

Forced into Slavery

Working conditions for migrant crew on foreign chartered vessels fishing in New Zealand's waters are nothing short of slavery

Internationally, New Zealand is regarded as having a world-class fishing industry. Yet, for over three decades, forced labour has been a key element of the New Zealand foreign chartered vessel business model (see box). In early 2011, Indonesian crew aboard two South Korean vessels—Shin Ji and Oyang75 - fishing in New Zealand's waters walked off their vessels citing physical, psychological, and sexual abuse by their Korean officers as well as the non-payment of wages.

New Zealand quota holders in New Zealand's exclusive economic zone (EEZ). Twelve of these vessels belonged to South Korean companies.

The 27 vessels were crewed by approximately 2,000 foreign workers, comprising Chinese, Indonesian, Filipino, Ukrainian and Vietnamese nationals. Foreign crew have, in fact, been working on foreign charter vessels in New Zealand waters since 1979, and the events of 2011 were not the first incidence of forced and exploitative labour aboard foreign charter vessels.

In the mid-1990s, accusations were made in Parliament that “what is happening on those ships is nothing short of slavery, and it will continue”. Indeed, over the next 15 years, there were “numerous documented cases of crew members not being paid, being underpaid, having their wages eaten up by agency fees, and being verbally and physically abused”.

Despite efforts introduced in 2006 to address the problem—albeit soft regulation in the form of a Code of Practice—forced labour within the foreign charter vessel sector continued.

We began our research into fishing industry business practices in 2008. In 2009 we identified some unusual features of the foreign charter vessel business model. However, it was not until 2011, when the crew members engaged in industrial action, that we began in-depth research into forced labour practices.

Ongoing research

Our research in this area is ongoing and, in so doing, we respond to the

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The industrial action taken by these crew members became the flashpoint for a sequence of events that would challenge the governance of New Zealand's foreign charter vessel fishing sector. Crew members from other South Korean fishing vessels subsequently engaged in industrial action.

The identification of forced labour conditions aboard South Korean vessels fishing in New Zealand's waters attracted attention from international media, foreign governments, and non-governmental organizations (NGOs). The United States Department of State's “Trafficking in Persons Report 2011” identified New Zealand as a destination country for forced labour in the fishing industry.

In 2011, 27 foreign trawlers were chartered to fish on behalf of

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International Transport Workers Federation call to “raise the profile of the human element of these global industries”. To date, we have interviewed around 300 key informants, mostly crew from 12 foreign charter fishing vessels but also industry personnel. The majority were serving crew, but others had returned home to Indonesia. Some were deserters and hiding from authorities.

We discuss below how the crew obtained work aboard South Korean fishing vessels and became victims of forced labour, before describing the slave-like conditions aboard these vessels. We conclude the article by observing that slavery in the fishing industry is a global problem with bio-sustainability and socioeconomic implications for all nations.

The majority of the Indonesian crew working aboard Korean fishing vessels came from the Tegal region in Central Java, an area characterized by low levels of education, high unemployment and poverty. They are recruited through family contacts and other crew, through recruiting brokers, or directly by manning (recruitment) agents who advertise in local newspapers.

In order to secure work, the fishermen are required to pay the manning agent an application fee of between five to 10 mn Indonesian rupiah (\$550 to \$1100) as well as sign over collateral, which can include land and house titles, education certificates, motorbike titles as well as additional sums of money.

Collateral requirement is expressly prohibited under International Labour Organization (ILO) Conventions 9 and 17, which require the ship owner to pay the agent.

One Jakarta-based manning agent justified the collateral thus: “If the crew run away, Korean agents will claim costs such as air fares from the Indonesian agents and that’s why we need security. It’s hard for us to sell their houses, but with motorbikes they are easy to sell.” Manning agents also used

a bargaining system for prime positions aboard certain fishing vessels. Such positions were given to whoever paid the highest fee.

The manning agents used multiple contracts to recruit crew. The three versions of employment contracts—Indonesian, New Zealand and South Korean—were all significantly different. The Indonesia crew were employed under the Indonesian contract, which clearly specified the fishermen’s base salary as between \$240 and \$500 a month, depending on their qualifications, level of experience and rank. This was well below New Zealand minimum wage entitlements of NZ\$15 an hour at 42 hours a week minimum.

The Indonesian contract also detailed the required level of compliance by the crew towards the officers—crew must remain “completely submissive and obedient”. Significantly, the contract also included a clause setting out the crew’s liability if they break the contract even if seeking refuge from abuse. For example, crew would forfeit their retained wages and be subject to fines between \$2,000–\$10,000. The New Zealand and Korean versions of the contracts, which the crew were unaware of, were

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Unwanted fish, on a South Korean fishing vessel, waiting to be discarded. Crew members often dump fish overboard to reduce the amount of processing

used to meet regulatory requirements in the respective countries.

Moreover, the Indonesian and Korean versions of the contract were unknown to New Zealand officials. The majority of crew interviewees had no recollection of signing either the New Zealand and/or Korean versions of the contract, though, in some instances, they did recall signing documents in another language. In other instances, the signatures on the contract were forged.

Wages were paid through manning agents (often a subcontracted network of linked agents based in Korea and Indonesia), each of whom took a deduction for dubious insurance and operational fees. The families did not receive the first three to six months of pay as this was

retained by the manning agents as part of their fee. crews aboard the majority of Korean foreign charter vessels, including inhumane punishments and the beating of crew members by the officers for often unprovoked reasons. “While eating lunch, the bosun put a rice sack over my head and punched the back of my head until I had trouble breathing,” said one interviewee.

One crew member newly arrived aboard the vessel was required, after his shift had finished on deck, to work below deck to help size fish. Untrained, he asked a fellow crew member to explain how to do this. For talking, his mouth was taped over with packing tape by the factory manager. Crew members aboard many South Korean fishing vessels were subject to indecent assaults, unwanted touching and groping as well as incidents of repeated rape.

Aboard one vessel, an Indonesian crew member reported being repeatedly raped by a South Korean officer. When asked why he never complained, he said “no one would listen”. Another crew member suffered the sexual abuse in order to save his friends from the same treatment. He recounted: “I was angry, I was embarrassed but he is the master of the boat and I was powerless”. He returned home before his contract was complete because he could no longer endure the sexual abuse. For breaking his contract, he was fined 15 mn rupiah (\$1536) by the manning agent.

When the slave-like conditions aboard the Korean foreign charter vessels became public in 2011, the South Korean and New Zealand governments were quick to respond. In July 2011, the New Zealand government announced a ministerial inquiry into the foreign charter sector.

Reflagging

One outcome of the inquiry was the requirement that all foreign-flagged fishing vessels be reflagged as New Zealand vessels by 2016, meaning that foreign crew would come under New Zealand employment relations, and workplace health and safety law.

Our findings revealed unrelenting and violent subjugation of Indonesian crews aboard the majority of Korean foreign charter vessels...

retained by the manning agents as part of their fee.

Agents also retained part of the wages to be paid to the fishermen after completion of their contract—in some instances, the retained portion of the wages may be held for up to two years or not paid at all.

On average, crew worked 16 hours a day, seven days a week for the duration of their one- or two-year contract. One interviewee recounted working a 53-hour shift while others described working long shifts to the point they begged for a break or fell asleep while working. In some instances, crew members deliberately dumped fish overboard in order to reduce the amount of processing so they could take a break. They were regularly required to sign false timesheets, regardless of the hours worked, and they did so out of fear of abuse and blacklisting.

Our findings revealed unrelenting and violent subjugation of Indonesian

Box


Foreign vessel charter model

Foreign fishing vessels have been fishing in New Zealand waters since the early 1930s. Following the establishment of New Zealand's EEZ in 1977, the government approved the use of joint ventures (JVs) as a short-term measure until New Zealand companies developed capabilities to properly utilize the EEZ themselves. Foreign JV partners provided funding, deep-sea vessels and market access, while New Zealand partners provided fishing quota. In 1978, the government approved 22 JVs and a further four in 1979. Others followed.

- The JVs were structured in different ways. The most common was a catch split between the partners, with the vessel-operating risks shouldered entirely by the foreign partner. In 1979, South Korea's Oyang Corporation was in the first wave of charter vessels to arrive. The New Zealand JV company chartered the *Oyang 3* and *Oyang 5*. By 1981, the number of foreign chartered vessels fishing in New Zealand waters had grown to 97 and, at its peak in 1999, over 3,900 work visas were issued to foreign fishing crew. Over time, the JV model morphed to a 100-per cent New Zealand-owned charter company model.

Currently, there is a variety of charter arrangements, but, in the main:

- Quota holders or charter companies enter into an arrangement, largely on a time charter basis, with foreign fishing companies, to fish quota.
- Foreign fishing companies provide the fishing vessel fully crewed and the profits from catches are split between the foreign fishing company and the New Zealand quota holder or charter company.
- While the vessel acts under instruction from the New Zealand charterer, possession and control of the vessel and crew are retained by the vessel owner.
- The foreign charter model is based on maximizing catches, coupled with the stripping of costs, and, thus, the use of low-cost legacy technology and the use of migrant labour are central to this model. Catch is manually gutted aboard the vessels.
- The bulk of catch is exported to Asian countries where it is reprocessed into twice-frozen product before being re-exported to North American and European markets.
- Employment of New Zealand citizens aboard the foreign vessels is not a requirement.
- As foreign crew members enter into employment contracts with the vessel owner, they, *inter alia*, fall outside the jurisdiction of New Zealand health and safety and employment laws. Foreign crew are exempt from income tax and accident compensation levies and, furthermore, do not receive any employment entitlements such as redundancy provisions, sick pay or holiday pay.
- In 2012, there were 25 foreign charter vessels manned by some 1,500 foreign crew in New Zealand's waters.

In respect to working conditions for migrant fishing crew, at the international level, New Zealand has yet to ratify the Maritime Labour Convention (2006), the Work in Fishing Convention (2007), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990). 

In the interim period, crew will be protected through monitoring and enforcement. Another outcome of the inquiry was the move by New Zealand Immigration to introduce policy changes requiring wages to be paid into crew members' New Zealand bank accounts as opposed to being paid to manning agents.

However, while there have been some improvements to crew wages, in the main, operators have circumvented the new immigration regulations.

In May 2012, the South Korean government launched an intergovernmental investigation into the claims of ill-treatment and

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A South Korean vessel fishing in New Zealand's waters. Forced labour has been a key element of the country's foreign chartered vessel business model

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abuse of crew from the *Oyang 75* trawler. Their findings confirmed human-rights abuses, physical and sexual abuse, non-payment of wages and forgery of documents.

The case was referred to the Busan Regional Public Prosecutors Office for prosecution of physical abuse, sexual assault and criminal activities, including counterfeiting and breaches of the Seaman Act. However, the Prosecutors Office did not proceed with prosecuting the Sajo Oyang Corporation because Sajo Oyang submitted 'Confidential Settlement Agreements' and 'Petitions' signed by many of the Indonesian crew complainants stating they "withdraw any complaints and allegations of any kind made to any government agency".

In addition, they had signed powers of attorney to a Sajo Oyang Corporation manager for the "attainment of the foregoing objective". The settlement agreements included a provision for the crew to be paid several thousand dollars "for the work already done".

Despite undertakings by both governments, to date no one has

been prosecuted for the physical and sexual abuse that many crew members suffered aboard South Korean fishing vessels. The only prosecutions have been those taken against the officers of several Korean vessels by the New Zealand Ministry of Primary Industries for environmental offences, including the dumping and under-reporting of fish catch. Officers of one vessel have been convicted of fish dumping, and two other cases are pending.

The fishing industry is one of the most unregulated industries globally, and slavery in this industry is a global reality with biosustainability and socioeconomic implications for all nations. Increasingly, more research is being undertaken on this issue, and we are extending our own research beyond New Zealand.

IOM report

A report released by the International Organization for Migration (IOM) and the NEXUS Institute detailed how Ukrainian fishermen were "led through a calculated maze into a world of imprisonment at sea, backbreaking labour, sleep

deprivation, crippling and untreated illness, and, for the least fortunate, death. These men, seeking honest work at sea, ended up on slave ships”.

Elsewhere, research found that Filipino men had been trafficked—sometimes for years—into the long-haul fishing industry through Singapore. More recently, in May 2013, a Taiwanese woman was charged in a Cambodian court for trafficking around 700 Cambodians to work in slave-like conditions on fishing vessels.

Despite the increased research, much more needs to be done. Forced labour does not occur only on developing nations’ vessels. Recently, a foreign crew member aboard a New Zealand-flagged vessel not only described his appalling working conditions, but also alleged his New Zealand managers had told crew if they said anything bad about management, “we will be floating in the water”.

Moreover, information gleaned from numerous foreign crew members suggests that human-rights abuses, forced labour and human trafficking are much more widespread in the fisheries industry than is suspected. They go hand-in-hand with other illegal activities, such as corruption, illegal, unreported and unregulated (IUU) fishing, dumping of fish and the discharge of toxic pollutants into the sea.

Thus, its impacts on the biosustainability and socioeconomic sustainability of fisheries worldwide can have devastating and far-reaching consequences, particularly for small-scale fisheries nations.

Ultimately, as US President Barack Obama told the Clinton Global Initiative on 25 September 2012, “around the world, there’s no denying the awful reality. When a man, desperate for work, finds himself...on a fishing boat... working, toiling, for little or no pay, and beaten if he tries to escape—that is slavery...it is barbaric, and it is evil, and it has no place in a civilized world. Our fight against human trafficking is one of the great human-rights causes of our time”.

For more



docs.business.auckland.ac.nz/Doc/11-01-Not-in-New-Zealand-waters-surely-NZAI-Working-Paper-Sept-2011.pdf

‘Not in New Zealand’s waters, surely? Labour and human rights abuses aboard foreign fishing vessels’

www.indcatholicnews.com/news.php?viewStory=22613

Forced labour in shipping and fishing industries still an issue

slavefreeseas.org/updates/

Slave free seas