

# TIED AT SEA

2014-2016

## Human Rights Violations against Migrant Fishers on Korean Fishing Vessels



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## Introduction

In December 2015, as the researchers of this report travelled by taxi through downtown Manila to meet a survivor of the Oryong 501 sinking incident, a billboard (featured on the cover of this report) caught our attention. Located on the roof of a building, the advertisement - a call for fishers to work overseas - was itself not extraordinary. What was striking, however, was the advertisement located directly below it: an image of a vice-grip, a tool used to anchor something firmly in place.

Together the advertisements depicted the situation many migrant fishers face. Deceived by recruiting agencies, lured by empty promises of high wages and bonuses, disconnected from help in times of need, and burdened by the vicious cycle of debt, most migrant fishers are tied at sea. It is not easy for them to leave even though they often find the working conditions of many fishing vessels, including Korean fishing vessels, exploitative, abusive and discriminatory.

“Tied at Sea: Human Rights Violations Against Migrant Fishers on Korean Fishing Vessels” is the summary of a two-year (2014-2016) research effort conducted by Advocates for Public Interest Law (APIL) and the International Organization for Migration (IOM) Republic of Korea.

The research has three components: literature review, field interviews, and policy discussions. First, we looked at existing literature, from sources within and outside the Republic of Korea (ROK), concerning the human rights of migrant fishers. Second, we interviewed approximately 70 migrant fishers with work experience on ROK fishing vessels. Interviews were also conducted with 20 agents from Korean manning agencies and recruiting agencies in the countries of origin and representatives from Korean and foreign fishers’ labour unions, civil society organizations, and relevant government officials. Lastly, in partnership with the Human Rights Network for Migrant Fishermen (the Network), we engaged in a series of policy dialogues with key administrative and legislative officials from the ROK. In addition, we hosted a regional conference on ethical recruitment and policy harmonization in the regional fishing industry, inviting representatives from the ROK Government as well as from the Governments of Indonesia, the Philippines, and Viet Nam - countries from which the majority of migrant fishers are recruited for Korean vessels.

The report is organized into three parts. In Part I, we briefly provide an overview of migrant fishers, the history of migrant workers in the fishing industry and what drew attention to their human rights situation. We also explain the importance of classifying fishing vessels into three categories to better understand the recruitment process and employment





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conditions. In Part II, we discuss in detail the challenges faced by migrant fishers during the different stages of migration: pre-recruitment, during recruitment and while employed. We then analyze whether the challenges should simply be seen as human rights violations, or more as human trafficking and/or forced labour. In Part III, we discuss both the potential and limitations of current laws and institutions in responding to human rights violations.

The contributions of many people made this report possible. Most importantly, we thank the migrant fishermen who courageously shared their stories with us. We are grateful to Boram Jang (IOM ROK Research Coordinator) and Jielle Han (APIL visiting researcher), whose dedication ensured the completion of this study. We are also grateful to Hyejeong Yoo and Seonyoung Lee (IOM ROK), Shin Young Chung (APIL attorney), Dan Bi Kim, Boseul Jeong and Yesul Bae (APIL interns), and Susie S. Park, Yu Sun Chin, Hyun-Soo Lim, Yea Chan Lee (APIL volunteers). Special thanks to colleagues from IOM Philippines, IOM Indonesia and IOM Viet Nam for arranging our field studies, and to Veronica O'Connor and Kerry-Ruth Botting for editing this report.

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# I. Migrant Fishers on Korean Fishing Vessels

There are more migrant fishers on Korean fishing vessels than one might expect. In fact, 70 per cent of fishers on Korean distant water fishing (DWF) vessels are migrant fishers. However, their experiences garnered almost no interest among the Korean public until the human rights scandal of an ROK-flagged fishing vessel - *Sajo Oyang 75* - operating in New Zealand waters captured national and international attention in 2011. Adding to this growing public awareness was the 2012 release of a report by the National Human Rights Commission of Korea (NHRCK) on the human rights conditions of migrant fishers on coastal water fishing (CWF) vessels (2012 NHRCK Report). This report builds and expands upon these issues by focusing on the human rights abuses experienced by migrant fishers on ROK-flagged DWF and CWF vessels.

## 01

## Number and Location of Migrant Fishers in the ROK Fishing Industry

According to the Food and Agriculture Organization of the United Nations, the Republic of Korea's (ROK) fishery and aquaculture output is 1.77 million tons, an increase of 200,000 tons from 2013 output (1.58 million tons). The value of this output is estimated to be approximately USD 4.4 billion, ranking the ROK as the world's 13th largest fishing nation.<sup>1</sup> These statistics do not reveal the fact that most of the fishers on these fishing vessels are migrants.

Fishing vessels can be classified using various methods. One common distinction used is the location of a vessel's operations (for instance, in coastal or distant water). The Korean Seafarers' Act sets an additional distinction between the types of CWF vessels: those weighing less than 20 tons (CWFV 20↓) and those weighing 20 tons or more (CWFV 20↑). Under this classification method, it was found in 2015 that the Korean fishing industry is highly dependent on the labour of migrant fishers.

	Number of Korean Fishers	Number of Migrant Fishers	Ratio of Migrant Fishers to Korean (as a percentage)
 DWF Vessels	 1,492	 3,374	 69.34%
 CWF Vessels weighing 20 tons or more	 15,328	 8,441	 35.51%
 CWF Vessels weighing less than 20 tons	 21,884 <sup>2</sup>	 7,255	 24.90%

## 02

## History of Migrant Fisher Employment in the ROK

Migrant fishers started working on Korean vessels in the early 1990s. At the time, there was an agreement between Korean labour unions and Korean shipowning companies that migrant workers were needed to fill the labour gaps in the fishing industry. Migrant workers entered the coastal fishing industry through the Industrial Traineeship System (ITS), which started in

1993 and was later abolished after being found unconstitutional by the Constitutional Court of Korea. In 2007, the ITS was replaced by the Employment Permit System (EPS). Currently migrants working on vessels in coastal waters weighing less than 20 tons are granted visas under the EPS. However, those working on vessels in coastal waters weighing 20 tons or more still enter under the Foreign Seafarer System, which is different from the abolished ITS in name only.

## 03

### Mounting Focus on the Human Rights Crisis of Migrant Fishers

For nearly three decades large numbers of migrant fishers have been employed on Korean vessels, but neither the media nor academia have paid much attention to the issues facing these workers.<sup>3</sup> This changed in June 2011 when 32 Indonesian fishers escaped their fishing vessel, *Sajo Oyang 75*, while it was operating in New Zealand waters and requested protection from the Government of New Zealand. The fishers claimed that they had been verbally and physically abused, sexually assaulted and that they had not been paid their earned wages. The 2012 NHRCK Report shed light on similar situations occurring on ROK CWF vessels.

As the condition of migrant fishers' human rights on DWF and CWF vessels became known, the 2012 NHRCK Report issued recommendations for reforms within the ROK fishing industry. The ROK Ministry of Oceans and Fisheries (MOF) accepted these recommendations and added to them. However, despite the increased public and institutional awareness of the issue, almost no significant improvements have been made to the conditions facing many migrant fishers.



Victims and activists protesting against the shipowning company *Sajo Oyang* in 2012.

# 04

## Three Types of Fishing Vessels

Distinguishing fishing vessels based on operational location and size plays an important role in shaping the recruitment process and employment conditions encountered by migrant fishers.

	DWF Vessels	CWF Vessels weighing 20 tons or more	CWF Vessels weighing less than 20 tons
Governing Law	Seafarers' Act (Guidelines on the Management of Foreign Fishermen)	Seafarers' Act (Guidelines on the Management of Foreign Fishermen)	Law Act on Foreign Workers' Employment, etc.
Competent Authorities	Ministry of Oceans and Fisheries (MOF)	Ministry of Oceans and Fisheries (MOF)	Ministry of Employment and Labor (MOEL)
Country of Origin	China, Myanmar, Indonesia, The Philippines, Viet Nam, etc.	Indonesia, Viet Nam, China, Sri Lanka, Myanmar	Indonesia, Timor-Leste, Viet Nam, Sri Lanka
Recruitment Agreement Type	Recruitment contract between recruiting and manning agencies	Recruitment contract between recruiting and manning agencies	Memorandum of Understanding between MOEL and government of country of origin
Decision-Making Process on Number of Employed Migrants	Labour-management agreement	MOF approves the labour-management agreement; Ministry of Justice makes final decision	Determined unilaterally by the Foreign Labor Force Policy Committee (under the Office of the Prime Minister)
Parties Assisting with Exit/Entry	Recruiting and manning agencies	Recruiting and manning agencies	Human Resources Development Service of Korea
Recruiting Agency	Private recruiting agency	Private recruiting agency	Government of country of origin
Visa Type and Terms	C-3 or B-2 visa <sup>4</sup> ; no stay or short-term stay of a day or two before boarding the vessel	E-10-2 visa; for 3 years, visa can be extended for another 22 months on renewal of contract	E-9-4 visa; for 3 years, visa can be extended for another 22 months on renewal of contract
Applicable Labour-related Law	Seafarers' Act; partial application of Labor Standards Act; Non-application of Minimum Wage Act	Seafarers' Act; partial application of Labor Standards Act; Non-application of Minimum Wage Act	Labor Standards Act; Minimum Wage Act
Applicable Industrial Accident-related Law	Seafarers' Act	Act on Accident Compensation Insurance for Fishing Vessels and their Crew Members	Act on Accident Compensation Insurance for Fishing Vessels and their Crew members; (partial application of Industrial Accident Compensation Insurance Act; partial application of Labor Standards Act)

## II. Violations of Migrant Fishers' Rights

Fishers face various challenges throughout the migration cycle. Even before commencing the recruitment process, they are susceptible to manipulation due to their generally low level of education and limited resources. Vulnerability only increases as migrant fishers formally begin the recruitment process. As employees of ROK-flagged vessels, many migrant fishers are exposed to exploitation, abuse and discrimination, and most find it difficult to leave before the end of their contract term. These issues cannot simply be described as human rights violations, but are more accurately characterized as human trafficking or forced labour. The problem varies by degrees: the most serious human trafficking/forced labour conditions are found on DWF vessels, followed by CWF vessels weighing 20 tons or more, and then CWF vessels weighing less than 20 tons. An understanding of the different recruitment processes involved with these types of vessels is essential to fully grasp the human rights crisis facing migrant fishers.

## 05

Migration  
Flows

## Distant Water Fishing (DWF) Vessels

Recruitment of migrant fishers on distant water fishing (DWF) vessels starts with a Korean shipowning company requesting workers from a Korean manning agency. The manning agency transfers this request to partner recruiting agencies in the countries in which the workers will originate. The recruiting agency enters into a recruitment process with applicants interested in the position, and then sends a list of candidates to the shipowning company for consideration and selection. The shipowning company selects workers from the list and then signs labour contracts with them. The shipowning company submits the contract, along with a written statement from the ROK labour union, to the ROK Regional Office of Oceans and Fisheries in order to report employment of a foreign worker. The worker obtains a C-3 or B-2 visa from the Korean embassy in the country of origin. Upon entering the ROK, the worker typically stays onshore for no more than a few days before boarding the fishing vessel. The contract is for a period of two years. Upon completion of the contract period, the worker is given a temporary landing permit to remain in the ROK for a short period of time before returning to the country of origin.

## Coastal Water Fishing (CWF) Vessels weighing 20 tons or more

To recruit workers, a Korean shipowner makes a request to a Korean manning agency,<sup>5</sup> which in turn forwards the request to its partner-recruiting agencies in the countries where the fishers will be recruited. Each Korean manning agency is assigned a quota by the National Federation of Fisheries Cooperatives (NFFC). The recruiting agency receives applications from interested workers, signs recruitment contracts with successful candidates in their home countries, and then sends the list of applicants to the NFFC website. After receiving the list from the NFFC, the shipowner determines which applicants to hire and signs a standard NFFC labour contract with them. The Korean manning agency submits the signed labour contract, along with a written statement from the ROK labour union and a recommendation letter from the NFFC, to the ROK's Regional Office of Oceans and Fisheries. The shipowner receives, through the Korean manning agency, a Certificate of Issuance of Visa from the Korea Immigration Service, and the certificate number is sent to the recruiting agency. The certificate number is then submitted to the Korean embassy in the worker's home country and an E-10-2 visa is granted. After entering the ROK, the worker receives a foreigner registration certificate from the Korea Immigration Service, boards the vessel and works for either 3 years or 4 years and 10 months before returning home.

## Coastal Water Fishing (CWF) Vessels weighing Less than 20 tons

After efforts to attract Korean workers have failed, a Korean shipowner requests the ROK Ministry of Employment and Labor (MOEL) to recruit migrant fishers. The MOEL in turn asks the governments of target recruitment countries to provide a list of applicants (all must have passed a Korean language test). The shipowner receives the list and enters into a labour contract with the workers by signing a standardized contract prepared by the MOEL. The worker enters the ROK on an E-9-4 visa issued by the Korean embassy in the worker's country of origin. After entering the ROK, the worker receives a foreigner registration certificate from the Korea Immigration Service, boards the vessel, and works for either 3 years or 4 years and 10 months before returning home.



## 06

## Susceptibility before Recruitment

	Poverty	Low Level of Education	Unstable Employment
 DWFV	●	●	●
 CWFV 20 ↑	▲	▲	▲
 CWFV 20 ↓	▲	■	■

● Serious ▲ Average ■ Weak or none

Many migrant fishers are susceptible to manipulation and exploitation even before they begin the recruitment process. Most come from a low socio-economic background with minimal education and chronically unstable employment histories. These characteristics were especially pronounced among fishers working on DWF vessels.

#### a. Poverty

Regardless of their country of origin, most migrant fishers working on DWF vessels face financial difficulties. The significant debt they have incurred to pay recruiting agencies aggravate the financial hardship.

#### b. Low Education Level

Most of the migrant fishers interviewed had received fewer than nine years of schooling. The exception was former migrant fishers from the Philippines who had relatively higher levels of education than those from Viet Nam and Indonesia. Some Vietnamese fishermen interviewed were illiterate and had not graduated from elementary school.

#### c. Employment Instability in Country of Origin

During interviews conducted for this report, many migrant fishers with experience working on DWF vessels stated they

had been unemployed for a long time or had worked on CWF vessels in their countries of origin for extremely low pay.

Migrant fishers on CWF vessels weighing 20 tons or more received higher wages than their counterparts on DWF vessels. Despite this, many of these fishers were in debt due to the higher recruitment costs paid to recruiting agencies. In addition, they had difficulty adjusting to fishing work due to lack of experience and skills in fishing.

For CWF vessels weighing less than 20 tons, migrant fishers were much less susceptible. The fishers recruited through the EPS are required to take the Test of Proficiency in Korean (TOPIK), and some of the countries of origin only allow people with a certain level of education to take the test. As a result, most of the migrant fishers working on CWF vessels weighing less than 20 tons had high school diplomas. These fishers, however, often had insufficient skills and motivation in fishing as most had applied for manufacturing industry jobs, and found it extremely difficult to adjust to work on a fishing vessel.

These three issues in the pre-recruitment stage rendered migrant fishers susceptible to manipulation during the recruitment process and exploitation during employment.

For many of the migrant fishers, poverty pushed them to incur huge debts to pay the recruiting agency fees. Their low education enabled recruiting agencies to make unfavorable and multiple contracts. Lack of employment opportunities at home stripped them of any bargaining power or leverage to protest the recruiting agency's demands and illegal practices.

# 07

## Vulnerability during Recruitment

Migrant fishers seeking work on DWF vessels or CWF vessels weighing 20 tons or more are vulnerable to manipulation starting the moment they apply for an employment position with a recruiting agency. By comparison, migrant fishers employed on CWF vessels weighing less than 20 tons face significantly fewer problems given the involvement of the ROK Government and those of the countries of origin in the recruitment process.

### a. Involvement of Multiple Intermediary Agencies during Recruitment

In principle, the country of origin allows only licensed recruiting agencies to recruit workers for DWF vessels. However, unlicensed broker agencies were found to operate between the migrant fishers and recruiting agencies in the three countries of origin studied in this report, multiple brokers and agencies (licensed and unlicensed) were involved in the process of recruitment. Although fewer in number, migrant fishers on CWF vessels weighing 20 tons or more were also recruited by brokers or broker agencies. The involvement of multiple brokers or broker agencies meant that while recruiting agencies could attract workers more easily, the worker incurred a higher cost to obtain an employment position. Workers face additional vulnerability because it becomes unclear which broker or agency holds the legal liability for human rights violations, accidents or failure to deliver on contractual obligations.

	Illegal Broker	High Recruitment Cost	Inadequate Contracts	Ineffective Training	Confiscation of Passport
 DWFV	●	▲	●	●	●
 CWFV 20 ↑	▲	●	▲	▲	▲
 CWFV 20 ↓	■	■	■	▲	■

● Serious ▲ Average ■ Weak or none

## b. High Recruitment Costs, including Security Deposit

International regulations on ethical or fair recruitment stipulate that the recruitment fee should not be borne by the migrant worker. In reality, this is not the case. Migrant fishers paid various fees during the recruitment process, including a security deposit that compelled them to remain on the fishing vessel until the end of their contract. Most migrant fishers incurred debt to pay these fees, thereby being put in an extremely vulnerable position from the very start.

### (1) Various recruitment fees

Recruiting agencies charged migrant fishers a variety of fees for employment positions on DWF vessels. Besides service fees, there were also training and miscellaneous fees, for example, visa/passport applications, domestic transportation, seaman's book and medical exams. Training and miscellaneous fees were typically not as high or burdensome for migrant fishers as service fees and security deposits.

On CWF vessels weighing 20 tons or more, migrant fishers are also charged a security deposit, service fees, training fees and other miscellaneous fees. Unlike migrant fishers on DWF vessels, they pay for their airfare.

Recruitment for CWF vessels weighing less than 20 tons is overseen by government agencies. In principle, only miscellaneous fees such as visa application, medical exam, as well as airfare, should be the responsibility of the migrant fishers.

### (2) High service fees and security deposit

Migrant fishers from the Philippines working on DWF vessels did not pay a security deposit and service fees. This is due to the fact that the Government of the Philippines prohibits recruiting agencies from collecting such fees. By comparison, Indonesian fishers paid recruiting agencies service fees ranging from USD 70 to USD 180 and security deposits ranging from USD 2,000 to USD 2,300.<sup>6</sup> The

Government of Viet Nam has set a ceiling for service fees of one month's wages for a one-year contract.<sup>7</sup> However, a Vietnamese fisher interviewed for this report stated that he paid USD 670 in service fees to a recruiting agency for a two-year contract even though his monthly salary was only USD 210. Although Vietnamese law limits the security deposit to USD 1,500, another Vietnamese fisher interviewed said that he paid between USD 2,500 and USD 3,000 as a security deposit, and the amount above the USD 1,500 limit was paid back to his family members only after he boarded the vessel.

Among migrant fishers on CWF vessels weighing 20 tons or more, fishers from Viet Nam paid the highest fees. Service fees ranged from USD 7,200 to USD 8,800 (one worker had paid as much as USD 12,300), and an additional amount ranging from USD 2,600 to USD 5,000 was charged as a security deposit. Some Vietnamese fishers stated that the security deposit was returned to those who completed a three-year contract, but was not returned to those extending their contracts to four years and ten months. Indonesian<sup>8</sup> fishers paid USD 2,600 to USD 3,100 in service fees, and their security deposit ranged from USD 2,200 to USD 4,400. As an alternative, migrant fishers who could not afford the security deposit submitted collateral in the form of land and housing ownership documents, ranging in value from USD 880 to USD 35,200. Chinese fishermen usually paid USD 5,200 to USD 7,400 in service fees, and USD 1,500 as a security deposit, while those who did not have guarantors were forced to pay an additional deposit of USD 1,500.

A few fishers boarding CWF vessels weighing less than 20 tons also reported paying a large security deposit. Vietnamese fishers stated that they were required to pay USD 5,000 to the Government of Viet Nam before their departure. If they did not have cash or could not obtain a bank loan, they would have to provide housing or land documents as collateral.

### (3) Loans

Migrant fishers working on DWF vessels for the first time, especially those from Viet Nam and Indonesia, usually obtained loans to pay their recruitment fees.

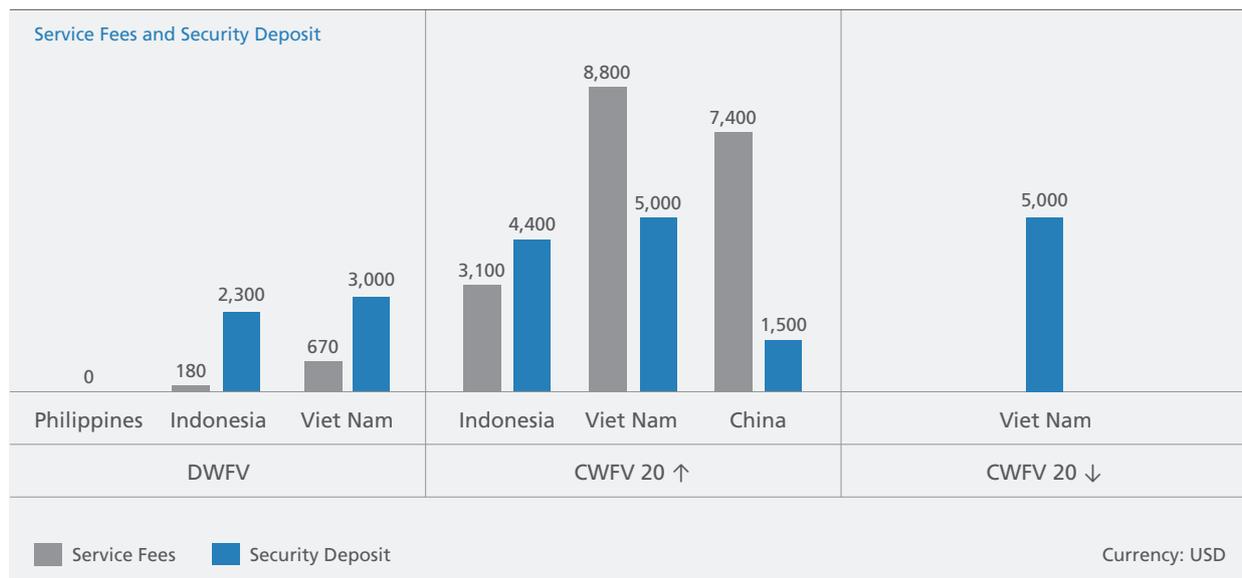
Fishers working on CWF vessels weighing 20 tons or more were more secure economically than their DWF vessel counterparts. However, CWF vessel fishers faced higher recruitment fees and tended to borrow a significant amount of money from banks or relatives to cover these costs.

CWF vessels weighing less than 20 tons require lower recruitment fees, ranging from USD 1,300 to USD 2,600. However, many also borrowed money from the bank or relatives to pay their recruitment fees.

High recruitment fees incurred before the start of employment not only made migrant fishers vulnerable, but also left them prone to forced labour/human trafficking conditions due to significant financial pressure (through inter alia, security deposits).

"I paid USD 880 as a referral fee to the broker agency in Viet Nam, USD 440 to the recruiting agency for service fees, and USD 1,300 as security deposit. Of the total amount (USD 2,600), USD 2,200 was a loan from the bank. My monthly salary was USD 220, but I didn't receive wages for the first four months. I had worked on the vessel for eight months when the ship sank. All I got in compensation after I returned home was USD 1,300. I barely paid off the loans with the compensation and the security deposit return."

A Vietnamese migrant fisher who incurred a loan to board a DWF vessel



### c. Problems Surrounding Recruitment and Labour Contracts

#### (1) Problems with recruitment contracts

A recruitment contract (between the recruiting agency and migrant fishers) is distinct from a labour contract (between the shipowner and migrant fishers). Recruitment contracts were found to be made only with fishers on DWF vessels and CWF vessels weighing 20 tons or more.

In the case of DWF vessels, regardless of the country of origin, migrant fishers signed the contract (often without fully understanding the terms) a day or two before departing the country to begin work. Many migrant fishers therefore signed the contract under extreme pressure with the belief that they would lose the opportunity if they did not agree to the terms immediately. The standard contract, which is prepared or approved by the government of the country of origin, was found to include many clauses unfavorable to the worker. The additional contract offered by the recruiting agency included clauses that were even more unfavorable. Regardless of the country of origin, none of the migrant fishers interviewed received a copy of their recruitment contract.<sup>9</sup>

For CWF vessels weighing 20 tons or more, migrant fishers received an inadequate explanation of the recruitment contract and the contract did not stipulate working hours, breaks, holidays or living conditions. The migrant fishers therefore entered into a recruitment contract without a complete picture of the working or living conditions on the vessel. Additionally, if the recruitment contract differed from the labour contract, the migrant fishers would have signed both without a clear understanding of which document was legally binding on which party.

#### (2) Problems with labour contracts

Labour contracts for DWF vessels must be signed before the migrant fisher leaves his country of origin to begin work. This is due to the fact that the shipowner must report

the hiring of a foreigner to the ROK Regional Office of Oceans and Fisheries and the recruit is required to obtain a visa to enter the ROK. However, none of the migrant fishermen interviewed for this report said that they had signed a labour contract before departing for the ROK. This suggests the possibility that someone either signs the labour contract on behalf of the migrant fisher (who is not informed), or has the migrant fisher sign it without explaining any of its content.

For CWF vessels weighing 20 tons or more, migrant fishers are required to sign a labour contract with the shipowner at the recruiting agency office and receive a copy before leaving their country of origin. Once they enter the ROK, they then sign the original document and also receive a copy of the original document. However, among the migrant fishers interviewed for this report, many stated that they had not received a copy of the contract or that it had been taken away by the Korean manning agency. Among those who did receive a copy of the contract, most of them signed it without fully understanding its terms either because of lack of time or explanation. Additionally, most fishers interviewed said salary was the only information regarding the working conditions on the vessel that they could remember seeing in their contracts.

A standardized contract approved by the MOEL is used for CWF vessels weighing less than 20 tons. Migrant fishers stated that, aside from salary, they knew very little about their contract terms. Some fishers reported that the shipowner took their copy of the contract after they had boarded the vessel.

### d. Inadequate Training

Training can take place before migrant fishers depart their countries of origin and after they enter the ROK. Ideally, migrant fishers would receive education on their rights, an introduction to Korean society and culture, basic safety training, Korean language lessons and skills training specific to the fishing industry. If such education is offered properly, the vulnerability of migrant fishers may decrease

substantially. However, migrant fishers often start their employment positions with inadequate training or none at all.

선 원 : TRISMANTO 		 Signature
선 원 : TARIH 		
선 원 : SISWORDO 		
NDI SUKENDAR 		 Signature

Different signatures on multiple contracts.

There were two labour contracts with Indonesian fishers on the *Sajo Oyang 75*: one was submitted to the Government of New Zealand and the other was sent to the ROK Regional Office of Oceans and Fisheries to report employment of foreigners. However, the signatures on these documents were different, and some were even different from the fishers' own signatures. In the case of FV *Oryong 501*, which sank in the Bering Sea in December 2014, the labour contracts submitted to the ROK Regional Office of Oceans and Fisheries had either the wrong birth dates or addresses for the migrant fishers, or no information in the name/ personal information sections.

| Multiple labour contracts



Temporary accommodation run by a recruiting agency for migrant fishers waiting for abrupt departure.

### (1) Pre-departure orientation or training

In the case of DWF vessels, the Government of the Philippines mandates that migrant fishers receive pre-departure training from a government-approved institution. Basic safety training is a prerequisite for receiving a seaman's book, so most workers from the Philippines complete this training before arriving in the ROK. Viet Nam also mandates pre-departure training for its migrant fishers. However, many Vietnamese migrant fishers do not receive sufficient training as the training is conducted by recruiting agencies and the government regulations are not comprehensive enough to ensure proper implementation of relevant regulations. Indonesia does not mandate training before departure but does require basic safety training for the issuance of the seaman's book. Due to the cost of such training, many migrant fishers opt to forge the training certificate in order to receive their seaman's book.

For CWF vessels weighing 20 tons or more, migrant fishers receive training before arriving in the ROK. However, the content, duration and location of the training varies significantly by country of origin and recruiting agency. Most fishers interviewed expressed pessimism about the effects of education on their vulnerability. One reason for this was that the training curriculum is not standardized; the recruiting agency has complete discretion over training without any guidelines or regulations regarding method or content.

For CWF vessels weighing less than 20 tons, the country of origin requires approximately 46 hours of training at a government training institute. For these vessels, the migrant fishers recruited through EPS typically have no experience in the fishing industry. They therefore need thorough skills training to prepare them for work on the vessel. However, most of the fishers interviewed stated the majority of the training received focused on Korean language and culture.

### (2) Post arrival training

Migrant fishers on DWF vessels do not receive training once they have entered the ROK,<sup>10</sup> whereas fishers on CWF vessels receive a three-day training at an NFFC facility immediately upon arrival. An information pamphlet published by the NFFC states that the training focuses on Korean language and culture, safety and the names of fish and fishing gear. However, the fishers interviewed for this report only recalled physical fitness training.

### **e. Sudden Departure after Long Wait, with Passport Confiscated**

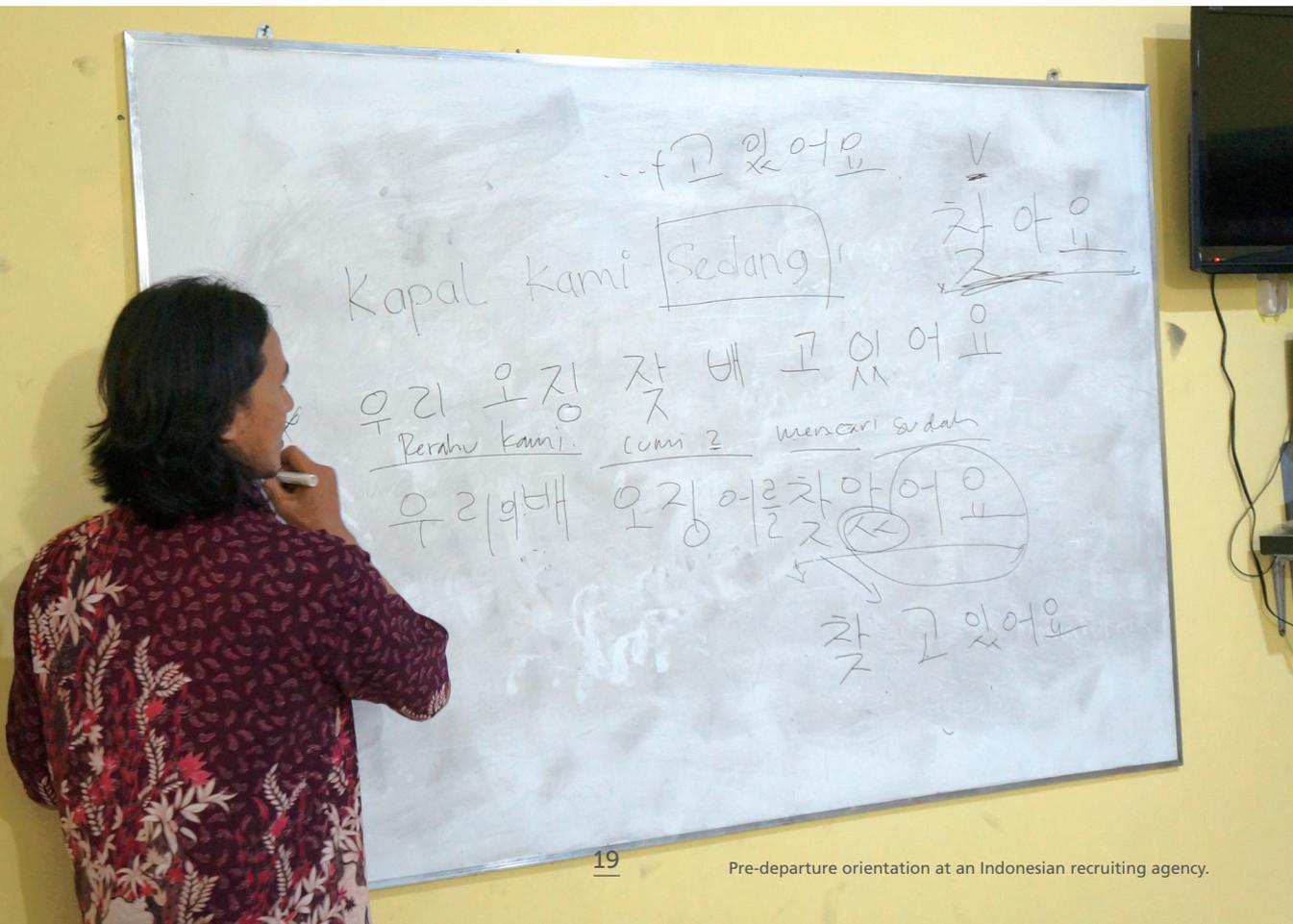
Migrant fishers on DWF vessels from all countries of origin said they waited for a long period of time to begin their employment positions. During that time, the migrant fishers noted that their passports were confiscated by the recruiting agencies and their recruitment contracts were not finalized. Recruiting agencies stated that passports are seized to prevent the fishers from applying to employment positions with other recruiting agencies at the same time. However, confiscating a fisher's passport effectively robs them of the freedom and opportunity to seek alternative employment. Migrant fishers typically waited six months to more than one year without knowing if they had a confirmed employment position. When they were informed, the fishers were expected to leave to begin work within one week. A day or two before leaving their home country, they were asked to sign their contracts. These contracts often had unfavorable terms, but the fishers essentially had no choice but to sign them given the fact that they had already paid a fee to the recruiting agency and lost opportunities to be hired elsewhere during the long waiting period.

The situation with CWF vessels weighing 20 tons or more was found to be similar in some respects. The waiting period was shorter than DWF vessels, ranging from two to eight months. Migrant fishers from all countries of origin reported having their passports seized by the recruiting agency during the waiting period. There were fewer cases

of sudden departures compared to DWF vessels. Nonetheless, the fishers were in an extremely vulnerable position as they were unable to move or find a job elsewhere while they waited to be hired by a Korean shipowner.

K, a Filipino migrant fisherman, concluded a recruitment contract with a recruiting agency for an employment position on a Korean DWF vessel. On the day of his departure, the shipowning company told him he would be boarding a Chinese-flagged vessel instead. Since K had been waiting for so long without being able to pursue other opportunities, he had no choice but to accept the sudden change in his contract terms. More shocking is the fact that some of the other Filipino fishers on K's vessel realized the difference in vessel only after beginning their work on board.

Vulnerability of migrant fishers who have no choice but to accept contractual changes after a long wait



# 08

## Exploitation during Employment

I wish I was a magician  
So that I could move the mountains and the sea to go see you  
(...) Once the work starts, I can't think of anything  
The neon lights become my sun, and I become friends with the waves  
(...) Once the work starts, I work endlessly for 18 hours straight  
I now understand Koreans  
(...) They like people with fast hands  
If you have slow hands, you are a son of a bitch  
(...) Even when we eat, they always order us  
To not chew, just swallow,  
No matter how fast we gulp down the food  
We are still slower than their demand for *bballee* [means 'fast' in Korean]  
(...) Even after work is over  
There is no time to wash my face or brush my teeth  
I lay down as soon as possible, and bring the blankets up to my chin  
That's the only way I can sleep for six hours  
(...) Don't cry, missing me  
My love, don't worry about me  
When these hard times pass, there will be good days  
Just like the angry waves eventually calming  
I will return home to you when this job is over  
(...) Even if I become so poor that I must wear rags  
Korea, I will never even think of returning to this country  
Even if they give me thousands of dollars  
(...) Because you could be a widow, and my children could be orphans  
What they give me is not a bonus  
It's the compensation for living like a cow, a dog day after day

Poem shared among  
Vietnamese fishers on  
Korean DWF vessels

### a. Long Working Hours

Recruitment and labour contracts for DWF vessels do not address working hours, with a few exceptions, and the Seafarers' Act does not place a limit on the number of work hours. Though labour on DWF vessels is necessarily unpredictable and irregular to a certain extent, there is no justification for an unlimited number of working hours. Migrant fishers work grueling, inhumane hours on DWF vessels. Some fishers have reported working 12 hours a day, but most of those interviewed for this report suggested they worked an average of 18 to 20 hours a day, and sometimes even 22 hours a day during busy periods.

Working hours on CWF vessels weighing 20 tons or more were also problematic. The 2012 NHRCK Report found that 67 per cent of the 167 respondents worked more than 72 hours per week. Though the hours varied depending on the type of vessel, the findings of this report were more extreme: Most fishers worked more than 15 hours a day. Some migrant fishers interviewed worked up to 20 or 21 hours and slept no more than 3 or 4 hours a day.

Migrant fisher interviewees employed on CWF vessels weighing less than 20 tons stated that they worked for an average of 12 hours a day (sometimes up to 15 hours a day). Some of them also testified that if inclement weather prevented fishing activities, they were forced to engage in work outside of their contractual obligations, such as tending to crops on the shipowner's farm.

One feature of coastal fishing is the off season, which can span one to six months. During the off season, most fishers were on unpaid vacation and had to work in a fish processing factory in order to receive their monthly salary. Some fortunate migrant fishers received the airfare from the shipowner to visit home during the unpaid vacation. Only a few migrant fishers, the most fortunate of them, received paid vacations during the off season.

### b. Low and Unequal Wages

#### DWF Wages

On DWF vessels, the salary was very low despite the extremely large number of working hours. Moreover, migrant and Korean fishers working on these vessels received different wages.

	Long Working Hours	Discriminatory and Low Wages	Poor Living Conditions	Poor Quality Food and Water	Problems with Health and Safety
 DWFV	●	●	●	●	●
 CWFV 20 ↑	●	●	▲	▲	▲
 CWFV 20 ↓	●	▲	▲	▲	▲

● Serious ▲ Average ■ Weak or none



"I work for 19-20 hours a day. I drink about 10 cups of instant coffee every day because I'm always so tired from lack of sleep. My whole body aches. I'm worried that I'll become physically disabled if I continue working like this."



"I work for 20 hours a day. I fish from 3 p.m. to 5-6 a.m., and repair fishing equipment from 6 a.m. on. I can only get to sleep around 11 a.m."



"I fish from 3 a.m. to 7 p.m., get off the boat and work on mending the net and other equipment until 11 p.m. to midnight. I get a day off every ten days."



"We typically work for 20-22 hours a day. We get six hours of sleep if the work is slow, but that happens very rarely – out of 30 or 40 days; days with six hours of rest are around five or six days."



"When I first went to Korea under the Industrial Traineeship System in 1999, I worked for 16 hours a day, and had about four months of vacation. But since I came back in 2012 with a E-10-2 visa, nothing changed with respect to working hours; in fact, I have to work an extra two hours at an anchovy processing factory now (onshore), and get no vacation."

Testimonies about working hours from migrant fishers working on CWF vessels weighing 20 tons or more

"The shipowner forces fishermen to perform labour outside of contractual terms not only during the off season, but all the time. One Indonesian fisherman had to work additional hours at a processing factory operated by the shipowner every night in addition to his 14-hour shift on the vessel. Working hours at the factory varied depending on the catch; this practice is common in the coastal fishing industry."

Testimony about forced labour in fish processing factories from Se Yong Oh, Chair of the Gyeongju Migrant Workers Center

### (1) Unequal minimum wage

The Seafarers' Act requires the ROK Minister of Oceans and Fisheries to determine the minimum wage for Korean fishers on an annual basis. For 2016, the minimum wage for Korean fishers was set at USD 1,437. However, the minimum

wage for migrant fishers is determined through a different process. This process involves a labour-management agreement between the shipowners and the Korean fishermen's labour union, both of which have conflicting interests with regards to migrant fishers. In the past, the minimum wage for migrant fishers was considerably low, but it now meets the ILO minimum wage standard. As of 2016, the ILO minimum wage is USD 457 for those with fewer than three years experience, and USD 614 for those with more than three years experience.

### (2) Low wages

The ILO minimum wage is too low given the excessive hours migrant fishers work.<sup>11</sup> Most vessels even failed to abide by the ILO minimum wage, with some migrant fishers receiving a mere USD 250 a month. Moreover, recruiting agencies in the Philippines and Indonesia deduct a monthly management fee of approximately USD 5 from the wages.<sup>12</sup>

### (3) Unfair wage determination

The most discriminatory and exploitative factor in determining the wages of fishers is the arrangement in which migrant fishers are paid a fixed salary while Korean fishermen receive part of the vessel's net profits (known as "bohapse" in Korean). Migrant fishers are therefore excluded from benefiting from the vessel's profits.

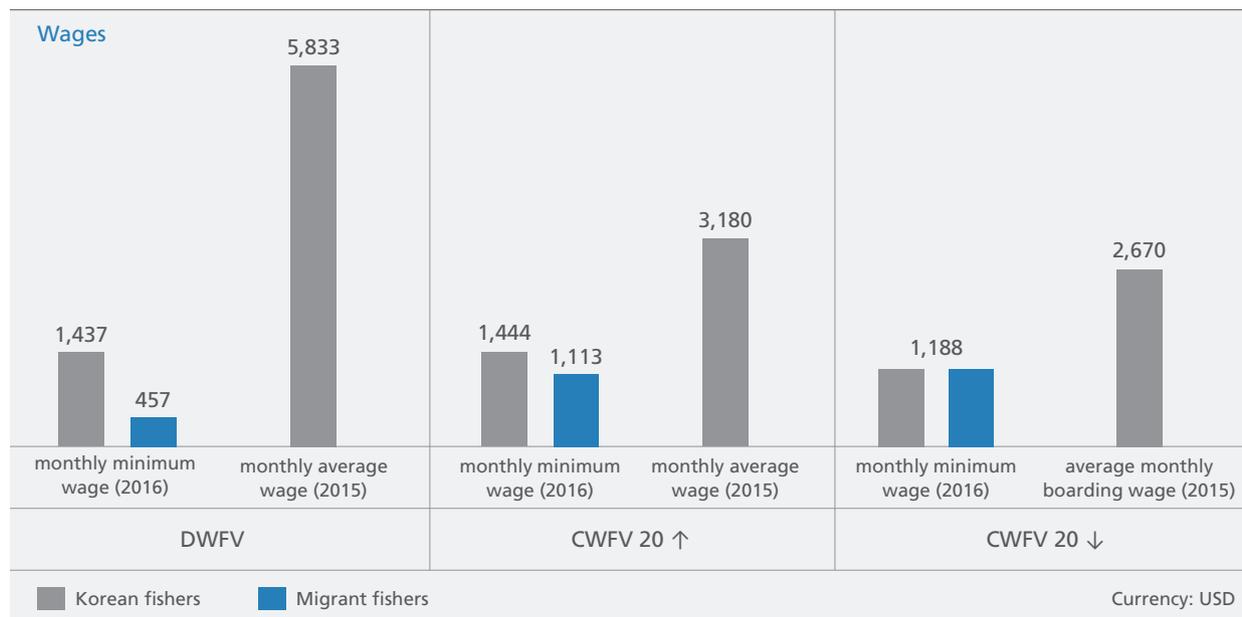
### (4) No overtime pay

Overtime pay is rarely mentioned in recruitment and labour contracts. None of the migrant fishers interviewed for this report mentioned receiving compensation for overtime work. Some of them noted that they were verbally promised a variety of bonuses when they signed the recruitment contract. Despite the low salary, they decided to pursue employment positions on DWF vessels in the hope that these bonuses would make up for the low pay. It

is difficult to enforce shipowners to deliver on the promises of overtime and bonus pay because the amounts are unpredictable and the shipowner has complete discretion over the type and amount of bonuses.

"I get USD 880 every month deposited to my banking account; this is already much lower than the USD 1,584 I was promised in the labour contract. But I had USD 317 transferred to the Korean manning agency every year for three years. I also had USD 220 transferred to the Indonesian recruiting agency four times, or USD 880 in total. The Indonesian recruiting agency again took USD 880 that was left in my account without telling me."

Indonesian fisher: Stolen wages



### CWF Wages

For CWF vessels weighing 20 tons or more, the minimum wage agreed between employers and the union was respected in labour contracts. A higher wage was sometimes used but this depended on the length of the contract and varied significantly by shipowner. Migrant fishers expressed wage grievances related to non-payment and payment delays, illegal deductions and transfers, low wages, and discriminatory practices in determining wages.

#### (1) Unpaid wages

Some of the migrant fisher interviewees stated that they had not been paid their earned wages during the fishing season. One individual noted that he had not received wages for three months, while another said he was awaiting his entire severance pay and five months' worth of wages. A shipowner's failure to pay wages is only one of the reasons why migrant fishers are not properly compensated. Other reasons include illegal deductions and transfers.

#### (2) Illegal withdrawals or transfers

Many migrant fisher interviewees reported that funds from their bank were transferred to manning agencies and/or recruiting agencies without their consent. Illicit transfers such as these are possible because personal identification documents like passports are confiscated by shipowners or manning agency representatives immediately upon the fisher's arrival in the ROK, resulting in their being signed up for automatic payments or debit cards without their prior approval.

#### (3) Low wages and discriminatory wage determination; absence of overtime pay

Similar to DWF vessels, migrant fishers working on CWF vessels weighing 20 tons or more received low wages, faced discriminatory wage determination, and were not given overtime pay. The monthly minimum wage for

migrant fishers on this type of vessel was USD 1,113, which is approximately 30 per cent lower (USD 1,444) than that of Korean fishers working on the same type of vessel. This discrepancy in wages is partly due to the Seafarers' Act, which stipulates that the minimum wage must be determined by the ROK Minister of Oceans and Fisheries. However, the Minister has conferred this authority to the National Federation of Fisheries Cooperatives (NFFC) and Korean fishermen's unions.<sup>13</sup>

On CWF vessels weighing less than 20 tons, migrant fishers were found to be paid the same monthly minimum wage as Korean fishermen (USD 1,188 in 2016), but were excluded from the profit-sharing system.<sup>14</sup>

### c. Poor Living Conditions

On DWF vessels, the most commonly shared grievance with regards to living facilities was the condition of bathrooms and toilets. The number of bathrooms was woefully inadequate and it was often not possible to flush toilets. One vessel on which migrant fisher interviewees worked was reported to have one bathroom for 23 migrant fishers. Migrant fishers were forced to take showers and do laundry with seawater; some even had to use water dripping out of air conditioners.

On CWF vessels weighing 20 tons or more, there were fewer complaints about toilets and bathrooms because the migrant fishers were on the vessels for short periods of time. However, some shipowners did not provide onshore lodging for migrant fishers when the vessel docked in port after fishing, forcing workers to sleep in the cabin or in containers onshore.

On CWF vessels weighing less than 20 tons, most migrant fishers lived in lodging provided by the shipowner. However, many complained about poor hygiene in the dormitories, especially in kitchens and bathrooms. Some were forced to stay in containers, while others had to use the bathroom in the shipowner's house nearby.



Lodging in a fishing vessel.

#### d. Poor Quality Food and Water

A number of migrant fishers on DWF vessels testified that the food quality was poor and that the quantity was insufficient. There were even cases of the shipowner providing fishermen with unheated leftover food. Most migrant fishers reported drinking fresh water, but some stated that they had to filter seawater or resort to drinking rusty or unclean fresh water.

On CWF vessels weighing 20 tons or more, there were comparatively fewer complaints regarding the quality and

quantity of drinking water and food. Most migrant fishers on this type of vessel suggested that they drank fresh water.

On CWF vessels weighing less than 20 tons, the food was prepared by the shipowner or the migrant fishers themselves in their onshore accommodation. This was due to the fact that they spent a shorter period of time on board. However, the interviewees recounted instances of when religious or dietary restrictions were not taken into account.



Meal served on an ROK-flagged DWF vessel. A plastic bottle is cut in half to be used as a cup.

"The food was horrific. The menu was always rice with one fish dish and kimchi. They sometimes gave us leftover food the day after, and didn't even bother heating it up."

Former Indonesian fisher who worked on a DWF vessel

"For twenty months, we were offered leftover fish bait for food."

Vietnamese fisher on a DWF vessel



Front door of a house provided to migrant fishers working on coastal water fishing vessels.

#### e. Problems with Health and Safety

It was difficult to find migrant fishers working on DWF vessels who had received basic safety training, and only a few testified that there was adequate safety equipment on vessels.<sup>15</sup> However, issues of safety are not only limited to safety training and equipment; willful negligence on the part of captains who prioritize profit at the expense of fishers' safety is problematic. A case in point is the sinking of the *Oryong 501* in the Bering Strait in December 2014.

"*Oryong 501* had 60 fishers – only seven survived the accident, and the others either died or went missing. The weather on the day of the accident was very bad. It wasn't suitable for fishing at all. But the captain ordered us to go, and it was work as usual.

We caught fish by a fishnet [mechanized], but it wasn't appropriate to open the fishroom because the rain was pouring and the waves were so high. So the bosun [a ship's officer in charge of equipment and the crew] ordered us not to open the fishroom, but the captain insisted that we open the fishroom and put the fish in. So water kept flowing into the fishroom, eventually tilting the ship to one side. The captain then told all fishermen to move stuff to the other side of the vessel to restore the balance, and to pump water out from the fishroom. At first, the water in the fishroom came up to our knees. I pumped out the water along with five other fishermen, but the water kept rising all the way up to our necks.

The captain completely panicked, and just kept running back and forth without giving directions. He ordered us to leave the vessel only four and a half hours after water came into the fishroom. By then, half of the stern was already underwater. And the vessel sank shortly after.

I was on the vessel until the end, took off my pants and jacket, and jumped into the sea to find the lifeboat which had capsized. I heard screaming from all over the place, but I couldn't see anything because it was so dark. I had been swimming for 40 minutes, hanging onto a piece of wood, when a Russian vessel (*Carolina 77*) rescued me. At first, I couldn't feel my legs. It took a while before I could feel them again. The captain was too greedy – we shouldn't have been out there in the first place since the weather was so bad. If the captain had ordered us to abandon the ship as soon as the water came in, we wouldn't have had as many lives lost."

Testimony of a Filipino survivor of the *Oryong 501* incident



A Filipina showing the photo of her husband missing after the fishing vessel *Oryong 501* sank.

"In May 2015, a Filipino fisherman onboard a Korean DWF vessel asked the captain to take him to the hospital because he had pericarditis. However the captain not only neglected him for over a month, he frequently beat the fisherman alleging that he was faking illness to avoid work, eventually killing the fisherman. The captain reported the cause of death as heart attack to the Korea Coast Guard (KCG) in Busan, and continued to operate the vessel. If the captain had sent the corpse to the police through another ship, it would have been difficult to learn the real cause of death. We were able to investigate only because a Korean fisherman on the *Sojin 101* had requested the captain to go back to Korea when he fell ill. When the vessel arrived at Port Gamcheon in Busan, we saw several Filipino fishermen strongly protesting the captain, and got the sense that there was something wrong with the death that needed to be investigated. When we did an autopsy, we found over 3 liters of pus in the pericardium."

Testimony of a detective from the Korea Coast Guard who investigated the *Sojin 101* cases

Many migrant fishers on DWF vessels experienced injuries such as fingers being cut off by fishing equipment, bone fractures while fishing, bruising from falls due to the vessel shaking, and hypothermia. When injured, however, they were rarely taken to hospital and rarely received sufficient medical attention. In many cases, the captain was unwilling to sail back to a nearby harbour because of the cost. Due to the long distance from land and the difficulty communicating with people on board, it was hard for the authorities or for the families of migrant fishers to even know what medical treatment (if any) was given. A telling example is the case of a Filipino fisherman who died on board after his pericarditis (inflammation of the lining around the heart) went untreated for more than a month.<sup>16</sup>

The situation was similarly grave on CWF vessels weighing 20 tons or more. Safety-related training, equipment and awareness were all lacking on the fishing vessels, making the work environment dangerous. Many migrant fishers got hurt by fish hooks, fishing gear or ropes. Unlike fishers on DWF vessels, it was easier for these fishers to seek timely treatment since a hospital was easier to access. However, some shipowners hid industrial accidents or forced fishers to return home to be treated. The 2012 NHRCK Report found that while 36 per cent of migrant fishers had experienced industrial accidents, only 21 per cent of these received treatment under industrial accidents insurance. Additionally, of the 44 per cent of migrant fishers who stated that they had been too sick to work, a mere 15 per cent reported receiving hospital treatment.

Most migrant fishers on CWF vessels weighing less than 20 tons also experienced both minor and significant injuries. For minor injuries, they usually received emergency treatment on board and visited the hospital at the end of their working day.



Indonesian fishers.

# 09

## Abuse and Discrimination during Employment

The *Sajo Oyang 75* incident in 2011 received significant attention due to the severe abuse migrant fishers suffered at the hands of Korean crewmen. Interviews with migrant fishers for this report found verbal abuse to be an everyday occurrence, with physical abuse and discrimination occurring regularly.

	Verbal Abuse	Physical Abuse	Racial Discrimination
 DWFV	●	●	●
 CWFV 20 ↑	●	●	●
 CWFV 20 ↓	●	●	●

● Serious ▲ Average ■ Weak or none



“Korean ship officers frequently beat us up. They took it out on us when they were tired, drunk, or felt overworked, even if we did nothing wrong.”



“The Korean captain slapped me on the face for not bowing to him. I was slapped on the face or kicked for doing a bad job. The hardest thing I experienced on the vessel was getting my face slapped for not bowing down to the captain.”



“I was beaten by this tool made from a bamboo tree that was used to take out the fish eyeballs. I was beaten so severely that I couldn’t even sleep on my back for three days. I felt so insulted and in pain that I even thought about committing suicide.”

Descriptions of violence onboard DWF vessels from former migrant fishers

#### a. Verbal Abuse

Migrant fishers on DWF and CWF vessels endured insulting language from Korean crew on a daily basis. The 2012 NHRCK Report highlighted that of the 169 respondents working on CWF vessels weighing 20 tons or more, 158 heard insulting language almost every day. Our findings were similar. Migrant fishers interviewed for this report said that while abusive language was heard every day, it became worse when Korean fishers were under the influence of alcohol. Korean fishers cursed habitually, and when drunk they berated the migrant fishers for not working well or for working too slowly.

#### b. Physical Abuse

Physical abuse occurred frequently on both DWF and CWF vessels. The 2012 NHRCK Report highlighted that 46 per cent of migrant fishers on CWF vessels weighing 20 tons or more experienced at least one instance of physical violence. Korean crew usually hit migrant fishers on the face, head, butt or legs with their hands or feet, and some Korean fishers would use fishing gear, knives or scissors. In most cases these attacks did not result in injuries. However, there were some serious instances when migrant fishers were left bleeding or bedridden for days, and some migrant fishers even contemplated suicide because of constant beatings. As with verbal abuse, Korean crew justified their use of physical violence by blaming the migrant fishers for being slow, vomiting due to seasickness or not doing their work well. They also cited impoliteness, such as refusing to do errands or refusing to bow in respect, as the cause for such abuse.

The only recourse migrant fishers on DWF vessels had when such violence occurred was to ask the captain for help. However, their pleas were rarely heard. Although migrant fishers working on CWF vessels should be able to ask the Korean manning agency, police or other government agencies for help, the 2012 NHRCK Report found that 79 per cent of migrant fishers on CWF vessels weighing 20 tons or more had received no assistance (not even an apology) when they sought help from such entities.

In 2015, a group of Indonesian fishers reported their abusive conditions to the Embassy of Indonesia in the ROK, which prompted the Government of Indonesia to announce a temporary moratorium on sending Indonesian fishers to ROK-flagged CWF vessels weighing less than 20 tons.

#### c. Racial Discrimination

Article 6 of the Labor Standards Act prohibits discrimination based on nationality, and Article 22 of the Act on Foreign Worker’s Employment, etc. also requires employers not to discriminate or unfairly treat any person on the grounds

that he/she is a foreign worker; Article 5 of the Seafarers' Act applies Article 6 of the Labor Standards Act. However, migrant fishers recounted many examples of discrimination. The living conditions experienced by migrant fishers were much worse than their Korean counterparts. Discrimination was also common on CWF vessels. Some of the testimonies are highlighted on the right. Because all of the Koreans were ship officers and most of the migrant fishers were deckhands, it would be reasonable to assume that the discrepancy in treatment was based on rank. However, this possibility was refuted by the fact that the few non-Korean ship officers were treated the same as other migrant fishers. Furthermore, when the issue of abuse and discrimination during employment was raised, Korean shipowners, manning agencies and government officials frequently responded that it was because of "cultural differences." However, the experiences of fishers who worked on non-Korean vessels suggest otherwise. Those who used to work on non-Korean vessels said that the vessel had six bathrooms, all of which were available to everyone on board. The vessel also had two chefs who cooked food according to the tastes of the Korean, Indonesian and Russian workers. The entire crew not only had enough to eat but also had enough time to eat their meals. They also told us that only Korean ship officers cursed. In other words, abuse and discrimination are not part of the culture of the fishing industry; rather, they are specific to the culture of Korean fishing vessels, a culture that can and ought to be changed.



"There is discrimination in the allocation of shifts. Koreans get to sleep for seven hours, but Vietnamese workers get only five hours. Koreans leave immediately after finishing their meal, but we have to do the dishes. Korean fishermen are deckhands just like us, but always order us around to do small things for them like making coffee. The shipowner is a decent person, but because he is never onboard, he doesn't know how the Koreans treat us."



"I have to sleep on the docked vessel during the four days of break I get per month. But Koreans get to sleep in motels."



"When the ship comes back to port, Korean fishermen leave immediately. But I have to stay behind and take care of maintenance duties because I'm the only foreigner."

Words of a migrant fisher on a CWF vessel: Discrimination

Testimony of a migrant fisherman who was sexually assaulted on the *Sajo Oyang 75*

"Sometime during the second week of March, around 10 p.m., I was sexually assaulted by a Korean crew member. He came into my room when I was sleeping and started touching my body. I slapped his arm in shock, but he continued, and when I attempted to jump off the bed, he prevented me from leaving and started kissing me in an embrace. I couldn't run away. I finally managed to run to the deck and hide from him, but he searched for me in other rooms, calling out my name. In the second week of April, the bosun came to me and tried to kiss me. I tried to stop him by pushing him back, but ended up falling down next to the chair. Then, the bosun pushed his penis towards my body as if he was having intercourse. I could not bear it. I was disgusted and felt like vomiting when I felt his hardened penis. S and T (fellow crewmen) witnessed this happening."

"They only gave us one set of working clothes, and it was difficult to wash it with seawater because the clothes are drenched in sweat and salty seawater. But unlike us, Korean officers used clean water from the showers to wash their clothes. Even though there were many more of us [migrant fishermen] than there were Korean fishermen, we were all forced to use one bathroom as a group. Even the toilets were different. Koreans' toilets were modern, while ours didn't even have a flush."

Words of a migrant fisher on a DWF vessel: Discrimination



"I reported the violence from Korean fishermen to the police, but nothing was done; the Koreans got even angrier at us because they found out we had reported them. Four of my Indonesian colleagues filed a complaint to the manning agency for physical abuse, then promised that they would change their assigned vessel; but the agency instead sent two of them back home without even paying their overdue wages – so the two workers couldn't even get the security deposit back."



"Koreans used to order me to bring them coffee while I was busy working, even though they were taking a break. When I said I'll get them coffee after I finish the job, they beat my head."



"I left the vessel because of abuse and low wages. Once I witnessed a migrant fisherman being beaten so badly by the captain that he started bleeding."



"One day a Korean fisherman threw scissors at a migrant fisherman. He wasn't hurt then, but was hurt later when the same guy threw a fishnet at him."



"The captain was violent almost every day, using anything he could find around him."

Descriptions of violence onboard from former migrant fishers on CWF vessels

## 10

## Coercion during Employment

Even when faced with abuse and discrimination, migrant fishers cannot easily leave the vessel. They are also vulnerable to coercion, which has physical, social and financial dimensions.

	Physical Segregation		Social Isolation		Financial Pressure	
	Transshipment	Onshore confinement	Confiscation of personal documents	Restrictions on transfer of workplace	Security deposit	Withholding of wages
 DWFV	●	●	●	■	●	●
 CWFV 20 ↑	▲	■	●	●	●	●
 CWFV 20 ↓	■	■	●	●	■	▲

● Serious ▲ Average ■ Weak or none

### a. Physical Segregation

#### (1) Extensive working period without docking due to transshipment

We interviewed one former fisherman from a Korean DWF vessel who had not been onshore in 20 months. Because docking costs money, companies often require the main vessel to stay offshore, transporting the fish and supplying necessities through other ships. Because of this practice, migrant workers cannot leave or ask for outside help even in the face of severe exploitation, abuse and discrimination. This is due to the fact that there are no means of communication on board other than satellite communication tools, which are not available to migrant fishers.

Unlike fishers on DWF vessels who cannot return to shore for more than a year at a time, migrant fishers on CWF vessels weighing 20 tons or more return to land quite often; some vessels come to port every day. However, there were even some CWF vessels that went to China, Japan, Taiwan Province of the People's Republic of China and Russia, staying at sea for upwards of 40 days without docking at a port. Some of these CWF vessels transport the fish caught through transshipment.

#### (2) Onshore confinement

Migrant fishers who have secured employment on a DWF vessel stay in the ROK for a few days prior to boarding the vessel. They also stay onshore in the country for a short period of time before returning home at the conclusion of

their contract. However, in exceptional cases, the vessel docks in port for a short period of time to unload its catch or to undergo ship maintenance. During this time, the company employs various measures to prevent migrant fishers from running away. For instance, they require the fishers to wear uniforms when on land to make it easier to identify them, or they have an escort from the manning agency follow them closely. Other vessels stay just enough distance away from the dock so that migrant fishers cannot go onshore even when they arrive at the port. Sailing and entry/departure schedules are arranged so that migrant fishers can immediately board the vessel or airplane. If the schedule is such that a migrant fisher must remain onshore before/after the work, the manning agency representative arranges for the fisher to stay at the Institute of Welfare and Education for Distant Water Migrant Fishermen, a de facto detention center, at the cost of the shipowning company. Migrant fishers detained there cannot freely leave the premises. There are surveillance cameras and heavy security that monitors the fishers constantly. This is a serious infringement on migrant fishers' right to physical liberty and prevents workers from escaping exploitation, abuse and discrimination.



Indonesian fisherman explaining how he experienced forced labour.

“In 2013, I was catching squid on a Korean DWF vessel for 11 hours during the day and 9 hours during the night. The hardest thing on the vessel was getting beaten by the bosun. I was beaten 30-40 times a month, so pretty much every day. He beat my head and back with a stick. I was under a one-year contract, and we landed in Busan after half a year. I had told the captain before we docked in Busan that I wanted to quit, but the captain said no. Once we landed in Busan, I spent about two months painting the vessel and unloading the squid; then, I spent another fifteen days on board. Afterward, they put me up in a prison-like house for ten days, where I couldn't move as I wanted, the door was always locked, and a person followed me even during meals. The Korean guards there even had electric shock rods. But I knew it was my only chance of running away from the vessel, so I escaped by making a rope from the blankets and tying the rope to the window.”

Testimony of a former migrant fisherman who escaped from the Institute of Welfare and Education for Distant Water Migrant Fishers

## b. Social Isolation

### (1) Confiscation of personal documents

Recruiting agencies regularly confiscate passports and other personal identification documents belonging to migrant fishers who are being recruited in their home countries for employment positions on DWF vessels. These documents are returned to the recruits briefly upon their departure from their country of origin, but are then immediately taken away from them upon their arrival in the ROK by the Korean manning agency or the ship captain. Their documents are held until the end of the contract period,<sup>17</sup> making it difficult for the migrant fishers to seek help.

Of the 27 migrant fishermen working on CWF vessels weighing 20 tons or more that were interviewed, there was only one fisher whose personal documents had never been confiscated. The majority of the interviewees had at least their passport, bank book and/or foreigner registration certificate seized. According to the 2012 NHRCK Report, only 21 percent of the fishers who responded said that they had their foreigner registration certificates with them. A similar survey conducted from January 2012 to October 2015 by the Gyeongju Migrant Workers Center found that 239 out of 298 respondents had their personal documents seized by recruiting agency representatives or shipowners. Migrant fishers on CWF vessels cannot receive medical care, conduct banking transactions, or even buy a cell phone without their passports. Since migrant fishers cannot leave their place of work, or the ROK, without their passports, they are completely tied to the vessels.

Only some of the migrant fishers on CWF vessels weighing less than 20 tons retained their passports. Most of them had their passport, bank book and/or labour contract confiscated by the shipowner.

### (2) Restrictions on transfer of workplace

Migrant fishers on CWF vessels weighing less than 20 tons cannot change their workplace as a rule. Exceptions are extremely limited to cases such as the violation of a contract by a shipowner regarding labour conditions or unfair treatment.

In contrast, migrant fishers on CWF vessels weighing 20 tons or more have no limit on the number of times they may change their workplace. Nonetheless, doing so remains difficult because a fisher must file a notice with the Korea Immigration Service and find new employment on a fishing vessel within 90 days. The fisher must also undergo the entire employment process again. If the fisher begins employment at another workplace without following the proper steps or if he fails to find new employment on a fishing vessel within 90 days, the fisher is deemed to have deserted his original employment position.<sup>18</sup> By contrast, the shipowner can terminate a migrant fisher's contract by filing a notice of disembarkation and can even file a report of desertion with the Korea Immigration Service at any time.<sup>19</sup>

In other words, while the visa status of migrant fishers on CWF vessels are tied to their employment position, the shipowner faces very few restrictions in filing desertion or disembarkation reports with the ROK Government. As a result, it is extremely difficult for migrant fishers to escape employment positions that have exploitative and abusive labour conditions.

## c. Financial Pressure

### (1) Security deposit and predetermination of the amount of damages

With the exception of migrant fishers from the Philippines, all migrant fishers employed on DWF and CWF vessels from the countries examined in this report paid recruiting agencies a very large sum of money as a security deposit. Most of the migrant fishers therefore believed they had no

choice but to endure exploitative and abusive conditions on a vessel or risk losing their security deposit. The migrant fishers faced another source of financial pressure: predetermination of the amount of damages. Typically recruiting agencies and Korean manning agencies have a contract requiring the recruiting agency to pay a penalty fee to the manning agency should a migrant fisher desert his employment position. As protection, the recruitment contract prepared by the recruiting agency for the migrant fisher includes a clause on predetermination of the amount of damages.<sup>20</sup> Even in the Philippines, where the recruiting agency does not receive fees or a security deposit from the migrant fisher, there is a separate contract that obligates the fisher to pay approximately USD 1,760 if the fisher deserts their place of employment before the end of the contract. The inclusion of this predetermination clause serves as a disincentive for migrant fishers to leave a vessel early. A Filipino migrant fisherman interviewed for this report stated that he could not leave the exploitative and abusive conditions he faced on his vessel because he would be liable for damages.

## (2) Withholding and non-payment of wages

The practice of withholding a certain amount of wages to discourage migrant fishers from leaving a vessel was widespread on DWF vessels.<sup>21</sup> Some withheld wages for several months, while others withheld a portion of the salary throughout the contract period. The withholding was done by the recruiting agency or by the company that owned the vessel.<sup>22</sup> Not only those from Viet Nam and Indonesia,<sup>23</sup> but also the migrant fishers from the Philippines (who are not required to pay a security deposit) had their wages withheld. Most migrant fishers on CWF vessels experienced delays in receiving their wages. Some shipowners interviewed did not shy away from explicitly stating that they withhold wages deliberately because “migrant fishermen don’t abandon the post only if they know that some of their wages are being held back.” Withholding or delaying payment of wages serves as an

additional (or effective, in the case of the Philippines) security deposit, financially coercing migrant fishers to remain on the vessel despite exploitation and abuse.

Migrant fishers are susceptible to manipulation before recruitment, and remain vulnerable during the actual recruitment process. Once employed, they are subjected to further exploitation, abuse and discrimination. Despite the violation of their basic human rights, migrant fishers often cannot leave the vessel because of physical segregation, social isolation and financial pressure. Cumulatively, these circumstances indicate that the human rights crisis facing migrant fishers is more than a simple violation of their labour rights.

“When I was packing fish, the captain came in and started beating the Indonesian migrant fishers. They could not understand why, and told the captain that they would leave the vessel. Then the captain retorted that they would not be able to get the three months of wages that had been held back. So the workers had no choice but to continue working. The captain continued to beat people up thereafter.”

Words of a former migrant fisherman on a DWF vessel whose unpaid wages prevented him from leaving the vessel

## 11

## Characteristics of Human Rights Violations Experienced by Migrant Fishers



### a. Definition of Human Trafficking

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) was ratified by the ROK in 2015. Article 3 of the Protocol defines human trafficking as follows:

... the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud,

of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

Purpose	Means	Act
Exploitation including sexual exploitation and forced labour, slavery or similar practices, etc.	Deception, abuse of power or vulnerability, etc.	Recruitment, transport, transfer, harbouring, receipt of persons, etc.

### b. Human Rights Violations Against Migrant Fishers

During the research for this report, recruiting agencies were found to recruit and transport/transfer migrant fishers through the use of deception or by exploiting their vulnerability. Korean shipowners and manning agencies were also found to exploit the vulnerability of migrant fishers in order to receive, transport or transfer them. Labour exploitation was the purpose of these actions. Such practices qualify as human trafficking under the definition of the Palermo Protocol.

The practices identified in this report as human trafficking

are supported by the International Labour Organization (ILO) Indicators of Trafficking of Adults for Labour Exploitation (ILO Indicators of Human Trafficking) and ILO Indicators of Forced Labour. Each of the three types of migrant fisher employment on ROK-flagged vessels examined in this report show signs of human trafficking or forced labour, with DWF vessels being the most severe followed by CWF vessels weighing 20 tons or more, and then CWF vessels weighing less than 20 tons. In particular, the recruitment process and employment conditions on DWF vessels correspond to almost all of the ILO Indicators of Human Trafficking and ILO Indicators of Forced Labour.

Human Trafficking	Migration Flow	Challenges faced by Migrant Fishers		Distant Water Fishing Vessels (DWFV)	Coastal Water Fishing Vessels (CWFV) weighing 20 tons or more	Coastal Water Fishing Vessels (CWFV) weighing less than 20 tons	ILO Indicators of Human Trafficking (Forced Labour)	
Factors Contributing to Human Trafficking	Pre-recruitment	Susceptibility	Poverty	●	▲	▲	Poverty	
			Low level of education	● ( P: ▲ )	▲	■	Low level of education	
			Unstable employment	●	▲	■	(Abuse of vulnerability)	
	Recruitment	Vulnerability	Illegal broker	●	▲	■	Abuse of lack of information; deception	
			High recruitment costs	▲ ( P: ■ )	●	■ ( V: ▲ )	+Debt bondage	
			Inadequate contracts	●	▲	■	Abuse of lack of information; deception	
			Ineffective training	● ( P: ▲ )	▲	▲		
			Confiscation of passport	●	▲	■	+Confiscation of documents (Confiscation of documents)	
	Constituting Factors of Human Trafficking	Employment	Exploitation	Long working hours	●	●	●	+Excessive working hours; (excessive working hours), forced work
				Discriminatory and low wages	●	●	▲	Low wages, violation of labour law and contract terms; manipulation of wages
Poor living conditions				●	▲	▲	Very bad working conditions (Abusive working conditions)	
Poor quality food and water				●	▲	▲	Poor living conditions (Abusive living conditions)	
Problems with health and safety				●	▲	▲	Hazardous work	
Abuse			Verbal	●	●	●	Threat (Threat)	
			Physical	●	●	●	+Violence (Violence)	
Discrimination			Racial discrimination	●	●	●		
Coercion			Physical segregation	Transshipment	●	▲	■	+Confinement and isolation (Isolation)
				Onshore confinement	●	■	■	
			Social isolation	Confiscation of passport	●	●	●	+Confiscation of documents (Restriction on movement, confiscation of documents)
				Restriction in workplace change	■	●	●	
Financial pressure			Security deposit	●	●	■ ( V: ● )	+Debt bondage, Withholding (Debt bondage, withholding)	
			Withholding of wages	●	●	▲		

● Serious ▲ Average ■ Weak or none V: Viet Nam P: The Philippines +: Strong Indicator

# PT KOINDO MARITIME POWER



### III. Challenges and Recommendations

Countermeasures to address the serious human rights violations on ROK fishing vessels are largely absent or have limitations. This chapter addresses the absence or limitations of such measures in four categories: prevention of human rights violation; protection of migrant fishers; prosecution of offenders; and international cooperation. The chapter offers recommendations on what each stakeholder can do in the short, medium and long-term to ensure the human rights of migrant fishers are protected.

## 12

## Absence or Limitations of Countermeasures against Human Rights Violations

Existing countermeasures and their effectiveness can be explained within the range of the “4Ps”- prevention, protection, prosecution (or punishment) and partnership - under the Palermo Protocol.

#### a. Absence/Limitation of Prevention Measures

##### (1) Failure to regulate recruiting agencies

Country of origin governments have jurisdiction to regulate the recruiting agencies within their territory. As for DWF vessels and CWF vessels weighing 20 tons or more, the means of regulation by these governments are limited to issuing licenses and developing/monitoring a blacklist of recruiting agencies. Such measures do not address unlicensed recruiting agencies or illegal intermediaries.<sup>24</sup> The ROK’s Seafarers’ Act requires shipowners to employ fishers that are presented by recruiting agencies satisfying the standards of the Maritime Labour Convention. These standards, however, have not yet been specified by the decree of the ROK Minister of Oceans and Fisheries.

##### (2) Non-compliance to the “Employer Pays Principle”

The Philippines is the only sending country of the three studied countries that strictly implements the “Employer Pays Principle” for migrant fishers on DWF vessels. While Viet Nam has set the ceiling for recruitment costs, the actual implementation of such measures is highly questionable. Despite the claims of the National Federation of Fisheries Cooperatives (NFFC), Korean civil society and the researchers of this report found that some migrant fishers pay far more than USD 5,500 to work on CWF vessels weighing 20 tons or more.

##### (3) No regulation of contract terms/no use of standard contract

Labour contracts provided by employers do not contain detailed information on working conditions. For the labour contract of DWF vessels, the contract period, wages and compensation for accidents are briefly mentioned. There is a clause stating that the working conditions on

the vessel must follow the rules of employment and the collective labour agreement, but neither are available in the languages of migrant fishers nor are they explained to the migrant fishers. As for CWF vessels weighing 20 tons or more, the NFFC’s standard labour contract does not sufficiently explain the working conditions. The Seafarers’ Act requires a labour contract be submitted to the ROK’s Regional Office of Oceans and Fisheries to report a fisher’s employment. However, this does not regulate forgery of contracts and unfairness of contract terms.<sup>25</sup>

##### (4) Poor training

The Ministry of Oceans and Fisheries’ (MOF) Guidelines on Migrant Fishermen Management and the NFFC’s Management Measures for Migrant Fishermen of Fishing Vessels require the provision of training for migrant fishers. Accordingly, migrant fishers on DWF vessels are provided with a pre-departure orientation while fishers on CWF vessels receive a pre-departure orientation and a post-arrival training. The effectiveness of such trainings is questionable. In addition, no training is provided for shipowners, Korean manning agencies and Korean fishers despite the key roles they play in the employment experience of migrant fishers.

##### (5) Lack of government intervention in the recruitment process

The recruitment of migrant fishers working on CWF vessels weighing less than 20 tons is managed under the cooperation of the ROK Government’s Human Resources Development Service and the governments of the countries of origin. In this sense, the recruitment cost is relatively low and the recruitment process is transparent. However, the MOF does not take part in the recruitment process

of migrant fishers working on DWF vessels. As for the recruitment of migrant fishers working on CWF vessels weighing 20 tons or more, the MOF has delegated the work to the NFFC, which has then outsourced it to Korean manning agencies. Lack of human resources within MOF is one of the reasons for its lack of engagement in the recruitment and employment process.<sup>26</sup>

**(6) Exclusion clauses on working hours, rest breaks, etc.**  
The Seafarers' Act contains exclusion clauses in relation to working hours, rest breaks : overtime work for fishers working on DWF vessels and CWF vessels weighing 20 tons or more.<sup>27</sup> The standards on working hours and rest breaks/days off of the Labor Standards Act are not applied to fishers including migrant fishers working on CWF vessels weighing less than 20 tons.<sup>28</sup>

### **(7) Problems in regard to wages**

The Labor Standards Act and the Seafarers' Act<sup>29</sup> prohibit discrimination of wages based on nationality. Aside from CWF vessels weighing less than 20 tons, the minimum wage for migrant fishers is less than that of Korean fishers and only Korean crew share the extra profit of catch based on "bohapse" [the profit-sharing system]. For workers on DWF vessels, there is a significant gap between the ILO standard wage paid by the shipowner and the actual payment received by the migrant fishers.

### **(8) Failure to inspect labour conditions in the fishing industry**

The inspection of labour conditions for fishers on DWF vessels is difficult since the fishing vessel rarely docks at a port. An observer designated by governments under the Maritime Labour Convention may board a DWF vessel to monitor whether the operation of the ship is in line with international standards for fishing. However, the observers currently do not monitor the working or living conditions of fishers on board. While labour inspection is feasible for CWF vessels, the responsible ministries (MOF and the Ministry of Employment and Labour) are passive about carrying out labour inspections for various reasons,

## 고 용 계 약 서

(THE WRITTEN EMPLOYMENT CONTRACT)

1. 업채명(고용주) OWNER (EMPLOYER)
  - 주 소 : ADDRESS :
  - 상 호 : NAME OF COMPANY :
  - 성 명 : NAME :
2. 선원명 (피고용인) NAME OF CREW(EMPLOYED)
  - ADDRESS : 부산 중구 광복로97번가 26-2, 1201호
  - NAME :
  - DATE OF BIRTH : 1975.
3. 계약내용( DETAIL TEXT OF CONTRACT)
  - 가. 승선선박 (EMBARKATION VESSEL)
    - 선박명 : 제 501 오룡호 ●선박번호 : 1402001-6261401
    - NAME OF VESSEL : NO. 501 ORYONGHO NO OF VESSEL : 1402001- 6261401
    - 선 종 : 원양 트롤 ●운항구간 : 태평양
    - TYPE OF VESSEL : TRAWLER VESSEL AREA TO REVOLVE AROUND : PACIFIC OCEAN
    - 총원수 : 1,753.00 ●승무원명 : 70명 ●부원수 : 61명
    - GRT : 1,753.00 NUMBER : 70PER SUBORDINATE : 61 PER
  - 나. 계약기간 (PERIOD OF CONTRACT)
    - 2014 년 07 월 10 일 - 2015 년 07 월09 일 (1년간)
  - 다. 고용조건(CLAUSE OF ONTRACT)
    - (1) 직 책 : 갑 판 원 (RANK : DECK)
    - (2) 봉 급 : 월USD373 (SALARY : USD373)
    - (3) 수 당 : USD50 (BONUS : USD50)
    - (4) 월보소총액 : USD423 (TOTAL SALARY PER MONTHLY : USD423)
    - (5) 퇴 직 금 : USD373 (RETIREMENT ALLOWANCE : USD373)
4. 기타 근무조건 (THE OTHERS CLAUSE OF ONE'S DUTY)
  - 가. 취업규칙의 준수 ( TO OBSERVE ADOPTION OF A PROFESSION )
  - 나. 선원법령의 준수 ( TO OBSERVE THE SEAMEN ACTS)
5. 재해보상(ACCIDENT COMPENSATION) : 선원 공제보험에 가입  
위 계약 당사자는 상기와 같은 계약내용으로 선주 소유선박에 승선 근무하기 위한 계약을 체결하였음을 확인하여 아울러 선주는 선원의 선원을 책임지고 선원의 보수 재해보상을 선주 책임하에 지출함을 상호확약한 또는 선원의 위법행위로 생기는 일체의 책임을 선주가 질것을 확약함.  
2014. 07. 09  
선 주 ( SHIP OWNER) 선 원 ( CREW )

Labour contract between Korean shipowner and migrant fisherman working on DWF vessel.

citing difficulty of access, insufficient numbers of labour inspectors, and lack of expertise.

#### (9) Lack of regulation of transshipment

Transshipment is one of the reasons that fishers on DWF vessels are physically isolated. With efficient regulation of transshipment, migrant fishers would have more access to grievance mechanisms if they experienced exploitation or abuse during employment. With increased access to worker grievance mechanisms, ship companies would implement more responsible labour management. Unfortunately, however, at present there are neither domestic nor international laws that regulate transshipment.

#### (10) Illegal practices in relation to the payment of wages

The Seafarers' Act prohibits forced saving or deposit to compensate for damages and clearly states the principle of direct payment to workers. However, recruiting agencies collect the deposit to compensate for damages; and wages are delayed, withheld, or indirectly paid through recruiting agencies.

#### (11) Failure to regulate manning agencies

The MOF does not have sufficient human resources to regulate manning agencies for DWF vessels. As for CWF vessels weighing 20 tons or more, the MOF has delegated the role to the NFFC. The NFFC regulates Korean manning agencies through periodic evaluations. However, as the most important criterion of this evaluation is the runaway rate of migrant fishers, the manning agencies are developing more inhuman measures to prevent runaways. Such measures lead to increased human rights violations. While the Seafarers' Act prohibits Korean manning agencies from collecting money or valuables from migrant fishermen, these agencies illegally deduct money from wages or collect fees when the fishers change workplaces.

### b. Absence/Limitation of Protection

#### (1) Union's failure to protect migrant fishers

At present there is no union representing the interests of migrant fishers. Korean unions fiercely defend the interests of national fishers, placing the migrant fishers in an even more vulnerable position.

#### (2) Problem of insurance system

The MOF has delegated the management of insurance to the NFFC. However, as the NFFC is an association of shipowners, it is somewhat inappropriate for them to manage the insurance system.<sup>30</sup> Some shipowners conceal occupational injuries so that the migrant fishers do not receive the medical treatment to which they are entitled.<sup>31</sup> In the case of DWF vessels, the Seafarers' Act requires that shipowners purchase an insurance policy for which the insured amount is above the average boarding wage, an amount determined each year by the Minister of Oceans and Fisheries. However, for migrant fishers shipowners buy policies for the minimum wage (or for a wage even lower than the minimum wage), which is three to seven times lower than the average boarding wage. As a result, injured migrant fishers often cannot receive proper compensation through their insurance scheme. The MOF is not conducting proper inspections of whether shipowners are fulfilling their duty to buy compensation insurance in accordance with the Seafarers' Act.<sup>32</sup>

#### (3) Malfunctioning grievance mechanism

Migrant fishers on DWF vessels have difficulties accessing the grievance mechanism, and access is also limited for those on CWF vessels. Many migrant fisher interviewees working on CWF vessels weighing 20 tons or more responded that they do not know where to report a case of exploitation or abuse, and that they would rather contact the Korean language instructor from their post arrival training. To remedy the situation, MOF has set up a hotline at the Korea Seafarers' Welfare & Employment Center for migrant fishers of CWF vessels weighing 20 tons or more. The NFFC also operates a hotline of their own for fishers on CWF vessels. However, when reports are made to the hotlines, it has been revealed that operators perform no

role beyond translator, and often simply connect fishers to civil society organizations without taking proper administrative measures. The number of operators at the NFFC hotline is about two per migrant fisher nationality.<sup>33</sup> The migrant fishers interviewed stated that they reported incidents of abuse to the MOF, NFFC, Korea Coast Guard and the Korean police, but that cases were rarely resolved.

#### (4) Failure to identify victims

No ROK Government department has developed a set of indicators to identify victims of trafficking for the purpose of labour exploitation. Law enforcement agencies, particularly immigration officers under the Ministry of Justice, fail to identify foreign victims of trafficking, including migrant fishers.

#### (5) Lack of statistics on migrant fishers and lack of system to accurately locate migrant fishers

Statistics for Korean fishers are available in many categories, but the only information available on migrant fishers is the total number of migrant fishers and their countries of origin. Although the authorities are required to record and monitor the names of the fishing vessels employing these migrant fishers, each relevant government department has different information on the current location of migrant fishers and there is no system for sharing such data between departments.

### c. Absence/Limitation of Punishment

#### (1) Narrow definition of human trafficking and forced labour

Prior to ratifying the Palermo Protocol, the ROK Government revised clauses in the Criminal Code concerning human trafficking in order to prepare for the implementation of the Protocol. It also added an article prohibiting forced labour to the Seafarers' Act. However, the revised Criminal Code and the clause in the Seafarers' Act are narrow in comparison to the definition of human trafficking in the Palermo Protocol and the ILO Indicators of Forced Labour. Therefore, the perpetrators of human

trafficking or forced labour still have impunity under the revised and additional clauses.<sup>34</sup>

#### (2) Weak sanctions against shipowners and Korean fishers

Shipowners and Korean fishers receive weak penalties for human rights violations against migrant fishers. For the *Sajo Oyang 75* case, the Korean fishers who regularly sexually molested the migrant fishers on board were not indicted. Individuals who forged documents relating to wage payments for the migrant fishers received very light punishments.

#### (3) Negligence in regard to de facto confinement

The Institute of Welfare and Education for Distant Water Migrant Fishermen, the facility where migrant fishers of DWF vessels stay between their entry into the ROK and boarding a fishing vessel, is a de facto detention center. The media have covered this issue, but no action has been taken.

#### (4) Non-compliance with the prohibition on confiscation of passports

The Immigration Control Act and the Passport Act prohibit the confiscation of personal documents, including passports, for contract fulfillment. However, these regulations are not implemented or monitored.

### d. Absence/Limitation of Partnership

The countries of origin of the migrant fishers, and the destination country to which they travel for employment, rarely cooperate on the protection of migrant fishers' rights. The governments of these countries often lack awareness of the situation and have only a basic understanding of the laws, systems and policies needed to prevent human rights violations and protect migrant fishers from such practices.

A Vietnamese migrant fisher entered the ROK in June 2013 after paying approximately USD 12,000 in recruitment costs. Subsequent to his arrival he worked nearly 20 hours a day for three months. During these long working hours, Korean fishers hit him with their hands and feet, and with fish and fish buckets. The migrant fisher, with more than 20 years of fishing experience, did not receive the first two months of salary, while the Korean fishers were paid high wages every time the ship docked at a port. He asked the captain, the shipowner, the NFFC and the manning agency for help, but nothing changed. Eventually he disembarked and asked for a change of workplace. The shipowner reported his desertion to the Korea Immigration Service. The migrant fisher went to the immigration office and explained that he did not run away but that he disembarked to ask for a workplace transfer due to physical abuse and delays in payment. However, the immigration officer did not check on the human rights violations against the migrant fisher and told him that he could not work elsewhere if the shipowner did not withdraw his report of desertion. One month after the worker disembarked, the manning agency contacted him and told him they would accompany him to the immigration office to change his workplace. When he went there with the staff member of the manning agency, he did not have his workplace transferred. Instead, he was given a deportation order and was confined in an immigration detention center.<sup>35</sup>

Case of law enforcement agencies' failure to identify victim of human rights violation

For boarding fishers without prior official approval of embarkation and applying for the approval four months later, a fine of USD 104 was imposed. MOF gave a warning for boarding seven more migrant fishers than the number of migrant fishers agreed to between labour and management. For not reporting the employment of twelve migrant fishers to the Regional Office of Oceans and Fisheries, the MOF only prohibited new employment for one month.

MOF sanction on *Sajo Oyang 75* violation of law and regulations in 2011



Regional conference on ethical recruitment and policy harmonization in the fishing industry.

## 13

### Recommendations

This research has revealed that recruitment and employment conditions faced by migrant fishers working in the ROK fishing industry can be qualified as human trafficking or forced labour. Presently the laws and systems to regulate such practices are largely missing or ineffective. This report presents a series of short, medium, and long-term actions that various stakeholders can undertake to ensure the human rights of migrant fishers are fully respected.

## A. Short-term Recommendations

No.	Law / System / Implementation	Target	Recommendation	Type of Fishing Vessel	"4Ps"	Issue
Short-term 1 (S1)	Implementation	MOF MOEL NFFC	Assess the exact and itemized amount of recruitment costs paid by migrant fishers through in-depth interviews with migrant fishers working on different types of fishing vessels.	All types	Prevention	Recruitment costs
S2	System	MOF NFFC MOEL	Develop a practical training curriculum, through consultation with stakeholders and experts, to help migrant fishers understand their rights and do their fishing work.	All types	Prevention	Training
S3	Implementation	MOF	Monitor shipowners and manning agencies to ensure that at least the training for migrant fishers stipulated in the MOF's notification is provided to migrant fishers working on DWFVs.	DWFV CWFV 20↑	Prevention	Training
S4	Implementation	MOF	Conduct thorough supervision of whether shipowners buy accident compensation insurance for migrant fishers, for whom the insurance amount should be above the average boarding wages in compliance with the announcement of the MOF.	DWFV CWFV 20↑	Prevention	Insurance
S5	Implementation	MOF	Abolish discrimination against migrant fishers on the minimum wages.	CWFV	Prevention	Wages
S6	Implementation	MOF MOEL	Conduct labour inspection by regularly visiting the ships.	CWFV	Prevention	Labour inspection
S7	Implementation	MOF NFFC MOEL	Share standard labour contract with the governments of sending countries for regulation of recruitment contracts.	All types	Partnership	Labour contract
S8	Implementation	MOF NFFC	Regulate recruiting agency or shipowner avoiding the principle of direct payment to workers.	All types	Prevention	Wages
S9	Implementation	MOF NFFC	Place experts on grievance mechanism at hotline center who are capable of actually handling the complaints.	DWFV CWFV 20↑	Protection	Grievance mechanism
S10	Implementation	MOF MOEL MOJ	Conduct regular training of law enforcement officers to identify victims of human trafficking and forced labour from migrant fishers and protect them.	All types	Protection	Human trafficking
S11	System Implementation	MOF MOJ Union	Close the Institute of Welfare and Education for DW migrant fishers; establish alternative measures to safely accommodate migrant fishers.	DWFV	Protection	Physical isolation
S12	System Implementation	MOF MOEL NFFC	Collect detailed data on migrant fishers when producing annual report on fisher statistics.	All types	Protection	Statistics
S13	Implementation	MOF NFFC MOEL	Regularly share the updated minimum wage of migrant fishers with the government of sending country.	All types	Partnership	Wages
S14	Implementation	MOF MOEL	Have constructive and regular consultations with civil associations in planning and implementing roadmap for reform of system related to migrant fishers.	All types	Prevention	General
S15	Law	MOF	Revise Seafarers' Act to include the content of current guideline (such as training for migrant fishers) in order to ensure the enforcement of such content.	DWFV CWFV 20↑	Prevention	General
S16	Law	MOF	Include clauses for the protection of migrant fishers' rights in the draft of the Distant Water Fishery Act.	DWFV	Prevention	General
S17	Implementation	MOF NFFC KOFA	Provide a copy of the collective agreement and employment rules translated into the migrant fishers' native language and display translated documents on the vessel.	DWFV CWFV 20↑	Prevention	Labour contract

## B. Mid-term recommendations

No.	Law / System / Implementation	Target	Recommendation	Type of Fishing Vessel	“4Ps”	Issue
Mid-term 1 (M1)	System	MOF	Issue decree to specify verification process of recruiting agencies to examine if the agencies fulfill the standards of the Maritime Labour Convention, in order to implement Article 113-2 of the Seafarers’ Act.	DWFV CWFV 20↑	Prevention	Recruiting agency
M2	System	MOF NFFC MOEL	Develop standard labour contract for migrant fishers that complies with national laws and international standards.	All types	Prevention	Labour contract
M3	System Implementation	MOF	Develop process to verify the authenticity and fairness of labour contract submitted to the Regional Office of Oceans and Fisheries.	DWFV CWFV 20↑	Prevention	Labour contract
M4	System	MOF NFFC	Revise MOF guidelines and the NFFC code of management to extend the provision of training to shipowners, manning agencies and Korean fishers.	DWFV CWFV 20↑	Prevention	Training
M5	System	MOF NFFC MOEL	Standardize curriculum and hours of pre-departure orientation and post-arrival training in coordination with sending governments to reflect mutual expectations.	All types	Prevention	Training
M6	Law Implementation	MOF MOEL	Increase the number of labour inspectors (for fishers) and hire labour inspectors with expertise.	CWFV	Prevention	Labour inspection
M7	System	MOEL	Improve system so that migrant workers with fishing skills and fishing experience are recruited, rather than those with high grades on the Korean language test.	CWFV 20↓	Prevention	Recruitment
M8	Law Implementation	MOF NFFC	Develop accident compensation insurance system for fishers on CWFV weighing less than 20 tons that is as fair and transparent as the industrial accident compensation insurance.	CWFV 20↓	Protection	Insurance
M9	Law Implementation	MOF	Revise the Seafarers’ Act and improve legal system so that migrant fishers on DWFV can be fully covered by accident compensation insurance.	DWFV	Protection	Insurance
M10	System	MOF KCG NFFC	Establish effective grievance mechanism that is easily accessible for migrant fishers.	CWFV 20↑	Protection	Grievance mechanism
M11	System	MOF MOJ MOEL	Develop indicators for victim identification of human trafficking or forced labour.	All types	Protection	Human trafficking
M12	Law Implementation	MOF KCG MOJ NFFC	Develop a system to effectively share data among different governmental agencies to accurately locate migrant fishers during operations.	All types	Protection	Location of migrant fishers
M13	System Implementation	MOF MOEL	Allow quick and easy access of migrant fishers to Fishers Labour Relations Commission for assistance in case the payment of wages is delayed.	CWFV 20↑	Protection	Wages
M14	System	Union	Korean union of fishers accept migrant fishers as members and represent the interests of migrant fishers.	DWFV CWFV 20↑	Protection	Union
M15	Implementation	MOF	Monitor and punish shipowners or manning agencies that illegally withdraw or transfer money from the bank accounts of migrant fishers.	CWFV 20↑	Prosecution	Wages
M16	System Implementation	MOF MOEL NFFC	Share information on migrant fishers system with sending country government.	All types	Partnership	General
M17	System	MOF MOSF	Supplement the personnel in the Ministry of Oceans and Fisheries that are exclusively in charge of the labour and human rights issues of migrant fishers.	DWFV CWFV 20↑	Prevention	General

## C. Long-term recommendations

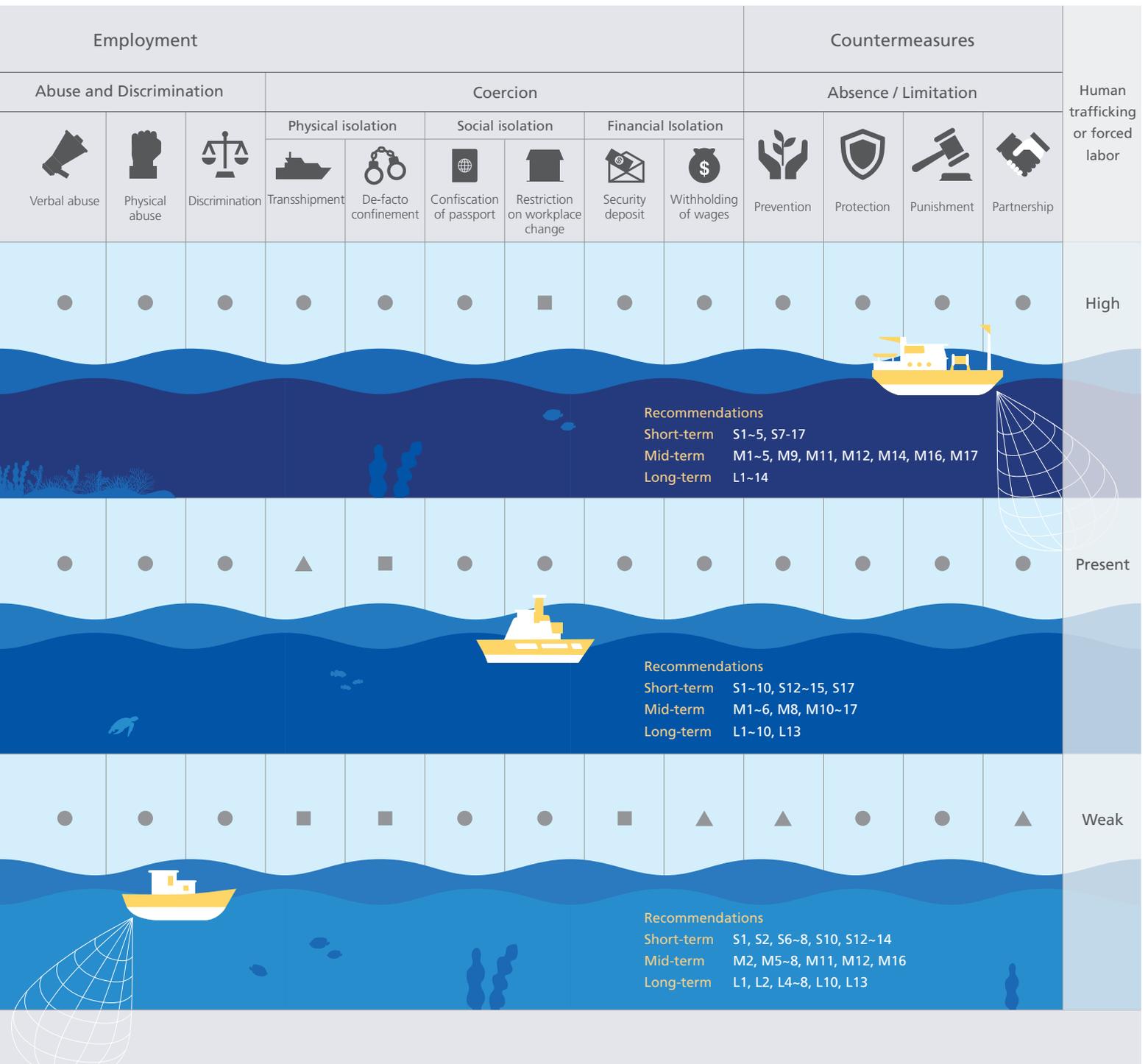
No.	Law / System / Implementation	Target	Recommendation	Type of Fishing Vessel	"4Ps"	Issue
Long-term 1 (L1)	Law System	MOF MOEL	Develop a policy roadmap to implement 'Employer Pays Principle' in coordination with sending countries.	All types	Prevention	Recruitment costs
L2	Law	MOF MOEL	Revise relevant legislation to implement the 'Employer Pays Principle'.	All types	Prevention	Recruitment costs
L3	Law System	MOF NFFC MOEL	Propose a bill on the recruitment process for DWFV and CWFV fishers to be administered by a government agency.	DWFV, CWFV 20↑	Prevention	Recruitment Process
L4	Law System	MOF MOEL	Amend relevant laws on working hours, break, and overtime pay to prevent migrant fishers from exploitation.	All types	Prevention	Working hours
L5	Law Implementation	MOF Union	Abolish discriminatory wage based on nationality and apply 'bohapse' to migrant fishers.	All types	Prevention	Wages
L6	Law System	PMO <sup>36</sup>	Form an inter-agency committee to address human trafficking and to protect victims.	All types	Prevention	Human trafficking
L7	Law	MOF MOEL NFFC Union	Initiate policy dialogue with stakeholders to unify two different systems in CWF to mitigate human rights violation against migrant fishers.	All types	Prevention	General
L8	Law	MOF	Legislate a special law to ensure the rights of migrant fishers.	All types	Prevention	General
L9	System	MOF	Provide technical support to DWFVs and CWFVs so that migrant fishers are equipped with means of communication.	DWFV CWFV 20↑	Prevention	Physical Isolation
L10	Law	MOJ MOEL MOF	Propose a bill on protection of victims of labour trafficking with a focus of migrant fishers.	All types	Prosecution	Human trafficking
L11	Law System	MOF MOFA	Amend domestic laws or participate in discussion with international fisheries organizations to enable observers to monitor the labour environment in addition to fishing regulations.	DWFV	Prevention	Labour inspection
L12	Law System	MOF MOFA	Participate in international dialogue on regulating transshipment.	DWFV	Prevention	Transshipment
L13	Law	MOF MOJ	Amend the ROK Criminal Code on human trafficking and the Seafarers' Act on forced labour in compliance with international standards.	All types	Prosecution	Human trafficking
L14	Law	MOF MOFA	Ratify the Work in Fishing Convention (No.188).	DWFV	Prevention	General

# Tied at Sea

Migration Flow	Pre- Recruitment			Recruitment									
Challenges faced by migrant fishers	Susceptibility			Vulnerability					Exploitation				
	Poverty	Lack of education	Employment insecurity	Illegal intermediates	High recruitment costs	Issue of contract	Poor training	Long waiting period and confiscation of passport	Long working hours	Discriminatory and low wages	Hazardous work conditions	Poor quality food and water	Medical preparedness and safety
DWFV	●	●	●	●	▲	●	●	●	●	●	●	●	●
	Number of Migrant Fishers / Ratio of Migrant Fishers to Korean 3,373 / 69.34% The Competent Authorities MOF Applicable Industrial Accident-related Law <b>Seafarers' Act</b>			Industrial Accident-related Law Applicability <b>Seafarers' Act</b> Visa Type C-3 or B-2			Applicable Labour-related Law <b>Seafarers' Act</b> , Partial application of Labor Standards Act, Non-application of Minimum Wage Act Parties of Recruitment <b>Recruiting agency</b>			Country of Origin <b>Indonesia, Viet Nam, China, Myanmar etc.</b> Name of the system <b>N/A</b>			
CWFV 20 ↑	▲	▲	●	▲	●	▲	▲	▲	●	●	▲	▲	▲
	Number of Migrant Fishers / Ratio of Migrant Fishers to Korean 8,441 / 35.51% The Competent Authorities MOF Applicable Industrial Accident-related Law <b>Seafarers' Act</b>			Industrial Accident-related Law Applicability <b>Act on Accident Compensation Insurance for Fishing Vessels and their crew members</b> Visa Type E-10-2			Applicable Labour-related Law <b>Seafarers' Act</b> , Partial application of Labor Standards Act, Non-application of Minimum Wage Act Parties of Recruitment <b>Recruiting agency</b>			Country of Origin <b>Indonesia, Viet Nam, China, Sri Lanka</b> Name of the system <b>Foreign Seafarer System</b>			
CWFV 20 ↓	▲	■	■	■	■	■	▲	■	●	▲	▲	▲	▲
	Number of Migrant Fishers / Ratio of Migrant Fishers to Korean 7,255 / 24.90% The Competent Authorities <b>MOEL</b> Applicable Industrial Accident-related Law <b>Act on Foreign Workers' Employment, etc.</b>			Industrial Accident-Related Law Applicability <b>Act on Accident Compensation Insurance for Fishing Vessels and their crew members</b> Visa Type E-9-4			Applicable Labour-related Law <b>Labor Standards Act, Minimum Wage Act</b> Parties of Recruitment <b>Country of origin government</b>			Country of Origin <b>Indonesia, East Timor, Viet Nam, Sri Lanka</b> Name of the system <b>Employment Permit System</b>			

● Serious ▲ Average ■ Weak or none

# Human Rights Violations against Migrant Fishers on Korean Fishing Vessels



## End Notes

- 1 See <http://www.fao.org/3/a-i5555e.pdf>.
- 2 The number of Korean fishers, who were insured under the Act on Accident Compensation Insurance for Fishing Vessels and their crew members, working on CWF vessels weighing less than 20 tons as of the end of 2015.
- 3 The sole exception is the 1996 case of Chinese fishers murdering Korean and Indonesian crew after they suffered physical violence from the Koreans for being clumsy (Pescamar No. 15, a Panamanian ship).
- 4 According to a provision for seafarers in the Immigration Control Act, migrant fishers can enter the country without a visa when the vessel on which they work is docked at port. The shipowning company must submit online the scheduled entry or scheduled boarding report to the immigration office before the arrival of the migrant fishers.
- 5 As of January 2017 there are 15 manning agencies based in Korea.
- 6 However, as an alternative, migrant fishers who cannot afford to pay the security deposit put up their housing or land ownership documents as collateral.
- 7 Even if the contract is longer than 3 years, the recruiting agency is (legally) prevented from being paid more than 3 months of wages in service fees.
- 8 Some Indonesian recruiting agencies who sent migrant fishers received, with the help of the manning agencies in Korea, approximately USD 26 every month for 4 years and 5 months, in the name of “management fee” deducted from the fishers’ monthly wages. According to Mr. Se Yong Oh, Chair of the Gyeongju Migrant Workers Center, it is common practice for Indonesian recruiting agencies to withhold money from Indonesian migrant fishers wages afterwards as a service fee.
- 9 There were some migrant fishers with a copy, but Vietnamese recruiting agencies had a policy of demanding that the worker return the recruitment contract in order to receive wages in arrears and the security deposit. Both the practice of withholding the copy of the recruitment contract and forcing workers to return the copy after coming home seem to be tactics to eliminate proof of legal liability if a problem arises.
- 10 According to the Guidelines on the Management of Foreign Fishermen (announced by the Minister of Oceans and Fisheries), migrant fishers must receive three days of training. However, if the schedule of vessel operation necessitates it, the training can be replaced by education on the vessel under the responsibility of the shipowner or the captain. It appears that most shipowners misuse this provision by not providing training onshore.
- 11 The actual wage of migrant fishers on DWF vessels is equal to or lower than the minimum wage. However, the average monthly salary of a Korean fisher is USD 5,833 (or USD 3,433 for deckhands).
- 12 Such illegal deduction may be a part of the recruitment costs, even though it may not have been paid prior to departure.
- 13 The average monthly boarding wage of Korean crew working on CWF vessels weighing less than 20 tons is USD 2,670.
- 14 The average monthly wage of Korean crew working on CWF vessels weighing 20 tons or more is USD 3,180 (or USD 2,667 for deckhands).
- 15 One Vietnamese migrant fisherman we interviewed said that he was only given gloves and boots (and no other safety equipment); and the gloves were only provided once and not replaced for 10 months, despite the wear and tear.
- 16 See <http://news20.busan.com/controller/newsController.jsp?newsId=20150610000099>.
- 17 We visited a manning agency to learn what kind of visas migrant fishers receive upon entering Korea. The agency nonchalantly took the migrant fishers’ passports out from their desk drawers to show us their visas.
- 18 Migrant fishers working on CWF vessels weighing 20 tons or more must pay an illegal management fee to the manning agency when they change their workplace, but a more difficult task is finding a new shipowner. Shipowners do not like to hire workers who left other vessels because they view them as having inadequate skills or a bad attitude.
- 19 Once the shipowner files a report of desertion to the immigration office, the migrant fisher is immediately noted as having abandoned their workplace. If the shipowner files a report of disembarkment, the migrant is deemed to have abandoned his workplace if he cannot secure a new labour contract with another shipowner within 90 days.
- 20 One Indonesian recruiting agency that sends 500 to 600 migrant workers every year to a Korean DWF vessel had contracted with the manning agency that it would pay USD 3,168 in penalty fees if a fisher deserted their workplace. The recruiting agency therefore deducted USD 53 to USD 97 every month from the fishers’ wages, holding it back as security to use to pay the manning agency in the case of desertion. If the amount was still not enough, the recruiting agency pestered the migrant fisher to make up the difference, which takes a separate agreement between the recruiting agency and the migrant fisher.
- 21 The wages are transferred from the shipowning company to the manning agency, then to the recruiting agency, and then to a local broker agency, before finally reaching the family of the migrant fisher in cash.
- 22 The recruiting agency does not pay the withheld wages to the migrant fishers in a lump sum even if they return home after fully completing the term of their contract; instead,

it makes the payment in portions, based on the number of months withheld.

**23** In Indonesia, the recruitment contract explicitly states that the delay in wage payment is meant to prevent fishers from abandoning their post.

**24** In fact, an Indonesian recruiting agency that sent migrant fishers to FV Oryong 501 was not licensed by the Ministry of Transportation.

**25** For example, while the collective agreement dated April 11, 2014 sets the monthly minimum wage for migrant fishers as USD 435, the monthly wage on a labour contract between a shipowning company and a migrant fisher, which was prepared on July 9, 2014 and lawfully reported to the Regional office of Oceans and Fisheries, was USD 423 including benefits.

**26** There are 45 divisions within MOF but the Seafarer Policy Division is the only one directly related to fishers including migrant fishers.

**27** Seafarers' Act, Article 68 (1) and (2); Labor Standards Act, Article 63 (2).

**28** Given the characteristics of the fishing industry, it may be difficult to apply the same regulations for working hours and rest (day off, break) as the manufacturing industry. However, there are ways to revise the Seafarers' Act to compensate for the long working hours, such as giving paid leave during the off season (for migrant fishers on CWF vessels), ensuring a certain time of rest after a certain time of working, or giving payment for overtime work.

**29** Article 6 of the Labor Standards Act prohibits discrimination on the basis of nationality, and this is applied in Article 5 of the Seafarers' Act in regard to labour relations of fishers.

**30** Under the Industrial Accident Compensation Insurance Act, insurance is managed by the Korea Workers' Compensation & Welfare Service (COMWEL), a public agency

under the Ministry of Employment and Labour. When a worker objects to a compensation decision made by COMWEL, this complaint is handled by another neutral commission. However, the overall accident compensation insurance for fishers under the Act on Accident Compensation Insurance for Fishing Vessels and their crew members, ranging from evaluation to decisions on complaints about insurance benefits, is managed by NFFC, an association of shipowners. The insurance fund is also managed by the bank of NFFC, which is not an independent insurance company.

**31** A migrant fisherman who had to amputate his leg after an injury while at work was paying for treatment himself, even though it was an industrial accident, until civil society intervened. In another case, the process of calculating the rate of disability and compensation was being carried out without the participation or knowledge of the injured migrant fisherman.

**32** In the case of DWF vessels, only the Seafarers' Act is applied, and not the Act on Accident Compensation Insurance for Fishing Vessels and their crew members. The collective agreement for migrant fishers states that accidents will be compensated according to the law of the country of origin of the migrant fisher, and that such collective agreement is only effective when the compensation level in the country of origin is higher than that of the Seafarers' Act. Shipowning companies also usually buy compensation insurance in the country of origin through the recruiting agencies. Of course, it is not against the Seafarers' Act to buy compensation insurance in the country of origin, but it is difficult for the Ministry of Oceans and Fisheries to confirm the terms and scope of coverage of the insurance contract and to know whether the recruiting agency has simply forged the policy and sent it to the shipowning company.

**33** For CWF vessels weighing less than 20 tons, the operators are aware that the Ministry

of Labor is not capable of performing fisher labour supervision, so operators working for the hotline do not even request the Ministry for labour inspection when complaints are to be handled by the authorities.

In fact, some Indonesian recruiting agencies that sent migrant fishers to Oryong 501 were not approved by the Ministry of Transportation. For example, the collective agreement dated April 11, 2014 defines the minimum wage of migrant fishers as USD 435/month, the wage on a labour contract between a DWF vessel owning company and a migrant fisher, which was agreed on July 9, 2014 and lawfully processed for employment registration to the Regional office of Oceans and Fisheries, was USD 423/month including benefits.

**34** What is most problematic is stipulating "anyone who traded a person will be punished" without a detailed definition of human trafficking. Based on the principle of *nulla poena [nullum crimen] sine lege* ("no punishment [no crime] without law"), the meaning of an article in the Criminal Code cannot be extended beyond the reasonable expectation of the accused. The phrase "anyone who traded a person will be punished" will thus be interpreted literally, with the word "trade" being interpreted similar to its dictionary definition.

**35** <http://withgonggam.tistory.com/1707>. The deportation order was annulled after public interest lawyers filed a law suit challenging the legality of the order. The deported Vietnamese migrant fisher re-entered the ROK in 2015 and started working in another workplace.

**36** Prime Minister's Secretariat.



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