

SAFETY AND WORKING CONDITIONS IN THE FISHERIES SECTOR

Legal and Policy Avenues for Strengthened Decent Work Standards in the Fisheries Sector

Submitted by FAO Secretariat

SUMMARY

*Background
information:*

This document provides an executive summary of a new study that is being developed by FAO relating to decent work in fisheries. Such FAO initiative is consistent with the recommendations of the 4th FAO/ILO/IMO ad hoc Joint Working Group on Illegal, Unreported and Unregulated Fishing and related matters (JWG-IUU).¹ The new study – entitled ‘Scoping Study on Decent Work in Fisheries: Exploring Challenges and Evolving Legal and Policy Avenues for Strengthened Decent Work Standards’ – identifies and examines the progress and developments in decent work within marine fisheries over the last seven years, building on and complementing another [scoping study](#) that generally covered decent work and employment in fisheries and aquaculture, published by FAO in 2016.

The executive summary underscores key issues and findings of the new study, highlighting the areas for enhanced collaboration among FAO, IMO, and ILO.

Introduction

1 The new scoping study (hereafter ‘the Study’) aims at identifying and analysing States’ challenges, good practices, and innovations in promoting decent work standards for marine fisheries at global, regional, and national levels. It builds on and

¹ Agenda Item 8, *Recommendations of the fourth session of the Joint FAO/ILO/IMO Ad Hoc Working Group on Illegal, Unreported and Unregulated (IUU) Fishing and Related Matters and recent developments in the context of IUU fishing and related matters, Thirty-fourth session of COFI, 1-5 February 2021.*

complements another FAO [scoping study](#), published in 2016, which generally covered decent work and employment in fisheries and aquaculture.

Main themes of the Study

2 As the central theme of the JWG, IUU fishing has garnered overwhelming attention in numerous studies, also revealing a growing connection between IUU fishing and its related matters, which include worsening labour conditions for fishers, human trafficking, and labour abuses. In this context, the Study not only covers the most severe labour abuses in fisheries, which in many cases are associated with IUU fishing but primarily elucidates the complexities that underpin decent work standards for marine fisheries. The Study characterizes fishers across diverse contexts, identifying scenarios with significant challenges for enforcing decent work standards. The Study also highlights innovative practices taken by certain States to overcome those challenges and enhance the effective enforcement of such standards at sea.

3 The Study focuses on marine fisheries, as such context presents distinct and unique challenges that considerably differ from decent work in terrestrial agriculture and inland fisheries. The Study identifies typical scenarios that exemplify these challenges, for instance, fishers who have experienced long periods of isolation or remoteness at sea have had very limited opportunities, if any, to visit their home countries or rest at ports. These conditions intensify vulnerabilities related to the lack of access to health assistance, care, and communication. In this scenario, fishers may feel intimidated and hesitant to come forward with grievances due to fear of reprisal, rendering them vulnerable to the authority of the vessel's master and severely limiting their ability to voice objections regarding their treatment. In the case of migrant fishers, challenges may be greater as they face unequal and, to some extent, less favorable treatment in comparison to fishers who are nationals of the flag State. Another vulnerable group is the small-scale fishers who face challenges of, inter alia, competition for scarce fisheries resources imposed on them by industrial fisheries. As fish stocks decline, and overfishing and IUU fishing persist in coastal waters, small scale fishers are forced to stay longer periods fishing further out to sea, where decent work conditions are very difficult to control and enforce. Additionally, small scale fishers are less safe and more exposed to hazards.

4 To elucidate the complexities underpinning decent work standards for marine fisheries, the Study characterizes fishers based on three essential factors : (1) the jurisdiction under which the harvesting of fish takes place (i.e., internal waters, territorial sea, exclusive economic zone (EEZ), and high seas); (2) the legal status of fishers (i.e., migrant fishers and fishers who are nationals of the flag State), and (3) the various segments of the fishing fleet (small-scale commercial, semi-industrial, and industrial). Through this characterisation, the Study illustrates the diverse challenges in achieving decent work, which necessitates the application in conjunction of a spectrum of principles, legal instruments of binding and non-binding nature at international, regional, and national levels. Such a comprehensive and integrative approach aims to foster initiatives that align with the global decent work agenda and contribute to the fight against IUU fishing.

Key insights

5 The Study enhances understanding of decent working standards on board fishing vessels at sea by spotlighting promising practices that can promote decent work standards as well as identifying critical related challenges. The Study serves as a pivotal guidepost for shaping future research agendas in this cutting-edge yet under-explored or under-explained aspect of promoting decent work conditions in the context of marine fisheries.

Promising practices

6 States non-Parties to the ILO C188 may have proactively developed or are developing their national standards for decent work that may be self-contained or even go beyond the requirements of international minimum standards set by the ILO C188. The Study identifies such cases that can epitomise the intricate workings of State practices, with the effect of broadening the applicability of requirements under ILO C188.

7 Another promising practice lies in the inter-agency coordination at the domestic level to promote effective enforcement of decent work standards. Port States can play a crucial role in enforcing decent work conditions through port State inspections, as fishing vessels eventually need to dock and anchor at ports. The results of inspections under port State measures may be used in risk analysis to effectively identify possible infringements regarding labour conditions. The Study identifies notable examples of national inter-agency coordination among labour, maritime and fisheries departments, which contribute, to different extents, to enhancing effective port State labour inspections.

8 Notably, using advancement in data technology, particularly through analysing fishing vessels' behaviours using different information sources, holds significant potential in detecting instances of labour exploitation onboard these vessels. The Study identifies pioneering instances where domestic legislation has been amended, and policies have shifted to establish a robust foundation for enhancing data transparency and promoting data sharing related to fishing vessels' behaviours. The data derived from the analysis of vessels' behaviours can not only aid States in identifying high-risk vessels with potential labour standards violations but also play a pivotal role in devising strategies for effective labour inspections on fishing vessels.

9 Certain States members of RFBs have demonstrated a proactive approach by linking the safety of fishing vessels and the decent working conditions on board vessels operating in RFB areas of authority to their regional fisheries management mandates. This aligns with the FAO's collaborative efforts with RFBs in terms of advancing the Plan of Action for enhanced decent work in the fisheries sector within certain regions.² Specifically, certain RFBs have adopted non-binding CMMs, which include provisions

² For example, FAO, *Plan of action for enhanced safety, decent work and social protection in the fisheries sector of the Bay of Bengal Programme region (BOBSAFE)*, Rome, 2023.

to ensure crew and vessels' safety and decent working conditions on board fishing vessels.

Critical challenges

10 First, the Study highlights the deeply rooted and thorny issue of unequal treatment between migrant fishers and fishers who are nationals of the flag State. In many practical scenarios, migrant fishers secure positions on industrial fishing vessels through recruitment agencies or brokers in their home countries. The lack of regulations governing manning or recruitment agencies in their home countries can leave migrant fishers vulnerable to unscrupulous intermediaries. Additionally, where proper regulations are in place in migrant fishers' home countries, there may be challenges in enforcing such regulations. For migrant fishers working on board industrial fishing vessels at sea, the terms and conditions of their employment contracts are typically governed by their home countries' legislation, which, in turn, are not upheld by vessel owners or skippers, resulting in issues such as wage withholding and denied leave. There is a need for research and awareness-raising on these challenges that migrant fishers on board industrial fishing vessels face in achieving decent working conditions, as well as for devising practical approaches for enforcing the relevant national regulations.

11 Second, the Study highlights the critical role of social dialogue involving employers' organizations, fishers' associations, and trade unions in securing collective bargaining agreements in the fishing sector. Such collective bargaining agreements can be crucial in many countries for advancing decent work conditions while engaging with broader social dynamics. Only a limited number of countries have developed collective bargaining agreements in the fisheries sector, particularly for marine fisheries. The Study highlights that a comprehensive study addressing this gap is warranted and could be led by ILO.

12 Third, while the ILO C188 is primarily designed to regulate working conditions of fishers employed on larger vessels, specifically those measuring 24 meters or more in length, it allows State parties to make use of its flexibility clause to extend international minimum standards for decent work, either in whole or in part, to fishers working on smaller vessels, including small-scale and semi-industrial fishing vessels. In this regard, a significant challenge in promoting decent work conditions is developing appropriate labour standards for different fishing fleet segments, considering fishing vessel types and *modus operandi*. One possible way of undertaking such a task is through cost-benefit analysis, as has been carried out in South Africa. The Study emphasizes the need for a comprehensive study to address this existing gap.

Way forward

13 The core idea of the Study is to promote coordinated effort by FAO, ILO, and IMO to delve deeper into studies comprehending decent work encompassing all fishing vessel types and *modus operandi*, exploring legal and policy avenues for strengthened

decent work standards in the fisheries sector. The following are the main roadmaps identified from the study for moving forward:

- A. FAO to organize an experts' meeting with a view to collecting technical inputs to the draft 'Scoping Study on Decent Work in Fisheries: Exploring Challenges and Evolving Legal and Policy Avenues for Strengthened Decent Work Standards';
- B. Enhanced cooperation so that projects and activities led by each organization are coordinated in relation to, inter alia, port State control schemes to take into consideration decent work standards.
- C. Cooperation on the development of guidance for the implementation of international minimum standards for decent work, safety and labour standards for small-scale fishers, with a view to realizing small-scale fishers' legal recognition at domestic levels as well as to ensure their secured access to both universal and sectoral social protection within their respective countries.
- D. Information-sharing and inter-operability across each organization's information systems, with a view to identifying high-risk vessels in terms of labour standards violations and helping States to develop strategies for conducting labour inspections of fishing vessels;
- E. Collection and analyses of national and regional cases involving IUU fishing, which can help in understanding the violations and linkages, if any, with decent work, forced labour and trafficking;
- F. Collection and analyses of CMMs, as well as information shared in meetings of RFBs, which relate to IUU fishing and violation of decent work standards.

Action requested of the Joint Working Group

- 14 The Joint Working Group is invited to note the information provided above.
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