Understanding and Accessing Rights

Respecting Human Rights in Fishery Value Chains
March 2021
Who We Are: ELEVATE’s Background and Expertise
FisheryProgress: Human Rights and Social Responsibility Policy
What are human rights? Key definitions and international instruments
Respecting human rights: Guidance for businesses
Addressing the challenge: Human rights risks in fishing
Accessing human rights: Supporting worker-led initiatives
Case study examples
Recommended actions + next steps
WHO WE ARE: ELEVATE’S BACKGROUND AND EXPERTISE
We believe in sustainable, balanced and inclusive economic growth. We believe in an economic model that collectively activates business and other stakeholders to improve people’s lives and preserve the planet. This requires a commitment to transparency, visibility and the thoughtful management of risk and performance. It requires a commitment to business driven sustainability.

To achieve this purpose:
We engage, we innovate, we inspire, we ELEVATE ...
WE BUILD SUSTAINABLE PROCUREMENT PROGRAMS

Our portfolio of products and services structured around 4 delivery verticals in a continuous improvement cycle ...

**ANALYTICS**
- Program Trend Reports
- Supply Chain Risk Landscapes
  - Geographic Insight
  - Product Insight
- Online Segmentation
- Worker Engagement

**ASSESSMENT**
- Social Compliance
- Environmental Compliance
- Supply Chain Security
- Building, Fire, Electrical
- Unauthorized Subcontract
- Foreign Migrant Workers
- CAP Management
- **ELEVATE Responsible Sourcing Assessment** is explicitly designed to achieve our purpose and is the centerpiece of our product portfolio

**PROGRAMS**
- Outsourcing
  - Li & Fung
  - Other clients o/s
- Industry Programs
  - Alliance
  - Nirapon
  - IDH etc.
- Client Programs (MCSR)

**CONSULTING**
- Sustainability Consulting
  - Sustainability Strategy
  - Supply Chain Segmentation
  - Supplier Ownership
  - Transparency and Disclosure
- Capacity Building:
  - In-Factory Consulting
  - Worker Engagement
  - Training and eLearning
ELEVATE’S GLOBAL PRESENCE

ELEVATE’s global geographical footprint covers over 600+ staff delivering work in 110 countries.
PARTNERSHIP TO DEVELOP THE SOCIAL RESPONSIBILITY ASSESSMENT (SRA) TOOL

The Social Responsibility Assessment Tool for the Seafood Sector (SRA) is a risk-assessment or benchmarking tool for conducting human rights due diligence in seafood supply chains.

The tool is designed to be used to inform the development of a Fishery Improvement Plan (FIP) workplan. The purpose of this tool is ultimately to improve crew welfare and well-being, but it also provides multiple benefits to other stakeholders by managing risks and diversifying seafood production to ensure global food security needs are met into the future. In this context, the SRA can be applied to:

- Assess risks of social issues
- Uncover critical information gaps
- Identify areas in need of improvement
FISHERY PROGRESS: HUMAN RIGHTS AND SOCIAL RESPONSIBILITY POLICY
Under 1.3, of the Human Rights and Social Responsibility Policy FIPs should undertake best efforts to make fishers aware of their rights.

FIPs must undertake best efforts to make fishers aware of their rights under this policy, including the FisheryProgress Human Rights Code of Conduct, the availability of grievance mechanisms and the FisheryProgress Policy for Allegations of Human Rights Abuses as a venue to report abuses. They must ensure that the information is available to fishers throughout the time that the FIP is active on FisheryProgress.
FISHERYPROGRESS HUMAN RIGHTS CODE OF CONDUCT

Key human rights commitments expected of all FIPs who sign the Code and report on FisheryProgress

- ✔ No discrimination, abuse or harassment
- ✔ No human trafficking or forced labor
- ✔ No child labor
- ✔ Freedom of association and the right to collective bargaining
- ✔ Earnings and benefits are decent, transparent and stable
- ✔ Working hours are not excessive
- ✔ Worker housing and sleeping quarters on vessels are decent
- ✔ Working environment is safe, and there is adequate medical response for workplace injuries
- ✔ Rights and access to resources are respected, fairly allocated, and respectful of collective and indigenous rights
WHAT ARE HUMAN RIGHTS?
DEFINING HUMAN RIGHTS

Human rights are the basic rights and freedoms that are universal – they belong to every person in the world.

- Universal
- Dignity
- Equality
- Respect
- Freedom
- Justice
Distinction between positive and negative rights implies different obligations from the rights-implementer.

**Positive**

“Right To”

**Negative**

“Freedom From”
Human rights theory also defines human rights along individual and collective rights, aligned with the three “generations” of human rights.

### Individual Rights
- **Civil and Political Rights**
  - Right to vote
  - Freedom of assembly
  - Freedom of speech and religion
  - Right to a fair trial
  - Freedom of association

- **Economic, Social, and Cultural Rights**
  - Right to adequate food and housing
  - Right to education
  - Right to health
  - Right to work
  - Right to water and sanitation

### Collective Rights
- **Collective or Group Rights**
  - Right to economic development
  - Right to breathe unpolluted air
  - Right to lands/territories
  - Right to live in a cohesive and harmonious society

Collective or group rights provide for rights at a collective level for communities, populations, societies, or nations.
PROTECTIONS FOR HUMAN RIGHTS

Universal Declaration of Human Rights (UDHR) was adopted in 1948 and set out for the first time the fundamental human rights to be universally protected

Where, after all, do universal human rights begin? In small places, close to home - so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm, or office where he works. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.

Eleanor Roosevelt, 1958
The UDHR includes 30 articles that establish rights and freedoms and includes both civil and political rights as well as economic, social and cultural rights

- Key principles set out in the preamble include the fundamental understanding that all human beings are born free and equal, and that everyone is entitled to these rights no matter their race, religion, sex, language, and nationality. These rights are fundamental and inalienable and indivisible, and establish the right to life, freedom and safety.

- No one can take away any of your rights, and similarly all individuals bear a responsibility to respect the rights of others.
Together with the UDHR, the International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR) compose the International Bill of Human Rights.
## PROTECTIONS FOR LABOR RIGHTS

The International Labour Organization (ILO) Core Conventions establishes key international labor standards

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<thead>
<tr>
<th>Title</th>
<th>Number</th>
<th>Key Focus</th>
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<tbody>
<tr>
<td>Freedom of Association and Protection of the Right to Organise Convention, 1948</td>
<td>No. 87</td>
<td>Outlines rights of both workers and employers to join organisations of their own choosing</td>
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<tr>
<td>Right to Organise and Collective Bargaining Convention, 1949</td>
<td>No. 98</td>
<td>Workers shall enjoy adequate protection against acts of anti-union discrimination</td>
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<tr>
<td>Forced Labour Convention, 1930 + 2014 Protocol</td>
<td>No. 29</td>
<td>Prohibits all forms of forced or compulsory labour; Protocol advances prevention, protection and compensation measures</td>
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<tr>
<td>Abolition of Forced Labour Convention, 1957</td>
<td>No. 105</td>
<td>Prohibits forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views</td>
</tr>
<tr>
<td>Minimum Age Convention, 1973</td>
<td>No. 138</td>
<td>Sets the general minimum age for admission to employment or work at 15 years (13 for light work), 18 for hazardous work</td>
</tr>
<tr>
<td>Worst Forms of Child Labour Convention, 1999</td>
<td>No. 182</td>
<td>Requires ratifying states to eliminate the worst forms of child labour, including all forms of slavery</td>
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<tr>
<td>Equal Remuneration Convention, 1951</td>
<td>No. 100</td>
<td>Establishes the principle of equal remuneration for men and women workers for work of equal value</td>
</tr>
<tr>
<td>Discrimination (Employment and Occupation) Convention, 1958</td>
<td>No. 111</td>
<td>Prohibits any distinction, exclusion or preference made on the basis of race, sex, religion, political opinion, nationality or social origin</td>
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The ILO developed specific standards for the protection of workers in fishing, due to the hazardous nature of work in the sector and a lack of comprehensive standards to address the living / working conditions of fishers.

- The convention establishes international standards for fisheries and binding requirements for working and living conditions for the 40 million workers who are working in fisheries worldwide and who are operating in a highly dangerous and mostly unregulated profession.
UN GUIDING PRINCIPLES (UNGPs): THREE PILLARS

The UNGPs establish expectations for both states and companies on how to prevent and address negative impacts on human rights by businesses. Like human rights themselves, these expectations apply to all states and all businesses.

- **Protect**: State Duty to Protect
- **Respect**: Corporate Responsibility to Respect
- **Remedy**: Victims Access to Effective Remedy
BUSINESS RESPONSIBILITY TO RESPECT HUMAN RIGHTS

Businesses need to have the right policies and processes in place in order to try to prevent negative human rights impacts and to respond appropriately should they occur.

**Commit**
- Public Policy Commitment
  - To respecting human rights

**Embed**
- Integration To Core Operations
  - Includes training, performance and accountability structures

**Assess**
- Human Rights Risk Assessment
  - Assessing potential and actual negative impacts to human rights, individuals and communities

**Act**
- Mitigating Risks
  - Mitigating identified potential negative impacts through prevention and mitigation

**Remediate**
- Grievance Mechanisms
  - Supporting affected persons to raise complaints and have them addressed

**Engage**
- Stakeholder Engagement
  - Informing actions and decisions through meaningful stakeholder engagement

**Communicate**
- Knowledge sharing
  - Communicating efforts to prevent and address human rights risks

**Track**
- Performance Tracking
  - Monitoring KPIs / performance metrics on preventing and mitigating human rights risks

Human Rights-Centered Due Diligence and Risk Management Framework
ADDRESSING THE CHALLENGE: HUMAN RIGHTS RISKS IN FISHING
US CBP takes action against Taiwanese trawler, accusing it of using forced labor

‘Such brutality’: tricked into slavery in the Thai fishing industry

Shoreham Port vows ‘zero tolerance approach’ after slaves rescued from fishing boat

Indonesia condemns abuse of fishermen aboard Chinese boats after release of corpse video

Fish caught by Taiwan-flagged boats deemed products of forced labor

Why are Indonesian fishing crews dying?

More than 2,000 enslaved fishermen rescued in 6 months

‘Sea Slaves’: The Human Misery That Feeds Pets and Livestock

Men who have fished at sea have lived in captivity, in modern-day slavery, and endure relentless beatings and abuse.

More than 2,000 enslaved fishermen have been rescued this year from brutal conditions at sea, liberating them as a result of an Associated Press investigation into seafood brought to the U.S. from a slave island in eastern Indonesia.

Exclusive: Thailand found failing to log fishermen’s complaints of abuse and slavery
HUMAN RIGHTS RISK DRIVERS IN THE FISHING INDUSTRY

Underlying drivers and structural challenges heighten the scope, scale and severity of human rights risks

**Illegal, Unreported and Unregulated (IUU) Fishing**

- IUU fishing is linked to both negative environmental impacts and human rights abuses and labor violations
  - Improving traceability allows companies to identify and start to address risks associated with IUU fishing, including compliance with environmental and labor regulations, and identifying human rights risks

**Flags of Convenience (FOCs)**

- FOCs exacerbate lack of transparency in the industry, making laws difficult to enforce
  - FOCs permit a system of a lack of accountability to persist as it makes identifying and sanctioning fishing vessels and their owners difficult – effectively removing any consequences for egregious human rights or labor violations

**Transshipment**

- Transshipment permits longer stretches at sea, making it difficult to identify and address issues of forced labor
  - Extended time at sea places already vulnerable workers at much higher risks of human rights and labor rights violations and effectively cut them off from key lifelines / grievance channels

**Migrant Workers**

- Migrant laborers provide a source of low-cost labor for an industry that faces increasing cost-pressures
  - Migrant workers face a high inherent risk of forced labor and debt bondage due to the recruitment process, in which they often have to pay excessive fees to secure contracts
ACCESSING HUMAN RIGHTS: SUPPORTING WORKER-LED EFFORTS
## FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

Legal trade unions provide a key channel for worker voice and through collective bargaining can ensure improved working conditions and prevent labor exploitation.

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<th>Address Power Imbalances</th>
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<td>Workers are able to collectively bargain with employers, creating a more balanced power structure in the workplace</td>
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<tr>
<td>+ By addressing these power imbalances, workers will gain voice and no longer remain silent when it comes to raising issues without fear of retaliation</td>
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<td>+ By reporting issues regularly, and often, forced labor can be prevented by helping management address issues early on</td>
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<th>Collective Bargaining</th>
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<td>Raising worker issues through a union allows employers to address issues affecting a large group</td>
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<tr>
<td>+ Workers feel safer in numbers and are less likely to be retaliated against if they raise issues as a group</td>
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<tr>
<td>+ Collective bargaining and addressing group issues benefits employers since internal channels are not overwhelmed by numerous individual issues related to the same topic</td>
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<th>Direct Resolution</th>
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<td>Collective bargaining supports addressing issues directly and may not require escalation beyond the workplace</td>
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<tr>
<td>+ Establishing a balanced and trusting relationship between trade unions and employers provides an effective mechanism for addressing labor rights issues immediately and directly, with escalation to external bodies only required in extreme circumstances</td>
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<th>Advocacy</th>
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<td>Trade unions also provide an important workers’ rights advocacy channel</td>
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<tr>
<td>+ Trade unions also support the identification of legal gaps which can be addressed through government action and regulatory change</td>
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<tr>
<td>+ Issues raised by trade unions can highlight the need for structural reforms at the national level</td>
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CASE STUDY EXAMPLES
The International Transport Workers Federation (ITF) Fishers Rights Network (FRN) is an independent trade union in Thailand focusing on supporting migrant workers from Myanmar and Cambodia

The Fishers’ Rights Network (FRN) was established to advocate for migrant workers’ rights in the fishing industry and is calling for improved working conditions, including:

+ Elimination of all fees related to employment, including: passport, pink card, work permit, agent, broker and recruitment fees;
+ Increases in fishers’ wages and improvements in working conditions and labor rights for all fishers in the Thai fishing industry;
+ All fishers to have written contracts in their own language;
+ All fishers to have access to basic first aid training, with access to a comprehensive medical kit on board each vessel;
+ Every vessel to have an emergency medical procedure in place;
+ A vessel Code of Conduct for all vessels operating in Thai waters;
+ The Thai Government to ratify ILO Conventions 87, 98 and 188 and amend labor law to allow migrant workers the rights to freedom of association and collective bargaining and to form and be active in their union.
KEELUNG MIGRANT FISHERMEN UNION (KMFU)

Second-ever migrant fishermen’s union in Taiwan created in February 2021 to advance labor rights protections for migrant fishermen from Indonesia, Vietnam and Philippines. Migrant workers on Taiwanese vessels have been subjected to exploitative and abusive conditions so severe it amounts to forced labor and modern slavery.

Empower and unite migrant workers under one organization to better address labor disputes

Collectively negotiate for better working conditions with employers

Address indebtedness due to recruitment fees and other wage issues

Create a community of support for migrant workers and a culture of respect for human rights
RECOMMENDED ACTIONS + NEXT STEPS
RECOMMENDATIONS AND NEXT STEPS

To embed human rights into company processes and ensure fishers are aware of their rights and the avenues by which they can raise grievances or other rights-related complaints, recommended actions include:

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<tr>
<th>Review Current Policies</th>
<th>Conduct Trainings</th>
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<td><strong>Ensure human rights commitments are embedded in company policy and worker contracts</strong></td>
<td><strong>Embed human rights throughout operations by training both management and workers</strong></td>
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<tr>
<td>+ Public policy commitment to human rights</td>
<td>+ Training for management should explain the key human rights risks to operations</td>
</tr>
<tr>
<td>+ Worker contracts should include clauses that guarantee protection of fundamental rights, including non-discrimination, no forced labor, adequate and equal wages, etc.</td>
<td>+ Training for workers should outline fundamental rights, and can be communicated during onboarding and through promotional collateral (e.g. posters)</td>
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<th>Continuous Engagement / Worker Voice</th>
<th>Review Use of Labor Agents / Recruiters</th>
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<td><strong>Enable continued worker dialogue through grievance procedures</strong></td>
<td><strong>Assess current recruitment practices, including investigation into recruitment agencies and any associated fees paid by migrant workers</strong></td>
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<tr>
<td>+ Develop and implement a grievance system</td>
<td>+ If possible, shift to a direct hiring model</td>
</tr>
<tr>
<td>+ Conduct follow-up with workers via worker survey or other engagement mechanism to monitor the evolving context / environment for labor relations and worker rights</td>
<td>+ Ensure workers do not pay any fees or other recruitment-related costs (Employer Pays Principle)</td>
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