

HUMAN RIGHTS AUDIT:

Looking at the welfare of non-EEA fishermen working on board ANIFPO member vessels in the Northern Irish Fisheries



Commissioned by

Anglo-North Irish Fish Producers Organisation (ANIFPO)



July 2018

Table of Contents

Executive Summary	3
Introduction	4
Methodology	5
<i>Methodological Considerations</i>	5
Findings	6
<i>Characteristics/General Information</i>	6
<i>Employment Information</i>	6
<i>Remuneration</i>	7
<i>Voluntarism</i>	7
<i>Satisfaction Ratings</i>	7
Highlighted Issues/Concerns	9
<i>Crewing Agents</i>	9
<i>Wage Deductions</i>	10
<i>Payslips</i>	10
<i>International Money Transfers and Familial Dependence</i>	11
<i>Telephone and Internet Access</i>	11
<i>Work Agreements</i>	11
Recommendations	12
Conclusion	14
Annex A	16

Executive Summary

As part of its commitment to Corporate Social Responsibility (CSR), the Anglo-North Irish Fish Producers Organisation (ANIFPO) has commissioned a human rights audit of its members' non-EEA crew. The audit follows on from the pioneering work it carried out in 2017 with the assistance of the charity, Human Rights at Sea. It forms part of the Organisation's wider approach to human rights and welfare related matters, specifically in the Northern Irish (NI) fisheries but also in the UK fishing industry more broadly. The approach echoes the fundamental values contained in the 2011 UN Guiding Principles on Human Rights, particularly in regard to the responsibilities of corporate entities to comply with all relevant laws and to 'respect' human rights.

The audit combined both qualitative and quantitative aspects of sociological research. Structured interviews coupled with self-completion questionnaires were designed to target a large sample of the Organisation's non-EEA labour force working on board members' vessels in the catching sector. By adopting a 'mixed methods' approach it was anticipated that a larger number of respondents would participate. Due to a number of factors outside its control, the target sample size was not achieved. However, the results of the audit produced some useful findings and provide a basis upon which future audits can be carried out.

The findings were overwhelmingly of a positive nature. Non-EEA crew are clearly content working in the NI fisheries on board ANIFPO member vessels. They seemingly enjoy a high standard of working and living conditions and feel valued by their employers. Working relations with their fellow crew members are good and the fishermen report that they have integrated with the local community well.

Some of the findings have produced cause for concern however. In particular there is evidence to suggest that some non-EEA fishermen from Sri Lanka are having to pay significant sums for the opportunity of work in NI to their facilitating crewing agent. Who, why, and how they are paying is not yet known. But such a finding is perturbing and may be indicative of a wider murky practice among unscrupulous crewing agents elsewhere in the industry.

Other aspects of the findings which merit further scrutiny include contractual matters, unexplained wage deductions, international money transfers, telephone and internet access, pay statements, and work agreement.

The recommendations counselled in response to these findings are all within the orbit of ANIFPO to both influence and remedy. This is a benefit the Organisation enjoys over other Producer Organisations (POs). Further, the recommendations are both practical and relatively straightforward to implement. What's more, they are proffered with a view to complementing ANIFPO's endeavours to date in the realm of crew welfare and human rights, helping to build the future framework around which the Organisation develops its CSR policy.

Introduction

1. Following on from the Organisation's ground-breaking research commissioned in early January 2017 and undertaken by the charity, Human Rights at Sea (HRAS), ANIFPO has embarked upon follow-up work with respect to its commitment to fishermen's welfare and human rights. In line with its voluntary adoption of the principles underlying transparency in the supply chain and legislative guidance under the Modern Slavery Act 2015, the Organisation instructed Human Rights at Sea International (HRASi), the subsidiary trading company of HRAS, to conduct an audit of its members' human rights supply chain risks, specifically in relation to non-EEA crew working within the Northern Ireland (NI) catching sector.
2. Building on the Organisation's ongoing demonstrable commitment to human rights protections and implementation of various recommendations made in the previously commissioned report, ANIFPO, in accordance with the 2011 UN Guiding Principles on Human Rights (UNGPs), has identified the overwhelming benefits attached to public transparency and the implementation of 'know and show' business practices. Accordingly, the Organisation has been able to steer and guide its membership in respect of human rights compliant approaches to the management of crew welfare on board ANIFPO registered fishing vessels.
3. There is no doubting the number of ongoing challenges which are linked to adopting such an open business culture which involves ongoing self-reflection and a "see it, fix it" approach. However, ANIFPO have rightly reasoned that an approach of this nature is not only the best way to progressively eradicate the opportunity for human rights abuses, but also that such an approach is in the best business interests of its members. Business today is a small interlinked world and with the domino effect of supply chain responsibilities and potential for brand and reputational damage, the actions of one company may necessarily affect the actions of others and lead to a race to the top for implementing the best standards for workers.
4. This follow-up report will outline the methodology adopted, the findings of the audit and any recommendations to flow from the enquiry.

CASE STUDY – Sergie Alivio



Sergie is from Davao City on the island of Mindanao, Philippines. He has worked in the NI fisheries for the past five years. He graduated from Nautical School with a BSc in Marine Technology. After looking for work in Manila, friends informed him of the opportunity of work in NI. The salary was very competitive when compared to that of a fisherman in the Philippines. After his first contract in NI, Sergie had such a positive experience he wanted to return. He enjoys good relations with the vessel owner who, he

says, is very accommodating when it comes to family matters. He speaks to his family everyday as the vessel he works on benefits from having wifi.

Methodology

5. The population size of non-EEA fishermen working in the NI fishing industry on board ANIFPO member vessels is currently estimated to be in the region of 60. In order to obtain data of a reliable and robust character, ANIFPO endeavoured to include a sample size of 46 or more respondents in this audit. This was based on a confidence level of 95% and a margin of error of 7% +/-.
6. A combination of structured interviews and self-completion questionnaires were used in the process of conducting this audit. A question guide can be found at Annex A to this report.
7. Due to the practical difficulties associated with conducting research of this nature, notably in relation to ensuring the availability of respondents, it was not possible to achieve the desired sample size. Fishing patterns have been upturned this past spring/early summer and easterly winds have played havoc causing the ANIFPO fleet to scatter, from the west coast of Scotland to south-west approaches. Furthermore, members have vessels deployed in the North Sea providing guard services to cable laying projects. The effect being that most non-EEA crew are away from Kilkeel and unable to participate in the audit as a result.
8. 22 respondents subsequently participated in the audit. Six respondents were interviewed in person at the Fishermen's Mission in Kilkeel, whilst 16 responded via self-completion questionnaires. Seven of those respondents had their answers corroborated by the interviewer subsequent to self-completion. The resultant sample size produced a confidence level of 95% with a margin of error of 17% +/-.
9. Interviews were carried out over the course of two days and at the end of the week in order to fit in with fishing patterns and maximise participation. Self-completion questionnaires were distributed to members for onward distribution to their non-EEA crew one week prior to interviews being conducted. Respondents were given a window of four weeks within which to provide sealed responses to ANIFPO. ANIFPO in turn forwarded these questionnaires to HRASi for collation and analysis.

Methodological Considerations

10. In addition to the practical limitations of conducting such research, as noted above, other factors cannot be discounted from having a bearing on the results of the audit. In relation to the answers respondents gave, these could be related to misinterpretation, disinterest, 'bandwagoning', concern over confidentiality, or fear of prejudicing one's opportunity of work in NI. In relation to the self-completion questionnaires, the question type and design without the presence of an interviewer may also have led to confusion.

11. Furthermore, the audit did not include any physical inspection of vessels or documents nor did it include any correspondence with crewing agents. There was no scrutiny of the terms and conditions of work agreements, nor was there any inspection of payslips/bank statements or verification that personal documents were in the possession of respondents.

Findings

12. The below findings are based on the responses of 22 respondents all working on board ANIFPO member vessels and based out of Killeel, NI. This represents just over one-third of non-EEA crew working for ANIFPO members.

Characteristics/General Information

Age

13. 64% of ANIFPO members' crew fall within the 36-45 year-old age bracket. 23% are in the 46+ category, whilst 9% and 5% fall within the 26-35 and 16-25 age brackets, respectively.

Gender

14. All ANIFPO members' crew are male.

Nationality

15. 64% of ANIFPO members' crew are of Filipino nationality, whilst 27% and 9% are of Ghanaian and Sri Lankan, respectively.

Religion

16. 90% of ANIFPO members' crew identify as Christian. 5% identify as Buddhist whilst the remaining 5% preferred not to say.

Ethnicity

17. 73% of ANIFPO members' crew identify as Asian. 18% identify as Black, African or Caribbean whilst 9% preferred not to say.

Employment Information

18. 100% of ANIFPO members' crew are engaged as employed fishermen, all of whom have written work agreements with their employer.
19. 100% of ANIFPO members' crew used the services of an employment/crewing agent in order to secure the opportunity of work in NI. All Filipino crew used the services of the Manila based agency, Super Manning Agency Inc., whilst all Ghanaian crew used the

services of GP Shipping. No respondent from either the Filipino or Ghanaian cohort reported having to pay anyone for the opportunity of work in NI.

20. The Sri Lankan crew working on board ANIFPO member vessels used the services of an agency in Colombo called, GRT Shipping (Pvt) Ltd. In all cases a fee ranging between £700 and £2500 was reportedly paid directly to the agent in order to secure the opportunity of work in NI. This payment was reportedly made without the prior knowledge of the employing ANIFPO members.

Remuneration

21. 55% of ANIFPO members' crew earn between \$1500 and \$2000 per month. 45% earn between \$1000 and \$1500. In all cases, respondents reported that they receive the correct wages on a regular monthly basis.
22. 68% of ANIFPO members' crew receive a payslip as evidence of payment/earnings to date, 93% of which are distributed on a monthly basis. The remaining 7% are distributed on an annual basis. However, 32% do not receive a payslip or any other form of record to confirm and evidence payment.
23. 100% of ANIFPO members' crew send money home to their families. 64% specified that they use either MoneyGram¹, the Philippines National Bank, or their employer to facilitate this transaction.
24. 90% of ANIFPO members' crew reported that they had never been deducted wages for any reason whilst working in NI. 5% reported deductions been made in the context of taxation, social security and national insurance contributions. The remaining 5% reported wage deductions but without specifying a reason.

Voluntarism

25. 100% of ANIFPO members' crew are in possession of all personal documentation such as national ID cards and passports. Further, all respondents stated that they were in NI and working of their own volition and that no one was forcing them to be in NI against their will.

Satisfaction Ratings

26. Respondents were asked to rate their experience of working in NI by indicating on a scale of 1 to 10, where 1 represents the most negative experience and 10 represents the most positive experience, the number which best defined their experience of that particular aspect of life in NI.

¹ MoneyGram is an international money transfer service provider – www.moneygram.com

27. From the responses of the participants, 91% of ANIFPO members' crew returned a satisfaction rating of between 8 and 10 with respect to **working conditions**. This included consideration for aspects such as safe environment, cleanliness, and serviceability of machinery. 9% returned a satisfaction rating of between 5 and 7.
28. 95% of respondents returned a satisfaction rating of between 8 and 10 with respect to **Personal Protective Equipment (PPE)**. This included consideration for the equipment's suitability, availability, functionality and serviceability. 5% expressed a satisfaction rating of between 5 and 7.
29. 91% of ANIFPO members' crew returned a satisfaction rating of between 8 and 10 with respect to **working hours**. This included consideration for length of shifts and whether or not there was a structured shift pattern which allowed for adequate rest. 9% of respondents expressed a satisfaction rating of between 5 and 7.
30. 91% of ANIFPO members' crew returned a satisfaction rating of between 8 and 10 for **on-board accommodation**. This included consideration for aspects such as cleanliness, spaciousness, warmth, and damp. 9% expressed a satisfaction rating of between 5 and 7.
31. 86% of ANIFPO members' crew returned a satisfaction rating of between 8 and 10 with respect to **on-board bathroom facilities**. This included consideration for the cleanliness and serviceability of the facilities. 14% of respondents expressed a satisfaction rating of between 5 and 7.
32. 95% of ANIFPO members' crew returned a satisfaction rating of between 8 and 10 with respect to **on-board kitchen facilities**. This included consideration for the cleanliness and the condition of appliances. 5% expressed a satisfaction rating of between 5 and 7.
33. 95% of ANIFPO members' crew returned a satisfaction rating of between 8 and 10 with respect to **food**. This included consideration for the standard of food, its freshness, and whether certain dietary requirements were catered for. 5% expressed a satisfaction rating of between 5 and 7.
34. 77% of ANIFPO members' crew returned a satisfaction rating of between 8 and 10 with respect to **on-board medical facilities**. 23% of respondents expressed a satisfaction rating of between 5 and 7.
35. 91% of ANIFPO members' crew returned a satisfaction rating of between 8 and 10 with respect to the **provision of care in the event of illness or injury**. 9% expressed a satisfaction rating of between 5 and 7.
36. 82% of ANIFPO members' crew returned a satisfaction rating of between 8 and 10 with respect to **access to local shops and amenities**. 18% expressed a satisfaction rating of between 5 and 7.

37. 82% of ANIFPO members' crew returned a satisfaction rating of between 8 and 10 with respect to **telephone and internet access**. 14% of respondents expressed a satisfaction rating of between 5 and 7 whilst 4% expressed a rating between 1 and 4.
38. 95% of ANIFPO members' crew returned a satisfaction rating of between 8 and 10 with respect to **relations with fellow crew members**. This included consideration for aspects such as the friendliness and professionalism of co-workers. 5% expressed a satisfaction rating of between 5 and 7.
39. 91% of ANIFPO members' crew returned a satisfaction rating of between 8 and 10 with respect to **relations with vessel owners**. This included consideration for aspects such as the friendliness, approachableness, and professionalism of principals. 9% expressed a satisfaction rating of between 5 and 7.
40. Finally, respondents were asked to indicate their satisfaction rating with respect to general **relations with the local community**. 91% of ANIFPO members' crew returned a satisfaction rating of between 8 and 10 whilst 9% returned a rating of between 5 and 7.

Highlighted Issues/Concerns

41. The findings from the audit generally provide assurances that ANIFPO members are addressing the human rights and welfare needs of their employed non-EEA fishermen in progressive and effective terms. **Some of the findings do, however, give rise to concern and warrant further investigation or immediate remedy.**

Crewing Agents

42. Crewing agents form an important and necessary part of the supply chain. They provide invaluable recruitment and placement services which satisfy the needs of the market whilst providing fishermen with jobs and vessel owners with crew to operate their vessels. However, crewing agents also represent a weakness in the supply chain, particularly in relation to the recruitment and management of non-EEA crew. **Due to the lack of industry oversight mechanisms and established auditing systems, crewing agents can act with seeming impunity when it comes to the human rights and welfare of migrant labour.**

Sri Lankan Crew

43. The finding that Sri Lankan fishermen are having to pay the facilitating crewing agent for the opportunity of work in NI is deeply concerning. The sums of money at issue are significant. If the substance to these findings can be corroborated, then an instance of indirect debt bondage could be said to exist within ANIFPO's supply chain. Not enough is known at this stage about the actual sums of money involved, exactly who it is that has allegedly demanded this money, or how the money was raised and on what terms of borrowing.

Filipino Crew

44. The revocation of Super Manning Agency Inc.'s Philippines Overseas Employment Agency (POEA) licence has sent reverberations running throughout the UK fishing industry. Great reliance was placed on this particular crewing agent in relation to the employment of Filipino crew.

45. Fishermen, vessel owners and by association, industry organisations, have been left in limbo in seeming equal measure as a result of the agency losing its licence to operate. If nothing else the event has exposed a weakness in relation to actual knowledge of the POEA licencing regime and the system in place to monitor compliance of crewing agencies from a UK fishing industry perspective. Vessel owners are subsequently having to manage the fallout, particularly in regard to crew payment arrangements and the sourcing of new ILO *Work in Fishing Convention* (no.188) (ILO C188) compliant agencies.



46. Of the Filipino respondents interviewed, all stated their concern in relation to their employment and contractual status and what this means for their future working in the NI fishing industry. Some of the crew tried contacting Super Manning Agency Inc. directly in relation to their contract. They stated that they are yet to receive a satisfactory answer.

Wage Deductions

47. 5% of respondents reported having wages deducted but did not specify why this was the case. 5% indicated that deductions for tax, social security and national insurance contributions were made. Therefore, this unspecified deduction could simply be a matter of interpretation. However, the fact that 90% of respondents stated that no deductions were made suggests that the majority do not consider tax, social security and national insurance contributions to constitute wage deductions. **This raises the question whether the unspecified deductions are being made as part of a legitimate national taxation or national insurance scheme, or whether they are being made unlawfully?**

Payslips

48. Based on the report findings, 32% of ANIFPO members' crew do not receive payslips. There is clearly evidence of a common practice among some ANIFPO members to provide non-EEA employees with payslips (or similar). Section 8 of the Employment Rights Act 1996² gives all employees a right to an itemised pay statement which shows the gross wage and details of all deductions. Notwithstanding the particular legal basis upon which non-EEA crew are working in NI, notably in respect of their immigration status, **it is**

² S.8, *Employment Rights Act 1996*, c.18. Available at: <https://www.legislation.gov.uk/ukpga/1996/18/section/8> (Accessed: 6 July 2018).

considered best practice to provide crew with evidence of payment on a regular basis as part of a structured remuneration system.

International Money Transfers and Familial Dependence

49. The families of ANIFPO members' non-EEA crew clearly depend on the monthly earnings of their husbands, fathers and sons. Great reliance is placed on international money transfer services such as MoneyGram to facilitate this dependence. The reliance placed on such service providers has increased exponentially among ANIFPO members' crew in the wake of the Philippines based agency, Super Manning Agency Inc., having its POEA licence revoked.

50. **In line with international rules and standards, namely Art. 24 ILO C188³, fishermen should not have to pay or bear the burden of cost when it comes to sending money back home to their families.**

Telephone and Internet Access

51. Although the vast majority of ANIFPO members' crew seem happy with the level and quality of telephone and internet access whilst working in NI, 4% reported a satisfaction rating between 1 and 4. **This may indicate a disparity among members in relation to telephone and internet access policy. It may also be indicative of the different types of technology available on-board members' vessels.**

Work Agreements



52. This audit did not scrutinise the terms and conditions of employed fishermen's work agreements. Compliance with ILO C188 therefore has not been verified. Other aspects of ILO C188 compliance, such as whether or not the contract was available in a language comprehensible to the fisherman (Art. 16(a) ILO C188⁴), or whether the fisherman had time to read the work agreement prior to signature, have not been investigated. **With impending UK implementing legislation, work agreements form a key aspect of vessel owners' responsibilities and should echo the provisions of ILO C188.**

³ Article 24, *Work in Fishing Convention*, 2007 (No. 188) (Entry into force: 16 Nov 2017)

⁴ Ibid. Article 16(a)

Recommendations

1. Crewing Agents

- a. Counsel further investigation with respect to the recruitment and placement of all Sri Lankan nationals working on board ANIFPO member vessels. A practice that requires fishermen to pay for the opportunity of work in NI is unlawful. Specifically, further enquiry in respect of actual sums of money involved, exactly who is said to be demanding the money in return for the work opportunity, and how the monies are raised and on what terms of borrowing, need to be ascertained.
- b. Counsel distribution of an information note to all Filipino crew affected by the revocation of Super Manning Agency Inc.'s POEA licence. Specifically advise crew of their present contractual status, contingency for payment of wages, and future intentions with respect to contracting agents.
- c. Counsel commissioning a bespoke audit of crewing agents and licencing regimes in specific labour sourcing countries relevant to ANIFPO members. This could form part of a management system review (Plan-Do-Check-Act Cycle) in preparation for the UK's ratification of ILO C188.

2. Wage Deductions

Counsel further investigation of unspecified wage deductions. The alleged deductions may simply be attached to legitimate national taxation and/or national insurance contributions. However, without further enquiry ANIFPO cannot rule out the possibility that such deductions have occurred unlawfully.

3. Payslips

Counsel bringing all ANIFPO members into line with respect to the provision of payslips (or similar) to non-EEA crew. This will provide all parties with the necessary assurances regarding payment of wages and will enhance organisational best management practice.

4. International Money Transfers

Counsel a review of the system used by non-EEA fishermen to transmit all or part of their wages to their families. ANIFPO members should be mindful of the fact that Article 24 ILO C188 expressly stipulates that fishermen should be given a means to transmit such funds to their families at no cost to themselves.

Counsel, instigating measures to mitigate any adverse effects which may flow from the absence of any system to manage such welfare considerations i.e. announcement of a review of this particular aspect of the employment of non-EEA crew.

5. Telephone and Internet Access

Counsel establishing a minimum standard among members with respect to telephone and internet access. This will help to avoid instances of disparity among ANIFPO members' crew. Consider drafting a policy which includes a guide on minimum standards of technology, dedicated periods of access for crew, and advice on the most cost-effective means of remaining in touch with their families.

6. Work Agreements

Counsel the drafting of standard terms work agreements for both employed and share fishermen which are ILO C188 compliant. Such work agreements should also form the basis of any contractual agreement with audited crewing agents in the labour sourcing countries upon which ANIFPO members rely.

Conclusion

ANIFPO continue to buck the trend in respect of transparent, 'know and show' approaches to human rights and welfare issues in the UK fisheries. The Organisation's unique relationship with respect to its membership grants this approach and permits a greater level of influence and control over matters in need of attention.



Other Producer Organisations (POs) do not necessarily benefit from the same type of relationship with their members. Therefore, they may not have the capacity to effect change in the same way.

The process embarked upon is a work in progress. No one is under the illusion that instances of human rights abuses can be eradicated in perpetuity, despite

this being the ideal. Indeed, to place such an expectation on the industry and the responsible actors within it is quixotic and unhelpful. Issues relating to human rights and welfare are bound to occur from time to time. The fishing industry is but one aspect of an imperfect system. However, it is the responses of certain actors and their proactive commitment to address these issues which are important to the industry.

Evidently, ANIFPO have some identified risks within their supply chain. However, by virtue of this audit they are in a position to address these risks. This is one of the benefits associated with the commissioning of such work. Recipients can identify the risks; assess the situation; actively respond; and in time review the effects of their response. Attitudes within the UK fishing industry are slowly but surely changing and, with the benefits in mind, appetite for this type of business culture is growing.

However, there are challenges which lie ahead. Crewing agents continue to be a cause for concern. Instances of fishermen paying crewing agents for the opportunity of work in the UK fisheries are likely to be far more prevalent than meets the eye. More work needs to be done in this realm to marry-up the various tiers in the supply chain and promote a common approach to managing human rights and welfare risks. ILO C188 and the UK Modern Slavery Act 2015 remain the key drivers in this regard. Only through a concerted industry and stakeholder effort coupled with strict implementation of ILO C188 and other legislative instruments can issues like the aforementioned be addressed.

Further, the contractual uncertainty stemming from the revocation of a Philippine crewing agent's licence has exposed another weakness in the supply chain. Understanding the licencing regimes under which crewing agents operate are a fundamental aspect of developing a watertight system of recruitment and placement. Until the foundations of an industry dependent upon migrant labour are steadied, instances of human rights abuses and welfare related issues will continue to arise.

The recommendations submitted as part of this report are all redressable. Indeed, not one aspect of the findings and recommendations to flow from these falls outside the orb of influence of ANIFPO. It is accepted, however, that not all POs will enjoy this level of control over their membership. Further, it is accepted that in some instances due to external factors beyond a PO's or vessel owner's control i.e. government legislation or industry regulations, effecting immediate change may not always be possible.

End of Report

Annex A

Question Guide

General Information

- Name, Age, Gender, Nationality, Religion, Ethnicity, Country of Residence – with the options of anonymity and to decline to answer.

Employment Information

- Employment status i.e. employed/share?
- Contractual status i.e. work agreements?
- Recruitment and placement i.e. use of an employment/crewing agent?
- Cost of agency services?
- Cost of travel to NI?

Remuneration

- Average monthly salary?
- Regular payment of wages?
- Correct payment of wages?
- Receipt of payslip?
- Familial dependence?
- Means of transmitting payment?
- Wage deductions?

Voluntarism

- Possession of personal documentation?
- Working in NI by choice?

Other

- Working conditions; PPE; work/rest hours; accommodation; sanitation facilities; food, drink and cooking facilities; medical facilities; injury and illness; telephone and internet access to shops; relations with crew, vessel owners, and the local community.

N.B. A copy of the crew questionnaire maybe available upon written request to ANIFPO unless otherwise covered by internal confidentiality policies.