



USAID
FROM THE AMERICAN PEOPLE



Labor Conditions in the Tuna Sector

*GENERAL SANTOS CITY,
PHILIPPINES*

The USAID Oceans and Fisheries
Partnership (USAID Oceans)
2018

Release Date: December 2018

Contract Number: AID-486-C-15-00001

Contract Period: May 15, 2015 to May 13, 2020

Submitted by:

Verité

Telephone: +1 413 253 9227

Email: Allison Arbib, aarbib@verite.org

Website: www.verite.com



This document was produced by Verité for the USAID Oceans and Fisheries Partnership, a United States Agency for International Development/Regional Development Mission for Asia (USAID/RDMA) Activity.

Contents

Executive Summary.....	6
I. Methodology.....	10
1.1 Research Objectives and Background.....	10
1.2 Research Phases.....	10
1.3 Analytic Framework.....	11
1.4 Data Collection, Sampling and Analysis.....	12
1.5 Informed Consent and Confidentiality.....	13
1.6 Limitations.....	13
2. Overview of the Philippines’ Tuna Sector.....	13
2.1 Economics.....	13
2.2 Fisheries Sector Management.....	15
2.3 Labor Force and Work Processes.....	17
2.4 General Santos City Tuna Sector Profile.....	20
3. Recruitment and Employment Conditions and Findings.....	23
3.1 Recruitment, Hiring, and Employment Arrangements.....	23
3.2 Documentation.....	25
3.3 Child Labor.....	26
3.4 Worker Awareness and Training.....	27
3.5 Disciplinary Procedures and Grievance Mechanisms.....	28
3.6 Harassment, Abuse, and Discrimination.....	29
3.7 Freedom of Association.....	31
3.8 Working Hours.....	31
3.9 Wages, Benefits, and Debt.....	33
3.10 Health, Safety, and Security.....	38
3.11 Forced Labor Analysis.....	39
4. Recommendations.....	41
4.1 Background.....	41
4.2 General Guidance on Social CDTS Applications.....	42
4.3 CDTS Integration and Goals for Improvement by Issue Identified.....	44
4.4 Current Data Availability and Recommendations for Improvement.....	58
5. Conclusion: Reflections and Lessons Learned.....	62
5.1 CDTS Recommendations.....	63

5.2	Methodology: Strengths and Limitations	63
	Annex I. ILO Indicators of Forced Labor	64
	Annex II. Worker Interview Guidance Document	65
	Annex III. Example Base Codes of Conduct/Voluntary Company Standards	68
	Annex IV. Legal and Regulatory Frameworks and Company Standards.....	75
	Annex V. Philippines Fishing Specific Labor Regulatory Framework	94

List of Tables

Table 1. Worker Interviews.....	12
Table 2: Private Sector Stakeholders	21
Table 3: Civil Society Stakeholders	22
Table 4: Benefits and Privileges of Fishworkers	95

Acronyms and Abbreviations

ACDS	ASEAN Catch Documentation Scheme
APFFI	Alliance of Philippine Fishing Federations, Inc.
APL	Alliance of Progressive Labor
ASEAN	Association of Southeast Asian Nations
BFAR	Bureau of Fisheries and Aquatic Resources
CDT	Catch Documentation and Traceability
CDTS	Catch Documentation and Traceability System
CHAINS	Chamber of Aquaculture and Ancillary Industries of Sarangani, Inc.
CoC	Certificate of Compliance
CT	Coral Triangle
CTI-CFF	Coral Triangle Initiative on Coral Reefs, Fisheries and Food Security
DA	Department of Agriculture
DO	Department Order
EAFM	Ecosystem Approach to Fisheries Management
EEZ	Exclusive Economic Zone
EU GSP	European Union Generalised Scheme of Preference
FAD	Fish Aggregation Device
FARMCs	Aquatic Resources Management Councils
FFSA-TPPI	Fresh Frozen Seafood Association - Tuna Processors Philippines, Inc.
FIS	Fisheries Information System
FMA	Fisheries Management Area
GSFPC	General Santos City Fish Port Complex
GT	Gross Tonnage
ITUC	International Trade Union Confederation
ILO	International Labour Organization
IUU	Illegal, Unreported and Unregulated (fishing)
KDE	Key Data Elements
LDAC	Long Distance Fleet Advisory Council
MARINA	Maritime Industry Authority
MCS	Monitoring, control and surveillance systems
MLC	Maritime Labor Convention
MMAF	Ministry of Marine Affairs and Fisheries
NGO	Non-governmental Organization
PFDA	Philippine Fisheries Development Authority
PPP	Public-Private Partnership
SEAFDEC	Southeast Asian Fisheries Development Center
SENTRO	Sentro ng mga Nagkakaisa at Progresibong Manggagawa
SFFAI	Socskargen Federation of Fishing and Allied Industries, Inc.
SFMP	Sustainable Fisheries Management Plan
SOCOPA	South Cotabato Purse Seiners Association
SOLAS	Safety of Life at Sea
SPBOTA	Southern Philippines Boat Owners and Tuna Association
SSME	Sulu-Sulawesi Marine Ecoregion
SSS	Social Security System
SEAFDEC	Southeast Asian Fisheries Development Center
TCAGS	Tuna Canners Association General Santos
TCAP	Tuna Canners Association of the Philippines
UFLA	Umbrella Fish Landing Association
USAID	United States Agency for International Development
USAID Oceans	USAID Oceans and Fisheries Partnership Activity
USG	United States Government
VMS	Vessel Monitoring Systems

Executive Summary

Background

The USAID Oceans and Fisheries Partnership (USAID Oceans) is a program designed to combat illegal, unregulated, and unreported (IUU) fishing and protect marine biodiversity in the Asia-Pacific region. In addition to protecting marine biodiversity and enhancing sustainability, the program's focus on related human welfare issues, such as gender equality and labor rights, addresses the multi-faceted and interrelated nature of social and environmental challenges. As part of the project, Tetra Tech ARD is working with regional partners to develop a catch documentation and traceability (CDT) system that will enable at-risk species to be tracked from point of catch to market entry. The CDT system will provide a platform to collect and analyze environmental and economic data to improve fisheries management and enhance the health and resilience of Southeast Asia's marine eco-systems. Verité conducted assessments of labor conditions in USAID Oceans' learning sites, General Santos City, Philippines, and Bitung, Indonesia, and provided technical assistance to the project on approaches for integrating relevant labor data into the CDT system. The findings from the research into the tuna sector in General Santos City, Philippines, are presented in the following report.

Methodology

To gain insight into the working conditions for a wide variety of workers, and to narrow in on the most pressing issues, Verité first conducted desk research and a Rapid Appraisal. The Rapid Appraisal was used as an occasion for initial outreach to stakeholders, and to determine the feasibility of conducting further field research. During the Rapid Appraisal, researchers interviewed informants from the private sector, civil society, and government as well as 15 individual workers from different land-based and vessel worksites.

Researchers also conducted interviews in Metro Manila to complement the Rapid Appraisal activities in General Santos City. Furthermore, researchers compiled information on relevant legal frameworks including Philippine labor law, standards for labor in the fishing and maritime sectors in general, and Philippine fisheries labor laws specifically.

Verité conducted follow-up field research in General Santos on August 10-15, 2016 with the goal of documenting more specific information relevant to recruitment and hiring systems; loan and debt repayment arrangements; wage/payment practices and working hours; health, safety and security conditions; general welfare and treatment of workers; and any specific indicators of child labor, forced labor or human trafficking present in the sector. Verité relies on guidance from the International Labour Organization (ILO) on identifying indicators of forced labor; further details are provided in the "Methodology" section. During the follow-up research, researchers interviewed 100 workers and ten expert informants from government, civil society, and private sectors. Researchers also conducted document reviews and site observations. More details on interviewees are provided in the "Methodology" section.

All field interviews were conducted in semi-structured format meant to elicit qualitative and descriptive information. To avoid pre-supposing issues that were most relevant to worker welfare, researchers post questions in an open-ended format, allowing subjects to identify and prioritize topics they saw as the most significant areas of concern. Workers were purposively sampled to represent a wide variety of worker demographics and work processes, as well as to identify issues relevant to the most vulnerable workers. After collecting information from respondents, researchers reviewed their notes to identify key trends and conducted a thematic analysis. However, since interviewees were selected on a non-random basis and the information gathered was qualitative, the findings from this research are not definitive and do not claim to be fully representative of the Philippines' fisheries.

All respondents were briefed about the subject and length of the interview, as well as how the data collected would be used. They were assured of confidentiality, and that their anonymity would be upheld. They were reminded that the interview was voluntary and that they had the right to stop the interview at any point. Except for interviews with nine purse-seine workers conducted on-site but in private and with no management interference, all the other worker-interviews were conducted off-site for security reasons.

Findings

Overall, researchers identified labor practices that do not conform to legal, industry, or customer standards, and identified risk indicators for forced labor and trafficking. For many workers in the tuna sector, General Santos City appears to be precarious, both for vessel- and land-based work. A significant population of workers remain hidden, vulnerable, or in precarious employment situations by virtue of their employment status, gaps and flaws in regulatory systems, exploitative practices and, in some cases, by the very nature of employment arrangements. Formal working agreements are almost entirely nonexistent for handline fishers. Many land-based workers are hired by third-party sub-contractors, and, therefore, lack direct employment relationships with the management of the facility in which they work. Both vessel- and land-based workers face significant health and safety risks, and handline fishers, in particular, have limited access to formal safety training and instructions. Some workers in the sector are working without the proper employment papers and the necessary documentation, either because they were never required to secure it in the first place, or because it is withheld from them by their employer. Key findings of risks and nonconformance to legal, industry, or customer standards relevant to recruitment and employment systems in General Santos City's tuna sector are summarized below, and further details are presented in the "Findings" section.

Recruitment and Hiring: In the sector, established recruitment and hiring channels range from highly informal/non-standardized and unregulated, to formal, standardized and well-documented. Each channel poses a set of risks to workers, but unregulated recruitment processes render workers most vulnerable because they do not screen out the involvement of informal agents using deceptive or coercive practices, and lack procedures for identity-and-age-verification. Recruitment of sea- or vessel-based workers tends to be conducted directly by the employer, without the involvement of intermediaries. A few vessel workers report going through informal intermediaries, personal contacts or persons in the village known to have connections to financiers, to get the job. Recruitment and hiring of workers in processing or land-based facilities, on the contrary, is 90 percent brokered by or outsourced to either employment agencies or cooperatives. Outright payment of recruitment fees, in the case of the latter, is not common, however, deductions for cooperative membership or for unexplained contributions is imposed on cooperative/agency-hired workers. In handline fishing, in most cases, the boat operator or captain is the only party in direct contract with the vessel owner or financier. In some cases, handline fishers had direct contact with the individual or company that owned the handline fishing operation or pamariles, but there was no paper trail of their recruitment transactions.

Contracting: Very few workers in General Santos City's tuna sector have formal working agreements or relationships with their employers. None of the handliners have written agreements. Purse-seine and land-based facility workers said they signed contracts, but were not provided copies. Almost all of the land-based workers interviewed are employed, on paper, by employment agencies or cooperatives that have the direct contract with facilities, and then they are rotated to a different facility or renewed in cycles of less than six months. However, in many cases, workers said they work continuously in the same factory for several years, but are not considered employees of the factory. These casual or flexible working relationships mean that workers have no leverage to negotiate terms such as hours, salary or, for vessel workers, length of voyage.

Workers' Documentation: Although most workers are required to have identification documents to work legally in the sector, many workers lack these documents. For vessel-based workers, proper identification and documentation can serve as a means of protection when working in international waters. Purse-seine workers had all the legally required documentation, while most of the handline workers were undocumented. One barrier to complete worker documentation is the cost, which workers are often

required to bear themselves. Among land-based workers, there is evidence that workers may fraudulently use others' documents to secure jobs or misrepresent their real age.

Child labor: The overall incidence of child labor is unknown, but weak age verification mechanisms in both sea- (particularly handline fishing) and land-based work present systemic risks of hiring child labor or minors without protective restrictions. All of the purse-seine workers were of legal employment age, but five of the workers interviewed from handlining and land-based facilities were below age eighteen and most handline fishers interviewed reported that they were thirteen to fifteen years of age when they started working. Verité noted that there is no established age verification process for hiring handline fishers. Land-based workers also reported that some workers aged sixteen are currently employed in factories, and that during peak season employers/agencies sometimes do not check documentation to verify age.

Discipline, Grievance Mechanisms and Freedom of Association: Workers across the tuna supply chain in the Philippines currently lack access to a robust, confidential grievance mechanism. For sea-based workers, the captain is likely to be the only avenue for expressing grievances but is also in charge of discipline. Further, among handliners in particular, workers are disincentivized from expressing grievances at all due to the precarious work and their reliance on the vessel captain or operator for multiple needs. Handline workers are particularly afraid of blacklisting. This fear of blacklisting is common among all tuna-sector workers in General Santos, and workers interviewed expressed concerns that lodging a complaint or grievance could result in them being banned from future employment. The lack of meaningful grievance mechanisms compounds workers' fears of dismissal or exclusion from future employment. Union members at one facility reported that they have been unable to find regular work since they were fired for having their union recognized and for going on strike.

Debt and Withholding of Wages: Workers in the tuna sector often receive erratic and unreliable wages and there is a general lack of transparency concerning wage calculations. Sea-based workers in handline operations are typically compensated under a share system, which, in some cases, after expenses and deductions, results in no earnings post-voyage. Indebtedness is widespread, as handline fishers and their families take cash and in-kind loans from financiers, with little transparency into how and when that debt can be paid off. For land-based workers, due to the erratic nature of catch and available work hours, earnings can be similarly unpredictable. Workers are often paid on a per-piece rate or through a quota system, and earnings sometimes fail to meet minimum wage levels. To meet their quota, they may have to work uncompensated overtime. Further, workers engaged through agencies appear to be paid at lower rates overall than workers hired directly by the company.

Health, Safety and Security: Work on tuna fishing vessels is highly hazardous. Purse-seine vessel workers report serious physical injuries and accidents, although onsite inspections of vessels indicated that medical care, first-aid, and safety measures are in place. Handline fishers lack adequate medical care and safety training, and often venture into fishing grounds that pose security threats. Perhaps the most serious incidents are reports from respondents of handline workers going missing, falling into the water, being abandoned at sea, or being apprehended and detained by authorities of foreign countries. The lack of any documentation or written record of such incidents, especially when they occur in illegal or unregulated fishing grounds, compounds the issue. During interviews, respondents who have had family members go missing all reported that vessel owners provided them with no clear information concerning the incident and they had no means to formally claim assistance or compensation.

Hours and Length of Time at Sea: Workers in the tuna supply chain work long hours. Vessel workers can work "continuously" for some periods while at sea, with some reporting that they work up to nineteen hours per day, with rest time allowed only when catch is low. Sea-based workers may remain on vessels for up to three months. On purse-seine vessels, while extremely long voyages (up to one year) are reportedly less common than in the past, this practice may still occur. Fishing vessel owners only allow vessels to return if they have enough fish to cover the capital invested in the venture. Workers are not always informed in

advance of the length or location of their trips to sea. Document review and interviews also indicate that land-based workers typically work more 10 hours in a day, and take no days off in a seven-day period.

Worker awareness: Most of the workers interviewed displayed very low awareness of labor laws, workers' rights and entitlements, or even the company or employer's policies. There are no formal, standardized trainings or orientations for handline fishers; policies are not in writing, but management practices are well-established and similarly implemented across the sector. Purse-seine and land-based workers go through more formal orientation procedures, but many of those interviewed lacked knowledge of how their pay should be calculated and reported that the training and orientation provided to them focused more on job requirements, discipline rules, and regulations. Work hours, work location, and employment status also restricted workers' access to participation in labor groups or associations, or in activities organized by faith-based groups, through which they may receive worker-awareness training.

Recommendations Summary

The report first recommends labor practices for the fishery that would represent significant improvement on the issues described above. These goals were developed with specific reference to national law, internationally accepted labor standards, and as voluntary company standards. The report also provides suggested minimum Key Data Elements (KDEs) to be collected as part of the CDT system to provide insight on the degree to which these goals are being achieved in the fishery.

Currently, some fisheries data is available that could provide social KDEs. However, it is currently collected in multiple streams without an overarching strategy for coordination or transparency. On the other hand, there is a significant gap in information that sheds light on workers' experiences. The biggest "data gap" concerns handline fishers. One key omission is the lack of labor representation during handline vessel inspections, as such, a key recommendation is that the Department of Labor's (DOLE) inspection/auditing could be expanded to include vessels, especially handline operations. A multi-agency team could conduct checks during "port-out and port-in" to augment labor inspection criteria and coverage to vessels, particularly handline operations. A simple verification of the number and names of workers returning from a fishing venture could provide critical information about the workers' conditions at sea.

In terms of catch documentation and traceability system (CDTS) applicability, there is potential for the technical components of the CDTS to provide increased cellular/Wi-Fi connectivity to workers on vessels, allowing them increased communication with their families and support from shore. Improved cellular/Wi-Fi connectivity also presents possibilities for the implementation of a robust grievance mechanism, triangulation and verification of information from all sources. After data from any source has been collected and analyzed, leveraging that data to make meaningful improvements in workers' lives will require a coordinated multi-stakeholder effort to address the root cause of issues.

I. Methodology

I.1 Research Objectives and Background

The USAID Oceans and Fisheries Partnership (USAID Oceans) is a program designed to combat illegal, unregulated, and unreported (IUU) fishing and protect marine biodiversity in the Asia-Pacific region. In addition to protecting marine biodiversity and enhancing sustainability, the program's focus on related human welfare issues, such as gender equality and labor rights, addresses the multi-faceted and interrelated nature of social and environmental challenges. USAID Oceans is working with regional partners to develop a catch documentation and traceability (CDT) system that will enable at-risk species to be tracked from point of catch to market entry. The CDT system will provide a platform to collect and analyze environmental and economic data to improve fisheries management and enhance the health and resilience of Southeast Asia's marine eco-systems.

USAID Oceans subcontracted Verité to conduct a labor analysis on labor conditions in learning site fisheries and to provide technical assistance to the project on approaches on integrating relevant labor data into the CDT system. Over years of research and work in the fishing sector, Verité has seen clearly that human welfare is directly tied to biodiversity and environmental protection and that the two must be addressed in tandem. As decreased fishery resources push fishing vessels further off-shore, and sometimes into illegal fishing activities, fishing jobs become more isolated, dangerous and therefore undesirable to workers with other livelihood options. Financial pressures – including high fuel costs, longer time at sea, and smaller catches – incentivize the use of exploited labor, including, in some cases, workers who have been trafficked. With limited governance and inconsistent enforcement, IUU fishing practices can perpetuate the challenges of unethical and illegal labor practices. A lack of access to information on rights and grievance mechanisms further compounds worker vulnerabilities, a challenge that the CDT system aims to address by bridging supply chain regulation and communication gaps. The USAID Oceans supported CDT system will help ensure fisheries resources are legally caught and properly labeled, decreasing the financial and governance factors that incentivize and enable IUU fishing and associated labor abuses.

I.2 Research Phases

I.2.1 Rapid Appraisal

Verité field researchers first conducted a Rapid Appraisal of labor and social welfare conditions in the fishing sector in General Santos City, Philippines, in March 2016. This Rapid Appraisal was conducted with the primary objectives of determining access and feasibility of conducting further field research on recruitment and employment conditions of workers in selected fisheries; identifying and conducting initial outreach to key stakeholders and potential contact persons; and deepening researchers' understanding of the general profile of workers, work processes, and employment interactions. Researchers also began to identify existing data streams with labor implications.

During the Rapid Appraisal, Verité primarily gathered information through interviews with key informants from the private sector, civil society, and government, as well as from a number of workers. Five workers participated in one-on-one interviews and 10 workers participated in focus group interviews.

The workers interviewed were associated with processing plants and vessels of various sizes and represented both unionized and non-unionized groups. Other key respondents were from the Department of Labor and Employment (DOLE), the Bureau of Immigration, the Bureau of Fisheries and Aquatic Resources (BFAR), and civil society organizations, Sentro ng mga Nagkakaisa at Progresibong Manggagawa (SENTRO) and Tambuyog Development Center Inc. (Tambuyog). Interviews were also conducted in Metro Manila to complement the Rapid Appraisal data-gathering activities in General Santos City.

1.2.2 Follow-up Field Research and Validation

Follow-up field research was conducted in August 2016, to document more specific information relevant to recruitment and hiring systems. This included loan and debt repayment arrangements; wage/payment practices and working hours; health, safety and security conditions; general welfare and treatment of workers; as well as any specific indicators of child labor, forced labor or human trafficking present in the sector. Through this work, researchers also sought to describe the factors and circumstances that create worker vulnerability to labor abuses within these fishing sectors.

To gather these data, researchers conducted in-depth interviews and focus group discussions with 100 workers involved in a variety of different work processes and engaged by different employers. Interviews were also conducted with management representatives, fishing vessel owners and captains/masters, supervisors and labor agents. Researchers interviewed expert informants including the Department of Labor and Employment (DOLE) officers in the Central Office and in the Regional Office; local (Barangay) council officers in two key fishing communities in General Santos City; labor union officers from two factories; officers from the Coalition of Tuna Workers; Alliance of Progressive Labor (APL) and SENTRO officers; and representatives of a fishing company that owned both vessel- and land-based operations. In addition, researchers conducted site observation of recruitment centers and transit points, work processes and supply chain transactions. Finally, researchers reviewed available documentation related to the recruitment, hiring and management of workers.

1.3 Analytic Framework

In analyzing the findings, researchers relied on the framework provided by the International Labor Organization's (ILO) Core Labor Standards (Freedom of Association and Collective Bargaining, Discrimination and Equal Pay, Child Labor, and Forced Labor) and the ILO Work in Fishing Convention (188). While the Work in Fishing Convention has not been ratified by the Philippines, it provides guidance to assess working conditions at sea including work agreements, payment and wages, hours, and occupational health and safety.

In assessing for forced labor risk specifically, Verité used the definition of forced labor in ILO Convention 29, which refers to all work or service which is exacted from any person under the menace of any penalty and for which said person has not offered himself or herself voluntarily (coercion). The coercion may take place during the worker's recruitment process to force him or her to accept the job or, once the person is working, to force him/her to do tasks that were not part of what was agreed at the time of recruitment, or to prevent him/her from leaving the job. The ILO provides significant guidance on indicators of forced labor and how they can be combined to diagnose an individual case. A full listing of indicators is provided in Annex I. For the purposes of this research, broader groups of composite indicator categories were used to assess forced labor vulnerability across the worker groups studied. These composite indicators include abuse of vulnerability; deception; restriction of movement; isolation; physical and sexual violence; intimidation and threats; retention of identity documents; withholding of wages; debt bondage; abusive working and living conditions; and excessive overtime.¹ In general, the existence of any single indicator does not conclusively denote the presence of forced labor, however, it can provide insight into the types of risk and vulnerability faced by workers. This research does not attempt to make a determination regarding the number of

¹ International Labour Organization. Indicators of Forced Labor. 2012. http://www.ilo.org/global/topics/forced-labour/publications/WCMS_203832/lang-en/index.htm

individual cases of forced labor that might be present. However, it does endeavor to present a narrative of how relevant indicators might play out in this context.

In general, the researchers’ approach to the qualitative data gathering was informed by the concept of vulnerability – that is; the diminished capacity of an individual or group to anticipate, cope with, resist or recover from adverse impacts of multiple stressors to which they are exposed, including laws, regulatory gaps, socio-economic factors, and risk exposure as a result of their social group, gender, ethnicity or other identity, and age. Vulnerability is not inherent or natural; rather, it is created through various methods, e.g., through union busting; capital-saving devices like labor casualization; as a result of insufficient laws protecting foreign workers; unaddressed misogyny that perpetuates gender-segregated work; ethnic bias that explicitly withholds from one social group their status as rights-holders; or keeping workers under constant surveillance or degrading living conditions. The most insidious way of creating workers’ vulnerability is by rendering them invisible from discourse and policy. While increasing attention has been paid to issues of environmental sustainability and human trafficking in the fishing sector in recent years, groups of workers still linger in obscurity – those fishers who may not be trafficked but are vulnerable as a result of their statelessness or lack of documentation; handliners who work for traders but are considered as self-employed and therefore not within the ambit of labor law; or workers in seafood processing who remain casual even after working for a number of years at the same facility. Thus, this research focused on describing the common recruitment and employment practices as well as the situation and condition of various types of workers in and around the fishing industries in the selected research sites and mitigating their vulnerability by making them visible. Particular attention is placed on understanding the specific factors that create and/or compound their vulnerability, including legal and regulatory gaps, labor casualization, and exploitative working conditions, among others. CDT is another tool to make information about worker welfare visible. *Sustainability* must include ethical sourcing and production, with emphasis on the fair, just and legal treatment of workers.

1.4 Data Collection, Sampling and Analysis

All interviews, both in the Rapid Appraisal as well as the follow-up research, were conducted in semi-structured format meant to elicit qualitative and descriptive information. Because researchers did not want to pre-suppose issues that were most relevant to worker welfare, they posed questions in an open-ended format, allowing subjects to identify and prioritize their most significant areas of concern. After collecting information from interview subjects, researchers reviewed their notes to identify key trends and conducted a thematic analysis.

Workers were purposively sampled to represent a wide cross section of demographics and work processes (see Table 1). A total of 115 workers were interviewed, including 100 in the follow-up research. Researchers interviewed a total of 44 land-based workers (79.5 percent women/20.5 percent men) from four canning facilities and four fresh-frozen/smoking/other facilities as well as 56 sea-based workers (100 percent men) from purse-seining, handline and longline operations were interviewed.

Table 1. Worker Interviews

Work Location	Number of Men	Number of Women	Total Number of Workers	Worksites	Work Roles/ Processes
Land-based	9	35	44	<ul style="list-style-type: none"> - Canning (4 companies) - Fresh-frozen /smoking/other (4 companies) 	<ul style="list-style-type: none"> - Loining - Cooking - Sorting - Packing - Maintenance - Sanitation
Sea-based	56	0	56	<ul style="list-style-type: none"> - 7 handline operations - 3 purse-seine operations - 1 longline operation 	<ul style="list-style-type: none"> - 43 fishers/other crew) - 12 operators /captains - 1 second mate

1.5 Informed Consent and Confidentiality

The centerpiece of ethical fieldwork practice in any research involving human subjects is obtaining subjects' informed consent to participate in the study. To obtain informed consent for this study, researchers presented a statement on informed consent that captured the factors described below to interview subjects at the beginning of each conversation. As part of the statement, researchers explained its purpose and what would happen during the interaction. The researchers noted that all subjects' identities would be kept strictly confidential and that no identifying data was being recorded. Most fundamentally, researchers clarified that consent to participate in the study is completely voluntary, and that subjects could decide not to participate, or to stop participating at any time during the research process, for any reason, without penalty or explanation. Finally, researchers asked explicitly for subjects' consent to participate in the study. If at any point during the research interaction interviewees seemed to grow uncomfortable with the research, researchers again reminded them that they had the right to withdraw from the study without consequence, and requested their consent again, reassuring the subject that participation is not compulsory. Consent, in this sense, is understood to be an ongoing process, rather than a one-off achievement.

Researchers always sought safe and neutral places to conduct their interviews, worked to ensure that their research subjects felt secure and able to speak freely, took precautions to make sure that no employers, supervisors or guards could overhear their conversations, and observed appropriate cultural norms relating to gender or other factors that might have made subjects feel uncomfortable or intimidated. To protect subject confidentiality, researchers did not obtain written consent, but interview subjects provided researchers with explicit verbal consent. Any names or identifying data learned during research were not recorded; all information is presented in aggregate form.

1.6 Limitations

Due to the targeted, non-random nature of interview selection and the qualitative nature of information gathered, this research cannot identify definitive prevalence rates for the findings. However, researchers made efforts to triangulate findings via desk research and expert informant interviews, assessing the relative pervasiveness of the issues. The process of triangulation and validation strengthened the findings and decreased the chance that any particular finding was simply the result of an anomaly or bias, but rather represents a larger systematic issue that can be confirmed by multiple sources. The qualitative information also allows deeper insight into the nature of labor-related risk, relationships between types of stakeholders, and individual experiences as well as group norms.²

Fear of blacklisting was prevalent among workers in the sector. While researchers made every effort to protect identity of interviewees and conduct interviews in secure location, this pervasive fear may have limited informants' willingness to speak openly about their full range of experiences.

2. Overview of the Philippines' Tuna Sector

2.1 Economics

The Philippines is an archipelagic state with more than 7,100 islands, and fishing plays a central role in the nation's economy. It is the seventh top seafood producing country in the world, with large exports of tuna, shrimp, and prawns. The U.S., Japan, and Germany are the top receiving countries of Philippines seafood

² Family Health International. Qualitative Methods. <http://www.ccs.neu.edu/course/is4800sp12/resources/qualmethods.pdf>

exports.³ Exports of fish and fishery products in 2013 totaled USD 1.2 billion.⁴ Tuna – fresh, frozen or chilled, and canned – is the top export commodity in the Philippines. Sales of tuna products increased from 2012 to 2013, with a collective volume of 165,757 MT of fresh/chilled/frozen and smoked or dried tuna, and canned products valued at USD 681,618 million. Canned products dominate exports.⁵ Although the volume of tuna exports was reportedly up in 2014 from 2013, the trade value of products was down, and production volume was still lower than in 2010 and 2011.⁶

Recent reports state that the Philippines is now the number one supplier of tuna to the European Union. According to media reports, at the September 2016 National Tuna Congress of the Philippines held in General Santos City, the Philippines' Trade Secretary confirmed that, "the annual value of exports of tuna prepared as sardines has reached USD 12 million, making the Philippines the top exporter to the EU under this category. The Philippines is now also the top exporter to Europe of products under the category of fish prepared or preserved but not minced."⁷ The significant increase in value of tuna exports is largely attributed to the preferential tariff that was granted to tuna from the Philippines as part of the EU's Generalized Scheme of Preferences Plus (EU-GSP Plus).

Philippine capture fisheries are generally divided into small-scale/municipal and commercial fisheries. Boats under 3 gross tons (GT) are considered small scale and receive a license through the registering municipality. Boats over 3 GT are considered commercial and must secure proper vessel and gear licenses from the BFAR. Waters within 15 km of the coast are reserved for municipal fishing.⁸

Some fishing companies are vertically integrated, owning both fishing vessels and processing facilities.⁹ This is most common for canning companies that own their own purse-seine fleets. Therefore, workers on purse seine vessels tend to be hired under more regularized conditions than handline workers.¹⁰

Municipal/small-scale catch is landed throughout the Philippines and is processed using traditional methods such as drying, salting and smoking. Municipal catch is predominantly used for local consumption and rarely enters large-scale commercial processing chains. That said, some small handline vessels may catch tuna that is exported as sashimi, frozen or smoked.¹¹

³ Government of the Philippines. Department of Agriculture. Bureau of Fisheries and Aquatic Resources. Philippine Fishery Profile. 2013. <http://www.bfar.da.gov.ph/publication.jsp?id=2334>

Seafish. Philippines Profile. http://www.seafish.org/media/Publications/PhilippinesEthicsProfile_201509.pdf

⁴ Food and Agriculture Organization of the United Nations. Philippines Fishery Profile Information. May 2014. <http://www.fao.org/fishery/facp/PHL/en>

⁵ Government of the Philippines. Department of Agriculture. Bureau of Fisheries and Aquatic Resources. Philippine Fishery Profile. 2013. Seafish. Philippines Profile. http://www.seafish.org/media/Publications/PhilippinesEthicsProfile_201509.pdf

⁶ Asian Correspondent. "Philippine 2014 tuna export value down despite 51% hike in production." August 13, 2015. <http://asiancorrespondent.com/2015/08/philippine-2014-tuna-export-value-down-despite-51-percent-hike-in-production/>

⁷ Malaya Business Insight. "PH Top Tuna Exporter to EU." <http://malaya.com.ph/business-news/business/ph-top-tuna-exporter-eu>

⁸ Western Pacific East Asia Oceanic Fisheries Management Project. Philippines Tuna Fishery Profile. November 2012. <https://www.wcpfc.int/system/files/PLI-PHL-03-%5BConsultancy-report-%28Y3%29-Philippine-Tuna-Fishery-Profile-27Nov2012%5D.pdf>

⁹ Havice, Elizabeth, et al. Market and Industry Dynamics in the Global Tuna Supply Chain. June 2011. https://www.academia.edu/24667334/Market_and_industry_dynamics_in_the_global_tuna_supply_chain

¹⁰ Bernal, Buena. "Decent jobs? The case of Filipino handline fishermen." May 1, 2015. <http://www.rappler.com/nation/91621-handline-fishermen-philippines>

¹¹ Western Pacific East Asia Oceanic Fisheries Management Project. Philippines Tuna Fishery Profile. November 2012. <https://www.wcpfc.int/system/files/PLI-PHL-03-%5BConsultancy-report-%28Y3%29-Philippine-Tuna-Fishery-Profile-27Nov2012%5D.pdf>

Commercial tuna is predominantly processed in canneries, either in the Philippines or other countries. Foreign vessels and importers may also supply tuna to Philippine canneries.¹² Several of the canners are part of vertically integrated operations, sourcing at least some of their raw material requirements from their own company fleets in the Philippines or overseas (Papua New Guinea, and formerly, Indonesia).¹³

General Santos, specifically, has been importing frozen tuna for processing in canning plants for roughly ten years, and frozen tuna accounts for over half of total fish landings at the General Santos Fish Ports.¹⁴ Much of this catch comes from Indonesia, which lacks the canning capacity of the Philippines. This has implications for supply chain traceability and understanding the full labor supply chain attached to catch.

Tuna stocks within the Philippines Exclusive Economic Zone (EEZ) have been overfished, leading to declining tuna stocks.¹⁵ The declining capacity contributes to a general sense of livelihood precariousness, both for vessel and processing plant workers.¹⁶ Another impact is that vessels, particularly purse-seiners, fish further and further offshore¹⁷ on long voyages without access to port. Many vessels fished in Indonesian waters, however, in 2014, Indonesia's Minister of Maritime and Fishery (Kementerian Kelautan dan Perikanan or KKP), Susi Pudjiastuti declared a moratorium on foreign fishing vessels in Indonesian waters with Ministry Regulation No. 57/2014.¹⁸ Without access to Indonesian waters, Filipino fishing operations had significantly reduced catches, leaving processing facilities with correspondingly low product.¹⁹

2.2 Fisheries Sector Management

Currently, fisheries management responsibilities are dispersed among numerous organizations. Small-scale vessels under 3 GT receive a license through the registering municipality, whereas those commercial vessels over 3 GT must secure vessel and gear licenses from the BFAR. Waters within 15 km of the coast are reserved for municipal fishing, while BFAR has primary responsibility for managing fisheries outside of municipal waters and implements the National Fisheries Industry Development Plan.²⁰ BFAR issues licenses for operation of commercial fishing vessels, monitors joint agreements between Filipino citizens and foreigners who conduct fishing activities in international waters, and establishes and maintains Fishery Information Systems.²¹ BFAR established a national observer program in 2009, and as of 2012, deployed 33

¹² Western Pacific East Asia Oceanic Fisheries Management Project. Philippines Tuna Fishery Profile. November 2012.

¹³ Havice, Elizabeth, et al. Market and Industry Dynamics in the Global Tuna Supply Chain. June 2011. https://www.academia.edu/24667334/Market_and_industry_dynamics_in_the_global_tuna_supply_chain

¹⁴ Espejo, Edwin. Asian Correspondent. "Philippines Tuna in 2015: Facing the New Threat." January 28, 2015. <https://asiancorrespondent.com/2015/01/philippine-tuna-in-2015-facing-the-new-threat/>

¹⁵ FAO. Fishery and Aquaculture Country Profiles. The Republic of Philippines. <http://www.fao.org/fishery/facp/PHL/en>
Agence France Presse. "Pacific fisheries chief warns tuna stocks dangerously low." September 3, 2015. <http://www.rappler.com/business/industries/agriculture/68077-pacific-fisheries-tuna-stocks-low>

¹⁶ Espejo, Edwin. "Philippine tuna in 2015: Facing the new threat." January 28, 2015. <https://asiancorrespondent.com/2015/01/philippine-tuna-in-2015-facing-the-new-threat/#F25pLix7C72RFVQR.97>

¹⁷ Phys.org. "Falling tuna catches sends Filipino fishers further offshore." November 17, 2015. <https://phys.org/news/2015-11-falling-tuna-filipino-fishers-offshore.html>

¹⁸ Heriyanto. Pontianak Post. Illegal Fishing Costs Indonesia 3 Billion Dollars A Year. <http://www.aseannews.net/illegal-fishing-costs-indonesia-3-billion-dollars-a-year/>

¹⁹ Espejo, Edwin. "Frozen tuna imports buoys GenSan's fish production in HI." <http://www.rappler.com/business/industries/agriculture/101878-gensan-tuna-production-hi-2015>

²⁰ Western Pacific East Asia Oceanic Fisheries Management Project. Philippines Tuna Fishery Profile. November 2012. <https://www.wcpfc.int/system/files/PLI-PHL-03-%5BConsultancy-report-%28Y3%29-Philippine-Tuna-Fishery-Profile-27Nov2012%5D.pdf>

²¹ Bureau of Fisheries and Aquatic Resources. About Us. <http://www.bfar.da.gov.ph/aboutUS>

observers to record vessel details, crew information, catch detail and gear use information.²² Since 2010, BFAR has issued EU catch certificates to allow compliance with EU regulations and to increase traceability. The catch certificate contains vessel name, license number, fishing area, catch weight, and transshipment details.²³ Commercial vessels over 30 GT are required to use Vessel Monitoring Systems (VMS) and BFAR, in coordination with local governments and the Aquatic Resources Management Councils (FARMCs), oversees monitoring, control and surveillance (MCS) systems. In addition to monitoring fishing practices such as gear usages, patrol units can also be involved in controlling commercial vessels using unlicensed crew.²⁴

The wide-ranging nature of its responsibilities means that BFAR holds significant amounts of data regarding the fisheries sector, including port sampling catch data, observer data, licensing and registration of vessels and commercial fishing vessel operators, fish worker licenses and catch documentation records.

In addition to BFAR, over eight government agencies have oversight over aspects of fisheries management. Municipal waters, within 15 km of shore, are overseen by local and municipal governments. The Maritime Industry Authority (MARINA) registers ships and issues Certificates of Ownership and Certificates of Philippines Registry.²⁵ The Philippine Fisheries Development Authority (PFDA) and Philippine Ports Authority (PPA) manage fishing ports and PFDA holds catch data for the ports it controls.²⁶ The Philippine Coast Guard, Philippine Navy, Philippine National Police Maritime Group and Philippine Air Force all share enforcement responsibilities for fisheries laws.²⁷ The Philippines participates in the regional IUU vessel list for vessels that have been found to be in violation of adopted management measures.²⁸

Similarly, there is no single group that oversees labor or workers in fisheries. BFAR issues ID cards to commercial vessel-based workers, while the Bureau of Immigration provides ID cards to foreign vessel-based workers. However, after issuing ID cards to foreign workers, the Bureau of Immigration lacks further management oversight for these workers. The Department of Labor and Education (DOLE) audits workplaces, including seafood companies, and provides a certificate. However, DOLE does not conduct audits of vessels as worksites, although they may audit the records of a seafood company that owns both fishing vessels and land-based processing facilities.

In short, there are multiple actors, each with a piece of responsibility for monitoring fisheries and the workers in them, but there is a lack of coordination among these actors. There are also several areas that lack effective oversight, such as labor practices on vessels.

²² Western Pacific East Asia Oceanic Fisheries Management Project. Philippines Tuna Fishery Profile. November 2012.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

2.3 Labor Force and Work Processes

The tuna sector, and the fishing sector in general, are crucial to livelihoods in the Philippines, with an estimated 1.6 million fishers nationwide. The vast majority of tuna production is located in Mindanao and, in General Santos City alone, over 200,000 people reportedly work in the tuna value chain.

2.3.1 Sea-based Labor Overview

Labor dynamics vary depending on the type of fishing operation. Purse-seine operations, often owned by larger companies, tend to function as formal employers. In contrast, handline operations tend to operate more informally, even when operations are financed by large companies. Fish stocks and the health of marine habitats greatly affect operations, with fishers commonly making longer trips as a result of decreasing stocks, which translates into more time spent at sea away from family, resources and amenities. Earnings and profits decrease as catch decreases and costs increase, particularly for workers engaged in a profit share system. Employment becomes precarious, and workers may feel increasing fear of reprisal should they express grievances. The vast majority of fishers or vessel operators across all commercial vessels are male.

Purse-seine Labor Force and Work Processes

Purse-seine vessels are often owned by larger companies that typically also own canneries, so workers tend to be hired through a more formal process and engaged directly by the company. As such, these companies are reportedly less likely than other types of fishing vessels to engage child labor. Specific positions on purse seine vessels include captain, maintenance, master fisherman, master diver, ice crusher, scaler, fish classifier, machine operator, net hauler, light boat operator, and general labor.

Purse seine operations are significantly more capital intensive than handlining. Like large handline operations, purse seines use a large “motherboat” supported by smaller boats, all of which stay in the open sea for periods of six to twelve months (although workers generally only stay for six-month terms). The motherboat stays in a fixed position, while the small boats move around the ocean to inspect the Fish Aggregation Device (FAD) or look for large schools of fish. Once a school of fish has been targeted, the smaller boat directs the motherboat to the area. The fish that are collected by the fleet are transported by a service vessel to the fish landing area at the General Santos City Fish Processing Center (GSCFPC). The service vessels enable the fishing vessels to stay at sea for longer periods of time, and, hypothetically, enable workers to return to port as well. Increased fuel costs, however, may decrease frequency of service vessel trips, thus decreasing crew mobility.

There are three general classifications of purse seine operation in General Santos, based on vessel size: super-seiners, large seiners, and medium/small seiners. Super-seiners range from 489-1,382 GT, large seiners weigh more than 250 GT and medium/small seiners weigh less than 250 GT.²⁹ Apart from handliners, purse seiners are the primary tuna producers in Philippine waters. Philippine purse seine vessels may operate in the waters of Papua New Guinea and the Solomon Islands.³⁰

Because large groups of fish, including by-catch, are caught at one time, purse seine fishing has greater environmental implications than a more selective method such as handlining. In General Santos City, the primary tuna landing city, purse seiners catch primarily skipjack and yellowfin tuna, with smaller amounts of

²⁹ Cesar Allan Vera and Zarina Hipolito, *The Philippines Tuna Industry: A Profile*, International Collective in Support of Fishworkers, 2006.

³⁰ Western Pacific East Asia Oceanic Fisheries Management Project. *Philippines Tuna Fishery Profile*. November 2012. <https://www.wcpfc.int/system/files/PLI-PHL-03-%5BConsultancy-report-%28Y3%29-Philippine-Tuna-Fishery-Profile-27Nov2012%5D.pdf>

big eye, frigate tuna, eastern little tuna, and assorted other small pelagic fish.³¹ Much of the skipjack and yellowfin catch ends up processed in General Santos City canneries.

Handline Labor Force and Work Processes

Employment relationships on handline vessels tend to be more informal. In handline operations, a financier provides capital to a boat owner (or owns the vessel himself), who in turn engages a captain. The captain then makes verbal agreements with approximately eight to twenty handline fishers. Handline fishers have traditionally been considered contractors rather than employees, even when handline vessels are financed by large companies.

Handlining is a traditional passive fishing method in which a hook and line are dropped into the water to catch sashimi-grade yellowfin tuna. Handlining is considered an environmentally sensitive method for capturing tuna since it does not use large nets and therefore has a lower rate of bycatch.³² Handlining requires a high degree of specialized skill and knowledge on the part of the fisher such as when to throw the line; how to hold it; and how to pull and haul in the fish. Care must be taken not to damage the fish. If the fish struggles, the fisher must know how to control it or risks getting pulled overboard. Further, fishers must have knowledge about patterns and movement of fish. According to interviews, this knowledge is passed on from generation to generation of fishers and acquired through years of experience.

There are two types of handline fishing conducted out of General Santos City: palaran and pamariles. The categories are distinguished by the fishing grounds or location of work. The palaran handliners fish in the municipal waters surrounding the Philippines, while pamariles fish in international waters.

Palaran Handline Fishing

The palaran or municipal handline fishers have been using the hook-and-line fishing gear for as long as fishing has been a livelihood in these communities. Handliners interviewed said that, in the past, this was the only type of fishing that occurred and they did not restrict themselves to just catching tuna, since there were other fish species available. Palaran use smaller vessels of approximately 18 to 36 feet in length. These vessels have smaller engines, which limit them to shorter trips. They usually leave the port in the afternoon, fish throughout the evening and night (when tuna are feeding near the surface) and return in the morning. Because the vessels have limited space for ice, they must quickly return to port to sell their catch at the market, or they risk a precipitous drop in quality and price.

Pamariles Handline Fishing

Pamariles or distant-water handliners are increasing as fish stocks decline. Pamariles are larger vessels that venture into areas such as the Moro Gulf, Mindanao Sea, and Davao on the Tawi-Tawi islands. The “motherboats” are roughly 50 GT, and they use smaller vessels to catch tuna. Handline motherboats stay at sea for longer periods of time, on average three days to three weeks.³³ Due to the declining catch in the Philippine EEZ, the larger handline vessels scour the international waters for tuna, amidst the looming threats of apprehension and detention due to poaching.

³¹ Western and Central Pacific Fisheries Commission. Annual Report to the Commission. Part I: Information on Fisheries, Research, and Statistics. Bali, August 2016. <https://www.wcpfc.int/system/files/AR-CCM-20%20PHILIPPINES%20PART%20I.pdf>

³² Seafood Trade Intelligence Portal. “Handline.” <http://www.seafood-tip.com/sourcing-intelligence/countries/philippines/tuna/handline/> [Accessed January 30, 2017].

³³ Western Pacific East Asia Oceanic Fisheries Management Project. Philippines Tuna Fishery Profile. November 2012. <https://www.wcpfc.int/system/files/PLI-PHL-03-%5BConsultancy-report-%28Y3%29-Philippine-Tuna-Fishery-Profile-27Nov2012%5D.pdf>

Because these vessels are so large and they take longer voyages, they require larger amounts of capital. The largest cost is fuel, so profit margins are highly sensitive to fuel costs. Handline vessels in the Philippines can be owned by individuals or companies, and motherboats and associated small pump boats may also have different owners. The small pump boats (or pakura) may be rented by individual fishers who agree to share the profit of their catch with the vessel owners. Large companies own processing plants and provide capital to fishers. Captains take roughly twenty-five percent of the profit, while roughly twenty percent is divided amongst the crew.³⁴ The number of fishers on board can range widely. Smaller hook and line fishing vessels generally take shorter voyages of one to five days at sea and employ an average of two to four fishers per trip.³⁵

2.3.2 Land-based Labor Overview

Land-based labor represents an important segment of the sector. The sector's health and productivity – and job security – are inextricably tied to the health of the tuna stocks at sea. When catch is down, work at the processing facilities becomes more precarious. Further, many of the workers in land-based worksites are the spouses or family members of vessel-based workers, which means that entire family livelihoods are dependent on the tuna value chain. While women are not present on vessels in purse-seine or handline operations, they are well-represented in land-based work including fish marketing, fish processing, gear preparation, and net mending. Women are particularly predominant in production line work in processing facilities, where previous research has found the typical worker to be a woman between the ages of 18-40. Men are more likely to be found engaged in fresh-frozen fish processing.

Canning Labor Force and Work Processes

The tuna canning sector is General Santos City's largest private sector employer. The growth of the tuna fishing sector in recent decades in General Santos City necessitated a similar rise in the fish-processing sector. Out of seven tuna canneries operating in the Philippines, six are located in General Santos City.³⁶

Verité researchers noted that the canning sector workforce is largely made up of high-school educated women, who are a combination of local workers and migrants. Most workers are in their twenties and thirties. Roughly eighty percent of workers are female and report that they rarely see male workers in the production lines. Approximately half of the workers are from General Santos City, while the others migrate from other areas in the Southern Philippines and the Visayan region. A high school diploma is normally a requirement for cannery employment.

Work in tuna canneries is labor intensive; workers generally have one repetitive task to perform. Tasks include removing fins and scales, cutting, removing intestines and bones, and cooking. Once the fish is cooked, it is sorted and cut by hand, any remaining bones are removed and it is canned. The cans are then inspected, sealed and labeled.³⁷

Despite troubles facing the industry such as rising fuel prices and bans on overfishing, the canning sector has remained robust. Canned tuna represents the bulk of tuna products sold in export markets. According to the

³⁴ Western Pacific East Asia Oceanic Fisheries Management Project. Philippines Tuna Fishery Profile. November 2012.

³⁵ Ibid.

³⁶ Noel C. Barut and Elaine G. Garvilles, Part I: Information on Fisheries, Research and Statistics, in Philippine Annual Report to the Western and Central Pacific Fisheries Commission, (WCPFC 2009), <http://www.spc.int/DigitalLibrary/Doc/FAME/Meetings/WCPFC/SC5/AR-CCM-19.pdf>, p10

³⁷ Live in the Philippines Web Magazine. Gen San, the Fish Canning Capitol of the Philippines. February 27, 2009, <http://liveinthephilippines.com/content/2010/02/gen-san-the-fish-canning-capitol-of-the-philippines/>, <http://liveinthephilippines.com/content/2010/02/gen-san-the-fish-canning-capitol-of-the-philippines/>

Tuna Cannery Association of the Philippines (TCAP) over 90 percent of the canneries' output is destined for the export market, including markets in the United States, Germany and Thailand. Skipjack tuna caught by commercial purse seiners comprise a large portion of canned tuna in General Santos. In addition to the tuna landed by Philippine vessels, foreign vessels also supply the canneries with tuna. According to the Tuna Cannery Association in General Santos City, the six canneries have a combined production capacity of about 700 metric tons per day.

Although there are harsh conditions, including long hours of standing, cannery jobs are considered a desirable option for formal sector employment, and they are often among the only formal sector jobs available to women, who make up the majority of the workforce.³⁸

Fresh Frozen Processing Description

Fresh/frozen/chilled tuna processors primarily prepare tuna coming from handling ventures, as well as high-quality tuna from purse seining. Much of the work entails fish hauling, handling, sorting, and packaging. The work sections are temperature-controlled, and the facilities comply with very high standards of sanitation and hygiene.

They produce fresh and frozen tuna products for export, primarily to the US and Europe.³⁹ The highest quality tuna product, "fresh tuna," is used as sashimi meat and is exported whole. Frozen tuna is processed for use in supermarkets or restaurants (normally as a steak or filet, although lower quality tuna may be cubed.)⁴⁰ In General Santos, the fresh-frozen processors also serve as the exporters of frozen products. They purchase raw materials, such as tuna landed in the General Santos City Fish Port (GSCFP), from traders, or they purchase directly from fishing ventures. The processing of various frozen products is then completed in the facilities in the fish port complex.

2.4 General Santos City Tuna Sector Profile

Traditionally, the island of Mindanao, and General Santos City in particular, has been known as the tuna capital of the Philippines, with an estimated 100,000-150,000 tuna industry jobs and six of seven of the country's canneries.⁴¹ However, in recent years, Occidental Mindoro has drawn attention as an emerging tuna exporting power, in part due to an abundance of tuna in the Mindoro Strait.⁴² Still, General Santos City remains economically critical and the General Santos City Fish Port Complex (GSCFPC), built in 1999 with funding from the Overseas Economic Cooperation Fund of Japan, has contributed to the development of the Philippine tuna industry and fortified the city's role as the country's tuna hub.⁴³ Tuna and tuna-like species

³⁸ Cesar Allan Vera and Zarina Hipolito, *The Philippines Tuna Industry: A Profile*, International Collective in Support of Fishworkers, 2006

³⁹ Noel C. Barut and Elaine G. Garvilles, —Part I: Information on Fisheries, Research and Statistics, in *Philippine Annual Report to the Western and Central Pacific Fisheries Commission*, (WCPFC 2009), <http://www.spc.int/DigitalLibrary/Doc/FAME/Meetings/WCPFC/SC5/AR-CCM-19.pdf>, p10.

⁴⁰ Cesar Allan Vera and Zarina Hipolito, *The Philippines Tuna Industry: A Profile*, International Collective in Support of Fishworkers, 2006

⁴¹ World Fishing and Aquaculture. "Philippines - with tuna ban, 150,000 may lose jobs" February 4, 2010.

<http://www.worldfishing.net/news101/industry-news/philippines-with-tuna-ban,-150,000-may-lose-jobs>

⁴² The Philippine Star. "Occidental Mindoro emerging as new 'tuna capital.'" April 7, 2014. <http://www.philstar.com/good-news/2014/04/07/1309560/occidental-mindoro-emerging-new-tuna-capital>

⁴³ General Santos, Philippines, http://www.arcelormittal.com/spundwand/uploads/files/ACRPS_General%20Santos%20-%20Philippines.pdf

landed in the General Santos Fish Port are delivered to three major destinations: canneries, processors/exporters and the local market catering to local consumers.⁴⁴

Of the canneries, many are owned by larger companies that have multiple operations. For example, Alliance Tuna International is owned by ASFI, which also has a tuna cannery in Bitung, Indonesia and owns a fishing company in Indonesia to ensure an adequate supply of tuna.⁴⁵ Philbest Canning corporation is owned by RD Corporation, which owns RD Fishing Group, which in turn operates 16 purse-seine vessels.⁴⁶ The Citra Mina Group, which owns Citra Mina canning has 2,000 “fishing venture relationships” and owns fleet of over 200 vessels.⁴⁷ Most companies in General Santos focus on tuna, but their parent companies may also supply other species such as sardines. A summary of select Private Sector Stakeholders located in or relevant to General Santos is included in Table 2, below.

Table 2: Private Sector Stakeholders

	Name
Companies/Exporters ⁴⁸	Century Canning Corporation
	General Tuna Corporation
	Ocean Canning Corporation
	Philbest Canning Corporation
	Seatrade Development Corporation
	Citra Mina Group of Companies
	SAFI Group of Companies
	RDG Group of Companies
	ITOCHU Corporation
	Marchael Sea Venture
	Gladery Fishing Inc.
	D. Teng Fishing
Industry Associations	Socksargen Federation of Fishing and Allied Industries, Inc. (SFFAI)
	Southern Philippines Boat Owners and Tuna Association (SPBOTA)
	South Cotabato Purse Seiners Association (SOCOPA)

⁴⁴ Cesar Allan Vera and Zarina Hipolito, The Philippines Tuna Industry: A Profile, International Collective in Support of Fishworkers, 2006

⁴⁵ Alliance Select Foods International. <http://allianceselectfoods.com/>.

⁴⁶ RD Corporation. <http://www.rdggroup.com.ph/>

⁴⁷ Citra Mina Group. <http://citraminagroup.com/>

⁴⁸ Mindanao Development Authority. Industry Profile: Mindanao Tuna. October 2011.

	Umbrella Fish Landing Association (UFLA)
	Chamber of Aquaculture and Ancillary Industries of Sarangani, Inc. (CHAINS)
	Tuna Cannery Association General Santos (TCAGS)
	Fresh Frozen Seafood Association - Tuna Processors Philippines, Inc. (FFSA-TPPI)
	Tuna Cooperative of General Santos City (Tuna Coop)
	Alliance of Philippine Fishing Federations, Inc. (APFFI)

Information on select civil society stakeholders relevant to General Santos Tuna Fishing Workers is provided in Table 3, below. Others, not listed in the table, include Passionist Center for Justice, Peace and Integrity of Creation, Social Action Center of Metro Dadiangas, NAGKAISA General Santos, Stella Maris – Apostleship of the Sea, General Santos City.

Table 3: Civil Society Stakeholders

Civil Society Stakeholder	Details
Sentro	Union established in 2013
	Affiliated with International Trade Union Confederation (ITUC)
	Involved in supporting workers
Tambuyog	Focuses on declining fishery resources and poverty in coastal communities
	Research, education campaigns, community organizing, policy advocacy and constituency building
	Promotes community based coastal resource management
Tuna Workers Solidarity Group	Launched in March 2016
	Tuna workers and families advocating for improved company policies

3. Recruitment and Employment Conditions and Findings

3.1 Recruitment, Hiring, and Employment Arrangements

Recruitment and hiring systems vary significantly across different categories of workers in the Filipino tuna fishing sector.

Recruitment of sea-based or vessel workers tended to be directly conducted by the employer, without the involvement of intermediaries. A few vessel workers reported going through informal intermediaries, personal contacts or persons known in the village who have connections to the financiers, to get the job. Recruitment and hiring of workers in processing or land-based facilities, on the contrary, was 90 percent brokered by or outsourced, either to employment agencies or cooperatives. Outright payment of recruitment fees, in the case of the latter, was not common, however, deductions for cooperative membership or for unexplained contributions were imposed on cooperative/agency-hired workers. In handline fishing, in most cases, only the boat operator or captain has direct contact with the fishing vessel owner or financier. In some cases, handline fishers had direct contact with the individual or company that owned the handline fishing operation or pamariles. Most purse-seine workers were hired directly by the company. All workers interviewed at one company, for instance, applied directly to the company, and were provided contracts and orientation-training by the company HR.

Very few workers in the tuna sector have formal working agreements or relationships with their employers. For fishers, this means that it is difficult to negotiate any terms of work, including benefits, wages, and length of trips. Written contracts, employment agreements, or fishing agreements were not commonly provided to workers. No handliners had any form of written agreement. Purse-seine and land-based facility workers said they signed contracts but were not provided copies.

Almost all land-based workers interviewed were under a “subcontracted” or “outsourcing” arrangement. They are employed on paper by employment agencies or cooperatives that have the direct contract with facilities, and then they are rotated to a different facility or renewed in cycles of less than six months. In many cases, workers said they work continuously for the same factory for several years, but are moved from one factory location to another, with no longer than six months spent in one location.

3.1.1 Sea-based Worker Recruitment, Hiring, and Employment Arrangements

Recruitment and hiring of handline fishing vessel workers (handline fishers) tend to be informal or unregulated, but practices are relatively standardized across the industry. Handline workers interviewed were either recruited by the boat operator/captain, who has the direct contract with the “financier” or “boss” (or the vessel owner), but some were contracted by the fishing vessel owner him/herself, and then assigned to specific “pamariles” operations. Handline operators/captains said they applied to or were selected by the owners.

These transactions are not documented in writing. Some workers said that they were asked to fill out biodata forms, while others said that they usually worked for operators known to them, and who had knowledge of their basic personal information already. Workers said that some fishing vessel owners provide initial orientation and explain the terms of engagement, usually through a point person or supervisor, while others said that only basic information on the payment process, including terms on advances and debts, is provided by the operator prior to commencement of work.

Most of the handline fishers tend to work for the same operator/captain or fishing fleet owner for several years. Some workers reported having worked for the same company for over 15 years, while a few workers interviewed had been working for the same “boss” for more than 20 years

All handline workers said that they are not always informed in advance of exactly where the fishing operations would be conducted, or how long they would be out at sea. All of them said, however, that “pamariles” operations are almost exclusively done outside Philippine waters now.

Workers recruited for purse-seine operations tended to go through more formal processes and were directly administered by the company’s human resource department. They went through formal orientation on the terms and conditions of their jobs. Some workers were provided at least the minimum wage, some productivity incentives, and all other mandatory benefits. Others said that they were only guaranteed 3,000 Philippine pesos (PHP) per month with the rest of their income based on the catch.

3.1.2 Land-based Worker Recruitment, Hiring, and Employment Arrangements

The recruitment of land-based workers for the canning, smoking, fresh-frozen, freeze-packing and other facilities are more formal, in the sense that established, documented processes are in place. Most of the workers employed in these facilities are under short-term contracts or are outsourced or sub-contracted through cooperatives or agencies. Almost all of the land-based workers interviewed were hired on paper by agencies and cooperatives. Although workers reported that they did not pay fees to secure their jobs, some workers’ pay slips indicated deductions for membership and other unexplained items, which workers said are part of cost of getting the job.

Three workers reported that they started out as outsourced workers, under agencies or cooperatives, but were eventually absorbed as direct hires by the companies. Most of the workers interviewed said this arrangement is very rare in General Santos. 11.4 percent (5) land-based workers interviewed were regular workers directly employed by the company while the remaining 88.6 percent (39) all were currently on short-term contracts under either a cooperative or an employment agency.

Some workers (approximately 23 percent of land-based workers interviewed) who had been working for several years as direct employees of factories were “transferred” to agencies. Through the agencies, the workers had neither job security nor pension/retirement benefits. Several workers reported that they were terminated after being employed for more than ten years and were asked to re-apply through an agency if they wanted to continue doing the job. Those who did not agree lost their jobs and did not get any separation pay.

Informal workers are involved in various tasks in the fish port. During the interviews, they shared that they are employed on a daily or per-transaction basis and have no standard or written agreements. Everything is as the boss dictates.

The canning sector in General Santos has been under scrutiny for casual hiring practices known as the “5-5-5” and “cabo” systems. Under the “5-5-5” arrangement, workers are given recurring five-month contracts to avoid permanent employee status in a company.⁴⁹ As defined by the Philippine Labor Code, a “cabo” is “a person or group of persons or a labor group which, in the guise of a labor organization, supplies workers to

⁴⁹ Mindanews. “GenSan tuna firms agree to assessment of compliance with labor laws.” August 15, 2014. <http://www.mindanews.com/top-stories/2014/08/gensan-tuna-firms-agree-to-assessment-of-compliance-with-labor-laws/>

an employer, with or without any monetary or other consideration whether in the capacity of an agent of the employer or as an ostensible independent contractor.” This is also known as labor-only contracting. While the “cabo” system is illegal, it was reportedly still being practiced at the time of research.⁵⁰ See the Legal Framework section for further discussion of regulation around contracting.

Almost all land-based workers interviewed were women, and were under a sub-contracting or outsourcing arrangement, which means they were employed on paper by employment agencies or cooperatives that have direct contracts with facilities. Sub-contracted workers are then rotated to a different facility or renewed in cycles of less than six months to avoid formal employment relationships. In many cases, workers said they work continuously in the same factory for several years, but sometimes are moved from one factory to another. Because women are more predominantly represented in processing facility work, this has a more significant impact on female workers. Men who do work in these plants are more likely to be in supervisory positions, which facilities tend to hire and employ directly. About half of the land-based workers interviewed said it was not clear to them who their employer was. They were aware that their pay slips were issued by the agency or cooperative, but nonetheless understood that the fishing company employs them, as they are fully answerable to the supervisors and production managers in the factories where they work. Some workers who had been working for several years with a fish canning facility said that they had never signed an employment agreement but were one day made to fill out an application or intake form; they were informed the next day that they were now working under an employment agency, but would continue their services in the factory. B’laan workers, an indigenous group, reported that they received no orientation on the terms and conditions of their employment. Most were illiterate. Most of the workers interviewed reported they were not provided a copy of their contract with the agency.

3.2 Documentation

The availability of worker documentation is particularly important when considering potentially integrating worker data with CDT systems, as well as in considering workers’ vulnerability overall. Proper documentation allows a worker to access the protections he or she is afforded by law. A lack of documentation makes tracking the movement and safety of workers on vessels extremely challenging. Further, if undocumented workers are detained in foreign countries, their lack of documentation may impede their repatriation process.

3.2.1 Sea-based Workers Documentation

Most handline fishing workers lack documentation – passport, fishing license, fisher ID, seaman’s book–altogether. Most workers interviewed have never had any kind of travel or identity documents. They reported that this was not a problem as long as they were only fishing at the “sentro,” or the boundary between the Philippines and Indonesia. Workers who had passports said they had to pay for these themselves and only a handful of the handline fishers interviewed had fisher IDs.

The handline operators and captains all had fisher IDs, and some of them had passports, but they said that a fisher ID or passport is not sufficient to provide them safety or legal protection when they cross the boundary into Indonesia, as they are often instructed by their “boss” to do. They reported that if they wanted to secure other documents, they would have to pay for these themselves.

⁵⁰ Buena, Bernal. “Citra Mina: No direct relationship with 'abandoned' fishermen.” Rappler. March 26, 2015. <http://www.rappler.com/nation/85143-tuna-exporter-supplier-abandoned-workers-fiasco>

Formally employed purse-seine workers are usually provided with work permits or visas, seaman's books, and passports when their vessels venture into international waters. Over half (12 of 20) of purse-seine workers interviewed said they paid for documents themselves; others reported that these documents were paid for by their employers. They reported, however, that workers have sometimes been asked to reimburse these costs if they quit their jobs. Workers said that the captain usually holds their documents while they are at sea, as these documents must all be in place and ready for inspections.

A worker can obtain a seaman's book after attending the Safety of Life at Sea (SOLAS) training, which can cost as much as PHP 6,000 (USD 150). Workers reported that when they have paid for and received their seaman's book, the vessel owner may withhold it. This practice has two labor implications: first, withheld documents may make it difficult for workers to seek employment with another owner. Second, fraudulently re-using seaman books for other workers prevents accurate verification of crew manifests, and therefore of workers' whereabouts.

The purse-seine workers employed by one of the biggest fishing companies operating in General Santos City said they paid for their own passport, seaman's book, SOLAS training, and license. They report that they did not pay any other fees. The company covered the cost of other documentation necessary to work in foreign waters or dock in a foreign country, but workers were required to pay the company back for the costs if they leave their employment within the first three years.

3.2.2 Land-based Workers Documentation

Some of the processing plant workers (canning, smoked and fresh frozen) interviewed shared that they are required to obtain clearances (Purok/Barangay/Police/NBI) and a medical certificate. However, they reported that they can get jobs by "borrowing" other people's documents. They said that this was sometimes done to circumvent the factories' five-month contract rule, which requires that after a five-month contract, worker can only work again in the factory after a year. The exact prevalence of this phenomenon is unclear as it was reported anecdotally, however, through triangulation, researchers determined it does not appear to be rare. Other workers below the age of 18 also "borrow" documents to hide their real age. In this case, they are not able to take advantage of the benefits they are supposed to be entitled to as employees such as PhilHealth (the national health insurance program), Pag-ibig (government program for national savings and social security (SSS)).

Workers report that the application requirements for employment through a manpower/service cooperative include biodata, police clearance, Purok clearance, medical certificate, SSS/Pag-ibig/Phil Health Card/ Cooperative membership fee (usually less than PHP 500). Other workers reported less documentation. Workers in canning factories shared that during peak season, fewer documents are required to get jobs, which can enable underage workers (see Child Labor section.)

3.3 Child Labor

During interviews in General Santos, Verité received anecdotal reports of child labor, but also uncovered a lack of formal screening procedures, which points to systemic risk in specific sub-sectors. Handline workers reported that they are not screened for age when seeking employment. Most handline workers reported that they were between the ages of 13-15 when they began working, although they were adults at the time of Verité's interviews. Three handline fishers interviewed were under 18 at the time they were interviewed. Workers on purse-seine vessels tend to be hired through more formal processes that screen for minimum age. The land-based workers interviewed were generally over the age of 18, but they reported that some workers aged 16 are currently employed in factories. They noted that, during peak season, employers/agencies sometimes do not check documentation to verify age.

A more complete picture of national child labor law in the Philippines is presented in the “Legal and Regulatory Framework” section, but, in short, the Philippine Labor Code sets the minimum age for work at 15 (with protective restrictions) and the minimum age for hazardous work at 18. It allows younger children to work in nonhazardous activities when under the responsibility of their parents or guardians. Republic Act No. 9231 defines, prohibits and prescribes penalties for the worst forms of child labor, barring children from using dangerous machinery or tools, transporting heavy loads, working underground or underwater, handling explosives, or being exposed to unsafe substances.

3.3.1 Sea-based Child Labor

One of the handline fishers interviewed had just turned 16, and two were aged 17. Most handline fishers said they were underage when they started working, some as young as 13 years old. One handline fisher reported that three years ago, a boy of 14 years old was part of their crew, fishing in Indonesian waters. The boy was among those caught and detained in Indonesia, and he was able to return home only recently, after three years.

3.3.2 Land-based Child Labor

Workers reported that there are a few workers aged 16 currently employed in factories. Canning workers reported that during peak season, the company hires temporary workers through manpower agencies that only require applicants to submit biodata and that do not check supporting documents that might verify working age. Young workers “borrow” others’ documents or procure fake documents to hide their age so that they can obtain employment and earn money. Given that canning factory workers are so predominantly female, this has more significant impact on girls than boys. Two workers interviewed revealed that they were 16 years old when they started working in the factory two years prior. They wanted to get job experience, so they “borrowed” other workers’ documents to apply for the job.

3.4 Worker Awareness and Training

The quality of working conditions depends largely on the work or production process, the employment arrangement, and workers’ ability to organize or seek representation. In the General Santos fishing sector, onsite personnel management and HR systems for workers varied across categories. In general, work hours, work location, and employment status restricted workers’ access to participation in labor groups or associations, or in activities organized by faith-based groups, from which they may receive worker-awareness training.

3.4.1 Sea-based Worker Awareness and Training

Handline fishers receive no formal or standardized trainings or orientations. Company policies are not in writing, but many of the management practices are well-established and similarly implemented across the sector. Purse-seine and land-based facility workers operate under more formal arrangements, but many report being subjected to poor working conditions and display limited knowledge of their rights and of company policies.

Most of the workers interviewed displayed very low awareness of labor laws and rights and the company’s policies. Many were unsure of how their pay should be calculated and reported that training and orientation on policies are rarely conducted. Much of the training or orientation they do receive focuses on the job requirements and on the discipline rules and regulations.

3.4.2 Land-based Worker Awareness and Training

Some workers who had been involved in union activities had a better level of awareness of labor laws, rights and company policies. In terms of gendered participation, although women are more predominant in canning facility work, both men and women are present among union members. Union members from two facilities said that they have noted improvements in working conditions in some factories since the Citra Mina workers went on strike. The DOLE representative also mentioned that there are a few fishing vessel owners and companies that have sought their guidance in ensuring that all laws are followed and that all workers are provided the mandatory benefits. Since the issuance of Joint Department Order (DO-156-16), or “Rules and Regulations Governing the Working and Living Conditions of Fisher Onboard Fishing Vessels Engaged in Commercial Fishing Operation,” at least three companies have approached DOLE for assistance.

3.5 Disciplinary Procedures and Grievance Mechanisms

Workers across the tuna supply chain in the Philippines currently lack access to a robust, confidential grievance mechanism. For sea-based workers, the captain is likely to be the only avenue for expressing grievances but is also in charge of discipline. Further, sea-based workers are disincentivized from expressing grievances at all in light of their tenuous work situation and their reliance on the vessel captain for multiple needs. Sea-based workers are particularly afraid of blacklisting.

This fear of blacklisting among all tuna-sector workers is common in General Santos, with workers interviewed expressing concern that lodging a complaint or grievance could result in them being banned from future employment. Freedom of association can be a critical component of grievance channels for workers. The lack of meaningful grievance mechanisms compounds workers’ fears of dismissal or exclusion from future employment. Union members at one facility reported that they have been unable to find regular work since they were fired for having their union recognized and going on strike. For more information, see the section on Freedom of Association.

It should be noted that a CDT system may provide workers with the technological means to communicate confidentially with third-parties, thus enabling grievance communications. That said, access to communication channels does not, in and of itself, represent a robust grievance mechanism.

3.5.1 Sea-based Disciplinary Procedures and Grievance Mechanisms

Sea-based workers, whether on handline or purse-seine vessels, are typically under the captain’s control. Some workers interviewed expressed concerns both about having no means to report grievances to anyone other than the captain and about having no procedure for lodging complaints about the captain himself. They reported that in order to reach the company’s management, they go through radio operators, but that there are no procedures for anonymous or confidential reporting. Other workers said that, because of this, concerns and grievances are not reported, but rather resolved among workers or not mentioned at all. Some workers fear being blacklisted from future work as retribution were they to express grievances.

According to boat operators and captains in tuna handline operations, the operator provides the overall supervision of the crew on his boat. He is responsible for the immediate need of the fishers, guarantees cash advances to the owner, and pays the credit if the fisher leaves the boat. If his management is deemed unreasonable, fishers may leave him and seek to be transferred to another boat. This provides some motivation for operators/captains to act in a fair manner, but, in and of itself, is not sufficient to guarantee fair treatment.

Handline fishers said that it was important for them to maintain a good relationship with the boat operator, because they depend on the operator for their provisions, protection, and pay. Handline fishers also reported

that they have to follow the captain's orders if they want to keep their jobs. In terms of addressing handline fishers' concerns and grievances, captains said that they are usually tasked with receiving and attempting to address them directly. Ultimately, the "boss" has the final say if money or finances are involved. A typical process for reporting grievances is that the worker speaks to the vessel operator who then calls a meeting to attempt to resolve the issue. If the issue is not resolved, the fisher is advised to return home, provided there is an available ride, which there often are not. In short, this does not represent a robust grievance mechanism and offers workers no confidential avenues.

Purse-seine workers are directly employed by the fishing company, but are also under the direct control and supervision of the vessel captain while on board. On purse-seiners, disciplinary measures are commonly implemented by the captain, and grievance reports or requests for loans and financial assistance usually go through the captain as well. Workers reported that violent fights sometimes broke out amongst workers on vessels, and that use of physical punishment as a disciplinary measure was sometimes imposed, although this was no longer as common as it once was.

3.5.2 Land-based Disciplinary Procedures and Grievance Mechanisms

Some land-based workers – both men and women – including skimmers, sanitation, and maintenance employees, said that they were afraid to report grievances at processing facilities. During interviews they mentioned that they have known other workers went to DOLE for help and were subsequently blacklisted by the companies and labor agencies.

Of all the land-based workers interviewed, only five workers from one factory reported that they are able to approach the company's managers or their supervisors if they have any issues. At one factory, workers interviewed reported that their supervisors never act on their reports of harassment and abuse. At another factory, workers reported that although suggestion boxes are available and they are aware of the grievance procedures of the company, they do not feel comfortable using the system.

Workers hired through labor agencies – that is – not employed directly by the facility, may have reduced ability to access grievance mechanisms provided through the company. Agency-hired workers at three different facilities reported that they were limited to reporting grievances through channels provided by their agency; they cannot approach their managers or supervisors at the worksite.

Workers from one fishing company that owns both a land-based facility and a purse-seine operation reported that they are encouraged to send emails or report directly to the HR department any concern they may have. This allows them to bypass the captain and report concerns directly to company management based in the Philippine office. Workers from other companies reported that no such option was available to them.

Both sea- and land-based workers reported that their company's security guards bear responsibility for the implementation of discipline and termination procedures. They reported that the security guards abuse their authority, report and reprimand workers for violations of work rules, and are part of management investigations into disciplinary cases. Workers reported that they are intimidated by the security guards

3.6 Harassment, Abuse, and Discrimination

Although the company policies at purse-seine operations and land-based facilities generally prohibit all forms of inhumane treatment, issues of harassment and abuse are widespread throughout the tuna supply chain. These issues are heightened during peak production times and may result from a lack of training and supervisors' low awareness. In handline fishing, where policies are not written, risks are heightened by lack of awareness both on the part of workers/crew and the operators/captain, as well as a lack of management control on the part of the fleet owner.

3.6.1 Sea-based Harassment, Abuse and Discrimination

Handline fishers reported that they are sometimes subjected to verbal abuse by their operators or captains, but most believed this was commonplace in their type of work. One of the workers reported, however, that sometimes the conditions can be very severe, with workers under significant pressure from the operators. The impact on the workers can be compounded because their jobs keep them away from their families for long periods of time.

Others complained of physical abuse by authorities when they get arrested in other countries, such as Indonesia. Some workers reported that the operator is the primary subject of the interrogations and physical punishment. Handline fishers reported that being associated with unions or workers who take action or lodge complaints against employers or fishing companies, can result in blacklisting.

3.6.2 Land-based Harassment, Abuse and Discrimination

Most of the land-based female workers employed in facilities reported constant verbal and psychological abuse from supervisors and management, as well some physical abuse. Many of the women working in these canning facilities are the wives of fishers.

Workers at one factory reported ongoing verbal abuse from supervisors, including regular shouting. They had not reported these incidents because they were unsure what would result. Male workers also experience abuse. One worker in the same factory reported that his supervisor slapped him on the back of the head during an altercation. He reported this incident to the line supervisor but was told to get used to this supervisor's behavior.

Workers at another factory also reported ongoing verbal and physical abuse by supervisors and the production manager, who they said commonly use insults as well as derogatory and sexist terms in reference to workers, presenting a gendered dimension of the abuse. Workers said they had experienced harsh language from supervisors in other factories, but that their experience in this factory was deeply offensive. The supervisors would also hit workers at the back of the head when they were deemed slow. The Production Manager of this factory has been cited in a report made by B'laan workers to the local council (Barangay). The B'laan workers staged a work stoppage when one of them was verbally abused. Other workers also said that they have witnessed the production manager pulling a worker by the hair, hitting workers' hands with a tool, and verbally abusing workers with the threat of termination or blacklisting.

Women are discriminated against in terms of pregnancy status. A few workers said that, to their knowledge, they must stop working if they become pregnant. Most workers also said that during the application process, applicants found to be pregnant are automatically screened out. Workers said that this was because work in factories is not safe for pregnant women: they have to be on their feet for 12 hours, often on slippery factory floors. Some workers who become pregnant while employed are advised to resign, or to sign a waiver clearing the factory of liability.

Several loiners from different factories reported that although they are not explicitly restricted from taking their breaks, they cannot do so because of the volume of fish loaded on their lines. They reported only being able to take toilet breaks during their official break, and, as a result, workers in this department commonly contract urinary tract infections. Some of the loiners also complained that their "assists" (the assistant line leader) have occasionally refuse to let them leave the line even if they are complaining of stomachaches.

Other land-based workers such as skimmers and sanitation workers reported unrestricted access to drinking water, toilets, and other basic needs, saying they are able to leave the facility at any time under reasonable circumstances.

3.7 Freedom of Association

Although some unions are active in the sector, workers interviewed expressed barriers to participation. These barriers included restrictions on eligibility as well as fear of reprisal by employers. (See also Disciplinary Procedures and Grievance Mechanisms in previous sections.)

3.7.1 Sea-based Freedom of Association

Some fishers reported being represented by a national labor federation, but none were able to form or join a union, because of their employment status, working arrangement, or busy production schedule.

3.7.2 Land-based Freedom of Association

Some factory workers reported that their companies warned workers against joining unions or organizations outside the factory, threatening termination. Other workers reported that their management did not explicitly forbid unionization, but that they had witnessed fellow workers being terminated and were afraid to exercise their rights. Approximately half of the workers interviewed were unaware of their rights to association.

Unionized workers who have organized strikes, and some members of local organizations assisting workers, shared that they have received death threats and have been intimidated and followed by unknown individuals. They have filed reports with the police but continue to receive threats. Churches around General Santos assist in organizing meetings with workers in the communities.

In one factory, workers reported that, despite several attempts by the employer to have the union registration cancelled, the unionized workers continue to focus on the issues described in this report, many of which have persisted in General Santos for years.

Workers claimed that a few factories have made improvements in their operations and treatment of workers since the union in one factory organized strikes and filed formal complaints at the Department of Labor and Employment.

3.8 Working Hours

Workers in tuna supply chain work long hours. Vessel workers work “continuously” for some periods while at sea, with rest time coming only when catch is low. Land-based workers work extremely erratic hours: at some points, they may work compulsory overtime whereas at low-capacity points, they may find themselves without any work or pay at all.

Actual working hours on vessels are not usually recorded or tracked, and are described as irregular, at best. International conventions, industry and buyer codes, as well as the new Department Order (DO) 156-16 (see Legal Frameworks section) recommend that fishers get at least 10 hours of rest in a day, and a full 24-hour break after six continuous days of work. Based on interviews with workers and boat officers, it is possible to map out the actual work and hours required of each person on board purse-seiners, and to maintain a record of work hours. Handline fishing is more challenging to track in terms of work hours, as fishers are usually on their own, away from the “mother boat.” The difficulty in tracking these hours has implications in terms of any CDT involving worker hours.

Working hours on land-based facilities are recorded and tracked. The Labor Code of the Philippines does not set a limit on number of overtime hours, but states that eight hours of work constitute regular hours and hours worked beyond that are considered overtime. Under the law, those hours should be paid legal

overtime rates. International industry codes set a limit of 60 hours per week, including overtime hours; and require a full 24 hours of rest after six consecutive days of work.

Under Filipino law, regular work hour limits are set at eight hours per day and 48 hours per week for industrial workers and at 40 hours per week for government workers. A weekly day of rest is mandated for all workers. Provisions against excessive overtime are weak in Philippine law, and the U.S. Department of State has reported that there is no legal limit on mandatory overtime.⁵¹ All hours worked in excess of regular working hours must be compensated at an overtime premium of 125 percent for regular overtime, 130 percent on “special nonworking days,” and 200 percent on holidays.⁵² According to in-country labor experts interviewed by Verité, while the Labor Code prohibits the compensation of overtime worked on one day with fewer working hours on another day, DOLE rules allow for a “compressed workweek” in which workers may work eight to 12 hours a day without being paid overtime pay. Fines and penalties for violating these laws are not clearly outlined.

3.8.1 Sea-based Working Hours

Purse-seine workers and vessel officers (captains) reported that while at sea, they typically start their workday at 5 a.m. and end at midnight. They described the work as “continuous” from the time they start in the morning until the fish are hauled and stored and gears returned to their places. There are days, however, when catch is low, and work is slow. Work performed beyond eight hours is not considered overtime. They also reported working continuously without a day off, as there is currently no arrangement for workers to take days off.

Handliners and handline operators said fishing is a continuous activity with no consideration of time. As long as there are fish to catch or load, the work continues. The captains and operators reported the location and length of their expedition depends on the fishing vessel owner. Normally, fishers stay at sea for anywhere from one to three months and then stay home for one to two weeks, all of which is subject to change. Once the crew is out at sea, the handliners are instructed to take out their bancas (small fishing boats), after which they are on their own until they are called back to the “mother boat.” During very slow seasons, the fishing vessel owner only allows vessels to return if they have enough fish to cover the capital he invested in the venture. Workers are not always informed ahead of time of the length of location of their trips out to sea.

Extremely long voyages on purse-seine vessels were formerly more common, spanning from several months to a year for long haul vessels. This practice is now reportedly less common. However, when it does occur, workers are essentially under the physical control of their employer, with no means to leave the vessel, except in a situation of extreme emergency such as life-threatening illness. Workers may have an opportunity to return to port when service vessels meet motherboats, but high fuel costs often prevent these opportunities. Purse-seine workers reported that if they want to get off the boat and go on leave, or if their contract is complete, they have to wait for a reliever. Once a reliever is identified and onboard, the worker is no longer paid for the time he is on the boat while waiting for an available boat to take them back home. According to workers, the time between having a reliever get on board and when they get on a ship to take them home could last anywhere from one week to a month. This time is unpaid.

⁵¹ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016. <http://www.state.gov/documents/organization/253005.pdf>.

⁵² U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016. <http://www.state.gov/documents/organization/253005.pdf>.

3.8.2 Land-based Working Hours

Land-based workers (loiners, skimmers, sanitation, etc.) generally work 12 hours per day, for six to seven days per week. However, there are periods when workers are temporarily laid off, “sent home,” or on furlough when production is slow. During lean season, workers must wait for instructions from the factory via text to learn if they are to report for work.

Workers shared that the processing facilities do not always follow regular working hours, and that if there are plenty of fish there is an overtime requirement of up to five hours, paid at PHP 42 an hour. Workers may receive advance notification of overtime, but often they are only informed of overtime on the day they are expected to work. Workers reported varying overtime schedules, such as:

- At peak production, three to five hours per day; on normal days, up to two hours
- At peak production three to seven hours per day; on normal days, up to two hours
- At peak production period to five to six hours per day
- Average of two to three hours per day regardless of whether it is peak or normal season

A review of documents indicated that some employees work for 30 straight days with no day off. Some workers reported that when they go on leave, or are absent without leave, they are often transferred to a different or more difficult line or are denied the opportunity to work overtime. All workers reported being on a “no-work, no-pay” arrangement. As these workers are more predominantly female, this has a more significant impact on women.

3.9 Wages, Benefits, and Debt

Workers in the tuna sector often receive wages that are erratic and unreliable and there is a general lack of transparency into wage calculations. Sea-based workers in handline operations are typically compensated under a share system, and, in some cases, after expenses and deductions, return from a voyage with no earnings. Indebtedness is widespread, as fishers and their families take cash and in-kind loans from financiers, with little transparency into how and when that debt can be paid off. For land-based workers, due to the erratic nature of catch and available work hours, earnings can be similarly erratic. Workers are often paid on quota system and earnings often fail to meet minimum wage levels. To meet their quota, they may have to work uncompensated overtime. Further, workers engaged through agencies appear to be paid at lower rates overall than workers hired directly by the company.

As of September 2016, the minimum wage for non-agricultural jobs in General Santos City was PHP 295. Minimum wage rates are set at a regional level. For a more complete discussion of wage laws in the Philippines, see the Legal Framework section.⁵³

3.9.1 Sea-based Wages, Benefits and Debt

Fishers who make their earnings through profit sharing schemes, a widespread practice, are vulnerable to unreliable wages. In most cases, their share in the catch is considered to be their wage. The low and unpredictable wages of fishers exacerbate their dependence on loans. Financiers provide products (i.e. rice, medicine), at inflated prices, to workers in the form of in-kind loans which contributes to their debt-loads.

⁵³ <http://www.nwpc.dole.gov.ph/pages/rb-12/cmwr.html>

Most of the handline fishers are paid based according to the “lilima” system, or “fifths.” Lilima literally refers to the share of the fisher, which is equivalent to one fifth of the actual gross sales of captured tuna. The financier gets 10 percent commission, while the broker gets five percent. After the financier and broker receive their commission, the incidental expenses incurred in the process of selling the fish, such as labor costs and port fees, are then subtracted from the gross sales and returned to the boat owner. Once the shares for the fishers, commission of financiers and brokers, incidental expenses and start-up capital are deducted from the gross sales, the leftover money becomes the net sale of the fishing expedition. This net sale will then be divided between the boat owner and the operator. The operator usually gets 15–25 percent, depending on the turnout of the expedition, while the rest of the money goes to the boat owner.

In the “sukod,” sharing system, which literally means “of equal footing,” the operator is considered a partner of the boat owner in terms of benefits and costs. If the fishing expedition loses money, the operator must absorb the losses too. There is no fixed date or duration for the boat owner to pay off his/her financial obligation to the financier, since fishing turnover is highly unpredictable. If the boat owner is lucky, he/she can pay his/her debt in a few months’ time, while others take a year and a half to recover. There are also cases when a boat owner becomes so deeply in debt that they must give up the boat to the financier as a form of repayment.

Most purse-seine workers interviewed said that they are paid on a monthly basis, and their pay is well-documented. Some said that pay is directly deposited to their accounts, while others said that they collect their pay from the company accounts office upon return of the vessel to the port. Some of the purse-seine workers interviewed (service crew) are paid a daily wage of PHP 500, and they get their pay at “dinungguan” or at every fish landing. Most reported that they do not receive any other benefits or allowances, and some reported having received an end of year bonus. On average, workers reported that they are only guaranteed PHP 3,000 per month, and the rest of the pay is based on catch.

Purse-seine workers reported that if they want to get off boat to go on leave, or when their contract has concluded and it is time to get off the ship, they have to wait for a reliever. Once a reliever is identified and onboard, the worker is no longer paid for the time he is on the ship while waiting for an available ship to take them back home. According to workers, the time between having a reliever get on board and when they get on a ship to take them home could last anywhere from one week to a month. This time is no longer paid.

Purse-seine workers hired in General Santos complained that their basic pay is based on the General Santos minimum wage rate, while those hired in Manila are paid the Manila rate, which is higher compared to provincial rates, even when they all do the same work on the boat when the vessel is on international or foreign waters.

Boat operators and handline fishers are typically paid after the fish have been weighed, valued, and sold. Workers said that the waiting time can vary from three days to one month sometimes, depending on when the fish is bought. Workers said that, in the meantime, as they wait for their share, cash advances are allowed and later deducted from the fisher’s income.

Some handline fishers reported that there are times when they do not get payment after a trip. This happens if the operator suffered loss for the trip, or after all the advances the workers were made are deducted from their share. Workers shared that their main concern is the pricing of the fish, which is generally controlled by the buyer. They stated that even when the fuel and supplies prices increase, the price of the catch does not necessarily go up.

Workers said that they would welcome a change in the sharing system to one that is more equitable. Most workers reported that they rely on the fishing industry for their livelihood and survival, and that there were no other viable alternatives for them. Fishers in the communities all expressed difficulty surviving on a daily basis. Almost all of the workers interviewed were in debt to local stores and suppliers, to their “boss” (boat captains/operators), or to local loan sharks.

As wages decrease due to declining catches and possible deception in payment practices, workers become increasingly dependent on taking loans to smooth income disruptions. While the loans are sometimes from friends, family or local money lenders, some workers take loans from the financier of the tuna operation. The loans can be in cash or “in-kind” – for example, they receive a bag of rice instead of cash, and the debts are paid off through salary deductions from future trips. Accounting for loans is lax, and workers may not even be sure of whether their loans are paid off. By the time all deductions have been made, particularly after an unprofitable trip, the worker may have almost no new earnings, compelling him to take additional loans to support himself and his family. Loans are particularly critical for the family of a purse-seiner, who is generally paid after a six-month engagement at sea. The loans his family takes while he is at sea may be deducted from his earnings and by the time he returns home, he has no earnings and must go back out again.

Handline fishers reported that because of the debts owed to their boss/captain (who then takes a loan from the owner/employer to distribute to workers), they cannot easily leave the job. Both operators and fishers also said that practically all of the fishing companies and employers employ this system with little to no other choices for emergency funding (with the exception of two fishing companies that provided additional benefits to workers and their families).

Some fishing boat operators/captains interviewed stated, “We have not seen people’s lives improve in the more than twenty years of engagement with fishing. Even operators, who get paid significantly more than the fishers, are barely surviving.”

Case Study: Francisco – Cycles of Debt

Francisco is a 37-year-old handliner. He has been working alongside his father and uncles, who previously fished in municipal waters, since he was 14. He started working for one of the biggest employers of handliners, a fishing company that owns several handline operations and fish processing facilities, when he was 17. He stayed with the same company for the next 17 years, during which he was supervised by several different pamariles operators. He said it was easy to transfer operators, provided the worker does not have an outstanding debt with the current operator/captain. He said that there were no contracts or written agreements signed, but that he had to fill out a biodata sheet which was submitted to a secretary, employed by the fish company, who also gave him an informal orientation on the “arrangements.” Under the arrangement, he was to be assigned to one of the pamariles operations, provided with all food, fuel, and gear supplies, given a cash advance if needed, and paid when the boat had returned and the fish were landed. The secretary handled records, and also served as the contact person for workers’ families to approach for loans when the workers were out at sea.

Francisco said that the very first fishing operation he joined took him to Indonesia, and the crew stayed out at sea for several days. He said there were no requirements for identification papers or passports then, or boat registrations, but they would also encounter government sea patrols whom workers would either pay with cash or fish. He also said that they would sometimes fish in the “Sentro,” within Philippine waters, and return immediately to shore once they had enough fish. In the last few years, however, he reported that almost all fishing operations were conducted beyond Philippine waters, in Indonesia and Palau. To his knowledge, boats were registered and licensed to fish, but he himself never had a passport or a fishing license. At some point, they were asked to work continuously for 10 months. Again, no contracts were signed, but verbal agreements were made.

The boats could dock sometimes in Indonesia for a full week to replenish supplies, or to deliver fish to the fishing company’s Indonesian contact. He said they could move around Bitung while docked, but when they were questioned, they would respond in Bahasa Indonesia that they had family there. He was detained in Indonesia a few times. During the last detention, the authorities checked the boat’s documents and records and found them to either be fake or expired. Francisco said he was very surprised about this because he knew, and believe the fishing companies and operators were aware, that it was no longer legal to fish in Indonesia unless you had the proper papers.

Francisco recalled that, in the past, the payment arrangement was based on “inupat” (four parts), but it was changed to “lilima” at some point. He said fishers had no say in the payment arrangement and were told that they were free to move to other companies if they were not satisfied. Francisco said it was difficult to move because he always had “payables” (debt) and needed to keep joining the fishing ventures to earn and pay back the operator or the boat owner. He said that during a nine-month assignment, for instance, he was informed that he had accumulated PHP 80,000 worth of earnings. Subtracting his debts of PHP 68,000, he came home with only PHP 12,000, much of which he used to settle other loans taken by his family from local loan sharks and store owners. He said that there were times when they would be on stand-by for several days or weeks, until the boss called them back for the next fishing venture. He said it was difficult to commit to other jobs during this period, as he could get called back to work at any time. Moreover, during this stand-by period, he was forced to borrow money from the company, for lack of other options.

The fishing company Francisco works for was recently involved in some controversy over its treatment of workers. Since then, Francisco and many other fishers decided to leave and work for another boss. He said he had committed to a new boss who had fewer boats but was known to provide better payment and provisions to workers. He said he was not sure how different the payment arrangements would be, as he was just about to start fishing a week from the interview. Many of his fellow fishers, however, were still unemployed.

Note: Identifying information has been changed to protect the fisher.

Highlight: Good Practices

Purse-seine workers’ wage rates in one of the biggest fishing companies, which were given a Certificate of Compliance (CoC) with DOLE’s standards are as follows: basic rate (starting at minimum wage) + 50% or +25%, depending on their rank or position on the vessel. Workers are also provided productivity bonuses when the catch is good. Workers normally receive their pay when the vessel docks (usually in six to ten months), however, the company has made arrangements for workers’ families to regularly receive part of the workers’ salary, and to make loans or advances during emergencies.

However, as in other companies, workers in this company are not paid the legally mandated overtime premium for work hours exceeding eight hours per day. Workers reported they work continuously with no day off. Work done on Sundays is also not paid the legally mandated overtime rate.

3.9.2 Land-based Wages and Benefits

Researchers found that, based on a review of pay-slips, most land-based workers (loiners, skimmers, and production line workers) are not earning the legal minimum wage and workers engaged through the agency system often receive less than directly engaged workers. Moreover, many of the workers are not aware of their entitlements and benefits. Other workers said that they were unsure if they received the minimum wage, since they were paid on a “pakyawan” system or based on a target output. According to workers in one of the biggest canning factories in the city, loiners were previously paid a daily wage, but had recently been converted to “pakyawan system.”

Most workers, particularly loiners, reported that, after the training period, they are paid on a per-piece-rate/output-based system. Some workers said that to earn the minimum wage they were required to meet the 71 kilo target, while others reported a 100-kilo target. Workers said that new/slow workers are typically able to meet only two-thirds of the target and are paid just over PHP100 for eight hours of work. Loiners said that they were paid depending on their productivity, which sometimes amounted to only PHP 50.00 to PHP 80.00 per day. Other workers said that they are allowed to extend for two to four hours in order to

meet the quota, but that the overtime is paid at the regular rate, or their work hours are adjusted to reflect only eight hours. Workers noted that because these production targets are so high, sometimes they cannot take regular toilet breaks. Workers said they typically work more than eight hours to meet the target. If workers leave without meeting the target, even after completing eight hours of work, they are considered to have abandoned their posts and are suspended for six days.

At one facility, workers reported that the facility's recording of their output is not accurate or consistent. Workers said they are deducted up to 30-50 kilos of their output for "bad quality/negative output." Some "slow" workers end up not receiving any pay for the day because of these deductions. Loiners report that their salaries are deducted if there are quality rejects. The total value of the rejected kilos is deducted from the salary of all the workers on the line.

Workers reported that during the training period, which can last from ten days to a month, they are only paid PHP 200 per day. Some workers said they left before the training was over because it was very difficult work – at low pay, and with long hours (12 hours per day for six to seven days). Other workers reported that the first two days of employment are not usually paid.

Examples of Inconsistent Pay Practices

Lack of wage breakdown: Workers hired by one agency are provided with pay slips but do not understand how their wages are calculated, as they are not normally provided a detailed orientation. Their target output (number of kilos worked) is also not indicated in the pay slip, and they have no way of calculating if their pay is accurate.

Delayed payment: Workers in another agency reported that on pay day, even if they finish work at 4 p.m., they are required to return at 7 p.m. to receive their checks.

Lack of wage explanation: One agency hires a number B'laan workers, most of whom are illiterate. During the interview, the workers reported not understanding of how their wages are calculated.

Additional expense to cash checks: Most agency workers reported they are paid via check and are charged one percent plus PHP ten each time they cash them.

Inaccurate reporting of labor hours: Workers at one factory reported that some hours are deliberately underreported, resulting in underpayment. In some cases, during the shift turnover, workers continuing working until 6 p.m. but the supervisor only recorded their time until 5 p.m., shorting them one hour. If the workers complain, adjustments are occasionally made but most of the time, the supervisors get angry if they question the errors in the recording of their hours.

Inaccurate wage calculations: Some workers (skinners, sanitation) complained of inaccuracies in their wage calculations as well as deductions for Social Security System contributions with no associated remittances.

Mandatory deductions: Workers at two cooperatives reported mandatory deductions of PHP 100 to 200 per month for cooperative dues, which were not returned to them when they resigned or left the cooperative.

Deduction practices at facilities and agencies are varied and unregulated. Workers report having paycheck deductions taken for the cost of their uniforms and tools. Among the workers employed by agencies or cooperatives, only the workers assigned to one company reported that their uniforms were provided for free. Regular workers (five of 44) employed in two other facilities reported being provided a limited set of uniforms for free. Deductions for shirts are approximately PHP 150 and pants are PHP 250. In addition, depending on the agency, workers may be charged for caps (PHP 35), lab gowns (PHP 95), or knives (PHP 60). Some workers are also charged for the cost of laundering their uniforms (PHP 80).

Pay slips and payment records indicate some deductions beyond those legally mandated for Phil Health, Pag-ibig (Housing), and Social Security (SSS). Many agency workers also report that the contributions to Phil Health and SSS are not up to date. Workers from three different agencies reported that in some cases, only three months out of a year's worth of contributions have been remitted. Workers who previously worked for one agency found that the contract between the agency and the facility was cancelled because it was discovered the agency was not remitting the workers' contributions to SSS, Philhealth, and Pag-ibig. These workers were later absorbed by the new agency, and the factory at which they were placed paid for the contributions of the workers, after workers complained.

According to agency workers assigned to three different factories, directly hired workers are paid for eight hours regardless of the volume of work. Agency workers are sent home early if volume of fish is low and are only paid for the number of hours worked. They are only informed on the day itself if they will be asked to "under time." Agency workers also need to meet a quota in order to get paid the minimum wage, and if they do not meet the production quota during regular hours and must work overtime, their recorded time is adjusted to reflect only regular hours. Many workers said that this is a common practice and is why they rarely get paid for work beyond eight hours, even if they work up to twelve hours.

Almost all of the workers reported that they were not sure if they were entitled to payment for or paid for overtime. They report that they are usually only paid for two hours even if they have worked 5 to 6 hours of overtime. Wage deductions are also taken as punitive disciplinary measures; workers from four different canning facilities reported that their wages are deducted for 15-30 minutes if they are one minute late. Only workers from one canning factory and one fresh-frozen facility did not report any issues on wages and benefits.

Workers hired by the agency at one facility were informed that their contracts were to be terminated a day prior to their final day of work. They said that over 500 workers lost their jobs at the end of January 2016. According to the agency, their contract with the company was being discontinued because there was a low production volume. When the workers were terminated, the balance of their annual life insurance was deducted from their final pay, and the agency took their insurance cards. According to the workers, their annual insurance was valid until August 2016 and PHP 200 was deducted from their paychecks monthly. The balance of six months, or PHP 1,200, was deducted from their salary. They were told that they would be reemployed if production increased again. Workers reported not receiving severance pay. Some of them had worked through the company for over ten years, although many had been transferred back and forth to different agencies.

In February 2016, they were contacted by another facility owned by the same company and asked if they wanted to work as project employees. They were told they would be paid PHP 275 daily but given none of the mandatory benefits, including Phil Health, SSS and Pag-big benefits. Some workers reported that they were told by the agency to sign a resignation letter so that they could claim a capital share from the cooperative but were then denied their share and told they were not entitled to separation pay because they had signed a resignation letter.

3.10 Health, Safety, and Security

Sea-based work is highly hazardous and injuries are common, but workers lack access to adequate medical care or safety training. In some cases, workers have died onboard vessels or fallen overboard, and their families are left without any information on their whereabouts. To a certain extent, these conditions are culturally established and expected to some degree by workers, but the precariousness of fishing sector work means that workers may feel they have little recourse, even in extremely hazardous conditions. This is compounded by lack of robust grievance mechanisms. For a more complete discussion of health and safety regulation in the Philippines, see the Legal and Regulatory Frameworks section.

3.10.1 Sea-based Health, Safety and Security

Some sea-based service crew members indicated that their boats now provide medical care for injured crew, but that training on safety is insufficient. The sea-based workers (especially handline fishers) reported common accidents and injuries including large cuts from fishing lines, or other injuries from fishing gear. There were also several reports of workers being entangled in nets and ropes, falling into the water, or boats capsizing in bad weather. Handline fishers and boat operators said that in cases wherein a member of the crew drowned, the boat would conduct a search for a period of time, until the fishing vessel owner requires them to return or to move. If the drowned crewmember was not found, then he is simply declared missing.

In addition to falling overboard or suffering debilitating injury or illness, workers on vessels that venture illegally into Indonesian waters⁵⁴ may be detained in Indonesia, without any assistance from their employer. Many of the fishers who have been detained lacked any identification or documentation (see Worker Documentation section), which can impede their repatriation.⁵⁵

At the time of research, several workers interviewed were dealing with incidents in which family members (spouse, brother, son) were missing or detained in Indonesia. These family members reported not knowing what steps to take, or how to obtain help. A worker who was employed as a handline fisher by one of the biggest fishing companies reported that four months ago, he received a report that his brother had gone missing. At the time, the worker was engaged in the same fishing operation as his brother, but in another part of the fishing ground. He and the crew were unable to seek help from authorities because they knew their boat was not registered and they did not have the proper papers. After a few days of searching, they were able to locate the decomposing body of his brother, and with the help of local Indonesians, managed to recover his brother's body and give him a, "decent enough burial, in accordance with Christian rites." He was grateful for the help extended to him by the Indonesians, despite the fact that they belonged to different religions.

Labor groups have noted that fishing companies do not take responsibility for vessel workers who are detained by foreign governments, or who are injured or killed at sea. At the time of the field interviews, APL, a workers' group, was also preparing to assist a family to receive the body of a worker being brought back to General Santos City. The research team was unable to verify cause of or circumstances surrounding the death.

3.11 Forced Labor Analysis

Verité did not make any determination on the prevalence of forced labor in the fishing industry in General Santos, as the qualitative methodology used would not support this type of finding. However, several risk indicators of forced labor and human trafficking were detected, referencing the definition of the ILO. In general, the existence of any single indicator of involuntariness does not conclusively denote the presence of forced labor, as it has to be associated with an indicator of penalty or menace of penalty. However, identifying specific risk indicators as they manifest in the sector, and factoring in the mechanisms that render workers

⁵⁴ Espejo, Edwin. "Philippine tuna in 2015: Facing the new threat." January 28, 2015. <https://asiancorrespondent.com/2015/01/philippine-tuna-in-2015-facing-the-new-threat/#F25pLix7C72RFVQR.97>

⁵⁵ "200 fishermen from Mindanao jailed in Indonesia sent home" Mindanews. August 15, 2016. <http://www.mindanews.com/top-stories/2016/08/200-fishermen-from-mindanao-jailed-in-indonesia-sent-home/>

“invisible” – or beyond the pale of protective regulations - can provide insight into the types of risk and vulnerability faced by workers.

Abuse of vulnerability and Violence, Intimidation and Threats

Work in the tuna sector is highly precarious, owing to the recruitment practices, employment arrangements, gaps in the legal and regulatory frameworks, and, in the case of vessel-based work, by virtue of the nature of the production processes themselves which can be characterized as remote and isolated. All these contribute to workers’ vulnerability to forced labor risks.

More pointedly, the threat of penalty in the form of loss of job opportunity, through denunciation to authorities, detention, or blacklisting are mechanisms used to keep workers tied to work situations that are untenable. Workers interviewed across the General Santos tuna supply chain expressed fear that lodging complaints or grievances or attempting to organize could result in them being banned from future employment. Threat of blacklisting was also reportedly used as a mechanism of discipline/control. Workers’ fears around blacklisting are compounded by the fact that they lack robust grievance mechanisms.

Another layer of vulnerability comes from the casualized, flexible nature of employment in the General Santos tuna sector, particularly in land-based operations and in handline fishing. Very few workers in the tuna sector have formal working agreements or relationships with their employers. Almost all land-based workers interviewed were under a “subcontracted” or “outsourcing” arrangement. They are employed on paper by employment agencies or cooperatives that have the direct contract with facilities, and then they are rotated to a different facility or renewed in cycles of less than six months. On the other hand, none of the handline fishers had formal, written work agreements with their “bosses.” These working relationships mean that workers have no leverage to negotiate terms of work such as hours, salary or, for vessel workers, length of voyage.

Beyond threats of blacklisting, some informants expressed fear of actual violence: labor leaders reported that they had been receiving death threats since they went on strike and expressed concerns about the killings taking place in the city (and elsewhere in the country), and how violence against workers might be masked as part of anti-drug operations.

Debt and Withholding of Wages

Workers in the tuna sector often receive wages that are erratic and unreliable, delayed or withheld, putting workers in situations that make it very difficult for them to leave the job, even when the conditions are untenable. Sea-based workers in handline operations are typically compensated under a share system, while purse-seine workers’ total pay is usually withheld for months and released to the workers when the vessel docks. This means that workers do not always know how much they earn at the end of a work contract, or a defined period. In some cases, after expenses and deductions, handline fishers return from a voyage with no earnings, and are compelled to join the next venture in order to pay off debts. Indebtedness is widespread, as fishers and their families take cash and in-kind loans from financiers, with little transparency into how and when that debt can be paid off. For land-based workers, due to the erratic nature of catch and available work hours, earnings can be similarly erratic. Workers are often paid on a quota system and earnings often fail to meet minimum wage levels. To meet their quota, they may have to work uncompensated overtime. Further, workers engaged through agencies appear to be paid at lower rates overall than workers hired directly by the company. There is a general lack of transparency into wage calculations.

Abusive Working and Living Conditions

Work on tuna fishing vessels is highly hazardous – which is typical of the sector as a whole. Vessel workers reported serious physical injuries and lack of adequate medical care and safety training. Perhaps the most serious occurrence is the phenomenon of workers going missing, without any information provided to their

family members. The sea-based workers (especially handline fishers) reported common accidents/injuries like getting large cuts in their arms because of fishing lines used or getting hit in the head or other parts of the body. Some of the sea-based workers (service crew) had said that their boats now provide medical care for injured crew, but that training on safety is insufficient. There were also several reports of workers being entangled in nets and ropes, or falling into the waters, or boats capsizing in bad weather. Handline fishers and boat operators said that in cases wherein a member of the crew has drowned, they would conduct search for a period of time, until the fishing vessel owner requires them to return or to move, and if not found then the workers is simply declared as missing.

Excessive Overtime, Isolation and Deception

Some degree of isolation is inherent for vessel-based workers, particularly if they do not have access to a confidential means of communication while on board. Purse-seine workers, for instance are essentially under constant surveillance for the entirety of the voyage. Long hours are common to vessel-based workers, with workers often working 19-hour days. Handline workers may remain on vessels for up to three months, do not have a say on where they would be assigned to conduct fishing activities, and often find themselves in illegal and unregulated fishing grounds. This makes them vulnerable to being apprehended and detained by authorities, and their fishing implements confiscated from them. While extremely long voyages on purse-seine vessels (up to one year) are reportedly less common now than they had been in the past, this practice may still occur, and the fishing vessel owner only allows vessels to return if they have enough fish to cover the capital he invested in the venture. Workers are not always informed ahead of time of the length of location of their trips out to sea.

4. Recommendations

4.1 Background

USAID Oceans supports the development of a transparent and financially sustainable electronic Catch Documentation and Traceability System (CDTS), to help ensure that fisheries resources from Southeast Asia are legally caught and properly labeled. The electronic CDTS will encourage the collection and analysis of ecological and economic data related to seafood products throughout the supply chain, such that they are traceable from the point of catch to import and retail. The CDTS can provide an important opportunity to support effective national fisheries monitoring, control, and surveillance (MCS), as catch documentation and traceability remains one of the most valuable and comprehensive methods for collecting fisheries statistics at a reasonable cost. Catch documentation can also be valuable for fisheries management, particularly stock assessment and marine spatial planning efforts. Integrating social concerns with a CDTS requires an understanding of what the relevant social issues are in each fishery, what data might be useful for providing insight on these issues, and how this information could be collected. Further, the CDTS technology itself may provide applications that improve social welfare for workers on vessels.

Through the research, Verité explored how the CDTS could contribute to the effort of promoting and protecting workers' rights and welfare in the Philippine tuna industry. Verité notes that there are significant challenges to using any technology-based instrument in addressing labor risks or abuses. For instance, geographic tracking alone will not provide visibility into workers' recruitment, movement of workers between vessels, health and safety, onsite working conditions, wages, etc. Further, there is a need to triangulate and verify information received or fed into the CDTS. Given these limitations, the CDTS's significance can be in how it can help keep workers visible, for example, by mining data on workers being generated by existing documentation and traceability efforts, framing data collection to include basic information like workers' names and other identity markers, net income, or safety gear. Further, designing the CDTS in a way that provides verifiable and reliable information can help buyers make responsible sourcing decisions.

4.2 General Guidance on Social CDTS Applications

In general, even a robustly designed and fully functioning CDTS that collects relevant social information will not automatically lead to the detection of labor abuse. The most accurate data still needs interpretation and analysis by qualified experts familiar with the context so that stakeholders fully understand the implications that information might have for workers. After data collection and analysis, there must be a coordinated multi-stakeholder effort to inform the continuous improvement of government and company policies, programs and procedures to remediate any labor abuses uncovered.

Verité acknowledges that while a CDTS can provide better visibility into the location of vessels and their crew members, data systems that enable better geographic tracking of vessels and crew over time while at sea do not necessarily provide a full, holistic picture of all potential issues arising the hiring and employment cycle. For example, they do not provide information on worker recruitment and any forced labor indicators tied to the recruitment process, such as indebtedness to the broker – all of which occur before the worker ever boards the vessel. Further, although it may be possible to track how many workers are on board (or reported to be on board) a vessel at a given time during the voyage, fishing workers may still be transferred between vessels, moved to “motherships” or held elsewhere. Relatedly, the workers on board the vessel may not be the same workers who were reported in the crew manifest during port-out procedures.

It is also relevant to consider that while workers are on-board, it is challenging for the CDTS to gather information on working conditions such as health and safety, work hours, harassment, etc. Further, once workers have returned to shore, labor issues may continue to arise; for example, workers may not receive the wages or share of profit promised them upon return and may worry that any complaints will be met with retaliation, including blacklisting from future employment. A CDTS which captures vessel-based data will likely not capture these and other “land-based” situations. That said, if paired with information from land-based investigations and grievance mechanisms, the CDTS could provide highly valuable triangulation and corroboration, in addition to the geo-spatial tracking.

Whenever possible, Verité recommends discrete and binary (Yes/No) indicators that could be captured in a manner that allows for comparison. That said, given the highly complex nature of labor and social issues, some of this data cannot be captured as a simple binary indicator, but requires more nuanced understanding of contextual issues. Rather than relying on publicly available data sets, accurate data may require gathering information directly from workers themselves. For example, an employer may provide documentation of policies stating that all workers receive at least the minimum wage. However, workers interviews may illuminate the fact that, after deductions, workers receive less than the minimum wage and do not understand how their earnings are calculated. The questions and red flags provided below provide guidance for any actors – whether labor inspectors, researchers, auditors – seeking a more thorough understanding of these issues in a given worksite.

The sections below note specific areas where gathering information from workers would be necessary for accurate Key Data Elements (KDEs). Attention and thought should be given to how various social KDEs will be collected. In Verité’s experience in other sectors, information about worker experiences is highly sensitive and is challenging to collect accurately, even with the use of trained inspectors. Workers may be in highly vulnerable situations and may be reluctant to talk openly about their work situation. In some cases, they may be under extreme pressure not to speak honestly. They may also be unsure that the information they provide will be protected or used to assist them.

To increase the likelihood of gaining the trust of migrant workers, specially trained local language interviewers should be used and data gathering interviews should be conducted away from the work site, or at least with reasonable privacy from the employer or captain. Finally, although the section below provides lengthy guidance on gathering social information, ultimately, buyers should have access to verifiable, transparent social information so they can make responsible sourcing decisions.

In addition to information gathered from workers, publicly available government records, the following employer/company datasets would be helpful to integrate into CDTS if available:

- Company organizational charts
- Production capacity and production schedules (indicating peak, slow, and average production periods)
- Registry of all regularly employed workers
- Registry of all cooperative/agency/outsourced workers
- Registry of all juvenile or minor workers
- Company policies
- Training materials, training records
- Contracts for all categories of workers
- Payroll records and pay slips
- Attendance and work hours, including overtime records
- Benefits remittance records
- Benefits records
- Bank books
- Grievance records
- Discipline and termination records

For sea-based workers:

- Registry of all fishing vessels and fleet owners
- Registry of employees and agents/contractors
- Registry of all handline operators
- Registry of all handline fishers
- Registry of all “pamariles” boats, and data on capacity of each boat (max. no. of fishers it can accommodate)
- Written job description for each job item or function
- Standard contracts or fishing agreements – containing DOLE approved terms and conditions
- Vessel registrations
- Fisher IDs, seaman’s books, passports

For land-based workers:

- Registry of all company facilities, subcontractors, suppliers
- Registry of all labor agencies and cooperatives
- Registry of all industry workers
- Written job descriptions and job ads for each job item or function
- Standard contracts or employment agreements – containing DOLE approved terms and conditions
- Government-issued and authenticated IDs
- Training materials and training records

Given that there are likely to be gaps in available data, regardless of source, it may be useful to consider the minimum social KDEs that should be collected to reflect accurate and useful information on social conditions in the supply chain. **The following KDEs could be considered the minimal baseline of social information to collect for each worker in each worksite:**

- Worker name
- Worker ID/passport number/work permit number
- Worker nationality
- Worker sex

- Worker age
- Verification that all crew leaving port return (for vessel-based workers)
- Length of employment (in years)
- Worker has employment contract (Yes/No)
- Average net income per trip or per pay period (to check against legal minimum wage requirement)
- Wage payment frequency (e.g., paid less than once per month, Yes/No)
- Workers receive explanation of pay/earnings (Yes/No)
- Access to toilet (Yes/No)
- Access to potable water (Yes/No)
- One bed/mattress per person (Yes/No, for vessel-based workers)
- Appropriate safety gear provided (Yes/No)
- Confidential grievance mechanism available (Yes/No)
- Number of hours worked by worker/crewmember per work shift
- Mandatory overtime required of worker/crewmember (Yes/No)
- Recruiter/labor broker/manpower agency used (Yes/No)
- Length of voyage (Days, for vessel-based workers)

4.3 CDT Integration and Goals for Improvement by Issue Identified

4.3.1 Worker Disappearance

Labor Practices Goal: All vessel workers receive accurate information about the length and location of voyage. Workers return to port safely and family members can receive information on their whereabouts.

One of the most serious findings from the field research is the possibility of workers disappearing from vessels. One potential benefit of the CDTS is the use of vessel monitoring (whether Automatic Identification System [AIS] or Vessel Monitoring System [VMS]) and point-of-catch visibility to track the location of the crew through a voyage. This application is promising in that it could be used to establish visibility into whether terms of contracts – such as length of voyage and location of work (i.e. which fisheries to be visited) – are honored. Tracking vessels as they enter port can also coordinate post-arrival debriefings for crews and verify any grievances reported by crews during the voyage. The post-voyage verification would be particularly critical to investigating cases of workers who “disappear” during voyages.

Suggested Minimum KDEs - In addition to vessel tracking, there are several general KDEs that may be helpful in tracking workers and their movement among vessels, including:

- Date of departure
- Name of captain/master
- Names and nationalities of fishers/crew
- Date of birth of fishers/crew
- Fishing company name
- Fishing vessel owner name and contacts
- Name of fishing vessel
- Unique vessel ID
- Flag state
- Port name

- Landing date
- Transshipment logs
- Trip number

While these KDEs may appear to be relatively “concrete” and straightforward, several issues raised in the research point to potential complicating factors. Port In/Port Out inspections could provide data on crews but, looking at the Thai example, may provide some instructive lessons. The Thai Government established 28 separate Port In/Port Out centers, which were intended to provide inspections both in port and at sea in concert with VMS technology. However, it has been reported that inspectors were not able to speak privately with migrant workers. Further, weak law enforcement, gaps in data linkages, and a lack of coordination meant that abusive labor practices persisted.⁵⁶ This points to the importance of strong, coordinated systems with robust means of gathering – and then acting on – worker information.

4.3.2 Worker Documentation

Labor Practices Goal: Workers maintain appropriate and legally required documentation and have free access to their identity documents at all times.

In the Philippines, most handline fishing workers lack documentation – passport, fishing license, seaman’s book, etc. – altogether. Workers who had passports said they had to pay for these themselves. Only a handful of the handline fishers interviewed had fisher IDs and most of them have never had any kind of travel or identity documents. This lack of documentation could would need to be addressed to verify names, birthdates, and nationalities of crew members.

Confiscating, destroying, withholding or otherwise denying access to personal documents can be a form of coercion that leaves workers highly vulnerable. When labor recruiters or company or supplier/subcontractor facilities take away workers’ passports, residency or work permits, personal identity documents, or even ATM cards, this not only limits their freedom of movement and personal freedom, it effectively binds them to that employer, restricting their ability to terminate employment or leave the job without the threat of losing this valuable property. In many cases, it also means that the worker is not able to take up a new job, access social benefits to which he or she may be entitled and is vulnerable to deportation or detention by immigration authorities. Lack of documentation or use of fraudulent documentation means that identification document review is not currently fully available as a data stream to integrate into the CDTS, so improved documentation practices would be necessary.

Suggested Minimum KDEs:

- Each worker possesses accurate identity documentation (Yes/No)
- Workers have free access to their documents (Yes/No)

The following are some specific questions and corresponding red flags that can be used to assess worker risk relative to documentation:

- Did workers submit any original copies of government-issued identification, passports or work permits to the employer or labor recruiter, if applicable? If yes, what did they submit (e.g., passport, residency permit, work authorization, identity documents, ATM or bank card, or other travel documents, for example the return portion of travel tickets)? Do workers understand the reason for this?
- Are worker personal documents being withheld due to legal requirements or do workers request that the employer or labor recruiter hold them?
- Do workers have free and unhindered access to their documents?

⁵⁶ US Department of State. Trafficking in Persons Report. 2016. Thailand.

- What is the procedure for getting the documents back?
- Are workers given an exact copy of the document when it is not in their possession?
- Has the employer or labor recruiter nominated a responsible person to ensure that workers have free access to their documents upon demand?
- Were workers given advanced notice of these requirements and procedures?
- Have workers ever encountered lengthy or otherwise burdensome prerequisites when accessing their passport or other personal documentation?
- Do workers have free access to a locked, secure storage space for their personal documents and valuables?
- Where is locked storage located (accommodation, work location, both)?
- Are documents withheld when in port? (for sea-based workers)

Red Flags:

- Workers do not have any access to personal documents.
- Workers report that their freedom of movement has been limited by inability to access documents.
- Workers report that their ability to access grievance mechanisms or other benefits has been limited by their inability to access their documents.

4.3.3 Earnings and Wages

Labor Practices Goal: Workers understand how their earnings are calculated and receive a pay-slip that clearly shows all earnings and deductions. All workers receive the legally mandated minimum wage.

While the systems used to determine earnings are culturally understood and accepted, there is not necessarily any transparency into how workers' earnings are actually calculated. This is particularly true when workers' pay is based on a profit-sharing system and is compounded when deductions are taken for expenses incurred on the voyages and against advances paid to family members. These practices can lead to some fishers not earning minimum wage. While payment systems for workers in processing plants tend to be more standardized, workers lack a thorough understanding of wage systems and how their earnings are calculated, particularly around issues of overtime. Based on all these complexities, it will be crucial to set specific wage and earnings KDEs to compare payments to legal minimum wage requirements, among other things. **The minimum recommended KDEs around earning and wages would be:**

- Average net income per trip or per pay period
- Wage payment frequency (Yes/No)
- Workers receive explanation of pay/earnings (Yes/No)

It is likely that a simple document review will not provide all necessary information. In general, auditing wage and salary payments can be extremely challenging. The following are some questions that can be posed to workers in the fishing sector to assess earnings/wage issues:

- Who pays worker wages? Are workers paid by the employer/work site or the labor recruiter?
- How are workers paid (e.g. hourly, daily or piece rate; in cash, check or direct deposit)?
- Are there discrepancies in pay rates between different types of workers?
- Do workers receive their pay on time? Have wage payments, or any portion of wages, ever been delayed or withheld? If yes, under what circumstances?
- Do workers receive a pay slip or wage statement on payday? If yes, is this pay slip in a language the workers understand, and does it clearly indicate wage calculations and any deductions that are made from workers' salaries?
- Are any deductions made from wages? If yes, how much is deducted and what for (e.g. meals, transportation, lodging, utilities, uniform, tools, other)? Were workers made aware of these deductions when they signed

workers' contract and did they approve of them? Were workers requested to sign a document to authorize the deduction(s)?

- Do workers ever receive wages in the form of non-cash or "in-kind" payments? If yes, what percentage of the wage has been paid in this way?
- If workers participate in a "share" system, are the terms of that system agreed upon in writing before each voyage? Were the terms and manner of calculation explained to workers? Do workers have a copy of that agreement? Are workers allowed to observe any weighing or grading of the product that affects workers' earnings?
- Do workers receive advances on wages or loans from the employer or labor recruiter? If yes, what were the terms, including the interest rate and financing period? Have the terms of the loan ever been changed without worker consent?
- Do workers participate in a savings program sponsored by the labor recruiter or employer? If yes, is this program voluntary? Did workers sign a written consent form to authorize deductions for voluntary savings? Where are worker savings kept? If savings are kept in a bank, do workers have free access to worker bank account? When do workers get their savings back?
- Is there anyone else, apart from the worker who has access to the worker's bank account, for example through an ATM card or power of attorney? Have workers ever authorized another person to access the worker's account to make a withdrawal? If yes, who else has such access?
- Does the employer or labor recruiter limit in any way worker freedom to use their wages as they see fit?

Red Flags:

- Workers do not receive pay slips or written calculations of share profits at all.
- Pay slips are provided but are in a language the workers do not understand.
- Pay slips are inaccurate or do not contain adequate detail of how wages or earnings are calculated.
- Workers do not understand how wages or "shares" of profits are calculated.
- Workers feel that the wage or pay system in practice was not adequately explained to them prior to beginning work.
- Workers are not paid at least monthly.
- Workers (or their families) are provided with cash advances and in-kind supplies, the value of which is deducted from their pay at a high interest rate.
- Fishers (or their families) end fishing voyages with greater debt to the captain, skipper or boat owner than they began.
- Workers' pay slips do not correspond to records provided by the employer.

4.3.4 Worker Hours

Labor Practices Goal: Workers work no more than the total hours allowed by law or by company policy, whichever is stricter. Vessel based workers are provided sufficient continuous rest to avoid exhaustion.

Unless specified in the employment contract or collective bargaining agreement, compulsory overtime can create a situation of involuntary labor for all workers. Sea-based workers are often required to work around the clock with no "normal" working hours. The work required for harvesting catch is so intense that several days may go by with little opportunity for rest. In purse-seine operations, smaller transporter vessels may go out every day to transport fish, while larger vessels remain at sea for months at a time. In handline fishing, the small handline boats leave the "mother boat" and are on their own, with working hours dependent on the movement or availability of the fish. Land based workers, particularly during "high-production seasons," may also be required to work excessive overtime to meet demand.

The minimum KDEs for worker hours could be:

- The number of hours worked by worker/crewmember per work shift
- Mandatory overtime required of worker/crewmember (Yes/No)

The following are examples of specific questions and corresponding red flags that may be useful in identifying issues with work hours:

- How often do workers have to work overtime, and for what reasons?
- Is overtime always voluntary? If no, what are the circumstances involving involuntary overtime?
- Are workers free to refuse overtime without threat or fear of punishment? What happens if workers refuse to work overtime?
- Are workers given advance notice by the employer or labor recruiter when overtime is required?
- Are workers allowed to take meal and rest breaks?
- How many rest days do workers receive a week?
- How does the employer record hours worked?
- Do workers experience fatigue that prevents them from doing their jobs safely?
- For sea-based workers, how many consecutive rest hours do workers have for sleep?

Red Flags:

- There are no systems to record and monitor work hours.
- Work hours exceed legal or company limits, whichever is stricter.
- Not enough workers are employed to meet production targets, quotas or actual catch/processing volume.
- Number of workers does not expand to meet seasonal requirements.
- Workers report symptoms of fatigue (exhaustion, inability to communicate clearly, increased frustration, inability to focus on tasks, cutting corners to finish more quickly, taking unusual risks, slow response times, not noticing impending physical risks, making unusual mistakes on routine tasks).⁵⁷
- Employer's records of work hours are inconsistent with hours reported by workers.
- Sea-based workers report rest hours divided into small chunks (i.e. multiple two-hour rest periods that do not allow for restorative sleep).

4.3.5 Recruitment, Hiring and Contracting

Labor Practices Goal: All workers have an employment agreement with their employer and are provided a copy. Employment agreements contain, at minimum, accurate information about wages and hours. For vessel workers, employment agreements contain information about the length and location of voyage. Workers do not pay any illegal or unexplained fees in their hiring and recruitment process. Workers are not engaged through an agency or otherwise casualized as a means to deprive them of benefits. Companies do not use informal recruitment agents and, instead, adopt standardized recruitment and hiring policy and procedures.

There are wide variations in hiring, recruitment and contracting practices in both of the study sites. Among workers interviewed in the Philippines for example, sea-based workers tended to be directly recruited by the employer or operator, without the involvement of intermediaries. A few vessel workers reported going through informal intermediaries, personal contacts or persons known in the village who have connections to the financiers, to get the job. Recruitment and hiring of workers in processing or land-based facilities, on the

⁵⁷ http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_329102.pdf

contrary, was 90 percent brokered by or outsourced, either to employment agencies or cooperatives. Outright payment of recruitment fees, in the case of the latter, was not common, however, deductions for cooperative membership or for unexplained contributions were imposed on cooperative/agency-hired workers.

The minimum recommended KDEs for recruitment, hiring and contracting are as follows:

- Recruiter/labor broker/manpower agency used (Yes/No)
- Length of employment (in years)
- Worker has employment contract (Yes/No)

In general, the use of recruiters or labor agents, especially unlicensed or informal ones, opens the door for abuse, such as deception about the nature or terms and conditions of the work or excessive fee charging. It is also important to discuss labor recruiter and employer orientation procedures to determine whether workers are aware of key policies and procedures in the workplace and terms and condition of work before they start their job. All interviewers should be aware of local terms used for labor recruiters.

- How many labor recruiters are involved in recruitment?
- What is the name of each labor recruiter or agency involved?
- At the time of recruitment, are workers given accurate details about the job location, contract duration, anticipated earnings, working and employment conditions on the job, and living conditions?

Red Flags:

- Lack of a formal, standardized recruitment and hiring policy and procedures.
- Use of informal recruitment agents.

Many fishing sector workers, both sea- and land-based, do not have contracts with their employer. Because of their inherent isolation, sea-based workers are particularly vulnerable to deception regarding conditions of work, because they may not be able to leave once on-board. In many fisheries, it is standard practice for written contracts not to be issued to workers, and for workers to lack any formal training or orientation. In handline fishing, agreements are likely to be only verbal, at best, and are subject to change at the discretion of the boss or employer. In the Philippines, researchers found that very few workers in the tuna sector have formal working agreements or relationships with their employers. For fishers, this means that it is difficult to negotiate any terms of work, including benefits, wages, and length of trips.

The following are some questions that could be used to gather further information on contracting and employment relationships, along with corresponding red flags:

- Do workers sign an employment contract for the job? If yes, with whom is the contract signed: the company/employer or the labor recruiter?
- Are the terms of the employment contract explained to workers? Who explains these terms?
- When and where was the contract signed?
- In what language is the contract written and do workers understand that language?
- Are workers given a copy of the contract to review prior to signing? Once signed, are workers given a copy of the signed contract?
- Do have to sign two sets of employment contracts? If yes, do both sets have the same content and, if no, how do they differ?
- Are the details contained in employment contracts consistent with the details that were provided at the time of recruitment?
- Are the actual terms and conditions on the job consistent with those that are described in the employment contract?

- Are workers pressured or threatened in any way into accepting the job or the terms included in the employment contract?
- Does the contract clearly describe the process for early contract termination, including the minimum notice period and any financial penalties involved?
- Under what conditions can the contract be renewed?

Red Flags:

- Workers do not have written contracts.
- Contracts are not in a language that workers understand.
- Contracts were signed after work was already undertaken or after worker embarked on vessel.
- Contracts provided by workers and employers do not correspond.
- Workers report that terms of employment are not consistent with contract.
- Workers report signing blank contracts or other contract substitution.
- Contracts do not contain all detail required by law and company policy.
- Terms of contract violate company/supplier policy.
- Terms of contract violate relevant laws of relevant states.

4.3.6 Housing/Living Conditions

Labor Practice Goal for Housing/Living Conditions: Workers have access to adequate toilets and sleeping quarters while on board vessels. Workers have access to potable water.

Sea-based workers often live in cramped, unsanitary, and unsafe quarters on fishing vessels. They are not provided privacy or personal space, which contributes to their mental stress, poor sleep, and fatigue. Most vessels do not have any beds or mattresses, and in some cases, workers take turns using the very limited available sleeping facilities. There is often a lack of potable drinking water and hygienic (or any) sanitary facilities. Many vessels also have minimal space for workers to prepare and eat food.

Minimum recommended KDEs for housing and living conditions are:

- Access to toilet (Yes/No)
- Access to potable water (Yes/No)
- For vessel-based workers: one bed/mattress per person (Yes/No)

The following questions and corresponding red flags can be used in assessing housing and living conditions:

- Is there space for food preparation?
- Do workers always have access to potable drinking water?
- Do workers have access to potable water?
- Are the adequate sleeping quarters?
- What safety or security hazards are workers subjected to?

Red Flags:

- Workers report feeling unsafe or insecure.
- Workers report unsanitary or dangerous conditions.
- Workers cannot effectively lodge complaints about living conditions.
- Accommodations are visibly decrepit, poorly maintained, dangerous, or unsanitary.
- Workers cannot get enough rest to safely perform their jobs due to poor conditions.
- Workers are suffering illness or injury due to poor conditions.

- Employer either does not keep maintenance or inspection records, or the records do not correspond with the condition of accommodations.

4.3.7 Grievance Mechanisms and Freedom of Association

Labor Practice Goal: Workers have access to confidential communication channels that they can use to express grievances. Information received from grievance mechanisms is collected in a manner that allows for remediation. Any grievance mechanisms provided to worker follow UN guidance and are legitimate, accessible, predictable, equitable, transparent, rights compatible and a source of continuous learning. Workers are free to exercise their rights to organize and bargain collectively.

An effective grievance procedure and complaints mechanism in the workplace allows migrant workers to confidentially raise issues about labor recruiter or worksite practices or the conditions they face in the workplace or dormitory. These mechanisms are an important element in taking corrective action against abuse and exploitation, are a key first step in remediating existing problems at the level where they exist. Grievance mechanisms are particularly important for workers who are at sea for long periods, as they likely lack any means of communicating with their family, law enforcement, or other support in the case of an exploitative situation.

One benefit of a CDTs is the provision of basic communication services (e.g., email, phone) to crewmembers can improve their safety and welfare. Access to communication mechanisms, particularly those which can be used in private, away from the supervision of the captain or other supervisor, can provide a channel for grievances. Ideally, any information received, even directly from a worker, should be verified or triangulated with information from other sources, to decrease the possibility of coercion against reporting workers. In other worksite contexts, Verité has seen that employers may coerce workers, even to the point of threatened or actual violence, to provide positive feedback to grievance mechanisms. In the vessel context, under a system which requires crew to periodically check in with a safety monitor, a captain may threaten workers with violence to intimidate them from accurately sharing their experiences. This could be ameliorated by following-up on information received, even positive information, once workers are back on shore, as well as by providing workers with land-based venues to report their experiences. Providing information to concerned stakeholders (family members, NGOs and government) on land would enable proactive outreach to workers on vessels in cases where workers might be impeded from making contact.

Currently, workers on vessels and in land-based processing facilities lack access to any robust grievance mechanism. To optimize remediation processes, grievance communications could be collected in a manner that allows for analysis of emerging patterns (such as repeated abuses tied to an individual captain/vessel/labor recruiter etc.). Centralized hotlines or text-lines with staffers who speak the local languages are necessary. Further, in this conception of the CDTs as an alternative grievance channel, it would be critical to establish a network of coordinated support providers who could provide any services needed to workers and their families. If the CDTs is envisioned as a grievance mechanism, it should follow guidance provided by the UN which states that grievance mechanisms are legitimate, accessible, predictable, equitable, transparent, rights compatible and a source of continuous learning.⁵⁸

⁵⁸ Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie. Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework.

<http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf>

The rights to organize and bargain collectively provide important means for workers to express grievances. In General Santos City, workers received death threats after striking. Union members at one facility reported that they have been unable to find regular work since they were fired for having their union recognized and going on strike.

At minimum, the KDE around grievance mechanisms is:

- Confidential grievance mechanism available (Yes/No)

The following questions can be used to assess meaningful worker access to grievance communications:

- How can workers bring issues or complaints to the attention of the employer or labor recruiter?
- Is there someone available at all times to receive and process grievances and other complaints? If yes, do workers know the position of this representative (works for the company, an independent 3rd party, etc.)? Does this person speak the workers' language? Are workers comfortable bringing their complaints to this person?
- Is there a mechanism in place for workers to raise a grievance with someone other than their direct supervisor?
- Is there an anonymous way for workers to report grievance? What means are in place to protect their identity when reporting a grievance?
- Do workers have access to any type of communication mechanism (phone, text, etc.) that is private/not under the surveillance of their employer?
- If a grievance/communication method is available, are there times when that method is unavailable? (i.e. only able to use phone hotline while in port, but not while in sea).
- Are the responses to grievances and actions taken to address them communicated to the workers? If so, what is the main method of communication?
- What can workers do if they disagree with the way a grievance is resolved?
- Do workers feel that grievance process is effective? If not, why not?
- Are workers free to join or form a trade union? Has the employer done anything, including interfering or penalizing, to prevent workers from joining or forming a union?

Red Flags:

- There are no documented procedures for airing worker grievance.
- Complaints and feedback are not recorded or maintained.
- Workers do not have access to grievance mechanisms that are anonymous, transparent, effective and fair.
- Workers do not have continuous access to some form of grievance mechanism, including while they are at sea.
- Workers are prevented from organizing by threats, intimidation or other reprisals.

4.3.8 Health and Safety

Labor Practice Goal: Workers receive adequate protective equipment and safety training. Workers have access to medical care in the event of an illness or injury. Workplaces follow all relevant legal standards.

Work in the seafood sector can be highly hazardous. Sea-based workers reported common injuries and accidents and land-based workers are similarly exposed to hazardous conditions. Workers rarely receive adequate protective equipment or training on safety topics.

Depending on the technology used, in addition to serving as a grievance mechanism as described above, the increased communication capacity provided by CDTs implementation may serve as a means for workers to radio for medical assistance.

The minimum recommended KDE would be:

- Safety training provided (Yes/No)
- Protective equipment provided (List)

The following questions and corresponding red flags can be used in assessing worker health and safety:

- What hazardous tasks do workers perform?
- What common illnesses and injuries have workers experienced?
- Are workers provided with free protective equipment that is adequate for the tasks performed?
- Do workers receive training on safety measures?
- Do workers have access to treatment in the event of an illness or injury?

Red Flags:

- Workers experience frequent illness or injury.
- Workers are not trained on safety measures.
- Workers do not receive any or adequate protective equipment.
- Workers do not have access to adequate treatment in the event of an illness or an injury.

4.3.9 Freedom of Movement

Labor Practice Goal: Workers have unrestricted freedom of movement while in the work place, including access to the toilet. Vessel-based workers are allowed regular access to port and vessel operators do not deceive workers about the length of voyage.

For workers on vessels, freedom of movement is inherently limited while at sea, but intentionally preventing workers from accessing port is particularly abusive. Workers in processing plants reported limited freedom to use toilets, potentially resulting in illness. Restrictions on freedom of movement for workers can exist in the workplace or in the ability to freely come and go from the dormitories where they live. Restrictions can be built into employer or labor recruiter policies; and in rules and regulations governing worker residences. In some cases, there may be legal and regulatory restrictions to workers' ability to freely leave the employer or housing premises during non-work hours. The restrictions may result from the security environment; cultural norms or considerations; active threats, intimidation and harassment by a manager, labor recruiter, or security guard; and deceptive or hidden forms of coercion such as passport confiscation, which is addressed above.

The minimum KDE for freedom of movement is:

- Length of voyage

To make sense of this complex issue, here are some of the topics that can be included concerning freedom of movement and personal freedom:

- Are there any restrictions on freedom of movement in the workplace during working hours? If yes, what are these restrictions?
- Do security personnel ever restrict freedom of movement in the workplace for reasons other than workplace security?
- Are workers ever restricted from or monitored when using the toilet facilities? Are workers free to get drinking water whenever they wish?

- Are workers free to leave the workplace immediately after their shift? Are workers able to get permission to leave the employer during work hours under reasonable circumstances?
- How often are sea-based workers allowed access to shore/port? Are workers allowed to exit the vessel when docked?
- How long is the typical voyage?

Red Flags:

- Transshipment at sea is used (may greatly increase time sea-based workers spend on vessels between access to port). Workers do not have regular access to shore/port.
- The typical voyage is longer than four months.
- Workers report that their freedom of movement is restricted by their employer.

4.3.10 Child Labor

Labor Practice Goal: No children below age of 15 are employed in sector. Any hazardous activities – including night work or hazardous vessel work – are restricted to those 18 years and older.

Much of the child labor risk in the sector comes from lack of age screening mechanisms. While children may participate in some light, appropriate work that does not interfere with schooling, they should not participate in any hazardous tasks such as night work, underwater work, and most work on-board vessels.

Key questions for child labor screening:

- What is the age of the youngest employee in a work place?
- What mechanisms are used for age screening/verification?
- What hazardous tasks are present at the worksite? Do any workers under 18 participate in these tasks?

Red Flags:

- Children under 15 are employed or age of workers is unknown.
- No age screening/verification mechanisms in place.
- Workers under 18 participate in hazardous tasks.

4.3.11 Summary of All Labor Practice Goals and Minimum KDE

The table below summarizes the labor practice goals for each issue/finding area with reference to key standards (from national law and international frameworks). Instances where the CDTS may have an additional application pertinent to a particular issue are also noted.

Table 6. Labor Practice Goals, Reference Standards and Minimum KDEs

Issue Area	Goals	Key Standard References	Suggested Minimum KDE	Additional Use of CDTs (if applicable)
Worker Disappearance	All vessel workers receive accurate information about the length and location of voyage. Workers return to port safely and family members can receive information on their whereabouts.	<ul style="list-style-type: none"> - ILO Work in Fishing Convention (188) - International Maritime Organization Convention for the Safety of Life at Sea (SOLAS) 	<ul style="list-style-type: none"> - Date of departure - Name of captain/master - Names and nationalities of fishers/crew - Date of birth of fishers/crew - Fishing company name - Fishing vessel owner name and contacts - Name of fishing vessel - Unique vessel identification - Flag state - Port name - Landing date - Transshipment logs - Trip number 	Use of vessel monitoring (whether AIS or VMS) and point-of-catch visibility to track the location of the crew through a voyage. The tracking of vessels as they enter port can also be used to coordinate post-arrival debriefing of crews and verification of any grievances reported by crews during the voyage. The post-voyage verification would be particularly critical to investigating cases of workers who “disappear” during voyages.
Worker Documentation	Workers maintain appropriate and legally required documentation and have free access to their identity documents at all times.	<ul style="list-style-type: none"> - ILO Seafarers' Identity Documents Convention (185) - Department Order No 156-16 	<ul style="list-style-type: none"> - Each worker possesses accurate identity documentation (Yes/No) - Workers have free access to their documents (Yes/No) 	
Earnings and Wages	Workers have visibility into how their earnings are calculated and receive a pay-slip that shows all earnings and deductions. Workers receive the legally mandated minimum wage. Workers are paid in regular intervals.	<ul style="list-style-type: none"> - ILO Work in Fishing Convention (188) - Regionally-determined minimum wage laws - Philippine Labor Code - Philippines Department Order No 156-16 - Philippine Fisheries Code 	<ul style="list-style-type: none"> - Average net income per trip or per pay period - Wage payment frequency - Worker receive explanation of pay/earnings (Yes/No) 	
Worker Hours	Workers work no more than the total hours allowed by law or by company policy, whichever is stricter. Vessel based workers are provided sufficient rest to	<ul style="list-style-type: none"> - ILO Work in Fishing Convention (188) - Philippine Labor Code 	<ul style="list-style-type: none"> - Number of hours worked by worker/crewmember per work shift 	

Issue Area	Goals	Key Standard References	Suggested Minimum KDE	Additional Use of CDTS (if applicable)
	avoid exhaustion (no more than ten hours in any 24-hour period, barring emergency)	<ul style="list-style-type: none"> - Philippines Department Order No 156-16 - Philippine Fisheries Code 	<ul style="list-style-type: none"> - Mandatory overtime required of worker/crew member (Yes/No) 	
Freedom of Association and Worker Grievance	Workers have access to confidential communication channels that they can use to express grievances. Information received from grievance mechanisms is collected in a manner that allows for remediation. Any grievance mechanisms provided to worker follow UN guidance and are legitimate, accessible, predictable, equitable, transparent, rights compatible and a source of continuous learning. Workers are free to exercise their rights to organize and bargain collectively.	<ul style="list-style-type: none"> - ILO Work in Fishing Convention (188) - Freedom of Association and Protection of the Right to Organise Convention, 87) and Right to Organise and Collective Bargaining Convention (98). - The Philippines' Constitution - UN Guiding Principles on Human Rights - Philippine Fisheries Code - Philippine Labor Code 	<ul style="list-style-type: none"> - Confidential grievance mechanism available 	CDTs may be able to provide communication services (e.g., email, phone) to crewmembers. Access to communication mechanisms, particularly those which can be used in private, away from the supervision of the captain or other supervisor, can provide a channel for grievances. Ideally, any information received, even directly from a worker, should be verified or triangulated with information from other sources, to decrease the possibility of coercion used against reporting workers.
Recruitment, Hiring and Contracting	All workers have an employment agreement with their employer and are provided a copy. Employment agreements contain, at minimum, accurate information about wages and hours. For vessel workers, employment agreements contain information about the length and location of voyage. Workers do not pay any illegal or unexplained fees in their hiring and recruitment process. Workers are not engaged through an agency or otherwise casualized as a means to deprive them of benefits. Companies do not use informal recruitment agents and adopt standardized recruitment and hiring policy and procedures.	<ul style="list-style-type: none"> - ILO Work in Fishing Convention (188) - Philippines Department Order No 174 - Philippines Department Order No 156-16 - Philippine Fisheries Code 	<ul style="list-style-type: none"> - Recruiter/labor broker/manpower agency used (Yes/No) - Worker length of employment (in years) - Worker has employment agreement or contract 	
Housing/Living Conditions	Workers have access to adequate toilets, sleeping quarters and potable water.	<ul style="list-style-type: none"> - ILO Work in Fishing Convention (188) - Philippines Department Order No 156-16 	<ul style="list-style-type: none"> - Access to toilets (Yes/No) - Access to potable water (Yes/No) 	

Issue Area	Goals	Key Standard References	Suggested Minimum KDE	Additional Use of CDTS (if applicable)
		<ul style="list-style-type: none"> - Philippine Fisheries Code 	<ul style="list-style-type: none"> - For vessel workers: One bed/mattress per person (Yes/No) 	
Health and Safety	Workers receive adequate protective equipment, safety training and medical care in the event of an illness or accident.	<ul style="list-style-type: none"> - ILO Work in Fishing Convention (188) - Philippines Department Order No 156-16 - Philippine Fisheries Code - International Maritime Organization Convention for the Safety of Life at Sea (SOLAS) - International Maritime Organization Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel - Philippine Labor Code 	<ul style="list-style-type: none"> - Safety training provided (Yes/No) - Protective equipment provided (Yes/No) 	
Freedom of Movement	Workers have unrestricted freedom of movement while in the workplace, including access to the toilet. Vessel based workers are allowed regular access to port and vessel operators do not deceive workers about the length of voyage.	<ul style="list-style-type: none"> - ILO Work in Fishing Convention (188) - Philippine Labor Code 	<ul style="list-style-type: none"> - Length of voyage 	Vessel monitoring (whether AIS or VMS) can track length of voyage.
Child Labor	No children below age of 15 are employed in sector. Any hazardous activities – including night work or hazardous vessel work – are restricted to those 18 years and older.	<ul style="list-style-type: none"> - ILO Work in Fishing Convention (188) - Philippine Labor Code - ILO Minimum Age Convention (138) - ILO Worst Forms of Child Labor Convention (182) 	<ul style="list-style-type: none"> - Date of birth of workers 	

4.4 Current Data Availability and Recommendations for Improvement

Relevant fisheries data is currently available via multiple avenues, creating a complex network of potential data sources:

- Port sampling is conducted in tuna landing areas and includes some data that might be relevant for social KDEs, including name of fishing ground, gear used, number of fishing days, and name of vessel. The National Stock Assessment Program (NSAP), which is run by BFAR in collaboration with the National Fisheries Research and Development Institute (NFRDI) collects and maintains a database for this information.
- BFAR also collects logsheet data for purse-seine vessels, reportedly in their own database. Data collected by logsheets that may be relevant to social KDEs includes fishing position, type of fishing activity, registration information for the vessel, vessel name, company name, and fishing license of permit number.
- The data collected by the Philippine Fisheries Observer Program includes vessel details, crew information, daily activity, and catch details. BFAR oversees the observer program, but it is unclear how the data is managed.
- Catch Certificates issued by BFAR to comply with EU requirements include information on vessel name, license number, name of vessel master, transshipment details and fishing area.
- BFAR also requires canneries to provide data including information on supply vessels (name, gear, flag state and registration number) fishing area, catch and catch data. This data is reportedly compiled in a database.
- MARINA office and port authorities collect data on vessels through registration protocols, but data on smaller vessel registrations may not be available.⁵⁹

Clearly, there are significant overlaps in the type of data being collected, which could be used to triangulate and verify this information, but that would require significant coordination among these agencies and their database sets. BFAR alone collects data through multiple sources, but it is unclear whether these multiple data streams are compiled and synthesized.

There are also significant gaps in data relevant to social KDEs, particularly around individual workers and their working conditions. Records for formally employed workers – those employed on purse-seiners or in land-based processing facilities – are maintained by the facility and/or the employment agency. DOLE could provide records to verify company data. Fishing vessel or fleet owners are less likely to maintain formal records of operators and fishers involved in their operations. However, this would be a good practice going forward. Ideally, they would also maintain records on payments to workers, loans/deductions. The most challenging category of workers, in terms of availability of data, are the handline fishers. Some data on handline fishers may be available in the barangay offices.

Currently, BFAR has a registry of vessel workers to whom it has issued a fisher's license, but no registry or means to record informally/irregularly recruited workers. DOLE has a registry of fishers' groups, but it is still limited and is not regularly updated. However, a system to produce and obtain data can be prioritized with the cooperation of local government and barangay units and of the fishers themselves. The coalition of tuna workers, which can be tapped for support, has been building a registry of workers. Locals can assist in building registries of handline fishers and the network of contractors and employers with whom they are linked.

Improving the number and efficacy of labor inspections would be beneficial. When vessels are inspected, there is no labor representation, and there are an insufficient number of inspectors. The Bureau of

⁵⁹ Western Pacific East Asia Oceanic Fisheries Management Project. *Philippines Tuna Fishery Profile*. November 2012. <https://www.wcpfc.int/system/files/PLI-PHL-03-%5BConsultancy-report-%28Y3%29-Philippine-Tuna-Fishery-Profile-27Nov2012%5D.pdf>

Immigration has stated that they have little leverage in the sector beyond issuing passports to migrant fishers. In order to receive a license, a strict government requirement, a vessel must have all documents in place, including all crew members' seaman's books. However, as per above findings, these books are often retained by the vessel owner or used fraudulently. The DOLE's inspection/auditing should be expanded to include vessels, especially handline operations. A multi-agency team (such as the program recently developed in Thailand) should be assigned to all ports to conduct checks during "port-out and port-in." An enhanced team could augment labor inspection criteria and coverage to vessels, particularly handline operations. Simply verifying the number and names of workers returning from a fishing venture could provide critical information about the workers' conditions at sea. Further, an interview guide can be developed for use by inspectors that screens for forced labor, child labor, and other critical issues. The questions for workers and red flags provided in Section 4.3 could be used as the start of that guide.

Table 7 below suggests potential sources of data for each recommended minimum KDE. However, it is important to note that these are only potential sources of data as these datasets may be incomplete or unavailable. For example, as discussed above, DOLE inspectors do not currently have oversight of labor conditions on board vessels and would therefore not have inspection records.

Table 7. Potential Data Sources of Minimum KDE

Recommended Minimum KDE	Potential Source of KDE
Date of Departure	BFAR logsheets; Fisheries Observer Program; BFAR Catch Certificates
Names and nationalities of fishers/crew	BFAR-issued worker licenses; Bureau of Immigration issued worker licenses; Company records
Fishing company name	BFAR logsheets; Fisheries Observer Program; BFAR Catch Certificates; BFAR canning data; MARINA Registrations
Name of captain/master	Municipal or BFAR licenses; BFAR logsheets; Company records if applicable
DOB of fishers/crew	BFAR-issued worker licenses; Bureau of Immigration issued worker licenses; Company records if applicable
Fishing vessel owner name and contacts	Municipal or BFAR licenses; BFAR logsheets; Fisheries Observer Program; BFAR Catch Certificates; BFAR canning data; MARINA Registrations; Company records if applicable
Name of fishing vessel	Municipal or BFAR licenses; BFAR logsheets; Fisheries Observer Program; BFAR Catch Certificates; BFAR canning data; MARINA Registrations; Company records if applicable
Unique vessel ID	Municipal or BFAR licenses; BFAR logsheets; Fisheries Observer Program; BFAR Catch Certificates; BFAR canning data; MARINA Registrations; Company records if applicable
Flag state	Municipal or BFAR licenses; BFAR logsheets; Fisheries Observer Program; BFAR Catch Certificates; BFAR canning data; MARINA Registrations; Company records if applicable
Port name	Fisheries Observer Program; BFAR Catch Certificates; NSAP
Landing date	Fisheries Observer Program; BFAR Catch Certificates; NSAP
Transshipment logs	Fisheries Observer Program; BFAR Catch Certificates
Average net income per trip or per pay period	Company/employer records; worker interview; DOLE inspection information
Wage payment frequency	Company/employer records; worker interview; DOLE inspection information

Recommended Minimum KDE	Potential Source of KDE
Workers receive explanation of pay/earnings	Company/employer records; worker interview; DOLE inspection information
Number of hours worked by worker/crewmember per work shift	Company/employer records; worker interview; DOLE inspection information
Mandatory overtime required of worker/crew member	Company/employer records; worker interview; DOLE inspection information
Confidential grievance mechanism available	Company/employer records; worker interview; DOLE inspection information
Recruiter/labor broker/manpower agency used	Company/employer records; worker interview; DOLE inspection information
Length of employment	Company/employer records; worker interview; DOLE inspection information
Workers have identity documentation	BFAR-issued worker licenses; Bureau of Immigration issued worker licenses; Company/employer records; worker interview; DOLE inspection information
Workers have employment agreement or contract	Company/employer records; worker interview; DOLE inspection information
Access to toilets	Company/employer records; worker interview, visual inspection; DOLE inspection information
Access to potable water	Company/employer records; worker interview, visual inspection; DOLE inspection information
For vessel workers: One bed/mattress per person	Company/employer records; worker interview, visual inspection; DOLE inspection information
Safety training provided	Company/employer records; worker interview, visual inspection; DOLE inspection information
Protective equipment provided	Company/employer records; worker interview, visual inspection; DOLE inspection information
Length of voyage	Company/employer records; worker interview, visual inspection; logbooks; VMS/AIS data; DOLE inspection information

Table 8 presents recommendations and training topics that may facilitate the collection of data, and improvements in labor practices, as described above.

Table 8. Recommendations and Potential Training Topics by Actor

Actor	Recommendation for Improved Data Gathering Practice	Potential Topics for Training
Fleet, vessel and facility owners	Maintain records on operators and fishers involved in operations, including payments to workers, loans/deductions and other key human resources information.	Improved processes for human resources/record maintenance, what information to collect and how feed into CDTS, as required. Guidance on legal, buyer, and importing country labor requirements and interface with CDTS.
Grassroots civil society organizations	Develop data on informally/irregularly recruited workers who are not currently represented in the BFAR registry, including their contractors and employers.	With funding and capacity building, develop and provide a free “safety of life at sea” (SOLAS) training and certification, as well as a rights awareness course, for all handliners.
Department of Labor and Education (DOLE)	Expand inspection/auditing operation to include vessels, especially handline operations. A multi-agency team (such as the program recently developed in Thailand) assigned to all ports, to conduct checks during “port-out and port-in;” A simple verification of the number and names of workers returning from a fishing venture provide critical information about the workers’ conditions at sea. Increase the number of labor inspectors. Improve capacity of labor inspectors to gather information on working conditions on vessels. Develop and train inspectors on the use of an interview guide that screens for forced labor, child labor and other critical issues.	Improved inspection processes and systems, particularly in regard to vessel operations. Guidance on interviewing workers with a particular focus on vulnerable workers to improve inspector capacity.
DOLE, BFAR, MARINA, Customs and Immigration, local governments, Barangay units, workers	Stronger coordination and transparency in data gathering efforts with an effort to collect relevant KDEs in an aligned fashion.	
Vessel-based workers	Vessel-based workers will need to be incentivized to utilize and upload required data to the CDTS. There are several factors that could incentivize usage. The first is that the increased communication capacity for vessel-workers and their families while at sea will likely be appealing in and of itself, thus incentivizing vessel-based workers to utilize the CDTS. If workers see that the integration of social information to the CDTS as the ultimate outcome of improving social welfare, it would also be appealing, but this will require timely and transparent remediation of issues identified via grievance channels.	Training on how to accurately input information and on concrete benefits to users.

5. Conclusion: Reflections and Lessons Learned

Tuna capture and tuna processing in the Philippines remain labor intensive, involving long hours of manual labor, by thousands of workers. For all its reliance on labor, much of the worker population in this industry remains hidden, vulnerable, or in precarious employment situations by virtue of their employment status, gaps and flaws in regulatory systems, and exploitive and unethical employment practices. This study was premised on the notion that *sustainability* must include ethical sourcing and production, with an emphasis on the fair, just and legal treatment of workers. This research sought to describe the recruitment and employment practices as well as the working and living conditions of various types of workers in and around the fishing industries in the selected research sites and to understand the factors that create and/or compound their vulnerability. One of the main contextual issues is the casual nature of employment in the sector. Formal working agreements are almost entirely absent for handline fishers, and many land-based workers are hired by third-party sub-contractors, and therefore lack direct employment relationships with the management of their facility.

After describing issues and factors of vulnerability, this report provided details on how various data sources may be integrated into a CDTS and which KDEs will be critical to illuminating issues identified. In general, KDEs relevant to social issues that can be gleaned from data sources such as logbooks, catch certificates, and VMS data appear to be at least partially available, although there is certainly need for increased coordination and transparency. The biggest current information “blind spot” relates to the worker experience on board vessels. Currently there is no government labor inspection of vessels and there are an insufficient number of inspectors overall. Even if companies were to provide open access to their records, a full understanding of conditions faced by workers needs to be informed by information gathered by the workers themselves.

The need for increased understanding of worker conditions, informed by workers, is the basis of one of the central recommendations of this report. For example, DOLE’s inspection/auditing should be expanded to include vessels, especially handline operations, with a multi-agency team formed (such as the program recently developed in Thailand) and assigned to all ports to conduct checks during “port-out and port-in.” A simple verification of the number and names of workers returning from a fishing venture could provide critical information about the workers’ conditions at sea. An interview guide that screens for forced labor, child labor, and other critical issues could also be developed for use by inspectors that are trained in identifying issues. However, merely identifying the existence of these issues will not inherently improve workers’ lives.

This study posits that the systemic invisibility, isolation, exclusion, and non-documentation of workers render them vulnerable to a wide range of abuses and risks. These systemic factors not only exacerbate workers’ vulnerability, but also bar critical stakeholders from gaining visibility into the systems where risks occur—recruitment, hiring, and onsite management—and deter them from developing the appropriate controls and measures in order to prevent such risks or address issues. There is, therefore, a need to address the root causes or the sources of workers’ vulnerability. This is a recommendation that can be picked up and integrated into future actions by all stakeholders: civil society, academia, companies, unions, research organizations, and the government. In terms of concrete improvements to workers’ lives, the possibility that a CDTS could deliver increased connectivity/ability to communicate with family members or other support on shore seems crucial in addressing the root cause of isolation.

Data alone, even the most sophisticated and robust data, cannot identify labor abuse. Verité’s experience with data on labor/social issues in other contexts shows that, in many cases, collecting the data is more straightforward than interpreting these data and designing remediation efforts that improve worker welfare. No individual data point can provide full visibility into the range of social and labor concerns that may arise. Further, after data has been collected and analyzed, remedying abuses is a separate process unto itself. The collection and analysis of data can absolutely assist in that process, but data in and of itself will also not remedy labor abuses. Meaningful remediation requires a multi-stakeholder effort involving governments,

companies, and NGOs who have access to the data, are trained and coordinated, and have necessary systems and processes in place. Ultimately, worker buy-in and participation in the collection of data for the CDTS will be predicated on the degree to which they experience the CDTS providing concrete benefits and improvements.

5.1 CDTS Recommendations

Verité was tasked with providing guidance on approaches to integrating relevant labor data into the CDTS and identifying the Key Data Elements (KDEs) that should be collected to shed light on labor issues in the fisheries sector. Given the inconsistencies and overall lack of transparency in current data gathering initiatives, Verité's recommendations focused on mapping potential sources of this socially-relevant data as well as on identifying opportunities that might improve practices in the future. When Verité was researching and developing this report, the USAID Oceans team was evaluating the specific technological components of the CDTS, so Verité provided guidance on possible usage scenarios, such as the use of CDTS to improve access to communication channels for vessel workers.

5.2 Methodology: Strengths and Limitations

Research for the field studies underpinning this report was carried out with a qualitative rapid appraisal methodology. The limitation of this research design, as noted in the methodology section of the report, is that the qualitative approach, in conjunction with the non-random purposive sampling, did not allow statistically meaningful quantitative estimates of the prevalence of issues identified. Another limitation preventing prevalence estimates is that the total number of interviews was low due to time and location constraints. However, researchers are confident that these limitations were counterbalanced by the strengths of the approach, particularly the richness of the information generated, particularly given the sensitive context. Researchers could follow unexpected leads in conversations and ground the analysis in the authority of interview subjects lived experiences and perceptions, providing deeper insight into root cause factors.

Annex I. ILO Indicators of Forced Labor

Source: International Labour Organization. Hard to See, Harder to Count: Survey Guidelines to Estimate Forced Labour of Adults and Children. 2012.

Indicators of unfree recruitments of adults	
Indicators of involuntariness	Indicators of penalty (or menace of penalty)
<p>Strong indicators</p> <ul style="list-style-type: none"> - Tradition, birth (birth/descent into “slave” or bonded status) - Coercive recruitment (abduction, confinement during the recruitment process) - Sale of the worker - Recruitment linked to debt (advance or loan) - Deception about the nature of the work 	<p>Strong Indicators</p> <ul style="list-style-type: none"> - Denunciation of authorities - Confiscation of identity papers or travel documents - Sexual violence - Physical violence - Other forms of punishment - Removal of rights or privileges (including promotion) - Religious retribution - Withholding of assets (cash or other) - Threats against family members
<p>Medium indicators</p> <ul style="list-style-type: none"> - Deceptive recruitment (regarding working conditions, content or legality of employment contract, housing and living conditions, legal documentation or acquisition of legal migrant status, job location or employer, wages/earnings) - Deceptive recruitment through the promise of marriage 	<p>Medium indicators</p> <ul style="list-style-type: none"> - Exclusion from future employment - Exclusion from community and social life - Financial penalties - Informing family, community or public about worker’s current situation (blackmail)
Indicators of impossibility of leaving employer for adults	
Indicators of involuntariness	Indicators of penalty (or menace of penalty)
<p>Strong indicators</p> <ul style="list-style-type: none"> - Reduced freedom to terminate labor contract after training or other benefit paid by employer - No freedom to resign in accordance with legal requirements - Forced to stay longer than agree while waiting for wages due - Forces to work for indeterminate period in order to repay outstanding debt or wage advance 	<p>Strong indicators</p> <ul style="list-style-type: none"> - Denunciation to authorities - Confiscation of identity papers or travel documents - Imposition of worse working conditions - Locked in work or living quarters - Sexual violence - Physical violence - Other forms of punishment deprivation of food, water, sleep, etc.) - Removal of rights or benefits (including promotion) - Religious retribution - Under constant surveillance - Violence imposed on other workers in front of all workers - Withholding of assets (cash or other) - Withholding of wages - Threats against family members (violence or loss of land or jobs)
	<p>Medium indicators</p> <ul style="list-style-type: none"> - Dismissal - Exclusion from future employment - Exclusion from community and social life - Extra work for breaching labor discipline - Financial penalties - Informing family, community or public about worker’s current situation (blackmail)

Annex II. Worker Interview Guidance Document

Instructions to interviewers: These questions are intended to serve as a guide, but you should also ask relevant follow-up questions as appropriate. You can explore worker experiences and unexpected issues that surface. Always ensure that interviews are conducted in a location that offers sufficient privacy away from the worksite and where the interviewee feels comfortable.

Informed consent: Before the start of the interview, explain who you are and the purpose of the research. Explain what will happen during the interview, including the length of the interview and the topics to be discussed. Clarify that their participation is purely voluntary and that they can stop the interview at any point without penalty and without need for explanation. Explain what will happen to the data from each respondent, and that research will respect confidentiality and protect their identity, i.e., the data will be presented in a way that will not be traceable to individual respondents. Finally, ask for explicit consent to be interviewed. If at any point interviewees become uncomfortable, remind them that they are completely free to end the discussion.

Demographics

1. Gender
2. Age
3. Married (Y/N)
4. Children/Ages
5. Origin (“Where are you originally from?”)
6. Educational Background
7. Employed at (select one): Vessel Factory Other (Describe):
8. If vessel, what type?
9. Describe assigned tasks/work processes
10. Department/section
11. Employment start date
12. Previous jobs or tasks
13. Other sources of family income

Recruitment

1. Did you get your job through a labor broker/ recruiter? If yes, what is the broker/ recruiter’s name?
2. How did you get this job?
3. How were the terms and conditions of employment explained to you?
4. Please describe your route from home to worksite.
5. Was your passport or identity document taken from you during your journey to the worksite?
6. Who received you at your destination?

Hiring and Onboarding

1. What kind of document did you have to show during recruitment? For SEA-BASED workers, please enumerate the documents.
2. How was your age checked? If the worker was below 16 at the time of hire, please ask where he was assigned, work hours, wage, etc.
3. How were the terms and conditions of employment explained to you?
4. Were you asked to surrender your passport or identity document? What was the process?

5. How do you understand the resignation process? Please describe what you know of it.
6. If your passport or identity document is not with you, what is the process of getting it back?
7. What are the penalties if you quit or resign before your contract is finished? (Indicate amount for any monetary penalties)
8. What are the penalties if you are fired or terminated before your contract is finished? (Indicate amount for any monetary penalties)

Training

1. What kinds of trainings have you attended? Can you remember the dates and the topics?

Employment Contract

1. Were you asked to sign a different contract after hiring? Please describe that process.
2. If you signed two or more contracts, how were the terms different?
3. Were you given your own copy of the contract?

Onsite Working Conditions

1. How were you oriented on your job?
2. What kind of work is assigned to you?
3. What is your employment status?

If seasonal/ contractual, ask how many times s/he has been renewed? Has the worker been asked to work different jobs/ tasks?

4. Can you describe your typical workday and work week?
5. How long are you at sea every trip?
6. Are you able to return home during emergencies? How is that facilitated?
7. Do you have proper documentation/immigration papers?
8. Have you ever been questioned/ detained by immigration authorities? Please describe.
9. Do you have access to communication while at sea? How?
10. Are you able to move freely while on land? Are you required to stay on the boat/ near the dock?
11. As far as you know, are you paid for all hours that you work? If no, why not?
12. What happens when you refuse overtime?
13. How much is your target or quota per day? How are you paid?
14. What are the deductions from your salary? Please identify amount per item.
15. How is your salary computed?
16. What are your benefits?
17. When you have trouble at work, who can you tell and how is that processed/ addressed?
18. In what way do you think the company grievance mechanism allows you to remain anonymous?
19. What has the company said about protection from reprisal or the whistleblower policy?
20. Is there a union or cooperative in the factory or among fishers? Can you describe how you joined the union?
21. Have you been hurt or involved in an accident while working? Can you describe what happened?
22. Are you given personal protective equipment (PPE)? Please list:
23. How is the PPE explained to you?
24. What do you understand about your accident insurance?
25. What are the sanctions if you make a mistake/ absent/ late/ not following housing rules?

26. Do you feel discriminated against? Can you describe how?
27. Under what circumstances can you leave the factory during work hours?
28. What are the rules regarding toilet access?
29. Is there restriction on when you can drink?
30. Are you restricted from performing religious obligations inside the factory? Please describe.

For Women Workers:

1. Are women required to take pregnancy tests when applying for a job?
2. What is the policy on sexual harassment/ abuse/ violence?
3. What are your rights as a woman worker?
4. What are you supposed to do if you experienced sexual harassment/ abuse/ violence?
5. Are there childcare facilities here? If yes, ask the worker to elaborate on the program.
6. Have you ever gotten pregnant while working here? If yes, what were the benefits given to you?
7. If the worker is pregnant, is she moved to another kind of job?

Housing/ Accommodations

1. Are you given living quarters/ housing?
2. Can you describe your living conditions?
3. Have you had problems with your living conditions?

Concluding Questions

1. In between contracts (if not continuous or merely seasonal work), how do you earn a living?
2. Can you borrow money from the manager or supervisor? How do you pay back the loan?

Interviewer's Notes:

Annex III. Example Base Codes of Conduct/Voluntary Company Standards

Ethical Trade Initiative Base Code of Conduct⁶⁰

1. Employment is freely chosen
 - 1.1 There is no forced, bonded or involuntary prison labour.
 - 1.2 Workers are not required to lodge "deposits" or their identity papers with their employer and are free to leave their employer after reasonable notice.
2. Freedom of association and the right to collective bargaining are respected
 - 2.1 Workers, without distinction, have the right to join or form trade unions of their own choosing and to bargain collectively.
 - 2.2 The employer adopts an open attitude towards the activities of trade unions and their organisational activities.
 - 2.3 Workers' representatives are not discriminated against and have access to carry out their representative functions in the workplace.
 - 2.4 Where the right to freedom of association and collective bargaining is restricted under law, the employer facilitates, and does not hinder, the development of parallel means for independent and free association and bargaining.
3. Working conditions are safe and hygienic
 - 3.1 A safe and hygienic working environment shall be provided, bearing in mind the prevailing knowledge of the industry and of any specific hazards. Adequate steps shall be taken to prevent accidents and injury to health arising out of, associated with, or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.
 - 3.2 Workers shall receive regular and recorded health and safety training, and such training shall be repeated for new or reassigned workers.
 - 3.3 Access to clean toilet facilities and to potable water, and, if appropriate, sanitary facilities for food storage shall be provided.
 - 3.4 Accommodation, where provided, shall be clean, safe, and meet the basic needs of the workers.
 - 3.5 The company observing the code shall assign responsibility for health and safety to a senior management representative.
4. Child labour shall not be used
 - 4.1 There shall be no new recruitment of child labour.
 - 4.2 Companies shall develop or participate in and contribute to policies and programmes which provide for the transition of any child found to be performing child labour to enable her or him

⁶⁰ Ethical Trade Initiative. ETI Base Code. April 2014. http://s3-eu-west-1.amazonaws.com/www.ethicaltrade.org/files/shared_resources/eti_base_code_english.pdf?ppXz9ivoyynrIuTT05e.Z5n.ZHaQvQfN

to attend and remain in quality education until no longer a child; “child” and “child labour” being defined in the appendices.

4.3 Children and young persons under 18 shall not be employed at night or in hazardous conditions.

4.4 These policies and procedures shall conform to the provisions of the relevant ILO standards.

5. Living wages are paid

5.1 Wages and benefits paid for a standard working week meet, at a minimum, national legal standards or industry benchmark standards, whichever is higher. In any event wages should always be enough to meet basic needs and to provide some discretionary income.

5.2 All workers shall be provided with written and understandable information about their employment conditions in respect to wages before they enter employment and about the particulars of their wages for the pay period concerned each time that they are paid.

5.3 Deductions from wages as a disciplinary measure shall not be permitted nor shall any deductions from wages not provided for by national law be permitted without the expressed permission of the worker concerned. All disciplinary measures should be recorded.

6. Working hours are not excessive

6.1 Working hours must comply with national laws, collective agreements, and the provisions of 6.2 to 6.6 below, whichever affords the greater protection for workers. Sub-clauses 6.2 to 6.6 are based on international labour standards.

6.2 Working hours, excluding overtime, shall be defined by contract, and shall not exceed 48 hours per week.

6.3 All overtime shall be voluntary. Overtime shall be used responsibly, taking into account all the following: the extent, frequency and hours worked by individual workers and the workforce as a whole. It shall not be used to replace regular employment. Overtime shall always be compensated at a premium rate, which is recommended to be not less than 125% of the regular rate of pay.

6.4 The total hours worked in any seven-day period shall not exceed 60 hours, except where covered by clause 6.5 below.

6.5 Working hours may exceed 60 hours in any seven-day period only in exceptional circumstances where all of the following are met:

- this is allowed by national law;
- this is allowed by a collective agreement freely negotiated with a workers' organisation representing a significant portion of the workforce;
- appropriate safeguards are taken to protect the workers' health and safety; and
- the employer can demonstrate that exceptional circumstances apply such as unexpected production peaks, accidents or emergencies.

6.6 Workers shall be provided with at least one day off in every seven-day period or, where allowed by national law, two days off in every 14-day period. * International standards recommend the progressive reduction of normal hours of work, when appropriate, to 40 hours per week, without any reduction in workers' wages as hours are reduced.

7. No discrimination is practised

7.1 There is no discrimination in hiring, compensation, access to training, promotion, termination or retirement based on race, caste, national origin, religion, age, disability, gender, marital status, sexual orientation, union membership or political affiliation.

8. Regular employment is provided
 - 8.1 To every extent possible work performed must be on the basis of recognised employment relationship established through national law and practice.
 - 8.2 Obligations to employees under labour or social security laws and regulations arising from the regular employment relationship shall not be avoided through the use of labour-only contracting, sub- contracting, or home-working arrangements, or through apprenticeship schemes where there is no real intent to impart skills or provide regular employment, nor shall any such obligations be avoided through the excessive use of fixed-term contracts of employment.
9. No harsh or inhumane treatment is allowed
 - 9.1 Physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation shall be prohibited.

Fair Labor Association Workplace Code of Conduct⁶¹

Employment Relationship

Employers shall adopt and adhere to rules and conditions of employment that respect workers and, at a minimum, safeguard their rights under national and international labor and social security laws and regulations.

Nondiscrimination

No person shall be subject to any discrimination in employment, including hiring, compensation, advancement, discipline, termination or retirement, on the basis of gender, race, religion, age, disability, sexual orientation, nationality, political opinion, social group or ethnic origin.

Harassment or Abuse

Every employee shall be treated with respect and dignity. No employee shall be subject to any physical, sexual, psychological or verbal harassment or abuse.

Forced Labor

There shall be no use of forced labor, including prison labor, indentured labor, bonded labor or other forms of forced labor.

Child Labor

No person shall be employed under the age of 15 or under the age for completion of compulsory education, whichever is higher.

Freedom of Association and Collective Bargaining

Employers shall recognize and respect the right of employees to freedom of association and collective bargaining.

Health, Safety and Environment

Employers shall provide a safe and healthy workplace setting to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of employers' facilities. Employers shall adopt responsible measures to mitigate negative impacts that the workplace has on the environment.

⁶¹ Fair Labor Association. Workplace Code of Conduct. <http://www.fairlabor.org/our-work/labor-standards>

Hours of Work

Employers shall not require workers to work more than the regular and overtime hours allowed by the law of the country where the workers are employed. The regular work week shall not exceed 48 hours.

Employers shall allow workers at least 24 consecutive hours of rest in every seven-day period. All overtime work shall be consensual. Employers shall not request overtime on a regular basis and shall compensate all overtime work at a premium rate. Other than in exceptional circumstances, the sum of regular and overtime hours in a week shall not exceed 60 hours.

Compensation

Every worker has a right to compensation for a regular work week that is sufficient to meet the worker's basic needs and provide some discretionary income. Employers shall pay at least the minimum wage or the appropriate prevailing wage, whichever is higher, comply with all legal requirements on wages, and provide any fringe benefits required by law or contract. Where compensation does not meet workers' basic needs and provide some discretionary income, each employer shall work with the FLA to take appropriate actions that seek to progressively realize a level of compensation that does.

Social Accountability International SA8000 Standards⁶²

I. CHILD LABOUR Criteria

I.1 The organisation shall not engage in or support the use of child labour as defined above.

I.2 The organisation shall establish, document, maintain and effectively communicate to personnel and other interested parties, written policies and procedures for remediation of child labourers, and shall provide adequate financial and other support to enable such children to attend and remain in school until no longer a child as defined above.

I.3 The organisation may employ young workers, but where such young workers are subject to compulsory education laws, they shall work only outside of school hours. Under no circumstances shall any young worker's school, work and transportation time exceed a combined total of 10 hours per day, and in no case shall young workers work more than 8 hours a day. Young workers may not work during night hours.

I.4 The organisation shall not expose children or young workers to any situations – in or outside of the workplace – that are hazardous or unsafe to their physical and mental health and development. 2.

2. FORCED OR COMPULSORY LABOUR Criteria:

2.1 The organisation shall not engage in or support the use of forced or compulsory labour, including prison labour, as defined in Convention 29, shall not retain original identification papers and shall not require personnel to pay 'deposits' to the organisation upon commencing employment.

2.2 Neither the organisation nor any entity supplying labour to the organisation shall withhold any part of any personnel's salary, benefits, property or documents in order to force such personnel to continue working for the organisation.

2.3 The organisation shall ensure that no employment fees or costs are borne in whole or in part by workers.

2.4 Personnel shall have the right to leave the workplace premises after completing the standard workday and be free to terminate their employment provided that they give reasonable notice to their organisation.

⁶² Social Accountability International. Social Accountability 8000 International Standard. June 2014. http://sa-intl.org/_data/n_0001/resources/live/SA8000%20Standard%202014.pdf

2.5 Neither the organisation nor any entity supplying labour to the organisation shall engage in or support human trafficking.

3. HEALTH AND SAFETY Criteria:

3.1 The organisation shall provide a safe and healthy workplace environment and shall take effective steps to prevent potential health and safety incidents and occupational injury or illness arising out of, associated with or occurring in the course of work. It shall minimise or eliminate, so far as is reasonably practicable, the causes of all hazards in the workplace environment, based upon the prevailing safety and health knowledge of the industry sector and of any specific hazards.

3.2 The organisation shall assess all the workplace risks to new, expectant and nursing mothers including those arising out of their work activity, to ensure that all reasonable steps are taken to remove or reduce any risks to their health and safety.

3.3 Where hazards remain after effective minimisation or elimination of the causes of all hazards in the workplace environment, the organisation shall provide personnel with appropriate personal protective equipment as needed at its own expense. In the event of a work-related injury the organisation shall provide first aid and assist the worker in obtaining follow-up medical treatment.

3.4 The organisation shall appoint a senior management representative to be responsible for ensuring a safe and healthy workplace environment for all personnel and for implementing this Standard's Health and Safety requirements.

3.5 A Health and Safety Committee, comprised of a well-balanced group of management representatives and workers, shall be established and maintained. Unless otherwise specified by law, at least one worker member(s) on the Committee shall be by recognised trade union(s) representative(s), if they choose to serve. In cases where the union(s) does not appoint a representative or the organisation is not unionised, workers shall appoint a representative(s) as they deem appropriate. Its decisions shall be effectively communicated to all personnel. The Committee shall be trained and retrained periodically in order to be competently committed to continually improving the health and safety conditions in the workplace. It shall conduct formal, periodic occupational health and safety risk assessments to identify and then address current and potential health and safety hazards. Records of these assessments and corrective and preventive actions taken shall be kept.

3.6 The organisation shall provide to personnel, on a regular basis, effective health and safety training, including on-site training and, where needed, job-specific training. Such training shall also be repeated for new and reassigned personnel, where incidents have occurred, and when changes in technology and/or the introduction of new machinery present new risks to the health and safety of personnel.

3.7 The organisation shall establish documented procedures to detect, prevent, minimise, eliminate or otherwise respond to potential risks to the health and safety of personnel. The organisation shall maintain written records of all health and safety incidents that occur in the workplace and in all residences and property provided by the organisation, whether it owns, leases or contracts the residences or property from a service provider.

3.8 The organisation shall provide, for use by all personnel, free access to: clean toilet facilities, potable water, suitable spaces for meal breaks, and, where applicable, sanitary facilities for food storage.

3.9 The organisation shall ensure that any dormitory facilities provided for personnel are clean, safe and meet their basic needs, whether it owns, leases or contracts the dormitories from a service provider.

3.10 All personnel shall have the right to remove themselves from imminent serious danger without seeking permission from the organisation.

4. FREEDOM OF ASSOCIATION AND RIGHT TO COLLECTIVE BARGAINING Criteria:

4.1 All personnel shall have the right to form, join and organise trade union(s) of their choice and to bargain collectively on their behalf with the organisation. The organisation shall respect this right and shall effectively inform personnel that they are free to join a worker organisation of their choosing without any negative consequences or retaliation from the organisation. The organisation shall not interfere in any way with the establishment, functioning or administration of workers' organisation(s) or collective bargaining.

4.2 In situations where the right to freedom of association and collective bargaining are restricted under law, the organisation shall allow workers to freely elect their own representatives.

4.3 The organisation shall ensure that union members, representatives of workers and any personnel engaged in organising workers are not subjected to discrimination, harassment, intimidation or retaliation for being union members, representative(s) of workers or engaged in organising workers, and that such representatives have access to their members in the workplace.

5. DISCRIMINATION Criteria:

5.1 The organisation shall not engage in or support discrimination in hiring, remuneration, access to training, promotion, termination or retirement based on race, national or territorial or social origin, caste, birth, religion, disability, gender, sexual orientation, family responsibilities, marital status, union membership, political opinions, age or any other condition that could give rise to discrimination.

5.2 The organisation shall not interfere with the exercise of personnel's rights to observe tenets or practices or to meet needs relating to race, national or social origin, religion, disability, gender, sexual orientation, family responsibilities, union membership, political opinions or any other condition that could give rise to discrimination.

5.3 The organisation shall not allow any behaviour that is threatening, abusive, exploitative or sexually coercive, including gestures, language and physical contact, in the workplace and in all residences and property provided by the organisation, whether it owns, leases or contracts the residences or property from a service provider.

5.4 The organisation shall not subject personnel to pregnancy or virginity tests under any circumstances.

6. DISCIPLINARY PRACTICES Criterion:

6.1 The organisation shall treat all personnel with dignity and respect. The organisation shall not engage in or tolerate the use of corporal punishment, mental or physical coercion or verbal abuse of personnel. No harsh or inhumane treatment is allowed.

7. WORKING HOURS Criteria:

7.1 The organisation shall comply with applicable laws, collective bargaining agreements (where applicable) and industry standards on working hours, breaks and public holidays. The normal work week, not including overtime, shall be defined by law but shall not exceed 48 hours.

7.2 Personnel shall be provided with at least one day off following every six consecutive days of working. Exceptions to this rule apply only where both of the following conditions exist: a) National law allows work time exceeding this limit; and b) A freely negotiated collective bargaining agreement is in force that allows work time averaging, including adequate rest periods.

7.3 All overtime work shall be voluntary, except as provided in 7.4 below, shall not exceed 12 hours per week and shall not be requested on a regular basis.

7.4 In cases where overtime work is needed in order to meet short-term business demand and the organisation is party to a freely negotiated collective bargaining agreement representing a significant portion of its workforce, the organisation may require such overtime work in accordance with such agreement. Any such agreement must comply with the other requirements of this Working Hours element.

8. REMUNERATION Criteria:

8.1 The organisation shall respect the right of personnel to a living wage and ensure that wages for a normal work week, not including overtime, shall always meet at least legal or industry minimum standards, or collective bargaining agreements (where applicable). Wages shall be sufficient to meet the basic needs of personnel and to provide some discretionary income.

8.2 The organisation shall not make deductions from wages for disciplinary purposes. Exception to this rule applies only when both of the following conditions exist: a) Deductions from wages for disciplinary purposes are permitted by national law; and b) A freely negotiated collective bargaining agreement is in force that permits this practice.

8.3 The organisation shall ensure that personnel's wages and benefits composition are detailed clearly and regularly to them in writing for each pay period. The organisation shall lawfully render all wages and benefits due in a manner convenient to workers, but in no circumstances in delayed or restricted forms, such as vouchers, coupons or promissory notes.

8.4 All overtime shall be reimbursed at a premium rate as defined by national law or established by a collective bargaining agreement. In countries where a premium rate for overtime is not regulated by law or there is no collective bargaining agreement, personnel shall be compensated for overtime at the organisation's premium rate or at a premium rate equal to prevailing industry standards, whichever is higher.

8.5 The organisation shall not use labour-only contracting arrangements, consecutive short-term contracts and/or false apprenticeship or other schemes to avoid meeting its obligations to personnel under applicable laws and regulations pertaining to labour and social security.

9.6 COMPLAINT MANAGEMENT AND RESOLUTION:

9.6.1 The organisation shall establish a written grievance procedure that is confidential, unbiased, non-retaliatory and accessible and available to personnel and interested parties to make comments, recommendations, reports or complaints concerning the workplace and/or nonconformances to the SA8000 Standard.

9.6.2 The organisation shall have procedures for investigating, following up on and communicating the outcome of complaints concerning the workplace and/or non-conformances to this Standard or of its implementing policies and procedures. These results shall be freely available to all personnel and, upon request, to interested parties.

9.6.3 The organisation shall not discipline, dismiss or otherwise discriminate against any personnel or interested party for providing information on SA8000 compliance or for making other workplace complaints.

Annex IV. Legal and Regulatory Frameworks and Company Standards

Companies and retailers in importing are increasingly expecting their suppliers – all the way down the supply chain – comply with supplier codes of conduct. While each company has their own specific code of conduct, several organizations provide base codes or labor standards around which companies can develop their own codes of conduct.

These normative documents include, at minimum, guidance on labor issues such as: child labor, forced labor, health and safety, freedom of association, discrimination, disciplinary procedures, working hours, and remuneration. These codes are developed in alignment with the standards of the International Labor Organization (ILO) and other internationally accepted standards of good labor practice. Examples from the Ethical Trade Initiative, Fair Labor Association and Social Accountability International can be found in Annex I.

Internationally Accepted Labor Standards

Before considering fishing-specific human rights standards, it is important to establish international accepted human and labor rights norms that are relevant regardless of sector. The critical sources for these standards, in terms of labor rights, are the International Labor Organization's (ILO) core standards and conventions as outlined below.

Forced Labor

Forced Labour Convention, 1930 (No. 29) and Abolition of Forced Labor Convention, 1957

(No. 105): The ILO defines forced labor as work or service for which a person has not offered him or herself voluntarily (concept of “involuntariness”) and which is performed under a menace of penalty (concept of “coercion”) applied by an employer or a third party to the worker. The coercion may take place during the worker’s recruitment process to force him or her to accept the job or, once the person is working, to force him/her to do tasks which were not part of what was agreed at the time of recruitment, or to prevent him/her from leaving the job.

Freedom of Association and Collective Bargaining

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and Right to Organise and Collective Bargaining Convention, 1949 (No. 98):

Under these conventions workers have the right to form and join groups for the “advancement of their occupational interests,” without interference from the state, employer or others. They can bargain collectively as they determine best protects their interests. This is the means by which workers or their organizations/ representatives negotiate conditions of work such as salary.

Child Labor

Minimum Age Convention, 1973 (No. 138) and Worst Forms of Child Labour Convention, 1999

(No. 182): Children have the right to be protected from work that will endanger their physical or social development. Under most circumstances, children under the age of compulsory schooling or 15 years (14 in some cases) should not enter into work. No child under age 18 should engage in ‘Worst Forms of Child Labor,’ defined as “inhumane practices as slavery, trafficking, debt bondage and other forms of forced labour; prostitution and pornography; forced recruitment of children for military purposes; and the use of children for illicit activities such as the trafficking of drugs,” and physically hazardous work.

Discrimination and Equal Pay

Equal Remuneration Convention, 1951 (No. 100) and Discrimination (Employment and Occupation) Convention, 1958 (No. 111): Workers should be treated equally, including in terms of equal pay for equal work, without regard for their race, skin color, national extraction, social origin, gender, political or religious affiliation.

International Fishing-Specific Labor Instruments

There is no single, definitive source of labor and human rights standards pertaining to the fishing sector. Many nations, including Indonesia and the Philippines do not have comprehensive legal frameworks specific to labor rights in the sector. However, there are international conventions that, even if not ratified by individual countries, can provide guidance on benchmarks. The most notable conventions in this regard are the International Maritime Organization (IMO) Standards of Training, Certification, and Watchkeeping for Fishing Vessel Personnel (STCW-F Convention) which proposes safety standards for fishing crews; the International Labor Organization (ILO) Maritime Labor Convention (MLC) which provides decent work standards for seafarers, but excludes fishers from most provisions; and the ILO's Work in Fishing Convention, which is similar to the MLC but applies specifically to commercial fishers as opposed to other types of seafarers.

United Nations Convention on the Law of the Sea (UNCLOS) establishes the legal principal of maritime exclusive economic zones (EEZs) in which the coastal state has exclusive access to resources within 200 nautical miles from shore. UNCLOS also provides that flag states have jurisdiction over vessels flying their flags and are responsible for ensuring the safety and security of crews on board those vessels. However, it has been well-established that UNCLOS lacks adequate enforcement mechanisms. UNCLOS has been widely ratified so even non-party countries recognize it as customary international law.

International Maritime Organization Convention for the Safety of Life at Sea (SOLAS) specifies minimum safety standards for seafarers although fishing vessels are exempt from most requirements. That said, some countries do voluntarily apply at least some safety requirements to the fishing sector.

International Maritime Organization Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel provides safety standards for fishing vessels, including mandatory training standards. Flag states are responsible parties for standards specified in the convention.

International Labor Convention Maritime Labor Convention (MLC) details benchmarks and ILO standards for safety and working conditions of seafarers. Specifically, the convention lists minimum age requirements, contract, payment, repatriation, and living conditions among others. The convention does not apply to fishing vessels but can provide useful benchmarks for working and living conditions at sea. Selected standards of the convention include:

- **Minimum Age:** Work on a vessel for those under 16 is prohibited, and night work and other work that could be hazardous to the physical or social development of the worker is prohibited for those under 18.
- **Safety Training:** Seafarers must complete personal safety training prior to commencing work on board a ship.
- **Recruitment fees:** Seafarer's should not be required to pay fees to find employment, "other than the cost of the seafarer obtaining a national statutory medical certificate, the national seafarer's book and a passport or other similar personal travel documents, not including, however, the cost of visas, which shall be borne by the shipowner"
- **Other recruitment standards:** Recruitment agencies supplying seafaring workers should maintain accurate registries of all seafarers placed; accurately inform seafarers of work conditions, rights and provide work

agreements; verify that employment conditions are legal and in compliance with any collective bargaining agreements; respond to any complaints; ensure to a reasonable degree that vessel operator has protections against stranding seafarers in foreign ports. Recruitment agencies are also barred from using “black lists” that would inhibit seafarers for being placed in jobs for which they are otherwise qualified.

- Wages: All seafarers should be paid for their work, in no greater than monthly intervals, at a rate that is in accordance with laws and any collective bargaining instruments. They should be provided an accounting of payments made, including wage rates and exchange rates and any overtime pay. Seafarers should be provided a method to transmit earnings to their families. Wages should be paid in legal tender.
- Deductions: Only deductions expressly permitted by national laws or collective bargaining instruments are permitted. Deductions should not be taken for the purposes of securing or maintaining employment. Deductions taken for expenses on board should be “fair and reasonable” and are subject to legal review by the relevant authority.
- Employment Agreements: Seafarers should be provided with employment agreements that clearly lay out terms and conditions of work, including at minimum: the seafarer’s full name, date of birth or age, and birthplace; the shipowner’s name and address; the place where and date when the seafarers’ employment agreement is entered into; the capacity in which the seafarer is to be employed; the amount of the seafarer’s wages or, where applicable, the formula used for calculating them; the amount of paid annual leave or, where applicable, the formula used for calculating it; the termination of the agreement and the conditions thereof, including: if the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the shipowner than for the seafarer; if the agreement has been made for a definite period, the date fixed for its expiry; and if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged; the health and social security protection benefits to be provided to the seafarer by the shipowner; the seafarer’s entitlement to repatriation; (j) reference to the collective bargaining agreement, if applicable; and (k) any other particulars which national law may require.
- Equal remuneration: Equal work should be remunerated equally on the same vessel, regardless of race, color, sex, religion, political opinion, national extraction or social origin.
- Hours of work: Maximum hours of work shall not exceed: “14 hours in any 24-hour period; and (72 hours in any seven-day period; or minimum hours of rest shall not be less than: ten hours in any 24-hour period; and (77 hours in any seven-day period. Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours.”
- Manning levels: Vessels should have adequate crew to ensure the safety and security of the ship and all personnel, taking into account the need to limit crew fatigue.
- On-board Accommodations: Significant detail is provided on requirements for accommodation, but the essential characteristics are that sleeping areas provide reasonable comfort; proper lighting, heating and ventilation are provided; hygienic sanitary facilities are provided; potable water is available; some source of nutritious food is available.
- Health and Safety: All workers have the right to live and work in a safe environment. All workers should be trained in on-board safety procedures to avoid injury and disease. Vessels should report and investigate on-board accidents and take reasonable measures for their prevention.

ILO Work in Fishing Convention (188) provides similar standards and the MLC, but in this case, they are specific to the fishing sector. While they apply only to commercial fishing vessels, again, they are an important source of standards, which are summarized below:

- Minimum age: minimum age for vessel work is set at 16, although some light work may be appropriate for 15-year-olds. Any hazardous activities – including most night work – are restricted to those 18 years and older.
- Work agreements: fishers should be provided, in advance of boarding, a work agreement that specify: the fisher's family name and other names, date of birth or age, and birthplace; the place at which and date on which the agreement was concluded; the name of the fishing vessel or vessels and the registration number of the vessel or vessels on board which the fisher undertakes to work; the name of the employer, or fishing vessel owner, or other party to the agreement with the fisher; the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement; the capacity in which the fisher is to be employed or engaged; if possible, the place at which and date on which the fisher is required to report on board for service; the provisions to be supplied to the fisher, unless some alternative system is provided for by national law or regulation; the amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage; the termination of the agreement and the conditions thereof; the protection that will cover the fisher in the event of sickness, injury or death in connection with service; the amount of paid annual leave or the formula used for calculating leave, where applicable; the health and social security coverage and benefits to be provided to the fisher by the employer, fishing vessel owner, or other party or parties to the fisher's work agreement, as applicable; the fisher's entitlement to repatriation; a reference to the collective bargaining agreement, where applicable; the minimum periods of rest, in accordance with national laws, regulations or other measures; and any other particulars which national law or regulation may require.
- Repatriation: Fishers have a right to repatriation in the extent that their employment agreement expires or is terminated. The cost is the responsibility of the vessel owner, unless “where the fisher has been found, in accordance with national laws, regulations or other measures, to be in serious default of his or her work agreement obligations.”
- Recruitment: Recruitment services providing workers to vessels should be licensed in accordance with national laws. Workers should not be charged fees for recruitment or placement. Recruitment agencies should not use any mechanisms that prevent or deter fishers from engaging in work.
- Payment: Fishers who are paid wages should be paid regularly (typically monthly). Workers should have a means to transmit earnings to their families
- Accommodations and food: Fishers should be provided access to sanitary facilities, nutritious food, potable water, and safe, reasonably comfortable accommodation. Particular attention should be paid to ventilation, heating, cooling, lighting, vibration, noise and conditions of sleeping areas.
- Medical care: vessels should carry appropriate medical supplies and have at least one individual who is trained in first aid/other medical care and is trained in the use of first aid supplies. Vessels should have the capacity to communicate with medical treatment professionals on shore and should make efforts to return to port to secure medical treatment when for serious injury or illness.
- Health and Safety: Fishers should be adequately trained on safe gear usage and other relevant procedures. Vessel operators should report and investigate any on-board accidents. For vessels over a certain size and operating for voyages longer than three days, fishers should be provided with appropriate protective clothing and equipment.

- Social security: fishers are entitled to social security protections no less than other workers in their country of residence.

ILO Seafarers' Identity Documents Convention (185): Convention 185 requires ratifying nations to issue resident seafarers with Seafarers' Identity Documents. It also states that workers should retain access to their documents at all times, which is in line with best practice labor standards regarding identity documents.

Philippines Labor Law

Freedom of Association

The Philippines' Constitution provides general protection for the right of workers to form and join labor unions independent of the government. The right to freedom of association is restricted for some categories of public employees, including firefighters, prison guards, members of the military, and police officers.⁶³ Contract workers, public sector employees in policy-making positions or with access to confidential information, and private sector management-level employees with access to labor relations information were also prohibited from forming or joining labor unions.⁶⁴

Public Sector Labor Management Council Resolution No. 4

In 2010, the Public Sector Labor Management Council issued Resolution No. 4, decreasing the membership requirement for the formation of a public sector union from 30 percent of all rank and file public sector employees, to ten percent. The ILO, however, maintained that this requirement could still obstruct the right

⁶³International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Direct Request: Convention No. 87. 2009.

<http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=22570&chapter=9&query=Philippines%40ref&highlight=&querytype=bool&cont ext=0>

International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Direct Request: Convention No. 87. 2005.

<http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=16442&chapter=9&query=Philippines%40ref&highlight=&querytype=bool&cont ext=0>

International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Direct Request: Convention No. 87. 2004.

<http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=15153&chapter=9&query=Philippines%40ref&highlight=&querytype=bool&cont ext=0>

International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Direct Request: Convention No. 87. 2003.

⁶⁴International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Direct Request: Convention No. 87. 2009.

International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Direct Request: Convention No. 87. 2005.

International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Direct Request: Convention No. 87. 2004.

International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Direct Request: Convention No. 87. 2003.

of workers to establish trade unions, particularly in large bargaining units.⁶⁵ In 2009, the ILO noted that under Executive Order 180, the percentage requirement was calculated as a proportion of all government employees throughout the country, which was likely to preclude the establishment of a public-sector employees' union.⁶⁶

The ILO also criticized the quota of a minimum of ten unions to establish a federation or national union under Section 237(a) of the Labor Code as excessively high.⁶⁷ The Government of the Philippines stated that this requirement was necessary in order to "guarantee the organizational capacity of a federation."⁶⁸ However, Verité was in agreement with the ILO that such a requirement interfered with the right of workers' organizations to form federations and confederations of their own choosing.

Department of Labor and Employment DO No. 40-C-05

In 2005, the Department of Labor and Employment (DOLE) released DO No. 40-C-05, thereby amending the Omnibus Rules and granting foreign employees with valid working permits the right to self-organization, to join labor unions, and to engage in collective bargaining. Previously, a foreign employee was only accorded this right if a reciprocal right was granted to Philippine employees in the foreign employee's country of origin. In 2015, the ILO requested further action to amend the labor code in order to extend the right to organize to all foreign nationals living lawfully in the Philippines and not only those with valid work permits.⁶⁹ In 2010, the ILO reported that Republic Act 8042 imposed restrictions on foreigners' trade union activities and allowed for the deportation of foreigners who violate these restrictions.⁷⁰

In 2003, the Philippines adopted new legislation that simplified the registration process for labor union locals affiliated with existing certified federations; the legislation was also intended to simplify and accelerate the registration process for labor unions, as well as the process for union certification elections.⁷¹ The 30-day registration period was also reduced to ten days.⁷² This legislation was passed in response to longstanding criticism that procedures for union registration and certification of elections were too lengthy, subject to business interference, and led to heightened vulnerability of workers attempting to organize a labor union. In

⁶⁵ International Labour Organization. Committee of Experts on the Application of Conventions and Recommendations. Convention No. 87: Individual Observation. 2016. http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:PI3100_COMMENT_ID:3256740:NO.

⁶⁶ International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Individual Direct Request concerning Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) Philippines (ratification: 1953) 2009.

<http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=22570&chapter=9&query=Philippines%40ref&highlight=&querytype=bool&context=0>

⁶⁷ International Labour Organization. Committee of Experts on the Application of Conventions and Recommendations. Convention No. 87: Individual Observation. 2016.

⁶⁸ Government of the Republic of the Philippines. Department of Labor and Employment. "Philippine Department of Labor and Employment Responses to Verité Summary of Findings on the Philippines." January 2005. Unpublished.

⁶⁹ International Labour Organization. Committee of Experts on the Application of Conventions and Recommendations. Convention No. 87: Individual Observation. 2016.

⁷⁰ International Labour Organization. CEACR: Direct Request concerning Migrant Workers (Supplementary Provisions) Convention No 143. Submitted 2010 <http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=24919&chapter=9&query=Philippines%40ref&highlight=&querytype=bool&context=0> (accessed June 2010).

⁷¹ The Department of Labor and Employment (DOLE) issued Department Order No. 40-03 (Series of 2003) entitled Amending the Implementing Rules of Book 5 of the Labor Code of the Philippines in February 2003.

⁷² Government of the Republic of the Philippines. Department of Labor and Employment. "Philippine Department of Labor and Employment Responses to Verité Summary of Findings on the Philippines." January 2005. Unpublished.

addition, if a union failed to notify the labor bureau of changes to its internal rules, its registration could be rescinded.⁷³

Republic Act No. 9481

Republic Act No. 9481 - also known as the Act on Strengthening Workers' Constitutional Right to Self-Organization in the Area of Registration, Representation, and Union Cancellation – came into effect in June 2007. The Act was widely viewed by in-country labor experts as having the potential to help the labor movement increase its membership and strengthen its capacity to defend and advance workers' rights and welfare. The Act amended critical provisions of the Labor Code on registration requirements, the creation of local union chapters, the cancellation of union registration, and the coexistence of workers' unions and supervisors' unions in the same establishment, federation, or national union. The DOLE reported that Republic Act No. 9481 only allowed for the cancellation of union registration in cases of misrepresentation, false statements, or fraud in connection with its organization or elections.⁷⁴ The Act significantly reduced the government's authority to cancel union registrations. Provisions also gave unions the right to "non-disclosure" of their membership during election certification proceedings. Labor experts reported that in the past, the requirement for disclosure of candidates provided an impetus for employers to bribe, coerce, and harass workers running in elections.⁷⁵ However, the International Trade Union Confederation (ITUC) reported that in 2012, unions still needed to submit the names of all potential members in order to obtain recognition.⁷⁶

In 2009, the ILO reported that although Republic Act No. 9481 of 2007 sought to do away with the requirement that unions represent at least 20 percent workers in order to gain recognition, Section 234(c) of the Labor Code still required that unions seeking to register independently represent at least 20 percent of the workers in a private enterprise.⁷⁷ It should be noted that the Supreme Court of the Philippines has ruled that failing to reach the 20 percent requirement shall not be considered grounds for denying certification elections, which are the main grounds for union registration. The ITUC reported in 2011 that the 20 percent threshold impeded and often precluded the registration of trade unions.⁷⁸ Verité follows the commentary of the ILO in expressing concern at the existence of the 20 percent requirement in law, as its existence carried the potential to be an overly-restrictive barrier to freedom of association in the Philippines, even if it was not being applied in an overly-restrictive manner in practice.

⁷³ International Trade Union Confederation. Annual Survey of Violations of Trade Union Rights 2014: Philippines. February 18, 2014. <http://survey.ituc-csi.org/Philippines.html#tabs-2>

⁷⁴ Government of the Republic of the Philippines. Republic Act 9481. http://www.lawphil.net/statutes/repacts/ra2007/ra_9481_2007.html

⁷⁵ Government of the Republic of the Philippines. Republic Act 9481.

⁷⁶ International Trade Union Confederation. Annual Survey of Violations of Trade Union Rights 2012: Philippines. <http://survey.ituc-csi.org/Philippines.html?edition=336#tabs-1> (accessed February 2013).

⁷⁷ International Trade Union Confederation. Annual Survey of Violations of Trade Union Rights 2011: Philippines. <http://survey.ituc-csi.org/Philippines.html#> (accessed July 22 2011).

International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Individual Observation concerning Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1953) Philippines. 2009.

<http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=10610&chapter=6&query=Philippines%40ref&highlight=&querytype=bool&context=0>

⁷⁸ International Trade Union Confederation. Annual Survey of Violations of Trade Union Rights 2011: Philippines.

Human Security Act

The Human Security Act (HSA), previously referred to as the “Anti-Terrorism Bill,” was passed into law in February 2007. In-country labor experts reported that this law undermined freedom of association, assembly, and movement by vaguely defining terrorism and allowing the government to arrest and detain persons suspected of terrorism without warrants. Under the Act, Philippine citizens, including labor leaders, could be subjected to surveillance and wiretapping, detention and interrogation, and the freezing of bank accounts and other assets on the mere suspicion that they were members of a terrorist organization. The Act classified a wide range of crimes as terrorist acts if they were committed to “create a condition of widespread and extraordinary fear and panic among the populace, in order to coerce the government to give in to an unlawful demand.” Mandatory prison sentences were set at 40 years without the possibility of parole for terrorism or conspiracy to commit terrorism, and heavy penalties were also set for lesser crimes. The ITUC reported that trade unionists and human rights organizations had expressed concern that the excessively broad language in the law made abuse by local police and judicial authorities possible.⁷⁹ Some labor leaders considered that the HSA could both legalize and aggravate crackdowns on government critics labeled as communists or terrorists, leading to an increase in violations of constitutional rights and extrajudicial killings.⁸⁰ The ILO judged that the vague definition for terrorism in the HSA could justify the suppression of legitimate trade union activities and extrajudicial killings of those exercising their union rights.⁸¹

Labor Code

Labor unions were not restricted from forming or joining international federations of labor unions. However, unions must receive the approval of the Secretary of Labor in order to do so.⁸² The Secretary of Labor must also approve foreign funding of unions as well.⁸³

The Labor Code offered protection against anti-union discrimination and business interference in the establishment, functioning, and administration of labor unions. A 2008 Supreme Court ruling on certification elections explicitly prohibited employers from interfering with or opposing a union’s certification election process in any way, including filing a motion to dismiss election results or making allegations that some workers were ineligible to vote.⁸⁴ However, a member of the Philippines’ House of Representatives claimed

⁷⁹ International Trade Union Confederation. Annual Survey of Violations of Trade Union Rights 2011: Philippines. <http://survey.ituc-csi.org/Philippines.html#tabs-4> (accessed March 29, 2012)

⁸⁰ International Trade Union Confederation. Human Security Act, Violates Human Rights; CTUHR, KMU, NAFLU petitioned the Supreme Court to Nullify. http://www.ctuhr.org/index.php?option=com_content&task=view&id=95&Itemid=36

⁸¹ International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Individual Observation concerning Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1953) Philippines. 2009. <http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=10610&chapter=6&query=Philippines%40ref&highlight=&querytype=bool&cont ext=0>

⁸² International Trade Union Confederation. Annual Survey of Violations of Trade Union Rights 2012: Philippines. <http://survey.ituc-csi.org/Philippines.html?edition=336#tabs-1> (accessed February 2013).

⁸³ International Trade Union Confederation. Survey of Violations of Trade Union Rights: Philippines. 2011.

⁸⁴ Government of the Republic of the Philippines. Supreme Court Decision. G.R. No. 160352, 23 July 2008. Republic of the Philippines, by Department of Labor and Employment (DOLE), PETITIONER, vs. Kawashima Textile Mfg., Philippines, Inc., RESPONDENT. <http://www.supremecourt.gov.ph/news/courtnews%20flash/2006/07/07130601.php>.

that penalties for anti-union discrimination and business interference in union affairs were too low to be dissuasive.⁸⁵ The law prohibited the falsification of company bankruptcy in order to deny worker rights.⁸⁶

Anti-union discrimination in hiring or dismissal was illegal and subject to civil and criminal penalties. The U.S. Department of State reported that the government had the power to revoke worker terminations, but only in cases in which they could lead “to a serious labor dispute or mass layoff.”⁸⁷ Under the Labor Code, an illegally dismissed worker must be reinstated without loss of seniority rights or other privileges and receive full back wages.⁸⁸ Penalties for violating freedom of association and collective bargaining laws, including discrimination based on involvement in union activities, ranged from three months to three years imprisonment and fines of PHP 1,000 to 10,000 (USD 22 – 220). According to the U.S. Department of State, these penalties were not severe enough to be dissuasive.⁸⁹

Department of Labor DO18-A

The DOLE’s Department Order 18-A of 2011, written to strengthen the Labor Code as amended by Republic Act No. 6715, outlined the parameters of contractual arrangements between public or private companies and labor contractors. The Order differentiated between legitimate and non-legitimate contractors and set requirements for contractors to be considered legitimate, including that they must provide non-regular workers with benefits and allow them to organize and engage in collective bargaining.

The Constitution required the government to guarantee workers’ right to collective bargaining. The ILO noted some undue restrictions on the right to collective bargaining for non-essential state employees.⁹⁰ The Labor Code required that employers engage in collective bargaining with unions that represent the majority of workers. However, only regular workers were legally permitted to engage in collective bargaining.⁹¹ Public sector workers had limited bargaining rights. They could only file complaints with the Civil Service Commission, which was created in order to settle disputes between public sector workers and their employers,⁹² and there were a number of topics that were nonnegotiable, including healthcare and retirement benefits, promotions, compensation, and disciplinary action.⁹³

Department of Labor DO 40-I-15

In 2015, the DOLE issued Department Order No. 40-I-15 series of 2015, which established a system through which a union may request a certification as the Sole and Exclusive Bargaining Agent (SEBA) if it is the only

⁸⁵ Government of the Republic of the Philippines. House of Representatives. House Bill No. 1598. http://www.congress.gov.ph/download/comms_related_15/hb01598.pdf (accessed August 3, 2011).

⁸⁶ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2013: Philippines. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#section7> (Accessed June 2014).

⁸⁷ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2013:

⁸⁸ Government of the Republic of the Philippines. Department of Labor and Employment. Labor Code, as amended. Article 279, as amended by Section 34, Republic Act No. 6715, March 21, 1989. http://www.dole.gov.ph/labor_codes/view/7

⁸⁹ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016. <http://www.state.gov/documents/organization/253005.pdf>.

⁹⁰ International Labour Organization. Committee of Experts on the Application of Conventions and Recommendations. Convention No. 98: Individual Observation. http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3256740:NO.

⁹¹ Macaraya, Bach M., The Philippines: Workers’ Protection in a New Employment Relationship. <http://www.ilo.org/public/english/dialogue/ifpdial/downloads/wpnr/philippines.pdf> (accessed August 16, 2010).

⁹² International Trade Union Confederation. Internationally Recognized Core Labor Standards In Philippines: Report for the WTO General Council. March 2012. http://www.ituc-csi.org/IMG/pdf/new_final_philippines_tpr_2012.pdf (accessed February 2013).

⁹³ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016.

union within an employer unit and has a majority of the total number of employees in the bargaining unit.⁹⁴ Verité interviews with in-country experts revealed that the new system held the promise of facilitating the certification of unions as SEBAs.

The Constitution required that the government guarantee the right to strike in accordance with the law. Strikes in the private sector were legal but were subject to procedural restrictions, including the requirement to file a notice with the DOLE's National Conciliation and Mediation Board (NCMB).⁹⁵ Public sector workers were prohibited from striking,⁹⁶ and government workers who joined strikes, legal or illegal, were subject to automatic dismissal.⁹⁷

Verité's research and interviews with in-country labor experts indicated that there were significant restrictions on workers' right to strike. Verité research found that Philippine legislation contained overly strict pre-strike requirements. The law required that a strike be approved by a majority of union members in a bargaining unit and set mandatory cooling-off periods of 30 working days for bargaining deadlocks and 15 working days in cases of unfair labor practices. In addition, strikes could only be called over economic issues or unfair labor practices legally defined as extreme.⁹⁸ According to the U.S. Department of State, strikes or lockouts could only be initiated for acts of unfair labor practice, gross violations of collective bargaining laws, or a collective bargaining deadlock.⁹⁹

Certain provisions made conducting a legal strike in the Philippines difficult, including a provision allowing strikes to be declared unlawful if unnecessary and obscene language or epithets were used to discourage or prevent other willing workers from going to work.¹⁰⁰ Verité's confidential interviews indicate that 'unnecessary and obscene language' was an overly broad restriction and could be used to suppress legitimate strike activity.

The ILO criticized disproportionate sanctions for participation in illegal strikes contained in the Labor and Penal Codes, including dismissal of trade union officers and imprisonment for up to three years under sections 264(a) and 272(a) of the Labor Code.¹⁰¹ The U.S. Department of State reported that no workers charged with participation in illegal strikes had been convicted in 2013.¹⁰² However, the existence of the law was an issue of concern under Verité's methodology.

⁹⁴ Government of the Republic of the Philippines. Department of Labor and Employment. Department Order No. 40-I-15 Series of 2015. September 7, 2015. <http://www.blr.dole.gov.ph/issuances-section>.

⁹⁵ Government of the Republic of the Philippines. Labor Code, as amended. May 1974. http://www.dole.gov.ph/labor_codes (Accessed June 3, 2015)

⁹⁶ International Trade Union Confederation. Internationally Recognized Core Labor Standards In Philippines: Report for the WTO General Council. March 2012. http://www.ituc-csi.org/IMG/pdf/new_final_philippines_tpr_2012.pdf (accessed February 2013).

⁹⁷ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2011: Philippines. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> (Accessed February 1 2013).

⁹⁸ International Trade Union Confederation. Internationally Recognized Core Labor Standards In Philippines: Report for the WTO General Council. March 2012.

⁹⁹ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. 2013 Country Reports on Human Rights Practices. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>

¹⁰⁰ See *United Seamen's Union vs. Davao Ship owners Association* 20 SCRA 1226, *Filipino Employees vs. Nestle, SUPRA* for further information. Ramon R. Manalac. *Philippine Labor Laws and Jurisprudence* (sixth edition). Academic Publishing Corporation: 2003.

¹⁰¹ International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Convention No. 87: Individual Observation. 2006. http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3256740:NO.

¹⁰² U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2013: Philippines.

Department of Labor AO 291

In September 2007, the DOLE released Administrative Order 291, which provided instructions on the Secretary of Labor and Employment's jurisdiction and role in voluntary arbitration procedures. Union representatives reported a variety of concerns with the power of the DOLE to assume jurisdiction over labor disputes. Whereas well-established union federations were concerned with the broad definition of "national interest" and the essential services in which the Secretary may intervene, other unions reported that they welcomed the intervention of the Secretary on behalf of workers in small- and medium-sized enterprises where workers had little or no bargaining power.

Department of Labor DO 40-G-03

In February 2011, the DOLE issued additional operational guidelines for Department Order No. 40-G-03, Series of 2010 with respect to the implementation of Articles 263, 264, and 265 of the Labor Code pertaining to disputes likely to cause a strike or lockout in an industry indispensable to the national interest. The guidelines empower the Office of the Secretary to set up an Inter-agency Coordinating and Monitoring Committee (ICMC) and to develop tripartite social accords to govern the conduct of all parties involved in labor disputes. The guidelines limited the authority of public officials and workers in areas around strikes and picket lines, and included guidelines for the Philippine National Police peace-keeping team during a strike. Under the Order, no searches or arrests shall be made without a valid warrant, and the DOLE shall be notified within 24 hours of an arrest.¹⁰³ In May 2012, the DOLE, the Department of Interior and Local Government (DILG), the Department of Justice (DOJ), the Department of National Defense (DND), the Armed Forces of the Philippines (AFP), and the Philippines National Police (PNP) signed guidelines on respect for workers' rights, which defined the roles of each department in labor disputes.

In 2013, strike regulations were amended to explicitly specify the industries vital to national interest, a list that included the hospital sector, electric power industry, water supply services (excluding small bottle suppliers), and air traffic control. This list could be expended on the recommendation of the National Tripartite Industrial Peace Council.¹⁰⁴ In 2014, the U.S. Department of State observed that labor rights advocates continued to criticize the government for maintaining definitions of jurisdiction in the national interest that were broader than international standards.¹⁰⁵

The Secretary of Labor and Employment was accorded broad jurisdiction to intervene in labor disputes in industries deemed vital to national interest, and the Secretary of Labor was given the power to impose compulsory arbitration or order workers back to work under section 263(g) of the Labor Code. The wide latitude given to the Secretary of Labor to assume jurisdiction over labor disputes made it relatively easy to declare a strike illegal. Previously, the lack of specificity regarding which industries or firms were "indispensable to national interest" opened the possibility of undue government interference, thereby restricting the right to strike. Invoking the national interest, the Secretary or the President of the Philippines could assume jurisdiction over a labor dispute. Once the Secretary of Labor or the President assumed jurisdiction, it was unlawful for employees to strike, according to Article 264 of the amended Labor Code.¹⁰⁶

¹⁰³ Government of the Republic of the Philippines. Department of Labor and Employment. Operational Guidelines of Department Order No. 40-G-03, Series of 2010 dated 24 February 2011.

¹⁰⁴ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2013. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#section7> (Accessed June 2014).

¹⁰⁵ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2014. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper> (Accessed June 3, 2015)

¹⁰⁶ See *Telefunken Conductors Employees Union vs. Court of Appeals*, 18 December 2000, for further information. http://sc.judiciary.gov.ph/jurisprudence/2000/dec2000/143013_14.htm

Forced Labor

General legal provisions against forced labor were included in the Constitution of the Philippines. Slavery and forced labor were prohibited under Articles 272 and 274 of the Revised Penal Code. According to the ILO, the Penal Code established prison sentences and fines for forcing individuals to work through debt bondage or under the threat of violence.¹⁰⁷ According to the U.S. Department of State, penalties for perpetrators of forced or compulsory labor included prison sentences of 20 years to life, and a fine of not less than PHP 1,000,000 pesos (USD 22,300).¹⁰⁸

Republic Act No. 9208

Laws prohibited trafficking in persons and established stiff sentences of up to life imprisonment for those convicted of trafficking.¹⁰⁹ Trafficking for forced labor and slavery was prohibited under Republic Act No. 9208 (Anti-trafficking in Persons Act of 2003), which prohibited the extraction of work or services from any person by means of enticement, violence, intimidation, threat, use of force, coercion, debt-bondage, or deception.¹¹⁰ The Expanded Anti-Trafficking in Persons Act of 2012 extended the definition of human trafficking to cover additional activities, including involuntary debt bondage, and amended the law to include extraterritorial jurisdiction for trafficking.¹¹¹ In 2013, the Government of the Philippines adopted the Domestic Workers Act, which prohibited recruitment agencies from charging recruitment fees to workers.¹¹²

Republic Act No. 9231 or the Special Protection of Children against Child Abuse, Exploitation and Discrimination Act expressly prohibited all forms of slavery and trafficking, debt bondage, and forced labor of children. However, labor experts interviewed by Verité noted that these laws only covered child victims subjected to violence or debt bondage, making it difficult for authorities to prosecute cases of adults subjected to forced labor without the use of trafficking, debt bondage, or violence.

Filipino Labor Code Section 236(g)

Under Section 236(g) of the Filipino Labor Code, the Secretary of Labor and Employment had the authority to require the cessation of labor disputes in industries judged “indispensable to the national interest.” Strikes

¹⁰⁷ International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Individual Direct Request: Forced Labor Convention No. 29. 2009. (accessed June 2010).

¹⁰⁸ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016. <http://www.state.gov/documents/organization/253005.pdf>.

¹⁰⁹ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2007: Philippines. March 2008. <http://www.state.gov/g/drl/rls/hrrpt/2007/100535.htm> (accessed April 2008).

¹¹⁰ Government of Republic of the Philippines. Anti-trafficking in Persons Act of 2003 (Republic Act 9208). http://www.lawphil.net/statutes/repacts/ra2003/ra_9208_2003.html.

¹¹¹ U.S. Department of State. Office to Monitor and Combat Trafficking in Persons. 2014 Trafficking in Persons Report. <http://www.state.gov/documents/organization/226848.pdf>

U.S. Department of State. Office to Monitor and Combat Trafficking in Persons. 2013 Trafficking in Persons Report. <http://www.state.gov/j/tip/rls/tiprpt/countries/2013/215544.htm> (Accessed June, 2014)

¹¹² U.S. Department of State. Office to Monitor and Combat Trafficking in Persons. 2013 Trafficking in Persons Report: Philippines.

connected with such disputes were prohibited and could be punished by imprisonment with compulsory labor.¹¹³ The ILO deemed this provision to be in contravention with ILO Convention 105.¹¹⁴

Filipino Penal Code Section 142

Section 142 of the Philippines' revised Penal Code allowed for imprisonment (involving forced or compulsory labor) for acts of sedition, inciting others to engage in seditious acts, or committing slander against the government. Section 154(1) allowed for imprisonment (involving forced or compulsory labor) publishing information that could put the public order at risk or endanger the state.¹¹⁵ The ILO noted that any forced labor imposed on individuals for expression of political views was in contravention with ILO Convention 105.¹¹⁶

Section 28(1) of the Basic Principles in the Standard Minimum Rules on the Treatment of Prisoners stated that, "No prisoner shall be employed, in the service of the institution, in any disciplinary capacity." However, under section 1727 of the revised Administrative Code, prisoners may be compelled to work and Verité's research in the Philippines did not find definitive evidence that legal regulations on the work of prisoners for private entities in the Philippines were sufficiently articulated so as (a) to provide a clear prohibition on the hiring of prisoners to private entities, and (b) to require that prison labor be voluntary and that conditions approximate those of a free-labor relationship, as required by ILO Convention 29. Furthermore, Verité's research determined that potential violations of the above-stated principles in the Philippines could arise due to agreements between the government and private companies on the use of prison land, facilities, and inmates. The ILO requested clarification from the government of the Philippines on the provisions governing this work, including guarantees that workers were not placed at the disposal of private entities.¹¹⁷

Child Labor

The Labor Code set the minimum working age at 15. However, the ILO reported in 2010 that the minimum age provision did not appear to apply to children employed in the agricultural sector.¹¹⁸ Penalties for violations of child labor law ranged from PHP 10,000 to PHP 5,000,000 (USD 220 to USD 111,500), which were deemed insufficiently dissuasive by the U.S. Department of State in 2016.¹¹⁹

Children under the age of 15 were permitted to work for their parents, provided that the employment took place in areas in which only family members were working and did not interfere with schooling, which was

¹¹³ International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Individual Observation concerning Abolition of Forced Labour Convention, 1957 (No. 105) Philippines (ratification: 1960. 2008.) <http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=10086&chapter=6&query=Philippines%40ref&highlight=&querytype=bool&cont ext=0>

¹¹⁴ International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Individual Observation: Convention No. 105. 2006.

¹¹⁵ International Trade Union Confederation. Internationally Recognized Core Labor Standards In Philippines: Report for the WTO General Council. March 2012. http://www.itucsi.org/IMG/pdf/new_final_philippines_tpr_2012.pdf (accessed February 2013).

¹¹⁶ International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Individual Observation: Convention No. 105. 2006.

International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Individual Observation concerning Abolition of Forced Labour Convention, 1957 (No. 105) Philippines (ratification: 1960). 2008.

¹¹⁷ International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations.

¹¹⁸ International Labour Organization. CEACR: Individual Observation concerning Minimum Age Convention No 138. Submitted 2010 <http://www.ilo.org/ilolex/english/newcountryframeE.htm> (accessed June 2010).

¹¹⁹ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016. <http://www.state.gov/documents/organization/253005.pdf>.

compulsory for children between the ages of six and 12.¹²⁰ Children below age 15 could not work more than 20 hours per week or four hours per day. They were not allowed to work between 8:00 PM and 6:00 AM. Workers between 15 and 17 years of age could not work more than 40 hours per week or eight hours per day, or between the hours of 10:00 PM and 6:00 AM. Section 107 of the Child and Youth Welfare Code permitted children under the age of 16 to engage in light work. A definition of light work was not provided in the law, and it appeared that there was no light work restriction for children under the age of 13.¹²¹

In 2012, new legislation on domestic workers specifically prohibited the employment of children under the age of 15 in domestic work, required that all domestic workers under 18 be allowed to complete their education, and mandated that minimum wages be extended to them.¹²²

The Labor Code specified that juveniles under the age of 18 shall not be employed in work deemed hazardous or deleterious by the Secretary of Labor and Employment. The Department of Labor and Employment (DOLE) defined categories of hazardous work in 1999, and these categories complied with ILO Convention 182.

Child Labor Legislation

In December 2003, the Philippines adopted new legislation that strengthened protections against the worst forms of child labor.¹²³ The law strictly regulated the employment of working children, fully prohibited the employment of children in the worst forms of child labor, established a trust fund for child laborers, provided stricter penalties for the violation of laws protecting children from all forms of abuse, cruelty, neglect, exploitation, and discrimination, and provided some intervention mechanisms. To further clarify the application of this law, in 2016, the DOLE issued guidelines on determining what constituted hazardous work for minors below 18.¹²⁴

Acts 9231 and 9208 of 2003 prohibited the recruitment of children for participation in armed conflicts. The enslavement and forced labor of children were prohibited under Articles 272 and 274 of the Revised Penal Code. Republic Act 9231 or the Special Protection of Children against Child Abuse, Exploitation and Discrimination Act, expressly prohibited the worst forms of child labor, including all forms of slavery and trafficking of children, debt bondage, and forced labor. The act prohibited the use of minors in prostitution, drug smuggling, and occupations harmful to their physical or psychological wellbeing. The act specifically forbade the employment of children in work performed underground, underwater, or at dangerous heights; or work involving the manufacture or handling of explosives and other pyrotechnic products. In November 2010, the DOLE issued Department Circular No. 3, which provided guidelines for the closure of establishments for violating Republic Act 9231. Under the circular, a business that violated the act more than three times could be closed by the Labor Secretary or DOLE. Prior notice and a hearing were required

¹²⁰ International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Direct Request: Convention No. 138. 2006.

¹²¹ International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Direct Request: Convention No. 138. 2006.

¹²² U.S. Department of Labor. Bureau of International Labor Affairs. 2012 Findings on the Worst Forms of Child Labor: Philippines. <http://www.dol.gov/ilab/reports/child-labor/philippines.htm> (Accessed June, 2014).

¹²³ Government of the Republic of the Philippines. The Republic Act 9231 (An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child).

¹²⁴ Government of the Republic of the Philippines. Department of Labor and Employment. Guidelines in Assessing and Determining Hazardous Work in the Employment of Persons Below 18 Years of Age. February 15, 2016. [http://www.dole.gov.ph/files/Dept%20Order%20No_%20149-2016\(1\).pdf](http://www.dole.gov.ph/files/Dept%20Order%20No_%20149-2016(1).pdf).

before closure except in cases of death, serious injury, or imminent danger to children.¹²⁵ The Expanded Anti-Trafficking in Persons Act of 2012 extended the definition of human trafficking to cover additional activities and amended the law to include extraterritorial jurisdiction for trafficking. The government updated the list of hazardous activities for children in 2013.¹²⁶

In 2003, the Philippine Government passed a resolution to prohibit children from becoming members of armies or armed opposition groups. In 2013, the President of the Philippines issued an executive order creating an improved monitoring system for children involved in the armed conflict.¹²⁷

Equality and Non-Discrimination

Philippine law and the Constitution prohibited discrimination in employment on the basis of sex, race, creed, cultural extraction, HIV/AIDS status, or disability.¹²⁸ In 2016, the U.S. Department of State reported that the law did not protect against employment discrimination based on political opinion, national origin, gender identity, sexual orientation, or social origin.¹²⁹

Magna Carta for Women

The Magna Carta for Women (MCW) law, enacted in 2009, protected women from “discrimination and from violations of their rights by private corporations and individuals.”¹³⁰ It also promoted increased representation of women in local government and recognition of all women’s rights protected by international treaties ratified by the Philippines.¹³¹ The law established the Philippine Commission on Women (PCW), which was charged with overseeing the implementation of the law. In 2012, the Senate passed the “Anti-discrimination against Women on Account of Sex Act,” which penalized employers with fines and jail time for gender-based discrimination in hiring, promotions, or dismissals.¹³²

Labor Code Article 130

Article 130 of the Labor Code previously prohibited women from working at night, which Verité considered a deficiency in a woman’s right to choose her place and time of work. However, in June 2011, Republic Act No. 10151 was passed, effectively repealing Articles 130 and 131 of the Labor Code, and providing specific guidance on women’s night work.¹³³

¹²⁵ Aning, Jerome. “Rules issued on closing firms using child labor.” Philippine Daily Inquirer. November 8, 2009. <http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20091108-234932/Rules-issued-on-closing-firms-using-child-labor>.

¹²⁶ U.S. Department of Labor. Bureau of International Labor Affairs. International Child Labor Program. 2013 Findings on the Worst Forms of Child Labor. <http://www.dol.gov/ilab/reports/child-labor/findings/2013TDA/philippines.pdf>

¹²⁷ U.S. Department of Labor. Bureau of International Labor Affairs. International Child Labor Program. 2013 Findings on the Worst Forms of Child Labor.

¹²⁸ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016. <http://www.state.gov/documents/organization/253005.pdf>.

¹²⁹ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016.

¹³⁰ International Trade Union Confederation. Internationally Recognized Core Labor Standards In Philippines: Report for the WTO General Council. March 2012. http://www.itucsi.org/IMG/pdf/new_final_philippines_tpr_2012.pdf (accessed February 2013).

¹³¹ Human Rights Watch. 2009 Annual Report: Philippines. <http://www.hrw.org/en/node/87400>

¹³² Shiolo Mendoza. “Senate Oks bill against women’s discrimination in the workplace.” Yahoo!SoutheastAsia Newsroom, March 13, 2012. <https://ph.news.yahoo.com/senate-oks-bill-against-women-s-discrimination-in-the-workplace.html> (Accessed July 18, 2014).

¹³³ Congress of the Philippines. Republic Act 10151.

Presidential Decree 442 Article 135

Article 135 of Presidential Decree 442 defined unequal remuneration in wages or benefits for work of equal value as an act of discrimination against women. According to the ILO, while the Philippines' Labor Code provided for equal remuneration for men and women "for work of equal value whether the work or tasks are the same or of a different nature," provisions governing Republic Act No. 6725 of 1989 narrowed work of equal value to "activities, jobs, tasks, duties or services ... which are identical or substantially identical."¹³⁴ In 2011, the ILO noted that the government had taken little effort to amend legislation to guarantee equal remuneration for work "that is of a different nature but nevertheless of equal value."¹³⁵ The Labor Code also prohibited employers from firing pregnant women or refusing to hire women for fear that they would become pregnant.¹³⁶

Indigenous Peoples' Rights Act (IPRA)

The Philippines had some legal protections against non-gender-based discrimination. The Indigenous Peoples' Rights Act (IPRA) 8371 of 1997 and its Implementing Rules required that businesses hire members of indigenous groups in proportion to their share of the population.¹³⁷ In 2011, the Philippines government passed a law forming the National Commission on Muslim Filipinos, a seven-member cabinet-level group (one of whom must be a woman) tasked with promoting the rights of Muslim citizens.¹³⁸

There were no federal prohibitions on discrimination against lesbian, gay, bisexual, and transgendered (LGBT) persons in the Philippines.¹³⁹ However, discrimination based on sexual orientation was outlawed in Quezon City in 2003.¹⁴⁰ In 2012, Cebu passed a law prohibiting discrimination against LGBT individuals, and in February 2013, the city of Angeles passed the Anti-Discrimination Ordinance (Prohibiting Any Acts of Discrimination within the City of Angeles on the Basis of Sexual Orientation and Gender Identity).¹⁴¹ In 2016, the U.S. Department of State noted that 10 cities or municipalities had some form of anti-discrimination ordinance protecting LGBTQ rights.¹⁴²

¹³⁴ International Labor Organization. CEACR: Individual Observation concerning Equal Remuneration Convention No. 100. Submitted 2009. (accessed June 2010).

¹³⁵ International Labour Organization CEACR, Individual Observation Concerning Equal Remuneration Convention, 1951. (No. 100) Philippines (ratification: 1953) Published 2011. <http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloilc&document=381&chapter=3&query=%23subject%3D04%40ref%2B%23YEAR%3D2011&highlight=&querytype=bool&context=0>

¹³⁶ Government of the Republic of the Philippines. Department of Labor and Employment. Labor Code, as amended. Article 137. May 1974. http://www.dole.gov.ph/labor_codes

¹³⁷ International Labour Organization. CEACR: Individual Direct Request Concerning Discrimination (Employment and Occupation) Convention No. 111. Submitted 2009 (accessed June 2010).

¹³⁸ Minority Rights Group International, State of the World's Minorities and Indigenous Peoples 2011 - The Philippines, 6 July 2011, available at: <http://www.unhcr.org/refworld/docid/4e16d35d6e.html> (accessed 6 March 2013)

¹³⁹ International Trade Union Confederation. Internationally Recognized Core Labor Standards In Philippines: Report for the WTO General Council. March 2012. http://www.itucsi.org/IMG/pdf/new_final_philippines_tpr_2012.pdf

U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2011: Philippines. 2012. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>

¹⁴⁰ Pascual, Patrick. "Envisioning Quezon City as a gay capital just like San Francisco." Yahoo! News Philippines, November 27, 2013. <https://ph.news.yahoo.com/blogs/the-inbox/envisioning-quezon-city-gay-capital-just-san-francisco-065233825.html>

¹⁴¹ Leach, Anna. "Angeles in the Philippines bans discrimination against LGBT people." Gay Star News. February 20, 2013. <http://www.gaystarnews.com/article/angeles-philippines-bans-discrimination-against-lgbt-people200213#sthash.BKoSIB5f.dpuf>

¹⁴² U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016. <http://www.state.gov/documents/organization/253005.pdf>.

Philippine law explicitly prohibited compulsory HIV testing as a precondition to employment.¹⁴³

Government agencies and publicly-owned corporations were required to reserve one percent of staff positions for disabled people.¹⁴⁴

Conditions of Work

Minimum Wage

The Labor Code of the Philippines specified that Regional Tripartite Wage and Productivity Boards (RTWPB) shall set regional minimum wages. However, it should be noted that the minimum wage laws exempt employers with fewer than 10 employees – estimated at 80 percent of the country’s enterprises – from having to pay the legal minimum wage. In addition, the Labor Code enables employers to hire workers as apprentices and pay them only 75 percent of the legal minimum wage; and there is evidence that this provision is abused. These legal provisions significantly weaken minimum wage protections. Regionally-determined wage orders could be appealed through a national body, the National Wages and Productivity Commission (NWPC). Regional wage board orders covered all private sector workers.¹⁴⁵ Minimum wage rates differed between sectors. The Department of Labor and Employment (DOLE), through the NWPC, implemented a two-tiered wage system (TTWS) that introduced a mandatory regional minimum wage and a productivity-based payment system. These dual systems were created to protect vulnerable workers and to promote productivity. For establishments employing fewer than ten workers, lower minimum wage rates applied.¹⁴⁶ According to the U.S. Department of State, the law established fines of a maximum of PHP 25,000 (USD 530) and, or, prison sentences of one to two years.¹⁴⁷

Minimum wages ranged from PHP 220 (USD 4.90) per day in Ilocos’ agricultural sector to PHP 462 (USD 10.32) per day for non-agricultural work in the national capital in 2013.¹⁴⁸ Minimum wage rates were raised in eight of 17 regions in 2015.¹⁴⁹ In 2012, the Philippines extended minimum wage coverage to domestic workers and required employers of domestic workers to contribute to social security.¹⁵⁰ The minimum wage for domestic workers in 2015 was PHP 2,000 (USD 44.61) or 1,500 (USD 33.46) per month, depending on

¹⁴³ Government of the Republic of the Philippines. Republic Act No. 8504. The Philippines AIDS Prevention and Control Act of 1998. <http://hivhealthclearinghouse.unesco.org/library/documents/philippine-aids-prevention-and-control-act-1998>

¹⁴⁴ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016. <http://www.state.gov/documents/organization/253005.pdf>.

¹⁴⁵ Government of the Republic of the Philippines. Department of Labor and Employment, Bureau of Labor and Employment Statistics. “Minimum Wage Rates by Sector and Region, Philippines: As of September 2009.” www.bles.dole.gov.ph/Current%20Labor%20Statistics/oct09/Tab21.pdf (last accessed November 2009).

¹⁴⁶ Government of the Republic of the Philippines. Department of Labor and Employment, National Wage and Productivity Commission. SUMMARY OF CURRENT REGIONAL DAILY MINIMUM WAGE RATES, As of January 2012 (In pesos). <http://www.scribd.com/doc/82094984/Summary-of-Current-Regional-Daily-Minimum-Wage-Rates>

¹⁴⁷ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016. <http://www.state.gov/documents/organization/253005.pdf>.

¹⁴⁸ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016.

¹⁴⁹ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016.

¹⁵⁰ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2013: Philippines. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#section7> (Accessed June 2014).

the municipality.¹⁵¹ The U.S. Department of State reported in 2015 that a family of five needed an average of 8,022 (USD 179) per month to avoid poverty.¹⁵²

Certain businesses were exempted from paying the minimum wage. The U.S. Department of State reported that factors leading to such exemptions in 2015 included “financial distress,” sector, size, and whether an enterprise was newly established.¹⁵³ On April 20, 2004, the Department of Finance issued the Guidelines to Implement the Registration of Barangay Micro Business Enterprises and the Availment of Tax Incentives, which allowed exceptions on the payment of the minimum wage for enterprises engaged in production with total assets less than PHP three million (USD 66,540). The law did not define monitoring procedures and did not establish a minimum amount, in lieu of the minimum wage, that this type of employer must pay to workers. According to the U.S. Department of State, the regional wage boards did not allow any wage exemptions during the first half of 2009, but in 2010, they allowed 87 exemptions,¹⁵⁴ in 2013, the government approved nine of 20 applications.¹⁵⁵ Out of 78 applications filed in 2014 and 2015, 63 applications for exemption were approved.¹⁵⁶

Working Hours

Regular work hour limits were set at eight hours per day and 48 hours per week for industrial workers and at 40 hours per week for government workers. A weekly day of rest was mandated for all workers. Provisions against excessive overtime were weak in Philippine law, and the U.S. Department of State reported that there was no legal limit on mandatory overtime.¹⁵⁷ All hours worked in excess of regular working hours must be compensated at an overtime premium of 125 percent for regular overtime, 130 percent on “special nonworking days,” and 200 percent on holidays.¹⁵⁸ According to in-country labor experts interviewed by Verité, while the Labor Code prohibits the compensation of overtime worked on one day with fewer working hours on another day, DOLE rules allow for a “compressed workweek” in which workers may work eight to 12 hours a day without being paid overtime pay. Fines and penalties for violating these laws were not clearly outlined.

Worksite Safety

The Labor Code contained a number of provisions requiring companies to set up and maintain on-site safety committees and health clinics, and authorized the Secretary of Labor and Employment to establish and enforce occupational health and safety standards in order to ensure safe working conditions in all workplaces. The U.S. Department of State reported that the Philippines’ occupational health and safety laws were

¹⁵¹ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016. <http://www.state.gov/documents/organization/253005.pdf>.

¹⁵² U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016.

¹⁵³ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016.

¹⁵⁴ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2010: Philippines. April 8, 2011. <http://www.state.gov/drl/rls/hrrpt/2010/eap/154399.htm> (accessed July 29, 2011). (The 2010 report reads:”

¹⁵⁵ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2013: Philippines. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#section7> (Accessed June 2014).

¹⁵⁶ Government of the Republic of the Philippines. Department of Labor and Employment. National Wages and Productivity Commission. Current Statistics on Wages. <http://www.nwpc.dole.gov.ph/pages/statistics/current.html#how5>.

¹⁵⁷ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016.

¹⁵⁸ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016.

adequate; however, the World Health Organization (WHO) reported that additional policies and laws were required to ensure the health and safety of workers.¹⁵⁹

According to labor law, if an employer fails to comply with labor law that results in an injury or death to a worker, the employer must pay the State Insurance Fund a penalty of 25 percent of the insurance benefits paid out to the worker or their family.¹⁶⁰

According to the U.S. Department of State, the law allows workers to remove themselves from situations that endangered their health or safety without jeopardizing their continued employment.¹⁶¹

2015 and 2016, the Philippines passed new laws strengthening protections for workers' health and safety. In May 2016, the DOLE issued the Revised Rules on Labor Laws Compliance System, which clarified the modes of enforcing health and safety rules by providing additional information on assessments and investigations.¹⁶²

Sexual Harassment

Sexual harassment in employment, education, or training was illegal in hierarchical relationships, according to the Anti-Sexual Harassment Law, Republic Act 7877 of 1995. The law covered workplaces in the public and private sectors. Penalties included imprisonment for one to six months and/or a fine of PHP 10,000 to PHP 20,000 (USD 223 to USD 446).¹⁶³ The law did not address "hostile environment sexual harassment."¹⁶⁴

Contracting

In March 2017, Department Order No 174 set guidelines for contractualization of workers. The order prohibited labor-only contracting where the agency "merely recruits or supplies workers to perform a job or work," where the agency "does not have substantial capital or investment which relates to the job, work or service to be performed." The order also restricts "endo" practices; manpower agencies are banned from continuously hiring workers on short term contracts. Finally, it bans the "cabo" system in which work is subcontracted through a labor group that acts as an agency. DO 174 replaces DO 18.¹⁶⁵

¹⁵⁹ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2010: Philippines. April 8, 2011. <http://www.state.gov/g/drl/rls/hrrpt/2010/eap/154399.htm> (accessed July 29, 2011).

World Health Organization. Regional Office for the Western Pacific. Philippines Country Report. 2007. <http://www.wpro.who.int/NR/rdonlyres/26CC7FD5-E412-4C99-BA13-C24883B501B7/0/PHLcountryprofile.pdf>.

¹⁶⁰ Government of the Republic of the Philippines. Department of Labor and Employment. Book IV – Health, Safety and Social Welfare. Article 200. http://www.dole.gov.ph/labor_codes/view/5

¹⁶¹ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016. <http://www.state.gov/documents/organization/253005.pdf>.

¹⁶² Government of the Republic of the Philippines. Department of Labor and Employment. Department Order No. 131-B Series of 2016. Revised Rules on Labor Laws Compliance System. May 30, 2016. http://www.dole.gov.ph/files/Dept%20Order%20No_%20131-B-16.pdf.

¹⁶³ U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2015: Philippines. 2016. <http://www.state.gov/documents/organization/253005.pdf>.

¹⁶⁴ International Labour Organization. Committee of Experts on the Application of Conventions and Recommendations. Convention No. 111: Direct Request. 2016. http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,PI1110_COUNTRY_ID,PI1110_COUNTRY_NAE,PI1110_COMMENT_YEAR:3254587,102970,Philippines,2015

¹⁶⁵ Pasion, Patty. "Legal' contractualization still allowed in new DOLE order." Rappler. March 16, 2017. <http://www.rappler.com/nation/164366-legal-contractualization-still-allowed-new-dole-order>

Annex V. Philippines Fishing Specific Labor Regulatory Framework

The primary legislative instruments governing labor in the fishing sector in the Philippines are Department Order No. 156-16 Rules and Regulations governing the Working and Living Conditions of Fishers on board Fishing Vessels engaged in Commercial Fishing Regulation (2016); Republic Act No. 10654 amending R.A. No. 885/Philippine Fisheries Code of 1998 (2015); and Philippine Fisheries Code of 1998 (R.A. No. 8550) (1998).

Department Order No 156-16 Rules and Regulations Governing the Working and Living Conditions of Fishers Onboard Fishing Vessels Engaged in Commercial Fishing Regulation (Department Order/DO): The goal of the Department Order was to align the practices and procedures of different government agencies which include the Department of Labor and Education (DOLE), Department of Transportation (DOTC), Department of Agriculture (DA), Maritime Industry Authority (MARINA), Coast Guard (PCG), Bureau of Fisheries and Aquatic Resources (BFAR), and Philippine Fisheries Development Authority (PFDA) protecting the welfare of fishers engaged in commercial fishing.¹⁶⁶ The DO contains provisions that:

- Ensure guaranteed wages for fishing workers. Specifically, it states that fishers in small-scale operations should be paid in a compensation scheme determined to be appropriate by a future study; fishers in medium and large-scale operations should be paid a minimum daily wage not less than the minimum wage provided to workers in the non-agricultural sector. Workers paid under the share system in these ventures should also not be paid less than the minimum wage. Wages should be paid in cash, every 16 days and no less frequently than once a month. Fishers should be provided with a means to transmit earnings to their families. Fishers should be provided with pay-slips that account for all payments, including advances made to family members.
- Standardize benefits, mandated in the existing Labor Code, to be applicable to fishing workers.
- Require issuance of protective legal papers to ensure the safety and security of the fishing workers while performing tasks at sea.
- Vessel owners provide workers with appropriate health and safety gear; implement measures to monitor and improve worker safety; provide first aid equipment; and ensure there is always a means of communication to request medical advice. Masters and captains are required to undergo health and safety training. The vessel owner is responsible for implementing health and safety policies and programs. Fishers should be provided adequate health and safety training and instructions.
- Make the fishing company, the operator of fishing vessel, and financiers liable for the repatriation of fishing workers who are either detained or languishing in foreign territories.
- Fishers should be provided employment agreements with the following information:
 - o Fishers full name, date of birth, sex, address, civil status and SSS, PhilHealth and Pag-Ibig identification numbers
 - o The name of the fishing vessel owner or other party to the agreement with the fisher, including their addresses
 - o Place where and date when the employment agreement is entered into;
 - o Name of the fishing vessel and registration number

¹⁶⁶ Department of Labor and Employment, Philippines. "DOLE Pushes for Protection and Decent Work for Filipino Fishermen." <http://dole12.org/home/index.php/78-slides/310-dole-pushes-for-protection-and-decent-work-for-filipino-fishermen>

Department of Labor and Employment, Philippines. "Gensan Fishing Companies Consulted and Supports Joint Department Order No. 01." June 23, 2015. <http://ro12.dole.gov.ph/default.php?retsamlakygee=621&resource=53c8d15a175221d2127083e66a8cc937>

- Voyages to be undertaken, if known
 - Capacity in which the fisher is to be engaged
 - Place and date where fisher is to report to board
 - Provisions to be supplied
 - Compensation structure including wage, mandatory wage-related benefits, and productivity/performance based pay
 - Hours of work
 - Leave benefits
 - Health and social security benefits
 - Separation and retirement payments and other benefits.
- Fishers are entitled to 10 hours of rest daily and 24 hours after every six consecutive work days, with the exception of emergencies.
 - Accommodation requirements are applicable to large scale commercial fishing operations, but all vessel owners are asked to comply to the degree reasonable. Specific requirements are provided for insulation, temperature, ventilation, lighting, noise, and vibration. Each fisher should have adequate space for sleeping and no more than six people should be lodged in each room. Sanitary facilities should be hygienic and appropriate. Potable water should be provided.

At the time of field investigation (August 2016), the DOLE had organized a town hall meeting to formally launch the DO and to discuss the pertinent provisions in General Santos, however, only a few representatives from the business stakeholders attended. Many major industry players publicly opposed the issuance of the regulations, citing lack of consultation, and have called for the DO's revocation or delayed implementation. Interviews with the DOLE and the labor sector indicate that a series of consultation sessions were conducted by the DOLE with the business sector, over a period of two years. DOLE officials interviewed shared that these meetings were attended by officials and representatives of fishing companies and industry organizations. Labor leaders interviewed also shared that officials of fishing companies were granted the privilege of conducting exclusive and close door meetings with DOLE officials, despite the objections of the labor sector. The labor sector also expressed dissatisfaction with the final version of the DO that was issued, stating that, "concerns and issues raised by the fishing industry were unceremoniously accommodated in the final version..."¹⁶⁷ In November 19, 2016, during the Visayas-Wide Dialogue on DO 156-16 organized by DOLE in Cebu City, the labor sector and fishing operators "clashed" and, to date, implementation of the DO is stalled.¹⁶⁸

Philippine Fisheries Code of 1998 (R.A. No. 8550) (1998) (Fisheries Code): The Fisheries Code aims to provide support to fish workers, with particular attention to municipal fishers. The law also aims to ensure that fishworkers receive a just share for their labor. The Fisheries Code defines "fishworker" as a person regularly or not regularly employed in commercial fishing and related industries, whose income is either earned in wage, profit-sharing, or stratified sharing basis, including those working in fish pens, fish cages, fish corrals/traps, fishponds, prawn farms, sea farms, salt beds, fish ports, fishing boats or trawlers, or fish processing and/or packing plants. Excluded from this category are administrators, security guards, and overseers. This law categorically provides that fishworkers shall be entitled to the privileges accorded to other workers under the Labor Code, Social Security System, and benefits under other laws or social legislation for workers. It also

¹⁶⁷ Email interview with Herbert Demos, APL Secretary General, January 10, 2016.

¹⁶⁸ Baquero, Elias. Fishing industry 'guidelines' opposed by big-time fishers. November 20 2016. <http://www.sunstar.com.ph/cebu/local-news/2016/11/20/fishing-industry-guidelines-opposed-big-time-fishers-510518>

provides that fishworkers on board any fishing vessel¹⁶⁹ engaged in fishing operations are covered by the Philippine Labor Code.¹⁷⁰

Under the law, the type of vessel operated by the fisher does not determine whether he/she is a fishworker. The law only requires that the boat, ship, or other watercraft operated by the fishworker is equipped to be used for taking of fishery species or in assisting one or more vessels in the performance of any activity relating to fishing including, but not limited to, preservation, supply, storage, refrigeration, transportation and/or processing. As such, individuals engaged in handline fishing by commercial vessels or commercial fishing operators in the tuna industry are considered fishworkers under Republic Act 8550.

Hence, fishworkers, as defined under Republic Act 8850 are entitled to certain benefits or privileges (Table 4).

The Fisheries Code regulates the issuance of commercial fishing¹⁷¹ vessel licenses and fishworker licenses for crews and skippers or master fishers. The license issued to large commercial fishing vessels by the Department of Agriculture allows the fishing vessel to operate only in Philippine waters seven or more fathoms deep.¹⁷² However, the law also provides that fishing vessels of Philippine registry may operate in international waters or waters of other countries which allow such fishing operations provided that the fishing vessel secures an international fishing permit and certificate of clearance from the Department of Agriculture. The fish caught by such vessels is considered caught in Philippine waters and therefore is not subject to all import duties and taxes when it is landed in designated fish landings and ports in the Philippines.¹⁷³ The law also clarifies that fishworkers on board Philippine registered fishing vessels conducting fishing activities beyond the Philippine Exclusive Economic Zone are not considered as overseas Filipino workers. As such, the Labor Code of the Philippines governs their terms and conditions of employment.¹⁷⁴

Table 4: Benefits and Privileges of Fishworkers

Benefits and Privileges
<ul style="list-style-type: none"> • Minimum wage¹⁷⁵ or wage increase under the Collective Bargaining Agreement • Holiday pay¹⁷⁶ • Premium pay for work on rest day or special day¹⁷⁷ • Overtime pay¹⁷⁸ • Night Shift Differential pay¹⁷⁹ • Service Incentive Leave pay¹⁸⁰ • Security of Tenure¹⁸¹ • Separation pay¹⁸² • Retirement pay¹⁸³ • 13th month pay¹⁸⁴ • Maternity¹⁸⁵ or Paternity¹⁸⁶ benefits • Employee Compensation Program¹⁸⁷

The Fisheries Code also requires that all fishing vessels shall be provided with adequate medical supplies and life-saving devices to be determined by the Occupational Safety and Health Center. The law also provides that a fishing vessel of 20 GT or more shall have as a member of its crew a person qualified

¹⁶⁹ Any boat, ship or other watercraft equipped to be used for taking of fishery species or aiding or assisting one (1) or more vessels in the performance of any activity relating to fishing, including, but not limited to, preservation, supply, storage, refrigeration, transportation and/or processing. (See Section 4 paragraph 41)

¹⁷⁰ Section 25, Republic Act 8550

¹⁷⁵ Republic Act 6727

¹⁷⁶ Article 94, Labor Code

¹⁷⁷ Article 93, Labor Code

¹⁷⁸ Article 87, Labor Code

¹⁷⁹ Article 86, Labor Code

as a first aider duly certified by the Philippine National Red Cross.¹⁸⁸

Any fishing vessel found to have violated the minimum safety standards shall be prevented from continuing with the fishing activity, and the owner and captain's license to operate the commercial fishing vessel shall be suspended until compliance with the safety standard has been achieved.¹⁸⁹

Handline fishing, as defined under Republic Act 9379, is a traditional fishing method that uses the hook and line, a passive fishing gear with a single vertical line carrying one hook and used by simply dropping the line into the water and waiting for the fish to bite.¹⁹⁰ A handline fishing boat, on the other hand, is defined as a fishing boat with or without an outrigger, and with or without auxiliary small boats on board that exclusively utilize the handline fishing method.

Section 5 of this law provides that handline fishing boats of Philippine registry may operate in international waters or waters of other countries that allow such operations provided that safety and other standards of seaworthiness are complied with and an international fishing permit and certificate of clearance are secured.

The Filipino government ratified the Maritime Labor Convention (MLC) in 2012. This convention promotes decent work for all seafarers and addresses minimum standards regarding work conditions while at sea, conditions of employment, hours of work and rest, repatriation, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection.¹⁹¹ However, fishing vessels are exempt from the provisions of this convention.

In December 2014, the Philippines was granted EU Generalized Scheme of Preference (GSP) Plus privilege, a preferential tariff scheme granted by EU to developing countries that meet specific standards on human and labor rights, environmental sustainability and protection, and good governance. The scheme allows the Philippines to export Philippine products, including tuna, to the EU at zero tariff. With this privilege comes specific reporting requirements and compliance to GSP+ obligations, including the ratification and implementation of international conventions. According to the 2015 report on the Philippines, conducted as part of the EU GSP requirements, the Partnership and Cooperation Agreement between the EU and the Philippines was signed in 2012 and entered into force in 2016. It is meant to be "an institutional opportunity" for the EU and the Philippines to cooperate and engage on the matter of human rights in "a more structured format", and to incentivize efforts on labor rights and environmental protection. To continue enjoying the

¹⁷⁶ Article 94, Labor Code

¹⁷⁷ Article 93, Labor Code

¹⁷⁸ Article 87, Labor Code

¹⁷⁹ Article 86, Labor Code

¹⁸⁰ Article 95, Labor Code

¹⁸¹ Article 279, 282 & 283, Labor Code

¹⁸² Article 283 & 284, Labor Code

¹⁸³ Article 287 of Labor Code as amended by R.A. 7641

¹⁸⁴ P.D. 851

¹⁸⁵ Social Security Law (R.A. 8282)

¹⁸⁶ Republic Act 8187

¹⁸⁷ Presidential Decree 62

¹⁸⁸ Section 37, Republic Act 8550

¹⁸⁹ Section 103, Republic Act 8550

¹⁹⁰ Sec. 3(1), Republic Act 9379.

¹⁹¹ Linda Wirth, Keynote Address, Seminar on the Maritime Labour Convention (MLC 2006), January 15, 2009, http://www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-manila/documents/statement/wcms_124645.pdf

preferential treatment, the country must ensure that workers' rights are respected and that there is no illegal, unreported and unregulated (IUU) fishing, conditions which drove the previous administration (Aquino) to develop Rules and Regulations Governing the Employment and Working Conditions of Fishers Employed in Fishing Vessels Engaged in Commercial Fishing Operation.

The Long Distance Fleet Advisory Council (LDAC), an EU Fisheries stakeholder group co-funded by the European Commission and with the mandate to provide advice on matters pertaining to fisheries agreements with third countries, issued an advisory on the Philippines in May 2016 urging the European Council to monitor the Philippines' performance on compliance with international human rights and labor rights conventions, and made specific mention of the fishing industry.¹⁹²

The EU GSP+ references 27 international conventions on sustainability, human rights, and governance (Table 5).

Table 5: EU GSP+ 27 International Conventions on Sustainability, Human Rights and Governance

Human Rights	Labor	Environmental Protection	Good Governance
<ul style="list-style-type: none"> - Convention on the Prevention and Punishment of the Crime of Genocide (1948) - International Convention on the Elimination of All Forms of Racial Discrimination (1965) - International Covenant on Civil and Political Rights (1966) - International Covenant on Economic, Social and Cultural Rights (1966) - Convention on the Elimination of All Forms of Discrimination Against Women (1979) - Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984) 	<ul style="list-style-type: none"> - Convention concerning Freedom of Association and Protection of the Right to Organize, No. 87 (1948) - Convention concerning Forced or Compulsory Labor, No. 29 (1930) - Convention concerning the Application of the Principles of the Right to Organize and to Bargain Collectively, No. 98 (1949) - Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value, No. 100 (1951) 	<ul style="list-style-type: none"> - Convention on International Trade in Endangered Species of Wild Fauna and Flora (1973) - Montreal Protocol on Substances that Deplete the Ozone Layer (1987) - Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989) - Convention on Biological Diversity (1992) - The United Nations Framework Convention on Climate Change (1992) 	<ul style="list-style-type: none"> - UN Single Convention on Narcotic Drugs (1961) - UN Convention on Psychotropic Substances (1971) - UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) - UN Convention against Corruption (2004)

¹⁹² Long Distance Advisory Council. http://chil.me/download-file/b5eab9f9-8f87-4ba7-ac98-b8e30b439060/draf-advice-gsp2b-12_05_2016en

Human Rights	Labor	Environmental Protection	Good Governance
<ul style="list-style-type: none"> - Convention on the Rights of the Child (1989) 	<ul style="list-style-type: none"> - Convention concerning the Abolition of Forced Labor, No. 105 (1957) - Convention concerning Discrimination in Respect of Employment and Occupation, No. 111 (1958) - Convention concerning Minimum Age for Admission to Employment, No. 138 (1973) - Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, No. 182 (1999) 	<ul style="list-style-type: none"> - Cartagena Protocol on Biosafety (2000) - Stockholm Convention on Persistent Organic Pollutants (2001) - Kyoto Protocol to the United Nations Framework Convention on Climate Change (1998) 	