<sup>16</sup> 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*<sup>17</sup>, 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.<sup>18</sup> 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.<sup>19</sup>
- 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.”*<sup>20</sup>

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.<sup>21</sup>

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.<sup>22</sup>

## 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.<sup>23</sup>

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:<sup>24</sup>

- **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.<sup>25</sup>



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).<sup>26</sup> 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.<sup>27</sup>

Similar cases on Taiwanese vessels were discovered by Greenpeace, detailed in the report *Misery at Sea*.<sup>28</sup> 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."<sup>29</sup>



# 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.<sup>30</sup>

## 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.<sup>31</sup> 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.<sup>32</sup>

## Examples of IUU fishing

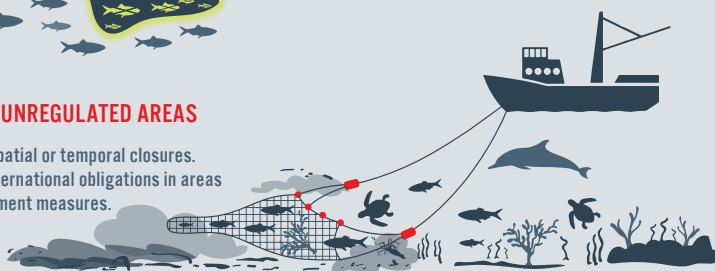
### DESTRUCTIVE GEAR

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



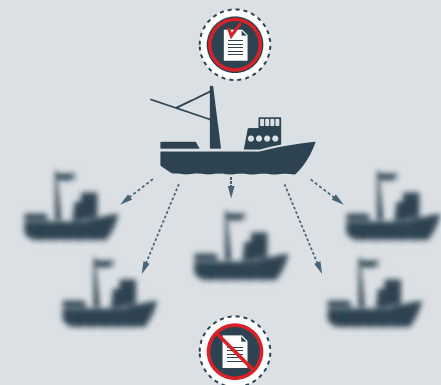
### FISHING IN RESTRICTED OR UNREGULATED AREAS

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.



### 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.

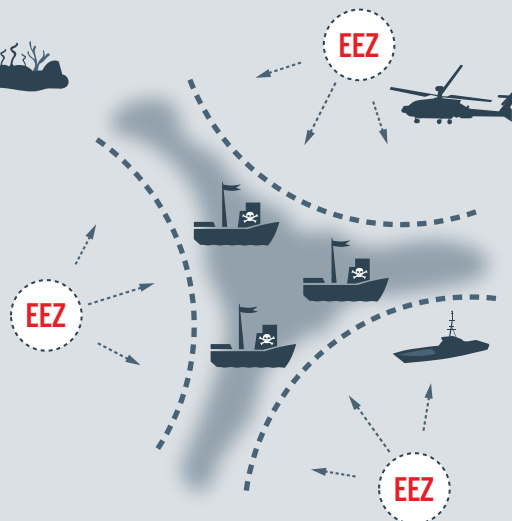
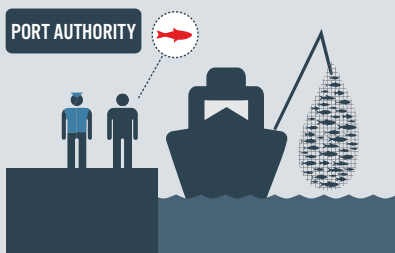


### UNLICENSED OR UNREGISTERED FISHING

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.



### 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.<sup>33/34/35/36</sup> 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.<sup>37</sup> 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.<sup>38</sup>

The Irish fishing industry exported €559 million worth of seafood in 2016 and currently has almost 2,000 vessels.<sup>39</sup> The majority of these are less than 15 metres in length and crewed by around four to six workers.<sup>40</sup> 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.<sup>41</sup> 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.<sup>42</sup>

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”.<sup>43</sup> 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.<sup>44</sup> 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.<sup>45</sup> In some respects, fishers are a ‘hidden’ workforce, invisible to the authorities and consumers.<sup>46</sup>

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.<sup>47</sup> 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.<sup>48</sup>

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.<sup>49</sup> This vulnerability to exploitation and a drive for reduced costs increases the risks of forced labour and trafficking for fishing crews.<sup>50</sup>

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

- 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'.<sup>52</sup>

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.<sup>53</sup>



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 year<sup>54</sup>, with the United Arab Emirates (UAE) exporting US\$100 million worth of seafood in 2015 alone.<sup>55</sup> 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.<sup>56</sup>

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.<sup>57</sup> 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.<sup>58</sup>

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.<sup>59</sup> 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.<sup>60</sup>

Serious labour abuses including forced, unpaid labour, and living conditions akin to slavery were discovered on some of these boats in September 2016.<sup>61</sup> There were approximately 600-700 workers on board these vessels, predominantly from Indonesia, the Philippines, and Kiribati.<sup>62</sup> 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.<sup>63</sup> 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.<sup>64</sup>

***“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.<sup>65</sup> 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.<sup>66</sup>

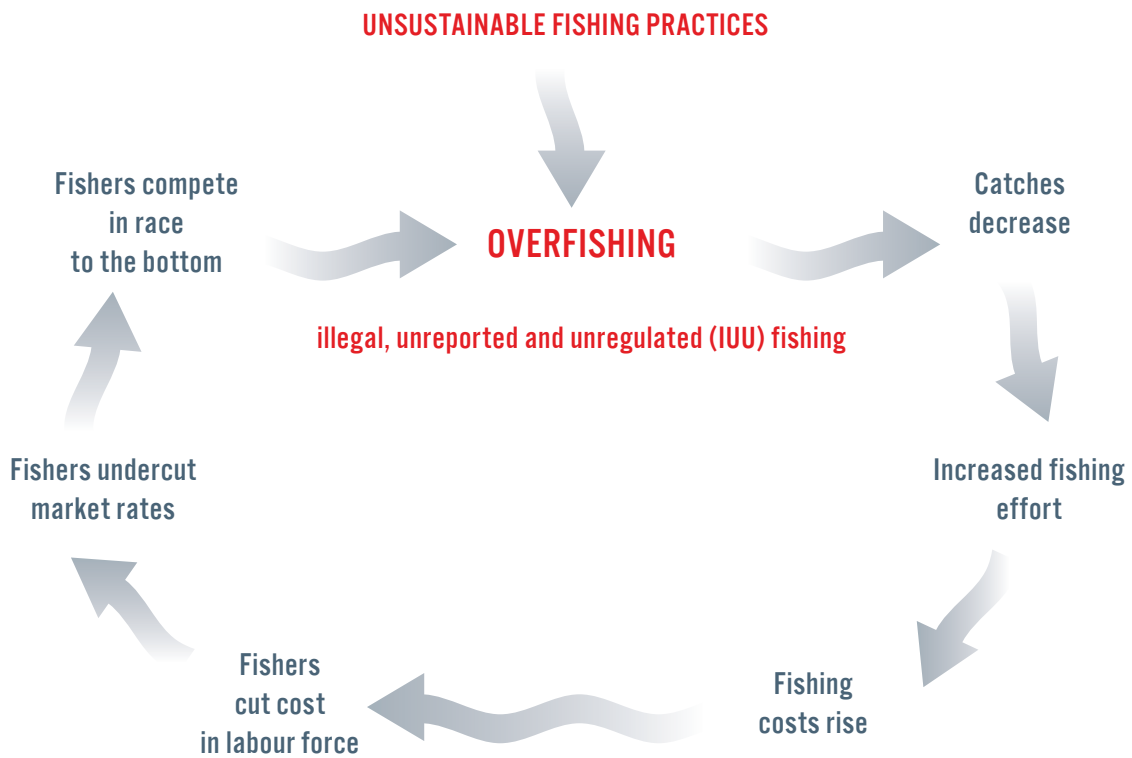
***“We don’t have any visa. We are illegal, so we cannot demand more”.***

– Syamsul Maarif, Indonesian crew member.

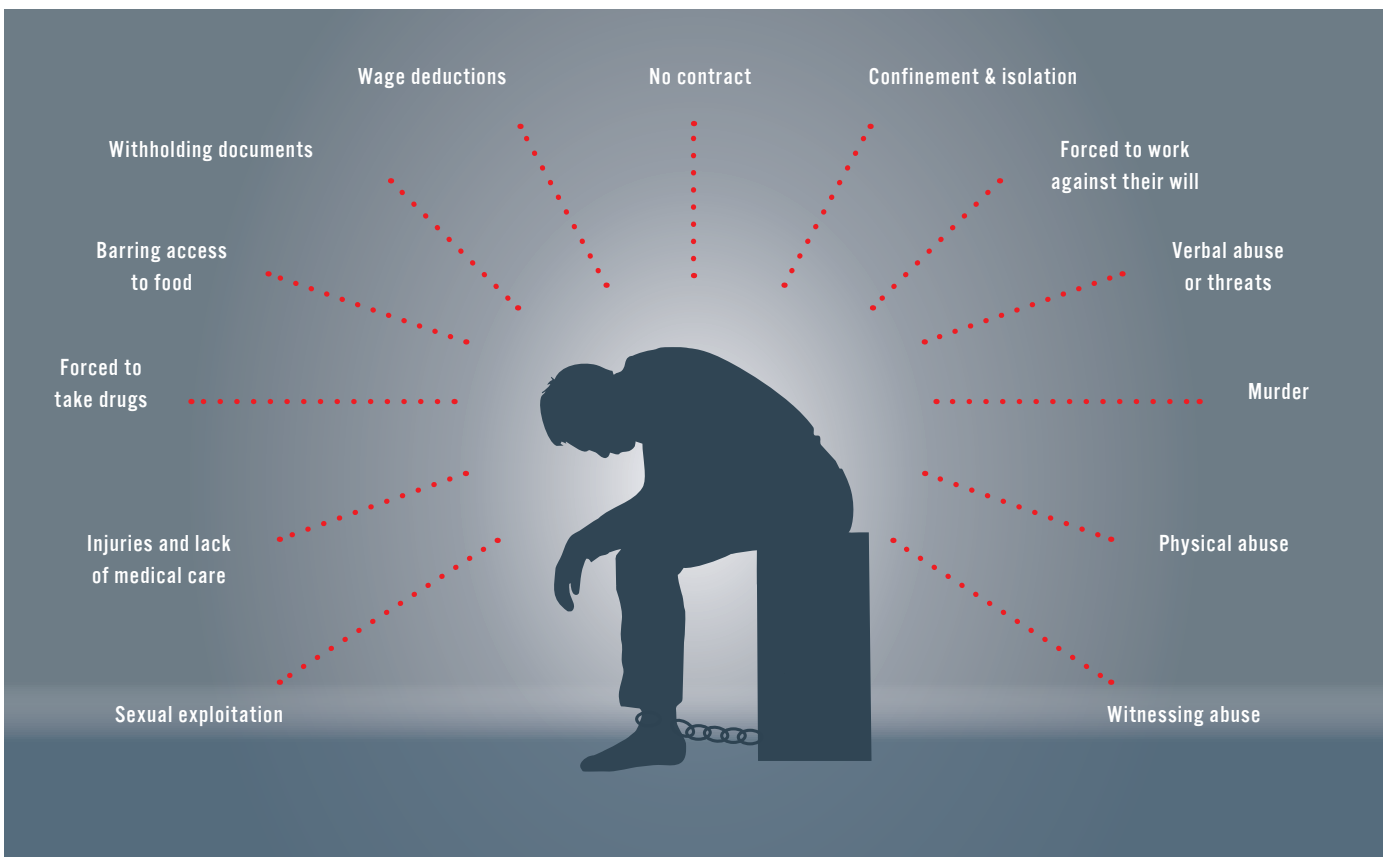
Workers have also reported being verbally and physically abused. Two Indonesian men who escaped from their vessel in 2010 while it was docked in San Francisco told police how they were beaten and kicked by the vessel captain, forced to work 20-hour shifts, and denied access to medical treatment for work-related injuries.<sup>67</sup> 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.<sup>68</sup> 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.<sup>69/70</sup>



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’<sup>71</sup> 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.<sup>72</sup>

In recent years, Vietnamese vessels have also been arrested in Australia;<sup>73</sup> most of the 13 countries that make up the Pacific Islands Forum Fisheries Agency;<sup>74</sup> Malaysia;<sup>75</sup> and Thailand.<sup>76</sup> Illegal Vietnamese vessels have even been detained as far as the Caledonian Islands – over 7,000 km away from Vietnam.<sup>77</sup> 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.<sup>78</sup>

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.<sup>79</sup> 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.<sup>80</sup>



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.<sup>81</sup> 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.”<sup>82</sup>

### The drive for cheap labour in a globalised market

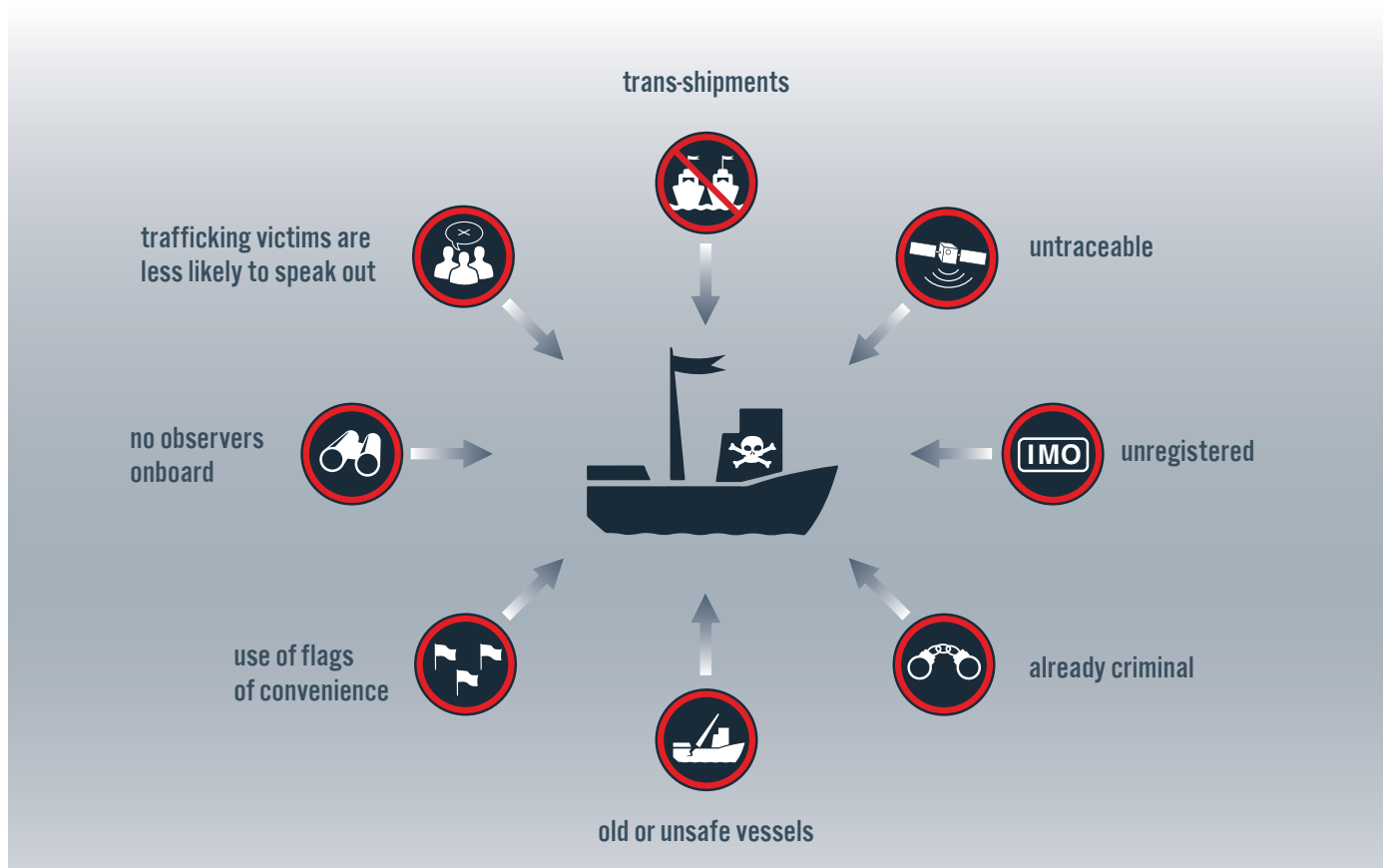
International retailers hold great power over the distribution of seafood.<sup>83</sup> This is due to the globalisation of the fisheries value chain, which means that each activity adding value to the fish product can occur in a different country.<sup>84</sup>

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

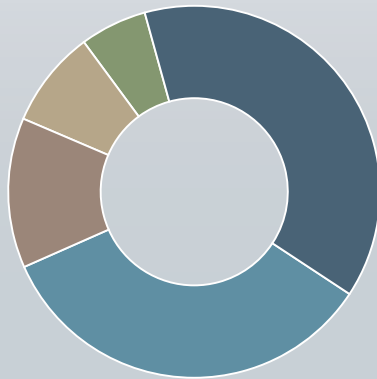
through reliance on harsh labour regimes in the Global South.<sup>85</sup> Companies use global supply chains to obtain cheaper inputs from, and outsource labour to, lower cost regions of the world economy.<sup>86</sup>

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.<sup>87</sup> 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.<sup>88</sup> 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



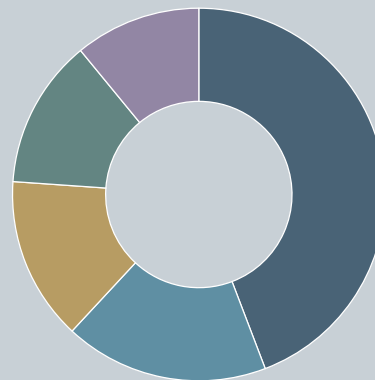
- 700,000 (2016) CHINA
- 620,830 (2012) INDONESIA
- 238,772 (2015) INDIA
- 152,998 (2013) JAPAN
- 109,000 (2015) VIETNAM

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.<sup>89</sup> 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 processing<sup>90</sup> – between September 2015 and January 2016 were at their lowest level since 2009 hitting new lows of US\$950 - 1,000 per tonne.<sup>91</sup> 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.<sup>92</sup>

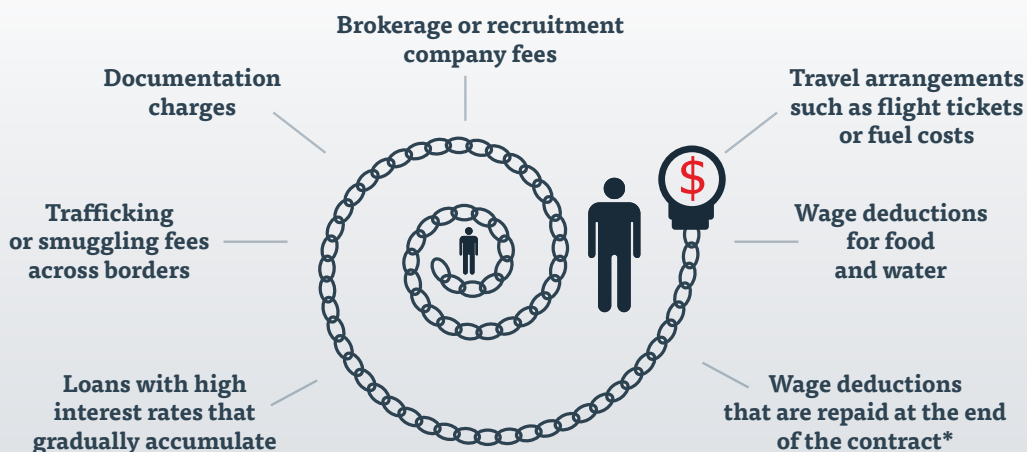
Price drops such as these leave vessel owners struggling to maintain profitability. In Taiwan for example, large longliners have been known to remain in port as the costs of fuel and labour far outweigh the gains from fishing.<sup>93</sup> For Sri Lanka's deep-sea fishing fleet, labour costs can account for 45% of operational costs, while fuel accounts for between 37-41% of such costs.<sup>94</sup> 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.<sup>95/96</sup> The drive to keep costs at a minimum opens the door for human trafficking and forced labour on board these vessels.<sup>97</sup> 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.<sup>98</sup> 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.<sup>99</sup> 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.<sup>100/101</sup>

### 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.<sup>102</sup>

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.<sup>103</sup> 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.<sup>104</sup>

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.<sup>105</sup> 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.<sup>106</sup>

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.<sup>107</sup> 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.<sup>108</sup> For instance, contracts may not be provided in their native language, meaning that they cannot understand the conditions of their employment agreement.<sup>109</sup>

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.<sup>110</sup> 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.<sup>111</sup>



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.<sup>112</sup>



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



## Weak or ineffective legislation and regulation

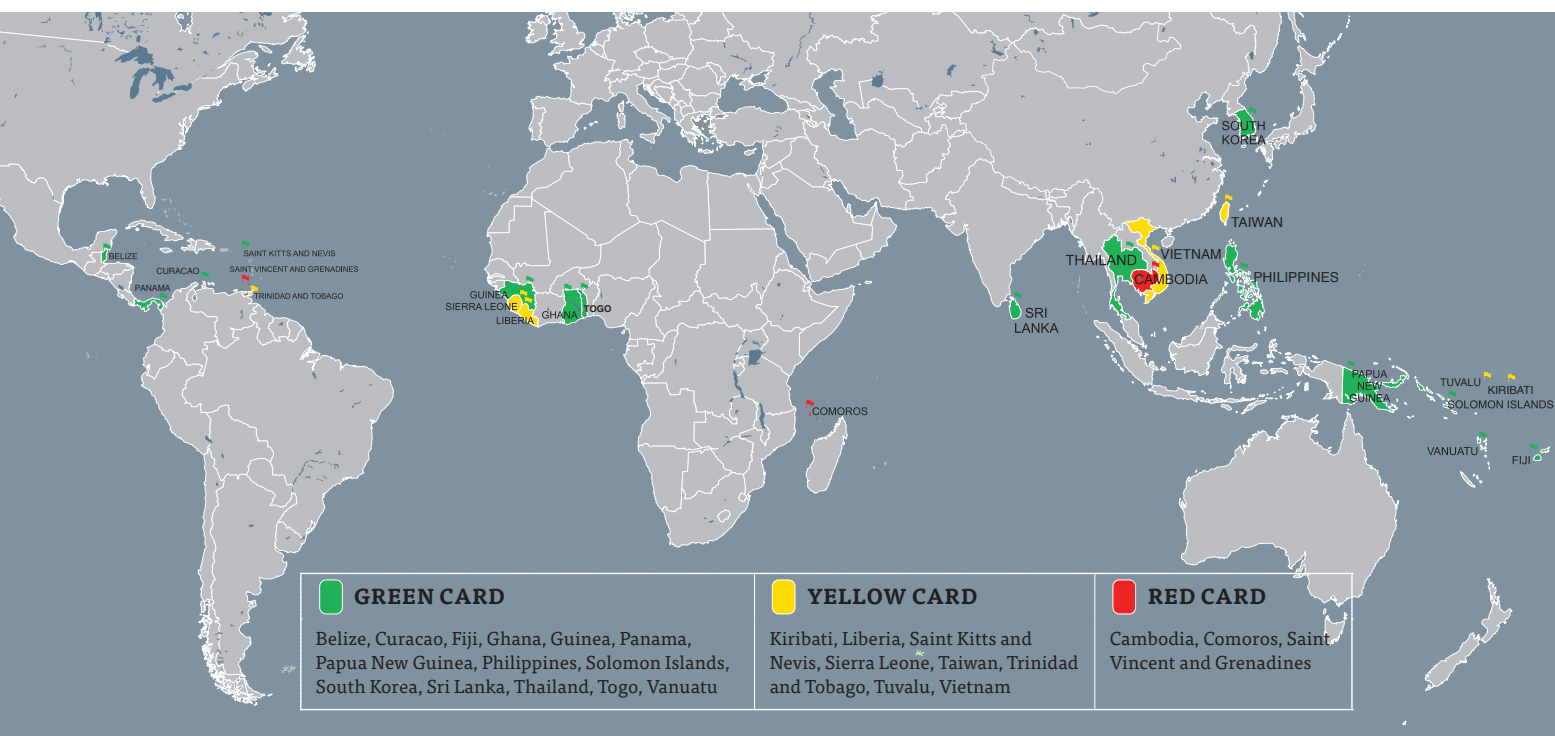
Governments – in all regions – might choose to ignore the relationship between forced labour, intermediation and the informal economy “in their desire to foster flexible labour markets.”<sup>113</sup> Labour regulation and trade unions are still weak in much of the Global South. For example, under the Thai Labour Relations Act, migrant workers in Thailand are currently prohibited from forming or joining labour unions.<sup>114</sup> 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,<sup>115</sup> 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.<sup>116</sup> 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.<sup>117</sup> However, at the time of writing, only 11 states had ratified, half the number needed for the agreement to enter force.<sup>118</sup>

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).<sup>119</sup> The PSMA strengthens and unifies regional and international port state legislation while also helping to eliminate ports of convenience.<sup>120</sup> 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.<sup>121</sup>

### 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.<sup>122</sup> Migrants workers recruited in Taiwan are protected by the Labour Standards Act,<sup>123</sup> National Health Insurance Act,<sup>124</sup> and Labour Insurance Act<sup>125</sup> among others, with responsibility falling to the Ministry of Labour.<sup>126</sup> Workers recruited overseas, however, only receive basic protections from a separate set of weaker regulations operated by the Fisheries Agency.<sup>127</sup>

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'.<sup>128</sup> 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.<sup>129</sup>



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.<sup>130</sup> 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.<sup>131</sup> 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.<sup>132</sup>

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.<sup>133</sup> 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.<sup>134</sup> 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 repairs<sup>135</sup> or whenever a vessel has to return to shore to land their catch.<sup>136</sup> 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."<sup>137</sup>

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.<sup>138</sup> 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.<sup>139</sup> 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.<sup>140</sup>



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.<sup>141/142</sup> 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.<sup>143</sup>

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).<sup>144</sup>

FoCs are notoriously easy, quick and cheap to acquire. The process can be done online and can take just 24 hours.<sup>145</sup> 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.<sup>146</sup>

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"<sup>147</sup> 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".<sup>148</sup> According to Interpol, this highlights "the frequent disconnect between registry authorities and law enforcement agencies."<sup>149</sup>



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.<sup>150</sup> 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.<sup>151/152</sup>

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.<sup>153</sup> However, Greenpeace estimates that there are closer to 480 such vessels.<sup>154</sup> 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%.<sup>155</sup>

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.<sup>156</sup> 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.<sup>157</sup> 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.<sup>158</sup>



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



## 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.<sup>159</sup> They predominantly target high-value and therefore often vulnerable or critically endangered species such as Antarctica toothfish (Chilean sea bass) or

tunas.<sup>160/161/162</sup> 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.<sup>163</sup>

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.<sup>164</sup> 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.<sup>165</sup>

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."<sup>166</sup>*



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.<sup>167</sup>

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.”***<sup>168</sup>

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.<sup>169</sup>

A final example of a stateless vessel comes from the Isabel.<sup>170</sup> 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.<sup>171</sup> 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.<sup>172</sup> 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.<sup>173</sup>

Because of the high initial investment, developed countries tend to spend more on fisheries management than developing countries.<sup>174</sup> 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.<sup>175</sup> However, the benefits of reform substantially outweigh these costs,<sup>176</sup> 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.<sup>177</sup> There are several cases of observers being intimidated into falsifying their reports, being confined to their quarters, and even murdered at sea.<sup>178/179</sup> 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.<sup>180</sup> 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.<sup>181</sup>

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.<sup>182/183</sup> In many cases, observer disappearances are not properly reported and may not even make local news outlets in their countries of origin.<sup>184</sup> 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%.<sup>185</sup>

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.<sup>186</sup>

## 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.<sup>187</sup> 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.<sup>188</sup> "The result is that victims are not identified, instances of trafficking are not investigated, and potential traffickers are not prosecuted."<sup>189</sup>

## 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.<sup>190</sup> 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.<sup>191</sup> 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).<sup>192</sup> 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.<sup>193</sup> 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.”<sup>194</sup>

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.”<sup>195</sup> 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.<sup>196</sup>

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.<sup>197</sup> 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.<sup>198</sup>

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.<sup>199</sup> 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.<sup>200</sup>

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.<sup>201/202</sup>

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.<sup>203</sup> 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.<sup>204</sup> 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.<sup>205</sup> 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.<sup>206</sup> 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.<sup>207</sup>

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”.<sup>208</sup> 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.<sup>209</sup>

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.<sup>210</sup> 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 principle<sup>211</sup>, 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.<sup>212</sup>

- 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 app<sup>23</sup> 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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