



Human Rights Advocates

P.O. Box 5675, Berkeley, CA 94705 USA

Right to Food - Fishery Workers' Rights

Contact Information:

**Iury Prado Muci de Lima, Frank C. Newman Intern
Representing Human Rights Advocates through
University of San Francisco School of Law's
International Human Rights Clinic**

Tel: 415-422-6752

ipradomucidelima@usfca.edu

Professor Connie de la Vega

delavega@usfca.edu

1. Introduction

The world is surrounded by oceans, seas, lakes, creeks, and dams full of life in each of them, but the most important thing is the benefits that these resources can bring to us. Consuming fish is part of different cultures and traditions or even in diet plans, but behind the scenes many human rights violations are taking place worldwide related to fishing.

The Human Rights Council (HRC) must recognize that the issue of fishery workers' rights should be addressed in the context of human rights and the right to food. Therefore, it is important for the HRC to recognize and engage world leaders in raising awareness on this matter, urge the regulations to help the fishery workers, and educate the population who can contribute as part of a community, since the migrants' workers, children, women and indigenous people are the most affected group.

Coastal countries need to take an aggressive approach towards adopting and implementing International Labor Standards and international instruments as a key point to be considered for the promotion of decent work in fishing inasmuch as these instruments provide guidance and set standards to the countries that are in the process of eradicating forced labor and other forms of exploitation.

The Food and Agricultural Organization (FAO) capture database, was 90.9 million tons in 2016, a small decrease in comparison to the two previous years.¹

The seafood sector around the world contributes to one of the largest global value chain that develops the economy in many countries and also contributes to a

¹ Fao.org. (2018). The state of world fisheries and aquaculture. [online] Available at: <http://www.fao.org/3/ca0191en/ca0191en.pdf> [Accessed 10 Feb. 2020].

significant basis of the livelihoods of millions of people. However, at the same time it has frequently become watched for poor labor conditions and the consequences are well-known and severe.

The International Labor Organization (ILO), and the International Maritime Organization (IMO) have drafted binding legal instruments in order to improve fishers' safety and better working conditions. Furthermore, the FAO has developed a number of guidelines for responsible fisheries.²

Food sovereignty became an emerging concept according to which people define their own food and own model of production (agriculture and fisheries). It has been suggested as a concept that promotes an alternative model for agriculture, trade policies and practices that serve people's rights. It is being recognized under national laws but on an international level, this concept has no consensus yet.³

Over 58 million people are engaged in the primary sector of capture fisheries and aquaculture, and more than 15 million people are working full-time on board fishing vessels.⁴

This report addresses the main risks that the workers face in the fishing industry, the recruitment process, the target group, and also illegal, unreported and unregulated fishing.

2. The main risks in the fishing industry

² Guidelines are available on <http://www.fao.org/fishery/publications/technical-guidelines/en>.

³ Raj Patel Guest Editor (2009) Food sovereignty, *The Journal of Peasant Studies*, 36:3, 663-706, DOI: 10.1080/03066150903143079

⁴ "Fishers," ILO, available at: <https://www.ilo.org/global/industries-and-sectors/shipping-ports-fisheries-inland-waterways/fisheries/lang--en/index.htm>.

Unreported and unregulated illegal fishing, the use of forced and often slave labor on board fishing vessels are part of a body of evidence that demonstrates the strong correlation with the decline in fish stocks.

The region with the largest fish stocks is found in coastal regions above the continental shelf, an area of the seabed around a large landmass where the sea is relatively shallow compared to the open ocean, but due to the gradual depletion of these stocks, small-scale fishing and industrial fishing needed to go further in order to locate abundant fishing areas.

Deep sea fishing depends on a more sophisticated infrastructure seeking to meet the demand of the industries, and for that small-scale fishermen are being hired for this task, because with small boats they cannot reach where the big ships arrive. This great deep-sea fishing operation turns out to be dangerous and full of irregularities.

With all the infrastructure used to capture new stocks of fish, the increase in crew costs is reduced in order to increase the profit of the fishing operators and give them a competitive advantage, with this labor being mostly done by migrants, women, children and indigenous people.

The social and territorial risks are some that are worth highlighting. The Social risk refers to the social distance between them and their families, breaking the family bond. Some fishermen take months to return home or die during the fishing season. Even with current technology, sometimes it is not possible to communicate with family members through messages or calls, which ends up further separating the social and emotional bond.

The territorial risk is also a strong threat to fishermen, this loss of space at sea is due to the competition and the crowding of several ships in the pool of large fish stocks. Smaller-scale fishermen are those who generally suffer the most due to the lack of technological equipment.

Competition is intensified by the fact that the continental shelf areas are areas of multiple use and fishermen must compete with commercial vessels, recreational vessels, off-shore dumps, and sand dredging (for construction). Disposal of waste at sea and drilling for oil (which most of them assume only temporarily in suspension) present risks of pollution and stock displacement, and in the traffic lanes, the potential for collisions between fishing boats, pleasure boats and vessels. It became common to fishermen to have to drive kilometers to their boats and / or land their fish in a port other than where they fish increasing the indirect fishing costs.

3. Recruitment

The use of brokers and recruitment agencies are commonly used in the process of recruiting and selecting workers. Recruitment agencies are known for helping workers find decent work and matching available jobs with qualified candidates. But it does not happen since the recruitment process often lacks transparency and a clear line of accountability for the actors involved. When employers use third-party labor recruiters, they risk losing control of the recruitment process, particularly when it is spread across several agencies and agents, each fulfilling discrete roles and often charging different systems and informality in the process can make it challenging to bring recruitment processes into compliance with international guidelines.

Brokers look for workers in Fisherman's Bases in their own villages, in ports, or even in migrant caravans. This recruitment process involves corruption on the part of brokers who charge fees that can be paid with future earnings, in addition to misleading workers, most often brokers use drugs or kidnapping to be successful in hiring.

The brokers can be formal (with legal credential) or informal (with no legal credential). Generally, they speak the language of the potential workers and are often of the same nationality. Brokers can be former workers or even formerly trafficked workers who have contacts with the fishing industry which become easier to manage the hiring process.

4. The target group

Sustainability standards are more focused on environmental performance criteria and less focused on the well-being of fishermen. But human rights violations can be seen around the world and especially in women, children and migrants. Here, the experience onboard fishing vessels is possible to consider the sexual exploitation, injuries and lack of medical care, withholding documents, wage deductions, confinement or isolation, verbal abuse and threats, murders, physical abuse, and witnessing abuse.

Even though the States have taken measures regarding the adoption of international law against all forms of discrimination against women, it is possible to observe the lack of adequate protection for exploitation in the fishing sector. Women's responsibilities can be considered occasional when it is observed as a result of small-scale fishing.

After fishing, women generally enter formal employment, but do not always receive childcare or other benefits. In addition to the possibility of physical and sexual abuse by employers. Not only in the fishing sector, but also in other sectors and in society itself, women have suffered from gender discrimination, job insecurity, as well as wage disparity.

The ILO and FAO estimate that 60% of child laborers, or 129 million children, are working in the agricultural sector, which includes fisheries and aquaculture⁵. Child labor has also been discussed as a global problem, many children leave school and do not take advantage of their childhood, to carry out many illegal activities on the streets of major world capitals, to help sell drugs, candies and more, and clearly in the fishing sector. So they become susceptible to illness, fatigue, and injury.

Migrants is also a group that not only has violations in the fishery sector, but also worldwide. As one of the most serious forms of abuse, migrant workers are subject to contemporary slavery, forced labor, as well as the possibility of human trafficking.

Despite protections under international human rights law, an estimated 40 million people are trapped in modern slavery, 71% of whom are women, and 62% of whom are forced into labor.⁶

5. Illegal, unreported, unregulated (IUU) fishing practice

Illegal fishing can apply to violations in fisheries under the jurisdiction of a coastal state, or to high seas fisheries regulated by regional fisheries management

⁵ Elver, H. (2019). Fishery Workers | United Nations Special Rapporteur on the Right to Food. [online] United Nations Special Rapporteur on the Right to Food. Available at: <https://hilalelver.org/resources/thematicreports/fishery-workers> [Accessed 7 Feb. 2020].

⁶ Elver, H. (2019). Fishery Workers | United Nations Special Rapporteur on the Right to Food. [online] United Nations Special Rapporteur on the Right to Food. Available at: <https://hilalelver.org/resources/thematicreports/fishery-workers> [Accessed 7 Feb. 2020].

organisations (RFMOs). Fishing may also be unreported or misreported to the national fisheries authority or RFMO. Unregulated fishing generally refers to fishing by vessels without nationality, or to vessels fishing in areas or for fish stocks with no conservation measures to protect them, and where such fishing activities conflict with conservation measures under international or regional regulations.⁷

Falsifying fishing statistics and violating quotas, unlicensed or unregistered fishing, fishing in restricted or unregulated areas, and destructive gear (use of explosives, poisons, light fishing, and electro-fishing) are some examples of illegal, unreported, unregulated fishing that can harm or even destroy marine ecosystems.

Illegal, unreported, unregulated fishing threatens marine environments and the people who rely on them. By depleting fish stocks and biodiversity, IUU fishing puts the food security and livelihoods of coastal communities at risk – small-scale fisheries provide 90% of the people employed in capture fisheries.⁸ It also deprives countries of their marine resources and undermines efforts to sustainably manage fisheries. 90% of fish stocks are caught within countries' exclusive economic zones (EEZ) – the areas of coastal water and seabed that stretch 200 nautical miles from shore to which the country claims exclusive fishing, drilling and other resource extraction rights.⁹

6. Conclusion

⁷ Food and Agriculture Organization (2001) *International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported, and Unregulated Fishing*, <http://www.fao.org/3/a-y1224e.pdf> [Accessed 7 Feb. 2020].

⁸ Food and Agriculture Organization (2016) *The State of World Fisheries and Aquaculture*, <http://www.fao.org/3/a-i5555e.pdf> [Accessed 20 Feb. 2020].

⁹ Kraska, J. (2015) *The Lost Dimension: food security and the South China Sea disputes*. *Harvard Law School National Security Journal*, <http://harvardnsj.org/wp-content/uploads/2015/02/James-Kraska-Article-.pdf> [Accessed 20 Feb. 2020].

As discussed, the global nature of fishing makes it a sector liable to the exploitation of migrant workers. The increase of migration is not likely to disappear rapidly, meaning urgent and concerted action across borders is required. It is important to consider that not all fishermen are migrant workers, migrant fishers do seem to be particularly vulnerable to exploitation, and measures to protect fishers must take into account the particular circumstances of migrant workers, especially non-registered migrants. The particular nature of fishing, involving long periods of time in relative isolation at sea and generally high levels of risks involved in the work must take into consideration.

Another relevant point is the law enforcement, through systematic inspection and investigation. Because of the nature of the sector, law enforcement is seen as a weak point since jurisdiction is divided among different States (flag, port and coastal States) and between different authorities within States. Moreover, legislation is not coordinated between States, making uniform action difficult.

It should be noted that for multi-disciplinary inspection to be effective, common definitions and understandings, as well as a culture of information-sharing and working together, must be promoted. Moreover, capacity development may be required as a matter of priority to ensure that labor issues are understood by enforcement personnel who normally deal with environmental protection, safety at sea, tax crimes, etc.

Government-led inspection isn't always the best vehicle in the direction of compliance with rules and international instruments – and hence ensuring that fishers

are no longer problem to labor exploitation. Workers' and employers' companies play a key role by mobilizing their contributors and preserving governments accountable.

Moreover, important policy choices need to be made to put in place effective migration management, social protection coverage and other services for migrant fishers who tend to be those most vulnerable to exploitation and abuse. In this regard, addressing recruitment practices, especially those perpetrated by some recruitment agents, is essential. Recruitment practices must be seen as an integral part of global supply chains if decent work is to prevail in fishing.

Still, with all the initiatives and programs that are being developed worldwide, and all the attention to labor conditions in fisheries, gaps in knowledge prevail and more research is needed. This is especially true when it comes to source State initiatives to protect migrant fishers on their return home. Relatively little is known about what happens to repatriated fishers if they have been the victims of abuse. For example, little is known about what it takes to ensure that the fishers are not re-trafficked back into forced labor on another vessel or in another country or sector. In this field, research must be combined with increased action to protect migrant workers from the point of recruitment all the way through to repatriation.

The TRIANGLE migrant resource centers deliver services directly to migrant workers and their communities through a network of Migrant Worker Resource Centers (MRCs). MRC services are delivered through partnerships with government institutions, trade unions and civil society organizations, and provide a range of services in countries of origin and destination. The seafarer challenge services are

examples of prevention and safety tasks which are capable of reaching the fishers. Through those centers, fishers have access to information, felony aid, etc.

As cell phone era turns into an increasing number of reachable and networks improve, early tries to use smartphones and social media to reach and protect (migrant) fishers show enormous capacity. However, initiatives are still in the early ranges and it's far too early to draw conclusions about large-scale effects. Further, the capability of technology to help get rid of forced labor inside the fishing industry continues to be limited through technological developments, specifically the shortage of network coverage on the seas.

Nevertheless, there is a pressing call for modern movement if labor exploitation in fishing is to grow to be a thing of the past. Increasing motion will take a couple of stakeholders running collectively across borders and learning from each different across countries and continents. Moreover, interventions in the fishing industry can be drawn from different sectors that have a longer record of tackling pressured labor and trafficking in persons, such as business sexual exploitation and agriculture. All of this takes commitment and working together, using more than one approaches and the understanding of diverse stakeholders at local, country wide and nearby and global levels.

7. Recommendation

Human Rights Advocates recommends that the Human Rights Council urges States to:

1. Create a policy of human rights protection for fishery workers, mainly those informally employed as well as the ones working in vulnerable categories;

2. Adopt and enforce legislation criminalising contemporary forms of slavery practices in the fisheries sector, develop programmes, and draft policies to decrease child labour including:
 - a) Implement binding safety regulations adapted to the specificities of fisheries sector, based on, among others, the 2005 Code of Safety for Fishermen and Fishing Vessels;
 - b) Implement social protection schemes;
 - c) Devote appropriate resources for an effective functioning of labour inspectorates in fisheries, as per the ILO Labour Inspection Convention, 1947 (No.81).
3. Become committed to respect the Sustainable Development Goals (SDGs) 1, 2 and 14.
4. Take steps to:
 - a) Ensure that wages and working conditions for fisheries workers improve;
 - b) Eliminate exploitative working conditions and implement protections;
 - c) Fund third-party audits to increase transparency to reveal exploitation.

Human Rights Advocates recommends that International organizations, including ILO, FAO, UNICEF and OECD:

1. Develop policy recommendations and guidance for States so they can follow a guideline;
2. Develop regulatory mechanisms for commercial fishing and aquaculture.