



# FEAR, HUNGER AND VIOLENCE

Human rights in Ghana's industrial trawl fleet

A report produced by the Environmental Justice Foundation



Protecting People and Planet



Protecting People and Planet

### **The Environmental Justice Foundation**

(EJF) is a UK-based environmental and human rights charity registered in England and Wales (1088128).

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## **OUR MISSION**

*Protecting 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 and 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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## Acronyms

ACHPR	African Charter on Human and People's Rights	NAP	National Action Plan (on Business and Human Rights)
CCRF	Code of Conduct for Responsible Fisheries	NCP	National Contact Point
CHRAJ	Commission on Human Rights and Administrative Justice	NGO	Non-governmental organisation
DIHR	The Danish Institute for Human Rights	NHRI	National Human Rights Institution
ECtHR	European Court of Human Rights	NUS	National Union of Seaman
EEZ	Exclusive Economic Zone	OHCHR	Office of the United Nations High Commissioner for Human Rights
EU	European Union	OECD	Organisation for Economic Co-operation and Development
FAO	Food and Agriculture Organization of the United Nations	PLAAF	Platform to Protect Whistleblowers in Africa
GACC	Ghana Anti-Corruption Coalition	PSMA	Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
GITA	Ghana Industrial Trawlers Association	SDG	Sustainable Development Goal
HRIA	Human rights impact assessment	UDHR	Universal Declaration of Human Rights
ICAR	The International Corporate Accountability Roundtable	UNCAT	United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
ICCPR	International Covenant on Civil and Political Rights	UNCLOS	United Nations Convention on the Law of the Sea
ICESCR	International Covenant on Economic, Social and Cultural Rights	UNGPs	United Nations Guiding Principles on Business and Human Rights
ILO	International Labour Organization		
IMO	International Maritime Organization		
IUU	Illegal, unreported and unregulated fishing		

## Definitions

**Degrading treatment or punishment** – treatment that humiliates or debases an individual, showing a lack of respect for, or diminishing, their human dignity, or when it arouses feelings of fear, anguish or inferiority capable of breaking an individual's moral and physical resistance.<sup>1</sup>

**Duty bearer** – actors who have a particular obligation or responsibility to respect, promote and realise human rights and to abstain from human rights violations. States are the primary duty bearers under international human rights law and can be held accountable for their acts or omissions. There is widespread recognition now that businesses are also duty bearers and have the responsibility to respect human rights.<sup>2</sup>

**Fisheries observer** – public officers stationed on board fishing vessels and responsible *inter alia* for collecting catch and effort data, sampling fish for scientific purposes and reporting fisheries violations.

**Forced or compulsory labour** – 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>3</sup>

**Inhuman treatment or punishment** – ill-treatment which is premeditated and applied for hours at a stretch and causing either actual bodily injury or intense physical and mental suffering.<sup>4</sup>

**Rights-holder** – individuals and/or social groups (such as communities) that have particular legal entitlements in relation to duty bearers and can make claims and hold duty bearers to account for upholding their rights.

**Saiko** – the local name for illegal fish trans-shipments in Ghana, where industrial trawlers transfer frozen fish to specially adapted canoes out at sea.



## Executive summary

This report takes a detailed look at human rights and labour issues in Ghana's industrial fishing sector. Through interviews with crew members and fisheries observers working on board these vessels, we shed light on exploitative and abusive practices in the fleet. We analyse these findings against international human rights and labour standards and consider Ghana's obligations under national and international law to protect the human rights of workers and remedy infringements.

Previous studies have documented widespread illegal, unreported and unregulated (IUU) fishing by industrial trawlers operating under the Ghanaian flag<sup>5</sup>. Although registered under the Ghanaian flag, the majority of trawlers operating in Ghana – an estimated 90% – are beneficially owned by Chinese corporations<sup>6</sup>. To circumvent a legal prohibition against foreign involvement in the trawl sector<sup>7</sup>, operators set up opaque corporate structures to gain access to Ghana's fisheries on local licences<sup>8</sup>. In 2015, Chinese nationals captained over 95% of trawlers with active licences to fish in Ghanaian waters<sup>9</sup>.

In registering industrial trawlers under the Ghanaian flag, Ghana has accepted jurisdiction over the working conditions on these vessels in accordance with international law. Ghana therefore has an obligation to enforce minimum safety and labour standards on these vessels and, as the primary duty bearer, to ensure that the basic human rights of workers are respected and protected.

Interviews were conducted in September 2019 and January 2020 to gather information on the working conditions of crew members and fisheries observers on board the Ghana-flagged industrial trawl fleet. A total of 10 Ghanaian crew members and 3 fisheries observers were interviewed. Responses were coded according to the categories of human rights and labour issues identified and assessed against the rights protected by international human rights instruments and national laws.

The analysis used the International Labour Organization's (ILO) Work in Fishing Convention, 2007 (No. 188) as a benchmark to identify potential human rights and labour violations in the industrial trawl fleet. Although Ghana is yet to ratify the Convention, a number of the issues related to fundamental human rights enshrined in the International Bill of Rights and Ghana's 1992 Constitution. Convention No. 188 can serve as a guide to the application of these fundamental rights to workers on board fishing vessels, as it has contextualised human rights and labour standards to work on fishing vessels. Potential breaches were also identified in relation to national law provisions in Ghana's Labour Act, 2003 (Act 651) and Shipping Act, 2003 (Act 645), and potential criminal offences under the Criminal Code, 1960 (Act 29).

## Key findings

The study documented numerous allegations of potential human rights abuses and labour violations affecting workers on board the Ghana-flagged trawl fleet (**Table 1**). All interviewees reported multiple potential violations of international human rights instruments and labour standards, as well as national laws. Several respondents reported severe abuses warranting urgent attention and investigation. All had experience of working on multiple different trawl vessels in Ghana.

In addition to human rights and labour issues, the testimonies of crew members and fisheries observers confirm that widespread and destructive illegal fishing practices persist in the trawl sector. There are concerns that the observer programme is substantially compromised by bribery, threats and corrupt practices which impede effective reporting and follow up on illegalities at sea.

The findings of this study suggest that Ghana may be failing to guarantee the basic human rights of workers set out in the International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR). The treatment of workers on some vessels may also reach the threshold of degrading treatment within the meaning of the International Covenant on Civil and Political Rights, 1966 (ICCPR) and African Charter on Human and People's Rights (ACHPR) and forced labour within the meaning of ILO Forced Labour Convention, 1930 (No. 29) and ILO Abolition of Forced Labour Convention, 1957 (No. 105).



Trawl vessels unloading at Tema port, Ghana.

## Physical violence and threats of abuse

- All 10 crew members interviewed had personally experienced or witnessed physical abuse at the hands of Chinese captains and officers.
- Ghanaian crew members experience frequent abuse when sorting fish and are often woken up aggressively by the Chinese officers. Captains will kick or beat the crew with anything they can find – whether a stick, stone, basket or boot.
- Crew members and fisheries observers described serious assaults or threats by vessel captains.
- Observers are afraid of what might happen if they try to prevent or report on illegal fishing while at sea. Crew members and observers reported widespread illegal fishing, including trans-shipment, discarding and use of illegal nets, by the vessels in question.

## Conditions of service

- None of the crew members interviewed had entered into written contracts for their employment. Crew members feel unable to complain about their situation for fear of losing their jobs.
- Crew members embark on fishing expeditions without prior knowledge of their final wage. Wages are not fixed but often remain the same regardless of the length of the trip. In some cases, final wages are close to or below the daily minimum wage. Companies make deductions from wages that are not agreed to in advance by the crew.
- Fisheries observers often have to wait up to four to six months before being paid for a trip. Respondents felt that such delays were deliberate to make them more amenable to accepting bribes.

## Manning and hours of rest

- Ghanaian crew members reported lengthy working hours and very limited rest periods, creating serious risks to health and safety. On some days there would be no rest at all, as the net is hauled in every two to three hours. In contrast, the captain and senior crew members are said to work on rotation and will sleep in between shifts.

## Living conditions (accommodation, food and water)

- All 10 crew members reported poor living conditions on the vessels.
- Cabins on the vessels are reserved for the Chinese crew and fisheries observers. Ghanaian crew members sleep on deck under a tarpaulin. Possibilities to wash or bath are limited.
- Food is of poor quality. Supplies may be finished a few weeks into a fishing trip and crew members may only have gari (ground and fried cassava flour) to eat until they return to shore. Food is also frequently withdrawn or withheld to maximise hours of work.
- Drinking water is generally of poor quality and insufficient, with crew members complaining of stomach pains, vomiting and diarrhoea. When water supplies are exhausted, seawater may be boiled for drinking.



## Occupational health and safety

- Accidents are commonplace and safety measures are lacking. Crew members reported serious accidents caused by poorly maintained equipment. Wires often snap resulting in injury and sometimes death. Health and safety risks are compounded by long working hours and limited periods of rest.
- Sanitary facilities are inadequate. When vessels are heavily loaded with fish, the crew's toilet –a hole with a pipe –may overflow. When this occurs, crew members have no choice but to defecate over the side of the vessel, posing serious risk of injury.
- Personal protective equipment provided by fishing companies is reportedly inadequate. Some crew members will purchase their own boots and gloves for their work. Sorting of fish may be done with bare hands.

## Medical care, health protection and social security

- There is an absence of first aid or medical supplies on board the vessels, and a lack of medically trained personnel.
- In the event of serious injuries or accidents, options for treatment on board are limited. In some cases, captains have refused to transport crew members back to port to receive treatment. Injured crew members may be taken back to shore by canoe.
- Several crew members had suffered serious injuries or witnessed the serious injury or death of colleagues in the course of their work. Victims face difficulties in obtaining compensation from their employers for their injuries.
- Crew members complain that companies fail to pay social security despite making deductions from their wages purportedly for this purpose.

## Trade unions and collective bargaining

- There is reportedly no union in place to protect the interests of crew members working on board industrial trawl vessels.
- Crew members feel unable to make demands or submit complaints to their employers for fear of losing their jobs. They have few, if any, alternative options for employment.
- Recent attempts by crew members to form a trade union for industrial fishermen have been unsuccessful. Some believe they were fired or blacklisted following their move to join the union.

A number of recommendations are made in the report to address potential human rights abuses and labour violations on industrial trawl vessels registered under the Ghanaian flag. General recommendations are also made on improving transparency in the sector, in order to enhance governance, reduce the risk of corruption and eliminate IUU fishing, in line with EJF's ten principles for global transparency in the fishing industry<sup>10</sup>.

While the data collection in this report was carried out prior to the COVID-19 pandemic, further research is required to assess the risks posed by COVID-19 to workers on the trawl fleet. This may include risks of virus transmission on board vessels and safety implications of operating with reduced crew due to restrictions on movement or implementation of physical distancing measures<sup>11</sup>.

**Table 1: Summary of key findings - identified human rights and labour issues**

<b>Issue identified</b>	<b>Allegations</b>	<b>Cited by</b>	<b>Category of human right</b>
<b>Physical violence and threats of abuse</b> (Section 4.2.1)	Assaults, threatening to cause harm, use of weapons	10 crew members	Right to security of person
			Right to freedom from cruel, inhuman or degrading treatment or punishment
			Right not to be subjected to forced labour
<b>Conditions of service</b> (Section 4.2.2)	Absence of written contracts, unauthorised wage deductions, failure to pay minimum wage, salary not fixed prior to trip, unfair dismissal	10 crew members	Right to enjoyment of just and favourable conditions of work
<b>Manning and hours of rest</b> (Section 4.2.3)	Insufficient to no rest periods within day/ week	5 crew members	Right to enjoyment of just and favourable conditions of work
			Right not to be subjected to forced labour
<b>Living conditions (accommodation, food and water)</b> (Section 4.2.4)	Insufficient and poor-quality food and drinking water, withholding of food, poor sleeping accommodation, inadequate sanitary facilities	10 crew members	Right to enjoyment of just and favourable conditions of work
			Right to freedom from cruel, inhuman or degrading treatment or punishment
			Right to freedom from forced labour
<b>Occupational health and safety</b> (Section 4.2.5)	Hazardous working conditions, inadequate sanitary facilities, poorly maintained equipment, lack of protective clothing, frequent accidents causing injury and sometimes death	5 crew members	Right to enjoyment of just and favourable conditions of work
<b>Medical care, health protection and social security</b> (Section 4.2.6)	Non-payment of social security, lack of compensation in the event of occupational related injury, lack of first aid/medical supplies and personnel with medical training on board	7 crew members	Right to social security, including social insurance
			Right to enjoyment of just and favourable conditions of work
<b>Trade unions and collective bargaining</b> (Section 4.2.7)	No trade union in place, attempts to form trade union suppressed, blacklisting of crew following attempts to unionise	5 crew members	Right to form and join trade unions



An industrial trawler fishing in Ghana.

## 1. Introduction

Almost 40 million people work in capture fisheries worldwide<sup>12</sup>, of which at least 15 million are engaged full-time on board fishing vessels<sup>13</sup>. Work on fishing vessels is inherently hazardous, and often takes place in remote locations, away from day-to-day scrutiny and oversight. Combined with weak governance and poor transparency in global fisheries, this presents a very high risk for human rights abuses in the sector<sup>14</sup>.

Globally, around one third of fish stocks are overfished, and another 60% are fished at their limit<sup>15</sup>. The over-exploitation of fish populations is driving many workers into ever more precarious situations. The depletion of fish stocks puts pressure on fishing operators to maintain catch rates and profitability. This may be achieved by engaging in illegal fishing –such as using prohibited fishing gears or fishing in protected or restricted areas – or decreasing operational costs through cuts to fishers' wages and social security, employment of lower paid migrant workers, or non-compliance with minimum requirements for vessel safety<sup>16</sup>.

Workers on fishing vessels are particularly vulnerable to human rights abuses, with exploitative working conditions, forced labour, human trafficking and acts of violence widely documented<sup>17</sup>. The fishing industry has lagged behind other sectors in affording workers the necessary legal and other protections to ensure safe and healthy working conditions and prevent abuses of basic human rights<sup>18</sup>. There is a systemic lack of transparency in global fisheries that allows unscrupulous operators to engage in illegal and destructive fishing practices, while evading scrutiny and exploiting vulnerable workers<sup>19</sup>.

This report takes a detailed look at human rights and labour issues in the industrial fishing sector in Ghana. Previous EJF reports have documented widespread illegal fishing by industrial trawlers operating under the Ghanaian flag (**Box 1**), the vast majority of which are operated by Chinese corporations<sup>20</sup>. Through interviews with crew members and fisheries observers working on board these vessels, we shed light on the exploitative and abusive practices in the fleet. We analyse these findings against international human rights and labour standards and consider Ghana's obligations under national and international law to protect the human rights of workers and remedy infringements.

## Box 1: Ghana's fisheries and the industrial trawl fleet

Ghana has one of the largest domestic-flagged industrial trawl fleets in West Africa and represents the largest registry of Chinese distant water fishing vessels outside of China<sup>21</sup>. In June 2020, there were 72 industrial trawlers flagged to Ghana and licensed to fish in the country's Exclusive Economic Zone (EEZ). An additional 30 trawlers (approximately) are understood to be registered to the Ghanaian flag<sup>22</sup> but do not currently hold licenses to fish in Ghana's waters. Ghana's 2002 Fisheries Act (Act 625) requires Ghanaian nationals to make up at least 75% of the crew working on board industrial trawl vessels operating under the Ghanaian flag<sup>23</sup>.

Industrial trawlers operating in Ghana are licensed to fish for demersal (bottom-dwelling) species such as cephalopods (cuttlefish, octopus and squid), groupers and snappers. High value catches are destined for export, particularly to China and the European Union (EU)<sup>24</sup>. The EU imports between 2,000 and 3,500 tonnes of cuttlefish, octopus and squid from Ghana annually, worth around €10 million<sup>25</sup>. As a proportion of exports are routed via China, it is possible that this figure is higher<sup>26</sup>. In 2018, the EU imported an estimated 33,574 tonnes of seafood from Ghana worth approximately €157.3 million, mainly processed and unprocessed tuna products<sup>27</sup>.

Although registered to the Ghanaian flag, the majority of trawlers operating in Ghana – an estimated 90% – are beneficially owned by Chinese corporations<sup>28</sup>. To circumvent a legal prohibition against foreign involvement in the trawl sector<sup>29</sup>, operators set up opaque corporate structures to gain access to Ghana's fisheries on local licences<sup>30</sup>. Just five Chinese companies have been identified as controlling over half of the industrial trawlers operating in the country today<sup>31</sup>. On paper, these vessels are registered to multiple local "front" companies. Yet the vessels also retain strong links with China, appearing in official databases of the Chinese government, including the list of vessels to be inspected overseas<sup>32</sup>. In 2015, Chinese nationals captained over 95% of trawlers with active licences to fish in Ghanaian waters (102 of 106 vessels).<sup>33</sup>

There is mounting concern as to the impacts of illegal fishing by industrial trawlers on Ghana's marine fisheries and, in particular, the highly destructive practice known locally as "saiko"<sup>34</sup>. Saiko involves the illegal targeting by industrial trawlers of small pelagic species such as sardinella – the staple catch of small-scale fishers – for trans-shipment at sea to purpose built canoes. The catches, which often include large numbers of juvenile fish that are critical to rebuilding the fishery<sup>35</sup>, are then landed and sold back to fishing communities for profit.

Saiko is driving Ghana's small pelagic fishery – known as the "people's fish" due to its role in livelihood provision – to the brink of collapse<sup>36</sup>. Landings of sardinella have declined by around 80% over the past two decades, from 135,628 metric tonnes in 1996, to 29,111 tonnes in 2016<sup>37</sup>. In 2017, industrial trawlers caught an estimated 100,000 metric tonnes of fish for the illegal saiko trade, with a landed value of over US\$50 million<sup>38</sup>. Saiko has severe implications for Ghana's small-scale fishing sector and the livelihoods of over 2.7 million people that depend, directly or indirectly, on marine fisheries for their livelihoods<sup>39</sup>.

Scientists predict the collapse of Ghana's small pelagic fishery in less than five years in the absence of ambitious management interventions<sup>40</sup>. Meanwhile, new vessels continue to enter Ghana's waters from China in spite of widespread illegal fishing and over-exploitation resulting in the severe depletion of stocks<sup>41</sup>.



A trawler caught on film engaging in illegal trans-shipment (saiko) by EJF investigators in February 2019.

## 2. Human rights and fisheries

### 2.1. Fundamental human rights

The protection of fundamental human rights has its basis in a number of international conventions and treaties. Basic human rights, which apply universally to all human beings, are enshrined in the 1948 Universal Declaration of Human Rights (UDHR) and elaborated upon in the subsequent legally binding 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) and 1966 International Covenant on Civil and Political Rights (ICCPR).

Together with the two Optional Protocols to the ICCPR, these texts are referred to as the International Bill of Human Rights<sup>42</sup>. The texts reflect an international consensus on the entitlement of all peoples to certain universal, inalienable human rights, and obligations on all states to protect and achieve those rights. This includes the right to just and favourable conditions of work, the right to form trade unions for the promotion and protection of economic and social interests, and the right to social security, including social insurance. Subsequent instruments, including the regional African Charter on Human and People's Rights (ACHPR), have further reinforced these rights, providing that all individuals shall have the right to work under equitable and satisfactory conditions.

Through ratification of international human rights treaties, governments undertake to enact domestic legislation to implement their treaty obligations. Where domestic legal proceedings fail to address human rights abuses, complaints mechanisms are available at the regional and international levels to help ensure that international human rights standards are respected, implemented, and enforced<sup>43</sup>.

### 2.2. International labour standards

Through a number of legal texts, the International Labour Organization (ILO) has elaborated specifically on basic human rights in the context of work, including those relating to occupational health and safety, wages, working hours, labour inspections and social security. The ILO Declaration on Fundamental Principles and Rights at Work, adopted in 1998, imposes an obligation on ILO Members to respect, promote and realise certain fundamental principles concerning labour rights, including the freedom of association and effective recognition of the right to collective bargaining, and the elimination of all forms of forced or compulsory labour.

These principles are further elaborated in the eight fundamental ILO Conventions, which set out fundamental principles and rights at work:

1. C87 Freedom of Association and Protection of the Right to Organise Convention, 1948
2. C98 Right to Organise and Collective Bargaining Convention, 1949
3. C29 Forced Labour Convention, 1930 (and its 2014 Protocol)
4. C105 Abolition of Forced Labour Convention, 1957
5. C138 Minimum Age Convention, 1973
6. C182 Worst Forms of Child Labour Convention, 1999
7. C100 Equal Remuneration Convention, 1951
8. C111 Discrimination (Employment and Occupation) Convention, 1958



## 2.2.1. Labour standards for work on fishing vessels

The Work in Fishing Convention, 2007 (No.188) is a landmark legal text aimed specifically at establishing minimum international standards for work on board commercial fishing vessels and preventing serious abuses of human rights. The Convention came into force on 16 November 2017 and had been ratified by 18 countries at the time of writing. The Convention and related Work in Fishing Recommendation, 2007 (No. 199) replace a number of earlier ILO instruments concerning work in the fishing sector that were poorly ratified<sup>44</sup>. They address issues such as minimum terms and conditions of employment, living conditions, occupational safety and health, medical care at sea and onshore, periods of rest and limitation of working hours, and social security protection for fishers.

Although non-binding, the 1995 FAO Code of Conduct for Responsible Fisheries (CCRF) also provides guidance to states on the application of internationally agreed labour standards in the fisheries context. According to the CCRF, states should ensure that fishing equipment and activities allow for safe, healthy and fair working and living conditions, and that health and safety standards are adopted for workers in fishing operations.

It is worth mentioning, at this point, two complementary international measures that, together with ILO Convention No. 188, provide the basis for a comprehensive legal framework to improve the conditions, safety and welfare of workers on fishing vessels.

- The 2012 Cape Town Agreement, adopted by the International Maritime Organization (IMO), addresses a major gap in international maritime regulations, setting out mandatory standards for fishing vessel construction, equipment and inspection aimed at protecting the safety of crews and fisheries observers working on board. The Agreement will enter into force once 22 states, with a combined fleet of 3,600 eligible fishing vessels, ratify or accede<sup>45</sup>.
- The Food and Agriculture Organization of the United Nations (FAO) Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing (the PSMA) requires parties to tighten port controls on foreign-flagged vessels seeking to enter and use their ports to land or trans-ship their catches. The PSMA is primarily aimed at detecting IUU fishing and blocking fishery products derived from IUU fishing from reaching national and international markets, although enhanced dockside inspections bring greater scrutiny with positive implications for working conditions for crew. The PSMA came into force in May 2016 and at the time of writing had 67 ratifications<sup>46</sup>.

## Box 2: Human rights and sustainable development

The achievement of human rights is widely recognised internationally as an integral part of the process of development. This approach to development recognises that development must contribute to the realisation of human rights while providing a strong basis for individual citizens, as “rights holders”, to make claims for infringements of their human rights and hold states to account as the “duty bearers”.

The 2030 Agenda for Sustainable Development is “*the result of the most consultative and inclusive process in the history of the United Nations*”<sup>47</sup> and is firmly grounded in the UDHR and other international human rights treaties. It seeks to realise human rights for all and emphasises the need for human rights and the Sustainable Development Goals (SDGs) to be implemented in a mutually reinforcing manner. It offers a critical opportunity to advance the full spectrum of human rights, including economic, civil, cultural, political and social rights<sup>48</sup>, in the context of international and national development action.

Of the 17 SDGs, SDG 8 on decent work and economic growth is particularly relevant to the rights of workers on commercial fishing vessels. The targets for SDG 8 include the protection of labour rights and promotion of safe and secure working environments for all workers (Target 8.8). Additional targets include the achievement, by 2030, of full and productive employment and decent work for all and equal pay for work of equal value (Target 8.5), and implementation of immediate and effective measures to eradicate forced labour and end modern slavery and human trafficking (Target 8.7). Improving safety and ensuring decent working and living conditions for workers on fishing vessels goes hand in hand with achieving SDG 14 on the conservation and sustainable use of marine resources, and in particular Target 14.4 on ending IUU fishing, overfishing and destructive fishing practices.



A local canoe lands fish at Gomoa Fetteh in Ghana's Central Region.

## 2.3. Duty bearers under international law

States are the primary duty bearers under international human rights law and are ultimately responsible for enforcing human rights standards at sea. States assume human rights obligations through the signature and ratification of international human rights instruments and, in so doing, have a responsibility to respect, protect and fulfil the rights set out therein.

The 1997 Maastricht Guidelines, which elaborate on the nature and scope of violations of economic, social and cultural rights and appropriate responses and remedies, provide further explanation on the obligations on states to respect, protect and fulfil these rights:

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***"Like civil and political rights, economic, social and cultural rights impose three different types of obligations on States: the obligations to respect, protect and fulfil. Failure to perform any one of these three obligations constitutes a violation of such rights. [...]"***

***The obligation to protect requires States to prevent violations of such rights by third parties. Thus, the failure to ensure that private employers comply with basic labour standards may amount to a violation of the right to work or the right to just and favourable conditions of work."*** (paragraph 6 of the Guidelines)

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In the maritime sector, Article 94 of the UN Convention on the Law of the Sea (UNCLOS) establishes the duty of flag states to exercise effective jurisdiction and control in administrative, technical and social matters over ships flying their flag. Flag states are required to take the necessary measures to ensure the safety of their flagged vessels, including with respect to the construction, equipment and seaworthiness of ships, and the manning of ships, labour conditions and training of crews<sup>49</sup>. This may include<sup>50</sup>:

- the setting and monitoring of standards and safe working procedures;
- inspections of fishing vessels and, where necessary, the activities of the owners;
- responding to complaints received;
- investigation of accidents, incidents and near-miss reports;
- imposition of fines or penalties;
- revocation or cancellation of a fishing vessel's valid document.

## 2.4. Human rights in the context of business

The United Nations Guiding Principles on Business and Human Rights (UNGPs) provide additional guidance on the respective obligations of governments and businesses to prevent and address negative impacts on human rights by business. The Principles do not introduce new international obligations, but refer to internationally recognised human rights which, as a minimum, include those expressed in the International Bill of Human Rights and the fundamental rights in the ILO Declaration on Fundamental Principles and Rights at Work<sup>51</sup>.

Within the framework of the UNGPs, countries are encouraged to prepare National Action Plans (NAPs) on Business and Human Rights in which the government articulates priorities and actions that it will adopt to support the implementation of the principles. NAPs are key mechanisms to promote implementation of the UNGPs and by which governments may be held to account for the protection of human rights against abuses by corporate actors. The first step is to conduct a national baseline assessment as a basis for elaborating a full NAP<sup>52</sup>.

Although voluntary, the Principles were unanimously endorsed by the UN Human Rights Council in 2011 and represent an authoritative policy framework on business and human rights based on the three pillars: "protect, respect, remedy".



An industrial trawler operating in Ghana.



## Protect

The Principles confirm that states have a duty to protect citizens against abuses of human rights by third parties, including businesses, through the adoption and implementation of effective policies and laws. National Human Rights Institutions (NHRIs) can provide assistance to states in identifying whether laws are aligned with human rights obligations and effectively enforced, and in providing guidance on human rights to business enterprises.

In the fisheries sector, this duty may include<sup>53</sup>:

- ratifying international conventions such as ILO Convention No. 188;
- enacting laws that specifically require fishing vessel operators to respect human rights and providing effective guidance to operators on expected outcomes;
- allocating adequate resources for vessel inspections;
- establishing mechanisms for monitoring and reporting human rights violations of workers on vessels; and
- taking appropriate steps to investigate, punish and redress human rights abuses of workers at sea.

## Respect

Companies have a responsibility to respect human rights, meaning to avoid infringements of human rights wherever they operate, and address negative human rights impacts in the context of their business<sup>54</sup>.

In the context of fisheries, industrial fishing companies should first of all commit to respecting human rights in their operations. This entails respecting the rights of crew members and undertaking human rights due diligence, in order to assess and mitigate actual or potential negative human rights impacts. In accordance with the UNGPs, companies must adhere to international human rights standards or national laws, whichever are more stringent. In practice this means that industrial fishing companies should go beyond compliance with national laws where they operate, and adhere to international human rights standards where laws protecting human rights of workers do not exist, are weaker than international standards and/or are poorly enforced.

## Remedy

States are required to ensure access by victims of corporate human rights abuses to effective remedy. This may include judicial remedies, or state-based non-judicial mechanisms such as labour tribunals, NHRIs, ombudspersons or complaints officers. Businesses likewise have an obligation to make operational-level grievance mechanisms available to workers on fishing vessels, suppliers, communities and/or consumers for the remediation of adverse human rights impacts. To ensure their effectiveness, non-judicial grievance mechanisms, both state-based and non-state based, should be legitimate, accessible, predictable, equitable, transparent, rights-compatible and a source of continuous learning<sup>55</sup>. Operational-level grievance mechanisms should also be based on engagement with stakeholder groups and dialogue to address and resolve grievances<sup>56</sup>.

**Although voluntary, the Principles were unanimously endorsed by the UN Human Rights Council in 2011 and represent an authoritative policy framework on business and human rights based on the three pillars: “protect, respect, remedy”.**

### **Box 3: Ghana's National Human Rights Institution – the CHRAJ**

The Commission on Human Rights and Administrative Justice (CHRAJ) is the national human rights institution in Ghana that is mandated under chapter 18 of the 1992 Constitution and the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456) to investigate complaints of fundamental rights and freedoms of all persons in Ghana.

The CHRAJ functions as a human rights institution, an ombudsman institution, and also as an anti-corruption agency. It is vested with the power, among others, to investigate complaints of violations of fundamental rights and freedoms, carry out special investigations into systemic human rights abuses, and investigate any other human rights violations brought to the Commission's attention. CHRAJ also educates the public on their human rights and how and where persons whose rights have been violated could seek redress<sup>57</sup>.

Any person, group of persons or institution can lodge a complaint with the CHRAJ. Where the circumstance demands, one person may also lodge a complaint on behalf of a second person. A person is entitled to lodge a complaint in the event their human rights are violated, or they are denied the enjoyment of a right to which they are entitled. Complaints should be made to the CHRAJ as soon as possible and no later than 12 months after the violation or denial occurred<sup>58</sup>.

CHRAJ is located in all the 10 regional capitals of Ghana and it has over 100 district offices throughout the country<sup>59</sup>.

### **Box 4: OECD Guidelines for Multinational Enterprises**

The UNGPs have garnered widespread recognition and support from businesses and civil society worldwide and have been integrated into key international frameworks and standards, such as the OECD Guidelines for Multinational Enterprises<sup>60</sup>. Countries adhering to the OECD Guidelines are required to set up National Contact Points (NCPs) whose mandate includes provision of a non-judicial grievance mechanism to resolve cases (known as "specific instances") of alleged non-observance of the Guidelines<sup>61</sup>.

Workers, trade unions and NGOs may submit cases for consideration by the NCP. Between 2000 and 2018, NCPs handled more than 450 cases relating to company operations in over 100 countries and territories. The majority of cases since 2011 have dealt with human rights (57%), followed by general policies, including those relating to due diligence (53%) and employment and worker issues (40%)<sup>62</sup>. 21 cases related to forced labour have been filed at NCPs globally<sup>63</sup>.

In the context of work on fishing vessels, an OECD complaint may be brought against the owner or company operating a vessel, or the main buyers/importers of catches of the vessel, if domiciled in an OECD member state. Complaints may be brought by the workers whose rights are impacted, usually with the support of an NGO or coalition of NGOs.



Crew members on a Ghanaian-flagged industrial trawl vessel.

### 3. Methodology

The first phase of this research involved a desk-based review and compilation of the key international legal instruments of relevance to the rights of workers on board industrial trawl vessels operating in Ghana and the status of ratification by Ghana as flag state. Relevant national legislation for the protection of these rights was also reviewed and compiled and a review carried out of relevant academic publications and grey literature.

During the second phase, semi-structured interviews were carried out with Ghanaian crew members and fisheries observers working on board the Ghana-flagged industrial trawl fleet (**Table 2**). Respondents were identified through a chain sampling technique whereby respondents assisted in identifying additional respondents to be interviewed. All respondents were male and between the ages of 20 and 55 years old. All had worked on multiple vessels across fleets owned (beneficially) by at least five different Chinese companies.

A total of 13 in-depth interviews (10 crew members and 3 observers) were conducted in September 2019 and January 2020 and recorded on film. Interviews focused primarily on the working conditions of crew members, with observer interviews used to verify allegations made by crew members, for example concerning physical abuse and living conditions.

Additional interviews were carried out with the family members of a fisheries observer who went missing from an industrial trawler in July 2019. Interviews were transcribed and responses were coded into categories of human rights and labour issues identified.

In the third phase, the human rights and labour issues identified from the interviews were assessed against the rights protected by international instruments and national laws identified in the first phase of this research. Information from informal discussions with additional crew members and fisheries observers who did not wish to speak on record was used to supplement and triangulate information from the semi-structured, recorded interviews.

Due to the risks involved for workers to speak out against their employers and senior crew members working on board fishing vessels, special care was taken to protect the identities of those interviewed. Interviews were carried out in a safe location, away from the industrial fishing port of Tema. The aim of the research was made clear to interviewees at the outset. In light of the sensitive nature of this research, the names of participants are not disclosed in this report. Care is also taken to avoid linkages being made between interview responses and particular crew members or observers engaged on vessels. For this reason, vessel names or identification numbers are not reproduced in this report.

The interviews carried out for this study represent the perspective of an estimated 0.6% of crew members<sup>64</sup> and 4.2% of observers<sup>65</sup> working on board the Ghana-flagged industrial trawl fleet. A limitation of the study is therefore the relatively small sample size which was related, in part, to a reluctance of crew members and fisheries observers to discuss their experiences due to fear of reprisals. However, in spite of the sample size, the findings are nevertheless significant. Human rights are rights inherent to all human beings, to which everyone is entitled, without discrimination. Every individual has the right to redress in the event their fundamental human rights are violated. The individual testimonies documented in this report are significant in their own right as potential cases for further investigation and action.

There is a clear need for further research to understand the extent to which human rights violations are systemic in Ghana's industrial trawl sector. All interviewees reported multiple potential violations of their fundamental human rights and all had experience of working on a number of different vessels. Several respondents reported severe abuses warranting urgent attention and investigation.

**Table 2: Details of respondents interviewed**

	<b>What is the most recent position you have held on board?</b>	<b>Are you currently working?</b>
<b>Crew member 1</b>	Crew	Yes
<b>Crew member 2</b>	Boatswain*	Yes
<b>Crew member 3</b>	Crew	No (last trip in 2015)
<b>Crew member 4</b>	Boatswain	No (last trip in 2019)
<b>Crew member 5</b>	Crew	Yes
<b>Crew member 6</b>	Crew	Yes
<b>Crew member 7</b>	Not known	Yes
<b>Crew member 8</b>	Boatswain	Yes
<b>Crew member 9</b>	Fish master/crew	Yes
<b>Crew member 10</b>	Fish master/crew	No (last trip in 2017)
<b>Observer 1</b>	Fisheries observer	Yes
<b>Observer 2</b>	Fisheries observer	Yes
<b>Observer 3</b>	Fisheries observer	Yes

Notes:

\*A boatswain or bosun is a ship's officer generally in charge of equipment and crew.



Catches on-board an industrial trawl vessel.

## 4. Results

### 4.1. Implementation of fundamental human rights and labour obligations relevant to work on fishing vessels

The status of ratification by Ghana of key human rights and labour instruments relevant to the rights of workers on fishing vessels is summarised in **Table 3**. Ghana has ratified the International Covenant on Economic Social and Cultural Rights (ICESCR), the International Covenant on Political and Cultural Rights (ICCPR), the African Charter on Human and People's Rights (ACHPR), and all eight of the fundamental ILO Conventions (see under **Section 2.2**. above). Together these confer crucial rights relevant to work on fishing vessels, for example, the right to freedom from forced labour, the right to enjoyment of just and favourable conditions of work and the right to join and form trade unions. Ghana has also ratified the Labour Inspection Convention, 1947, which requires ILO Members to maintain a system of labour inspection in industrial workplaces, with a view to enforcing legal provisions relating to conditions of work and the protection of workers, including provisions relating to hours, wages, safety, and health and welfare.

There are a number of instruments that, if ratified by Ghana, would provide greater protection to workers against the human rights infringements described in **Section 4.2** of this study. These include:

- 2013 Optional Protocol to the ICESCR. The Optional Protocol gives competence to the Committee on Economic, Social and Cultural Rights to consider complaints from victims of human rights violations<sup>66</sup>, and establishes a procedure for the Committee to investigate alleged grave or systemic violations of rights<sup>67</sup>.
- 2014 Protocol to the Forced Labour Convention, 1930. The Protocol provides specific guidance on effective measures to prevent and eliminate all forms of forced labour. It requires Members to take effective measures to eliminate forced labour, to provide victims protection and access to appropriate and effective remedies, such as compensation, and to sanction perpetrators.

- C095 – Protection of Wages Convention, 1949. The Convention imposes conditions under which wage deductions may occur and sets out requirements for the regular payment of wages and for information to be provided to workers on wage conditions.
- C154 – Collective Bargaining Convention, 1981. The Convention requires Members to take measures adapted to national conditions to promote collective bargaining.
- C155 – Occupational Safety and Health Convention, 1981. The Convention imposes a duty on employers to ensure the safety and health of workers in the context of their work.
- C158 – Termination of Employment Convention, 1982. The Convention provides protection for workers against unfair termination of employment, including for reasons relating to union membership or the filing of complaints against an employer involving alleged violation of laws. It sets out requirements for workers to appeal against termination of employment and provision for severance allowance.

As regards fisheries-specific instruments, Ghana had not ratified the Work in Fishing Convention, 2007 (No. 188) at the time of writing. As for many ILO member countries, Ghana had not ratified earlier ILO conventions concerning work on fishing vessels (**Table 3**), which have since been replaced by C188.

Ghana is, however, a Party to UNCLOS, which requires flag states to take the necessary measures to ensure safety at sea, including in relation to labour conditions and taking into account applicable international instruments.

**Table 3: Ratification by Ghana of key regional and international instruments relevant to the rights of fishing vessel workers**

<b>Instrument</b>	<b>Status</b>
<b>International human rights instruments</b>	
International Covenant on Economic Social and Cultural Rights (1976)	Ratified: 2000
Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2013)	Signed: 2009, Ratified: N/A
International Covenant on Civil and Political Rights (1976)	Ratified: 2000
Optional Protocol to the International Covenant on Civil and Political Rights (1976)	Ratified: 2000
Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty (1991)	Signed: N/A Ratified: N/A
<b>Regional conventions</b>	
African Charter on Human and People's Rights	Ratified: 2004
<b>Fundamental ILO Conventions</b>	
C87 – Freedom of Association and Protection of the Right to Organise Convention, 1948	Ratified: 1965
C98 – Right to Organise and Collective Bargaining Convention, 1949	Ratified: 1959
C29 – Forced Labour Convention, 1930	Ratified: 1957
P029 – Protocol of 2014 to the Forced Labour Convention, 1930	Not ratified
C105 – Abolition of Forced Labour Convention, 1957	Ratified: 1958
C138 – Minimum Age Convention, 1973	Ratified: 2011
C182 – Worst Forms of Child Labour Convention, 1999	Ratified: 2000
C100 – Equal Remuneration Convention, 1951	Ratified: 1968
C111 – Discrimination (Employment and Occupation) Convention, 1958	Ratified: 1961
<b>ILO Conventions concerning work on fishing vessels</b>	
C112 – Minimum Age (Fishermen) Convention, 1959	Not ratified
C113 – Medical Examination (Fishermen) Convention, 1959	Not ratified
C114 – Fishermen's Articles of Agreement Convention, 1959	Not ratified
C126 – Accommodation of Crews (Fishermen) Convention, 1966	Not ratified
C125 – Fishermen's Competency Certificates Convention, 1966	Not ratified
C188 – Work in Fishing Convention, 2007	Not ratified
<b>Other relevant ILO Conventions</b>	
Co81 – Labour Inspection Convention, 1947	Ratified: 1959
Co95 – Protection of Wages Convention, 1949	Not ratified
C154 – Collective Bargaining Convention, 1981	Not ratified
C155 – Occupational Safety and Health Convention, 1981	Not ratified
C158 – Termination of Employment Convention, 1982	Not ratified
<b>Other relevant fisheries conventions</b>	
United Nations Convention on the Law of the Sea, 1992	Ratified: 1983

A number of the fundamental human rights relevant to work fishing vessels have been enshrined in Ghana's national legislation, including in the 1992 Constitution, Labour Act, 2003 (Act 651) and Shipping Act, 2003 (Act 645) (see **Table 4**).

The Labour Act<sup>68</sup> affords further protection to workers on fishing vessels, setting out specific provisions on written contracts of employment, rest periods and maximum hours of work, access to clean drinking water and sanitary facilities, prevention of accidents and injury, and compensation in the event of sickness or accident. The Act further defines unfair labour practices, which include seeking to induce a worker, by intimidation, threats or dismissal, to refrain from participating in a trade union. It also implements Ghana's international law obligations in relation to labour inspections and mandates the National Labour Commission to receive and investigate complaints from workers and trade unions in relation to allegations of infringements of labour regulations.

The Shipping Act, meanwhile, includes provisions concerning compensation for poor quality or deficient water or food supplies, and the right to medical treatment for seafarers in the event of injury or illness on board. The Act also sets out requirements for crew agreements for vessels over 24 metres, and the timely payment of wages.

Ghana's Criminal Code, 1960 (Act 29) is relevant to the protection of certain fundamental human rights. It defines a number of acts as criminal offences, including intentionally and unlawfully causing harm, and assault with or without battery. Threatening to inflict harm can also constitute a criminal offence.

## 4.2. Analysis of potential human rights abuses and labour violations identified through interviews with workers on fishing vessels

This section examines human rights and labour issues identified during interviews with crew members and fisheries observers working on board the Ghana-flagged industrial trawl fleet. Responses are assessed against fundamental human rights and labour principles contained in the instruments described in **Section 4.1.** above and other relevant provisions of national law.

Where relevant, the ILO Work in Fishing Convention, 2007 (No. 188), is used as a point of reference to help assess fulfilment of fundamental human rights and labour obligations as applied in the context of decent work on fishing vessels. C188 establishes minimum requirements for work on board, conditions of service, accommodation and food, occupational health and safety protection, medical care and social security. As Ghana is yet to ratify C188, the Convention's provisions are cited in *italics* meaning they are currently non-binding in Ghana but are included as guidance.

Reference is also made to the non-binding provisions of the ILO Work in Fishing Recommendation, 2007 (No. 199) and the 1995 FAO Code of Conduct for Responsible Fisheries (CCRF), where relevant.



Catches being sorted and recorded on an industrial trawl vessel in Ghana.

**Table 4: Analysis of identified human rights and labour issues against fundamental human rights obligations and provisions of national law**

Issue identified	Details	Cited by	Category of human right	International instrument <sup>1</sup>	National legislation
<b>Physical violence and threats of abuse</b>  (Section 4.2.1)	Assaults, threatening to cause harm, use of weapons	10 crew members	Right to security of person	Art. 3, UDHR Art. 9, ICCPR Art. 6, ACHPR	Chapter 3 and 4, Criminal Code
			Right to freedom from cruel, inhuman or degrading treatment or punishment	Art. 5, UDHR Art. 7, ICCPR	Art. 15(1) and (2), Constitution
			Right not to be subjected to forced labour	Art. 4, UDHR Art. 8(3), ICCPR Art. 5, ACHPR Arts. 1.1, 4 and 5, C29 Art. 1, C105	Art. 16(2), Constitution Section 116(1), Labour Act
<b>Conditions of service</b>  (Section 4.2.2)	Absence of written contracts, unauthorised wage deductions, failure to pay minimum wage, salary not fixed prior to trip, unfair dismissal	10 crew members	Right to enjoyment of just and favourable conditions of work	Arts. 23(1) and (3), UDHR Art. 7(a), ICESCR Art. 15, ACHPR Arts. 16-20, C188 Art. 15, R199	Art. 36(2), Constitution Section 12, Labour Act Sections 108 and 109, Shipping Act
<b>Manning and hours of rest</b>  (Section 4.2.3)	Insufficient to no rest periods within day/week	5 crew members	Right to enjoyment of just and favourable conditions of work	Arts. 23(1) and 24, UDHR Art. 7(d), ICESCR Art. 15, ACHPR Arts. 13 and 14, C188	Art. 24(2), Constitution Section 10(c) and Part IV (Sub-Parts II and III), Labour Act
			Right not to be subjected to forced labour	Art. 4, UDHR Art. 8(3), ICCPR Art. 5, ACHPR Arts. 1.1, 4 and 5, C29 Art. 1, C105	Art. 16(2), Constitution Section 116(1), Labour Act
<b>Living conditions (accommodation, food and water)</b>  (Section 4.2.4)	Insufficient and poor-quality food and drinking water, withholding of food, poor sleeping accommodation, inadequate sanitary facilities	10 crew members	Right to enjoyment of just and favourable conditions of work	Art. 7(b), ICESCR Art. 15, ACHPR Arts. 25-27, C188 Art. 6.17 CCRF	Art. 24(1), Constitution Sections 153 and 154, Shipping Act Sections 10(a), 118(2), Labour Act
			Right to freedom from cruel, inhuman or degrading treatment or punishment	Art. 5, UDHR Art. 7, ICCPR	Art. 15(1) and (2), Constitution
			Right to freedom from forced labour	Art. 4, UDHR Art. 8(3), ICCPR Art. 5, ACHPR Arts. 4 and 5, C29 Art. 1, C105	Art. 16(2), Constitution Section 116(1), Labour Act
<b>Occupational health and safety</b>  (Section 4.2.5)	Hazardous working conditions, inadequate sanitary facilities, poorly maintained equipment, lack of protective clothing, frequent accidents causing injury and sometimes death	5 crew members	Right to enjoyment of just and favourable conditions of work	Art. 7(b), ICESCR Art. 15, ACHPR Arts. 31 and 32, C188 Arts. 31, R199 Arts. 8.1.5 and 8.2.5, CCRF Art. 94, UNCLOS	Art. 24(1), Constitution Sections 9(c), 10(a) and 118(2), Labour Act Regulations 18(1) and (3), Labour Regulations
<b>Medical care, health protection and social security</b>  (Section 4.2.6)	Non-payment of social security, lack of compensation in the event of occupational related injury, lack of first aid/medical supplies and personnel with medical training on board	7 crew members	Right to social security, including social insurance	Arts. 22, 23(3) and Art. 25, UDHR Art. 9, ICESCR Arts. 34-39, C188	Art. 37(6)(a), Constitution Section 160, Shipping Act
			Right to enjoyment of just and favourable conditions of work	Art. 7(b), ICESCR Art. 15, ACHPR Arts. 29-30, C188 Arts. 35 and 37-39, R199	Art. 24(1), Constitution Sections 9(c), 10(a) and 118(2), Labour Act Regulations 18(1) and (3), Labour Regulations
<b>Trade unions and collective bargaining</b>  (Section 4.2.7)	No trade union in place, attempts to form trade union suppressed, blacklisting of crew following attempts to unionise	5 crew members	Right to form and join trade unions	Art. 23(4), UDHR Art. 8, ICESCR Art. 22, ICCPR Art. 10(1), ACHPR Arts. 1, C98 Art. 2, C87	Art. 21(1)(e) and 24(3), Constitution Sections 10(d), 14, 63(2), 79(1), 127(1) and (2) Labour Act

**Abbreviations:** UDHR – United Nations Declaration on Human Rights, ICESCR – International Covenant on Economic, Social and Cultural Rights, ICCPR – International Covenant on Civil and Political Rights, ACHPR – African Charter on Human and People’s Rights, CCRF – FAO Code of Conduct for Responsible Fisheries

**Notes:** <sup>1</sup> As Ghana is yet to ratify C188, the Convention’s provisions are cited in *italics* meaning they are currently non-binding in Ghana but are included as guidance. Provisions from R199 and CCRF are also included in *italics* as non-binding guidance.



## 4.2.1. Physical violence and threats of abuse

### International law:

- Everyone has the right to security of person (UDHR, ICCPR, ACHPR)\*
- No one shall be subjected to cruel, inhuman or degrading treatment (UDHR, ICCPR)
- No one shall be required to perform forced or compulsory labour (UDHR, ICCPR, ACHPR, C29, C105)

### National law:

- No person shall be subject to cruel, inhuman or degrading treatment (Constitution)
- No person shall be required to perform forced labour (Constitution, Labour Act)
- Criminal offences under Ghanaian law include intentionally and unlawfully causing harm, and assault with or without battery (Criminal Code)

\* See **Table 4** for references to the specific articles.

**All 10 crew members interviewed had personally experienced or witnessed physical abuse at the hands of Chinese captains and officers.** This was also confirmed by observers we spoke to.



Ghanaian crew on board an industrial trawler.

Chinese nationals occupy the more senior positions on board trawl vessels (captain, chief engineer, chief officer, engineer(s) and cook) with Ghanaian nationals taking up the remaining roles (boatswain, fish master, crew).<sup>69</sup>

Ghanaian crew members experience regular violence when sorting fish –if the fish are not sorted quickly enough or to the satisfaction of the captain. Captains will kick or beat the crew with anything they can find –whether a stick, stone, basket or boot. This can happen multiple times per trip.

Captains will prevent crew members from taking rest breaks by way of threatening behaviour and physical violence. Crew members are often woken up aggressively by the Chinese officers, sometimes being kicked or hit with a sandal or boot.

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***“So as we are grading the fish they will come and if you are not selecting well then they will use their leg to boot you”*** –Crew member #3

***“The Chinese...always when you are a new sailor and you are not fast with the sorting of the fish they will hit you with anything they will get”*** –Crew member #4

***“Violence occurs all the time. When they pour the fish, those who are not fast, the captain will take anything he will get and hit you with it. Whether a stone or anything they will get. Especially the captain.”***  
–Crew member #5

***“If you sort out the fish and get tired, they will not allow you to sit. If you are tired of sorting and you want to stretch, they [will] throw [a] boot at you and shout [at] you to go back to work fast. The captain is the one who normally throws the boot at us.”***  
–Crew member #9

***“Sometimes the captain starts to hit a Ghanaian man and it becomes a fight”*** –Fisheries observer #3

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A number of crew members and fisheries observers described serious assaults or threats by vessel captains. Many are fearful of speaking out. Observers are genuinely afraid of what might happen to them if they try to intervene to prevent or report on illegal fishing while at sea.

- A vessel captain allegedly hit a crew member in the head with a boot. The crew member did not complain as he was concerned about being sacked.
- On another vessel, a Chinese national allegedly used a basket to hit a Ghanaian crew member in the head. When the crew member retaliated, the Chinese officer allegedly threatened the crew member with a knife.
- A captain allegedly hit a Ghanaian cook four times after seeing the cook preparing fish soup for the Ghanaian crew. The captain then poured the soup into the sea.
- One crew member was allegedly hit three times by a Chinese captain when he accidentally knocked the captain’s hat onto the floor.
- Two crew members working on different vessels allegedly witnessed Chinese officers threaten their fellow crew members with a knife.
- A captain allegedly threatened to hit a fisheries observer with a metal bar. The observer had been trying to preserve fish as evidence of illegal fishing by the vessel in question.
- A captain on a vessel that was engaging in illegal discarding of fish at sea allegedly pushed a fisheries observer and threatened to hit him with a stick if he tried to report on the incident.
- A captain threatened an observer with a knife when the observer tried to intervene to prevent the dumping of juvenile fish at sea.

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***“If things happen like that, we also have elders/ boatswains on board. So whenever any incidents happen we will call him and explain everything to him but he always doesn’t have anything to say to the Chinese because he is also afraid that if he says something he will be sacked”*** –Crew member #1

***“They know we won’t have any work to do, so we will always come back and work. They [the crew] are afraid. Me, myself, I have been sacked before. They gave me my papers that I should go home. So I took them and went home. It was three months later before I got a new vessel.”*** –Crew member #6

***“We fear a lot. Even something like taking a picture and the captain sees you. One time such thing happened to me. I had to tell him that I am not feeling well and asked to join a passing vessel. He became aware and he went further out to sea (to 200 metres) where I would not be able to make a call.”*** –Fisheries observer #3

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## Box 5: Illegal fishing and the work of fisheries observers

All respondents we spoke to confirmed that the vessels they worked on engaged in a variety of fishing practices that are illegal under Ghanaian law.

- **Trans-shipment at sea (saiko)** – according to respondents, a number of trawlers were engaged in the illegal trans-shipment of fish to specially-adapted “saiko” canoes out at sea. Reports indicate that saiko is particularly prevalent on certain vessels<sup>70</sup>. Trans-shipments can take place multiple times per trip and allow the vessels to stay out longer at sea (up to 45 days or more). Saiko has created an incentive for trawlers to target species such as sardinella which are in high demand for local consumption.

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*“The [...] company is not trawling. They will catch with nets that work on the surface of the water. So, in the [...] company, they catch any kind of fish like sardines, herrings, anchovies. That small small fish, we freeze it and sell or discharge [trans-ship] to a canoe on the sea.”*

–Crew member #3<sup>71</sup>

*“So if we get 2000-2500 slabs of logo [saiko] fish, we call the canoes to come and meet us on the sea for the fish. Sometimes it occurs three or four times before the trip will be over”*

–Crew member #1

*“The local fishes are the logo [saiko] fish – that is the small small ones. Sometimes we sell the logo fish on the sea to a canoe....if we catch a lot of logo fish, we can gather 3,000 slabs of fish. And then we can call either two or three canoes and discharge all the slabs to them.”*

–Crew member #8

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Crew members on board a trawl vessel transfer fish at sea to a waiting saiko canoe.

- **Use of illegal nets/harvesting of under-sized fish** – respondents described the use of mid-water trawl nets to illegally target small pelagic fish, such as sardinella, near the sea surface. They also described the use of under-sized mesh nets (referred to as “inner sacks”) to line the trawl nets in order to harvest greater quantities of fish. Smaller species, such as anchovies, and juvenile fish, would be trans-shipped to a saiko canoe, or discarded. Prohibited nets were reportedly hidden in cabins, the engine room or the hold to avoid detection.

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*“The nets that we trawl with are the bigger size mesh nets but the captain wants to catch plenty [of] fish so he puts small mesh size nets into it.”* –Crew member #8

*“The Chinese are using our accommodation as their warehouse. It is there that they hide....the small nets, that is the inner sack....[the] Ghanaian Navy, Marine Police, as soon as they are measuring the nets the Chinese man will just sit there and be laughing at them, because they know once they leave, they will put the small small net inside the sack to catch any fish that they like .”* –Crew member #3

*“Some they add another mesh to their normal [net] or they change the gears. Some would be 60 [mm] others would be 45 [mm] - it will be joined.”* –Fisheries observer #2

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- **Discarding of fish at sea** – according to respondents, juvenile fish and smaller species such as anchovies are frequently discarded. This is linked to the use of under-sized mesh nets which do not discriminate by size or species. In some cases, the crew will be sorting through a haul of fish when a second load of fish is hauled onto the deck. The first load of fish may deteriorate before it is sorted and subsequently discarded into the sea.

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*“So if they use the under-sized net those fingerlings will not be able to go out. At the end of the day they will bring [catch] everything. When they realize that there is too much of the fingerlings, then they will decide to discard everything.”* –Fisheries observer #3

*“...the local canoes aren’t getting any catch now. The Chinese come down at night and catch all the fish, and [then] throw them into the sea on the high seas.”* –Crew member #6

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Illegal fishing occurs even when fisheries observers are present on board the vessels. Several respondents had witnessed Chinese officers bribing fisheries observers to stop them from reporting on illegal activities.

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*“I have seen observers taking money from the Chinese nationals. I witnessed it myself. They gave the observer money, he [the observer] told me that the captain gave him GHS 1,500.”* –Crew member #8

*“The observers, some of them are bribed by the Chinese. The Chinese will fight those who don’t accept their bribe. Sometimes we call on them [the observer] to inform them that the Chinese have ordered us to throw away fish. But if we report to them they don’t mind us, and we see the Chinese put fish into their sacks when we are returning. The observer will see that they [the fish] are small but they don’t say anything.”* –Crew member #6

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***“There is no way that you can do it right at sea if you’re an observer on board. The truth of the matter is that you can’t do your job”*** –Fisheries observer #3

***“Sometimes observers made videos of us when we are throwing fish away. When they bring the videos to the shore, the big men for the Chinese bribe them and they delete the videos”***

–Crew member #4

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One observer felt he had no choice but to accept bribes as he feared for his life at sea. Observers seem genuinely afraid, and even more so since the disappearance of their colleague, Emmanuel Essien, from an industrial trawler in July 2019 (**Box 6**). As salaries are now paid by the vessel owners via the Ghana Industrial Trawlers Association (GITA), this further compromises their ability to report on illegal fishing as they are under the “*command of the captain*”. When they submit reports to the Fisheries Commission, they allege that little action is taken to prosecute the vessels in question.

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***“They have been attempting to bring a huge amount of money to us. But normally, if it happens at sea, I have no option but to take it because if you don’t take it over there...they can decide to do anything. In the captain’s mind, the reason you say no is that you’re going to report him so they can decide to poison you over there.”*** –Fisheries observer #3

***“So we’re paid by GITA now and that agreement is between GITA and the Chinese companies. So the Chinese people say – ‘we are paying you’. The captain can tell you that you’re not good, I will go and request a different observer. I will not pick you for my vessel anymore and that ends it. I want this observer on board, or I don’t want this one.”*** –Fisheries observer #3

***“No – the report, they don’t follow up! If you bring the case today with the vessel, after two or three days the vessel is back on the sea working.”*** –Fisheries observer #3

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Footage of a trawler catching and discarding fish at sea. The catches appear to be juvenile fish, possibly small pelagics.

## Box 6: The disappearance of a fisheries observer from an industrial trawl vessel

On 5 July 2019, 28-year old fisheries observer, Emmanuel Essien, went missing from an industrial trawler. He was reported missing after failing to return to the cabin he shared with three Chinese crew. A police investigation found “no signs of violence or anything incriminating”<sup>72</sup>.

During his previous trip at sea, Essien got into a fight with the chief engineer, a Chinese national, after filming the crew allegedly discarding juveniles at sea. The vessel involved had been allegedly involved in catching significant quantities of juvenile fish and engaging in saiko<sup>73</sup>. On returning to port, he provided a report and accompanying video footage to the Fisheries Commission and pleaded with the police to investigate further. The catching of under-sized fish attracts a minimum fine of US\$1 million<sup>74</sup>.

According to Emmanuel’s brother, Bernard, he had been threatened for reporting illegality on the trawlers and was about to quit.

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***“There were days he came back and said he was worried. The job of an observer is to make sure they are obeying the laws. There were times those in charge of the vessel got angry at him for doing that. They told him not to. He told me it was difficult. He wasn’t comfortable. He said it was dangerous work.”***

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An Observer investigation found serious allegations of violence, drug-taking and bribery aboard the industrial fleet. Interviews with fishermen, observers and sources in the Fisheries Commission suggested that criminality is ignored, raising questions over whether the lives of observers are being put at risk<sup>75</sup>.

## 4.2.2. Conditions of service

### **International law:**

- Everyone has the right to just and favourable conditions of work (UDHR, ICESCR)
- Every individual has the right to work under equitable and satisfactory conditions (ACHPR)
- All workers have the right to just and favourable remuneration (UDHR) that provides them with, as a minimum, fair wages and a decent living for themselves and their families (ICESCR)
- Fishers shall have the protection of a comprehensible work agreement that sets out certain minimum information and provides decent work and living conditions on board. They shall have an opportunity to review the agreement and seek advice on its terms (C188). For vessels of 24 metres in length and over, all fishers should be entitled to minimum payment in accordance with national law (R199)

### **National law:**

- The state shall take all necessary steps to establish a sound and healthy economy whose underlying principles shall include the guarantee of a fair and realistic remuneration for production and productivity (Constitution)
- Workers employed for six months or more, or for the equivalent number of working days within a year, shall have a written contract of employment (Labour Act)
- Owners or masters of vessels over 24 metres in length and/or engaged on international voyages shall enter into a written agreement with each crew member engaged on board. The agreement must be signed by both parties and include information such as the maximum period of the voyage and amount of wages (Shipping Act).

**None of the crew members interviewed had entered into written contracts for their employment.**

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***“I’ve worked with the vessel for two years now. They didn’t give me any contract to sign, they just wrote down our names. They will take your discharge book, yellow card and write down your name.”***

–Crew member #1

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Crew members embark on fishing expeditions without prior knowledge of their final wage. Wages are not fixed but often remain the same regardless of the length of the trip. Crew members reported being paid GHS 500-700 (US\$88-124) per trip, and boatswains GHS 800-1000 (US\$ 141-177) per trip. Trips may last anywhere between 30 and 90 days. For a trip of 60 days at GHS 700 for the trip, this equates to GHS 11.67 per day. The daily minimum wage in Ghana in 2019 was GHS 10.65. Crew members are not paid for periods between fishing trips or during fishing closed seasons.

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***“If you work from 35 to 65 days you are still paid the same amount of salary, which is GHS 700”***

–Crew member #5

***“I have been working on the Chinese vessels for 19 years, but I have never been able to purchase any property”.***

–Crew member #8

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Some companies make deductions from crew wages (in the order of GHS 30-50 per trip) ostensibly for social security and supplies such as food and medicine. Crew members complained that they are not informed before deductions are made and that companies fail to pay for their social security in practice (see **Section 4.2.6** below). However, they feel unable to contest the deductions for fear of losing their jobs.

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***“Yes, sometimes [the crew list manager] deducts GHS 30 from our salary per each trip. I don’t understand why they deduct, but if you don’t give them, they will not select you again in the subsequent sailing time”***

–Crew member #4

***“They deduct the GHS 50 from our salary to buy medicine for first aid, but they don’t buy the medicine. When you complain, they will not give you a proper response....I do not know what they use the GHS 50 deduction for, and you cannot complain because if you talk, you will be sacked.”*** –Crew member #8

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Observers reported having to wait up to four to six months before being paid for a trip. Respondents felt that such delays were deliberate to make them more amenable to accepting bribes (**Box 5**).



Footage of crew members hauling in the nets and sorting fish on board an industrial trawl vessel.

**Table 5: Responses of crew members interviewed concerning wages and length of trip**

	Position	Wages (GHS)	Trip length (days)
Crew member 1	Crew	500-700	45-60
Crew member 2	Boatswain	900	45
Crew member 3	Crew (in 2015)	500	60
Crew member 4	Boatswain	Boatswain: 800-1000 (full load), 500-600 (not full load), Crew: 600-700	30-40
Crew member 5	Crew	700	35-65
Crew member 6	Crew	600-700; 800	35-40; 60-90
Crew member 7	Not known		
Crew member 8	Boatswain	Boatswain: 800-1000, Crew: 650-700	53-61
Crew member 9	Fish master/crew	700-800	35-90
Crew member 10	Fish master/crew (in 2017)	Boatswain: 1000, Second boatswain: 950, Senior fish master: 900, Crew: 800	30

### 4.2.3. Manning and hours of rest

#### **International law:**

- No one shall be required to perform forced or compulsory labour (ICCPR, C29, C105)
- Everyone has the right to just and favourable conditions of work (UDHR, ICESCR)
- Every individual has the right to work under equitable and satisfactory conditions (ACHPR)
- Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays (UDHR, ICESCR)
- *For fishing vessels remaining at sea for more than three days (regardless of size), minimum hours of rest shall be no less than ten hours in any 24-hour period, and 77 hours in any seven-day period. The Guidance to C188 recognises that it may be difficult to regulate hours of work and rest on fishing vessels, but that the hours provided in C188 are what may be considered necessary to provide sufficient rest to reduce or prevent the effects of fatigue which are particularly dangerous in a marine environment. Alternative requirements may be implemented but shall be substantially equivalent to those specified and shall not jeopardize the safety and health of fishers (C188)*

#### **National law:**

- No person shall be required to perform forced labour (Constitution, Labour Act)
- Every worker shall be assured of rest, leisure and reasonable limitation of working hours and periods of holidays with pay, as well as remuneration for public holidays (Constitution, Labour Act)
- Ghanaian labour laws prescribe requirements for working hours, paid overtime and daily/weekly rest periods (Labour Act)

Ghanaian crew members reported lengthy working hours and very limited rest periods during their work on the industrial trawl fleet. On some days there would be no rest at all, as the net is hauled in every two to three hours. The crew may still be sorting through the catch from a previous haul when the net is hauled in again. On quieter days, it may be possible to sleep for up to six hours in a 24-hour period, for example when travelling between fishing grounds. According to respondents, the captain and senior crew members generally work on rotation and will sleep in between shifts.

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***“We are forced to work 24-hours, we work morning, afternoon and evening...we worked for close to a week without sleep, the Chinese sleep but we were never allowed to sleep” –Crew member #6***

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Footage of crew members sorting fish on board a Ghanaian-flagged industrial trawl vessel.

#### 4.2.4. Living conditions (accommodation, food and water)

##### International law:

- Everyone has a right to the enjoyment of just and favourable conditions of work, which ensure safe and healthy working conditions (ICESCR)
- No one shall be subjected to cruel, inhuman or degrading treatment (UDHR, ICCPR)
- No one shall be required to perform forced or compulsory labour (UDHR, ICCPR, ACHPR, C29, C105)
- Every individual has the right to work under equitable and satisfactory conditions (ACHPR)
- *Accommodation should be of sufficient size and quality and appropriately equipped for the length of time fishers live on board, for example in terms of safety, health and comfort, sanitary facilities and water supply. Food served on board should be of sufficient nutritional value, quality and quantity, and potable water should be of sufficient quality and quantity (C188)*
- *States should ensure that fishing facilities and equipment, as well as fisheries activities, allow for safe, healthy and fair working and living conditions and meet internationally agreed standards (CCRF)*

##### National law:

- Every person has the right to work under satisfactory, safe and healthy conditions (Constitution, Labour Act)
- No person shall be subject to cruel, inhuman or degrading treatment (Constitution)
- No person shall be required to perform forced labour (Constitution, Labour Act)
- It is the duty of employers to ensure adequate toilet and washing facilities, and an adequate supply of clean drinking water (Labour Act)
- Seafarers are entitled to receive monetary compensation where provisions or water are found to be of poor quality or insufficient (Shipping Act)

**All 10 crew members reported poor living conditions on their vessels.** Respondents pointed to a lack of sleeping accommodation, poor quality and/or insufficient food and drinking water, and inadequate sanitary facilities.

According to crew members, the cabins on the vessels are reserved for the Chinese nationals and fisheries observers. Ghanaian crew members sleep on cardboard boxes or nets out on the deck with a tarpaulin as shelter. They report getting wet from the rain and being bitten by cockroaches as they sleep. Possibilities to wash or bath are limited. On some vessels there are no washing facilities.

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***“We are not allowed to sleep in the cabins. They have provided some tapoly [tarpaulin] on the top that is where we sleep. When it rains, it rains on us...There are a lot of cockroaches around which make sleeping uncomfortable...they bite you when you sleep.”***

–Crew member #5

***“The captain doesn’t allow us to sleep inside the cabin but we don’t know why, the Chinese are only four. The captain is in one cabin, chief engineer in one cabin. There are four rooms in one cabin, but only one man sleeps in a cabin”*** –Crew member #5

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Food is reportedly of poor quality. Typical meals comprise rice, gari (ground and fried cassava flour) and vegetables. The rice is often poor quality and infested with insects. Supplies may be finished a few weeks into a fishing trip and crew members may only have gari to eat until they return to shore. Sometimes the Ghanaian crew may be able to eat the unwanted fish from what is sorted. Crew members also reported that food is frequently withdrawn or withheld.

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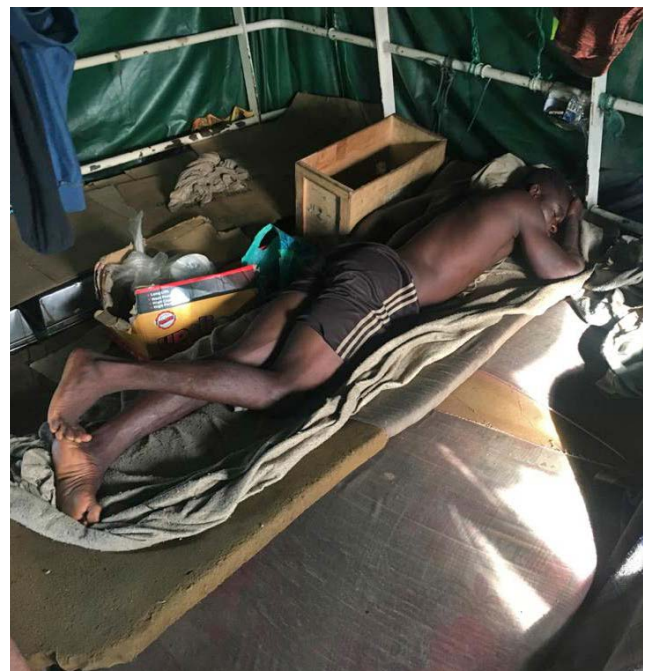
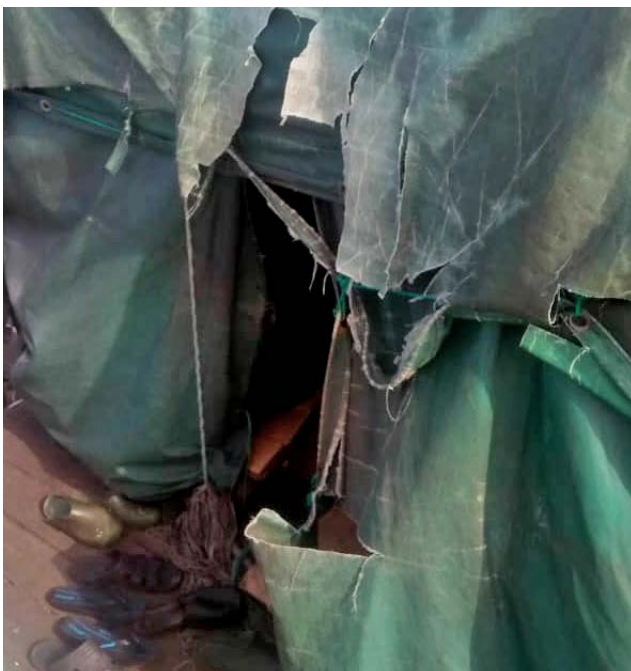
***“We are not given good food to eat, we are only allowed to eat the remaining fish after they have been sorted out. They don’t let us eat the good ones, only the bad ones. They eat chicken, eggs and pork, in addition to the fish. If the captain comes and sees you eating some of the good ones, the captain will take it and throw it into the sea”*** –Crew member #5

***“Even if Chinese man sees you eating he will come and kick the food away and ask why you are eating when there is work to do. When it is time for us to eat, that will be the time they will blow the whistle [for us to come to [deck] and work.”*** –Crew member #6

***“When they realise we are still eating, they ring the bell that we should stop eating and come to work. They will come for the food and throw it into the water if you are not able to report at deck”*** –Crew member #7

***“If you fall asleep, they order the crew not to give you food to eat. They will come and take the food from you and throw it away even if you manage to get some to eat.”*** –Crew member #9

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Living accommodation for crew members on board an industrial trawler operating in Ghana.

Drinking water is reportedly of poor quality and insufficient. Crew members complain of stomach pains, vomiting and diarrhoea caused by water supplied from a rusty tank or collected using rusty buckets. When water supplies are exhausted, the Ghanaian crew may have no choice but to boil seawater for drinking. According to respondents, bottled water is reserved for the Chinese crew.

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***“The tank we drink from is very dirty and rusty but we still drink from that same tank...Sometimes after drinking the water, we suffer from stomach pains, vomit and diarrhoea. If it happens like that and you are not careful you will fall sick. And if you fall sick, there will be no drug and you will have to work. We are forced to work even if we have a running stomach.”*** –Crew member #1

***“Some vessels the water is not good at all, the colour is very brownish like milo”*** –Crew member #8

***“The crew has many problems with the Chinese people. First water, second where they sleep. That’s the two major problems they face. No drinking water, where they sleep is not good.”***  
–Fisheries observer #1

***“Most of the time, the black crew on board were not treated very well....If you complain, where is it going? It is not going anywhere. Like the kind of food they eat...errr! And where they sleep and even water, sometimes they will have to stay four days before they will shower.”*** –Fisheries observer #2

***“The vessels they bring do not have sleeping cabins for the crew. They do not provide washing facilities and after working with fish, you will spend 45 days without a bath. They do not provide adequate drinking water, no water to bath...Even when the cooks fetch water for cooking, they give out a little ration that should last 3 days”*** –Crew member #2

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## 4.2.5. Occupational health and safety

### **International law:**

- Everyone has a right to the enjoyment of just and favourable conditions of work, which ensure safe and healthy working conditions (ICESCR)
- Every individual has the right to work under equitable and satisfactory conditions (ACHPR)
- *States are to adopt measures concerning the prevention of occupational accidents, diseases and work-related risks on board fishing vessels. Fishing vessel owners shall ensure every fisher is provided with appropriate personal protective clothing and equipment (C188). The competent authority should establish a list of medical supplies and equipment appropriate to the risks that should be carried on fishing vessels and fishers should receive training in basic first aid (R199).*
- *Accommodation should be of sufficient size and quality and appropriately equipped for the length of time fishers live on board, for example in terms of safety, health and comfort, sanitary facilities and water supply (C188). Toilets should be of an approved type and provided with an ample flush of water, available at all times (R199).*
- *States should ensure that health and safety standards are adopted for everyone employed in fishing operations. Such standards should not be less than the minimum requirements of relevant international agreements on conditions of work and service. Flag states should ensure compliance with appropriate safety standards for fishing vessels and fishers in accordance with international conventions, internationally agreed codes of practice and voluntary guidelines (CCRF).*

### **National law:**

- Every person has the right to work under satisfactory, safe and healthy conditions (Constitution, Labour Act)
- It is the duty of employers to ensure every worker employed works under satisfactory, safe and healthy conditions, including the maintenance of a system of work that is safe and without risk to health, provision of suitable sanitary facilities, and prevention of accidents and injury to health by minimizing hazards in the working environment (Labour Act)
- Employers are required to take appropriate measures to safeguard the health and safety of employees and ensure that the business environment is not rendered unsafe by the business operations (Labour Regulations)

Crew members reported serious accidents caused by poorly maintained equipment on board industrial trawl vessels. According to respondents, accidents are commonplace and safety measures are lacking. A major issue is the failure to replace wires when needed which can snap resulting in injury and sometimes death (**Box 7**). Several of the crew we spoke to had suffered injuries to their hands.

Sanitary facilities are often inadequate on the vessels. Possibilities to bath and wash are limited and basic hygiene is lacking. When vessels are heavily loaded with fish, the crew's toilet –a hole with a pipe –may overflow. When this occurs, crew members have no choice but to defecate over the side of the vessel. This is a relatively common practice and poses a serious risk of injury (**Box 7**).

According to crew members, protective equipment provided by the trawling companies is inadequate. Some crew members will purchase their own boots and gloves for their work. Raincoats are not provided. Sorting of fish may be done with bare hands.

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***“They give us boots but the boots are not good. They only provide the gloves when they want to, so as crew members we buy it ourselves and use it. The boots are very old but we still put it on. Sometimes, other crew members do not even wear boots.”*** –Crew member #8

***“We use our bare hands to select the fish”***  
–Crew member #8

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### **Box 7: Serious incident on an industrial trawl vessel**

On 6 February 2019, a wounded crew member was pulled from the sea after falling overboard off the coast of Elmina. He had been hanging over the side of the vessel to defecate when a wire snapped and cut off his legs. The fisher was brought back onto the vessel but there was no first aid kit or person with any form of medical knowledge on board. The fisher died before the trawler made it back to port later that day.

## 4.2.6. Medical care, health protection and social security

### **International law:**

- Everyone has the right to social security, including social insurance (UDHR, ICESCR)
- Everyone has the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control (UDHR)
- States are to adopt measures requiring that fishing vessels carry appropriate medical equipment and supplies and have at least one fisher on board who is qualified or trained in first aid and other forms of medical care. Fishers have the right to medical treatment ashore and the right to be taken ashore in a timely manner for treatment in the event of serious injury or illness (C188)
- States are to take measures to provide fishers with protection for work-related sickness, injury or death. In the event of injury due to occupational accident or disease, fishers shall have access to appropriate medical care and compensation in accordance with national law (C188)
- States are to ensure resident fishers are entitled to benefit from social security protection under conditions no less favourable than those applicable to other workers. According to the Guidance, the competent authority is responsible for ensuring that fishing vessel owners operating under its flag are fulfilling their legal obligations with respect to social security protection, and taking adequate enforcement measures (C188)

### **National law:**

- The state shall ensure that contributory schemes are maintained that guarantee economic security for citizens and provide social assistance to the aged (Constitution)
- Every person has the right to work under satisfactory, safe and healthy conditions (Constitution, Labour Act)
- It is the duty of employers to maintain a safe system of work that is without risk to health, provide suitable sanitary facilities, and prevent accidents and injury to health by minimizing hazards in the working environment (Labour Act)
- Employers are required to take appropriate measures to safeguard the health and safety of employees and ensure that the workplace is not unsafe (Labour Regulations)
- In the event of a seafarer's injury or illness, the vessel owner is required to cover the expense of medical treatment and maintenance until the seafarer recovers from the injury or illness or dies (Shipping Act)

Crew members reported an absence of first aid or medical supplies on board the vessels, or medically trained personnel. Common ailments such as stomach pains, vomiting and diarrhoea are generally left untreated, unless crew members bring their own medicines on board. In the event of serious injuries or accidents, options for treatment on board are limited or non-existent, and the injured crew member may be taken back to shore by canoe.

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*“When someone gets sick or accident occurs, they will complain that there isn’t any first aid on the vessel. So we buy our own drugs when we are going on the trip. So that you can use it when anything befalls you. But in the vessel they will tell you there is no drug”* –Crew member #1

*“So if you get injured....whether you are in Half Assini<sup>76</sup> waters, they just see some canoe then they leave you...maybe they give you small money or even give you two slabs of fish. They say take this, go home.”* –Crew member #3

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Several crew members had suffered serious injuries and/or witnessed the serious injury and even death of colleagues in the course of their work. In some cases, captains have refused to transport crew members back to port to receive treatment. Victims face difficulties in obtaining compensation from their employers for their injuries.

- One crew member suffered serious damage to his arm while hauling in a trawling net. The company paid for his hospital treatment, but doctors advised due to the severity of his injury he would not be able to work again. One year after the accident, he had not received adequate compensation for his injury and was unable to support his wife and children. He was advised that the company’s insurance policy covered only the vessel and not the workers on board. Another crew member died during the incident. The vessel is authorised to export fisheries products to the EU market.
- One crew member broke his finger during his work on board a vessel. While the company paid his medical bills, he did not receive compensation or insurance to cover his period out of work.
- Another crew member suffered serious injuries from a wire hook on board a vessel. In spite of the severity of his injuries, the captain refused to bring the crew member back to port.

As noted in **Section 4.2.2** above, several crew members complained that companies fail to make payments to their social security, even where wage deductions are made.

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*“The last time I went to check my social security account, there were no payments done, so I reported them. Since I started working, they have never paid my social security”* –Crew member #8

*“The only deduction I am aware of is for social security which is GHS 30, but that one too they don’t pay”* –Crew member #1

*“They made us register for social security but they have never contributed anything to it”* –Crew member #6

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## 4.2.7. Trade unions and collective bargaining

### **International law:**

- Everyone has the right to form and join trade unions for the protection of his interests (UDHR, ICCPR, ICESCR)
- Every individual shall have the right to free association provided he abides by the law (ACHPR)
- Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment (C98)
- Workers shall have the right to establish and join organisations of their choosing without previous authorisation (C87)

### **National law:**

- Every worker has a right to form or join a trade union for the promotion and protection of his economic and social interests (Constitution, Labour Act)
- An employer shall not in respect of a person seeking employment or already employed, require that person to refrain from joining or forming a trade union, or participating in the lawful activities of a trade union or refuse to employ a person because of trade union membership. A worker’s employment is considered as terminated unfairly if the only reason for termination is that the worker has joined, or intends to join, a trade union, or participate in the trade union’s activities. Unfair labour practices include seeking to induce a worker, by intimidation, threats or dismissal, to refrain from participating in a trade union (Labour Act)

According to respondents, there is currently no union in place to protect the interests of crew members and boatswains working on board industrial trawl vessels. They feel unable to make demands or submit complaints to their employers for fear of losing their jobs and have few, if any, alternative options for employment.

Attempts by crew members to form a trade union for industrial fishermen have been unsuccessful (**Box 8**). In 2016, the local chapter of the National Union of Seamen (NUS) organised a meeting of trawl and tuna crew in Tema during which a few hundred workers signed registration forms with the union and were ready to join.

However, workers allege that they were fired or blacklisted by the industrial fishing companies following the meeting. They believe that an officer from one of the crewing agents present at the meeting was responsible for setting up a blacklist of workers involved in the unionisation<sup>77</sup>.

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***“We formed a trade union with a lot of people. They [the company] asked why I joined the union and whether the union would give me a vessel to work in. We were left with five days to go on the sea. When I reported [for work], they said I should go so that the union would give me a vessel. They sacked me and all the sailors that day and brought in different sailors.”*** –Crew member #8

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### **Box 8: Attempts to form a trade union of industrial fishermen<sup>78</sup>**

In 2017, more than 300 sailors staged a protest at Tema fishing harbour to demand better working conditions from operators and masters of industrial trawl vessels operating in Ghana. The demonstrators claimed that vessel owners were employing seafarers at rates below the minimum wage and demanded regular working hours as well as the payment of additional allowances according to the labour law.

According to the General Secretary of the local chapter of the NUS, members had demanded signed conditions of service from the Ghana Industrial Trawlers Association (GITA), their employers, but their efforts had not yielded results. He noted that pay structures did not provide for the payment of overtime, medical, public holidays and night allowances.

In an interview with national news outlet, the Graphic, the General Secretary highlighted that the licence holders had refused to sign the contracts that they had submitted to the Ministry of Fisheries and Aquaculture Development in order to acquire or renew their licences per a Ministerial Directive of 16 September 2016.

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***“We want to notify the Ministry of Employment and Labour Relations, through our National Union, that some of our employers told our members that if they were members of the union then they, the employers, would not hire them. This is discriminatory and contravenes section 14A of the Labour Act 2003, Act 651”.***

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A Ghanaian-flagged trawler authorised to export seafood to the European Union.

## 5. Discussion

This analysis has revealed multiple potential violations of international human rights instruments and labour standards, as well as national laws, on board the Ghana-flagged industrial trawl fleet.

Interviews with crew members and fisheries observers revealed numerous cases of alleged violence perpetrated by Chinese nationals against Ghanaian workers, as well as alleged instances of bribery and threats of physical abuse. Crew members reported an absence of employment contracts, a lack of social security protection, inadequate living accommodation and sanitary facilities, insufficient and poor-quality food and drinking water, and frequent, sometimes fatal, accidents, arising from hazardous operating environments. Critically, fishing companies have reportedly impeded attempts of workers to unionise and demand better conditions of work. Crew members feel unable to speak out or complain about their conditions for fear of dismissal.

In registering industrial trawlers under the Ghanaian flag, Ghana has accepted jurisdiction over the working conditions on these vessels in accordance with international law. Ghana therefore has an obligation to enforce minimum safety and labour standards on these vessels, and, as duty bearer, to ensure the basic human rights of workers are protected.

The decision by the Ghanaian government to register significant numbers of Chinese trawlers under its flag exposes it to serious risks of breaches of human rights and non-compliance with international obligations with

respect to the workers on board. In spite of its status as flag state, it is unclear whether Ghana is able (or willing) in practice to exert effective control over the Chinese officers on board these vessels and the actions of the controlling companies.

There is strong evidence that most of the vessels operating under the Ghanaian flag continue, in reality, to be owned and operated from China. Studies estimate that over 90% of trawlers flagged to Ghana are beneficially owned and controlled by Chinese corporations<sup>79</sup>. Today the vast majority, if not all, captains on the trawl fleet are Chinese nationals, along with senior officers and engineers. The Chinese government lists the vessels as part of its distant water fleet for the purposes of overseas inspections<sup>80</sup>. Registered owners and licence holders, while ostensibly Ghanaian, are in many cases considered to be a front for foreign controlling interests in the vessels<sup>81</sup>.

The analysis has used human rights conventions ratified by Ghana, Ghana's 1992 Constitution and national law as a benchmark to identify potential human rights and labour violations in the industrial trawl fleet. Moreover, standards of the ILO Work in Fishing Convention, 2007 (No. 188) that relate to fundamental human rights and Ghana's 1992 Constitution have also been included in the benchmarking and analysis. Although Ghana is yet to ratify C188, a number of the issues relate to fundamental human rights enshrined in the International Bill of Rights and Ghana's 1992 Constitution. C188 can serve as a guide to the application of these fundamental rights to workers



on board fishing vessels. Potential breaches are also identified in relation to national law provisions in Ghana's 2003 Labour Act and 2003 Shipping Act, and potential criminal offences under the Criminal Code.

The findings of this study suggest that Ghana may be failing to guarantee the basic human rights of workers set out in the ICESCR. It is also possible that the treatment of workers on some vessels could reach the threshold of degrading treatment within the meaning of the ICCPR and ACHPR, and forced labour within the meaning of ILO Forced Labour Convention, 1930 (No. 29) and ILO Abolition of Forced Labour Convention, 1957 (No. 105) (see **Box 9**).

Violations may result from acts of commission or omission<sup>82</sup>. Under the ICESCR, states must ensure that private entities or individuals do not deprive individuals of their economic, social and cultural rights, and are responsible for violations that result from their failure to exercise due diligence in controlling the behaviour of non-state actors. In the context of the industrial trawl sector, Ghana's failure to ensure that private employers comply with basic labour standards may amount to a violation of the right to just and favourable conditions of work<sup>83</sup>. Likewise, Ghana's decision to grant its flag and licence vessels on which human rights impacts have been identified may

be considered a form of active support of third party actions that are inconsistent with economic, social and cultural rights. Any person who has experienced a violation of the right to just and favourable conditions of work should have access to effective judicial or other appropriate remedies, including adequate reparation, restitution, compensation, satisfaction or guarantees of non-repetition<sup>84</sup>.

The use of C188 as a benchmark can serve to guide businesses on the human rights risks in their supply chains and assist them in carrying out effective due diligence to assess and mitigate risks in line with the UNGPs. The findings of this study indicate a very high risk of human rights abuses and labour violations associated with seafood caught by the industrial trawl fleet in Ghana, warranting urgent attention from businesses throughout the supply chain.

The potential violation of the fundamental right to unionise has been identified not only in relation to the trawl sector, but for workers on board tuna vessels operating under the Ghanaian flag. While this research has not considered human rights or labour violations in Ghana's tuna sector, in light of the scale of tuna exports from Ghana to the EU<sup>85</sup>, and indications of systemic and serious abuses in other parts of Ghana's industrial fleet, this is an area requiring further scrutiny.



A trawl net being hauled onto the deck of an industrial trawler operating in Ghana.

## Box 9: Indicators of forced labour

The ILO has developed a series of indicators to assist front-line criminal law enforcement officials, labour inspectors, trade union officers, NGO workers and others to identify persons who are possibly trapped in a forced labour situation, and who may require urgent assistance. The indicators are based upon the definition of forced labour specified in the ILO Forced Labour Convention, 1930 (No.29) 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”. They represent the most common signs or “clues” that point to the possible existence of a forced labour case. In some cases, the presence of a single indicator may imply the existence of forced labour. In other cases, it may be necessary to look for several indicators which, taken together, point to a forced labour case.

The indicators are set out in the table below. For each indicator, an initial assessment is made as to whether the findings of this study, set out in **Section 4** above, point to a situation of forced labour for workers on board the Ghana-flagged industrial trawl fleet.

Indicator of forced labour <sup>86</sup>	Identified	Alleged examples
<u>Abuse of vulnerability</u> – a forced labour situation may arise when an employer takes advantage of a worker’s vulnerable position, for example to impose excessive working hours or to withhold wages.	✓	Withholding of wages/wage deductions, excessive working hours
<u>Deception</u> – failure to deliver what has been promised to the worker, either verbally or in writing.	✓	Failure to pay social security, delay in payment of wages
<u>Restriction of movement</u> - if workers are not free to enter and exit the work premises, subject to certain restrictions which are considered reasonable, this represents a strong indicator of forced labour. <sup>1</sup>	✗	
<u>Isolation</u> - victims of forced labour are often isolated in remote locations, denied contact with the outside world. <sup>1</sup>	✗	
<u>Physical and sexual violence</u> - forced labourers may be subjected to actual physical or sexual violence. As violence is not acceptable as a disciplinary measure under any circumstances, it is a very strong indicator of forced labour.	✓	Physical abuse
<u>Intimidation and threats</u> - victims of forced labour may suffer intimidation and threats when they complain about their conditions or wish to quit their jobs. Constantly insulting and undermining workers also constitutes a form of psychological coercion, designed to increase their sense of vulnerability.	✓	Threats of physical violence, intimidation
<u>Retention of identity documents</u> - the retention by the employer of identity documents or other valuable personal possessions is an element of forced labour if workers are unable to access these items on demand and if they feel that they cannot leave the job without risking their loss.	✗	
<u>Withholding of wages</u> - when wages are systematically and deliberately withheld as a means to compel the worker to remain, and deny him or her of the opportunity to change employer, this points to forced labour.	✓	Withholding of wages
<u>Debt bondage</u> - forced labourers are often working in an attempt to pay off an incurred or sometimes even inherited debt. The debt can arise from wage advances or loans to cover recruitment or transport costs or from daily living or emergency expenses, such as medical costs	✗	
<u>Abusive working and living conditions</u> - forced labour victims are likely to endure living and working conditions that workers would never freely accept. Work may be performed under conditions that are degrading or hazardous, and in severe breach of labour law, and may be subjected to substandard living conditions.	✓	Poor living conditions (lack of sleeping accommodation and sanitary facilities, poor quality/insufficient food and drinking water); excessive working hours; inadequate measures to ensure health and safety of workers
<u>Excessive overtime</u> - forced labourers may be obliged to work excessive hours or days beyond the limits prescribed by national law or collective agreement. As a rule of thumb, if employees have to work more overtime than is allowed under national law, under some form of threat (e.g. of dismissal) or in order to earn at least the minimum wage, this amounts to forced labour.	✓	Crew prevented from taking rest periods by way of threats and abuse

**Notes:** <sup>1</sup> Although the nature of work on fishing vessels is often isolated and results in restriction of movement, this was considered a normal characteristic of fishing activities.



An image of an industrial trawler captured by local fishers.

## 6. Conclusions

This report has documented potential human rights abuses and labour violations affecting workers on board the Ghana-flagged trawl fleet. The overwhelming majority of these vessels are operated by Chinese corporations and captained by Chinese nationals. This research provides crucial insights into working conditions and treatment of local crew members on board Chinese-operated trawlers, which are ubiquitous along the West African coast.

In addition to human rights and labour issues, the testimonies of crew members and fisheries observers confirm that widespread and destructive illegal fishing practices persist in the trawl sector. There are concerns that the observer programme is substantially compromised by bribery, threats and corrupt practices which impede effective reporting and follow up on illegalities at sea.

There is an urgent need to improve transparency in Ghana's trawl sector, to ensure the perpetrators of alleged human rights violations and illegal fishing can be held to account. The Chinese trawl fleet in Ghana operates under a veil of secrecy, using a network of front companies and other corporate structures to conceal the true beneficiaries of illegal activities. This has impeded the effective investigation and prosecution of illegal fishing, which fails to target the controlling corporate entities behind local registered owners. Meanwhile, new vessels continue to arrive in Ghana from China in spite of rampant illegal fishing and over-exploitation of stocks.

In accepting to register these vessels under the Ghanaian flag, Ghana has assumed a significant responsibility to prevent human rights and labour

violations on board the industrial trawl fleet. The Ghanaian government, through the CHRAJ and National Labour Commission, is urged to launch an official investigation into allegations in this report and take the necessary actions to remedy the issues identified. The Fisheries Commission should investigate beneficial ownership prior to licensing vessels, and ensure licences are withheld or withdrawn from vessels with poor human rights and IUU fishing records.

The findings of this study also warrant urgent attention from businesses throughout the supply chain in accordance with the UNGPs. It is imperative that businesses, including importers of seafood in the EU and other major markets, immediately scrutinise their supply chains, implement effective due diligence and adopt a zero-tolerance approach to human rights abuses, labour rights violations and IUU fishing. The government of Ghana should prioritise development of a NAP on Business and Human Rights with a view to integrating the UNGPs into all relevant policies, including those pertaining to the fishing industry.

As the COVID-19 pandemic threatens the livelihoods and food security of fishing communities, it is more important than ever that the Presidency acts now to end destructive fishing practices in the industrial trawl fleet such as saiko and effectively manages Ghana's fisheries to ensure sustainability. While the data collection in this report was carried out prior to the COVID-19 pandemic, further research is warranted to assess the risks posed by COVID-19 to workers on the trawl fleet. This may include risks of virus transmission on board vessels and safety implications of operating with reduced crew due to restrictions on movement or implementation of physical distancing measures<sup>87</sup>.



Blocks of "saiko" fish landed illegally at Elmina fish market in Ghana's Central Region.

## 7. Recommendations

The following recommendations are made to address potential human rights abuses and labour violations on industrial trawl vessels registered under the Ghanaian flag. General recommendations are also made on improving transparency in the sector, in order to enhance governance, reduce the risk of corruption and eliminate IUU fishing, in line with EJF's ten principles for global transparency in the fishing industry<sup>88</sup>.

This research has identified issues that have not yet been identified in human rights monitoring systems. The findings can therefore provide valuable input to these mechanisms, including the Universal Periodic Review under the Human Rights Council, the Special Procedures of the Human Rights Council, the Human Rights Committee for monitoring implementation of the ICCPR, and the ILO Committee of Experts. In addition, the findings may be relevant to discussions in other fora including, but not limited to, the UN Working Group on Business and Human Rights, regional fisheries bodies such as the Fisheries Committee of the West Central Gulf of Guinea (FCWC), and relevant committees/working groups of FAO.

**It is recommended that the government of Ghana:**

***Protects and remedies human rights abuses and labour violations***

- Launches an official and independent investigation into the allegations of human rights abuses and labour violations in the industrial trawl sector and takes the necessary actions to remedy the abuses identified and to strengthen the legal protection of human rights of workers on fishing vessels.
- As a matter of priority, addresses the issue of forced or slave labour in all economic sectors, in particular the fishing industry, in accordance with ILO Conventions and national and international standards<sup>89</sup>.
- Ensures access by victims of corporate human rights abuses in the fishing sector to effective remedies, including the availability of judicial remedies, or state-based non-judicial mechanisms.
- Establishes mechanisms for monitoring and reporting of human rights violations of workers on fishing vessels, including the introduction of a Standard Operating Protocol across the fleet that ensures workers are given the facility to report securely and anonymously on abuses.
- Strengthens protections for whistleblowers through reform of the Whistleblowers Act 2006 (Act 720) to make provision for anonymous disclosures, ensure protection for persons who make disclosures to external organisations, the media or the public, establish sanctions for individuals or organisations that retaliate against whistleblowers and require organisations to establish internal disclosure mechanisms<sup>90</sup>.

- Allocates adequate resources to the CHRAJ to ensure it can fulfil its mandate in relation to human rights abuses in the fisheries sector.
- Ensures fisheries and labour inspectors are adequately resourced and mandated to conduct inspections of fishing vessels for violations of human rights, labour and fisheries laws, and that an effective and integrated system of fisheries and labour inspections is implemented, which includes routine information sharing between inspectorates and conduct of joint or coordinated inspections.
- Builds the capacity of inspectors on human rights to ensure they are able to conduct inspections adequately in terms of both process and content.
- Extends the remit of fisheries observers to report on violations of human rights on board fishing vessels and provides the necessary training for them to do this.
- Implements all necessary measures to ensure fisheries observers can carry out their work effectively and safely, including by bringing their wage structure under government control, providing security protection, establishing a mechanism to report attempted bribery, for example, through the Ghana Anti-Corruption Coalition (GACC), providing the necessary training on raising such reports, and taking robust action with respect to allegations of threats, bribery or violence.
- Actively supports the workers on industrial fishing vessels in Ghana to form and join an independent trade union for the protection of their interests without them facing reprisals.

### ***Implements key measures to improve transparency and address IUU fishing***

- Investigates beneficial ownership in the trawl sector to ensure compliance with fisheries and company laws, including the prohibition against foreign ownership of local industrial trawlers set out in Section 47 of the 2002 Fisheries Act (Act 625) and provisions on beneficial ownership in the 2019 Companies Act (Act 992) and publishes the results.
- Publishes an up-to-date list of fishing licences, authorisations and vessels registered to the Ghanaian flag, including IMO numbers, and provides all information to the FAO Global Record of Fishing Vessels.
- Strictly enforces the prohibition against saiko and ensures that the practice remains illegal in the ongoing reform of the fisheries law framework.
- Ensures deterrent sanctions are imposed with respect to fisheries, human rights and labour-related infringements, in accordance with minimum sanctions in the national law, and publishes information on arrests and sanctions imposed/paid.

- De-registers and withdraws/withholds licences from any vessel found to be engaging in IUU fishing and/or violations of human rights and labour laws.
- Implements inspection standards for Ghanaian-flagged vessels that are, as a minimum, consistent with standards for the inspection of foreign vessels defined under the PSMA.

### ***Ratifies and implements key international instruments to protect workers on fishing vessels***

- Ratifies and implements the ILO Work in Fishing Convention, 2007 (No. 188) to protect the rights of workers on board its industrial fishing fleet, as well as the 2012 IMO Cape Town Agreement to ensure minimum standards of vessel safety.
- Ratifies and implements the 2013 Optional Protocol to the ICESCR to give competence to the Committee on Economic, Social and Cultural Rights to consider complaints from victims of human rights violations<sup>91</sup>, and to investigate alleged grave or systemic violations of rights<sup>92</sup>.
- Ensures routine reporting under the ICESCR on protection and fulfilment of economic, social and cultural rights, including the provision of information on working conditions for workers on fishing vessels, and operation of trade unions in the sector.
- Ratifies and implements the 2014 Protocol to the ILO Forced Labour Convention, 1930 (No. 29), which provides guidance to states on the effective measures to be taken to prevent and eliminate forced labour.
- By the start of 2022, develops a NAP on Business and Human Rights which is founded on the UNGPs, context-specific and addresses Ghana's actual and potential business-related human rights abuses including issues pertaining to the fisheries sector, and developed through an inclusive and transparent process<sup>93</sup>.
- Develops and adopts legislation regarding the social and human rights responsibilities of businesses, including the fisheries sector. This may take the form of human rights due diligence legislation<sup>94</sup> that legislates the corporate responsibility to respect human rights or may focus on forced and slave labour, such as modern slavery legislation, similar to the UK Modern Slavery Act, 2015.



Catches landed by an industrial trawler in Ghana.

**It is recommended that the Commission on Human Rights and Administrative Justice (CHRAJ):**

- Launches an investigation into the allegations of human rights abuses and labour violations in the industrial trawl sector, including allegations of threats and bribery in the observer programme, and takes the necessary actions to remedy the abuses identified.
- Increases its capacity to monitor and investigate human rights abuses in the fishing and related sectors.
- Conducts regular missions to monitor the observance of human rights on fishing vessels and compliance with Ghana’s obligations under national and international law, taking appropriate steps to investigate and remedy abuses of workers at sea.
- Raises awareness among workers in the industrial fishing sector of their rights under national, regional and international law, and the judicial and non-judicial mechanisms available to access remedy for abuses, including how to lodge a complaint with CHRAJ.
- Collaborates with relevant institutions and civil society to raise awareness of the provisions of the Whistleblower Act 2006 (Act 720)<sup>95</sup> with a view to addressing allegations of possible corruption in the fisheries sector.

**It is recommended that companies that own or operate industrial trawlers in Ghana:**

- Immediately investigate the alleged human rights, labour and IUU fishing issues set out in this report and take the necessary actions to remedy the abuses identified. This should include ensuring that:
  - all workers have written employment agreements, sufficient rest periods, and access to adequate living accommodation, sanitary facilities, food and drinking water;
  - working conditions comply with minimum health and safety standards;
  - allegations of physical violence are investigated and addressed, including through criminal prosecutions where appropriate;
  - workers are able to exercise their right to form or join a trade union.
- Provide operational-level grievance mechanisms to receive and address complaints by workers, contractors or other stakeholders and remediate adverse human rights impacts. Such a mechanism should fulfil the effectiveness criteria as set out in the UNGPs.<sup>96</sup>
- Adopt a zero-tolerance approach to human rights abuses, labour rights violations and IUU fishing.
- Commit to respect human rights, for example through the development of a human rights policy, with senior management commitment.
- Engage an expert organisation to deliver training to internal staff on human rights and labour rights issues to ensure all company staff have knowledge of human rights standards and issues relevant to their functions. Such training should, in particular, focus on issues most prevalent in the sector such as IUU fishing, labour rights issues, and health and safety.
- Implement robust human rights due diligence measures to identify and address/mitigate human rights and labour risks and adverse impacts.
- Engage with relevant stakeholders, including civil society, human rights and labour organisations, in order to be made aware of issues identified by these stakeholders.



Trawler catches being weighed at Tema port. High value products, such as octopus, cuttlefish and squid, are exported to markets in Europe and elsewhere.

### It is recommended that international importers and retailers of seafood along the supply chain:

- Scrutinise their supply chains connected to the Ghanaian industrial fishing fleet and implement robust due diligence measures to identify and address human rights and labour risks and adverse impacts. Demand deep-dive assessments of potential negative impacts through commissioning independent human rights impact assessments (HRIAs) of fishing vessels.
- Demand from the Ghanaian companies and other companies along the supply chain that they commit to implementation of the UNGPs and thereby to respecting international human and labour rights.
- Share good practices with regard to human rights with their suppliers, including the sharing of training materials and other codes of practice. Include human and labour rights requirements in their supplier codes.
- Demand increased transparency from suppliers in Ghana, including data on human rights and labour issues, grievances and complaints, and the number of accidents and deaths, in order to hold the companies accountable.
- Demand sufficient data on sourcing vessels to ensure no vessel with a history of committing IUU fishing, human rights abuses or labour violations can enter their supply chains.
- Use their joint leverage with other buyers and retailers to demand a change in human rights and labour practices in the Ghanaian fishing industry, for example to jointly lobby for legislative changes that could benefit the industry as a whole.

### It is recommended that civil society organisations:

- Carry out further research into human rights risks and impacts for workers on board fishing vessels and implement advocacy campaigns to address the issues identified.
- Raise awareness among workers in the industrial fishing sector of their rights under national, regional and international law, and the judicial and non-judicial mechanisms available to access remedy for abuses.
- Raise awareness and deliver training to crew members and fisheries observers of the provisions of the Whistleblower Act 2006 (Act 720)<sup>97</sup> with a view to addressing allegations of possible corruption in the fisheries sector.

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***“Today even fish to feed the family is scarce. There is hardship everywhere you go”*** –Crew member #2

***“The Ghanaian sea is dying...Even the Chinese that we work with told us a time will come that there will be no fish in the Ghanaian waters again”***

–Crew member #3

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- 64 Assuming an average of 22 Ghanaian crewmembers working on board each of the 72 licensed vessels.
- 65 Assuming one observer for each of the 72 licensed vessels.
- 66 Art. 1 of the 2013 Optional Protocol to the ICESCR.
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- 68 The Labour Act, 2003 (Act 651) applies to all workers and to all employers except the Armed Forces, the Police Service, the Prison Service and the Security and Intelligence Agencies specified under the Security and Intelligence Agencies Act 1996 (Act 526) (Article 1).
- 69 According to respondents, a typical crew composition is between 21 and 24 Ghanaian nationals, and between 4 and 7 Chinese nationals. It was unclear whether crew compositions are in line with the requirement for 75% of crew members to be Ghanaian nationals. Figures provided by crew members were estimates. Further follow up is recommended.
- 70 This is consistent with the findings of recent investigations by EJF. In February 2019, for example, an EJF film crew documented a trawler from a notorious fleet carrying out an alleged trans-shipment of fish to a saiko canoe. In March 2020, EJF submitted a notification to Ghana's Fisheries Commission to alert them of another vessel in the same fleet that had exhibited behaviour consistent with trans-shipment off the coast of Elmina (the main saiko port) on six separate occasions since the start of 2020, according to monitoring of Automated Information System (AIS) data transmitted by the vessel. An investigation by China Dialogue Ocean in 2019 likewise documented widespread illegal fishing within one of the Ghanaian fleets: Samari, M. (12.9.19). *Investigation ties foreign-owned trawlers to illegal fishing in Ghana.* China Dialogue Ocean, accessed 14.8.20. <https://chinadialogueocean.net/10050-investigation-illegal-fishing-in-ghana-pt-1/>
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