



桃園市群眾服務協會
Serve the People Association



Briefing Paper No. 3 Wi-Fi for Fishers' Fundamental Labor Rights

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I. INTRODUCTION

Migrant fishers in Taiwan’s distant water fishing industry, their unions, and international allies have launched a global campaign called “Wi-Fi NOW for Fishers’ Rights at Sea,” demanding access to Wi-Fi for fishers on board Taiwanese distant water fishing vessels. Wi-Fi access is necessary for fishers to be able to exercise their rights to freedom of association and collective bargaining so that they can defend their other fundamental labor rights under international law, including their right against forced labor.¹ Taiwan, the United States, and other key markets — as well as global corporate actors such as vessel owners, global seafood buyers, and investors — all have a critical role to play to make this happen.

The Wi-Fi NOW for Fishers’ Rights at Sea campaign presents this third briefing paper, “Wi-Fi for Fishers’ Fundamental Labor Rights” to explain how and why the lack of access to Wi-Fi for fishers on board distant water fishing vessels itself violates fishers’ right to freedom of association by creating a “no union zone” at sea, which also leads to violations of fishers’ fundamental rights to work in a healthy and safe workplace without forced labor and without discrimination based on national origin or migrant status.

This briefing provides background on fishers in Taiwan’s distant water fishing industry and their working conditions, followed by an explanation of how the absence of Wi-Fi in Taiwan’s distant water fishing fleet creates a “no union zone” that violates the freedom of association and of how Wi-Fi consistent with freedom of association on distant water fishing vessels is essential for realizing all labor rights in the industry.

Launched in February 2023, the Wi-Fi NOW for Fishers’ Rights at Sea campaign is led by the Indonesian Seafarers Gathering Forum (FOSPI), a self-organized group of Indonesian fishers in Donggang, Taiwan, and supported by a coalition of human rights, labor rights, and migrant workers’ organizations based in Taiwan, the United States, and the United Kingdom: Global Labor Justice - International Labor Rights Forum (GLJ-ILRF), Taiwan Association for Human Rights (TAHR), Stella Maris Kaohsiung, Serve the People Association (SPA), and Humanity Research Consultancy (HRC).

II. BACKGROUND: FISHERS IN TAIWAN'S DISTANT WATER FISHING INDUSTRY

Distant water fishing is commercial fishing that occurs outside fishing vessels' countries of origin and typically in faraway waters — even across the globe from their port of origin.² This includes fishing both on international high seas and within the coastal jurisdiction or 200-mile Exclusive Economic Zones (EEZs) of other countries.³ Since the invention of steam trawlers in Britain in the late nineteenth century, distant water fishing has rapidly expanded globally.⁴ Between 1950 and 2014, the global fishing fleet increased from 1.7 to 3.7 million vessels,⁵ with fished areas expanding from 60% to more than 90% of the world's oceans.⁶ Today, the top five countries engaged in distant water fishing efforts by percentage of the global industry are China (38%), Taiwan (21%), Japan (10%), South Korea (10%), and Spain (10%); the operations of these countries' fleets account for nearly 90% of global distant water fishing operations.⁷



A. Overview of Taiwan's distant water fishing industry

Taiwan is a major player in the distant water fishing industry. The second largest in the world,⁸ Taiwan's distant water fishing fleet consists of 1,100 Taiwanese-flagged vessels and 259 flag of convenience (FOC) vessels, which are owned or funded by Taiwanese nationals but are flagged to other states.⁹ Taiwan's distant water fishing industry ranks among the top 25 seafood producers worldwide,¹⁰ with annual exports of distant water fishing products amounting to roughly \$1 billion USD.¹¹

Advocates have documented pervasive labor abuse of migrant fishers in Taiwan's distant water fishing fleet over the years.¹² They have identified all of the International Labour Organization (ILO) indicators of forced labor in Taiwan's distant water fishing fleet: abuse of vulnerability, deception, restriction of movement, isolation, physical violence, intimidation and threats, retention of identity documents, withholding of wages, debt bondage, abusive working and living conditions, and excessive overtime.¹³ Examples of key cases documented in these reports include the cases of *Giant Ocean*, *Fu Tsz Chiun*, *Tunago No. 61*, *Fuh Sheng 11*, *Fwu Maan No. 88*, *Shin Jaan Shin*, *Chin Chun No. 12*, *Da Wang*, *Lien Yi Hsing No. 12*, *Wei Ching*, *Longliner A*, *Longliner B*, and *Win Far No. 63*.¹⁴



During the past decade, the European Union (EU), the U.S. government, and the Taiwanese government have recognized the risk of illegal, unreported, and unregulated (IUU) fishing and forced labor in Taiwan's distant water fishing fleet. On October 1, 2015, the EU issued a "yellow card" to Taiwan for failing to enforce its IUU fishing regulations,¹⁵ which was later lifted in 2019 after several reforms were made.¹⁶

However, labor abuses continued in the fleet, and from 2019–2020, U.S. Customs and Border Protection (CBP) issued Withhold Release Orders (WROs) against four of the vessels, three of which remain active: *Tunago No. 61* (issued on February 6, 2019 and revoked on April 1, 2020), *Yu Long No. 2* (issued on May 11, 2020), *Da Wang* (issued on August 8, 2020), and *Lien Yi Hsing No. 12* (issued on December 31, 2020).¹⁷ In addition, the U.S. Department of Labor (DOL) listed Taiwan-caught fish on its List of Goods Produced by Child or Forced Labor for the first time in 2020 and then again in 2022.¹⁸

The Taiwanese government also recognized the risk of IUU fishing in its own distant water fishing fleet after agreeing to serve as a priority flag state in the U.S. Interagency Working Group on IUU Fishing's *National Five-Year Strategy for Combating Illegal, Unreported, and Unregulated Fishing (2022-2026)*.¹⁹ This national strategy was announced months after the Biden Administration committed to "address the problem of IUU fishing, including by distant water fishing vessels, and associated labor abuses, including the use of forced labor in the seafood supply chain" in its 2022 National Security Memorandum (NSM).²⁰

Most recently, the National Oceanic and Atmospheric Administration (NOAA) Fisheries' biennial report to Congress identified Taiwan for having vessels that engaged in IUU fishing.²¹ The report also highlighted the prevalence of forced labor in Taiwan's distant water fishing fleet.²²



B. Working conditions for distant water fishers in Taiwan

Working conditions for distant water fishers in Taiwan's distant water fishing fleet commonly include serious labor abuse. Working in conditions of extreme isolation and danger, the fishers are primarily migrants from neighboring countries who are employed on tied visas, but excluded from basic labor protections under Taiwanese law.

1. Total isolation

One major driver of forced labor in Taiwan's distant water fishing fleet is the total isolation of fishers while they are at sea for months without the ability to disembark at their original port — a time period that has ranged anywhere from six months to three years in recent years.²³ Workers in the distant water fishing industry are isolated from the outside world while they work and live on fishing vessels for months or years at a time. Because Taiwan's distant water fishing fleet does not guarantee fishers personal access to communication at sea, workers are denied any contact with their family, union representatives, service providers, or state officials for the entire period of their employment,

including while they are not on duty, since fishers both live and work on board vessels. While most fishers own mobile phones, they cannot use them at sea without access to Wi-Fi.

Isolation is a significant indicator of forced labor in part because it heightens the power imbalance between workers and employers, especially in the context of other forced labor indicators that are common in Taiwan's distant water fishing industry.²⁴ Under conditions of total isolation, fishers are currently only able to report labor violations that occur at sea by reporting to unions or workers organizations once they return to shore — often months or even years after violations occurred. For example, on the Taiwanese-flagged vessel Fwu Maan No. 88, the vessel captain retained workers' passports and physically and verbally abused them, but workers could only report the issues over a year later when they docked in Port Moresby in Papua New Guinea.²⁵ The complete isolation of fishers on board vessels and their inability to report abuses for nearly a year — if not longer — allows vessel owners to avoid being held accountable for illegal acts such as labor violations and IUU fishing.

Taiwan's recent limit on the number of consecutive months that workers can stay at sea does not resolve the problem of worker isolation in Taiwan's distant water fishing vessels. In June 2022, the Taiwanese government established a new limit of 10 consecutive months for workers to spend at sea without going to a port.²⁶ The new provision on maximum days at sea guarantees fishers to harbor at any port — not necessarily a Taiwanese port — once every 10 months. While vessels that are registered in Kaohsiung, Taiwan, are required to harbor in Kaohsiung, those that are registered in a foreign port may harbor in either Taiwanese or foreign ports.²⁷ Consequently, many Taiwanese distant water fishing vessels “typically land their catch in international ports or fishing bases abroad, instead of in Taiwanese ports.”²⁸ Critically, fishers are not guaranteed access to essential shore services in all ports, such as access to Wi-Fi, medical care, religious services, unions, migrant worker support organizations, and recreation and sanitary facilities.²⁹ Instead, foreign fishing ports are mostly fenced and barricaded, barring fishers from disembarking the vessel and accessing services or reporting grievances.³⁰ Moreover, even if fishers were guaranteed to dock at a Taiwanese port every 10 months and have access to shore services, workers would still face 10 months of total isolation at sea.

Isolation at sea is not inherent to work at sea — to the contrary, most workers at sea have a recently adopted right to Wi-Fi at sea and have long had regular access to communication, as well as to unions. In 2022, the Maritime Labour Convention, 2006 (MLC), which lays out the rights of seafarers — a legal umbrella term that covers almost all most categories of workers at sea but not fishers — was amended to make Wi-Fi or internet access the default for communication for all seafarers. Because the legal definition of seafarers excludes fishers, distant water fishers do not benefit from the MLC, 2006 reform — even though distant water fishers, like seafarers, spend months or years at sea — but the MLC, 2006 reform illustrates that Wi-Fi access is not only feasible, but now considered the default for most workers at sea.

Furthermore, experience of unions who have organized seafarers also illustrates the opportunity for union access at sea. Over the past 50 years, the International Transport Workers' Federation (ITF), the Global Union Federation (GUF) of transport unions,³¹ has ensured union access to maritime shipping workers. The ITF has built a ship inspector network that consists of more than 100 inspectors worldwide who work to promote fair working conditions in the international maritime community by enforcing international conventions and ITF-approved collective agreements at ports where ships dock, including through enforcing workers' rights to disembark at ports, conducting vessel inspections, and helping workers file complaints both on-board and on-shore.³²



2. Dangerous working conditions

Fishing is, by nature, considered one of the most dangerous industries in the world due to unpredictable weather conditions, being on the open water, and the handling of dangerous equipment.³³ More than 100,000 fishing-related deaths occur each year – “likely a significant underestimate,” according to researchers.³⁴ In addition, many more sustain serious injuries from fishing.³⁵ Distant water fishers are at particular risk because many distant water fishing vessels engage in illegal, dangerous behavior, such as fishing without safety equipment, not limiting the number of work hours, or voyaging farther out to sea for longer periods despite being poorly equipped.³⁶

Yet, it is extremely challenging for distant water fishers to seek medical assistance when they are injured — much less to stop work that presents an imminent and serious danger to their life or health. Even though international law requires vessel owners to provide fishers access to medical assistance in emergencies through radio or satellite communication³⁷ and vessel owners are expected to “immediately arrange medical treatment at the nearest facility and [be] responsible for medical and other expenses” if a work-related injury or sickness occurs,³⁸ there are several documented cases of vessel captains refusing to turn the vessel back to shore and denying sick fishers the prompt medical treatment they need.³⁹ Because of workers’ isolation at sea, working and living on fishing vessels, removing themselves from work that presents an imminent and serious danger to their life or health is effectively impossible.

3. Lack of protection for migrant workers

Taiwan’s distant water fishing industry largely relies on migrant labor, with more than 22,000 migrant workers from Indonesia, the Philippines, and Vietnam. Distant water fishers are mostly migrants, while management — including captains, chief mates, and chief engineers — tend to be Taiwanese nationals.⁴⁰

Taiwan excludes migrant distant water fishers from protection under Taiwan’s labor law. Taiwan’s two-tiered employment scheme distinguishes between coastal-offshore and distant water fishing. Taiwanese law considers distant water fishers to be employed overseas — and on this basis, excludes them from Taiwan’s Labor Standards Act, which covers almost all workers in Taiwan and is

administered by the Ministry of Labor. Instead, Taiwanese migrant distant water fishers are overseen by the Fisheries Agency — part of the Ministry of Agriculture — and are subject to Taiwan's *Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members*.⁴¹ Compared to the *Labor Standards Act*, the *Regulations* set lower minimum wages, looser limits on working hours, and weaker insurance and labor inspection policies for distant water fishers.⁴²

Against this backdrop, migrant workers, who make up the majority of the workforce in Taiwan's distant water fishing industry, are at heightened risk of exploitation because of their migration status. During the recruitment process, migrant distant water fishers are hired as temporary workers on a tied visa scheme, which makes their visas conditional on their employment contracts being active⁴³ and bars them from changing employment once they are hired.⁴⁴ This means that employers who fire workers also have the power to initiate their deportation. In addition, if workers want to change employers, they must terminate their contracts and return to their home country without any screening for forced labor or other abuses before they can seek new employment.⁴⁵ Recruitment agencies and employers also commonly charge workers excessive recruitment-related fees that push workers into debt bondage,⁴⁶ making them unable to leave their jobs due to the high debt they have incurred.⁴⁷ Together with debt, the threat of deportation upon losing a job and the inability to change employers under Taiwan's tied visa scheme compels many fishers to remain in an abusive workplace.



III. FISHERS' ISOLATION ON DISTANT WATER FISHING VESSELS WITHOUT ACCESS TO WI-FI: A SERIOUS VIOLATION OF THE RIGHT TO FREEDOM OF ASSOCIATION UNDER INTERNATIONAL LAW

Taiwan's distant water fishing fleet is effectively a "no union zone" without Wi-Fi access for fishers, which is a clear violation of the right to freedom of association under international law. Workers' and unions' freedom of association is protected under the ILO Declaration on Fundamental Principles and Rights at Work and the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)(C87) and Right to Organize and Collective Bargaining Convention, 1949 (No. 98)(C98).

In addition, migrant workers' right to freedom of association is enshrined in Article 20 of the Universal Declaration of Human Rights; Article 22 of the International Covenant on Civil and Political Rights; Article 8 of the International Covenant on Economic, Social and Cultural Rights; and Article 26 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The UN Special Rapporteur on the Human Rights of Migrants has also recognized the particular importance of the right to freedom of association for migrants who are generally more vulnerable to exploitation than local workers — especially migrants working in isolated, informal workplaces, such as domestic workers and maritime workers.⁴⁸

The sections below explain how union access to workplaces is a core feature of freedom of association, how union access consistent with the freedom of association necessitates Wi-Fi on distant water fishing vessels, and how fishers' right to reasonable access to communication facilities under international law must be read in the context of the requirements of freedom of association.

A. Union access to workplaces is a core feature of the freedom of association

The ILO Committee on Freedom of Association (CFA) has plainly confirmed in dozens of cases that trade union representatives have a right as part of the freedom of association to access the workplace.⁴⁹ The ILO CFA has emphasized that this right of access applies, especially where workplaces are geographically isolated and where workers live at their workplace.⁵⁰ As described above, Taiwan's distant water fishing fleet employs fishers who have no access to unions or union representatives at their workplaces. This is especially important because fishers also live on board vessels and cannot participate in union activities or report grievances in non-working hours either.

As the ILO CFA has laid out, access rights are fundamental to the freedom of association because access to the workplace is critical for trade unions to “communicate with workers in order to apprise them of the potential advantages of unionization”⁵¹ and “to enable them to carry out their representation function”⁵² so that they can “further and defend the interests of their members.”⁵³ Access rights do not only include physical access; accessing the workplace also entails the use of email to contact workers.⁵⁴ Without physical or digital access to the workplace, unions cannot freely carry out their normal trade union activities. In the absence of in-person or digital communication, unions are unable to contact and organize workers, while workers, in turn, are unable to report grievances to unions. As a result, the freedom of association necessitates unions' ability to communicate with workers in the workplace.

The ILO CFA has noted specifically that unions' right to access workplaces is in effect even for workplaces like distant water fishing vessels that are admittedly more difficult to access, whether due to hazardous conditions or geographical isolation. For example, the ILO CFA has specifically stated that the right to access exists in the mining and oil sectors, despite safety and security concerns.⁵⁵ The ILO CFA has also upheld the right to access agricultural plantations and private residences that employ domestic workers, both of which are challenging for unions to access because they are geographically remote or

isolated.⁵⁶ The ILO CFA specifically noted the right is all the more critical in these contexts because — like distant water fishers — plantation and domestic workers tend to live where they work.⁵⁷ The ILO CFA and the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) have recognized that the right to union access equally applies to less accessible workplaces so long as the union activities protect the property and do not interfere with work performed during working hours or the efficient functioning of the enterprise.⁵⁸

According to the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Mr. Clément Nyaletsossi Voule, the internet is especially critical for marginalized groups working in isolated workplaces — like domestic workers or migrant workers in distant water fishing — seeking to exercise their freedom of association.⁵⁹ The Special Rapporteur wrote in his 2019 Thematic Report to the UN Human Rights Council: “[S]uch technologies are important tools for organizers who seek to mobilize a large group of people in a prompt and effective manner, and at little cost, and also serve as online spaces for groups of people that are marginalized by society....”⁶⁰ Also relevant to this point, the Human Rights Council has noted that internet access is particularly important where physical assembly is not possible, as is the case for distant water fishers, stating in a recent report: “when physical assemblies are restricted, [...] it is all the more necessary [...] to ensure that access to the Internet extends to the entirety of the global population and that it is affordable, and fully respects and protects each individual’s right to privacy.”⁶¹



B. Fishers' access to unions on distant water fishing vessels requires Wi-Fi

Having one satellite phone per vessel for emergency medical use is common practice in Taiwan's distant water fishing fleet, but inadequate for unions to have access to the workplace while vessels are at sea, consistent with the freedom of association. At least one satellite phone is usually on board every distant water fishing vessel, in accordance with Article 29 of C188, which requires all fishing vessels to be equipped for radio or satellite communication with persons or services ashore that can provide medical advice.⁶² However, the use of a satellite phones are inadequate to enable fishers to exercise their right to freedom of association, because they do not enable workers to effectively contact their unions, much less to do so with adequate accessibility and privacy protections.

As discussed in the Wi-Fi NOW for Fishers Rights at Sea campaign's *Briefing Paper No. 2*,⁶³ in general, satellite phones do not provide adequate functionality for workers to be able to contact unions while at sea. Satellite phones are limited to audio calls and Short Message Service (SMS).⁶⁴ In contrast, satellite Wi-Fi permits fishers to make both audio and video calls; send instant messages, photos, and videos; and access the internet, which entails access to email, the World Wide Web including the news and social media platforms, and mobile applications — all critical functions to be able to acquire information and communicate with the outside world in the present day. Without the ability to access Wi-Fi on board vessels, fishers will be unable to perform any of the following activities, among others, which are essential to their freedom of association and right to collective bargaining:

- Conduct an internet search to find educational sources about their rights (e.g. articles, videos);
- Locate the contact information of a union, NGO, or government agency for assistance;
- File a complaint through an online grievance mechanism that is offered by a union, NGO, or government agency;
- Stay up-to-date on union activities by having access to the union's email newsletter, the union website, or an instant messaging group chat (e.g. on WhatsApp, Line, or Signal);

- Send and receive direct emails or instant messages to and from their union representatives or other advocates;
- Send photographs and videos that may serve as critical evidence in building a case;
- Stay informed on current events, including key political or social developments (e.g. news articles and announcements from the Ministry of Agriculture, the Fisheries Agency, the National Immigration Agency, or other relevant authorities); and
- Express their views on social media platforms as part of advocacy efforts.

In addition, using satellite phones for communication raises issues of accessibility and privacy that Wi-Fi addresses. At present, vessels are typically equipped with only one satellite phone that is placed in the captain's deck and solely designated for the captain and supervisors, for emergency use.⁶⁵ However, a single, shared device controlled exclusively by the captain is not a real means for workers to be able to communicate with their families, unions, or other advocates. Even if a captain made the satellite phone available to fishers, the entire crew would need to share the satellite phone and would be unable to privately make phone calls or send and receive text messages, which would make contacting their union representatives or other advocates extremely challenging. Fishers need access to communication facilities that are available to all crew and that can be used without surveillance from the captain in order to report labor abuses to people onshore, including their union representatives. Hence, to be accessible, a satellite phone would need to be provided to each individual crew member; having one or a few shared satellite phones would be inadequate.

As illustrated in *Briefing Paper No. 2*, providing Wi-Fi for Taiwan's distant water fishing fleet is a cheaper option than satellite phone, considering the high cost of purchasing satellite phones for each fisher (unlike Wi-Fi, which fishers could access using their own existing mobile phones) and the wide range of communication fees charged per minute for calls made by satellite phone (fees that do not apply for calls made over Wi-Fi). With access to Wi-Fi, fishers may use their personal mobile devices to directly and discreetly communicate with their unions and other advocates, as well as their families and friends — and at lower cost to industry.

C. C188 must be read in the context of the requirements of freedom of association at sea

The ILO Work in Fishing Convention, 2007 (No. 188) (C188), which the 96th International Labour Conference adopted in 2007 and came into force in 2017, has been ratified by 21 countries.⁶⁶ Taiwan committed to domesticating C188 in 2019.⁶⁷ Applicable to all types of commercial fishing, the Convention aims “to ensure that fishers have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board; conditions of service; accommodation and food; occupational safety and health protection; medical care and social security.”⁶⁸ In line with these objectives, C188 explicitly requires reasonable access to communication at sea for fishers. Article 71 of C188 states, “All fishers on board shall be given reasonable access to communication facilities, to the extent practicable, at a reasonable cost and not exceeding the full cost to the fishing vessel owner.”

C188’s requirement for fishers’ “reasonable access to communication facilities, to the extent practicable” must be read in the context of freedom of association which requires union access to fishing vessels, including distant water fishing vessels. The plain text of C188 makes clear that its object and purpose include ensuring fundamental labor rights for fishers. In addition, in the Preamble to the Convention, C188 notes the ILO Declaration on Fundamental Principles and Rights at Work, 1998, and takes into consideration the fundamental rights found in C87 and C98, along with the other fundamental labor rights. This is because respect for fishers’ right to organize and bargain collectively is necessary for fishers to be able to uphold the rights outlined in C188. Fishers must be able to freely join and participate in unions in order to meaningfully exercise and defend their right to the minimum standards for living and working conditions on board vessels that are delineated in C188. Therefore, the freedom of association serves as a foundational principle for the articles in C188.

In light of recent technological advancements, Wi-Fi is presently the most “practicable” and affordable option for providing reasonable access to communication on distant water fishing vessels. The preparatory work leading

up to the adoption of C188 shows that the the drafters of C188 selected the broad umbrella term “communication facilities” and the clause “to the extent practicable” to reflect the fact that in 2005, at the time of negotiation, satellite phone was the only available option for communication at sea and was relatively expensive.⁶⁹ In comparison, nearly two decades later, rapid advancements in technology have made installing satellite Wi-Fi on distant water fishing vessels feasible and increasingly affordable compared to satellite phones, as described above. According to a 2017 white paper by global trade union Nautilus International:

...fundamentally there are no longer any technological or financial barriers to providing decent connectivity at sea. The same advances that have propelled the ‘networked economy’ on land have allowed satellite operators to significantly improve both the capability and flexibility of their offerings to the maritime sector, bringing down the cost of basic vessel connectivity to approximately 0.3% of the total cost of operating a vessel. And that cost itself is also now reducing further to 0.2% and lower as high technology capacity and competition drive down pricing to provide maritime access.⁷⁰

In addition, the legislative intent behind Article 71 also supports the interpretation that C188 requires Wi-Fi on board vessels.⁷¹ The preparatory work illustrates that communicating with families onshore was a key motivator behind requiring fishers’ reasonable access to communication facilities.⁷² Satellite Wi-Fi is the only two-way communication facility available on fishing vessels that permits fishers to engage in meaningful and continuous communication with their families by accessing the internet to use instant messaging applications like WhatsApp or social media platforms like Facebook to make both audio and video calls, send instant messages, share photos and videos, and exchange emails.⁷³

C188 also requires that fishers have access to Wi-Fi on vessels at no cost. Examination of the legislative history of C188 indicates that accessibility of the

communication facilities for fishers was an important consideration in drafting Article 71, as members expressed concerns that communication costs could be prohibitive for fishers.⁷⁴ Any fees attached to accessing Wi-Fi would likely be prohibitive for migrant fishers in Taiwan’s distant water fishing industry whose minimum wage amounts to \$550 USD — only two-thirds of the minimum wage for workers covered by Taiwan’s Labor Standards Act.⁷⁵ Furthermore, many migrant fishers do not even receive the legal minimum wage, instead being subjected to wage withholding and deductions, which tends to lead to situations of debt bondage.⁷⁶ Therefore, only provision of free Wi-Fi for fishers meets C188’s communication facilities requirement under Article 71.

Finally, a recent amendment to the MLC, 2006 making Wi-Fi the default communication guaranteed for all seafarers except fishers confirms that “communication facilities” under C188, the parallel convention covering fishers in international law, should mean satellite Wi-Fi today.⁷⁷ As described in the Background section of this paper, the MLC, 2006 is a parallel convention to C188 for all other seafarers besides fishers; the Convention is widely adopted, having been ratified by more than 100 countries. The International Labour Office has underscored the importance of a “coordinated effort” in the implementation of C188 and of the MLC, 2006 because “many member States laws and regulations addressing conditions of work of seafarers also address conditions of work of fishers,” even though historical convention in international labor law has addressed them under separate conventions.⁷⁸ This is especially true of distant water fishers who, like seafarers, work at sea, but often enjoy fewer protections — for example, as described above, seafarers have historically had access to unions at port, while distant water fishers have not. Yet even for seafarers, Wi-Fi is now the new standard for communication at sea. In 2022, the MLC, 2006 was amended to include a “social connectivity” requirement onboard ships,⁷⁹ with the Guidelines clarifying that the term “social connectivity” means the provision of Internet access on board ships.⁸⁰ In other words, the provision of internet access on ships — due to advancements in technology over the years — was deemed the default standard for ratifying countries in 2022. The adoption of Wi-Fi as the standard for communication for seafarers makes it all the more critical that distant water fishers have the same standard.

IV. THE NEED TO ENSURE FREEDOM OF ASSOCIATION IN TAIWAN'S DISTANT WATER FISHING FLEET TO REALIZE ALL FUNDAMENTAL LABOR RIGHTS FOR FISHERS IN THE INDUSTRY

According to the ILO, the freedom of association and right to collective bargaining are “enabling” rights for all other rights at work⁸¹ that “make it possible to promote democracy, sound labor market governance and decent conditions at work.”⁸² In other words, they are a “prerequisite” for other fundamental labor rights — for example, “the ability of workers to organize freely allows them to use their collective power to achieve improved labor rights, health and safety at the workplace, the right not to be discriminated against and freedom from forced labor,” as well as “adequate standard of living for workers and their families.”⁸³

In the context of the Taiwanese distant water fishing industry, ensuring Wi-Fi on distant water fishing vessels that is accessible for workers consistent with labor rights is critical for realizing all fundamental labor rights — including workers’ rights to a safe and healthy work environment and against forced labor and discrimination — for fishers in the industry.



A. Safe and healthy work environment: Wi-Fi consistent with freedom of association can help fishers remove themselves from dangerous work situations

Since 2022, the ILO has recognized the right to work in a safe and healthy workplace to be a fundamental labor right.⁸⁴ The right to a safe and healthy workplace is protected under the Occupational Safety and Health Convention, 1981 (No. 155) (C155) and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (C187).⁸⁵ Under C155, Article 13 grants workers the right to remove themselves from a dangerous work situation, while Article 19 states that employers cannot require the worker to return to work until the dangerous situation has been rectified.⁸⁶

The isolated nature of distant water fishing vessels makes access to Wi-Fi consistent with freedom of association even more critically important for fishers to be able to refuse to work under dangerous conditions. Access to Wi-Fi empowers workers to enforce their right to a safe and healthy workplace by allowing them to report abusive behaviors (e.g. beatings or verbal threats) or dangerous work conditions (e.g. absence of safety equipment or denied access to prompt medical treatment) to their union representatives, government officials, or other advocates onshore who could provide them with the necessary support to have the situation remediated in real time. Therefore, providing fishers with access to Wi-Fi on board vessels will ensure that Taiwanese distant water fishing vessels are safe and healthy places to work.

B. Forced Labor: Wi-Fi consistent with freedom of association ends fishers' isolation and helps hold employers accountable for ILO indicators of forced labor

Any effort to combat forced labor must include respect for freedom of association rights.⁸⁷ The ILO's experience teaches that "governments cannot eradicate forced labor without first ensuring that workers enjoy the right to join and form unions and engage in collective activities such as strikes."⁸⁸ This is because workers are rendered invisible without collective representation due to

the underlying power imbalances between employers and workers. In contrast, trade unions help immunize workers against forced labor.⁸⁹ They do so by rebalancing power between workers and employers and helping transform working conditions so that they are not exploitative in the first place.⁹⁰ By enabling fishers to form, join, and communicate with unions while at sea, Wi-Fi access will help rebalance power on board vessels and reduce fishers' risk of forced labor.

As discussed above, migrant fishers are at heightened risk of forced labor due to the tied visa scheme and discriminatory two-tiered employment system in Taiwan and are therefore in greater need of accessing Wi-Fi and exercising their right to freedom of association and collective bargaining at sea. This is because access to Wi-Fi can end isolation of fishers and their abuse of vulnerability by empowering them to defend their fundamental labor rights. With access to Wi-Fi, fishers would be able to contact their families, union representatives, faith-based organizations, government agencies, and other advocates and report labor rights violations, including indicators of forced labor. Having the option to report to unions is especially critical considering instances where Taiwanese government officials did not manage to address reports of abuse effectively,⁹¹ in part due to the lack of authority and capacity of the Fisheries Agency in comparison to the Ministry of Labor.⁹²



C. Non-discrimination: Wi-Fi consistent with freedom of association helps rectify violations of migrant fishers' right to freedom of association

Lack of access to unions for distant water fishers constitutes discrimination against migrant workers. With Taiwan's distant water fishing industry predominantly staffed by migrant workers, any barriers to union access on board Taiwan's distant water fishing vessels disproportionately impacts migrant workers and constitutes discrimination, in violation of international law. One of the ILO's fundamental labor principles is the elimination of discrimination in respect of employment and occupation.⁹³ Discrimination is also prohibited under the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (C111). A practice that has a disproportionate impact or effect on migrant workers, even though not intentionally discriminatory, may be considered discriminatory under international law.⁹⁴ Examples of cases involving disproportionate impact on migrant workers deemed discriminatory include the disproportionate negative impact of the COVID-19 pandemic on migrant workers⁹⁵ and the disproportionate impact of the effects of climate change on migrant workers.⁹⁶

As such, it is important to protect migrant workers against both direct and indirect discrimination,⁹⁷ and where systemic discrimination exists, additional measures need to be taken, including incentivizing private actors and devoting extra resources to historically marginalized populations.⁹⁸ In this context, Wi-Fi ends the lack of access to unions at sea that disproportionately impacts migrant workers in Taiwan's distant water fishing industry. Access to Wi-Fi creates pathways for workers to be able to report and remediate labor violations, helping shift the power imbalance on board vessels and empowering migrant workers to uphold their fundamental labor rights.

CORE CAMPAIGN PARTNERS

Forum Silaturahmi Pelaut Indonesia (FOSPI), or the Indonesian Seafarers Gathering Forum



FOSPI is a hometown association of Indonesian fishermen based in Donggang, Taiwan. With more than 2,000 members, they have worked tirelessly to support the well-being of migrant fishers since their establishment in 2006, promoting migrant fishers rights and uniting the migrant fisher communities in Taiwan.

Global Labor Justice - International Labor Rights Forum (GLJ-ILRF)



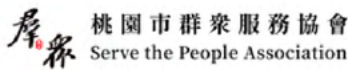
GLJ-ILRF is a human rights organization bringing strategic capacity to cross-sectoral work on global value chains and labor migration corridors. GLJ-ILRF holds global corporations accountable for labor rights violations in their supply chains; advances policies and laws that protect decent work and just migration; and strengthens freedom of association, new forms of bargaining, and worker organizations.

Humanity Research Consultancy (HRC)



HRC is an award-winning social enterprise providing expert supply chain investigation, training, and consultancy services to governments, NGOs, and corporations. HRC's local evidence-based insights empower policymakers to end forced labor, modern slavery, and human trafficking globally. Connecting clients to experts from more than 50 countries, HRC specializes in providing local culturally sensitive insights, nuanced field investigation, and research.

Serve the People Association (SPA)



SPA is an independent non-governmental organization founded in 2008 and committed to improving the working environment for Filipino, Indonesian, Vietnamese and other migrant workers in Taiwan. SPA's work involves rescuing migrant workers from situations of human trafficking and other abuse, and providing safe temporary housing in two shelters as well as legal consultation, medical assistance, emergency resettlement, assistance in obtaining legal wages and compensation, and other services.

Stella Maris Kaohsiung



Stella Maris Kaohsiung is a non-profit organization that has a center in the Port of Kaohsiung, Taiwan that cares for migrants, seafarers and refugees. They provide shelter for migrants who are experiencing labor disputes, victims of human trafficking and those involved in court cases. They also carry out regular visits to fishing vessels and push for legislative change to better protect migrant fishers rights.

Taiwan Association for Human Rights (TAHR)



TAHR is the oldest human rights association in Taiwan and is devoted to strengthening human rights standards and protection mechanisms, addressing domestic and global issues through collaboration with international human rights organizations. The organization focuses on a range of human rights issues, one such being the rights of migrant workers and refugees.

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that trade unions can communicate with workers in order to apprise them of the potential advantages of unionization’...In these circumstances, the

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...

often stated that...access to workplaces, during and outside working hours, should be granted to workers' organizations without impairing the efficient functioning of the administration or the public institution concerned...The Committee...requests the Government to take the necessary measures to ensure that, under conditions which take into account objective security concerns and do not impede their efficient functioning, all of the enterprises in the oil sector allow external trade union officials to enter staff areas, whether to meet with their members or to inform non-unionized workers of the potential benefits of membership.”); ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR), General Survey concerning the right of association and rural workers' organizations instruments (2015), International Labour Conference, ILC.104/III/1B, 104th Session, para. 153, p. 49, [https://www.ilo.org/public/libdoc/ilo/P/09661/09661\(2015-104-1B\).pdf](https://www.ilo.org/public/libdoc/ilo/P/09661/09661(2015-104-1B).pdf) (“The Committee recognizes that plantations...are private property on which the workers often not only work but also live and it is only by having access to these undertakings that trade union officials can carry out normal trade union activities. It is of special importance, therefore, that access by trade union officials for the purpose of carrying out lawful trade union activities should be readily permitted, provided that there is no interference with work being performed during working hours and subject to any appropriate precautions being taken for the protection of the property.”).

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74. See International Labour Office, *Report V(2A): Work in the fishing sector* (2005), p. 115.

75. See Fisheries Agency, Ministry of Agriculture, “The wage of migrant fisher of Taiwan's distant water fisheries fishing vessel will be paid directly, and the monthly minimum wage raised to US\$ 550” (Nov. 3, 2022),

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wage hike to benefit 1.79 million workers: Ministry” (Sept. 8, 2023),
<https://focustaiwan.tw/business/202309080022>.

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<https://ejfoundation.org/resources/downloads/Taiwan-briefing-IUU-HR-2020-July.pdf>. See also Office to Monitor and Combat Trafficking in Persons, *2023 Trafficking in Persons Report: Taiwan* (2023), U.S. Department of State,

<https://www.state.gov/reports/2023-trafficking-in-persons-report/taiwan/> (“FA maintained regulations that...set a minimum wage with direct payment options....However, NGOs noted the minimum compensation established in these regulations was below Taiwan’s broader minimum wage, and senior vessel crew continued to delay or withhold salary remittance in violation of contractual pay schedules, leaving some foreign fishing workers vulnerable to debt-based coercion.”).

77. *Id.*

78. International Labour Office, *Matters arising out of the work of the 96th Session of the International Labor Conference: Follow-up to the adoption of the work in fishing Convention and Recommendation and related Conference resolutions* (2007), GB.300/3/1, 300th Session, para. 8, p. 2,

https://www.ilo.org/public/libdoc/ilo/GB/300/GB.300_3_1_engl.pdf.

79. MLC, 2006, as amended in 2022, Standard A3.1 – Accommodation and recreational facilities: “17. Appropriate seafarers’ recreational facilities, amenities and services, including social connectivity, as adapted to meet the special needs of seafarers who must live and work on ships, shall be provided on board 33

for the benefit of all seafarers, taking into account Regulation 4.3 and the associated Code provisions on health and safety protection and accident prevention.”

80. MLC, 2006, as amended in 2022, Guideline B3.1.11 – Recreational facilities, mail and ship visit arrangements: “8. Shipowners should, so far as is reasonably practicable, provide seafarers on board their ships with internet access, with charges, if any, being reasonable in amount.”

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90. Rogovin, *Time for a Sea Change*.
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