

**NO FISHERIES WITHOUT CREW:
THE URGENT NEED FOR LABOR
STANDARDS IN THE WCPEFC**



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EXECUTIVE SUMMARY

Numerous media exposes and NGO reports have documented human and labor rights abuse across global fisheries including in the Western and Central Pacific Fisheries (WCPF) Convention area. The widespread accounts of horrific working conditions demonstrate that the global seafood supply chain is extensively tainted with forced labor and human trafficking.

The Western and Central Pacific Fisheries Commission (WCPFC) members, cooperating non-members, and participating territories (CCMs) have a duty to protect human rights. This commitment applies at sea as it does on land, and high seas fishing is particularly high risk to labor exploitation. Its transnational nature poses unique challenges for government oversight and heightens the vulnerability of migrant crew to exploitation. As such, in order for states to fulfill their duty to human rights, they need a transnational measure involving a regional body, such as a regional fisheries management organization (RFMO). In addition, the close association between illegal, unreported, and unregulated (IUU) fishing and human rights abuse of crew requires that their countermeasures are aligned.

The WCPFC has the authority to provide a transnational space to align such countermeasures. Key international instruments related to sustainable fisheries suggest that not only are individual states obliged to provide protection for crew but also that RFMOs can be the means to fulfill such obligation. Based on these key texts, the WCPF Convention mandates the Commission to adopt minimum standards for responsible fishing operations, including labor standards, and the Commission has already been exercising this mandate.

Fisheries cannot exist without crew. The labor of crew members is at the heart of a fishing operation, and the protection of crew can and should be an integral part of fisheries regulations. Government delegations should therefore make full efforts to ensure that appropriate, effective, and binding labor standards are established to promote responsible fisheries in the WCPFC.

Fishing crews hauling in a net © APIL



BACKGROUND

Abusive working conditions at sea have attracted increasing attention in recent years from the international community as one of the major patterns of forced labor and human trafficking.¹ The International Labour Organization (ILO) estimates that 40.3 million people are in modern slavery worldwide.² Roughly 24.9 million are under conditions of forced labor, 11% of whom are in agriculture and fishing.³ A number of studies have revealed widespread abusive labor practices in the fishing sector including in the United States, New Zealand, Russia, Turkey, South Korea, Ireland, Scotland, Pacific Islands and West Africa, indicating that the global seafood supply chain is extensively tainted with forced labor and human trafficking.⁴

During the 17th Regular Session of the WCPFC, Indonesia submitted a proposal for a binding Conservation and Management Measure (CMM) on crew labor standards. This was brought forward in the context of increasing demand for better protection of fishing crew working on foreign-flagged vessels, following the unpaid salary dispute at Apia Port, Samoa in which 97 crew members were not paid their salary for almost a year⁵ and the media expose of the Long Xing 629 case which involved the deaths of four Indonesian crew members.⁶

1. C. Stringer et al. (September 15, 2011) "Not in New Zealand's Waters, Surely? Labour and Human Rights Abuses Aboard Foreign Fishing Vessels," New Zealand Asia Institute, accessed April 25, 2022. <http://docs.business.auckland.ac.nz/Doc/11-01-Not-in-New-Zealand-waters-surely-NZAI-Working-Paper-Sept-2011.pdf>; C. Stringer et al. (May 18, 2015) "New Zealand's Turbulent Waters: the Use of Forced Labor in the Fishing Industry," Global Networks, 16(1). <https://doi.org/10.1111/glob.12077>; EJF (2019) "Slavery at Sea: the Continued Plight of Trafficked Migrants in Thailand's Fishing Industry," accessed April 25, 2022. <https://ejffoundation.org/reports/slavery-at-sea-the-continued-plight-of-trafficked-migrants-in-thailands-fishing-industry>; R. Surtees (2013) "Human Trafficking Trapped at Sea. Using the Legal and Regulatory Framework to Prevent and Combat the Trafficking of Seafarers and Fishers," Groningen Journal of International Law, 1(2). <https://nexusinstitute.net/wp-content/uploads/2017/01/surtees-2013-trapped-at-sea.pdf>; S. Yea & C. Stringer (2022) "Valuing Victims Voices: A Participatory Action Research Project with Victims of 'Seafood Slavery' For Effective Counter-Trafficking Communication," Winrock International, accessed April 25, 2022. <https://winrock.org/document/valuing-victims-voices-a-participatory-action-research-project-with-victims-of-seafood-slavery-for-effective-counter-trafficking-communication/>

2. ILO & Walk Free Foundation (2017) "Global Estimates of Modern Slavery: Forced Labour and Forced Marriage," p. 9, accessed April 25, 2022. https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf

3. ILO & Walk Free Foundation, "Global Estimates of Modern Slavery," p. 10-11

4. ILO (2013) "Caught at Sea: Forced Labour and Trafficking in Fisheries," p.14, accessed April 25, 2022. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_214472.pdf; M. Mendoza & M. Mason (September 8, 2016) "Hawaiian Seafood Caught by Foreign Crews Confined on Boats," accessed May 2, 2022. <https://www.ap.org/explore/seafood-from-slaves/hawaiian-seafood-caught-foreign-crews-confined-boats.html>; S. Yea & C. Stringer, "Valuing Victims Voices"

Crew members often work extremely long hours with little rest © EJF



5. Indonesia (December 5, 2019) "Information Paper on Labour Rights in the Fishing Industry (the case of unpaid salary disputes on fishing vessels) [WCPFC16-2019-DP23]" Western and Central Pacific Fisheries Commission, accessed April 25, 2022. <https://meetings.wcpfc.int/node/11567>

6. K. McVeigh & F. Firdaus (July 7, 2020) "Hold on, Brother": the Final Days of the Doomed Crew on the Long Xing 629", The Guardian, accessed April 25, 2022. <https://www.theguardian.com/environment/2020/jul/07/hold-on-brother-final-days-of-doomed-crew-on-chinese-shark-finning-boat>

Definitions

• Forced Labor

In the Forced Labor Convention (No.29), the ILO defines forced labor as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”⁷ The 11 ILO indicators of forced labor provide a more detailed picture of how this may look in real life. The indicators are: 1) abuse of vulnerability, 2) deception, 3) restriction of movement, 4) isolation, 5) physical and sexual violence, 6) intimidation and threats, 7) retention of identity documents, 8) withholding of wages, 9) debt bondage, 10) abusive working and living conditions, and 11) excessive overtime.⁸

• Human trafficking

The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol) defines human trafficking as:

the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation.⁹

The concept of forced labor can be said to encompass trafficking in persons for the purpose of labor exploitation. The Palermo Protocol makes clear that victim’s consent is irrelevant in the context of human trafficking (Art. 3(b)), and both concepts ensure that the more covert ways of human trafficking or forced labor such as debt bondage and deception are taken into account. Forced labor and human trafficking do not always involve physical abuse or control although they may be critical indicators. False promise of a large salary or high recruitment fees that incur debt bondage can also be an indicator.

7. ILO (1930) C029 – Forced Labour Convention, 1930 (No. 29), accessed April 25, 2022. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029

8. ILO (n.d.) “ILO Indicators of Forced Labour”, accessed April 25, 2022. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf

9. UN (adopted November 15, 2000) “Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,” accessed April 25, 2022. <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

Fishing crew in protecting suits on deck © sezer66 / Adobe stock



II. WHY THE WCPFC SHOULD ADOPT LABOR STANDARDS

The WCPFC plays a key role in setting standards for global fisheries. As the manager of the world's largest tuna fishery, the WCPFC covers roughly 20% of the Earth's surface where 55% of the world's tuna is caught. The member states of the WCPFC include some of the major distant water fishing flag states as well as key coastal and port states. In particular, the four countries that rank the highest in global high seas fishing efforts - China, Taiwan, Japan, and South Korea - are represented at the WCPFC.¹⁰ These four are indexed as "high risk" of modern slavery in fishing industry by the Global Slavery Index.¹¹

As a major space for fisheries regulation, the WCPFC is especially important in raising standards in the global fisheries sector, notably in the high seas.

WCPFC CCMs' obligations to protect fishing crew

States have a duty to protect the human rights of fishing crew under the Universal Declaration of Human Rights (UDHR) and the ILO Declaration on Fundamental Principles and Rights at Work. Through these and other instruments, states have declared their commitment to the protection of human rights. The protection of these rights is not exclusive, and covers all activity at sea, just as it does on land.

For instance, Article 2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) requires its state parties to take steps through international cooperation and by all appropriate means to realize the rights

recognized in the Covenant, such as the rights to just and favorable conditions of work, adequate safe and hygienic conditions, adequate food and drinking water, and safe working conditions.

Such commitment for human rights can also be found in fishery texts. The UN Convention on the Law of the Sea (UNCLOS) specifies that "every State shall take such measures for ships flying its flag as are necessary to ensure safety at sea with regard, inter alia, to...the manning of ships, labor conditions and the training of crews, taking into account the applicable international instruments." It is a duty of the flag state to protect the fishing crew onboard their vessels.

The Food and Agriculture Organization (FAO) Code of Conduct for Responsible Fisheries also recognizes the social aspect of responsible fisheries and calls on flag states to ensure fair working conditions for fishing crew. Paragraph

6.17 in particular requires that states ensure that fishing facilities, equipment and fishery activities allow for fair working and living conditions.¹²

The Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (FAO Compliance Agreement) requires that flag states ensure their fishing vessels do not engage in "any activity that undermines the effectiveness of international conservation and management measures," such as IUU fishing. IUU fishing, as will be discussed below, includes fishing operations involving unlawful labor practices.

Such international human rights and fishery instruments compel CCMs to execute their duty to provide protection for fishing crew, which is especially needed on the high seas.



fishing crew cleaning the fishnet © Daniele russo / Adobe stock

10. D. McCauley et al. (August 1, 2018) "Wealthy Countries Dominate Industrial Fishing", accessed April 25, 2022. <https://www.science.org/doi/10.1126/sciadv.aau2161>

11. China, Japan, Russia, Spain, South Korea, Taiwan, and Thailand have been identified by the Global Slavery Index as high risk of modern slavery in their respective fishing industries, which is characterized by high proportion of high seas fishing, poor governance (high levels of unreported catch), and high level of harmful fishing subsidies. Walk Free Foundation (2018) "Global Slavery Index," accessed April 25, 2022. <https://www.globalslaveryindex.org/2018/findings/importing-risk/fishing/>

12. FAO (December 1995) "Code of Conduct for Responsible Fisheries", accessed April 25, 2022. <https://www.fao.org/3/v9878e/v9878e00.htm#3>
 6.17 States should ensure that fishing facilities and equipment as well as all fisheries activities allow for *safe, healthy and fair working and living conditions and meet internationally agreed standards* [emphasis added] adopted by relevant international organizations.
 6.18 Recognizing the important contributions of artisanal and small-scale fisheries to employment, income and food security, States *should appropriately protect the rights of fishers and fishworkers* [emphasis added], particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure and just livelihood, as well as preferential access, where appropriate, to traditional fishing grounds and resources in the waters under their national jurisdiction.
 8.4.1 States *should ensure that fishing is conducted with due regard to the safety of human life* [emphasis added] and the International Maritime Organization International Regulations for Preventing Collisions at Sea, as well as International Maritime Organization requirements relating to the organization of marine traffic, protection of the marine environment and the prevention of damage to or loss of fishing gear.

Vulnerability of fishing sector to labor exploitation

High seas fishing is a high risk sector to forced labor and human trafficking. The following cites the conditions which enable forced labor on the high seas.

• Hazardous and abusive working conditions

Work in fishing is dangerous and hard. The ILO named fishing and its related occupations the most dangerous of all occupations, with as many as 24,000 workers in fishing, fish farming or fish processing killed every year.¹³ Fishing crew have been reported to work under poor conditions including extremely long working hours with no days off, inadequate accommodation and food, poor hygiene, confiscation of identity documents, and underpayment below the minimum wage.¹⁴

• Long-term isolation at sea

Once aboard a vessel at sea, fishing crew are often unable to leave the vessels, and the possibility to report abuse, injury or death and seek protection is limited. Fewer port calls enabled by at-sea transshipment mean fewer opportunities for labor inspection and intervention from the authorities.¹⁵ Long-term physical and psychological isolation¹⁶ make the fishing crew more vulnerable to exploitation as they often stay at sea for months or years at a time.

• Lack of transparency

Transparency and accountability in global fisheries are critically lacking. Currently, there are no comprehensive international requirements, such as registering vessels in a global record, or mandating unique vessel identifiers (UVI) that can track all fishing vessels.¹⁷ Some vessels intentionally register in states that are less able and/or willing to enforce strong regulations over their flagged vessels, known as Flags of Convenience (FoC). Crew onboard FoC vessels are therefore left even more vulnerable with little oversight from the authorities.¹⁸

Port inspection at the Port of Busan, Korea © APIL



13. ILO (1999) "Fishing among the Most Dangerous of All Professions, Says ILO", accessed April 25, 2022. https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_071324/lang-en/index.htm

14. ILO, "Caught at Sea," p.19; Greenpeace (May 2018) "Misery at Sea: Human Suffering in Taiwan's Distant Water Fishing Fleets", p.51, accessed April 25, 2022. <https://drive.google.com/file/d/1t34Yxi0dIXAFsdu-41Vv6PcbjyGVpHbA/view>

15. Walk Free Foundation, "Global Slavery Index"; J. Sparks & L. Hasche. (June 3, 2019) "Complex Linkages Between Forced Labour Slavery and Environmental Decline in Marine Fisheries", Journal of Human Rights, 18(2), p.235, accessed April 25, 2022. <https://doi.org/10.1080/14754835.2019.1602824>

16. According to a 2016 survey, "isolation from family and the society" was the most reported (73.1%) reason for Korean crew to retire from boarding distant water fishing vessels. H. Yoon (January 9, 2020) "Run-Down Distant Water Fishing Fleet of Korea Loaded with 'Danger'...6~7 Out of 10 Vessels at Least 30 Years Old ['위험' 가득 실고 조업하는 대한민국의 낚은 원양어선들...10척 중 6~7척은 30년 이상된 노후선박],"The Kyunghyang Shinmun, accessed April 27, 2022. <https://m.khan.co.kr/economy/economy-general/article/202001091108011#c2b>

17. EJF (2019) "Blood and Water: Human Rights Abuses in the Global Seafood Industry", p.11, accessed April 25, 2022. <https://ejfoundation.org/reports/blood-and-water-human-rights-abuse-in-the-global-seafood-industry>

18. ILO, "Caught at Sea," p.24

Case study 1: Human rights abuse on the Korean distant water fishing fleet

Korea is one of the world's 5 biggest distant water fishing countries.¹⁹ With 211 vessels operating around the globe, its fleet supplies to all major international markets including the United States, the European Union and Japan. Almost half of the fleet is operative in the WCPF Convention area where it catches 259,579 m/t of tuna and tuna-like species worth 373 million USD.²⁰

NGO investigations have continuously found serious human rights and labor abuses on Korean-flagged vessels, including debt bondage, confiscation of identity documents, excessive working hours with little rest, physical and verbal abuse, and underpayment of wages. Interviews conducted by Advocates for Public Interest Law (APIL) and Environmental Justice Foundation (EJF) in 2021 with 13 migrant crew onboard 12 Korean-flagged tuna longliners registered in the WCPFC showed a consistent pattern of deception, discrimination, isolation, and exploitation.

All interviewees reported getting their wages deducted and/or withheld while being forced to pay off debts in the name of recruitment fees, guarantee deposit, and administration fees to their recruitment agents. The interviewees worked 12-18 hours a day even when injured, and several worked up to 24 hours consecutively without rest.

“My hand was injured but I was forced to continue working without rest. My hand is abnormal now.”

“I often worked for 72 hours and rested only 2 hours. Yes, same after 2021”

Verbal and physical abuse were also reported. None of these crew members were able to report such abuse or seek redress.

“I was hit in the head by hand once and by an object such as a hammer once.”

All interviewees stayed at sea for more than 12 months, and the average period at sea was 18 months. This is consistent with the analysis of fishing behavior conducted by the University of California Santa Barbara in 2020 in which Korean longliners ranked first in the world for time spent at sea, distance traveled, and fishing hours.²¹ Such long-term isolation at sea increases vulnerability for the crew.

19. The top 5 countries are: China, Taiwan, Japan, South Korea, and Spain. Stimson Centre (2019) “Shining a Light: The Need for Transparency across Distant Water Fishing”, accessed April 25, 2022. <http://stimson.org/wp-content/files/file-attachments/Stimson%20Distant%20Water%20Fishing%20Report.pdf>

20. Korea Ministry of Oceans and Fisheries (August 31, 2021) “2021 Distant Water Fisheries Yearly Statistics [2021년도 원양어업 통계조사 결과 보고서], p.51, accessed April 25, 2022. https://www.ofis.or.kr/boards/view/board_stats/19678

21. EJF (June 2020) “Illegal Fishing and Human Rights Abuses in the Korean Fishing Fleet,” accessed April 25, 2022. <https://apil.or.kr/wp-content/uploads/2020/07/Korea-briefing-IUU-HR-2020-v1.pdf>

In addition to these enabling factors of forced labor, an increasing number of migrant crew work on fishing vessels, who are even more vulnerable.²² The vast majority of longline vessels operating in the Western and Central Pacific Ocean (WCPO) are Chinese, Japanese, Korean and Taiwanese-flagged vessels, but the crew are primarily from Indonesia, the Philippines and Vietnam.²³ For instance, the ratios of migrant crew on Taiwanese and Korean distant water fishing vessels were 60.5%²⁴ and 73.8%²⁵ respectively in 2019.

Declining fish stocks have led to fierce competition, prompting vessel operators to cut down the labor costs which can account for 30-50% of operational costs in distant water fishing.²⁶ This cost cutting is often done through the employment of migrant crew from developing countries where few opportunities for decent work push them out to seek employment abroad.²⁷ This push for hiring low-cost labor opens the door for human trafficking and forced labor.²⁸



Phone numbers of recruitment agents written on a wall in Hanoi, Vietnam © APIL

22. S. Yea & C. Stringer, “Valuing Victims Voices,” p.16; Greenpeace (December, 2019) “Seabound: The Journey to Modern Slavery on the High Seas”, p.3, accessed April 25, 2022. <https://www.greenpeace.org/static/planet4-southeastasia-stateless/2019/12/b68e7b93-greenpeace-seabound-book-c.pdf>

23. C. Wold (November 18, 2021), “Slavery at Sea: Forced Labour, Human Rights Abuses, and the Need for the Western and Central Pacific Fisheries Commission to Establish Labour Standards for Crew (WCPFC18-2021-0P09)”, accessed April 25, 2022. <https://meetings.wcpfc.int/node/14591>

24. Taiwan Fisheries Agency, (n.d.) “Year 109 of the Republic of China (2020) Fishery Statistics Annual Report [民國109年(2020)漁業統計年報]”, accessed April 28, 2022. <https://www.faa.gov.tw/cht/PublicationsFishYear/content.aspx?id=35&chk=6c7f7242-297c-47d1-8bb1-51e7c8a5961c>

25. Korea Ministry of Oceans and Fisheries (June 22, 2020), “2020 Korean Seafarers Statistical Year Book,” p. 308, 310, accessed April 27, 2022. <http://www.koswec.or.kr/koswec/information/sailorshipstatistics/selectSailorShipStaticsList.do>

26. ILO, “Caught at Sea,” p. 5-6

27. EJF, “Blood and Water,” p.10-11

28. EJF, “Blood and Water.” p.17

Migrant crew face added vulnerability on several aspects which expose them further to exploitation.

- **Exploitative recruitment practice**

Migrant crew often rely on brokers or recruitment agents to find work on fishing vessels abroad. These labor intermediaries play a major role in the deception and coercion of vulnerable workers.²⁹ They often charge the crew with high “processing fees” which lead to personal debts that are repaid through wage deductions. “Guarantee deposits” are paid in lump sum pre-departure, or through wage deductions, and then returned to the crew member upon completion of their contract.³⁰ Employment contracts of Indonesian crew are reported to often include a clause that they will forfeit all salary in case of early termination of the contract.³¹ Therefore, if a crew member fails to complete his contract, he would be unable to receive the guarantee deposit nor his entire salary and would also be responsible for paying for other expenses, such as plane tickets. Financial entrapment, often facilitated by labor intermediaries, results in debt bondage for migrant crew.

- **Discriminative labor protections**

Migrant crew are often provided fewer social and legal protections compared to nationals. Freedom of association may not be legally guaranteed for migrants, and the protections provided often vary depending on their visa status or recruitment scheme. For instance, migrant crew in Thailand are not allowed to form or join labor unions,³² and those in Taiwan and Korea recruited via recruitment agents do not receive the same protections as those who were recruited by the government.³³ In addition, lack of proper documents may place them at risk of detention and deportation, which can prevent them from seeking assistance from the authorities.³⁴

- **Language and cultural barriers**

Access to grievance mechanisms and information on labor rights is more difficult for migrants due to language and cultural barriers.³⁵ For example, they may not be provided a copy of the contract written in their native language. Communication problems have also been reported to lead to physical abuse.³⁶

29. ILO, “Caught at sea,” p.12-16

30. Greenpeace, “Seabound,” p.25

31. S. Yea & C. Stringer, “Valuing Victims Voices,” p.6

32. Agence France-Presse, (January 30, 2017) “Migrants Petition Thai Seafood Giant on Wages,” The Nation Thailand, accessed April 28, 2022. <https://www.nationmultimedia.com/detail/breakingnews/30305289>

33. EJF, “Blood and Water,” p.21; APIL, (n.d.) “Tied at Sea: Human Rights Violations Against Migrant Fishers on Korean Fishing Vessels”, accessed April 25, 2022. <https://apil.or.kr/wp-content/uploads/2017/10/TiedAtSea.pdf>

34. ILO, “Caught at Sea,” p. 16

35. EJF, “Blood and Water,” p.11, 19

36. S. Yea & C. Stringer, “Valuing Victims Voices,” p.18

Case study 2: Jaka’s account of Dawang, a Taiwanese-owned and Vanuatu-flagged longliner³⁷

Jaka is a veteran fisherman from the Philippines. Dawang, a Taiwanese-owned and Vanuatu-flagged longliner, was the fourth foreign-flagged fishing vessel he worked on. For the 13 months he worked on Dawang, he was subjected to severe abuse onboard.

Jaka reported that he worked 20 to 28 hours with only three to five hours of sleep on days when the catch was good. He also reported inadequate and insufficient food and water. He was promised a salary of 650 USD in his employment contract, but his family only received less than half of this amount.

The captain and foreman were reported to be verbally and physically abusive to the crew members. The abuse allegedly led to the death of an Indonesian crew member onboard. The deceased was subjected to severe physical abuse whenever he made mistakes or did not know what to do because he was a newcomer. The captain and foreman threw sandals and large fish harpoons at him and punched, kicked, and cursed at him.

The crew members were unable to receive adequate medical treatment and were forced to work through injury or illness. One Filipino crew member felt that something was wrong with his eye but was forced to work until he fell unconscious. The captain refused to go back to port for him to receive appropriate treatment, and he eventually became paralyzed on one side of his body.



Dawang, a Taiwanese-owned and Vanuatu-flagged longliner
© Serve the People Association

Despite such abuse onboard, Jaka was unable to leave the vessel freely because of a guaranteed deposit of 1,000 USD that had made him debt-bound.

“I was scared, shocked and traumatized... I chose to stay in the end because I didn’t want to lose 1,000 USD and for the future of my family and my kids. They need to go to school.”

Jaka left Dawang in Taiwan due to a health problem, but he was initially unable to receive medical help from his agent and was instead threatened that he would be reported as an undocumented migrant worker and go to jail. Such threats make many migrants even more vulnerable to abuse.

37. Information provided by Serve the People Association (SPA)



Case study 3: The accounts of Fijian and Indonesian crew on the WCPO³⁸

A narrative production project with 16 Fijian and 10 Indonesian crew members revealed accounts of financial problems, directly experiencing or witnessing of violence, injury, and illness, and lack of access to remedy.

Many of the participants experienced early termination of contracts which resulted in salary loss. For the Indonesian crew, this often meant that they were unable to receive any salary. The involvement of labor intermediaries led to the deception of crew in some cases.

“After a year of sea service, we arrived back in Suva only to learn that the 432 USD/month was actually 432 FJD/month (approximately 200 USD), with the company giving the excuse that the contract we had signed was a fax copy from the mother company in Korea and that they hadn’t edited anything as all dealings were supposed to be in Fijian.”

Physical violence from senior officers and work-related injury led to death in some cases. Adequate medical attention was not provided promptly, and the injured crew members were forced to continue to work, sometimes exacerbating the injury.

“Regularly the captain hit me when I unintentionally cut the line...the load on the net was often so excessive and it was not my fault that the equipment was too old to use. ... As a result of those beatings, I frequently got bruises. My friend was once severely beaten by the captain, and as a result, his nose and temples bled.”

“He was on board having had his neck stitched by the private doctor [after an accident in which a fishing hook struck the man’s neck]. The captain made him work hard (no rest, no sleep) even though we pleaded with the captain to let him rest. Within one month out at sea, he died due to an infection in his neck. We cleaned him and dressed him in new clothes, and placed his body in the freezer. After fishing for two more months, the vessel returned to port.”

The victims rarely found justice for the abuse they experienced onboard. Either they were unable to make any complaints or their complaints were unsuccessful. The participants of this project had worked on Taiwanese, Chinese and South Korean vessels.

38. The following is summarized and excerpted from S. Yea & C. Stringer, “Valuing Victims Voices”

The conditions of work on high seas compounded with the added vulnerability of migrants result in high risk of forced labor and exploitation on high seas fishing vessels.

There is a major gap in protection due to the transnationality of high seas fishing.³⁹ Responsibility can be obscured when it comes to labor issues on high seas fishing vessels. Where vessels are registered and owned, where the crew are from, where recruitment agents are based, where vessels are fishing, where catch is landed at port or exported may all be different.⁴⁰ Some states evade responsibility by using jurisdictional boundaries as an excuse.⁴¹

Fishing vessels do not have an international instrument similar to the Maritime Labour Convention which sets out comprehensive labor standards for merchant vessels. While the ILO’s Work in Fishing Convention (No.188) is in force, it does not have enough ratifications to provide protection to most fishing crews.⁴² Only 2 of the WCPFC CCMs - France and Thailand - have ratified the convention.

The transnational nature of the problem calls for a transnational measure. The WCPFC, as a major regional body and regulation provider on the WCPO, must intervene to protect crew from abuse. Without crew, fishing operations are impossible.



39. ILO, “Caught at Sea,” p. 15
40. In the case of Tunago No. 61, there were nine flags involved: the flag state, nationalities of crew (4), fishing ground jurisdiction, investigation jurisdiction, nationality of the beneficial owner, and the supplier country of the catch. Greenpeace, “Misery at Sea,” p. 61; A. Lozano et al. (February 2022) “Decent Work in Fisheries: Current Trends and Key Considerations for Future Research and Policy,” *Marine Policy*, 136(104922), accessed April 25, 2022. <https://doi.org/10.1016/j.marpol.2021.104922>
41. A. Lozano et al., “Decent Work in Fisheries”
42. As of April 2022, the ILO Work in Fishing Convention has 20 ratifications. See ratifications of C188 here: https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::no:11300:p11300_instrument_id:312333

IUU fishing associated with human rights abuse

There is increasing literature on the close association between IUU fishing and human rights abuse.⁴³ In fact, fishing operations that use forced labor is a form of illegal fishing in itself.

IUU fishing, as defined by the FAO's International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU)⁴⁴, includes activities in violation of national laws or international obligations (Art. 3.1.3). IUU fishing, therefore, can include labor exploitation in violation of domestic labor laws or obligations arising from international instruments such as the UDHR, ICESCR, and ILO conventions.⁴⁵

Moreover, unscrupulous vessels engaging in IUU fishing are motivated to evade surveillance and carry an even higher risk of labor abuse. Transshipment and the use of FoC undermine traceability and transparency, thereby facilitating not only IUU fishing but also human rights abuse. For example, transshipments allow vessels to stay longer at sea and continue fishing uninterrupted, which diminishes opportunities for intervention by labor authorities.⁴⁶ The FAO explains, "Operators of IUU vessels also tend to deny to crew members fundamental rights concerning the terms and conditions of their labor, including those concerning wages, safety standards and other living and working conditions."⁴⁷

In addition, IUU fishing and the resulting depletion of fish stocks contribute to the demand for cheap labor, leading to the exploitation of vulnerable crew. The FAO estimates that 34.2% of fish stocks are at biologically unsustainable levels and 59.6% are on the edge, at maximal sustainable limits.⁴⁸ 33.3% of tuna species are fished beyond biologically sustainable limits.⁴⁹ As catch decreases, vessel operators have to increase fishing efforts, which in

turn lead to falling revenues. The subsequent drive for cheap labor to mitigate the falling revenues increases the risk for labor exploitation.

In the WCPF Convention area, the number of longline hooks set annually increased from approximately 500 million in the early-2000s to 800 million in the 2010s, suggesting a significant increase in fishing efforts. On the other hand, the number of vessels nearly halved from 2,937 in 2000 to 1,581 in 2020.⁵⁰ Considering that there has not been a significant change in technology or catch level over the same period,⁵¹ the opposing trends indicate that crew labor intensity is now greater than ever to catch the same or less amount of fish compared to the past. In order to maintain operational costs at a minimum notwithstanding increasing fishing efforts, vessel operators exploit low-wage workers.

At the same time, the exploitation of cheap labor onboard fishing vessels delays unprofitability and allows overfishing to continue. By exploiting low-wage workers, vessel operators are able to maintain catch levels beyond sustainable limits in spite of the decreasing profit margins due to fish stock depletion. As such, labor exploitation may prolong and/or promote the overfishing of already depleted stocks.⁵²

The close association between forced labor onboard fishing vessels and IUU fishing requires that their countermeasures are aligned. Based on the connection between labor exploitation and IUU fishing, the prevention of labor abuse and protection of crew fall within the WCPFC's responsibility to take measures against IUU fishing.

Seiner vessel returning after a fishing operation © Анна Костенко / Adobe stock



43. D. Tickler et al. (2018) "Modern Slavery and the Race to Fish", Nature Communications, 9(4643), accessed April 25, 2022. <https://doi.org/10.1038/s41467-018-07118-9>; J. Sparks & L. Hasche, "Complex linkages"

44. FAO (2001) "International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing", accessed April 25, 2022. <https://www.fao.org/3/y1224e/y1224e.pdf>

45. C. Wold, "Slavery at Sea," p. 5

46. E.J.F., "Blood and Water," p. 23, 25

47. D. Balton (April 19-20, 2014) "Global Review of Illegal, Unreported and Unregulated Fishing Issues: What's the Problem?(AGR/FI/IUU(2004)16)," Organisation for Economic Co-operation and Development, accessed April 25, 2022. [https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=AGR/FI/IUU\(2004\)16&docLanguage=En](https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=AGR/FI/IUU(2004)16&docLanguage=En)

48. FAO (2020) "The State of World Fisheries and Aquaculture 2020: Sustainability in Action", p.7, accessed April 25, 2022. <https://www.fao.org/3/ca9229en/ca9229en.pdf>

49. FAO, "The State of World Fisheries and Aquaculture 2020", p.49

50. S. Hare et al. (2021) "The Western and Central Pacific Tuna Fishery: 2020 Overview and Status of Stocks", Tuna Fisheries Assessment Report No. 21, Pacific Community, p.18-19, 37 accessed May 3rd, 2022. https://spccfpstore1.blob.core.windows.net/digitallibrary-docs/files/57/57d13d4eaf817b7fe824977ac3b2a394.pdf?sv=2015-12-11&sr=b&sig=1TN42qUXpZlfcE3l2ri%2BcdWQS95yz4BVGloz6SB9X4o%3D&se=2022-10-28T22%3A33%3A25Z&sp=r&rscc=public%2C%20max-age%3D864000%2C%20max-stale%3D86400&rsct=application%2Fpdf&rscl=inline%3B%20filename%3D%22Hare_21_western_central_pacific_tuna_fishery_stock_overview_2020.pdf%22

51. S. Hare et al., "The Western and Central Pacific Tuna Fishery," p.14-15, 37

52. D. Tickler et al., "Modern Slavery and the Race to Fish"

Case study 4: Forced Labor and IUU fishing on Long Xing 629⁵³

Long Xing 629 operated in the WCPF Convention area from March 2019 to April 2020. 4 of 24 Indonesian crew who set sail on this vessel died from an unknown cause. The bodies of 3 crew members who died at sea were thrown overboard.

The testimonies of the surviving crew revealed horrific accounts of human trafficking. The crew worked 18 hours a day for 13 months and were paid a total of 500 USD on average. Five of the victims were paid only 120 USD, which was only 3.1% of the promised wage. They were provided poorly treated seawater while the Chinese crew drank bottled water. The crew were confined to the vessel for 13 months with the aid of multiple transshipments at sea which allowed the vessel to continue to operate without port calls.

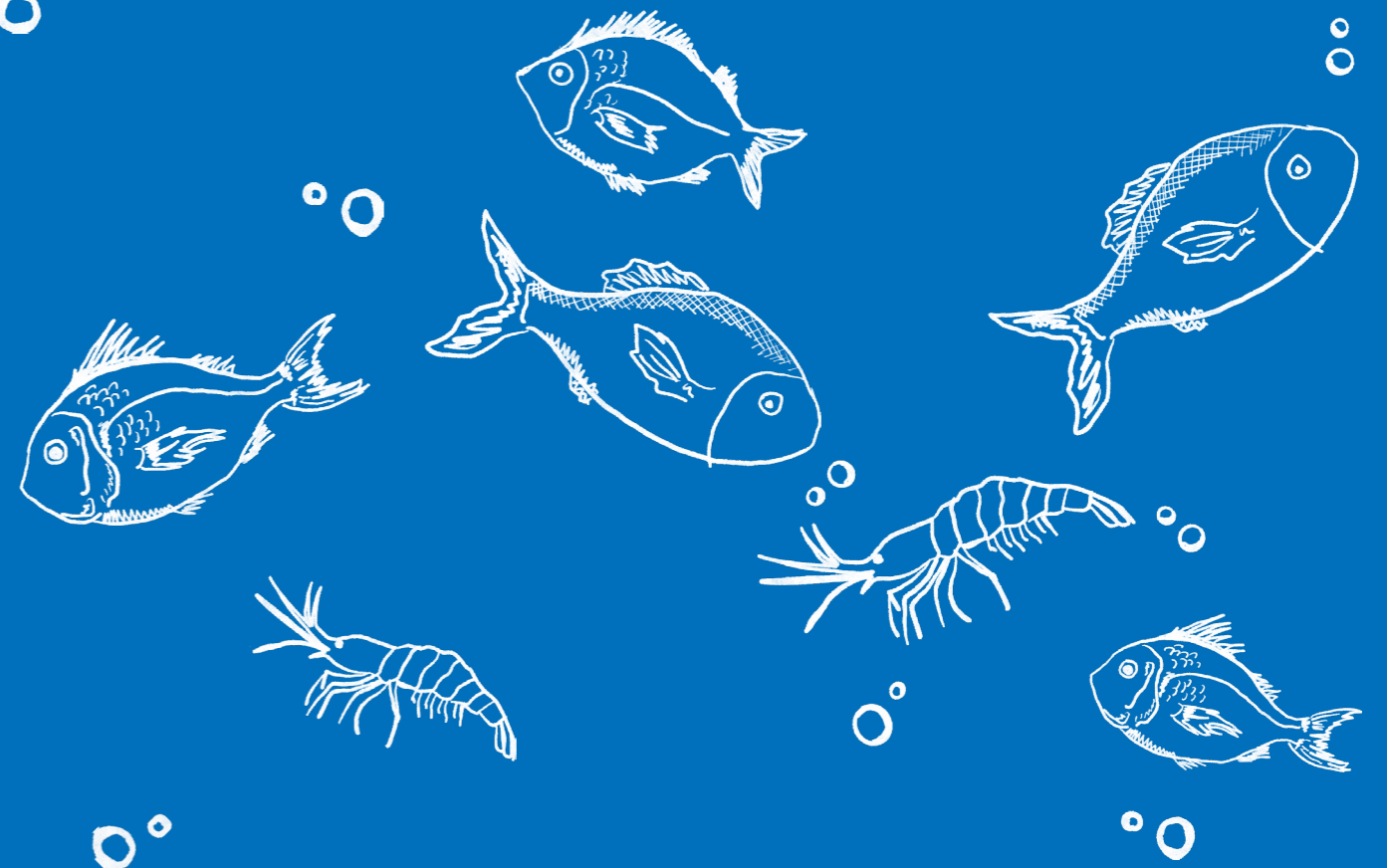
The vessel allegedly engaged in IUU fishing, such as shark finning and catching of protected species. Photos taken by the crew members showed Shortfin Mako Shark, Scalloped Hammerhead Shark, and White Shark, all endangered species protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

Long Xing 629 and its 31 sister vessels of the Dalian Ocean Fishing Co., Ltd. were issued a Withhold Release Order from the US Customs and Border Protection (CBP) on May 28, 2021.⁵⁴ The CBP stated that it had identified all 11 indicators of forced labor on these vessels.



53. The following is summarized from: APIL et al. (July 17, 2020) "A Briefing on Longxing 629: A Case of Illegal, Unreported and Unregulated (IUU) Fishing Activities and Related Human Rights Abuses on a Tuna Longliner", accessed April 25, 2022. <https://apil.or.kr/wp-content/uploads/2020/07/Appendix-2-A-Briefing-on-Longxing-629-written-by-Korea-IUU-Coalition.pdf>

54. US CBP (May 28, 2021) "CBP issues Withhold Release Order on Chinese fishing fleet", accessed April 25, 2022. <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-withhold-release-order-chinese-fishing-fleet>



**Case study 5:
Human rights abuse onboard Chinese fishing fleet on the WCPO**

Recent investigation by the EJF disclosed the prevalence of IUU fishing activities and human rights abuses onboard Chinese fishing vessels operating in the high seas, including the WCPF Convention area. The following is based on EJF’s 9 interviews with crew members who worked on 6 vessels registered in the WCPFC Record of Fishing Vessels (RFV) or those that broadcast their fishing operations within the WCPF Convention area via AIS.⁵⁵

“Our crew mate lay dead on board the vessel for three months. He was stored in the freezer. I asked the captain to dock, but he did not want to because of coronavirus. So, the captain kept hunting for fish. Then, on April 20th, we were able to dock in Fiji. There, the police picked us up. They checked every crew member and asked us the cause of death. The captain told us to tell the police that his cause of death was due to a fishing hook injury. However, we did not want to lie, so we told them that he died due to illness - his feet were swollen. At that time, I could not hold back my tears.”

A wide variety of human rights violations were reported including salary deduction (basic salary around \$303), confiscation of passport and seaman's book, long working hours up to 18 hours a day, dangerous working conditions, poor quality of food and drinking water. During high seasons, the crew sometimes worked for 2 days consecutively with only 6 hours of rest. IUU fishing activities such as shark finning and cetaceans killing were also reported.



Shark finning on Dawang © Serve the People Association

55. For details of this research and recent work of the EJF, see: [“The Ever-widening Net”](#) and [“Illegal Fishing, Violence and Ecosystem Destruction by China’s Distant Water Fleet”](#).

Tuna landed at a fishing port in Wakayama © sigmaphoto / Adobe stock

Human rights abuses	Number (out of nine)
Salary deduction	7
Confiscation of identity documents	6
Low wage	5
Excessive overtime	5
Insufficient food and water	4
Verbal abuse	4
Physical abuse	2
Expired medicine	1
Transferring human at sea	1
Requested to pay guarantee money	1
Withholding salary	1

IUU Activities	Number (out of nine)
Shark finning	3
Killing Dolphins	2
Killing false killer whales	1

III. WHY THE WCPFC CAN ADOPT LABOR STANDARDS

Observer paper WCPFC18-2021-OP09 demonstrates that the WCPFC is allowed, if not required, to establish crew labor standards.⁵⁶

An important aspect of the UNCLOS and the FAO agreements is that they place the states' obligations within the framework of "duty to cooperate", pointing to RFMOs as the pertinent space for fulfilling their obligations. The preambles of the UNCLOS and the FAO Compliance Agreement emphasize the spirit of mutual understanding and cooperation.⁵⁷ The FAO Code of Conduct explicitly tasks states with implementing the Code's provisions through RFMOs. Article 6.10 and 8.1.4 specify that states should implement conservation and management measures within the framework of RFMOs.⁵⁸

The WCPF Convention is based on such FAO texts. Article 10 of the Convention authorizes the Commission to "adopt minimum standards for the responsible conduct of fishing operations [emphasis added]."⁵⁹ The "responsible conduct of fishing operations" clearly refers to the FAO Code of Conduct, which expressly calls for fair working conditions for crew as discussed above.

In fact, the WCPFC has already created binding and non-binding measures pertaining to this aspect of its mandate. Resolution on Labour Standards for Crew on Fishing Vessels (Resolution 2018-01)⁶⁰ and the CMM for the Protection of WCPFC Regional Observer Programme Observers (CMM 2017-03)⁶¹ all deal with those who work onboard fishing vessels. By adopting these measures, the WCPFC has been exercising its authority to establish minimum standards for the responsible conduct of fishing operations, as noted in the preamble of Resolution 2018-01.⁶²

56. The following is based on C. Wold, "Slavery at Sea (WCPFC18-2021-OP09)"

57. UN (December 10, 1982) United Nations Convention on the Law of the Sea, accessed April 25, 2022. https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

Prompted by the desire to settle, in a spirit of mutual understanding and cooperation [emphasis added], all issues relating to the law of the sea and aware of the historic significance of this Convention as an important contribution to the maintenance of peace, justice and progress for all peoples of the world

FAO (1995) Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, accessed April 25, 2022. <https://www.fao.org/3/X3130M/x3130m.pdf>

Further recognizing that, under international law as reflected in the United Nations Convention on the Law of the Sea, all States have the duty to take, or to cooperate with other States in taking, [emphasis added] such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas

Calling upon States which do not participate in global, regional or subregional fisheries organizations or arrangements to join or, as appropriate, to enter into understandings with such organizations or with parties to such organizations or arrangements with a view to achieving compliance with international conservation and management measures



Furthermore, the International Commission for the Conservation of Atlantic Tunas (ICCAT) has also begun a similar discussion on labor standards.⁶³ Based on these recent trends, it is likely that there will be a growing call for action by RFMOs on their mandate for fishing crew.

The main pillars of sustainable fisheries agreements – UNCLOS, FAO Compliance Agreement and FAO Code of Conduct – suggest that not only are individual states obligated to provide protection for crew, but also that RFMOs can be the means to fulfill such obligation. The WCPFC, established based on these key texts, has the mandate to adopt minimum standards for responsible fishing operations and has already exercised this mandate before.

58. FAO, "Code of Conduct for Responsible Fisheries"

6.10 Within their respective competences and in accordance with international law, including within the framework of subregional or regional fisheries conservation and management organizations or arrangements, [emphasis added] States should ensure compliance with and enforcement of conservation and management measures and establish effective mechanisms, as appropriate, to monitor and control the activities of fishing vessels and fishing support vessels.

8.1.4 States should, in accordance with international law, within the framework of subregional or regional fisheries management organizations or arrangements [emphasis added], cooperate to establish systems for monitoring, control, surveillance and enforcement of applicable measures with respect to fishing operations and related activities in waters outside their national jurisdiction.

59. WCPFC (September 5, 2000) Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, accessed April 25, 2022. <https://www.wcpfc.int/doc/convention-conservation-and-management-highly-migratory-fish-stocks-western-and-central-pacific>

10. Without prejudice to the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing highly migratory fish stocks within areas under national jurisdiction, the functions of the Commission shall be to:

...

(h) adopt generally recommended international minimum standards for the responsible conduct of fishing operations.

60. WCPFC (December 14, 2018) "Resolution on Labour Standards for Crew on Fishing Vessels (Resolution 2018-01)", accessed April 25, 2022. <https://www.wcpfc.int/doc/resolution-2018-01/resolution-labour-standards-crew-fishing-vessels>

61. WCPFC (December 7, 2017) "Conservation and Management Measure for the protection of WCPFC Regional Observer Programme Observers (CMM 2017-03)", accessed April 25, 2022. <https://www.wcpfc.int/doc/cmm-2017-03/conservation-and-management-measure-protection-wcpfc-regional-observer-programme>

62. WCPFC, "Resolution on Labour Standards for Crew on Fishing Vessels (Resolution 2018-01)"

Recalling Articles 6 and 8 of the 1995 FAO Code of Conduct for Responsible Fisheries which set out international standards, including labour standards for the responsible conduct of fishing operations to ensure fair work and living conditions;

Noting the Commission has to consider adopting generally accepted international minimum labour standards for the responsible conduct of fishing operations;

63. ICCAT (n.d.) "Resolution by ICCAT Establishing a Process to Address Labor Standards in ICCAT Fisheries (Res 2021-23)," accessed May 3rd, 2022. <https://www.iccat.int/Documents/Recs/compendiopf-e/2021-23-e.pdf>

IV. CONCLUSION / RECOMMENDATION

Fisheries cannot exist without crew. Crew labor is at the heart of a fishing operation, and protection of fishing crew can and should be an integral part of fisheries regulations. In order for the WCPFC and CCMs to fulfill their duties to human rights and responsible fisheries, the following is recommended:

- Government delegations to WCPFC should make full efforts to ensure that appropriate, effective, and binding labor standards are established at the 19th Regular Session of WCPFC to ensure protection for crew and promote responsible fisheries.
- Government delegations should promote inter-agency coordination with and/or participation of appropriate authorities with expertise on labor issues, such as the Department of Labor.

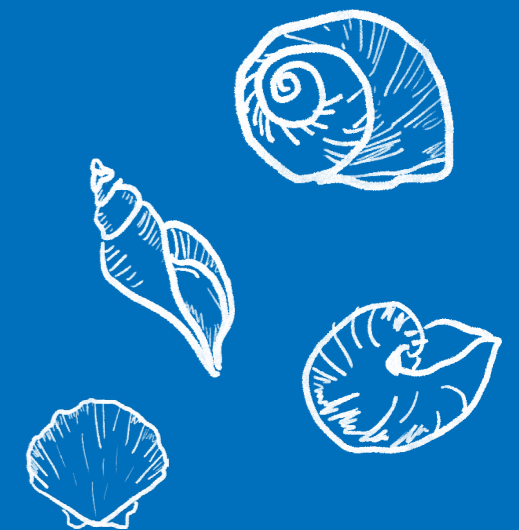


Case study 6 : Contributing to sustainable and slave-free seafood supply chain by strengthening crew protection in the WCPFC

Many countries around the world have adopted legislation that requires companies to conduct due diligence throughout their supply chains to be free from forced labor. The prevalence of forced labor on the high seas has become a severe risk in the supply chains of fishing companies trading seafood caught on the high seas.

A recent survey conducted by Human Rights Now, a Tokyo-based international human rights NGO, revealed that Japanese companies importing seafood are aware of endemic human rights risks in their supply chains. Lacking a comprehensive framework to address human rights risks in the supply chains, the Japanese fishing companies failed to monitor or investigate the labor conditions of crew.⁶⁴ As such, the risk of forced labor remains in their supply chains.

Considering the complex nature of labor issues on the high seas, RFMOs are in a unique position to establish and monitor labor standards. Binding regulations regarding labor conditions in the WCPFC will contribute to ensuring safe working conditions on the high seas, free from forced labor. This will in turn reduce the risk of forced labor in seafood supply chains. Strengthened protection of workers through binding regulations in the WCPFC will also contribute to policy coherence for CCMs that have supply chain due diligence legislation.



64. Human Rights Now [December 20, 2021] "Report on the Results of a Questionnaire Survey of Japanese Fishing Companies [日本の水産業関連会社に対するアンケート調査結果および報告書の公表]," accessed May 3rd, 2022. <https://hrn.or.jp/news/21115/>

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