



Slave Free Seas Case Study

Human Trafficking for Forced Labour in New Zealand's Foreign Charter Vessel Sector

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Adi's journey into forced labour began in Indonesia. In order to secure a job aboard a foreign fishing vessel, Adi was required to pay money to an Indonesian manning agent; this is in clear violation of the ILO Conventions 9 and 179 which requires the employer to pay the agent. Additionally Adi was required to provide collateral. The Indonesian agent, contracted by a Korean manning agent to source local crew (See Table 1 for parties potentially involved in the forced labour trafficking chain), had acquired a job for Adi on a South Korean vessel fishing in New Zealand's waters. Adi was called to the agent's office to sign an application form for a New Zealand work visa - the form had been pre-completed by his agent. Adi was also required to sign a stack of papers about an inch high. The agent held the papers so that only the corner of the page was exposed for initialling. The reality was Adi did not know what he signing. This was the initial step in Adi becoming a victim of human trafficking for forced labour. Further, this is evidence of deception as per the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (hereafter the Trafficking Protocol).

Adi is just one of many Indonesian crew members who have worked on South Korean foreign charter vessels (FCVs) fishing on behalf of New Zealand companies and quota holders. In 2014, there were approximately 201 crew members working on 7 South Korean fishing¹ vessels operating in New Zealand's waters. The recruitment process

¹ This is the remaining fleet after three vessels fled the jurisdiction following claims of wage underpayment (Shin Ji, Dong Won 519, & Sur Este 707); two vessels were denied fishing permits (Oyang 75 & 77); and two vessels were abandoned in New Zealand (Melilla 201 & 203) – one vessel had been seized for fisheries offences and both vessels had wage claims filed against them.





is standard – prospective crew are required to pay money to an agent and sign over collateral which can include land titles, motorcycle titles, and education certificates. Unbeknown to the fishermen, they sign three different employment contracts; each designed to meet the regulatory requirements of the respective countries – Indonesia, South Korea and New Zealand. A key difference between each of the contracts is the amount of wages crew members are entitled to. According to their Indonesian contract, crew members could earn between \$US250 and \$US500 a month depending on their position aboard the vessel. In fact the wages promised under the Indonesian contract were in violation of their New Zealand employment contract which stated that crew would receive the New Zealand minimum wage (\$15.50 an hour in 2014) plus an additional \$2 an hour. In actuality, the crew members were employed pursuant to the Indonesian contract but even then did not receive their wage entitlements as outlined in this contract.

There have been reports of problems aboard FCVs operating in New Zealand’s waters for many years. As early as the 1990s slave-like conditions aboard these vessels were debated in Parliament. Despite undertakings by successive government to improve conditions, human rights abuses continued. The issue came to a head in 2011 when Indonesian crew from a number of South Korean vessels walked off their vessels citing non-payment of wages, as well as accounts of physical, mental and sexual abuse. Crew members were routinely required to work 18 to 20 hours per day. In reality they were on call 24 hours a day, 7 days a week, for the length of their contract which was typically two years. This in turn, is evidence of intent to exploit as per the Trafficking Protocol. Extreme shifts were not uncommon during heavy fishing periods. For example, one crew member worked 48 hours before falling asleep at the gutting table. Another crew member recalled working 53 hours without a break for sleep. He was permitted a 3 hour break and then was required to work a further 20 hours. Crew members were denied overtime wages and evidence showed the



systematic underpayment of wages based on fraudulent practices including false timesheets, denial of overtime hours worked, improper contracting and false declarations of compliance with work visa conditions. False wage payment declarations were produced to circumvent the New Zealand minimum wage requirement.

Accidents under such working conditions were common and medical treatment was often denied. A crew member was unlawfully detained at sea for 23 days with 2 broken bones in his hand which, without proper treatment, is now deformed thus limiting his capacity to work. While working on deck, another crew member fell back into the winch gears resulting in his hand being crushed and his forearm severed. Upon his return to Indonesia he received \$NZ1,388 in compensation but is unable to work at full production with one hand. Another crew member complaining of high temperatures frequently vomited after eating. The Bosun insisting that he was being lazy forced him to work. The crew member was refused medical care and when the vessel docked in port, the Captain sent him home thus exposing him to penalties from the manning agent. At home in Indonesia, he was diagnosed with typhoid. Another, suffering from abdominal pains was charged for transportation to the hospital after which he was sent home being paid only \$NZ1250. He was told that the rest his wages went to the company for lost fishing time and that he should be grateful for the money he received as the company felt sorry for him.

In addition to extremely dangerous working conditions, many crew members were subjected to abusive practices including physical and sexual abuse. Incidents of abuse ranged from indecent exposure to accounts of repeated rape. On-board one vessel, a South Korean factory manager would make a steeple with his fingers and wait for the assistant cook to bring him his coffee he would then ram his fingers into the assistant cook's anus as he bent over. This was treated as a moment of great



hilarity by the Koreans officers. While an obvious violation of criminal laws, it also suggests the existence of exploitation as per the Trafficking Protocol.

In 2011, Slave Free Seas (SFS) was formed to fight modern day slavery at sea. Since their formation, SFS has assisted 480 Indonesian fishermen who are collectively owed in the vicinity of \$25 million by their South Korean employers. In several cases, the Korean employers have sought to circumvent a legal battle by entering into 'Peace Agreements' wherein crew members accept a partial payment of money owed. Desperate and under severe duress – proof of the element of the Trafficking Protocol's 'abuse of a position of vulnerability' – some crew members accepted the 'Peace Agreement' thereby agreeing to withdraw all wage claims and forego legal representation. For some claimants, their claims were settled out of court while for others their claims are on-going through the New Zealand courts. The latest claim as of 1 July 2014, is for 87 applicants owed \$NZ6.6 million in wages.

Up until 2011 successive government departments failed to execute their policy relating to FCVs. In 2012, the New Zealand government announced regulatory changes to the FCV sector. Importantly, there is the requirement that all vessels must be reflagged as New Zealand vessels by 2016. The reflagging will ensure that foreign crew are covered by New Zealand labour, and health and safety laws. By July 2014 however, the Bill has yet to pass its final reading in Parliament and until it does pass, now delayed until after the general election, it is 'business as usual' for the slave ships and their NZ charterers. Recent history tells us that without effective investigation, enforcement and passing the Bill may not achieve the intention of Parliament.