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BEYOND THE CATCH: MAPPING VULNERABILITIES TO FORCED LABOUR AND HUMAN TRAFFICKING IN MIGRANT FISHERS THROUGH THE LENS OF SDG 16

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Abstract

The seafood industry spread throughout the globe is the world's most economical yet ethically deprived sectors. The seafood delicacies in dinner plates often come from unseen and unexpected forms of labour where migrant fishers form a vulnerable sect of the society and become victims of overfishing. Overfishing requires the fishing boats to stay at the deep sea for longer period of time, increasing the cost of survival at sea. To cut this cost, the boat leaders cut the wages and force upon higher working hours of the crew that lowers the compliance with international law and overlaps jurisdiction. Such conditions elevate human trafficking and forced labour. This paper aims to establish the accountability and governance of migrant fishers in parallel to the sustainable development goal 16, by anchoring the port state inspections so as to ensure a declined percentage of human trafficking and forced labour in shipping vessels.

Keywords: Migrant fishers, Port states, Human trafficking, Forced Labour, seafood

Introduction

When we enjoy a fine seafood supper, drooling over seasoned Thai shrimp or charred Hawaiian swordfish, more often than not we fail to look beyond the catch². We do not realise that the meal is served alongside exploitation of migrant fishers. It is likely that this spread was caught by foreign fishermen working in exploited conditions³. Forced labour and human trafficking in many migrant fisher communities are abuses that are largely ignored or goes unreported. Lower pay among the fishers and heavy workleads to intense, hazardous and difficult working conditions⁴. Migrant fishers are often exploited in the global fishing industry. Recruitment

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² Lisa Gutierrez, The List of Slave-Labor Imports You Use Might Surprise You, mcclatchy dc bureau, (March 3, 2016) <https://www.mcclatchydc.com/news/nation-world/national/article63810932.html>.

³ Martha Mendoza and Margie Mason, "Hawaiian Seafood Caught by Foreign Fishing Crews Confined on Boats", ASSOCIATED PRESS, (Sept. 8, 2016) <<https://www.jsonline.com/story/money/business/2016/09/08/foreign-crews-confined-us-boats/90005094/>>.

⁴ International Labour Organisation, (2025) "Forced Labour and Human Trafficking in Fisheries".

occurs through landscape methods via intermediaries or by trapping the migrant fishers in the ease of convenience. While seafood has long been a part of the world diet,⁵ the complexity lies within the fragmentation at regulations at the sea. Fishing vessels operate under the “flags of convenience” which are registered in countries with low labour compliance.

The use of “flags of convenience” allows the vessels to register themselves in countries that have relaxed regulations and compliance with international law, for instance Panama. These lacunas along with lack of international maritime law enforcement create “floating zones of impunity”. While institutions like the United Nations, put forward instruments of united nations convention on the law of seas and the work of international labour organisation, specifically the Convention no. 188⁶. The exploitation persists due to fragmentation and lack of port state accountability. This paper will evaluate how port states can be included in forming an anchor for governance reforms by establishing an accountable institution for a justice-oriented environment.

Review of Literature

International Labour Organization (ILO) in its report Caught at Sea: Forced Labour and Trafficking in Fisheries (2013), which documented widespread cases of forced labour, debt bondage, and physical abuse experienced by migrant fishers across Southeast Asia. The report highlighted how the isolation of fishing vessels, combined with weak monitoring mechanisms, creates conditions that enable trafficking and labour exploitation to persist beyond the reach of national regulatory systems.

Environmental Justice Foundation (EJF) in its report Slavery at Sea (2015) examined labour abuses in Thailand’s fishing industry. Based on interviews with trafficked migrant workers from Myanmar and Cambodia, the report documented instances of extreme violence, wage withholding, and prolonged confinement at sea. Similarly, the United Nations Office on Drugs and Crime (UNODC) in its Global Report on Trafficking in Persons (2020) identified the fishing sector as a significant site of labour trafficking, particularly affecting migrant workers recruited through informal labour brokers in Southeast Asia and West Africa.

The United Nations Convention on the Law of the Sea (UNCLOS) establishes the general legal

⁵ The food timeline,(Feb 4 2018) FAQs Fish and Shellfish.

regime for activities conducted in international waters, while the International Labour Organization's Work in Fishing Convention (C188) (2007) provides minimum labour standards for fishers, including provisions relating to occupational safety, written work agreements, and decent living conditions. The Food and Agriculture Organization (FAO) in its report The State of World Fisheries and Aquaculture (2020) notes that fragmented jurisdiction and weak monitoring mechanisms contribute to the persistence of labour abuses within global fisheries supply chains.

Despite the growing body of literature on labour abuses in fisheries and maritime governance, limited research has specifically examined the intersection between port state control mechanisms and the institutional framework of Sustainable Development Goal 16. This paper therefore seeks to contribute to the existing literature by analysing the role of port states as institutional actors capable of addressing forced labour and trafficking in the fishing sector through the governance framework of SDG 16.

Methodology

This research adopts a method to analyse ocean governance and reliability upon port states. It induces a qualitative approach to address key issues of human exploitation as an invisible harm at sea. The study has adopted secondary research based upon international convention, reports, existing academic literature and policy documents regarding labour governance at the sea. The analytical research is guided by the 16th sustainable development goal. The SDG emphasises the importance of rule of law and access to justice. This paper though does not base its primary focus on empirical data, it aims to address vulnerabilities experienced by migrant fishers beyond national borders through various existing data and records.

Precarity of fishers in seafood industry

Existence of migrant fishers in the seafood industry touches the apex of exploitation and invalidation of human cost in the global level. The biggest issue is that the migrant fishers themselves are those who are either illiterate, uneducated and forced to do the work either because of the fear of persecution in their own countries like the "Rohingya refugees" or with the sheer hope of better living, wages and an improved condition of life for them and their families. Seafood industry is the biggest puller of migrant fishers in the world. Seafood has

long been a significant part of the world diet.⁷The demand for fish is predominant. Fish is considered a “Healthy” alternative to source of vitamins, protein and essential oils. Current health trends too promote fish as a healthy and better alternative to red meat.⁸ This large appetite for seafood is not just limited to one sector of the world but rather spreads across the globe, with diversified inclinations. Countries like Norway have their economy based on fishes. The ever rising demand for fishes throughout the globe leads to increase in fishing industry. This resulted in expanded fishing practices globally.⁹ Aquaculture can bring closer the gap in low fish supplies and ever rising demand of present and future.¹⁰ FAO even suggests that aquaculture would ultimately be the solution to feed 9 billion people of the world by 2050¹¹.

When the fishes are basically ending, why do we continue to wish the existing and persistent question looming over the head of sustainable development goals of the UN. The decline of fish stocks requires the fishing boats to go out in the sea for extended timeline to keep fishing¹². In a parallel relation, continued stays in the sea for fishing requires more fuel, extended maintenance and investments into the fixed costs and stocks of the vessels to reduce the overall cost of the owners. The higher the time is for the fishermen to stay at the sea, the higher is the stake for owners to be left out empty pocket. Longer cycles at the sea costs the owners more.¹³ While the fishers try catching fishes in the scarcity of fishes in the ocean, the seafood corporations impose burden of providing the fish to the customer and consumer base upon these migrant fishers by imposing harsh conditions of work with lower to no pay added up with irr-regularised number of working hours. This is where target 16.6 couples with the target 16.3 of the sustainable development goals explores the possibility of accountability and implementation of transparency to provide justice to these vulnerable communities.

Impact of port states in fostering trafficking and forced labour

Cost cutting is a major issue that leads to exploitative activities, primarily that of forced labour and human trafficking. For a matter of fact, “As the appetite for cheap fish grows worldwide,

⁷ Supra note 4.

⁸ American heart, “Fish and Omeca-3 Fatty Acids,” at: <<https://www.heart.org/en/healthy-living/healthy-eating/eat-smart/fats/fish-and-omega-3-fatty-acids>>.

⁹ FAO, “The State of World Fisheries and Aquaculture”at 58–59, 2018.

¹⁰ Id, at 11.

¹¹ Supra note 11at 22, 70.

¹² Trevor Sutton & Avery Siciliano, “Human Trafficking in the International Fishing Industry”, centre for American progress, (Dec. 15, 2016).

¹³ Melissa Marschke& Peter Vandergeest, “Slavery Scandals: Unpacking Labor Challenges and Policy Responses Within the Off-Shore Fisheries Sector”, (march 8, 2016)

so does the demand for men who are paid little or nothing to catch it".¹⁴ The workers were kicked, whipped with toxic stingray and beaten if complained, paid little to nothing for the work done, as they struggled in the heavy fishing nets amongst squid and shrimp.¹⁵ Locking up by boat leader of those who wished to leave or refused to work in such horribly horrendous conditions was also observed.¹⁶

Human trafficking primarily includes three core elements, as observed by the International Labour Organisation, namely; act of recruitment & transfer or receipt of persons, use of deception, force, or abuse of dominant power to traffic and the purpose of such exploitation.¹⁷ Exploitation of vulnerabilities is a common trend among these boat leader or gangsters. These workers are bid high at seafood processing factories in order to exploit cheap labour.¹⁸ The fishers who often come from a weak background of education and poverty fall prey to lucrative plans, hopes and ideas of leading a better life turn out to be brutal victims of human trafficking. Forced labour, in this context refers to the forceful working conditions of victims of slavery and trafficking. The ILO further dictates "all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily." As the definition for forced labor.¹⁹ This definition analyses how such people are stuck in the vicious loop of deep-sea exploitation. Fishermen are often withdrawn from the society, their mental health is overlooked and they are often found stranded to beg for the basic amenities of food and shelter. These actual penalties²⁰ with the hope of returning home safely, while hearing the cries of the family to return, makes the case of migrant fishers vulnerable and these poor conditions amount to them being victims of forced labor. The market demand cheap seafood consistently through the year and these fishers are stranded to deliver them.

¹⁴ Robin McDowell, Margie Mason & Martha Mendoza, "Slave Boats to Papua New Guinea", Associated Press, (July 27, 2015).

¹⁵ Robin McDowell, Margie Mason & Martha Mendoza, "Slaves May Have Caught the Fish You Bought", A. P. (Mar. 25, 2015).

¹⁶ Esther Htsusan & Margie Mason, "More Than 2,000 Enslaved Fishermen Rescued in 6 Months", (Sept. 17, 2015),

¹⁷ Joanna G. Sylwester, "Fishers of Men: The Neglected Effects of Environmental Depletion on Labor Trafficking in the Thai Fishing Industry" Pg. 426.

¹⁸ Associate Press, "Seafood from Slaves", (2016).

¹⁹ International Labour Organisation, Forced or Compulsory Labour Convention (No. 29), (Geneva, June 10, 1930).

²⁰ Robin McDowell, Margie Mason & Martha Mendoza, AP Investigation: Slaves May Have Caught the Fish You Bought, ASSOCIATED PRESS (Mar. 25, 2015)

Inconsistencies of maritime and labour law

While these abuses are so significant and impactful, how do such abuses still persist within the supply chain has a simple and direct answer. Overfishing pushes these boats further into the sea and these boats are “seldom even glimpsed, let alone governed”.²¹ While the UNCLOS regulates the law of the sea, when coupled with the Maritime Labour Convention of 2007 (MLC) focuses on regulating boats, ships and vessels within the sea. The International labour law regulated by the International Labour organisation, specifically Convention no. 188 of the ILO Convention regulates the labour conditions throughout the world. While Labour laws are highly recognised and accepted through the globe, the convention 188 of ILO is not ratified by major countries in the world which engage in commercial fishing, causing an overlapping jurisdiction of maritime and labour law in governing the ships deep within the sea engaged in commercial fishing and leading to exploitative measures. The loose and lack of uniform labour standards in the marine jurisdiction requires issue of comprehensive, global approach to uphold labour rights in the said sector.²²

However, it is not to ignore that maritime labour laws have played pivotal role in harmonizing these rights to safely accommodate those working in the sea. The Maritime Labour Convention (MLC) or the seafarers bill of rights conveys rights of sea workers including health standards, safety and welfare. MLC primarily wishes to evade exploitation of workers. Further in a progress of safeguarding the sea workers, the Seafarer’s Identity Document convention of 1958 provides standard identity verification and documentation to the sea migrants including workers at sea. Further the International Convention for the safety of Life at Sea of 1974 is yet another development in maritime labour law that accrues minimum standards for the structured integrity of shipping vessels.²³ Many countries too within an attempt to harmonise these distinct regulations have developed domestic laws aligning to the same. For instance, the Merchant Shipping act of 1958 aim to regulate the labour practices of those employed at the sea. Despite the existence of these laws, the major issue is that of poor enforcement, conflict within jurisdictions and lack of awareness among the sea fareres²⁴. These laws are further evaded by malafide use of Flags of Convenience, allowing vessels to register themselves in the countries

²¹ Supra note 16.

²² Agnew, D. J., “The illegal and unregulated fishery for toothfish in the Southern Ocean, and the CCAMLR catch documentation scheme”, *Marine Policy*, 24(5), 361–374 (2000).

²³ International Convention on Standards of training, certification and watchkeeping for seafarers, 1978.

²⁴ Aruno Raj Singh, “An Interface Of Maritime Law And Labour Laws: A Critical Study”, *International Journal of Creative Research Thoughts (IJCRT)* Vol. 13, (March 3, 2025).

that allow for weaker labour law enforcement and regulation, Panama or instance. A stronger collaboration of international law to national law to accountability governance of port states must be established to ensure justice and peace.

Role of Port State Control in Addressing Labour Exploitation

These ships, while sail farther into the sea,²⁵ do not always remain into the sea. Shipping vessels periodically visit port states for inspection and oversight. Port states are states that have a significant hold of a strategic location in the sea, making them best accessible for the vessels to visit so as to issue checks and ensure timely shipment of cargo. Port state's inspection on forced labour and trafficking within the shipping vessels can be held an anchor to establish accountable governance within SDG 16 and to issue accountability to state's through legislations. We often see the jurisdictional gaps create a havoc in accountability of vessels; however, port state's inspection would improve independent ships to take accountability of the act committed within their ships and further not evade liability under the flags of convenience. The enforcement mechanism of such states is independent from authorities like that of fishing authority, immigration officers and various labour departments in the country. The result is a spread over and fragmented oversight on human rights. Taiwan for instance, is the biggest player in case of fishing industry globally along with being a port state, lacks the legal mandate to assess the crew member welfare. The biggest loophole in implementing port state accountability is bribery. Bribery network including informal payments from these leaders would infiltrate the welfare thought towards crew members and human rights abuses could be nurtured.

Discussion

This study can be said to reveal that global exploitation of migrant fishers is not merely a challenge within international framework of labour law but also is a structural governance failure within the maritime ecosystem. The interplay between increasing demand for seafood and weak institutional interference is backed up by fragmentation of jurisdiction and UNCLOS being the guideline without the backing of an accepted law creates lack of accountability.

The dynamics of seafood is furthermore complex. The economic benefit received to the vessel owner far outweighs the benefits given to the workers within the ship. Particularly from the

²⁵Supra note 22.

exploitation prone areas like that of states being affected by act of war are susceptible be displaced and trafficked. The recruitment and labour conditions post the recruitment are in serious question. Within this complex system, port states are the actual source that may aid in restricting such practices. Port state accountability may assure that a unique opportunity is provided to the migrant workers at the vessel. Unlike that of a flag state, which acts as a mere tool for registration of a vessel, port state has the actual connect to the happenings within the ship and thus act as a critical institution. The lens of SDG further crystallises the need for transparency and rule-based governance. Addressing the pressing challenge of gap within international law and domestic sphere acts as a comforter to leakages in staunch maritime law enforcement. Effectiveness of port state invigilation would bridge the leaks and help reduce human trafficking within seafood supply chain.

Governance recommendations

Direct closing of this loophole seems easy and practical on paper, but would face challenges. The ILO work in marine fishing convention focuses on the global forced labour network in fishing industry, setting out fundamental human rights protection in fishing industry²⁶. Fishermen are stranded in situations where they do not have the knowledge of available recourse. Neither do these men have enough funds to sue the exploiters nor do they have enough knowledge of law on available remedies. Eventually, they settle their cases with the vessel owners.²⁷ In such conditions, the forward-looking approach would to devise a policy upon which, the port states are held accountable for misconduct. Port states are the actual anchors that have a window towards the vessel exploitations. The inspection masters or officers engaged can evaluate the documents available, hold training session on the remedies available and ensure that these exploitative measures are not continued further. These port states have the power to connect the vulnerable poor crew members to their home countries to protect them from any further menace or penalties.

Conclusion

Over demand for seafood in the ever-growing population of the world elevates the abuses pertaining to this industry. This is the actual truth of cheap seafood, which perpetuates and fosters weak labour, exploitative practices and malafide intentions. The everrising market

²⁶ International Labour Organisation, C. No. 188 - Work in Fishing Convention, 2007, (Geneva, June 14, 2017).

²⁷ Cohen Milstein, "Owner of U.S.-Based Fishing Vessel Agrees to Precedent-Setting Settlement Over Allegations of Human Trafficking, Abusive Labor Practices", (January 3, 2018).

demand puts pressure and perpetuates human rights abuses, making it the necessary issue at hand.²⁸ The situation is so severe that “if you took away cheap labour, many fishing vessels would just not be economic anymore”.²⁹ Further, the jurisdictional lacunas along with the overlap of maritime and labour law with an add-on of the non-ratification by states makes the enforcement vague, unclear, and uncertain. Port states are, the most reliable and accountable institution, wherein the abuses of human rights of these migrant fishers can be protected. SDG 16 and its targets, specifically Target 16.2, 16.3 and 16.6 put a pressure upholding the rule of law and allowing for transparency in ensuring marine-labour laws. Thus, enhancing the role of port states in monitoring labour conditions represents an important step toward closing regulatory gaps that currently allow exploitation to persist in distant-water fishing fleets. The Hawaiian governor David Ige rightly said once at best; “*sometime people fall in a loophole and they don’t get the full protection of labour laws that most of us enjoy, but that loophole doesn’t mean that it is okay to treat them like slaves*”³⁰



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²⁸ Supra note 14.

²⁹ EJF, “The HRAS Interview: Steve Trent, Co-founder of the Environmental Justice Foundation”, Human rights at sea, (May 11, 2016).

³⁰ Supra note 2.