

Submission by the Environmental Justice Foundation to the US Department of Labor regarding human rights abuses on the distant water fishing fleet of South Korea

2021

The Advocates for Public Interest Law (APIL) is a Korean non-profit, public interest lawyers' organization that was established in 2011. The Environmental Justice Foundation (EJF) is a UK registered non-profit organization working internationally to protect natural environments and the human rights of people who depend on them.

Summary

Over recent years, APIL and EJF have worked together to document human trafficking and other serious human rights abuses in Korea's fisheries sector. The Korean distant water fishing (DWF) fleet is one of the most important in the world, with at least 219 vessels operating around the globe. It supplies seafood to all major international markets, including the USA, EU and Japan.

This submission sets out APIL and EJF's latest findings on Korea's DWF fleet. It is accompanied by a confidential investigative briefing released in 2020 that concluded an 18-month investigation into the conditions on Korean vessels. It closes with an update on recent new rules introduced by the Korean government and makes recommendations on their extension and implementation.

Recommendation to the US Department of Labor

To date, the US Department of Labor's Bureau of International Labor Affairs (ILAB) has not included Korean seafood on its List of Goods Produced by Child Labor or Forced Labor. However, in 2020 Taiwan was included in the list, with the report making explicit reference to abusive practices on its DWF fleet.¹ As the conditions on Korean DWF vessels are broadly similar to those on Taiwanese vessels, this submission recommends that ILAB includes Korean seafood in its 2021 listing.

Overview of APIL and EJF's findings:

In 2020, APIL and EJF released an investigative briefing outlining findings from an 18-month investigation into conditions on Korean DWF vessels. The confidential briefing is provided as an attachment alongside this briefing. Further information on the identities of vessels and details of individual allegations is available on request.

The briefing was based on interviews with 54 Indonesians who had recently worked on 40 different Korean vessels. Of those interviewed, over a quarter reported experiencing physical abuse, with 63% witnessing verbal abuse. All but two of those interviewed were made to work more than 12 hours a day without a break, with over half working in excess of 18 hours a day. Almost all reported that their passports were confiscated by their captain and several months wages deducted at the start of contracts to discourage them from escaping these abusive environments.

An Indonesian fisher from a Korean trawler told investigators, "When unloading fish, we need to get into the

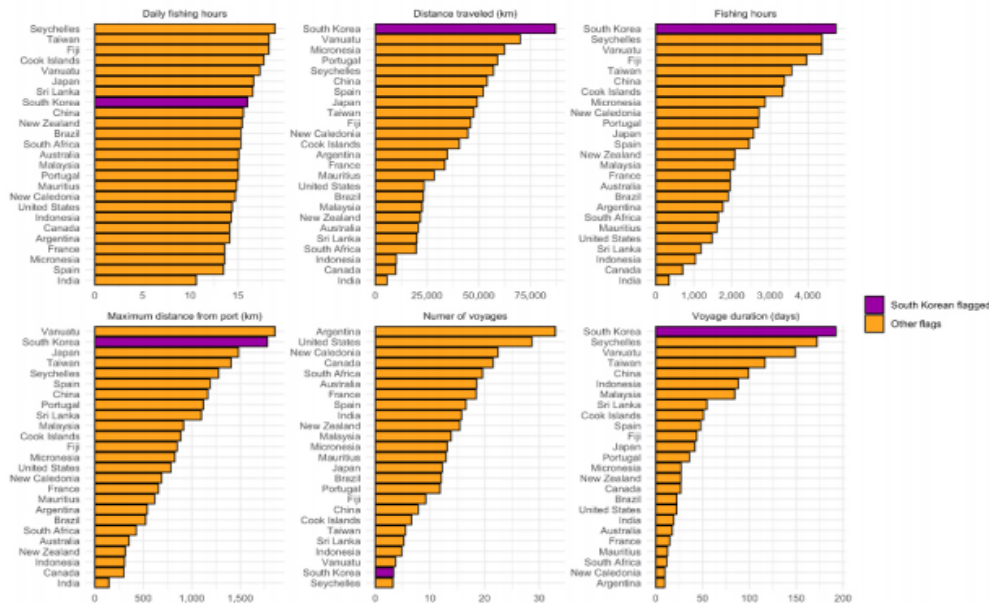
¹ https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2019/2020_TVPRP_List_Online_Final.pdf

freezer, and it is very cold, even after we put on three layers of coats, we are still freezing. Since the freezer is very cold, we need to get out a bit to get some warmth and avoid getting frozen, but the supervisor will slap or hit us if we do that.” On another vessel that targeted squid, there were reports of violent attacks on migrant workers, in one case resulting in a broken nose. It was also alleged that the same vessel required working hours of up to 20 hours a day and illegally caught and processed seals and walrus.

Alleged Practice on DWF vessel	Sample Respondent % (n=54)
Withholding wages	93%
Working over 12 hours/day	96%
Working over 18 hours/day	57%
Staying at sea over one year continuously	19%
Physical abuse	26%
Verbal abuse	63%
Passport confiscated	94%

The prevalence of allegations of human rights abuses is similar, and in some forms higher, than those observed on Taiwan’s DWF fleet in a similar investigation (23% of crew interviewed from Taiwanese vessels reported physical abuse; 35% reported verbal abuse or threats and 92% reported withholding wages). A submission on Taiwan by EJF to ILAB is available on request.

The alleged abuse on Korean vessels took place under an almost complete absence of government oversight. Vessels regularly remain at sea for over a year, and in some cases over 18 months, without calling at port. According to research conducted at the University of California, Santa Barbara into global fishing fleets, Korean longliners spend the most time at sea, travel the furthest and fish the longest hours. Labor inspections are almost never conducted on the rare occasions when vessels return to Korea, and there are no Korean labor inspectors assigned to overseas ports.



Source: Environmental Market Solutions Lab (emLab), University of California, Santa Barbara

Recent government reforms and recommendations:

The high levels of human trafficking and other indicators of human rights abuses on Korean DWF vessels documented by APIL and EJF took place under a light regulatory regime with an absence of inspections. There has been a complete lack of prosecutions of captains for the mistreatment of crew. The Korean Ministry of Oceans and Fisheries responded to APIL and EJF's findings in June 2020 by promising reforms, including considering the adoption of the International Labour Organization's Work in Fishing Convention (ILO C188).

Following this, in December 2020, the Korean government announced a series of new measures through a ministerial notification made in accordance with the Seafarer Policy Implementation Plan, which the Minister of Oceans and Fisheries publishes annually. These new measures, in theory in place only for the next year, reform the recruitment system for migrant workers, prevent excessive working hours, set a minimum salary, and require the provision of necessities such as clean water. They include a ban on pre-recruitment fees, which are often used to establish conditions of debt bondage. Workers must also be provided with a standard contract written in Korean, English and employees' native language, a factor that has been neglected to date and is vital to ensure workers clearly understand what exactly they are signing. In addition, workers must have at least 10 hours of break time a day (77 hours a week) and those with under three years' experience will now also receive an internationally recognized minimum salary. Finally, once workers have been aboard tuna longliners for 10 months they will be asked if they want to leave, and if they do they must be allowed to by the end of the 12th month.

While these new rules are welcome, there remains much to be done. APIL and EJF believe the Korean Government should undertake the following measures to prevent forced labor on the Korean DWF fleet:

1. Make the new rules introduced at the start of 2021 permanent and codified in an amended Seafarer's Act;
2. Strictly monitor compliance with the new rules, including overseeing the recruitment process to prevent debt bondage and ensuring that standards are met while vessels are at sea;
3. It is unclear yet what measures will be taken to introduce labor inspections to ensure compliance, the introduction of which must be made a priority. Inspectors should be provided with extensive training in identifying human trafficking and other human rights abuses as well as IUU fishing. This should include conducting comprehensive, victim-centered interviews with a sample of crewmembers during such inspections to identify potential human rights abuses;
4. Adopt in full the principles set out in EJF's Charter for Transparency not already implemented, including publishing information on vessel sanctions and prosecutions;
5. Coordinate intergovernmental efforts with the governments of source countries for migrants, such as Indonesia and the Philippines, to establish a grievance reporting system for migrant workers and ensure that the recruitment system is well managed and cannot be used to establish conditions of debt bondage;
6. Ensure proactive cross-ministerial investigations into human right abuses and IUU fishing cases on Korean vessels. In addition to relevant government agencies such as MOF, police and prosecutors, this

should include input from civil society;

7. Make the ban on deductions by manning agents and brokers comprehensive and permanent, including all forms of deductions from salaries in addition to recruitment fees. It is critical that this requirement is rigorously monitored and enforced by Korean authorities;
8. Introduce requirements to ensure fishers have access to their identity documents at all times, with the confiscation of passports banned;
9. Rapidly ratify the ILO work in Fishing Convention (C188) and the International Maritime Organization's Cape Town Agreement to ensure minimum labor standards for migrant fishers, including maximum working hours, and safety standards for vessels;
10. Fully enforce a ban on wage and any other form of discrimination between Korean and migrant crew on fishing vessels; and
11. Reduce maximum consecutive time at sea without calling at port to six months for all DWF vessels.