

Better Governance

Better maritime governance can enable a fair deal to offshore tuna fisheries' workers of small island Pacific States who labour under a difficult working environment

Better governance in offshore tuna fisheries can achieve fair dealing for fishery crew. In this article I paint a rough picture of what it is like to be a fisher on some—not all—longline fishing vessels for weeks or months at a time. I also explore the measures in place to protect the fishery resource. And finally, I identify 'small' matters that, if taken up, would go a long way to protecting the fishers and raise the status of the fishery.

Mr Able Seaman's story, published in 2010 in the *Pacific Community Fisheries Newsletter*, drew my attention to the work conditions of deckhand fishers in the Pacific's regional longline fishery. He talked about the work he and others do as crew on Distant Water Fishing Nations' (DWFN) vessels in the Pacific tuna fishery. Mr Able Seaman wrote that being employed by a foreign vessel fishing in the Pacific waters felt as if he were fishing in foreign waters because foreigners were working Pacific Islander crews almost to slavery in their own backyard, and that no Pacific politicians had taken any initiative to check on the working environment, treatment, and salaries made to their countrymen who risked their lives for such little money to be able to feed their families back home. Mr Able Seaman declared that anything could happen to the crew on those foreign vessels and that nobody would be able to tell what really happened.

That 'nobody would be able to tell what really happened' is true, because what happens at sea remains at sea, an area comprising 20 per cent of the Earth's surface.

Ian Urbina's book *The Outlaw Ocean* (2019) comes alive in the Pacific Convention Area, although it is uncertain whether abuses here are at the level of his discoveries. Nevertheless, in casual enquiries spanning six or seven

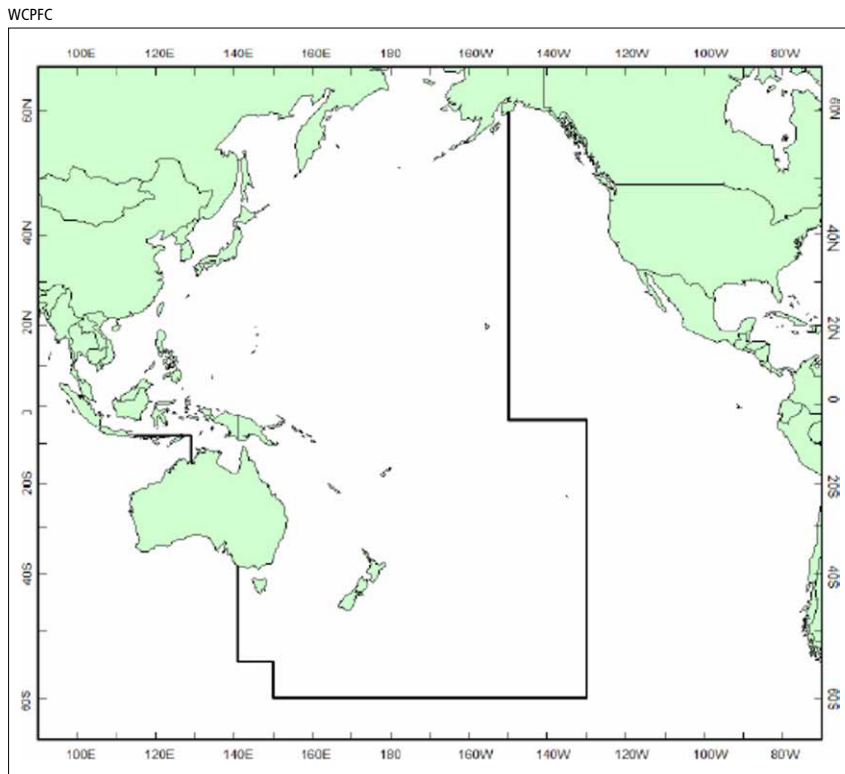
years, I have been told many first-hand accounts of injuries and deaths – such as a man with scars on his back from being savaged by the captain's dog; of men being beaten by the captain and later dying; of men drunk from lack of sleep, one of them falling into the fish hold and breaking his arm (and made to continue working) and another mistakenly standing on the mainline during hauling and subsequently being dragged overboard and drowned when the line wrapped around his ankles; of men made to jump overboard in the night and unscramble the mainline from the propeller while sharks were feeding on the hooked tuna nearby, one of the men later dying; of men being chased by crew on board (often

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Chinese) with knives or kitchen chopper and being seriously injured or killed; of a captain forcing men to fight to the death and then killing the winner; of men transshipping tuna on a flimsy wooden raft as sharks circled them, or being themselves transferred by swimming; and I've met a man with no fingers because of frostbite caused by being made to work an hour in the minus 30-degrees fish hold without proper Personal Protective Equipment. And accidents – losing an eye from a marlin spear; another from a fish hook; another from the snapped mainline; of deaths from septicemia caused by either accidents or beatings. And there are more

Who are these fishers? They are men looking for a job—any job—

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The Convention Area of the Western and Central Pacific Fisheries Commission (WCPFC). The recorded tuna landings from the WCPFC Convention Area for 2021 amounted to 2.6 million tonnes, representing 54 per cent of the global tuna catch

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to provide for themselves and their families, young men picked up off the streets in need of work, men who left school at primary or early secondary level, targeted by recruiters, and often men who believe they are unworthy.

If only they knew how essential they are. The longline fishing industry relies on lower-level crew to feed out and bait the line, haul it in, take off the

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fish, gut, clean and stack it and, at the end of the voyage, offload it.

Working conditions for lower-level crew on fishing vessels are generally (but not always) poor, smacking of forced labour and human trafficking. Often (but not always) there are no work contracts, very low wages, and US\$11-

14 per day is common; no payment is made for overtime which often is half of each day’s work, no medical check-ups, no accident insurance, no checking of documents, no seafaring certificates as required by the International Maritime Organization (IMO), working hours averaging 14-16 each day, usually poor and accommodation, sometimes having to bathe in seawater, and sometimes limited or dirty drinking water.

Pacific Islander crew on longliners are subject to at least six of the International Labour Organization’s (ILO’s) eleven indicators of forced labour: abuse of vulnerability (needing the money); deception (sometimes, with respect to promised wages); intimidation and threats; retention of identify documents; abusive working and living conditions; and excessive overtime. Another indicator, isolation, applies if workers do not have anybody else on board who shares their language.

There is the Western and Central Pacific Fisheries Commission (WCPFC), established in 2004. It has 26 members, seven participating territories, and nine co-operating non-members. The Commission manages the Convention Area and works by consensus. Independent organizations associated with the WCPFC are the Secretariat of the Pacific Community (SPC) for stock assessment; the Pacific Islands Forum Fisheries Agency (FFA) for licensing; the Parties to the Nauru Agreement (PNA), a consortium of eight Pacific Islands Nations in the west of the CA; and the Te Vaka Moana Arrangement, a group of easterly Pacific Island States.

There is no doubt that the WCPFC, the PNA and the Te Vaka Moana Arrangement support the Blue Economy because they aspire to the sustainable use of ocean resources for economic growth and ocean ecosystem health. The recorded tuna landings from the WCPFC Convention Area for 2021 amounted to 2.6 million tonnes, representing 54 per cent of the global tuna catch. To ensure that fishing entities in the Pacific CA do not overharvest the tuna resources, nor upset the health of the ocean ecosystem, the Commission does make rules – such as against illegal, unreported and unregulated (IUU)

fishing; on transshipping; on reporting of the catch; on catch quotas; and on protection to whale sharks and other sharks. Furthermore, the FFA maintains a 'Vessels of Good Standing' register.

To demonstrate his assessment of the current state of global maritime governance, the Indonesian Ambassador to the Federal Republic of Germany, Arief Havas Oegroseno, used a simple line drawing of balloons during a 2021 Archipelagic and Island States Webinar on the topic of 'Maritime Governance and the SDGs'. He was highlighting the existing fragmentation within the international institutional framework of specialized agencies. Ambassador Oegroseno's delightful allegory showed that as the balloons drifted above the world's oceans making decisions and pronouncements and jostling for position, below them vessels continued to fish unhampered, unreported and unseen. In my view, his simple drawing captured the story of fishing in the world's oceans.

"Lax rules and a maritime bureaucracy [are] designed more to protect anonymity and secrecy of ship owners than to enable oversight and transparency of the industry," said Ian Urbina, author of *The Outlaw Ocean*. And in the *SPC Women in Fisheries Information Bulletin Issue 34, 2021*, the World Wildlife Fund for Nature stated "Maritime regulations that could address these issues are also in place; however, implementation and enforcement of existing regulations have not been effective" and that "Research into deceptive and coercive labour practices in the fisheries sector is not comprehensive or coordinated."

Hundreds of people attend the Commission's annual meetings: for five or six days, they discuss the state of the resource, vessel numbers and how to manage them, and also the ocean environment. This is understandable. Small Pacific Island nations have few saleable resources other than tuna (and tourism); foreign fleets wish to harvest the tuna in the nations' EEZs so they pay access fees; those fees mean a lot to the economies of small island nations. And the companies seek to maximize profits at the lowest cost. Fishing operations are very expensive (especially

without subsidies) and any savings are worthwhile, including those on crew. As identified earlier, cost-cutting on the crew results in poor working conditions for crew and forced labour. Only in recent years have vessel crew been discussed briefly at Commission meetings—and even though the vessels cannot catch the fish to sell without crew. There's no money in people.

Fisheries observers are an example. The Commission established the Regional Observer Programme (ROP), the overarching body in charge of deploying trained observers to independently monitor tuna catches and determine whether companies' vessels are adhering to management rules. Single observers placed on vessels are in a precarious situation because they are watching and recording what goes on. Every so often, one of them 'goes missing'. Initially, there is a flurry of concern – which shortly fades. Liz Mitchell of the Association of Professional Observers, remarked to a newspaper reporter that "[Observers] are ... like an afterthought—more of a tool than a human being." For at least 10 years, the Commission has been dithering on whether to insure the observers, even though more than 10 observers have been lost since 2009:

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no charges were laid and, usually, no compensation was paid; the particular vessels keep on fishing.

If observers are treated as 'more of a tool than a human being', then think how lowly are regarded the crew. It's all a matter of money, which is understandable. And that's just how it is.

ILO Convention

Fishing vessels are not covered by ILO's Maritime Labour Convention, 2006 (MLC), which has rules for crew wages, hours of work, accommodation and safety. Even so, six countries (France, Italy, Spain, Nicaragua, Estonia

and Nigeria) have incorporated the Convention into their own legislation. The Pacific CA could do the same.

The IMO's 2012 Cape Town Agreement sets internationally-agreed minimum standards relating to the safety of sea-going fishing vessels through the design, construction and equipment of fishing vessels 24 metres or more in length. Requiring 22 States' signatures, as of July 2023, 17 States are party to it. Although the safety measures in the Agreement primarily apply to new fishing vessels operating outside of territorial waters, a few provisions apply to existing fishing vessels (such as life-saving equipment, emergency procedures and communications).

The ILO's Work in Fishing Convention, 2007 (No. 188) is a 'replacement' for the MLC when it comes to fishing vessels. It is in force but no Pacific Islands nation, nor Pacific rim nation, has accessed nor ratified it.

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(The C 188 is operational in Pacific French territories). South Africa is one nation that has ratified the Convention and the effect of its ratification was well-demonstrated by the seizure of the Taiwanese vessel *Fuh Sheng 11* in May 2018.

FAO's 1995 Code of Conduct for Responsible Fisheries is a voluntary instrument that sets international standards of behaviour for responsible fishing practices.

However, the FFA's Harmonized Monitoring Terms and Conditions (MTCs), revised in 2019, have good potential. FFA has used these terms and conditions to better regulate working conditions on fishing vessels that operate in the waters of the Pacific Island Countries. Derived from ILO's C 188, the MTCs first section lists standards C 188 regulating employment, vessel safety and crew numbers, which should

be applied to foreign vessels wishing to be listed in the FFA's 'Register of Good Standing'. Registration in this is a precursor to being granted, or retaining, a licence to fish in member countries' EEZs. The second section of the MTCs provides minimum requirements for crew employment contracts.

This all seems too good to be true! However, the MTCs depend on member countries adjusting their local laws, engaging in discussions and training, and co-operating with other member States in sharing information (such as identifying foreign vessels in breach of the MTCs). Yes, there's the rub!

International markets are another effective way of improving employment and working conditions of crew and I suggest they might be the only reason the topic of crews' work conditions has made its way to the agendas of recent Commission meetings. In August 2021, US Customs & Border Protection placed a Withhold Release Order on the Fiji vessel *Hangton 112* on suspicion of forced labour, as it has done for four or five other fishing vessels and/or companies such as Dalian Ocean Fishing Company. The market can prove to be a very effective means of improving crew conditions, so long as these are reported.

In recent years the Marine Stewardship Council (MSC) has questioned individual MSC-certified fisheries on whether they ensure that child labour and forced labour are not practised on certified vessels. While this step is commendable, it needs better oversight because our experience is that the response of at least one Pacific Island State to the MSC's request is somewhat imaginary.

Three actions can be taken up at local levels. They are:


- * all member States ratifying the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F) and subsidizing crew to at least be certified to Basic Sea Safety level, ensuring that only certified crew man the vessels;
- * member States addressing the level of crew wages, guided by the recommendations of the

International Transport Workers' Federation (ITF) and MLC; and

- * better licensing and monitoring of recruiting agents. Indonesia has worked on this. A register of accepted (licensed) agents could be incorporated in the FFA's register of Vessels of Good Standing.

A minor house-keeping matter in addition to the above could be useful: monitoring the expiry dates of licences to ensure that all vessels on the commission's vessel register are current.

A final recommendation is to have real-time reporting of fisher transfers. So often, crew lists are hard to come by, and fishers are not checked off at ports of entry, which means that there is no record of whether a missing (or dead) person was on a particular vessel, or was transferred and, if so, to which vessel. If crew lists were made and checked, and crew transfers reported well and recorded under real-time Internet service available to vessels, the whereabouts of every crewman would be known at any date and time.

The last word surely belongs to Mr Able Seaman who kindly asked that our governments' appropriate authorities closely monitor the activities of the licensed fishing vessels and whatever circumstances may arise in the fishing grounds. He said that the Pacific Islander crew would prefer to struggle for the benefit of their own people and nations rather than work as slaves to others who treat them like dirt in their own territory. 

For more



A new set of minimum terms and conditions for crewing employment conditions in the Pacific

<https://www.sas.com.fj/ocean-law-bulletins/a-new-set-of-minimum-terms-and-conditions-for-crewing-employment-conditions-in-the-pacific>

Out of Sight: Modern Slavery in Pacific Supply Chains of Canned Tuna

https://media.business-humanrights.org/media/documents/files/Out_of_Sight_Modern_Slavery_in_Pacific_Supply_Chains_of_Canned_Tuna_4.pdf

The Outlaw Ocean Project

www.theoutlawocean.com

Ian Urbina: The ticking time bomb of lax shipping regulations

<https://nationalpost.com/opinion/ian-urbina-the-ticking-time-bomb-of-lax-shipping-regulations>

Death at sea: the fisheries inspectors who never came home

<https://www.theguardian.com/world/2021/jun/20/death-at-sea-the-fisheries-inspectors-who-never-came-home>

The FFA register of vessels of "good standing" is online

<http://www.franciscoblaha.info/blog/2019/4/2/the-ffa-register-of-vessels-of-good-standing-is-on-line>