



RIGHTS ON THE LINE

Policy and Regulatory Gaps Affecting Migrant Fishers in Washington State Ports

This report covers a range of topics related to the conditions and experiences of migrant fishers. We provide information on the trends in experiences of the twenty-nine fishers we interviewed, interacted with, or surveyed. We also introduce historical and current labor relationships between the United States and our interviewed migrant fishers' home countries, applicable regulations and policies, and examples of approaches and limitations to combatting forced labor.

In this research project, **we seek to better understand the experiences of migrant fishers who dock or unload catch at Washington state ports.** We gathered information from fifteen migrant fishers, fourteen U.S. citizen fishers, and over thirty-five subject matter experts.

Our research process focused on these questions:

- What trends exist across migrant fishers' experiences and perspectives?
- Regarding protecting migrant workers in the commercial fishing industry from exploitation, what gaps, if any, currently exist in labor and human rights policy and regulation at local (state), national, and international levels?
- What role can corporate accountability play in preventing forced labor and wage theft from fishers in global supply chains?

Our research finds that gaps in policy language and regulatory practices allow for migrant fishers in the U.S. commercial fishing industry to remain largely invisible as they operate out of sight and out of mind. The Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 allows for U.S. vessels fishing only highly migratory species to employ migrant fishers without a U.S. work visa. In our research, we found that many subject matter experts across industries did not know that migrant fishers could work without a U.S. visa, thereby restricting them to their fishing vessels at U.S. ports. That finding raises the question, what can we do to address fishers' rights as workers and people when we know this exemption exists?

Key Findings

1. Exemptions in U.S. law, codified through the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987, allow migrant fishers to work without work authorization or U.S. work visas and leave them vulnerable to forced labor and exploitation.
2. All migrant fishers who were interviewed experienced indicators of forced labor.
3. Complicated policy and regulatory frameworks that intersect with commercial fishing make it difficult to address violations of workers' rights, including alleged incidents of forced labor.
4. Migrant and U.S. citizen fishers reported difficult living and working conditions with many challenges to establishing safe workplaces.
5. Additional worker-centered research is needed to better understand and support the needs of Washington's commercial fishers and their industry.
6. Approaches to combat forced labor in the commercial fishing supply chain are varied and uneven and require centering the most impacted workers and communities.

Policy Recommendations

Federal

Laying the groundwork for change at the federal level is urgent. **Our research highlights the need for reforms to the Fair Labor Standards Act (FLSA) and immigration statutes to fill in the legal gaps and exceptions that migrant fishers fall into.** To make recommendations grounded in workers' experiences, we need to consult more migrant workers across industries, and especially fishers and other workers in occupations not covered by the FLSA. Our federal recommendations would provide support to migrant and citizen fishers alike. We therefore recommend that the U.S. federal government:

- **Adopt the ILO's Work in Fishing Convention 188 (C188).**
Convention 188 addresses many of the gaps in existing policy regarding workers' rights and working conditions for fishers. It would support fishers of all nationalities, who may or may not have an employment contract.
- **Create work visas for migrant fishers pursuing highly migratory species.**
A new visa option for non-immigrant crew members could be modeled after the D-3 option introduced by U.S. Senator Maisie Hirono (Hawaii) in the 2017 Sustainable Fishing Workforce Protection Act (Bill S.2071).
- **Expand support to prevent and track workplace injuries.**
Federal funding and other resources should target providing worker safety training to all fishers and vessel owners.
 - Increase NOAA Fisheries and National Institute for Occupation Safety and Health (NIOSH) funding focused on building and expanding partnerships with groups working directly with fishers and their communities. The funds could support public entities (e.g., Washington Sea Grant) and non-public community-based organizations.
 - Explore opportunities to further incentivize safety training for vessel owners and fishers.
 - Expand the current NIOSH tracking system, the Commercial Fishing Incident Database, to include demographics and non-fatal fisher injuries.

State

Our state-level recommendations build on current policies and approaches to try to center the needs of all fishers, including and especially migrant workers. We recommend that:

- **The Washington State Department of Labor and Industries (L&I) establish a workplace investigation unit focusing on forced labor.**
L&I could partner with Washington state ports to inspect vessels and educate fishers, captains, and vessel owners. In addition, such a unit could respond to filed complaints and inquiries and offer proactive education in industries with a disproportionately high migrant workforce. Additional partnerships, such as with the Washington Attorney General's Office, and oversight through existing legislative committees to address and prevent forced labor could add additional state resources and capacity.
- **The Washington State Legislature provide funding to community-based organizations supporting migrant workers.**
These organizations fill an important gap by providing cultural competency, language justice, and other support to migrant workers who may be facing exploitation, including forced labor. Through public grants or other means, the state government should recognize and support the essential public service that these organizations provide.
- **The state government work with community-based organizations to gather selected information about the migrant fisher workforce.**
Currently, there is an information gap regarding the migrant fisher workforce. Washington SB 5996, introduced in the 2023-2024 legislative session, provides a model for tracking wages and consulting with workers directly. Hawai'i Act 43 (H.B. No. 1016) contains language requiring Longline vessels to file a report with the Department of Land and Natural Resources that provides information on crew members. At the same time, especially in today's political climate, migrant workers have many reasons to fear state surveillance. To address these concerns, fishers and organizations advocating for migrant and immigrant workforces should inform the appropriate methods to gather information to better support migrant fishers.
- **All state agencies and officials prioritize the perspectives and experiences of workers to understand the needs of fishers, including small and independent vessel owners.**
 - *Support port infrastructure.* Fishers and subject matter experts acknowledged the need for port upgrades to better fit the needs of commercial fishers.
 - *Provide incentives for small operators in fishing to enter and remain in the industry.* Small independent vessel owners would benefit from access to grants and reduced-interest loans to purchase and repair vessels. Alaska's commercial fishing loan programs are a state-based example.

Other

- **The Pacific Fishery Management Council and other regional fishery management councils should recommend binding minimum labor standards.**
The Western and Central Pacific Fisheries Commission's binding labor standards, which go into effect in 2028, have paved the way for other regional fishery management organizations and councils to recommend binding standards, with appropriate compliance identified, to support all fishers. These standards are important and should meet or exceed the standards outlined in the ILO's C188.
- **Ports should initiate labor trafficking and workers' rights campaigns and support worker centers.**
Conversations with port officials demonstrated that many of the port's trafficking concerns address sex trafficking, with limited focus on labor trafficking. In addition, the individual ports' discrete jurisdictions may allow labor violations to be overlooked. Port officials should collaborate with worker-led organizations to create training related to the ILO's forced labor indicators with a section on general workers' rights. Ports — air and sea — should also post anti-trafficking and workers' rights signage in working areas and in multiple languages. Beyond port-led campaigns, workers' rights centers that are based in or near ports that all fishers can access could offer workers' rights education and support to fishers.
- **Employer associations should adopt standards and labor agreements with migrant fishers.**
The American Albacore Fishing Association (AAFA) and other employer or vessel owner associations should follow the lead of the Hawai'i Longline Association to develop a standard universal crew contract, a crew handbook, a crew grievance committee, and an employer code of conduct. But all such efforts should include migrant fishers' participation. To ensure ongoing engagement and enforcement, fishers and their employers should ideally negotiate a collective bargaining agreement. A labor union within the International Transport Workers' Federation (ITF) would allow for ITF-trained fishery inspectors to support workers and their industry.