



## Spotlight on the fishing sector: Charting progress against forced labour at sea

Hainan province, China, August 2020.

Deep sea fishing boats return to harbour to escape Typhoon Higos. There are widespread reports of forced labour and debt bondage in the deep-sea fishing industry. Migrant workers – typically men – are particularly vulnerable. Issues with regulations of foreign-flagged vessels leaves these workers with few, if any, protections. Photo credit: Luo Yunfei/China News Service via Getty Images.

**In 2015, exposés revealed the exploitation of thousands of fishers aboard Thai fishing vessels in Indonesian waters,<sup>1</sup> which in some cases had been going on for years.<sup>2</sup> While not the first reports of forced labour at sea, nor in Southeast Asian waters, they catalysed awareness of the pervasiveness of this form of modern slavery in the fishing industry. Since then, documentaries,<sup>3</sup> research,<sup>4</sup> and media reports<sup>5</sup> have continued to highlight the plight of those forced to work at sea in many parts of the world.**

Increased focus on modern slavery at sea has galvanised political pressure to reform the regulatory environments which allow high-risk fleets to operate with near impunity.<sup>6</sup> It has also spurred research into innovative methods to improve monitoring of labour practices at sea and intensified demand for seafood imports free of slavery in its supply chains.<sup>7</sup> Yet progress on protecting fishers remains slow and the gains that were made initially have since been offset by the COVID-19 pandemic.<sup>8</sup>

Forced labour in fisheries is driven by the motivation to reduce costs amid diminishing profits, as the industry tries to meet global demand for seafood.<sup>9</sup> The overfishing that results serves to push profits further out of reach of fishing operators and perpetuates a cycle that leaves fishers vulnerable to forced labour. Fishers can be lured into situations of modern slavery by seemingly legitimate employment opportunities, but once recruited find themselves unable to leave due to threats of violence, physical confinement on – and off-shore, withholding of wages, and debts incurred through the recruitment process.<sup>10</sup> Confiscating passports and other identity documents is another means of keeping fishers from leaving situations of forced labour by preventing them from returning home or finding another job.<sup>11</sup> More recently, COVID-19 restrictions have also provided a convenient excuse for controlling fishers' movements.

Protection of fishers requires regulation by governments of flag states, which bear primary responsibility for the conditions in which fishers work and live aboard fishing vessels flying their flags.<sup>12</sup> Other states that have responsibility are port states where fishing vessels refuel and offload their catch and which are authorised to inspect vessels entering their ports, coastal states which have jurisdiction over and licence fishing in their waters, labour source states where migrant fishers are recruited and transit through, and market states that import fisheries products.<sup>13</sup>

### Persistent gaps in legal protection of fishers

While globally there has been progress to improve the legal frameworks that protect fishers, coverage is inadequate. Together, two international legal instruments provide a comprehensive framework for preventing forced labour in the fishing sector – the ILO Work in Fishing Convention, 2007 (No. 188) and the ILO Protocol of 2014 to the Forced Labour Convention, 1930.<sup>14</sup> Only 21 countries have ratified Convention No. 188, which promotes decent working and living conditions for fishers.<sup>15</sup> Of those, only six are among the top 25 countries responsible for producing the greatest marine capture and only two, Spain and Thailand, are among the seven countries deemed to have high-risk fisheries.<sup>16</sup> In 2018 and 2019, the Thai government ratified Convention No. 188 and the Protocol 2014 of the Forced Labour Convention, 1930,<sup>17</sup> becoming the first Asian government to do so.<sup>18</sup> The 2014 Protocol, which requires measures to be taken to prevent forced labour and to identify, protect and provide remedy for victims has been more widely ratified, but still by fewer than half of the top 25 countries responsible for producing the greatest marine capture.<sup>19</sup>

Gaps in domestic labour laws reduce protections for fishers. Fifty-five percent of the 176 countries included in Walk Free's assessment of government response do extend labour law protections to all workers regardless of sector or migration status. Most notably, labour laws in South Korea and Japan – countries with fisheries at high risk of forced labour<sup>20</sup> – lack protection for all fishers. Specifically, in South Korea, labour laws do not extend to migrant fishers<sup>21</sup> and, in Japan, labour laws do not extend to seafarers.<sup>22</sup>

Fishers also have limited recourse to freedom of association or collective bargaining rights. Forty-one per cent of the countries assessed do not provide these rights for all groups, while the majority of countries deny those rights to migrant workers, temporary workers, and, in some cases,

maritime workers specifically. For example, in Thailand, where 90 per cent of the fishing workforce are migrants from Myanmar and Cambodia,<sup>23</sup> migrant workers do not have legal rights to join or form their own unions, a legal gap that advocates assert has impeded progress on addressing labour exploitation among migrant fishers.<sup>24</sup>

Risks of debt bondage and confiscation of passports and other identity documents are inherent to the industry and are not adequately addressed in national laws.<sup>25</sup> Just over one third of countries assessed mandate that recruitment fees cannot be charged to employees and less than a quarter register and monitor recruitment agencies. Further, only a quarter of countries prohibit the withholding of passports in either labour, criminal, or anti-trafficking laws. Even when laws do exist, enforcement in distant waters is a difficult task. Observers who are tasked with collecting information on fishing practices have minimal access to some fishing fleets.<sup>26</sup> Without adequate monitoring, vessels using forced labour can operate with impunity.

## Tackling the demand for seafood with opaque supply chains

Demand-side levers such as import bans have gained momentum in recent years as ways to pressure fishing nations to improve regulation of the fishing sector and to address human and labour rights abuses in the industry. The US and Canadian governments have attempted to prevent seafood produced with forced labour from reaching their markets through existing bans on the importation of goods likely mined, manufactured, or produced by forced labour.<sup>27</sup> This passes responsibility to importers to ensure the goods they bring into the country are at low risk of being produced with forced labour or else risk financial loss as a result of the seizure of these goods.<sup>28</sup> In the US, Withhold Release Orders (WROs) prohibit goods produced by forced labour being imported into the country under Section 307 of the Tariff Act of 1930.<sup>29</sup> In 2021, WROs were used for the first time to ban the import of goods produced by an entire fishing fleet, the Chinese company Dalian Ocean Fishing Co, based on recurring reports of forced labour.<sup>30</sup> As of September 2022, an additional four fishing vessels flagged to Fiji,<sup>31</sup> Taiwan,<sup>32</sup> and Vanuatu<sup>33</sup> had active WROs against them.<sup>34</sup> In 2020, Canada introduced measures to prevent the import of goods produced wholly or in part by forced labour under the Canada-United States-Mexico Agreement Implementation Act.<sup>35</sup> Similar legislation has been proposed in Australia<sup>36</sup> and the EU.<sup>37</sup> While there is insufficient data to understand the long-term efficacy of import bans in stopping forced labour in supply chains, there is some evidence of short-term improvements in corporate behaviour.<sup>38</sup>

Recent measures aimed at tackling the demand for illegal fishing also have potential benefits for human rights at sea, since illegal, unregulated, and unreported (IUU) fishing is associated with forced labour at sea.<sup>39</sup> For example, reforms by the Thai government introduced in 2018 and 2019 in response to the European Commission's 2015 "yellow card," a warning that without improved regulations to address IUU fishing, Thai seafood exports were at risk of European Union sanctions.<sup>40</sup> Reforms included measures to increase transparency of vessel identity, ownership, and fishing behaviours, and the introduction of a system to authorise and inspect vessels entering and leaving Thai ports.<sup>41</sup> These were among the changes that led to the removal of the yellow card against Thailand in January 2019.<sup>42</sup> Reports indicated that some of the measures improved the working conditions of fishers;<sup>43</sup> however, the Thai government subsequently faced criticism for poor implementation of these reforms.<sup>44</sup> Also endeavouring to reduce IUU fishing, World Trade Organization members in 2022 finalised the Agreement on Fisheries Subsidies, which prohibits subsidies to a vessel or operator engaged in IUU fishing.<sup>45</sup> The agreement will take effect and become binding once it is formally accepted by two-thirds of WTO members<sup>46</sup> and complaints are subject to the WTO dispute settlement process.<sup>47</sup>

Governments have also sought to stop the introduction of goods produced by modern slavery from entering their jurisdictions through legislation that encourages the private sector to identify and reduce modern slavery risks in their supply chains and operations and provide remedy where modern slavery is detected. Since 2015, 10 governments have enacted modern slavery legislation<sup>48</sup> and an additional seven governments as well as the European Union are considering such legislation.<sup>49</sup>

**“We met the captain, the ship boss, and the foreman. The boss of the ship wanted to issue a ticket: ‘If you don’t sign it, then you will be homeless here. So, you’re trapped in Peru!’ Finally, there was no more choice, even though I was sick. Due to lack of clean water, my kidneys were sick ... so okay, it’s okay ... I finally signed. ‘If you don’t sign then you won’t be taken home,’ they said.”**

*Indonesian migrant fisher on experiences of intimidation at sea, 2020<sup>50</sup>*

## COVID-19: A convenient crisis. A fisherman’s story.

Angelo\*, from a fishing community in the northern part of the Philippines, was encouraged by his family when he was in his 20s to take a job as a fisher in the Taiwanese fishing industry to supplement his family’s income. As is common among Filipinos looking to work abroad in the fishing industry, Angelo engaged a recruitment agency. Based in Manila, the recruitment agency made all necessary arrangements for Angelo, including sending his monthly salary to his family in the Philippines on his behalf. Angelo did not sign a contract but was told he would earn more than what he was earning as a local fisherman at home. Angelo was employed on Taiwanese vessels for several years and was satisfied with the work. However, without a contract he did not know how long he would be aboard a vessel and sometimes spent more than a year at sea.

In 2018, Angelo, who at the time was in his late 30s, was working on a Taiwanese flagged fishing vessel with a Taiwanese captain and crew from the Philippines, Taiwan, and Bangladesh. The living and working conditions were poor and their salaries were often delayed. Availability of food and water was restricted by the captain and the Taiwanese crew, and they were made to work with little rest. They did not complain due to fear of not being paid.

In 2019, Angelo was informed by his family that they had not received any income from the recruitment agency for three months.

The company that operated the vessel told Angelo and his fellow crew that their pay would be delayed because it was used to fund repairs to equipment aboard the fishing vessel. They were also told that the ship had to wait in international waters, on the boundary of Chinese waters, until the condition of the vessel was verified by a shipping agent from China. Angelo and the crew remained stranded without pay in international waters for five months, during which time the COVID-19 pandemic was declared. Despite the repatriation of other crew members, Angelo and eight other Filipino crew were refused repatriation by the company that owned the vessel and made to stay on the vessel to guard the ship under the command of the Taiwanese captain. Angelo and the Filipino crew continued to make requests for repatriation to the captain of the vessel and were told that COVID-19 restrictions prevented this.

After several pleas from Angelo via social media, welfare organisations and faith leaders based in the Philippines called on the government of the Philippines to intervene. In April 2020, after nine months aboard the fishing vessel without pay, the Chinese authorities facilitated the repatriation of the crew with costs paid by the Philippines government. Angelo never received the salary owed to him. Following repatriation, he was informed that the recruitment agency was unregistered and had illegally recruited him.

*\*Not his real name*

## COVID-19 turning back the clock on transparency and protection at sea

Restrictions to curb the spread of COVID-19 reduced oversight of working conditions aboard fishing vessels and increased opportunities for fishers to be exploited. Pandemic travel restrictions interrupted the rotation of crew at the beginning and end of their contracts.<sup>51</sup> As a result, some vessels were not allowed to dock, which in turn prevented fishers from leaving these vessels and returning home.<sup>52</sup> The inability to change crews led to extended periods on board, sometimes beyond contract end dates, putting fishers at increased risk of forced labour.<sup>53</sup> Towards the end of 2020, some 400,000 seafarers (those involved in fishing and shipping) were reportedly stranded at sea.<sup>54</sup> Because of the pandemic,<sup>55</sup> several regional fisheries management organisations halted the requirement for independent observers to be onboard vessels in their areas of competence.<sup>56</sup> While the purpose was to overcome labour shortages and reduce personnel

on vessels, it also obscured labour practices, limiting opportunities for exploited fishers to be identified and removed from such situations.<sup>57</sup>

While the pandemic saw an increased risk of exploitation, research points towards technological innovations to help address the lack of oversight. Improved vessel monitoring and open-source vessel tracking data can aid observers in maintaining oversight of fishing and labour practices at sea by identifying “risky” behaviour by vessels. Such information can inform enforcement activities and allow targeting of vessels with identified risky behaviour.<sup>58</sup> Automatic Identification Systems (AIS) and Vessel Monitoring Systems (VMS) are two approaches that use satellite tracking to monitor fishing vessels and their activities while at sea.<sup>59</sup> Despite their advantages, VMS and AIS are not used systematically, even by vessels equipped with remote monitoring capabilities.<sup>60</sup> Remote electronic monitoring, such as through the use of onboard cameras, also has the potential to help address the impact of observer shortages as well as reduce the costs associated with monitoring fishing practices and improve observer safety.<sup>61</sup>

## Tech helping to narrow the search

In 2021, Walk Free and Minderoo Foundation's Flourishing Oceans initiative supported Global Fishing Watch in the development of a model that would help reveal the extent of forced labour onboard fishing vessels at sea. Building on recent research that employed a machine learning approach to identify high-risk vessels,<sup>62</sup> Global Fishing Watch researchers trained a model to associate certain behavioural patterns of fishing vessels at sea with a higher risk of forced labour. To do this, they created a comprehensive database of 358 known instances of forced labour at sea between 2012 and 2020. However, only about 80 of these cases could be matched to AIS data — either because most offenders did not accurately broadcast AIS or, in some cases, they intentionally turned off their AIS equipment.

Despite this, the model was able to identify several vessel characteristics that were important in predicting risk of forced labour, including average voyage time, number of voyages, maximum distance the vessel operated from shore, and number of foreign port visits. Through this, more than 3,000 vessels — including longliners, squid jiggers, and trawlers — were identified as potential offenders associated with high risk of forced labour. Additionally, approximately 66,000 individuals, representing 30 per cent of all crew, were estimated to have worked onboard these vessels in 2020. However, the inability to match known instances of forced labour to the AIS data suggests that this may be a considerable underestimation of the scale of the problem.



### Thailand, 2018.

Thailand is a top 5 global seafood producer, with exports reaping over US\$7 billion. But the profitable industry supplying consumers around the world with cheap seafood comes at a high cost to both the environment and to workers. The overwhelming majority of workers in Thailand's fishing and seafood processing industries are migrants from Myanmar, Laos and Cambodia. Labour brokers recruit from vulnerable communities, promising favourable employment in the construction, manufacturing, or agriculture industries. Migrants often incur debt from their recruitment, fees and costs associated with transportation and securing employment in Thailand. These debts are paid off through deductions from workers' earnings with employers and brokers frequently using debt manipulation to inflate the amounts and force people into bonded labour. Photo credit: Freedom Fund.

## Recommendations for governments

**1** All governments must improve the publication and sharing of information on vessels with a history of human rights abuses, including identifying information, vessel behaviours, and details of human rights abuses. This includes developing, supporting, and implementing remote electronic monitoring programs while ensuring crew privacy is protected.<sup>63</sup>

Given the different types of state jurisdiction under international maritime law, the governments of the following states should:

**2** **Flag states:** Ratify and domesticate the ILO Protocol of 2014 to the Forced Labour Convention, 1930 and the ILO Work in Fishing Convention, 2007 (No. 188), and ensure labour laws extend to migrant workers, temporary workers, and maritime workers. These laws must criminalise withholding of passports and other identity documents and guarantee workers full rights to freedom of association and collective bargaining regardless of nationality.

**3** **Source states:** Address the factors that make fishers vulnerable to modern slavery before they leave their country of origin. This includes registering and monitoring recruitment agencies and establishing and implementing laws to ensure workers do not pay fees or are not charged for services provided by recruitment agencies.

**4** **Coastal states:** Use their leverage to protect fishers in their waters by monitoring vessels operating under flags of convenience and refusing access to vessels where forced labour has occurred. Require remote electronic monitoring, such as AIS, to be consistently used to access fishing licences.

**5** **Port states:** Ratify and domesticate the ILO Work in Fishing Convention, 2007 (No. 188). Ensure that port authorities are adequately resourced and trained to conduct inspections of vessels to assess the working and living conditions of fishers and identify indicators of forced labour. This must include survivor support services and enforcement of relevant laws to ensure perpetrators of forced labour are held to account.

**6** **Market states:** Implement measures to address the demand for seafood caught with modern slavery. This includes strengthening existing modern slavery mandatory reporting laws or, preferably, introducing mandatory human rights due diligence legislation. These laws should require action to be taken by businesses to prevent, mitigate, or remediate modern slavery and have financial penalties, including civil liability for non-compliance. Additionally, governments should implement import bans of goods where there is a reasonable belief that these are made with forced labour.