

# Being Worker-friendly

The plight of fishworkers on board vessels engaged in commercial fishing operations calls for regulating their conditions of work and providing protection benefits

Concern over the conditions of fishworkers on board commercial fishing vessels was thrown into high relief in the Philippines in 2018. This was during a series of consultations that sought out small-scale fishers and fishworkers on the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Guidelines). Fishworkers who

Forms of penalty, on the other hand, may be in the form of withholding of wages, confiscation of travel or identity documents, and physical violence, among others.

The Expanded Anti-Trafficking Act of 1992 in the Philippines defines forced labour as the extraction of work or services from any person by means of enticement, violence, intimidation or threat, use of force or coercion, including deprivation of freedom, abuse of authority or moral ascendancy, debt bondage or deception, including any work or service extracted from any person under the menace of penalty.

Forced labour becomes Trafficking in Person (TIP) or a mode of committing TIP when all elements of forced labour are present and there is internal movement or cross-border migration. In the context of commercial fishing, this may happen when a person is recruited to work as a crew member on a commercial fishing vessel but through machinations and misrepresentation of the recruiter, the victim ends up working under abusive labour conditions.

## Labour exploitation

A study on the supply chain of tuna in the Philippines identified the presence of indicators of forced labour and factors that increased workers' vulnerability to labour exploitation. The study highlighted the plight of fishworkers both in capture fisheries—using handlines and purse-seines—and in the processing industry. It showed that these workers face exploitative conditions such as induced indebtedness; lack of contracts or written agreements on the conditions of work; lack of a grievance redressal mechanism and blacklisting in case they complain about their situation;

are employed or made to work in such vessels venturing into distant waters are prone to abuse in view of the distance and the physical impossibility of monitoring their activities while at sea. It is estimated that about 250 million people are employed in the global seafood industry; a majority of them come from developing countries. In 2016 a widespread occurrence was reported of forced labour in 47 countries, including the Philippines.

Forced labour refers to all work or service exacted from any person under the menace of any penalty—and for which the said person has not offered himself or herself voluntarily. Thus, forced labour has the element of involuntariness on the part of the victim, under pain of penalty, to him or her to perform an involuntary service.

The International Labour Organization (ILO) lays down indicators of involuntariness. They include recruitment linked to debt, deception about the nature of the work, and induced indebtedness, among others.

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This article is by **Dinna L. Umengan** ([dinnaumengan@yahoo.com](mailto:dinnaumengan@yahoo.com)), Executive Director, Tambuyog Development Center, Philippines



Harvest from small boat (ringnet) being hauled by fishworkers in Mulanay municipality, Province of Quezon in Luzon island, The Philippines. There is a need to organize fishworkers on board fishing vessels, particularly those who are working on small and medium commercial boats.

deception about the legality of a particular voyage, leaving them with no opportunity to give their consent; and/or hazardous work and low earnings due to lack of transparency on the part of the financier's process of determining the earnings. Workers in the purse-seine fishing also experience under-payment of wages and isolation due to longer fishing trips, compared to handliners.

Department Order 156-16 was issued by virtue of the rule-making power of the Secretary of Labour under the Labour Code of the Philippines. It is a big step in the right direction in regulating the conditions of work of fishworkers and in providing protection and benefits to them. Implementation of the new law needs to be monitored.

Statistics for 2016 from the Food and Agriculture Organization of the United Nations (FAO) indicated that the Asian

region contributed the largest number of fishers and fish farmers compared to other regions of the world, with a total of 87 per cent people employed in the sector. This includes those engaged in various fishery sub-sectors, either part-time or full-time, and regardless of their scales of engagement. In recognition of the importance of fishers and workers in the fisheries sectors, the Southeast Asian countries have been confronted with pressing concerns on the need to combat illegal, unreported and unregulated (IUU) fishing associated with labour-related issues, as well as on the status of people engaged in fishing and related activities in the region.

The increasing demand for workers in the fisheries sectors to serve the needs of international trade in Southeast Asia resulted in large numbers of migrant workers getting on board to seek work opportunities in other countries,

and also large groups of workforce moving from one country to another. Those countries that employ these workers, therefore, need to pay serious attention to addressing the issues and concerns in fisheries labour, especially the allegations that these workers receive low wages; have inadequate or no social security; are unskilled in relation to fishing operations; receive inadequate training before working on board fishing vessels; are unaware of the requirements for safety at sea; possess fake or no legal documents; are subjected to forced labour, child labour and human trafficking; experience poor working conditions and unfair treatment by employers; and that some fishing vessels do not comply with sea-safety requirements.

On November 16, 2017, the ILO Work in Fishing Convention (C188) came into force. It sets the basic standards of decent work in the fishing industry and provides effective protection to about 38 million people who work in the sector. It is intended to prevent, among others, all unacceptable forms of labour for fishers, such as human trafficking, forced labour and other abuses. This landmark convention underwent a tedious process of negotiations, dialogues and consultations among States, employers, operators and civil society organizations (CSOs), including a number of fishers' organizations.

Though the Philippines has yet to ratify the C188, the Department of Labour and Employment (DOLE) issued the Department Order No. 156-16 Series of 2016; this came into force on July 1, 2016. It provides the rules and regulations governing the working and living conditions of fishers on board fishing vessels engaged in commercial fishing operations.

Preventive measures against TIP in the fisheries context is addressed by DO 156-16, albeit limited to fishworkers on board commercial fishing vessels with Philippine registry operating within or outside Philippine territorial waters. It is aligned with ILO C188 in providing protection to fishers, including fishworkers. It provides the normative regulations and standards on Estimated Energy Requirement (EER), compensation and

benefits, occupational and maritime safety, grievance mechanisms and post-employment benefits such as repatriation, among others.

These provisions are intended to reduce—if not eliminate—exploitative labour practices that tend to increase the vulnerabilities of fishworkers while on a fishing voyage. The Department Order is still in its infancy; its implementation has yet to make a dent on the improvement of the working conditions of fishworkers. Owners of handline fishing vessels and the fishers in the tuna-rich area of General Santos City put forward a proposal to the Department of Labour and Employment (DOLE) during the Tuna Handline Summit held in 2018 to further study the possibility of another similar policy issuance that would reflect more of their context and apply flexibilities as they have a smaller scale of operations unlike the handline boats that are vertically integrated in the supply chain and are owned by big fishing companies.

When Thailand ratified C188 in 2018, it became the first Asian country to do so. With the current problems besetting fishworkers and the lack of coordination among agencies, it is high time for the Philippines to work towards C188 ratification. It might be worth looking at how to make use of its flexibility clauses and negotiate with both companies and workers.

Compliance to these standards by members states are, however, subject to certain flexibilities. This is to bridge the gap in terms of implementation and compliance by member states on account of the diversity in fishing operations, capacity and infrastructure available to member countries in complying with the rules and regulations of the convention. It is also intended to facilitate widespread ratification by member states.

### Three modes

There are three modes of flexibilities provided under ILO Convention 188: One, exclusion possibility. A member state may seek exclusion from complying with certain provisions of the convention after consultation by the competent authority with the representative organizations of

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Tuna handline fishers getting ready to go out to sea in Mindoro Occidental, The Philippines. A study on the supply chain of tuna in the Philippines identified the presence of indicators of forced labour and factors that increased workers' vulnerability to labour exploitation

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employers and workers concerned, and, in particular, with the representative organizations of fishing vessel owners and fishers. This exclusion covers only inland fishing vessels or limited categories of fishers or fishing vessels. An example cited by ILO is the progressive implementation of certain requirements, such as the written work agreements between the fishers and fishing vessel owners or their representatives, while still requiring small vessels to carry basic first aid kits and to meet many other requirements of the Convention.

Two, progressive implementation. Where it is not immediately possible for a member state to implement all of the measures provided for in this convention, owing to special problems of a substantial nature in the light of insufficiently developed infrastructure or institutions, the country may, in accordance with a plan drawn up in a consultation, choose to progressively implement all or some of the following measures:

- Require fishers to work on board a fishing vessel without a valid medical certificate attesting to fitness to perform their duties.
- Require fishers to work on board a fishing vessel without a valid medical certificate with respect to vessels remaining at sea for more than three days.
- Require every fishing vessel to submit a crew list to authorized persons ashore prior to departure of the vessel, or communicate it ashore immediately after departure of the vessel.
- Execute a written contract between the fisher and fishing vessel owner or the latter's authorized representative or produce any evidence of contractual or similar arrangements where fishers are not employed or engaged by the fishing vessel owner, which provides for decent work and living conditions on board the vessel.
- Conduct risk evaluation in relation to fishing, as appropriate, with the participation of fishers or their representatives.
- Provide fishers with protection for work-related sickness, injury or death, and ensure a system for fishing vessel owners' liability; or provide for compulsory insurance, workers' compensation or other schemes in accordance with national laws and regulations.

This flexibility does not apply to certain fishing vessels on account of their size, length and distance of voyage at sea, and their port state control.

Three, substantial equivalence. Member states may provide alternative measures in complying with certain standards on manning a fishing vessel for safe navigation and control, rest periods of fishers, and compensatory periods of rest, provided that the safety and health of the fishers are not jeopardized. Likewise, a member state not in a position to implement the provisions found in Annex III on Fishing Vessel Accommodation may, after consultation, adopt provisions in its laws and regulations or other measures which are substantially equivalent but subject to certain limitations:

- Responsibilities of fishing vessel owners: A fishing vessel owner means the owner of the fishing vessel

The integration of a human rights-based approach in the development planning for the fisheries sector must be explored. This can pull out fishworkers from invisibility, not only in terms of target beneficiaries of the programmes and projects of the local and national governments but also as claimholders for the specific remedies they need as potential or actual victims of TIP. The Bureau of Fisheries and Aquatic Resources (BFAR), for instance, as the primary agency under the Department of Agriculture that regulates commercial fishing, can include compliance with labour standards by commercial fishing vessel operators as a ground for the cancellation or non-renewal of licences. It can also require fishworkers to undergo human-resources (HR) education awareness training before issuing their licence as a fishworker, similar to the Pre-employment Orientation Seminar (PEOS) or the Pre-Departure Orientation Seminar (PDOS) being carried out by the Philippine Overseas Employment Administration (POEA). This can be done in partnership with the Commission on Human Rights and DOLE. The HR education and awareness raising may provide impetus for fishworkers to organize as an association bound by the desire to protect both their individual and collective rights.

### **Urgent need**

There is an urgent need to organize fishworkers on board fishing vessels, particularly those who are working on small and medium commercial boats. Workers on board large commercial vessels have long been organized into trade unions. In General Santos City, owners of smaller boats who operate domestically are more organized, compared to their fishworkers. The voice of these workers are being heard through the boat owners and operators. Women and community members can be organized as support groups and advocates to push for expanded labour and social protection of workers and their families. Actions could start from increasing the community awareness on laws that protect their rights and promote their welfare, and conducting more in-depth socio-economic studies

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or any other organization or person, such as the manager, agent or bare-boat charterer, who has assumed the responsibility for the operation of the vessel from the owner and who, on assuming such responsibility, has agreed to take over, in so far as it applies to vessels remaining at sea for more than three days.

- Medical care, health protection and social security: Article 10 does not apply to fishing vessels which are, one, 24 metres or longer in length; two, remain at sea for more than seven days; or three, normally navigate at a distance exceeding 200 nautical miles from the coastline of the flag state or navigate beyond the outer edge of its continental shelf, whichever distance from the coastline is greater; or four, are subject to port-state control as provided for in Article 43 of the Convention, except where port-state control arises through a situation of force majeure.

that capture the nuances of the scale and operations of small- and medium-scale boats.

Further study on the nature of indebtedness among fishworkers should be conducted to better understand the nature in which they become victims or are exposed to the dangers of debt bondage and forced labour. This can be correlated with the nature of sharing of income and expenses as practised by the different types of commercial fishing operations.

Policies on environment protection and conservation should integrate social and labour protection of fishers and workers. The long-standing global problem of decent work deficit in fishing, such as unprotected work, human trafficking and slave labour, is also tied up with the global problem of IUU fishing and trans-shipment at sea. Thus, policy reforms in environment protection and conservation of national and global fisheries should integrate social and labour protection of fishers. Other international non-binding instruments relevant to fishing would be helpful in developing international norms founded on providing decent work to fishers through advocacy and engagement, which must be observed at the national and international level. Eventually, this will help broaden the adoption of ILO Cr88 and create ripples that will comprehensively address the labour abuse and exploitation in the fishing industry.

Certification or ecolabelling of fishery products is a market-based trade measure to bring about improved fisheries management in response to the overexploitation and depletion of global fish stocks. Certification refers to the procedure “by which a third party gives written or equivalent assurance that a product, process or service conforms to specified requirements. Ecolabelling schemes entitle a fishery product to bear a distinctive logo or statement which certifies that the fish has been harvested in compliance with conservation and sustainability standards. The logo or statement is intended to make provision for informed decisions of purchasers whose choice can be relied upon to promote and stimulate the sustainable

use of fishery resources”, according to the United Nations Environment Programme (UNEP).

According to a UNEP study, the improvement in fisheries management through certification could have a positive outcome not only for the environment but it could also significantly address the problem of poverty and food security by ensuring the sustainability of the fish stocks, particularly in developing countries, where small-scale fisheries provide a staple livelihood.

Certification is a tool for norm development and enforcement of standards that have proven to be effective in drawing the support of end-users and consumers. Thus, these market-based initiatives are potential tools to improve and change the behaviour of corporate and private players in the fishing industry in terms of addressing the labour conditions of fishers.

Recently, the Marine Stewardship Council (MSC) has announced an overhaul of its certification process which includes a new requirement that MSC-certified fisheries declare they are free from forced labour and child labour. In the southern Philippine island of Mindanao, an NGO is partnering with an association of fishers to push for the labelling of tuna products as “worker-friendly”, instead of using the usual “environment-friendly” label. ↴

#### For more



##### Seeing slavery in seafood supply chain

<http://advances.sciencemag.org/content/advances/4/7/e1701833.full.pdf>

##### Research on Indicators of Forced Labor in the Philippines Tuna Sector

[https://www.verite.org/wp-content/uploads/2016/11/Research-on-Indicators-of-Forced-Labor-in-the-Philippines-Tuna-Sector\\_\\_9.16.pdf](https://www.verite.org/wp-content/uploads/2016/11/Research-on-Indicators-of-Forced-Labor-in-the-Philippines-Tuna-Sector__9.16.pdf)

##### Social Responsibility in the Global Seafood Industry: Background and Resources.

[http://www.fishwise.org/traceability/Social\\_Responsibility\\_White\\_Paper](http://www.fishwise.org/traceability/Social_Responsibility_White_Paper)  
<https://www.fishwise.org/traceability/social-responsibility-white-paper>, accessed 20 July 2018

##### United Nations Environment Programme (UNEP), Certification and Sustainable Fisheries, 2009.

[https://wedocs.unep.org/bitstream/handle/20.500.11822/23019/Certification\\_Sustainable\\_Fisheries.pdf?sequence=1&isAllowed=y](https://wedocs.unep.org/bitstream/handle/20.500.11822/23019/Certification_Sustainable_Fisheries.pdf?sequence=1&isAllowed=y) accessed 28 August 2018