

Metadata of the chapter that will be visualized online

Chapter Title	Forced Labor of Migrant Workers on Fishing Ships: Holding Management and Governments Accountable	
Copyright Year	2021	
Copyright Holder	Springer Nature Switzerland AG	
Corresponding Author	Family Name	Saner
	Particle	
	Given Name	Raymond
	Suffix	
	Organization/University	Centre for socio-economic development
	City	Geneva
	Country	Switzerland
	Email	saner@csend.org
Author	Family Name	Yiu
	Particle	
	Given Name	Li-Chia
	Suffix	
	Organization/University	Centre for socio-economic development
	City	Geneva
	Country	Switzerland

F

Forced Labor of Migrant Workers on Fishing Ships: Holding Management and Governments Accountable



Raymond Saner and Li-Chia Yiu
Centre for socio-economic development, Geneva,
Switzerland

Synonyms

Migrant labor on fishing ships, Violation of basic human and labor rights, Modern slavery, Insufficient control of trawler ships, Absence of binding international agreement regulating migrant labor on fishing ships.

Definition

Ships using migrant labor are not supervised nor sanctioned in case of violation of human rights of migrant fisherman. International governance system lacks binding regulation and sanction power providing loop holes which can lead to severe human rights abuses by unscrupulous owners of fishing ships.

Introduction

This article focuses on a very problematic aspect of migration, namely, forced labor of migrants held captive on fishing ships which is a well-known violation of human and labor rights, but despite efforts made by human rights defenders and international organizations, the abusive and sometimes violent treatment of migrant-fishermen continues.

What has not been sufficiently researched nor discussed are the extreme forms of labor conditions that some migrants have to accept and cope with at times at the risk of their own survival. Such high-risk and inhumane working conditions exist on some fishing boats where migrant workers are kept in captivity and forced to live and work in conditions which lack basic standards of decent work and often result in serious human rights abuses.

As stated by the FAO (2017):

Pressures to reduce costs and maintain or increase profitability are also growing, which increases the incentives to use cheaper labour and neglect social and ethical considerations in the work and life of fish workers, their families and communities. As a result, the use of migrant workers working in sub-optimal conditions on board fishing vessels and in processing plants has increased, facilitated by illegal networks of brokers. (p.1)

Hence, this article follows the call's suggestion to analyze "policy-level issues associated with the management of migration including labor-market

issues and questions relating to business policy and strategy” and apply this to the precarious working conditions of migrant workers on fishing boats especially the long journey ships.

Approach Used for this Research

Following the call’s suggested approach for multiple levels of analysis consisting of micro, meso, and macro-levels, the authors close their analysis by adding a meta-level which consists of the larger international context within which fishing boats operate that are covered by international agreement and sector-specific rules following the example given in the field of philanthropic organizations operating in the educational sector in developing countries (Saner and Yiu (2019)).

The multiple-level approach chosen starts with a narration of case examples of human rights abuses on fishing boats in the South East Asian sea (micro) and subsequently builds on the levels within which the case examples are embedded in namely the fishing owners and labour intermediaries (meso), their surveillance or lack of by port authorities and governments responsible for shipping fleets (macro) and ends with the discussion of international treaties (meta) and agreements which should have a bearing on the fleet owners, skippers and governments importing and exporting seafood products.

The detailed case examples below build on other case examples which have identified the lack of management responsibility and often colluding behaviors and attitudes of government officials who abdicate their responsibilities. A case in point here is the article published by the Academy of Management Discovery (AOD) authored by Gail Whiteman and Cooper (2016) which describes the dangerous conditions workers have to live with in the tropical forest of Guyana. The authors report a longitudinal study of a Malaysian forestry firm’s operations in Guyana, South America, and show how certification and corporate social irresponsibility – in this case, the rape of girls and women – may jointly arise from a systematic decoupling of actors that collectively enabled irresponsible behavior (p.1).

Abuse of migrant workers on fishing boat bears also resemblance to human trafficking where young girls and boys are abducted to forcefully serve as prostitutes in brothels or work in unhealthy and demeaning sweat shops exposed to violence by the criminal gang leaders and his staff. Human trafficking is equally understudied and underreported like the case of migrant workers being held captive workers on fishing ships. Analysis of human trafficking shows a similar lack of reported data and lack of monitoring by authorities who either collect corruption money or directly demand illegal commissions (Saner, Yiu and Rush, (2018)).

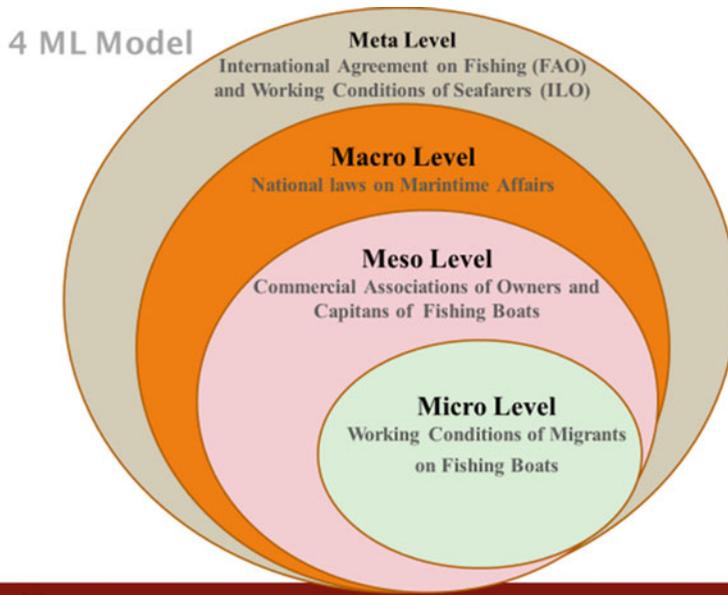
What follows is a graphical overview of the levels of analysis which will be applied to the study of migrant worker’s captive working conditions characterized by inhumane treatment and violation of human rights (Fig. 1).

Subsequent levels of analysis will be meso (fishing boat owners and commercial counterparts), macro (relations between surveillance authorities such as port authorities and ministries of maritime affairs), and finally meta (international agreement on fishing rights and obligations and international labor regulations agreed by states who are also held responsible for implementing these international agreements).

Micro-Level

Two centuries after the abolition of the transatlantic slave trade, at least 20.9 million people continue to work under coercion, largely in the informal and illegal economy (ILO global estimates 2012). This represents about 3 in every 1000 of today’s world population. About 68 percent of today’s forced labor is extracted by private agents, primarily in labor-intensive industries such as manufacturing, fishing, agriculture and food processing, domestic work, and construction.

According to the ILO’s Forced Labour Convention No. 29, forced or compulsory labor is all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself



Forced Labor of Migrant Workers on Fishing Ships: Holding Management and Governments Accountable, Fig. 1 Four-level analysis adapted from Saner and Yiu 2019

voluntarily. It can occur where work is forced upon people by state authorities, by private enterprises, or by individuals (ILO 2015) (Fig. 2).

A string of recent reports by the ILO (2020) indicates that:

..forced labour and human trafficking in the fisheries sector are a severe problem. These reports suggest that fishers, many of them migrant workers, are vulnerable to severe forms of human rights abuse on board fishing vessels. Migrant workers in particular are vulnerable to being deceived and coerced by brokers and recruitment agencies and forced to work on board vessels under the threat of force or by means of debt bondage.

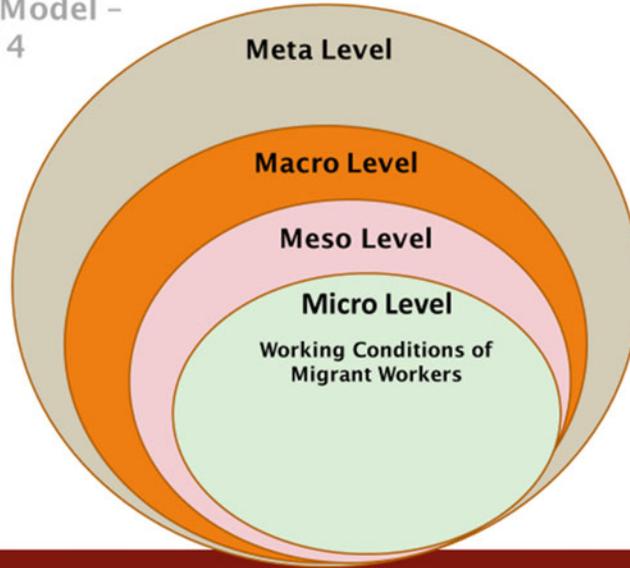
Victims describe illness, physical injury, psychological and sexual abuse, deaths of crewmates, and their vulnerability on board vessels in remote locations of the sea for months and years at a time. Fishers are forced to work for long hours at very low pay, and the work is intense, hazardous and difficult. Capture fisheries have one of the highest occupational fatality rates in the world.

The ILO report also indicates that “recent trends within the fisheries sector, such as overfishing, illegal fishing, and a shift in sourcing the workforce from high-income to middle- and low-income countries mean that more relatively low-cost migrant workers are employed by the

fisheries sector. Lack of training, inadequate language skills, and lack of enforcement of safety and labor standards make these fishers – particularly migrant workers – vulnerable to forced labor and human trafficking.”

According to Nakamura et al. (2018), at least 260 million people depend on seafood work (some estimates are 800 million), and the sector is possibly the world’s largest employer. Sixty-five percent to 70% of seafood for export markets is produced in developing countries where labor costs are relatively low. For the rural poor, increasing work opportunities in distant water fleets, aquaculture areas, and processing hubs offset decreasing local opportunities for seafood work, but this may require migration and dependence on labor brokers. Seafood is made with a significant incidence of forced labor, child labor, or forced child labor in the seafood hub countries of Indonesia, Thailand, Vietnam, the Philippines, and Peru. In 2016, widespread forced labor in seafood work was reported in 47 countries, with incidents reported in additional countries, including New Zealand, Ireland, the United States, and Taiwan.

4 ML Model - Level 4



CSEHO All rights reserved 2017

Forced Labor of Migrant Workers on Fishing Ships: Holding Management and Governments Accountable, Fig. 2 Micro-level analysis adapted from Saner and Yiu 2019

While the normative framework and tracking of country-level findings are largely in place, companies lack mechanisms to collect the human-scale data needed for identifying and remediating forced labor risks inside their supply chain. The challenges are numerous. First, the nature of fishing work is fundamentally different from other labor-intensive industries, and these differences can mask workers' voluntary or involuntary status. Fishing vessels operate remotely and are physically isolated. Working hours are determined by ocean conditions and the around-the-clock duties needed to keep the vessel operating safely. Payment for work most frequently is a share of the catch value based on seniority (Nakamura et al. 2018).

The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) is monitoring the SE Asian fishery sector and reports lots of cases of forced labor of migrant workers on fishing ships and also in other parts of the world like Africa. The most recent stories are available on the following website: <http://www.iuf.org/show.php?lang=en&tid=283>.

Staff of another NGO called Environmental Justice Foundation (EJF 2020a) report widespread abuse and illegal fishing of some of the Taiwan fleet stating:

Violent abuse of migrant workers and flagrant illegal fishing are systemic problems across Taiwan's distant water fishing fleet, a survey conducted by EJF of crew from 62 vessels has found. Crew from 24% of the vessels reported physical abuse and 92% reported having their wages withheld. Sharks were finned and bodies discarded on half of the vessels. Many migrant fishers are trafficked onto vessels and once out at sea, far from authorities, they are subjected to a kind of hell. Investigations by the Environmental Justice Foundation have uncovered cases of slavery, debt bondage, insufficient food and water, squalid living conditions, physical and sexual assault and even murder aboard fishing vessels from all over the world.

EJF staff interviewed 71 former Indonesian fishers between August 2018 and November 2019 who had worked on 62 Taiwanese vessels (EJF 2020b). Workers from nearly a quarter (24%) of the vessels reported violent physical abuse, mostly being kicked and beaten by the captain or senior crew. One man, Supri from Indonesia, was locked in a freezer by the captain while he was still wet from the shower. "It was so cold inside. He

did it on purpose. I shouted ‘Captain! Captain!’ Begging him to open [the door]. I kicked at it, but still he kept it locked. I was afraid, afraid of death. If I die, who will take care of my kid and my wife?” On the same trip, Supri was electrocuted with a stun gun by a fellow crew member under orders from the captain. The tool is used to kill fish, and the shocks left Supri weak and in pain.

Meso-Level

According to the ILO 2020 report, strong indicators exist that forced labor in the fisheries sector is frequently linked to other forms of transnational organized fisheries crime. The term “fisheries crime” recently appeared in the context of emerging practical responses against offences committed within the fisheries sector.

The report continues stating that (Fig. 3):

offences include severe cases of illegal fishing, related offences from document fraud, corruption and tax evasion but also human trafficking in the fisheries sector. Fisheries crime threatens marine ecosystems and has consequences for fish stocks. It has an impact on food security and sustainable fishing by coastal communities around the world. It also deeply affects human lives when it entails forced labour of trafficked fishermen.

EJF (2020b) reports that a Chinese-owned trawler has been relicensed to fish in Ghana, despite being caught for illegal fishing twice and failing to pay its fine. In June 2019, the *Lu Rong Yuan Yu 956* was apprehended in Ghanaian waters with illegal nets and undersized “small pelagic” fish on board – the staple catch of canoe fishers. The full fine of US\$ one million was issued, but the vessel owners refused to pay: in May 2020, the vessel was caught again for almost identical offences. Despite this clear track record of illegality, the vessel has now been licensed to fish again while it awaits a further hearing.

West Africa has seen an influx of vessels from China in recent months, including into Ghana, Senegal, and Liberia. In Ghana, around 90% of Ghana’s industrial fishing fleet is linked to Chinese ownership, while in Sierra Leone, this figure

stands at 75% of industrial vessels. New vessels continue to arrive in Ghana from China in spite of a government moratorium on the issuance of new licenses in place since 2012.

EJF staff concluded that ultimately, no one wins if we exploit our oceans to the point where fish populations collapse. To safeguard both marine ecosystems and the livelihoods of fishers, China and Ghana must work together to prevent cases like this from happening again? All cases of illegal fishing in Ghana must be treated rigorously, with sanctions severe enough to be deterrent and full transparency regarding how the process is conducted. Eradicating illegal fishing is eminently achievable and benefits us all.

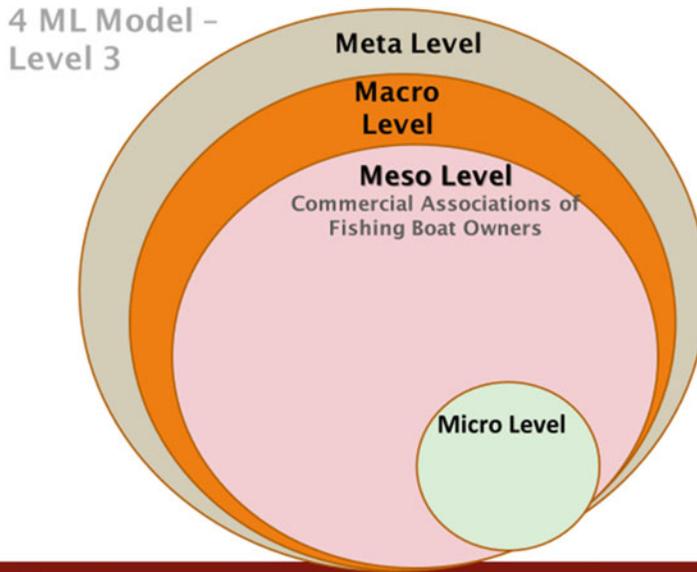
Another NGO called Sea Junction (2020) active in the field of labor abuse in the fishing sector reports that “when the fishing boats and trawlers returned to land after 3 to 4 weeks of fishing, they transferred the migrant workers to boats that were outbound on their way out at mid-sea. These transfers ensured that the migrants would not be able to set foot on land, resulting in their time on these boats measured in years.”

Following these reports and the work of other NGOs supported by the International Organization for Migration (IOM), regulatory measures have been put in place by the governments of Indonesia and Thailand, and the industry and practices have improved. The EU has also cooperated by “yellow carding” supermarket chains in Europe that did not have adequate measures of due diligence in place to monitor compliances with regard to sourcing and processing.

But the industry has adapted by moving further across the oceans to places like Madagascar and the African coast where poverty and misery can still be exploited without consequences.

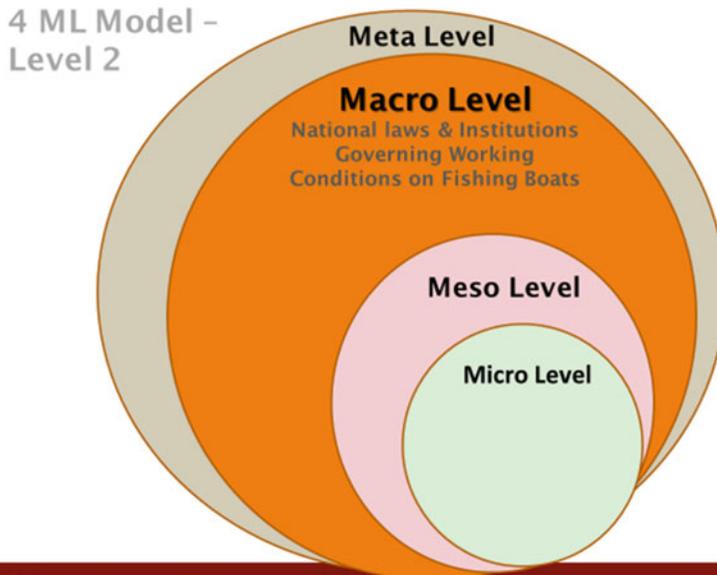
Macro-Level

Human trafficking and HR abuses of migrants working on the often illegal fishing ships can occur because of corrupt practices of port authorities and government officials in charge of maritime matters (Fig. 4).



CSEHO All rights reserved 2017

Forced Labor of Migrant Workers on Fishing Ships: Holding Management and Governments Accountable, Fig. 3 Meso-level analysis adapted from Saner and Yiu (2019)



CSEHO All rights reserved 2017

Forced Labor of Migrant Workers on Fishing Ships: Holding Management and Governments Accountable, Fig. 4 Macro-level analysis adapted from Saner and Yiu (2019)

The IOM mission in Indonesia provides a glimpse into a far-reaching and well-entrenched criminal industry operating alongside the legitimate fishing industry, and often overlapping it. The situation represents the spread of transnational organized crime at sea and the threat it poses as a maritime security threat to nations, and a human security threat to fishers, seafarers and fishing communities.

Mark Getchell Chief of Mission IOM Indonesia wrote in the foreword to the study:

- *It is my hope that this report can serve as a catalyst for governments, non- government organizations, the private sector and consumers alike to take concerted action against human trafficking in the fishing industry. The human trafficking cases documented in Benin and Ambon, while quite significant, still only represent one small snapshot of the much larger global exploitation and abuse of fishers. It is the scale of this exploitation that demands broad collaboration in order to effectively combat it.*

As reported in their publication IOM funded research, the Indonesian fishing industry is characterized by many shortcomings. What follows is an extensive citation of their findings which are not only succinct but also relevant for other countries exposed to IUU criminal fishing practices and HR abuse of migrant fishermen.

- *systematic and highly organized deceptive recruitment and exploitation of fishers and seafarers from multiple source countries in South East Asia;*
 - *witness testimony of murder and the unlawful disposal of corpses;*
 - *extreme cases of labour exploitation with fishers working in excess of 20 Hours per day up to 7 days per week; and,*
 - *a lack of awareness at the local level of human trafficking and forced Labor and associated criminal activity.*

IUU fishing in Indonesia is characterized by:

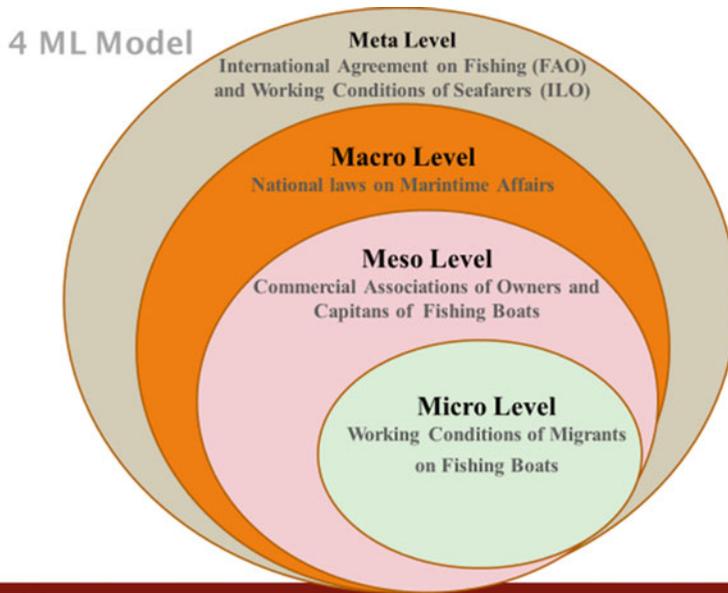
- *overlapping Indonesian government legislation and regulations has created confusion*

over the responsibilities of key government bodies responsible for the oversight of worker recruitment, conditions, and monitoring of fishing companies, manning agencies, and fishing vessels;

- *collaboration of more than 2 people: double-flagged vessels are registered in two different countries. This act of forging the deletion certificate is done by at least the ship-owner, the backers and field actors;*
- *suspected commission of serious criminal offences: illegal fishers violate numerous laws, from deactivating the transmitter, using prohibited and destructive fishing gear, illegal transshipment, forging vessel documents and the logbook;*
- *Foreign masters working illegally for indefinite periods of time: although there has been a national law prohibiting the use of foreign crews, there are still lots of foreign fishing masters working on board vessels undertaking lengthy voyages. This shows that there is considerable planning to conduct the crime;*
- *the pursuit of profit and/or power: the very reason for fisheries crime is to gain more profit and financial benefits with the least minimum effort in regards to compliance and exploiting the corruptible tendencies of some high level authorities and politicians;*
- *operating at an international level: illegal fishers operate in multiple countries, fish in various areas, fly flags of convenience and land their catch directly to another State, and sell the fish in the international market at high cost; and,*
- *using commercial or business-like structures: most illegal fishing operations are managed using large companies, often established with foreign investment, have valid licences, yet they are violating laws and evading taxes.*

Meta-Level

The analysis of this last level presents and discusses international agreements which consist of guiding principles that the international community has agreed to follow and which can provide



Forced Labor of Migrant Workers on Fishing Ships: Holding Management and Governments Accountable, Fig. 5 Meta-level analysis adapted from Saner and Yiu (2019)

guidance for governments and businesses involved in the fishing industry as to what they should do to combat inhumane working conditions on fishing ships (Fig. 5).

A) Sustainable Development Goals (SDGs)

Two of the 17 goals of the 2030 Agenda are related to sustainable oceans and decent working conditions. They are cited in full including the indicators which have been drafted for measuring the countries' achievement of the respective goals and targets. Some of the texts of the targets and indicators relate to the fishing sector and work conditions (Table 1).

Assessment

The two goals and indicators listed do only minimally relate to the fishing industry and the working conditions on fishing ships be that for local or migrant workers.

B) International Agreements

The United Nations Convention on the Law of the Sea, 1982, provides in Article 94(3) that “[e]

very State shall take such measures for ships flying its flag as are necessary to ensure safety at sea with regard, inter alia, to: . . . (b) the manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments” (ILO 2017, p.17).

Assessment

The Convention of the Law of the Sea identifies what countries should do to ensure safety and related conditions. It is a constructive treaty but not all UN member countries have signed it.

C) FAO

The 2017 Fishing Industry is an important domain of FAO's mandate. The executive summary of the FAO 16th session on social sustainability in fisheries value chains and link to fish trade lists two international guidelines that are relevant, namely (Table 2):

The FAO document closes with the following two recommendations:

- *Share information and experiences on social sustainability efforts in fish value chains.*

Forced Labor of Migrant Workers on Fishing Ships: Holding Management and Governments Accountable, Table 1 Targets of two SDG goals and indicators

SDG 14: Conserve and sustainably use the oceans, seas, and marine resources for sustainable development	Indicators
Target 14.c enhance the conservation and sustainable use of oceans and their resources by implementing international law as reflected in the United Nations convention on the law of the sea, which provides the legal framework for the conservation and sustainable use of oceans and their resources, as recalled in paragraph 158 of “the future we want”	14.c.1 number of countries making progress in ratifying, accepting, and implementing, through legal, policy, and institutional frameworks, ocean-related instruments that implement international law, as reflected in the United Nations convention on the law of the sea, for the conservation and sustainable use of the oceans and their resources
Target 14.4 By 2020, effectively regulate harvesting and end overfishing; illegal, unreported, and unregulated fishing; and destructive fishing practices and implement science-based management plans, in order to restore fish stocks in the shortest time feasible, at least to levels that can produce maximum sustainable yield as determined by their biological characteristics	14.4.1 proportion of fish stocks within biologically sustainable levels
Goal 8. Promote sustained, inclusive, and sustainable economic growth, full and productive employment, and decent work for all	
Target 8.7 take immediate and effective measures to eradicate forced labor, end modern slavery and human trafficking, and secure the prohibition and elimination of the worst forms of child labor, including recruitment and use of child soldiers, and by 2025 end child labor in all its forms	8.7.1 proportion and number of children aged 5–17 years engaged in child labor, by sex and age
Target 8.8 protect labor rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment	8.8.1 fatal and nonfatal occupational injuries per 100,000 workers, by sex and migrant status 8.8.2 level of national compliance with labor rights (freedom of association and collective bargaining) based on International Labour Organization (ILO) textual sources and national legislation, by sex and migrant status

Forced Labor of Migrant Workers on Fishing Ships: Holding Management and Governments Accountable, Table 2 FAO guidelines

FAO voluntary guidelines for securing sustainable small-scale fisheries (SSF guidelines), 2014	Human rights-based approaches. Promotion of social development, employment, and decent work: Elimination of child and forced labor; occupational safety and health; adequate standards of living; value chain, postharvest, and trade: Fair distribution of benefits, participation of small-scale actors in decision-making
OECD-FAO Guidance for Responsible Agricultural Supply Chains, 2016	Responsible business conduct, due diligence, supply chain approach, risk management (the guidance document specifically excludes fisheries and forestry sectors)

www.fao.org/3/a-i4356e.pdf

www.oecd.org/daf/inv/investment-policy/rbc-agriculture-supply-chains.htm

- *Provide guidance for future FAO work in the area of social sustainability in fish value chains.*

The 2019 corollary FAO document calls for cooperation toward a socially responsible fish value chain consisting of the following: a) a socially responsible fisheries and aquaculture

value chain is achieved when the private sector, governments, civil society, the United Nations system, and other actors cooperate between them, all together, toward an effective implementation of human rights, and b) the scale and ambition of the results associated with this guidance are based on working in a spirit of solidarity, in particular solidarity with vulnerable actors and communities, small-scale fishers, indigenous peoples, and ethnic minorities.

Assessment

Both FAO documents offer valid guidelines on how to improve abusive HR conditions of and working conditions on fishing ships. However, they are suggestions and not a binding agreement.

D) ILO

The following declarations and conventions are relevant for the working conditions on fishing ships (Table 3):

Key sections of ILO's conventions:

The competent authority or authorities responsible for the inspection of working and living conditions on board fishing vessels should clarify the responsibilities of fishing vessel owners, skippers and fishers in national laws, regulations or other measures implementing Convention No. 188. (ILO 2017, p. 19).

In June 2007, the International Labour Conference voted overwhelmingly in favor of adopting the Work in Fishing Convention, 2007 (No. 188), and the accompanying Work in Fishing Recommendation, 2007 (No. 199). The Convention will enter into force in November 2017, as it has received the required ten ratifications (ILO 2017, preface).

Assessment

The ILO conventions and declaration are very industry-specific and useful as guidelines for governments, labor unions, and businesses. However, they are only binding for countries that have signed them, and even for those who signed those, violation of responsibilities is not severe.

E) Consumer NGOs and Business Alliances

Marschke and VADERGEEST (2016) write that insights from research on regional labor migration as well as the work of civil society organizations in Thailand suggest that broader improvements in labor relations will require changes in migration management, with a focus on addressing vulnerabilities that restrict the abilities of migrant workers to obtain better working conditions.

They also state that the scandals about slave labor of the industrial fisheries have revealed not only the connections between northern buyers and southern labor practices but also the relative lack of research on fisheries labor in Asia and the global south.

The authors offer several responses to the fisheries labour scandal such as anti-trafficking measures based on making governments put in place anti-trafficking laws and regulations; enforcement of IUU measures e.g. following the example of the EU and its restriction of imports of sea food produce by fisheries that are labelled as illegal, unreported and unregulated; government actions to limit labour abuse resulting from combined pressure of importing governments and seafood buyers as was the case with the Thai government who reacted by asking its navy to inspect labour conditions on fishing ships; and buyer supply chain requirements brought about by large scale buyers working to ensure that their seafood suppliers are not using trafficked, abused or underage workers.

The authors cite examples of major buyers (Marks and Spencer, Sainsbury's, Waymart, and TESCO) cooperating with local Thai NGOs engaging in a pilot project where migrant workers can call a local hotline to raise complaints of abusive labor conditions on their ship requesting remedial action.

Assessment

These alliances between seafood importing companies and local NGOs are novel and useful but are not stable. Any partner can leave the alliance without any sanctions except for eventual loss of reputational capital.

Forced Labor of Migrant Workers on Fishing Ships: Holding Management and Governments Accountable, Table 3 ILO conventions on working conditions on fishing ships

International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work, 1998	Freedom of association, the right to collective bargaining, abolition of child labor, forced labor, and discrimination
ILO work in fishing convention C188, 2007	Working and living conditions on board fishing vessels
ILO 2014 Protocol to the Forced Labour Convention, 1930 (P029)	Fight, prevent, and deter modern-day slavery

www.ilo.org/declaration/lang%2D%2Den/index.htm

www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_535063/lang%2D%2Den/index.htm

www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:P029 www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_321414.pdf

F) OECD-UNGP-ILO-MNEs

What follow are international treaties and agreements covering human rights (HRs) in general such as the United Nations Guiding Principles on Business and Human Rights (UNGP), the Guidelines on Responsible Business Conduct of the Organisation for Economic Cooperation and Development (OECD-RBC), and the Declaration on Multinational Enterprises of the International Labour Organisation (ILO-MNE).

Intergovernmental agreements have played a major role in improving the labor conditions in general such as listed below.

1. The United Nations Guiding Principles on Business and Human Rights

After decades of debates regarding how human rights applied to businesses, the United Nations Guiding Principles on Business and Human Rights (UNGP) was approved in June 2011 (United Nations Human Rights 2014). By clearly stating what the responsibilities of businesses are, the UNGP provides businesses with a framework to respect and avoid violations of human rights. Not only has the Human Rights Council endorsed the principles, but many companies, business organizations, civil society organizations, trade unions, and national and regional institutions support them and other stakeholder groups (United Nations Human Rights 2014).

Ultimately, the finished text includes 31 principles. The UNGPs are not comprised of legal obligations, but rather they clarify businesses’ obligations to uphold human rights in their

practices and provide states and businesses with guidance. Most importantly, they define corporate responsibility in this regard (United Nations Human Rights 2011). The UN Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises further promotes the principles. In addition, the UN Working Group endeavors to create a dialogue on the topic of good business practices and to discuss the lessons learned through experience. It aims at getting agreement on remedial action in favor of victims of human rights abuses.

www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

2. OECD Guidelines on Responsible Business Conduct

The OECD member countries agreed to create the responsible business conduct (RBC) agreement. This is the first set of international agreements that integrate the UN’s Guiding Principles on Business and Human Rights (OECD 2014b). The governments who signed onto the agreements are required to set up a National Contact Point (NCP) that essentially handles and attempts to resolve issues related to the guidelines, for example, cases of businesses not adhering to the Guidelines. The NCPs must rely on inputs from stakeholders and their relationships with other businesses and nongovernmental organizations (NGOs). National Contact Points do not act as judicial bodies, but rather as problem-solvers providing guidance to the businesses (OECD 2014b).

Between 2000 and 2019, NCPs have handled more than 500 cases relating to company

operations in over 100 countries and territories. The majority of cases since 2011 deal with human rights (57%), followed by general policies, which include expectations related to due diligence (53%), followed by employment and worker issues (40%) and environment (21%) (OECD database RBC). Only six cases (incidences) related to the fishing industry, but none of the six pertained to working conditions.

The specific instance mechanism has been part of the Guidelines since the 2000 review.

Over 450 specific instances have been treated by country NCPs in over 100 countries and territories since then. OECD Watch, (2020) Search results for fish, 9 cases dealing with fishery sector but none related to labour conditions on the ships, 1 September 2020, OECD Watch/SOMO GL Amsterdam, NL; <https://complaints.oecdwatch.org/@@search?SearchableText=fish>

3. ILO Tripartite Declaration of Principles Concerning Multinational Enterprise and Social Policy: The MNE Declaration

The tool that businesses can use to get instruction on good business practices is the ILO's MNE Declaration, which was adopted in Geneva, Switzerland, in 1977 by the governing body of the ILO; it was last revised in 2017 to concur with following developments. They are the new labor and policy outcomes that were put forth by the 329th International Labour Conference in 2017, the Guiding Principles on Business and Human Rights endorsed by the Human Rights Council in 2011, and the adoption of the 2030 Agenda for Sustainable Development. However, the declaration is nonbinding and can easily be stopped by one or two of the tripartite constituencies at local level.

4. UN Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises

The mandate of the Working Group is broad and far-reaching. Key features of the mandate given to the Working Group by the Human Rights Council in 2011 are (1) to promote the effective and comprehensive dissemination and implementation of the [Guiding Principles on Business and](#)

[Human Rights](#): Implementing the United Nations “Protect, Respect and Remedy” framework and (2) to continue to explore options and make recommendations at the national, regional, and international levels for enhancing access to effective remedies available to those whose human rights are affected by corporate activities, including those in conflict areas (UN-OHCHR 2018).

In contrast to the UNGP, the ILO MNE Declaration, and the OECD RBC Guidelines, the goal of the UN Working Group is to reach an agreement through a convention that identifies ways to provide remedies to human rights violations by transnational companies.

Until such a binding convention or treaty is reached, the OECD RBC Guidelines offer the most effective methods, also referred to as “soft law practice,” to address human rights violations by transnational companies and enterprises in general no matter their size (Tapiola 2018).

Solutions

The ILO Response

In response to the growing concern of forced labor and human trafficking in the fishing sector, ILO is developing a 5-year, holistic, multifaceted, and integrated program – [“Global Action Programme against forced labour and trafficking of fishers at sea” \(GAP fish\)](#).

The program aims to become a cross-cutting global initiative that will have regional and national impacts to promote and protect fishers' human and labor rights with the following outcomes:

- Development of sustainable solutions to prevent human and labor rights abuses of fishers in recruitment and transit states.
- Enhancement of capacity for flag states to ensure compliance with international and national laws on board vessels flying their flag to prevent forced labor.
- Increased capacity of port states to address and respond to situations of forced labor in fishing.
- Establishment of a more knowledgeable consumer base of forced labor in fisheries.

Closing Comments

Efforts to stop the HR violations of workers (migrant and local) on fishing ships have not been successful on a sustained basis. Remedial actions are required which go beyond the many well-intentioned attempts to bring an end to the human trafficking and slavery conditions on fishing ships.

As can be seen from the assessments given to the different international agreements, none of the treaties or agreements are binding nor have all UN member countries signed up to them.

What is urgently needed is a binding agreement either in form of a strengthened existing agreement or in form of a new international agreement.

It is also urgently needed that MBA schools teach courses covering human trafficking on fishing ships and equally useful and timely would be publications with a target advocacy for good business behavior.

References

- Environmental Justice Foundation, EJF staff (2020a) Widespread abuse and illegal fishing as Taiwan's fleet remains out of control. Environmental Justice Foundation (EJF), London. <https://ejffoundation.org/news-media/widespread-abuse-and-illegal-fishing-as-taiwans-fishing-fleet-remains-out-of-control>
- Environmental Justice Foundation, EJF staff (2020b) Chinese-owned trawler in Ghana re-licensed despite illegal fishing and unpaid fine. London, UK. <https://ejffoundation.org/news-media/chinese-owned-trawler-in-ghana-re-licensed-despite-offences-and-unpaid-fine>
- FAO, SUB-COMMITTEE ON FISH TRADE, 16th Session, Busan, Republic of Korea, 4–8 September 2017. In: "Social sustainability in fisheries value chains and the link to fish trade", COFI:FT/XVI/2017/5, Rome, Italy
- ILO (2015) GAPfish – A Global action programme against forced labour and trafficking of fishers at sea, Geneva, https://www.ilo.org/wcmsp5/groups/public/%2D%2D-ed_norm/%2D%2D-declaration/documents/publication/wcms_429359.pdf, Assessed 10 March 2021
- ILO Global Estimates of Forced Labour, (2012)-https://www.ilo.org/wcmsp5/groups/public/—ed_norm/—declaration/documents/publication/wcms_182004.pdf
- ILO (2017) Guidelines on flag State inspection of working and living conditions on board fishing vessels, Geneva. https://www.ilo.org/sector/Resources/codes-of-practice-and-guidelines/WCMS_428592/lang%2D%2Den/index.htm, Assessed 1 Sept 2020
- ILO (2020) Forced labour and human trafficking in fisheries, <https://www.ilo.org/global/topics/forced-labour/policy-areas/fisheries/lang%2D%2Den/index.htm> Assessed 1 Sept 2020
- Marschke M, Vadergeest P (2016) Slavery scandals: unpacking labour challenges and policy responses within the off-shore fisheries sector. *Mar Policy* 68: 39–46
- OECD (2014b) in Activities of National Contact Points for the OECD Guidelines for Multinational Enterprises, Annual Report on the OECD Guidelines for Multinational Enterprises 2014, <https://www.oecd.org/daf/inv/mne/MNE-Annual-Report-2014-NCP-Activities.pdf>
- Saner R, Yiu L (2019) "Financing education in developing countries: philanthropic organizations need to monitor their investment for impact", CEPS Working Paper Series, Basel University, No. 15, March 2019
- Saner R, Yiu L, Rush L (2018) The measuring and monitoring of human trafficking. *Public Adm Policy*. <https://doi.org/10.1108/PAP-10-2018-011>. <http://www.diplomacydialogue.org/publications/social-diplomacy/160-the-measuring-and-monitoring-of-human-trafficking.html>
- Whiteman G, Cooper W (2016) Decoupling rape. *Acad Manag Discov* 2(2):115–154
- Nakamura K, Bishop L, Ward T, Pramod G, Thomson C, Dominic T, Patima S, Sompong (2018) Seeing slavery in seafood supply chains. *Sciences Advances* 4: e1701833
- Sea Junction (2020) Harsh life on shore: migrant workers in the Thai Fishing Industry. Bangkok, Thailand. <http://seajunction.org/harsh-life-shore-migrant-workers-thai-fishing-industry/#.X05dVNRS-Ul>, Assessed 1 Sept 2020
- Tapiola K (2018) The OECD Guidelines as a balanced instrument. In N Bonucci & C Kessedjian (Eds) 40 years of the OECD guidelines for multinational enterprises. A. Pedone, Paris, pp 29–32
- (UNGP) was approved in June 2011, (Guiding Principles on Business and Human Rights) in United Nations Human Rights. 2011, in United Nations Human Rights (2014) https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf
- UN-OHCHR 2018, About the UN Forum on business and human rights <https://www.ohchr.org/EN/Issues/Business/Forum/Pages/ForumonBusinessandHumanRights.aspx>