

Submission by the Environmental Justice Foundation to the US Department of Labor regarding human rights abuses on the distant water fishing fleet of the People's Republic of China

2021

The Environmental Justice Foundation (EJF) is a UK registered non-profit organization working internationally to protect natural environments and the human rights of people who depend on them.

Summary

Over the last two years, EJF has gathered information on human rights conditions and illegal, unreported and unregulated (IUU) fishing in the Chinese distant water fishing (DWF) fleet. This submission provides an overview of our findings relating to the alleged use of forced labor and other human rights abuses, drawing on evidence collected from interviews with former fishers in Indonesia and Ghana. Allegations include false information about wages and working conditions and the requirement to pay 'guarantee money' that create conditions of debt bondage.¹ Once workers are trapped on such vessels, they allege that they are then subject to physical violence, verbal threats and unsafe conditions. They are also often required to participate in illegal fishing.

China has the world's largest DWF fleet with almost 3,000 fishing vessels operating across the world's oceans.² There are also an unknown number of vessels owned or invested in by Chinese companies and registered under foreign flags, known as flags of convenience. EJF's investigators have found such vessels registered in West African countries such as Ghana, Senegal and Sierra Leone. In the case of Ghana this is in direct contravention of a 2002 law that bans foreign ownership in its trawl sector.

This version of the briefing has had sections with information on specific vessels removed in order to avoid jeopardizing ongoing investigations.

Methodology and findings

Since 2020, EJF has conducted interviews in Indonesia and Ghana to understand human rights conditions and levels of illegal fishing on Chinese-owned fishing vessels. EJF's investigators work alongside local and international NGOs, local authorities and fishers associations to meet and identify fishers that previously worked on Chinese fishing vessels and have since returned home. Upon receiving written and informed consent from fishers, EJF investigators then conduct an audio-recorded and/or filmed interview with the fisher to gather testimony according to a standardized open-ended interview format. In order to validate interviewee reports, EJF always seeks to corroborate findings through interviews with additional crew members from the same vessel. EJF also compares testimony to available historic vessel positional data from satellite monitoring facilities ExactEarth and Global Fishing Watch.

¹ An upfront payment or deduction from their wage and withheld by the recruitment agency or employers to ensure workers finish their contracts.

² China official white paper (2020) Chinese edition http://www.moa.gov.cn/govpublic/YYJ/202011/t20201121_6356665.htm

In total, EJF interviewed 67 fishers (10 Ghanaian and 57 Indonesian). Allegations of physical violence and threats was universal among Ghanaian crewmembers and widespread among Indonesians. Many of the Indonesian crew members (84% of those interviewed) described conditions of debt bondage due to the requirement for 'guarantee money' to be taken upfront. Ghanaian crewmembers were not provided with a written contract before entering employment and did not have an agreed salary.³ Both groups described that their wages suffered deductions by brokers and employers for a range of fees (100%). A very high percentage of both Ghanaian (100%) and Indonesian (87.7%) crewmembers reported that they had to endure unsafe or unhealthy working and living conditions such as lack of drinking water and food. There were also 84.2% of interviewed Indonesian crew members and 50% of the Ghanaian crew who reported extremely long hours of work.

Human rights abuse	Indonesian (N=57)	Ghanaian (N=10)
Physical abuse	59.7%	100%
Intimidation and threats	82.5%	100%
Requirement for 'guarantee money'	84.2%	0%
Salary deductions	100%	100%
Unsafe or unhealthy working and living conditions	87.7%	100%
Excessive overtime	84.2%	50%

Recruitment of migrant crews onto Chinese fishing vessels is opaque and poorly regulated with the Chinese government seemingly not putting in place any regulations designed to protect migrant workers on-board fishing vessels. EJF investigations have revealed that vessel owners may use unlicensed and illegal recruitment agencies or brokers. These agencies then reach out to Indonesian manning agencies through social media channels such as Facebook in order begin recruitment proceedings. They usually also contact manning agencies in Taiwan, Hong Kong, Singapore and Fiji to provide cheap and inexperienced fishers to work on Chinese distant water fishing vessels.

These rates of alleged abuse for physical abuse, verbal abuse and withholding of wages are higher than those recorded on Taiwanese or South Korean fishing vessels as shown in the table below:

³ https://ejfoundation.org/resources/downloads/EJF_Ghana-human-rights-in-fisheries_2020_final.pdf

Alleged abuse reported on-board	Ghanaians working on Chinese vessels (Sample: 10 crew)	Indonesians working on Chinese vessels (Sample: 57 crew from 42 vessels)	Indonesians working on Taiwanese vessels (Sample: 100 vessels)	Indonesians working on South Korean vessels (Sample: 54 crew)
Physical abuse	100%	59.7%	23%	26%
Intimidation and threats/Verbal abuse	100%	82.5%	35%	63%
Withheld wages and deductions	100%	100%	92%	93%

Case Study: Chinese-owned trawlers in Ghana

In 2002, in order to secure the financial benefits of fishing activities for Ghanaian nationals and to ensure these benefits contribute to Ghana's socio-economic development, the country banned foreign ownership of its trawl sector. However, in practice, it has been found that foreign interests are widespread in the Ghanaian trawl sector, with the vast majority originating in China. This is enabled by opaque ownership structures and shell companies based in Ghana, allowing Chinese investors to capitalize on legal loopholes and exploit Ghanaian fisheries resources. Ghanaian legislation prohibits the use of "front" or "shell" companies that in reality are owned or controlled by foreign interests. However, in reality, almost all the Ghanaian flagged vessels are ultimately owned by Chinese companies.⁴ EJF's 2018 report *China's Hidden Fleet in West Africa* provides a detailed examination of the illegal Chinese ownership of the Ghanaian trawl fleet.⁵

EJF undertook interviews with 10 Ghanaian crewmembers who worked on Chinese-owned trawlers. A summary of findings from these interviews is set out in the table below. The testimony has also been made into a film.⁶ More details are available in EJF's report *Fear, Hunger and Violence*.⁷

⁴ <https://ejfoundation.org/reports/chinas-hidden-fleet-in-west-africa-a-spotlight-on-illegal-practices-within-ghanas-industrial-trawl-sector>.

⁵ <https://ejfoundation.org/reports/chinas-hidden-fleet-in-west-africa-a-spotlight-on-illegal-practices-within-ghanas-industrial-trawl-sector>.

⁶ <https://ejfoundation.org/films/fear-hunger-and-abuse-human-rights-in-ghanas-industrial-trawl-fleet>

⁷ <https://ejfoundation.org/reports/fear-hunger-and-violence-human-rights-in-ghanas-industrial-trawl-fleet>

Issue identified	Details	Cited by	Category of human rights abuse	Section of Fear, Hunger and Violence
Physical violence and threats of abuse	Assaults, threatening to cause harm, use of weapons	10 crew members	Right to security of person	Section 4.2.1
			Right to freedom from cruel, inhuman or degrading treatment or punishment	
			Right not to be subjected to forced labor	
Conditions of service	Absence of written contracts, unauthorized wage deductions, failure to pay minimum wage, salary not fixed prior to trip, unfair dismissal	10 crew members	Right to enjoyment of just and favorable conditions of work	Section 4.2.2
Manning and hours of rest	Insufficient to no rest periods within day/ week	5 crew members	Right to enjoyment of just and favorable conditions of work	Section 4.2.3
			Right not to be subjected to forced labor	
Living conditions (accommodation, food and water)	Insufficient and poor-quality food and drinking water, withholding of food, poor sleeping accommodation, inadequate sanitary facilities	10 crew members	Right to enjoyment of just and favorable conditions of work	Section 4.2.4
			Right to freedom from cruel, inhuman or degrading treatment or punishment	
			Right to freedom from forced labor	

Occupational health and safety	Hazardous working conditions, inadequate sanitary facilities, poorly maintained equipment, lack of protective clothing, frequent accidents causing injury and sometimes death	5 crew members	Right to enjoyment of just and favorable conditions of work	Section 4.2.5
Medical care, health protection and social security	Non-payment of social security, lack of compensation in the event of occupational related injury, lack of first aid/medical supplies and personnel with medical training on board	7 crew members	Right to social security, including social insurance	Section 4.2.6
			Right to enjoyment of just and favorable conditions of work	
Trade unions and collective bargaining	No trade union in place, attempts to form trade union suppressed, blacklisting of crew following attempts to unionize	5 crew members	Right to form and join trade unions	Section 4.2.7

Recommendations

In November 2020, the Chinese government published a white paper setting out its efforts to end IUU fishing and promote sustainable fisheries. It was encouraging to see the Chinese government acknowledge those issues and propose reforms. However, it is yet to give attention to the associated human rights abuses that take place on many of the same vessels. China urgently needs to update the legislative framework governing its DWF fleet to address human rights issues, and this needs to be matched with appropriate enforcement efforts.

EJF provides a list of recommendations below designed to address ongoing human rights abuses in its DWF fleet. It is recommended that China:

- Ratify the International Labor Organization’s Work in Fishing Convention (ILO C188) and allocate sufficient resources to properly implement it. This should include port inspection and labor inspection at ports in China and overseas;
- Conduct comprehensive, victim-centered interviews of a sample of crewmembers during inspections to identify potential human rights abuses;
- Investigate vessels in the Dalian Oceans Fishing Co Ltd regarding the allegations made by crewmembers and, where appropriate, prosecute vessel owners, captains and other responsible persons;
- Rapidly digitize and published fishery management information such as a national vessels’ license list, ownership information and sanctions list to allow public scrutiny. Adopt electronic monitoring including robust vessel tracking, digital logbooks and CCTV;
- Improve transparency in the seafood sector. Improving transparency is the most effective, efficient and affordable way to help the government prevent both illegal fishing and human right abuses. EJF’s Charter for Transparency lays out detailed recommendations for countries such as China to adopt⁸;
- Launch investigations into fishing vessels that illegally register in other countries such as Ghana. Where appropriate, sanction the vessel’s owners and operators;
- Introduce systems that provide appropriate shelter for victims of forced labor or human trafficking; and
- Regulate the recruitment process for migrant fishers including banning illegal and unlicensed recruitment agencies and brokers, only allowing registered and legal manning agencies to conduct recruitment proceedings for migrant fishers and obligate them to report migrant fisher data along with the names of manning agencies they work with from sending countries.

⁸ <https://ejfoundation.org/resources/downloads/EJF-Transparency-10-principles-final-1.pdf>