



Key Indicators and Standards for Work in Industrial Fishing

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April 2024

Research website: [Work at Sea](#)

This policy brief summarizes some key indicators and standards for work in industrial fishing, with a focus on applicability to migrant workers, who are the majority of workers in many industrial fisheries. Southeast Asia (especially Indonesia and the Philippines; once in a while Myanmar, Cambodia or Vietnam) is the major source of workers, with some workers also coming from West Africa, Eastern Europe and the home countries for the vessels.

Industrial fishing can be classified as either 'Distant Water Fisheries', involving vessels fishing on the high seas, or what we call EEZ fisheries, involving vessels who mostly fish inside the EEZs of their home state. Often, but not by any means only, labour challenges arise on the Distant Water Fleets (the major fleets being Chinese, Taiwanese, Japanese, Korean and Spanish).

Forced Labour

- Forced labour is most often defined in relation to the 12 indicators developed by the UN's International Labour Organization (ILO), as an elaboration of the ILO's *Forced Labour Convention*. It is also a criminal offence in most countries, along with slavery, servitude and trafficking in persons. Prosecutions for forced labour are rare, the preferred charges are trafficking in persons (see below).
- Indicators that are often present for migrant workers in fishing include abuse of vulnerability, restriction of movement, intimidation and threats, retention of identity documents, withholding of wages, abusive working conditions, and excessive overtime.
- Forced labour indicators are often present because of long periods of isolation at sea, vulnerability to authoritative captains and worker supervisors who are most often from the country where the vessels are owned, and the way that workers are recruited, placed and often paid through crewing agencies in home/sending countries i.e., the Philippines or Indonesia.



- Action to stop forced labour most commonly takes place through the following government policy actions:
 - Blocking imports that importing countries have identified as being produced with forced labour (especially the United States)
 - Making corporations legally responsible for human rights violations in their supply chains, defined to include forced labour
 - Criminal prosecution as a Trafficking in Persons offence (see below)
- Forced labour indicators are NOT employment standards, and they are formulated in a general way so that they apply to all work. As such they do not directly address many matters of concern to migrant workers in fishing, including baseline wages, length of the working day, health and safety, frequency of port visits, access to port services, access to Wi-Fi, and the quality of food and accommodation.

[ILO Indicators of Forced Labour](#)

Trafficking in Persons (TIP)

- TIP is widely used to describe abuses of workers in fishing. The term is often used interchangeably with modern slavery and forced labour.
- The international basis for defining TIP is the *Protocol to Prevent, Suppress and Punish Trafficking in Persons*, part of the [United Nations Convention against Transnational Organized Crime](#).
- TIP is a criminal offence in most countries. The burden of proof is thus often high, so that convictions are difficult to obtain. In addition, because TIP is a criminal offence, prosecution will involve police and the criminal courts. In many countries, the police have exhibited systematic racism toward migrant workers, and involving police can be intimidating for migrant workers.
- Workers who have been classified as potential victims of human trafficking may receive some benefits such as temporary legal status in the country where the prosecution is taking place, work permits and access to benefits such as health care. TIP prosecutions do not include redress for violations of employment standards, for example, unpaid wages. These need to be pursued separately under labour law.
- The US Department of State produces an annual [Trafficking in Persons report](#), which is quite influential (and political).



Work In Fishing Convention (C188)

- C188 includes basic employment standards that are specific to work in fishing, especially DWF fishing, and a process for monitoring and acting on violations. Like the *Forced Labour Convention*, it is under the ILO.
- C188 helps fill the gaps created by: (1) the way that fishing was explicitly excluded from the more detailed and comprehensive *Maritime Labour Convention*; and (2) the way that migrant workers in fishing, especially those in DWF, are often excluded from national employment standards (below).
- Some of the key standards include: minimum daily rest hours of 10 hours per 24-hour day, i.e., a 14-hour work day; the presence of a comprehensible work agreement to which workers agree before it is finalized; the fishing vessel owner pays for repatriation (which involves international travel for migrant workers) unless workers have violated the work agreement; appropriate accommodation, food, sanitary facilities and medical care while the vessel is at sea; measures be taken to prevent occupational accidents; access to medical care when in port.
- Specifies (in accordance with the *Law of the Sea*) that the flag state should effectively exercise jurisdiction by establishing a system of compliance. It also obligates ratifying port states to respond to complaints or evidence that a vessel is violating C188 standards by preparing a report addressed to the government of the flag state. This has been interpreted as providing the ratifying port state the right to board and inspect vessels for potential violations.
- C188 is an important starting point for specifying employment standards for work in industrial fishing. While ratification remains limited among fishing countries, it has become the basis of private standards that are being incorporated into sustainability measures (e.g. Fisheries Improvement Projects) and some RFMOs (e.g., Western and Central Pacific Fisheries Commission).
- C188 is an important basis for standards specific to international fishing. It is also limited in how some key standards are vague (e.g., safety, food, health), and how many issues of concern to workers are not included (e.g., frequency of port visits, access to port services, access to Wi-Fi at sea). Compliance is difficult to monitor, and port state obligations to inspect and monitor are weak compared to the *Maritime Labour Convention*, for which compliance is monitored by International Transport Workers Federation (the umbrella union for seafarers) inspectors stationed in most major shipping ports.



- The [International Transport Workers Federation](#) has really begun to take on fisheries issues in the past decade.

[International Labour Organization, Work in Fishing Convention, C188 Guidelines for port state inspections under C188](#)

Flag State Employment Standards

- Work in many EEZ industrial fisheries are subject to national employment standards, but some are excluded, or exempted from specific provisions, for example, overtime pay and length of the working day.
- Most DWF fisheries are excluded from flag state employment standards. Some flag states have issued employment standards specific to DWF fisheries, under the jurisdiction of fisheries agencies (e.g., Taiwan and Korea) while other have declined to extend employment standards or exercise jurisdiction with respect to migrant workers whom they classify as outside of their national territories (e.g., China, the United States).

[Guidelines for flag state inspections](#)

Collective Agreements

- Collective agreement between fishing worker unions and employers can create employment standards that are specific to the fisheries, and that incorporate worker concerns. Collective agreements are normally in addition to government employment standards, and the process of organizing and bargaining is usually regulated by government labour law, which can be facilitative or hindering.
- Effective collective agreements between workers and employers are difficult to achieve in fisheries.
- Effective collective agreements are ideally between the employer and worker associations, rather than between crewing agencies and worker associations. Currently both individual contracts (work agreements) and collective agreements (in Indonesia) are often signed with the crewing agencies.
- For an effective collective agreement, workers need to be aware that they are in a union, and be able to participate or have input into the negotiations with employers. The agreement needs to create a process for reporting violations of collective agreement provisions that workers feel safe to use, and that includes an effective process for resolving complaints.