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Navigating Responsibility for Human Rights Compliance in the Fishing Industry

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ABSTRACT

The surge in visibility of human rights abuses within the seafood supply chain has propelled scrutiny into the sustainability of global fisheries, leading to heightened interest in the social performance of seafood companies and questioning the obligations of States in upholding human rights under international law. This review aims to bring clarity on where responsibility for ensuring compliance with human rights law lies within the context of the fishing industry. It provides a comprehensive analysis of international legal provisions related to the human rights of fishers, derived from both treaty law and State practice. To effectively address human rights and labor abuses, a transformative approach that prioritizes the wellbeing of workers over profit is needed, involving the implementation of participatory strategies, empowering workers and the cultivation of shared responsibility. Despite the proactive role played by the private sector in developing global standards, the review uncovers inherent limitations in relying solely on certifications for comprehensive human rights protection. The study concludes that international human right law unequivocally applies to fishers, with States primarily responsible for enforcement. As enforcement remains a challenge in the maritime context, particularly on the high seas, the burden for solutions should rest on a collaborative effort within the international arena to ensure a sustainable and ethical future for global seafood.

KEYWORDS



Labor; international law; States; participatory approaches; due diligence

Introduction

Global seafood trade was estimated at USD 193.5 billion in 2022 (FAO Globefish 2023) employing almost 60 million people, particularly from developing countries where the issues of over-exploitation and illegal fishing are most prominent (FAO 2022). Increased visibility of human rights abuses within the seafood supply chain, such as human trafficking, forced labor, child labor and health and safety violations, pose a substantial threat to the overall sustainability of fisheries globally (Garcia Lozano et al. 2022; Nakamura et al. 2022; Selig et al. 2022). This has driven interest in social performance by seafood companies and their supply chains, but also raises questions around the responsibilities of States regarding the protection of human rights under international law.

Addressing labor abuses within the fishing industry is a complex matter with multifaceted implications and no universal solution (Miller 2017). This review aims to clarify provisions in international law relating

to the human rights of fishers, as identified within treaty law and State practice, with a view to establishing the responsibilities of States regarding the protection of human rights under international law. To do this, international human rights law is analyzed, incorporating both international and regional treaties, followed by an analysis of how these laws have been internalized in the domestic legal systems of States. The the role and duties of seafood companies in upholding human rights is subsequently analyzed, assessing the compatibility of private certifications in fisheries with human rights law and practice. This leads to a review of approaches to strengthen human rights compliance, including through worker participation. The analysis concludes that: i) international human rights law is applicable to fishers and their work; ii) enforcement of these rights is the responsibility of States in accordance with international law; iii) businesses bear responsibility for safeguarding human and labor rights in the workplace. The review

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concludes by calling on States, as the entities responsible for enforcement, to effectively uphold human rights.

For the analysis, applicable treaties and conventions to fisheries were identified and extracted from the “Human Rights Guide to Fisheries” portal, hosted by the Danish Institute of Human Rights. To enable an easier analysis of the rights contained within these conventions, they were grouped by category. The State practice analysis used the FAOLex database. The term “human rights” was entered within the advanced research function with “Fisheries and Aquaculture” selected as the legislation category. The research resulted in 2010 entries in total, of which 356 pieces of legislation were identified as being of relevance to human rights, either because they specifically referenced a human right, or established obligations implicating human rights. The 356 pieces of legislation came from 113 different States, as well as Taiwan (whose status as a state is contested), five British Overseas Territories (Bermuda, the British Virgin Islands, the Cayman Islands, Guernsey and Jersey) and one US overseas territory (the Northern Mariana Islands) and the EU. Out of the 356 pieces of legislation, 21 were constitutions and the remaining 335 were within ordinary legislation (e.g. regulations, laws, decrees, ministerial decisions, etc.). Since there is a significant difference between constitutions and ordinary legislation in terms of their position within the juridical order of States, they were analyzed separately.

In order to verify State practice, legislation that applies within the jurisdiction of each State was identified, using the terms “fishers,” or “fisheries and aquaculture,” where these terms are included in the text of the legislation.

The peculiarities of fishing as a distant activity from the shore, as well as the recognition of this activity as a dangerous one, means that a vulnerable, migrant workforce is often employed, resulting in discrepancies between legislation and State practice (Environmental Justice Foundation 2010; International Labour Organization 2013; Marschke and Vandergeest 2023; Yea and Stringer 2023). For instance, in Taiwan, legislation applicable to fishers distant water fishing is not the same that applies while fishing in the Exclusive Economic Zone (EEZ) (Greenpeace East Asia 2020; Yen and Liu Huang 2021; Vandergeest and Marschke 2021). In Ireland, a different regime is applied in practice to migrant fishers from outside the European Union (EU) compared to those from within the EU and Ireland, due to differing visa regimes and employment conditions (Murphy et al. 2023; Marschke and Vandergeest 2023). In the US,

migrant fishers are recruited to work beyond the territorial sea and are not permitted to enter ports, meaning they are not protected by applicable legislation, making it easier for them to fall victim to forced labor (Wold 2022). Despite these practical differences in application, amplified by the particular vulnerabilities of migrant workers in the fishing industry, once States ratify treaties, they must internalize them into State practice accordingly and comply with the obligations established by the treaties (Alston and Goodman 2013; United Nations 1969).

International human rights instruments and fisheries

International human rights law treaties contain civil, political, social, cultural and economic rights. These include universal human rights such as the right to life, liberty, security, as well as property, remedy, work (including occupational health and safety and social security), freedom of association and freedom from forced and child labor. The essence of these rights is contained within the Universal Declaration of Human Rights (UDHR) (United Nations 1948), as well as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), all with nearly universal ratification. Furthermore, it is contained in specific treaties, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the Convention on the Rights of Persons with Disabilities (CRPD), also with wide adherence (Table 1).

Treaties only become binding once States ratify them (United Nations 1969). Significant numbers of ratifications indicate a strong indication of support from the international community. The UDHR sets out the fundamental rights that apply universally to all individuals (United Nations General Assembly 2012), at sea as on land (Human Rights at Sea 2022) and therefore equally applying to fishers, whether onboard vessels or within coastal state jurisdiction (Papanicolopulu 2018). Although it remains a declaration that does not bind States *per se* (Noll 2000), it has greatly influenced the rights contained within the International Bill of Rights, constituted by the UDHR, the ICCPR and the ICESCR which is considered a “constitutional” document for International Human Rights Law (Chen 2015). Many rules within International Human Rights Law set by the UDHR are also considered to have consolidated into customary international law (Rodley 2018).

Table 1. International human rights treaties relevant to fisheries.

International Human Rights Instrument (entry into force)	Protected human rights, applicable to fishers	Ratifications	Observations (if any)
Universal Declaration on Human Rights (UDHR) (1948)	Non-discrimination, rights to life, liberty, property, information, to work and conditions of work and to an adequate standard of living, with adequate social security safeguards, freedoms of association and collective bargaining and from forced labor, (United Nations 1948).	Adopted by the United Nations General Assembly (UNGA) in 1948 with 8 abstentions. (United Nations Digital Library 2023)	United Nations General Assembly (UNGA) resolutions are non-binding.
International Convention on the Elimination of All Forms of Racial Discrimination (CERD) (1969)	Elimination of racial discrimination, as well as rights to remedy, security, freedom of association, property, work, adequate housing and participation in cultural life ('International Convention on the Elimination of All Forms of Racial Discrimination' 1965).	182 Parties (United Nations Treaty Collection 2023a)	
International Covenant on Civil and Political Rights (ICCPR) (1976)	Rights to self-determination, nondiscrimination, remedy, life and information and cultural rights, as well as freedoms of association and from forced labor ('International Covenant on Civil and Political Rights' 1966).	173 Parties (United Nations Treaty Collection 2023c)	
ICESCR (1976)	rights to self-determination, to work and adequate conditions of work (including occupational health), social security, an adequate standard of living, participation in cultural life and nondiscrimination, as well as freedoms of association and from hunger ('International Covenant on Economic, Social and Cultural Rights' 1966).	171 States (United Nations Treaty Collection 2023b)	
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1981)	States shall take measures to ensure the full development and advancement of women, their fundamental freedoms and human rights by eliminating discrimination in employment, including social security and occupational health and safety, especially considering marriage and pregnancy. Women in rural areas shall benefit from rural development and participate in elaborating and implementing developing planning and adequate living conditions and water supply ('Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979' 1979).	189 Parties (United Nations Treaty Collection 2023d)	
Convention on the Rights of the Child (CRC) and United Nations Treaty Collection (2023)	Protection of children from torture and degrading treatment, injury, abuse or exploitation or from child labor, as well as their rights to health and to an adequate standard of living. States should take measures to protect children from trafficking and exploitation ('Convention on the Rights of the Child' 1989).	196 Parties (United Nations Treaty Collection 2023e)	
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW) (2003)	Non-discrimination, rights to life, property, liberty, security, favorable conditions of work, social security, health, adequate housing and freedom of association, as well as freedom from forced labor and torture ('International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families' 1990).	58 Parties (United Nations Treaty Collection 2023f).	Drastic reduction as compared to adherence to the previous international conventions.
UN Declaration on the Rights of Indigenous Peoples (UNDRIP) (2007)	Non-discrimination, rights to life, liberty and security, to remedy, self-determination and cultural rights, as well as freedom from forced and child labor (United Nations 2007). Furthermore, UNDRIP safeguards indigenous peoples from forcible removal from their ancestral lands and assures rights to the products of those lands and their conservation and the maintenance of traditional systems of governance (United Nations 2007). States should undertake means of advancing living conditions of indigenous peoples in their territory, including their active involvement in policymaking (United Nations 2007).	Adopted by the UNGA by wide majority, with 143 votes in favor, 11 abstentions and only 4 against. (United Nations 2023b)	4 votes against reversed as of present (United Nations 2023b).
Convention on the Rights of Persons with Disabilities (CRPD) (2008)	Non-discrimination of persons with disabilities, rights to property, remedy, work, freedom of association and social security, as well as protection from forced labor (United Nations 2006).	185 Parties (United Nations Treaty Collection 2023g).	
UN Guiding Principles on Business and Human Rights (UNGPs) (2011)	Corporate responsibility to protect human rights, such as the conduct of impact assessments and due diligence and access to remedy for any abuses (United Nations 2011).	Unanimously endorsed by the Human Rights Council in 2011 (United Nations Human Rights Council 2011)	Not binding, but endorsed by the United Nations Human Rights Council (United Nations 2023a)
United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP) (2018)	Non-discrimination, rights to development, land and access to natural resources, life, liberty, security, information, an adequate standard of living and housing, conservation of the environment, water, health, participation, work (including occupational health and social security), freedom of association, access to justice and to cultural rights, including traditional knowledge (United Nations 2019). Freedoms from torture, forced and child labor, as well as from hunger and from forcible displacement (United Nations 2019).	Adopted by the UNGA with 121 votes in favor, 54 abstentions and 8 against. (United Nations Digital Library 2019).	Larger level of abstentions and votes against may mean less support by States for UNDROP's provisions than for UNDRIP's.

Instruments with a wide membership include CEDAW, CRC, CRPD, CERD, ICCPR, ICESCR and UNDRIP. Table 1 demonstrates that ICMW and

UNDROP are not as supported internationally, as evidenced by their lack of ratifications, in comparison to the other documents.

For decades, international institutions debated the responsibility of companies to manage adverse impacts due to business operations and the responsibility of governments in preventing them. In 2011 the UN Human Rights Council unanimously endorsed the United Nations Guiding Principles on Business and Human Rights (UNGP), which consists of 31 principles applicable to all States and businesses worldwide, regardless of their size and sector. The UNGPs set out expectations of States and companies on how to prevent and address negative impacts on human rights by businesses, including performing mandatory human rights due diligence (OHCHR 2021). While the UNGPs do not create new international obligations *per se*, they do outline that businesses should respect internationally recognized human rights (recognized as those expressed in the International Bill of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work). The UNGP by itself is not a legally binding document, but it does incorporate rules that are to be followed by States through human rights and labor law treaties, as well as issues covered by other international legal fields, such as criminal law (see United Nations 2000). The UNGPs have also been used by the Inter-American Court of Human Rights (IACtHR) in the *Case of the Miskito Divers v Honduras* where IACtHR recognized – based on the UNGPs – that States “[...] have a duty to prevent human rights violations by private companies, and therefore must adopt legislative and other measures to prevent such violations, and to investigate, punish and provide reparation when they occur” (Inter-American Court of Human Rights 2021 p. 18). While corporate responsibility is to *respect* human rights, it is the task of the State to *protect* human rights through integration of international laws into domestic legislation, implementation and enforcement (United Nations 2011; Inter-American Court of Human Rights 2021). It is also worth noting that not all human rights are equally protected, and this can be attributed to a lack of ratification and, or, practical enforcement (Teh et al. 2019).

There are specific challenges for human rights and labor standards in fisheries as a result of the remote work environment of fishers, worker-payment that is based on productivity rather than time, and recruitment that may not include written contracts (Nakamura et al. 2022). Workers who are not aware of their rights or who find themselves in a vulnerable position, may also be exposed to deductions, wage withholding or bonded labor (Nakamura et al. 2022). Multiple scandals concerning forced or bonded labor onboard

fishing vessels, as well as violations of the different human rights of fishing crew, and lack of occupational health and safety, have been revealed by different reports in recent years (see, for instance, Solidarity Center 2009; Environmental Justice Foundation 2010 2014, 2020; International Organization for Migration 2016; Greenpeace East Asia 2020). Highlighting these issues has increased pressure by consumers, retailers and other actors leading to the adoption of domestic measures for the protection of fishers in some States (see, for instance, Stringer et al. 2016; Yen and Liu Huang 2021), such as in Thailand and Taiwan (Vandergeest and Marschke 2021), New Zealand (Stringer and Harré 2019) and Indonesia (International Organization for Migration 2016), but human rights violations continue (Nakamura et al. 2022). If the protection of fishers worldwide is to be achieved, States must fulfill their responsibilities toward human rights by ensuring the appropriate domestic legislation and enforcement is in place.

International labor law instruments applicable to fishers

Important labor rights are established at the international level through the International Labor Organization (ILO), formed in 1919 to maintain universal peace through social justice (ILO 1919) and including representation from employers, workers and governments (ILO 2019). The international legal framework against child labor and the prohibition of forced labor is robust, as demonstrated by the greatest number of ratifications of such ILO Conventions (Table 2). The Worst Forms of Child Labor Convention was the fastest convention to ever attain universal ratification (United Nations News 2020). There is also strong support for the right to freedom of association and collective bargaining, but other labor rights are less strongly supported. For example, rights concerning equality and non-discrimination at work have some support but there is less support for legislation concerning the protection of wages. More specific rights have not obtained broad international support in terms of ratifications, such as rights for indigenous peoples and migrant workers, social security and occupational health and safety.

Traditionally, the rights of seafarers have been relatively limited and labor rights at sea have developed more slowly than for land-based industries (Teh et al. 2019). The Maritime Labor Convention (MLC) in Table 1, while prohibiting child labor and reinforcing freedom from forced labor, explicitly excludes fishing

Table 2. ILO Conventions relevant to fisheries and their ratification.

ILO Convention (entry into force)	Ratifications
Forced/Child Labor	
Worst forms of Child Labor Convention (2000)	187 (ILO 2023v)
Forced Labor Convention and Protocol (1932)	180 (ILO 2023c)
Abolition of Forced Labor Convention (1959)	178 ratifications, albeit 2 denunciations (ILO 2023j).
Minimum Age Convention (1976)	175 (ILO 2023m)
Equality of Opportunity	
Discrimination (Employment and Occupation) Convention (1960)	175 (ILO 2023k)
Equal Remuneration Convention (1953)	174 (ILO 2023h)
Freedom of Association	
Freedom of Association & and Protection of the Right to Organize Convention (1950)	157 (ILO 2023e)
Right to Organize and Collective Bargaining Convention (1951)	168 (ILO 2023g)
Collective Bargaining Convention (1983)	50 (ILO 2023o)
Conventions protecting income	
Minimum Wage Fixing Machinery Convention (1930)	101 (ILO 2023b)
Protection of Wages Convention (1952)	99 (ILO 2023f)
Specific Conventions	
Occupational Health Services Convention (1988)	35 (ILO 2023s)
Occupational Safety and Health Convention (1983)	74 (ILO 2023pi)
Medical Examination of Young Persons Convention (Industry) (1950)	43 (ILO 2023d)
Maritime Labor Convention (2013)	101 (ILO 2023y)
Work in Fishing Convention and Recommendation (2017)	20 (ILO 2023x)
Termination of Employment Convention (1958)	36 (ILO 2023r)
Social Security Convention (1955)	63 (ILO 2023i)
Labor Inspection (Agriculture) Convention (1972)	55 (ILO 2023l)
Migrant Workers (Supplementary Provisions) Convention (1978)	28 (ILO 2023n)
Workers with Family Responsibilities Convention (1983)	45 (ILO 2023q),
Indigenous and Tribal Peoples Convention (1991)	24 (ILO 2023t)
Protection of Workers' Claims (Employer's Insolvency) Convention (1995)	21 (ILO, 2023pii)
Part-Time Work Convention (1998)	20 (ILO 2023u)
Safety and Health in Agriculture Convention (2003)	21 (ILO 2023w)
Workers' Representatives Recommendation (1973)	

Adopted by the an International Labor Conference session in 1971 (ILO 2023a)

from its scope of application. The Work in Fishing Convention (C188) does apply to fishers, but took 9 years to acquire the 10 ratifications needed to enter into force. It is now legally binding on the 21 countries that have ratified it, but major flag States in long-distance world fisheries, have not ratified it (Wold 2022), undermining the effective protection of rights for those who work on their flagged vessels. C188 allows for a series of exceptions that exclude a significant number of fishing vessels from its scope (notably, developing countries do not need to extend economic rights granted under ICESCR to non-nationals), thereby curtailing the rights of some of the most marginalized at sea workers and reducing its prospective impact even if it were to be widely ratified (Teh et al. 2019).

Regional human rights instruments applicable to fishers

Regional Human Rights treaties contain similar provisions to those of the instruments above, with the difference that they apply to their specific regions and parties within those regions. The “echoing” of rights from international conventions and declarations into regional texts demonstrate their wide acceptance by

the international community, including in specific regional contexts (Table 3).

The overall analysis also shows that social, economic, and cultural rights are not as well protected by States. Nevertheless, there is less opposition to ESC rights at the regional level than at the international level (Riedel 2010).

FAO instruments

Food and Agricultural Organization of the United Nations (FAO) documents are particularly relevant for looking at rights in fisheries, as the FAO includes fisheries within its mandate (Rothwell and Stephens 2016). Although not all FAO documents are binding, it is worth analyzing ‘soft law’ mechanisms as they point to the evolution of international law, even if they are non-binding on States directly (Table 4) (Thürer 2009).

Where legal regimes have been ineffective, non-binding soft law instruments can help fill the gap, and they are particularly suited to fostering compliance where there is a lack of consensus. Mechanisms that serve fisheries management issues recognize that to achieve conservation, human rights should be respected. This is particularly true in the context of

Table 3. Relevant regional instruments.

Regional Human Rights Treaties	Protected human rights applicable to fishers	Ratifications	Observations (if any)
African Charter on the Rights and Welfare of the Child (ACRWC) (1999)	Prohibits and represses child labor and trafficking (Organization of African Unity 1990).	50 (African Union 2024).	
Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural rights (Protocol of San Salvador) (1988)	Economic, social and cultural rights, including nondiscrimination, the rights to work and conditions of work, including occupational health and safety and protection from child labor, freedom of association, social security, to a healthy environment and to food (Organization of American States 1988).	18 OAS Parties (Organization of American States 2023).	Not binding on nearly half of OAS members.
African Charter on Human and Peoples' Rights (ACHPR) (1986)	Non-discrimination, rights to life, property, land and its resources, remedy, development, a healthy environment, freedom of association and freedom from torture, forced and child labor (Organization of African Unity 1981).	54 African Union (AU) States (African Commission on Human and Peoples' Rights 2023)	
Maputo Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (2005)	Guarantees rights to women: nondiscrimination, rights to life, liberty, security, work, social security, food, water, an adequate standard of living, housing, a healthy environment, participation, their indigenous knowledge, development and to land and resources. Emphasis on freedom from torture, child and forced labor (African Union 2003).	44 Ratifications out of a total of 55 States (African Union 2023).	Of all the mentioned AU documents, this is the one with the least ratifications.
American Declaration on the Rights and Duties of Man (ADR) (1948)	Life, liberty, security, remedy, nondiscrimination, work and conditions of work, social security, freedom of association and to property (Organization of American States 1948).	35 Parties.	Albeit a declaration, it is considered binding by the Inter-American Commission on Human Rights on the 35 OAS members (Cerna CM. 2009).
European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (1953)	Right to life, liberty, security, information, freedom of association and to remedy (Council of Europe 1953). They also concern freedom from torture and inhuman treatment, as well as from forced labor (Council of Europe 1953). The ECHR's Protocol adds the right to property (Council of Europe 1953).	46 Parties.	Binding on all 46 Council of Europe States (Council of Europe 2023a).
Revised European Social Charter of 1996 (ESC-R) (1996)	Rights to work and conditions of work, occupational health and safety, vocational training, health, social security, an adequate standard of living and housing, freedom of association and protection from child labor (Council of Europe 1996).	46 Parties.	Also binding on all Council of Europe member States (Council of Europe 2023b)

the RAI Principles, the VGGT, the SSF and the Right to Food Guidelines. This can also be seen as evidence of acceptance of these rights when it comes to fisheries.

Relevant United Nations Convention on the Law of the Sea provisions

The Danish Institute for Human Rights includes rights of fishers associated with UNCLOS provisions, including the right to a healthy environment, development, self-determination, an adequate standard of living, land and resources, information, livelihoods, work, occupational health and safety, food, a remedy, liberty and life, as well as freedom from forced labor (The Danish Institute for Human Rights 2023). UNCLOS is a Law of the Sea document with no specific mention of human rights *per se* (Papanicolopulu 2012), but its relevance, especially in jurisdictional terms for the enforcement of human rights, allied with its wide membership, is important (Oxman 1997). Critically, States, especially flag States,

are accorded ultimate responsibility by the International Law of the Sea, to ensure that their flagged vessels comply with International Law (Rothwell and Stephens 2016). This is the expectation of issuing a flag to a vessel (Churchill and Lowe 1999). In fisheries, a range of initiatives intended to combat inadequate flag State action and ensure that responsibilities not met adequately by flag States are in place (Goodman 2009).

State practice: state legislation

One of the foundations of modern States is to include human rights within their constitutions (United Nations 2018). How States translate these obligations into national law can be taken as an indicator of the importance of human rights to the State (United Nations 2018) (Table 5).

Within the analyzed constitutional provisions, some provisions are particularly worthy of mention in relation to fisheries and fishery rights. For instance, Fiji (Fiji 2013), the Marshall Islands (Marshall Islands 1979) and the Philippines (The Philippines 1987)

Table 4. FAO instruments.

FAO instrument	Right protected	Ratification	Entry into force
Explicitly fisheries specific			
The Code of Conduct for Responsible Fisheries (COC)	Provisions on conservation of the marine environment, which influences on the right to a healthy environment and fisheries management, which influences the right to food (FAO 1995). The COC provides for the participation of stakeholders in relevant discussions, including those concerning traditional knowledge; the need to ensure adequate work conditions for fishers, including maritime safety for the right to life; the need to ensure access to traditional fishing grounds and the protection of livelihoods, and the need to ensure human health in aquaculture and fish marketing (FAO 1995).		
Port State Measures Agreement (PSMA)	Access to ports when that is essential for the safety and health of the crew, closely related to the right to occupational health and safety	76 parties (FAO 2024).	Binding on parties who have ratified it
FAO International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing (IPOA-IUU)	Combat IUU Fishing, by recalling the need for the participation of relevant stakeholders, including fishing communities and the fishing industry, therefore relating to the right to participation and to food (FAO 2001).	Both the COC and the IPOA-IUU were adopted by a FAO Conference and, therefore, apply to members of the organization, which are currently 194 (FAO 2023)	
Voluntary Guidelines on securing sustainable small-scale fisheries in the context of food security and poverty eradication (SSF),	The SSF Guidelines focus on human rights of small-scale fishing communities, such as tenure rights, including those traditional land rights (FAO 2015). It relates tenure to the exercise of other human rights, such as livelihoods, food, work, health, remedy, housing and development and cultural rights (FAO 2015). The SSF place small-scale fishers and coastal communities in a place of particular relevance to maintain and preserve the environment and incentivize their participation in decisions which directly affect them and their lands (FAO 2015).		
More general human rights			
Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT),	Relevance of tenure and access to fisheries for realizing Human Rights, such as those to food, livelihoods, housing, etc. (FAO 2012). In this sense, the VGGT urge States to recognize those tenure rights not currently recognized, such as those which are customary and to protect against arbitrary evictions or infringement of tenure rights (FAO 2012). Most importantly, the VGGT associate all civil, political, cultural and economic rights to the issue of access to land, and that those should be respected by States regardless of whose rights are infringed (FAO 2012). Access to remedy and participation are also emphasized (FAO 2012).		
Voluntary guidelines to support the progressive realization of the right to adequate food in the context of national food security (Right to Food Guidelines)	The Right to Food Guidelines, as their name evidences, focus on the right to food and the need to ensure it within States' domestic systems, also focusing on the necessary land rights and providing access to basic services to those in need (FAO 2005). They also focus on the participation of relevant stakeholders and the maintenance of their culture (FAO 2005).		
Principles for Responsible Investment in Agriculture and Food Systems (RAI Principles)	Investments in agricultural systems, by emphasizing the need to improve gender equality, tenure rights and food security, promote cultural heritage and traditional knowledge as well as health and safety (FAO 2014).		

specifically protect customary land rights, while Panama (Panama 1972) protects indigenous lands. Considering the relative novelty of the right to a healthy environment (Birgit Peters 2021), the constitutions of Fiji (Fiji 2013), Georgia (Georgia 1995), Mauritania (Mauritania 1991), Palau (Palau 1981), Panama (Panama 1972) and the Philippines (The Philippines 1987) specifically mention this right. The constitution of the Philippines goes further by including a provision which specifically provides for the need to protect the rights of subsistence fishermen, especially those from local communities (The Philippines 1987).

Labor regulations are present in 78 pieces of legislation, belonging to 54 States, one from Taiwan and six from UK overseas territories, considered as 61 different Parties. The category “labor regulations” includes maritime and shipping codes, as well as labor codes and specific labor regulations applicable to fisheries. Out of those 78, 62 pieces of legislation – a clear majority – contain provisions on occupational health and safety, such as the need for medical checkups prior to hiring, and carrying medicines and people with medical qualifications onboard vessels. In addition, 61 legislations relate to conditions of work, specifically contracts or crew agreements, wages

Table 5. Human rights provisions in national constitutions.

Human right provisions	Number of constitutions that contained the provisions
Nondiscrimination	21
Freedom of association	
Right to health and healthcare	19
Right to property	
Cultural rights	18
Rights to land and resources	
Right to a healthy environment	
Child labor	
Prohibition of torture	
Access to justice and right to a remedy	17
Right to liberty and security of the person	
Right to and conditions of work	16
Social security	
Right to information	15
Right to life	14
Protection from displacement	
Forced labor	13
Right to adequate housing	12
Equality and nondiscrimination at work	11
General participation	
Occupational health and safety	9
Food, food security and nutrition	
Right to development	8
Right to an adequate standard of living	7
Right to water	6
Traditional knowledge	
Livelihoods	3
Impact assessments	1

etc. Nearly half of the analyzed legislation (30 legislations) contained the need for food and provisions when onboard vessels. Notably, 51 legislations contained dispositions on the right to life, such as the need to protect the life of those onboard vessels and to assist those in danger and distress at sea. Interestingly, 41 pieces of legislation contained provisions on child labor, such as the minimum age for working onboard vessels and activities that cannot be performed by those under 18 years of age. Only 10 laws contained specific provisions on forced labor, its prevention and prohibition, while only six pieces of legislation concerned social security provisions.

The analysis showed that over half of the Parties analyzed have adopted laws concerning labor that impact on fishers, either through specific work in fisheries legislation or general labor codes. This is a significant indication of the desire of States to adopt laws that establish minimum conditions of labor and occupational health and safety. Child labor also comes up as an important issue with over half of the analyzed legislation establishing minimum age standards and obligations to prohibit Child Labor, often by using a text similar to that of the International Labor Organization Convention.

In total, 28 States and two overseas territories accounted for 55 pieces of environmental legislation. Out of these, 47 contained provisions related to the

right to a healthy environment, such as a specific mention of the right itself, or obligations to safeguard the environment for future generations. Overall, 43 pieces contained provisions concerning rights to land and resources, specifically traditional land rights and access to marine resources belonging to coastal communities and indigenous peoples. In total, 34 contained provisions on participation, usually related to the participation of stakeholders and the general population in both the formulation and implementation of environmental policies. Furthermore, 23 pieces contained provisions concerning cultural rights of aboriginal people and local communities while 10 pieces of legislation contained specific provisions on traditional knowledge, such as applying traditional knowledge to conservation techniques.

Environmental legislation has a direct impact on the human rights of fishers through their right to a healthy environment. Legislation that supports a healthy environment has been adopted by 30 parties in total. Rights to traditional lands and rights to land are also important and significant for the protection of small-scale fishers (FAO 2015). Participation in decision-making is also seen as key to protecting human of human rights in small-scale fishers and coastal communities in particular (FAO 2015).

In total, 118 laws concerning fisheries come from 55 States, the European Union, Taiwan and one overseas territory – nearly half of the total of 121. A clear majority (89), contain provisions on the right to a healthy environment or related issues, such as environmental protection and anti-pollution measures. Over half (64) contain provisions on the general participation of fishers and stakeholders on the management of fisheries; while 59 cover rights to land and resources, such as traditional access to lands and fisheries; 56 are concerned with cultural rights, such as traditional land rights and/or the protection of specific cultures when it comes to catching species; 33, in addition to containing fisheries provisions and being fisheries-centered laws, contained provisions on conditions of work or seeing fisheries revenue as means of employment creation; while 28 contained provisions on food, food security and nutrition, particularly mentioning fisheries as a means of achieving food security. This analysis shows that fisheries laws, even where their focus is fisheries management and the issuing of fisheries licenses, can contain provisions that directly affect the human rights of fishers and are therefore important aspects of human rights protection.

The analysis of civil legislation contained 88 pieces of legislation from 43 States as well as the European Union (i.e., 44 Parties in total). These are predominantly land

laws and civil codes, but also include agreements between Canadian States and first nations. Since there is no common thread among the legislation, other than it pertaining to civil law issues within States, they were analyzed separately. In total, 26 pieces of legislation concerned agreements Canada holds with its First Nations; all of them contained provisions on the rights to land and resources of traditional lands occupied by the first nations, protecting them against expropriation, and maintaining cultural rights of indigenous peoples.

The remaining 63 pieces of legislation contained civil, land and water codes. Out of those, 50 contained provisions on rights to land and resources, both concerning access to fisheries and to land tenure, while 36 contained provisions on the right to a healthy environment, such as the maintenance of land according to environmental principles and conservation obligations. A total of 30 contained provisions on the participation of stakeholders and the general public, or of those affected by land development, in the development process. Overall, 25 contained provisions regarding cultural rights, such as the right to maintain your culture, or concerning the maintenance of traditional forms of government. The remaining legislation contained additional provisions, such as provisions for access to remedy and protection from displacement, yet these did not constitute a majority. Worthy of note is the “Magna Carta of Women” in the Philippines, which emphasizes the need to provide women with means of producing food, such as rights to land, including to ancestral land, as well as equal access to fisheries (The Philippines 2008). Another law worthy of mention is the “Organic Food Sovereignty Law” (Ecuador 2009) in Ecuador, which also recognizes the need to provide for the means of artisanal fishers, and the need to protect traditional forms of fisheries and agriculture.

Although human rights are nearly universally accepted by States – as demonstrated by the ratification of international legislation – their application in domestic law is still varied. The human rights analyzed in this section have a nearly universal coverage in international treaties, but their practical application by States varies, potentially undermining the strength of rights in certain countries as compared to others who have internalized their obligations more extensively.

Who is responsible for ensuring human rights at sea?

In ratifying international treaties, States choose to be bound to their terms (United Nations 1969), and, consequently, are obligated to enforce these provisions. The Law of the Sea is shaped by the “freedom of the high seas,” a long-standing principle that remains

today (Churchill and Lowe 1999), which emphasizes the exclusive jurisdiction of flag States in the high seas and concurrent jurisdiction in other maritime zones (Gavouneli 2007). Ultimately, this means that flag States bear the primary responsibility for upholding the rule of law at sea and for ensuring that vessels flying their flag adhere to international law (Evans 2018). Despite this, flag State enforcement alone has proven inadequate in addressing shortcomings (Gavouneli 2007), leading to persistent human rights abuses aboard fishing vessels (Nakamura et al. 2022).

In response to shortcomings in flag State enforcement, the private sector has driven the development and promotion of global standards for ethical and fair labor practices. This proactive approach aims to mitigate reputational risks arising from gaps in flag State enforcement (Washington and Ababouch 2011). Presently, several voluntary commitments (the Monterey Framework on Social Responsibility (2017) and the Tuna 2020 Traceability Declaration (2017)); procurement guidance, Codes of Conduct for individual retailers, data reporting tools; resource repositories for a labor-focused human rights strategy for seafood supply chains (Decker Sparks et al. 2022), and over 23 active certifications in fisheries contribute to a comprehensive human rights strategy for seafood supply chains (Human Rights at Sea 2023). Although these certifications primarily focus on environmental sustainability, some standards have incorporated human rights considerations into their supply chains (Human Rights at Sea 2023). Concerns persist regarding the independence of third-party certification bodies to verify and certify companies that meet these standards, or how dependent auditors are on the company being verified to access required data (Decker Sparks et al. 2022), potentially leading to the oversight of workplace human rights violations during audits (Business and Human Rights Resource Centre 2021). Nevertheless, the use of certifications as a market-based mechanism to improve fisheries management and demonstrate social responsibility has gained traction (van Putten et al. 2020). Despite this trend, there are significant issues with relying on seafood certifications for human rights protection. Fisheries standards and certifications presently fall short of meeting the three fundamental principles of the UNGP: support for human rights policy, human rights due diligence, and access to remedy (Decker Sparks et al. 2022). This shows that fisheries standards and certifications are not able to ensure that human and labor rights are respected in a manner consistent even with the UNGP, a minimum benchmark (Decker Sparks et al. 2022). Instead, these

standards and certifications remain non-binding, voluntary responsibilities, and as such, represent minimum obligations. Human rights treaties rarely impose legal obligations on Non-State Actors (NSAs), such as certification bodies or seafood companies, making it challenging to hold them legally accountable for human rights compliance within the current international legal framework (Froese and Proelss 2012). Furthermore, even if legal obligations were in place, existing certifications do not adhere to required key performance indicators for adequate human rights protection (Human Rights at Sea 2023). This could be due to their historic focus on the environmental sustainability of supply chains, the added complexities associated with human rights abuses, or private sector reservations regarding empowering workers (Human Rights at Sea 2023). This underscores the inadequacy of certifications specifically, and the private sector more generally, to effectively and comprehensively address human rights concerns in fisheries.

While optimism persists regarding the potential influence of market forces, driven by consumer and investor pressures to promote social responsibility in seafood (Teh et al. 2019), it is crucial to acknowledge that meaningful human rights protections hinge on the endorsement and adherence to international treaties directly impacting the working conditions of fishers. This places a particular onus on companies to exercise due diligence in ensuring human rights are respected. In essence, to achieve substantive outcomes, international treaties must be ratified and subsequently implemented and enforced through national laws, all while private state actors conscientiously uphold the human rights of fishers.

Prioritizing human rights in fisheries

The recent proliferation of tools and voluntary standards aimed at supporting labor rights has demonstrated limited efficacy in effecting transformative change, as evidenced across various sectors (Decker Sparks et al. 2022). The persistence of human rights and labor abuses at sea is intricately linked to the overarching global pursuit of profit maximization, indicative of systemic challenges, and the formidable economic influence wielded by large transnational companies (Alexander 2013; Paul 2021). In response, a paradigm shift is needed, emphasizing the prioritization of worker wellbeing over profit as the ultimate goal of companies (Balkenende and Buijs 2023). This departure from the conventional focus on production necessitates a wider focus on social benefit than that

foreseen in typical fisheries management regulations (Nireka Weeratunge et al. 2014). Such a shift lays the groundwork for establishing an equitable and just society, demanding a transformative restructuring of international governance and business frameworks. The prevalent shareholder-centric economic approach must yield to a stakeholder approach, or, better, a multi-actor approach, in which diverse entities including businesses, governments, communities, and civil society entities form partnerships to achieve common objectives through innovative policies and business strategies that actively incorporate worker participation (Balkenende and Buijs 2023). This approach, rooted in cultural shifts and educational initiatives, holds the potential to mitigate power imbalances by enhancing the agency of workers through a holistic perspective on human rights (Lepenies 2019). Involving key stakeholders, such as workers, local communities and advocacy groups, in decision making processes ensures that those directly impacted by human rights issues actively contribute to shaping solutions (Fraser et al. 2006). This empowerment of workers, often referred to as ‘worker voice’, facilitates the negotiation of their rights and considers local context and cultural nuances, recognizing regional variations in human rights effectiveness (Garcia Lozano et al. 2022). The inclusive engagement of all stakeholders fosters a sense of shared responsibility, potentially leading to improved compliance (Newig et al. 2018).

Additionally, participatory approaches encourage transparency in supply chains by promoting open communication and information sharing, aiding in the identification of violations and building trust among stakeholders collaborating toward common goals. Worker involvement in monitoring and reporting mechanisms facilitates the early detection of potential human rights violations, enabling timely corrective actions (Yu 2009). Furthermore, participatory approaches often incorporate training and capacity building components, empowering workers with the knowledge and skills to advocate for their rights and address human rights violations effectively (Goytia et al. 2013). Notably, participatory approaches are more likely to address systemic issues rather than only immediate concerns, leading to comprehensive and sustainable improvements in working conditions (Lund 2004). This is particularly significant in the context of transnational fishing activities, where violations are challenging to apprehend and penalize.

Emphasizing worker participation without the ratification of international treaties and subsequent adequate implementation and enforcement through

national laws overlooks the unique legal and practical obstacles hindering migrant worker participation in industrial fisheries. Tailored approaches specific to the characteristics and challenges of each context are essential, but time and energy consuming. In the case of industrial fisheries operating globally and employing migrant workers, this challenge is magnified. Legal provisions in some countries actively impede migrant workers from forming unions or enjoying labor protections, complicating the establishment of genuine and effective participation in the fishing industry (Environmental Justice Foundation 2014; Human Rights Watch 2018). This challenge extends to countries such as the US and the UK, where legal barriers hinder fish workers from enjoying fundamental labor rights and participating in mechanisms that may protect these rights (Decker Sparks 2022; Wold 2022). Examining the mechanisms through which worker voice is currently facilitated within private standards reveals limitations. Tools, such as hotlines and apps for reporting, while well-intentioned, may prove ineffective due to worker reluctance resulting from extreme vulnerability at sea or concerns related to visa rules (Murphy et al. 2023; Vandergeest and Marschke 2021). Drawing parallels with the purpose of the UNGP, it is crucial to underscore that the private sector, including fishing companies, bears a specific duty to respect human rights throughout operations. This duty cannot be offset by other commitments, activities, audits or certifications that fall short of ensuring a comprehensive respect for human rights. Nonetheless, it remains the responsibility of States to ensure that human rights are protected throughout its jurisdiction, including in flagged vessels.

Conclusion

This review assessed the intricacies of international law governing the human rights of fishers and delineated the corresponding responsibilities of States under international law. Analyzing both international and regional treaties leads to the conclusion that human rights law is unequivocally applicable to fishers and their work. The enforcement of these rights, according to international law, is deemed the responsibility of States, while businesses also bear a distinct responsibility for safeguarding human and labor rights in the workplace. The findings indicate that States, upon ratifying treaties, are obligated to internalize and comply with the obligations outlined in these international agreements; however, disparities

persist in the practical application of legislation, particularly concerning the employment of vulnerable migrant workers in distant fishing activities. Practical differences in application, coupled with the unique vulnerabilities of migrant workers, underscore the necessity for tailored approaches that consider the specific challenges in each context. Recognizing the need for assistance in enforcement, it is crucial to prioritize this aspect within international fora.

While acknowledging the proactive role of the private sector in developing global standards and certifications for ethical labor practices, this review highlighted inherent limitations in relying on these mechanisms for comprehensive human rights protection. A transformative approach based on stakeholder-oriented strategies is pivotal, and the potential of participatory approaches in reforming labor conditions is evident. While fostering transparency and empowering workers through training and capacity-building can contribute to sustainable improvements in working conditions, legal and practical obstacles remain that necessitate context-specific and time-intensive solutions. Critically, the burden should not rest on the shoulders of workers to facilitate these solutions.

In conclusion, this review underscores the indispensable role of international law, proper implementation and enforcement through national laws, and the conscientious commitment of private and state sectors in upholding the human rights of fishers. To navigate the complexities of the seafood industry, the call is clear: a holistic and collaborative effort for meaningful and comprehensive human rights protection is the only way to ensure a sustainable and ethical future for global seafood.

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