

# RESEARCH ON INDICATORS OF FORCED LABOR

## in the Supply Chain of Tuna in the Philippines



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## Executive Summary

Verité carried out research on the presence of indicators of forced labor in the production of ten goods in seven countries from 2008 through 2011. Research was carried out on the production of shrimp in Bangladesh; Brazil-nuts, cattle, corn, and peanuts in Bolivia; sugar in the Dominican Republic; coffee in Guatemala; fish in Indonesia; rubber in Liberia; and tuna in the Philippines. This research was not intended to determine the existence or scale of forced labor in the countries and sectors under study, but rather to identify the presence of indicators of forced labor and factors that increased workers' vulnerability to labor exploitation.

### Context / Objectives

The Philippines ranks second in the world for tuna caught and fifth in canned tuna production.<sup>1</sup> This research was carried out in General Santos City, which is known as the "Tuna Capital" of the Philippines. Due in part to overfishing, yields and profits have been decreasing over the past several years. This has led to a downturn in related parts of the supply chain such as canning and processing. While the tuna fishing sector dominates the economy of General Santos City, recent downward trends have put pressure on workers in the sector. While much attention has been paid to the environmental and economic aspects of the Philippines tuna sector, little has been paid to labor conditions, and even less to specific indicators of forced labor.

Within this context, the primary objectives of Verité's research were to:

- obtain background information on certain areas of the tuna sector in the Philippines;
- create a methodology to study the presence of indicators of forced labor in the Philippines tuna sector;
- identify and document indicators of forced labor among workers in the Philippines tuna sector;
- document the broader working conditions that workers in the tuna sector experience; and
- determine the risk factors for indicators of forced labor and other forms of exploitation in the particular areas of the Philippines tuna sector.

### **Philippines Snapshot**

**Population:** 103,775,002 July 2012 estimated. (CIA Factbook)

**Labor force:** 39.81 million (CIA Factbook)

**Labor composition:** agriculture (33 percent); industry (15 percent); services (52percent) (CIA Factbook)

**GDP:** \$389.8billion (CIA Factbook)

**Top exports:** Semi-conductors and electronic products, transport equipment, garments, copper products, coconut oil, fruits

**United Nations Human Development Index:** Rank of 112 out of 179 (United Nations Human Development Index. 2011.)

**Transparency International Corruption Perceptions Index:** Score of 2.8, rank of 110, comparable with Kosovo, Benin, Bolivia and Gabon. (Transparency International, Corruption Perceptions Index 2011.)

### **Methodology**

The presence of forced labor was not presupposed in the research. Rather, the research probed for the presence of indicators of forced labor and other exploitative labor conditions, and also for the factors that create vulnerability to these conditions.

General Santos City was chosen as the site for the research, given its position as the top tuna producing region in the country. Research activities included desk research, social mapping, expert consultations, individual and focus group discussions, validation sessions, and data analysis.



Figure 1 - Verite photo - Port at General Santos City

Due to political instability in the region,<sup>2</sup> the recent downturn in the tuna industry and a pervasive fear of blacklisting, researchers designed the study to be qualitative in nature. As a result, the study describes conditions and challenges facing workers, but without any claim to determining prevalence across the industry. Researchers used triangulation from expert consultations and desk research in order to make judgments about the most important aspects of labor vulnerability.

A total of 92 workers were interviewed individually and 27 workers were interviewed in focus group discussions.

## **Findings**

Verité investigated the presence of indicators of forced labor among workers the tuna sector using International Labor Organization (ILO) guidance titled, “Identifying Forced Labor in Practice”, which was published by the Special Action Program on Forced Labor in a 2005 report, *A Global Alliance Against Forced Labour: Global Report under the Follow-Up to the ILO Declaration on Fundamental Principles and Rights at Work*. Information about wages and hours was also included in Verité’s study, as wage and hour violations may constitute indicators of forced labor.

The research also sought to clarify the presence of exploitative practices that, while not rising to the technical level of forced labor, nonetheless denote labor rights concerns. Verité also sought to describe the factors that make workers vulnerable to forced labor.

Finally, Verité sought to shed light on the demographics of workers involved in these sectors.

### ***Handline fishing findings summary:***

Induced Indebtedness: Some workers reported that products provided to workers in the form of in-kind loans taken from financiers (i.e. rice, medicine) are given at inflated prices. Workers are then required to repay the financier with cash or through deductions from their pay for the value of the goods received. Workers must also sometimes return to work for the financier in order to pay off debt.

Lack of Contracts/Agreements on Conditions of Work: While the general terms of handline fishing work are well known around the community, several workers reported that specific terms such as length of trip, destination, or earnings sharing can change in the middle of the trip. Due to the physical isolation of workers on vessels, they have no recourse.

Lack of grievance mechanism/exclusion from future employment: Several workers reported fear that if they complained about any current circumstances, they could be blacklisted from all future employment in the handline sector.

Engaging in Illegal Activities: Workers reported that being detained for illegally fishing in Indonesian waters is relatively common. Occasionally, workers are deceived about the legality of a particular voyage, leaving them no opportunity to offer their consent.

Hazardous Work: Fishing is a hazardous activity, and handling is no exception. Workers are exposed to poor weather and risk being pulled into the water when hooking a large fish. Workers can also be deprived of medical care for the length of the voyage.

Low Earnings/Lack of Transparency: The typical earnings scheme calls for 20 percent of profits to be shared among all fishers. However, workers reported that they were not allowed to observe the weighing and grading process. The financier, who is often also the buyer, has the opportunity in this case to deprive them of earnings.

***Purse seine fishing findings summary:***

Lack of Contracts/ Agreements on Conditions of Work: Fishers lack contracts or employment agreements. While workers reported that conditions were generally understood, due to the isolation of fishing voyages, workers are vulnerable to conditions of work suddenly changing.

Induced Indebtedness: Fishers reported taking loans from their employers and that the balance of their debt was taken as a deduction from their wages. By the time all deductions have been taken from their earnings, fishers are often left with zero profit, causing them to join another trip. There is no formal record kept of loans taken or deductions made, so workers are vulnerable to inflated deductions.

Isolation: The length of voyages can span from several months to a year. During this time period, workers are essentially under the physical control of their employer, with no means to leave the vessel, except in a situation of extreme emergency such as life-threatening illness.

Threat of Exclusion from Future Employment: A common fear among fishers interviewed was that making any complaints or expressing any grievances could result in them being banned or blacklisted from future employment.

Underpayment of Wages: Workers reported that no pay slips are given, so there is no justification for their earnings, which are supposed to be based on a percentage of the total profit. This forces workers to accept their earnings in 'good faith,' but leaves them vulnerable to exploitation. Workers reported feeling that they had been cheated on numerous occasions.

Health and Safety Hazards: Purse seine fishing, like other fishing, presents a variety of health and safety hazards including exposure to the elements, storms, and injuries.

## ***Canning Findings Summary***

Recruitment and Hiring Systems: In general, there are two recruitment and hiring systems that exist in the sector: direct and indirect. Under the direct-hiring scheme, workers are hired directly by the company primarily on short, fixed term contracts, usually of five to six months in duration. They must reapply for their jobs at the conclusion of each contract. They are openly expected to use fraudulent documents to reapply for their position, so they can remain technically categorized as a temporary worker, even if their employment has been on-going. Under the indirect hiring system, workers are supplied by manpower cooperatives, or employment agencies (which may either be legitimate independent contractors, or labor-only contractors, which the law disallows<sup>3</sup>) to the canning companies. In this case, the workers are deemed to be merely service providers of whichever canning company the cooperative or agency chooses to assign the workers to, and the length of their service to the company is determined by the cooperative or agency.

Lack of Direct Employment Relationships: Workers hired by manpower cooperatives or employment agencies (contractors) do not have an employment relationship with the canning company (principal). As of 2010, workers were hired almost exclusively through manpower cooperatives. These manpower cooperatives are a strategy to allow canning facilities to bypass a direct employment relationship with workers. Most of these manpower cooperatives were formerly the same employment agencies supplying workers to the canning facilities. They organized themselves into manpower cooperatives since canning companies preferred to contract with cooperatives than with agencies.

Debt: Some workers reported being indebted to cooperatives and paying off that debt through salary deductions. While this is seen by some as an advantage of being a cooperative member, it is cited by others as a factor that makes it difficult for them to leave their employment.

Dismissal: Workers reported a lack of grievance mechanisms, and felt that if they expressed grievances, they could be easily replaced. Organizing or unionizing are also prevented through outsourcing and casualization of labor.



## ***Fresh Frozen Findings Summary***

Work Contracts and Agreements: Most workers interviewed reported that they did not sign any type of contract or employment agreement. The workers who did sign a contract were not provided with a copy.

Employment Relationships and Status: Many respondents were unaware of their actual employer and the status of their employment.

Earnings: Pay practices in this sector are largely unregulated, with workers reporting varying wages and rates, most of which do not meet the legal basic minimum wage rate. They also reported unexplained deductions and inconsistent provision of pay records or pay slips.

Debt: Most workers reported that they had to take loans for due to the fact that their earnings were insufficient to cover their expenses and some borrowed from their employer.

Work Hours: Many workers stated that the length of their work depended on the volume of fish caught per day. Most stated that there were no limits on work hours and that they had to work continuously for as long as there were fish to haul or process.

Freedom of Association, Grievance Mechanisms: There are no workers' unions in this sector. Workers are not organized, and differing work arrangements and employment statuses ensure that workers cannot easily avail themselves of their right to freedom of association or grievance mechanisms.

Health and Safety: Workers expressed concerns over the risk of injuries, accidents, fatigue, exhaustion, and illnesses due to long hours of work without rest and carrying heavy loads.

Lack of Proper Screening for Child, Juvenile Labor: There is a significant risk of the presence of child labor in this sector. Although Verité received only anecdotal, third-hand reports of child and juvenile labor, lack of formal screening and application procedures opens this sector to risks of employing child labor.

## Background & Setting

This section provides an overview of the tuna sector in the Philippines, breaking down the analysis into the history and context of 5 key areas of inquiry: the place, product, people, policies, and programs (the 5P's); and then provides a history of working conditions – with a particular focus on forced labor – in the industry, and a look at how the 5Ps variables have interacted to either contribute to or ameliorate vulnerabilities to labor violations.

### The Five Ps of Tuna Fishing in General Santos City, Philippines

#### Place



**Map of the Philippines and Study Area**

Source: CIA World Factbook, Philippines, <https://www.cia.gov/library/publications/the-world-factbook/geos/rp.html>

The Philippine archipelago, made up of 7,107 islands, is surrounded by Asia's main water bodies and home to abundant tuna resources. The major tuna production areas in the Philippines are the Celebes Sea, the Sulu Sea, and the South China Sea (see Figure 1, map of Philippines showing study area, at left) The major tuna species in the Philippines are the skipjack tuna, yellow fin tuna, and big eye tuna, Eastern little tuna, and frigate tuna.<sup>4</sup>

The Philippines ranks second in the world for amount of tuna caught and fifth in canned tuna production.<sup>5</sup> Major tuna export markets in 2011 were the US (53 percent) Japan (24 percent), the Middle East (6 percent) and the EU (3 percent).<sup>6</sup> In recent years, the Philippine tuna catch has been on the decline. The Tuna Canners Association of the Philippines reported that the country's tuna production dropped by 20percent in the first 3 quarters of 2011.<sup>7</sup> Over fishing, the global economic downturn, increases in fuel prices, expiration of government-to-government fishing agreements, and a fishing ban in traditional fishing grounds for tuna fishers (discussed below) have heavily impacted the

tuna industry in the Philippines, causing layoffs.

Approximately 90 percent of the national tuna industry production is located in Mindanao, providing over 100,000 jobs and annual direct revenues of \$400 million. General Santos City in Mindanao is the center of the tuna industry.<sup>8</sup> Six of the country's seven major tuna canning factories are located in General Santos City, as well as 15 fish processors and exporters which comprise 80 percent of all fish processors in the country.<sup>9 10</sup>

The General Santos City Fish Port Complex (GSCFPC), built in 1999 with funding from the Overseas Economic Cooperation Fund of Japan, has contributed to the development of the Philippine tuna industry and fortified the city's role as the country's tuna hub.<sup>11</sup> Tuna and tuna-like species landed in the General Santos Fish Port are delivered to 3 major destinations: canneries, processors/exporters, and the local market catering to local consumers.<sup>12</sup>

## History

Tuna fishing has long been an important means of livelihood for Filipino fishers, who are almost entirely male, particularly in the southern part of the Philippines. In the past, tuna fishing activities were conducted using simple fishing vessels mostly in municipal waters, or near the shore, where tuna was abundant.

During the 1950s, American fish packers such as Bumble Bee Seafood, Star-Kist Foods, Van Camp and others initiated tuna sourcing activities in the Philippines.<sup>13</sup> A "tuna boom" occurred in General Santos City in the 1970s, encouraged by the arrival of Japanese traders sourcing for sashimi-grade yellow fin tuna. The tuna catch in General Santos City continued to rise with a growing base of organized tuna producers, resulting in the establishment of canneries and processing plants, as well as ice plants, fish smoking plants, and other post-harvest facilities.<sup>14</sup>

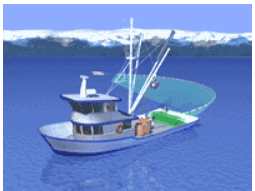


In the past, General Santos City was one of several places in on the island of Mindanao where conflict between Muslim inhabitants and Christian settlers from other regions of the Philippines, and between Muslim separatists and government forces, have led to violent clashes. The City is surrounded by provinces identified as conflict areas – either heavily militarized areas or sites of violent clan conflict (rido).<sup>15</sup>

## Tuna Fishing Methods in the Philippines

An understanding of tuna fishing methods is necessary to understand the labor dynamics of the industry. Tuna fishing is carried out by large commercial operations as well as smaller municipal and subsistence fishers. Municipal fishers use either small, motorized boats or banca, a boat with a narrow main hull with two attached bamboo outriggers propelled with either paddle or sail.<sup>16</sup>

Commercial fishing is broken down into small-scale, medium-scale, and large-scale based on the size of the boat and motor.<sup>17</sup> According to the 2002 Census of Fisheries, there were 1.8 million municipal and commercial fishing operators. Municipal fishing dominated the fishing industry, with 1.78 million operators (99.6 percent) versus 7,800 in commercial fishing operations. The vast majority of municipal fishing operations (98.4 percent) were individual operations. Over 94 percent of both municipal and commercial fishers were men. Women's role in the fishing industry focuses not on fishing itself, but fish marketing or vending, fish processing, gear preparation, and net mending.<sup>18</sup>

## Tuna Fishing: Types and Terms<sup>19</sup>

<p><b>Purse Seine</b></p> 	<p>Large fishing nets with rings at the bottom are dropped under schools of tuna, then raised up and cinched like a purse.<sup>20</sup> Commercial tuna fishing boats mainly engage in purse seining, in which a carrier boat is dispatched to several catcher boats located in the fishing grounds. Carrier boats load fish from the catcher boats and take them to a port or processing facility.<sup>21</sup></p>
<p><b>Handline</b></p> 	<p>Fishers use a single fishing line with baited hooks attached to one end of the line to target a variety of fish such as tuna. It is a labor-intensive method that is considered the most environmentally sensitive since there is no by catch, or accidental catch of other types of fish.</p>
<p><b>FAD</b></p>  <p style="text-align: right;"><sup>22</sup></p>	<p>Fish aggregation devices (FADs) are floating objects that tuna boats cast adrift in the open ocean, known in the Philippines as <i>payao</i>. The raft is tied to a long rope weighted to the ocean floor with a weight. About 30 feet down, coconut leaves woven together stream out from the anchor line, 10 feet in all directions, forming a mat under which fish hide. FADs are left at sea for weeks, during which time plants, fish and larger animals establish themselves and form an ecosystem -- which is eradicated when the tuna vessel returns and scoops the FADs' contents in a seine net.<sup>23</sup></p>

Handline fishing in the Philippines used to be confined to municipal waters alone, but the dwindling catch of tuna in near shore areas has caused fishers to go farther until eventually they reached the high seas.<sup>24</sup> According to a 2008 report from the Bureau of Fisheries and Aquatic Resources, handline fishing is an important component of Mindanao's fishing industry, 80percent of which is centered in General Santos City. The handline sector consists of 2,500 outrigger boats, and employs over 40,000 Fishers. The handline sector posts annual revenue of 4.5 billion pesos, with the frozen sashimi processing sector accounting for 50percent of that figure.<sup>25</sup> Other sources indicate an even larger handline fleet not reflected in government reports since most handliners do not register their boats.<sup>26</sup>

### Tuna Fishing Ban

An important factor severely affecting the Philippine tuna industry is the two-year tuna fishing ban in the tuna-rich migratory highway that cuts across the Western Pacific region imposed in 2010 by the Western and Central Pacific Fisheries Commission (WCPFC). This move was taken following numerous studies pointing to declining tuna stocks as a result of overfishing and climatic changes.

The ban covers a large area of traditional fishing grounds of Filipino tuna producers, although it is particularly focused on operations involving fish aggregation device (FAD) fishing. Thus, it only covers purse seine tuna fishing in international waters. Filipino

fishers are still allowed to fish within the 200-mile exclusive economic zone. Handline and long line tuna fishing is exempt from the ban.<sup>27</sup> The WCPFC was to meet in January 2012 to either lift the ban or move to totally ban tuna fishing in Western Pacific areas where stock has dwindled. However, the meeting date was moved to March 2012. The commission is reportedly leaning towards extending the ban.<sup>28</sup>

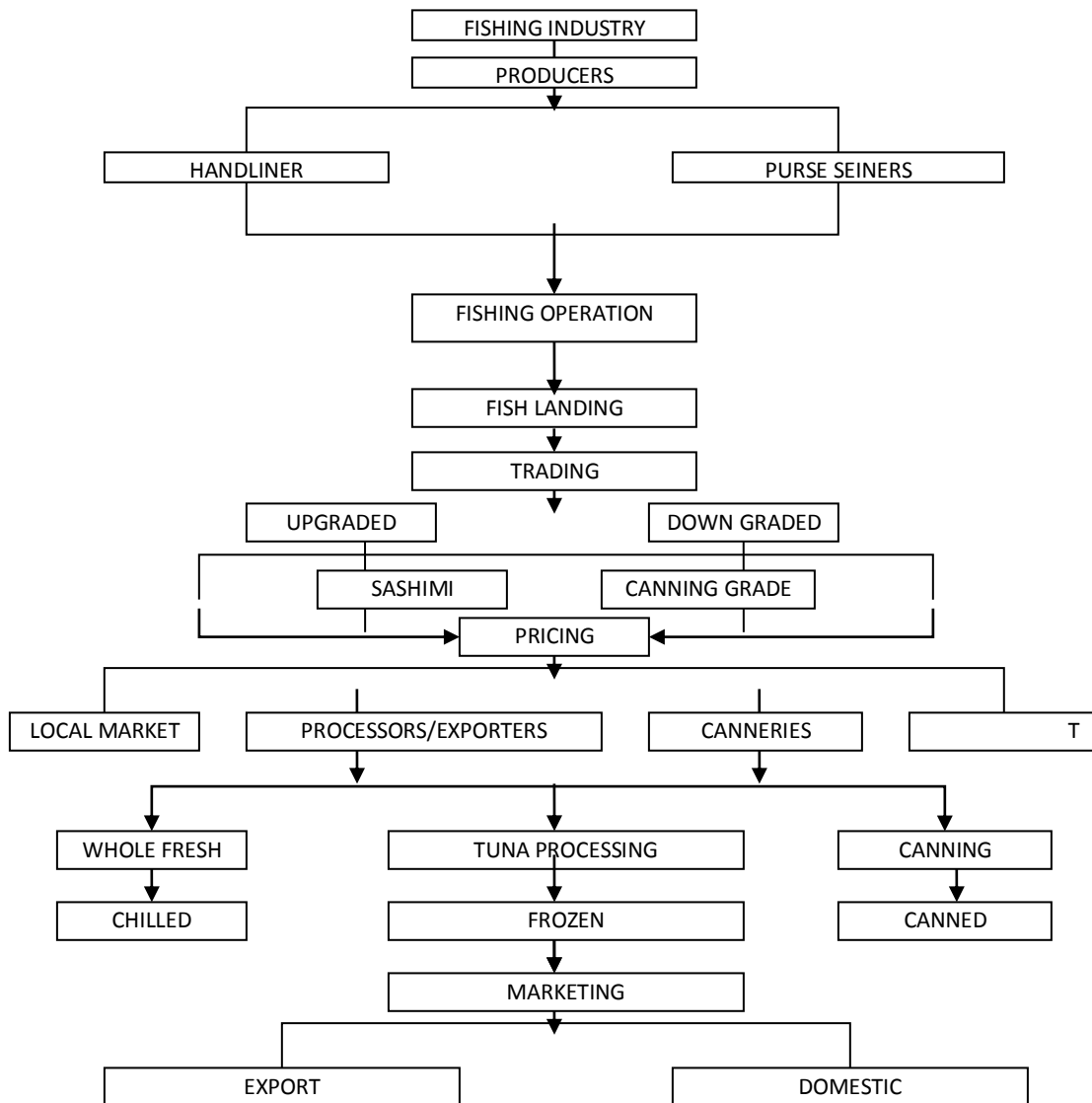
### **Product**

The Tuna production process in General Santos City, outlined below, involves various sectors performing a range of activities as different products reach their target markets. Tuna is caught either by smaller fishers using handlining, or by larger commercial fishers using purse seines. When tuna lands at the port, it can be traded through cost-sharing methods discussed below, or be weighed and graded. Depending on its quality, tuna is either classified as high-grade sashimi or canning grade. Both product streams have different pricing, which involves bargaining. Tuna export can be classified into three forms, namely, (1) fresh/chilled/frozen, (2) dried/smoked, and (3) canned. Sashimi grade tuna enters the processing facility to be cleaned, chilled and packed for export. Other tuna is cleaned, frozen, processed, packed and transported either for export or domestic consumption. Canning grade tuna is cleaned, processed, packed and transported either for domestic or export use.



Figure 2 - Tuna in port - Verite photo

## The Tuna Supply Chain<sup>29</sup>



## CSR

The global "big three" in the tuna industry are Star-Kist, Bumble Bee and Chicken of the Sea (now part of Thai Union group and formerly Van Camp). Star-Kist, formerly owned by Del Monte, was sold to the South Korean firm Dongwon in 2008.<sup>30</sup> As in many other businesses, the former conglomerate owners of the canneries (Heinz, Unilever, Nestle, and Mitsubishi) have sold their units to financial holding companies<sup>31</sup>

While in general corporate social responsibility (CSR) in the Philippines is more advanced than in many countries, tuna companies have been in damage control mode for many years due to negative consumer and NGO reaction regarding tuna fishing

practices. In response to significant criticism for killing dolphins due to purse seine fishing, the big three tuna companies have adopted a "Dolphin-Safe" tuna label.<sup>32</sup> However, several other tuna fishing practices have come under fire. Greenpeace, the most vocal critic of the tuna fishing industry, pinpoints four unsustainable practices: Fish aggregating devices (FADs), longlines, unregulated fishing in the high seas and stolen fish.<sup>33</sup> Greenpeace recently launched a video campaign called *The Tuna Industry's Dirty Little Secret*, targeting the big three multinational tuna companies.<sup>34</sup> Chicken of the Sea, Star-Kist and Bumble Bee are currently threatening legal action against Greenpeace as a result of this minute and a half long animation.<sup>35</sup>

Bumble Bee and Thai Union Manufacturing Co. Ltd / Chicken of the Sea Intl. are members of the International Seafood Sustainability Foundation (ISSF), formed in 2009. The ISSF is a global partnership among scientists, tuna processors (representing more than 50percent of the world's canned tuna production), and World Wildlife Fund (WWF).<sup>36</sup> The Foundation focuses on "science-based initiatives for the long-term conservation and sustainable use of tuna stocks, reducing by catch and promoting ecosystem health." Among other commitments, ISSF participants agree to not purchase from vessels engaging in illegal, unreported, and unregulated fishing and to traceability standards for "capture to plate" tracking.<sup>37</sup>

The Philippine Corporate Responsibility Act of 2009, a bill requiring companies to observe "corporate social responsibility" through community projects was filed in the House of Representatives in 2009. It mandates corporations "consider the interests of society by taking responsibility for the impact of their activities on customers, employees, shareholders, communities and the environment in all aspects of their operations."<sup>38</sup> However, Congress has not yet passed the bill.

In April 2011, the Voluntary Code of Good Practice on Decent Work in the Fishing and Canning Industries in Zamboanga Peninsula was adopted by the Zamboanga fishing industry, facilitated by the Department of Labor and Employment, witnessed by representatives from twelve fishing companies and eleven canning companies. (Zamboanga Peninsula is located in West Mindanao, North of General Santos City.) The code outlines four major components for conditions of work: Occupational health and safety; human resource development; labor management relations; and corporate social responsibility. There is no code for the General Santos City area.<sup>39</sup>

Verité met with industry stakeholders in 2011. At that time, several members of the business community indicated that while meeting international and national labor standards was a worthy aspiration, it would likely mean a huge dent in the tuna business, and could even result in facilities closing down altogether. Some business representatives stated they would like to find a balance between financial survival and compliance with standards. A gathering of major stakeholders called the Philippine Tuna Congress, hosted by the industry association, takes place in General Santos every year. To date, the Philippine Tuna Congress has never covered issues pertaining to labor relations or labor conditions.

## **People**

According to the 2010 Labor Force Survey, fish workers make up 4.1 percent of agricultural workers, which in turn accounted for 33.9 percent of the total employed.<sup>40</sup> These fish workers are composed of four major groups: handliners working in municipal waters, deep sea tuna fishers using purse seiners, fresh frozen facility workers, and canning workers. All these workers have been hit hard by the economic downturn and depleted tuna fishing grounds, particularly in General Santos City. Most of the tuna canning companies are working reduced shifts. Where once canning factories ran three shifts per day, they are now running one shift and using daily workers on a first-come-first served basis. Fishers are likewise having difficulty landing tuna.<sup>41</sup> Yet the tuna industry in General Santos City continues to attract in-migrants seeking employment.<sup>42</sup>

General Santos's tuna producers have forged agreements with other Western Pacific countries to enable them to meet growing quotas and demand for Philippine-manufactured and processed tuna products. Some of them have acquired fishing rights in Palau, Papua New Guinea, Solomon Islands and Indonesia. However, many of these agreements have expired, so tuna operations that continue to venture into the high seas render Filipino Fishers vulnerable to arrests and detention, and to seizures and confiscation of their fishing boats in countries such as Indonesia. They are likewise subjected to piracy in the high seas. There are also licensing and registration requirements which fishers say they cannot afford, causing the boats in their fleets to be categorized as IUU – illegal, unlicensed, unregistered.

The current difficulties in the tuna market are unfortunate for tuna workers for two reasons:

1. Municipal fishers are already considered the poorest of the poor. In 2000, households whose heads were fishers had a significantly higher poverty incidence than households in general. Their daily income was roughly the retail value of 2 kilos of fish. Households of fishers and those in the fishing industry also had heads with relatively lower education levels compared with households in general. Fishers' households also had lower access rates to safe water, sanitary toilets and electricity than other households.<sup>43</sup>
2. Few alternatives exist for fish workers. Verité interviews with the Department of Labor and Employment, with workers in General Santos City (conducted between June 2009 and August 2010), as well as with the NGO Tambuyog (a fisheries-focused NGO), indicate that fishers, particularly small-scale artisanal fishers, generally have no other employable skills, apart from fishing, and have little to no formal education. The volatile security situation in Mindanao also contributes to the lack of opportunity in other livelihoods.

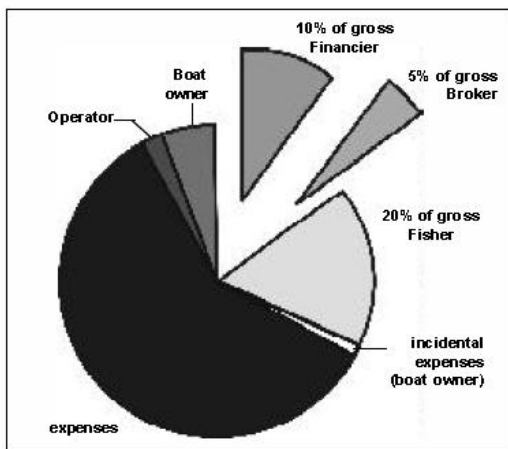
The entire fishery sector in General Santos City has seen a dramatic reorganization in the past several years, in part to meet export standards for the US and EU. For



example, some countries' standards require that all boats be registered and licensed. Since subsistence fishers cannot afford compliance to these standards, it is more feasible for them to join financiers or major venture operators. The relationship has remained feudal in many ways. Fishers generally look to their financiers not just as their masters/employers – in interviews fishers repeatedly referred to them as their saviors as well. The concept and practice of “pagtanaw ng utang na loob” – the sense of owing one’s life to someone, returning a favor – is very much in place. Fishers describe their livelihood as their identity, or “pagkatao.”

Unlike other occupations in the Philippines, most fish workers have never been organized, due to the offshore nature of fishing, whereby their often-precarious employment status and lack of formal education precludes them from asserting their Freedom of Association rights.<sup>44</sup>

Traditionally practiced sharing schemes, employment schemes, and labor relations developed mainly by financiers when the industry was at its infancy remain standard. Financing plays a large role in the production of tuna since commercial fishing is a capital-intensive venture and most boat owners have no money to finance their own fishing expeditions. As such, tuna buyers usually also provide financing services. Financiers can either be individuals or corporations that profit from the fishing venture through (1) interest of the loaned amount, (2) commission from the gross sales of the catch, and (3) commission as trader if they dispose of the catch. In cases of losing ventures, boat owners are not obligated to pay off the financier immediately, but are bound by their debt to sell their his catch to the financier even at a price below prevailing market rates.



fisher, which is equivalent to one fifth or 20 per cent of the actual gross sales of captured tuna.

**Figure 2 Lilima Sharing Scheme**

Source: Cesar Allan Vera and Zarina Hipolito, The Philippines Tuna Industry: A Profile, International Collective in Support of Fishworkers, 2006

After the financier and broker get their commission, the incidental expenses incurred in the process of selling the fish such as labor costs and port fees will then be subtracted from the gross sales and returned to the boat owner. Once the share of the fishers, commission of financiers and brokers, incidental expenses, and start-up capital are deducted from the gross sales, the leftover money becomes the net sale of the fishing expedition. This net sale will then be divided between the boat owner and the operator. The operator usually gets 15–25 percent,

depending on the turnout of the expedition, while the rest of the money goes to the boat owner.<sup>45</sup>

In the *sukod*, sharing system, which literally means “of equal footing”, the operator is considered a partner of the boat owner in terms of benefits and costs. If the fishing expedition loses money, the operator must absorb the losses too. There is no fixed date or duration for the boat owner to pay off his/her financial obligation to the financier, since fishing turnover is highly unpredictable. If the boat owner is lucky, he/she can pay his/her debt in a few months’ time, while others take a year-and-a-half to recover. There are also cases when a boat owner becomes so deep in debt that they must give up the boat to the financier as a form of repayment.<sup>46</sup>

When small-scale distant-water fishers are away from their homes for weeks or months, fishers' wives take out loans to cover daily expenses. If the catch is small and the income does not cover the loaned amount, women are the ones left indebted to the financier-buyers.<sup>47</sup>

### Labor Conditions in the Philippines Tuna Sector

The Environmental Justice Foundation published a report in 2010 called *All at Sea: the Abuse of Human Rights Aboard Illegal Fishing Vessels*<sup>48</sup>, and *What's The Catch? Reducing Bycatch in EU Distant Water Fisheries*.<sup>49</sup> These reports do not specifically focus on the tuna sector.

Several ILO projects have highlighted child labor in deep-sea fishing, although not specifically tuna fishing. The Program to Combat Child Labor in the Fishing Sector in Indonesia and the Philippines—Phases I and II, 1999-2004, focused on children in the Philippines using hazardous techniques on trawlers and when diving for fish.<sup>50</sup> According to the ILO, fishing corporations employ children between 12 and 14 years of age, who spend 10 months a year out at sea.<sup>51</sup>

Mindanao workers have been involved in serious clashes with fishing and canning companies over the last decade due to labor issues. For example, Filipino fishers employed by RD Tuna went on strike in 2004 claiming substandard wages below ILO rates without overtime or compensation for accidents or death on the job. They also complained that the tuna boats were not sea worthy and lacked fire and safety equipment. An RD cannery was bombed by "terrorists" killing four workers in the Philippines in April 2008 in response to the firing of 18 workers who had been dismissed for filing a case against RD Fishing. In 2003 an independent report into the social effects of RD Tuna's presence in the region found “serious concerns about the ability of RD to manage its operations on a humane, legal or safe basis, including problems of workplace hygiene, social and sexual abuse of women, and the payment of sub-minimum wages.”<sup>52</sup>

In Verité interviews with fishers, many described exploitation experienced under the operation of their financiers, which will be discussed in Section X below. These fishers

also said that expressing grievances would not be easy-- General Santos is small and there is blacklisting among employers and fishing operations. Fishers interviewed by Verité also reported that they could not return to their towns to farm even if they wanted to, because they are heavily militarized. Many farmers have abandoned their farms due to the conflict.<sup>53</sup>

## **Policies**

The national fisheries policy framework of the Philippines is provided by two national laws: The Fisheries Code of 1998, and the Agriculture and Fisheries Modernization Act (AFMA) of 1997. The Fisheries Code provides small-scale users (municipal fishers) preferential rights to the use of communal fishing grounds, and commercial fishing vessels are generally prohibited from exploiting municipal waters. The jurisdiction over municipal waters is in the hands of local government units. Offshore waters (beyond 15 km) are under the jurisdiction of the national agency, Bureau of Fisheries and Aquatic Resource (BFAR). The AFMA was more concerned with providing the appropriate budgetary and logistical requirements for the modernization of the country's entire agricultural base and encouraging a more rapid shift towards industrialization

A divergence of objectives between the Fisheries Code and AFMA has been observed; the former prioritizes conservation, while the latter encourages increased production. A study<sup>54</sup> conducted by a USAID project, the *Coastal Resource Management Project*, looked into the divergence of principles between the two laws. The AFMA is dedicated to making the agricultural and fisheries sector key to the Philippines' becoming a player in the global economy. Thus its overall framework is inclined towards the optimum production of goods, driven by a market-oriented approach within a highly competitive economic environment. The use of resources is to be guided by the principles of maximum efficiency and optimal use, as production must be able to respond to the demands of the global market. The benefits of the people in the sector are to be measurable in terms of increased income and wealth, delivery of goods and services, and expanding productivity.

The Fisheries Code, however, is more inward looking, as it is more concerned with providing food security for the Philippine population, through the careful management of its resources. Limitations on resource-utilization are key principles. The FC is oriented towards improving and rationalizing the domestic market, and places less priority on the export of goods.

With these perspectives, the rights and livelihood of small fishers, particularly those working on tuna fishing vessels, would be affected by AFMA as the law strives for modernization by enhancing profitability. The Fisheries Code specifically lays down the rights and privileges of fish workers as similar to any other worker under the Labor Code and other social legislation policies.

Although the legal framework has been set up, the implementation of policies has been hindered by the lack of implementing rules, information, resources and political will.<sup>55</sup> Several policy gaps have also been noted that jeopardize effective management and

development of fishery resources. These include the loose definition of municipal waters and classification of fishers, which can lead to confusion when it comes to implementation of the framework.

Local fishing organizations include the South Cotabato, Sultan Kudarat, Sarangani, and General Santos (SOCKSARGEN) Federation of Fishing Associations and Allied Industries (SFFAAI), created in 1999. This organization paved the way for the Confederation of Philippine Tuna Industry and the National Tuna Industry Council, created specifically for tuna through DA Special Order 659 in 2000, to formulate a strategic Action Plan for the industry.<sup>56</sup>

The Philippines participates in the Association of South East Asian Nations (ASEAN) Free Trade Association-Common Effective Preferential Tariff (AFTA-CEPT),<sup>57</sup> the United Nations Fish Stocks Agreement (UNFSA), the Indian Ocean Tuna Commission (IOTC) and the International Commission for the Conservation of Atlantic Tuna (ICCAT). The Philippines played a major role in establishing the Commission for the Conservation of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC) and became a member in July 2005.<sup>58</sup>

### ***Labor Policy***

The Filipino government is considering ratifying Maritime Labor Convention (MLC) 2006. This convention promotes decent work for all seafarers and addresses minimum standards regarding work conditions while at sea, conditions of employment, hours of work and rest, repatriation, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection.<sup>59</sup> As a first step, in August 2011, the ILO and its International Training Centre (ITC), in collaboration with the Department of Labor and Employment (DOLE) organized training for maritime labor inspectors in line with the MLC 2006.<sup>60</sup> Experts interviewed felt that chances for ratification were slim, but that if passed, the convention would benefit and protect seafarers.

The Philippine Labor Code sets the minimum age for work at 15 and the minimum age for hazardous work at 18, but allows younger children to work in nonhazardous activities when under the responsibility of their parents or guardians. Republic Act No. 9231, Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child, mandates the Government to protect and remove children from the worst forms of child labor, including forced labor, child trafficking, prostitution, pornography and the use of a child for illicit activities. It defines and prohibits worst forms of child labor, barring children from using dangerous machinery or tools, transporting heavy loads, working underground or underwater, handling explosives or being exposed to unsafe substances; and it prescribes stringent penalties.

The Government has two main policy instruments to prevent and eliminate child labor. The Philippine National Strategic Framework for Plan Development for Children, 2000–2025, also known as “Child 21,” sets out goals to achieve improved quality of life for

Filipino children by 2025. The Philippine Program against Child Labor (PPACL) Strategic Framework 2007–2015 lay the blueprint for reducing the incidence of child labor by 75 percent by 2015. The goal of reducing exploitative child labor has also been mainstreamed into the following national development agendas under the United Nations frameworks: Millennium Development Goals (2000–2015), Medium Term Philippine Development Plan (2004–2010 and 2011 – 2016) , Philippine Decent Work Common Agenda (2010), Education for All National Plan (2004–2015), Basic Education Reform Agenda and United Nations Development Assistance Framework Work plan (2011).<sup>61</sup>

## Programs

The following international organizations and donors had active programs in the Philippines at the time of research, focused either on tuna fishing or Mindanao or both.

Organization	Activities
<b>Asian Development Bank</b>	ADB's USD 54 million Fisheries Resource Management Project involves fisheries resource management, income diversification, and capacity building. <sup>62</sup> Other ADB fishing projects in the Philippines are <u>Safeguarding the Sea, Saving the Fish</u> , <u>The Fisheries Resource Management Project (FRMP)</u> , <u>Livelihood Partnerships as Alternative to Fishing</u> , <u>Capacity Building for Coastal Communities</u> , <u>Environmental Awareness Campaign for Fisher folk</u> , <u>Strict Sea Patrol: Guarding Fish for the Future</u> . <sup>63</sup> None of these focus on forced labor.
<b>ILO</b>	The ILO-IPEC Project in support of the Philippine Time-Bound Program (2002-2007) focused on six worst forms of child labor sectors, which included deep-sea fishing. <sup>64</sup> The program provided for the rehabilitation of children who have been engaged in deep-sea fishing and diving. <sup>65</sup>  In August 2011, the ILO and its International Training Centre (ITC), in collaboration with the Department of Labor and Employment (DOLE) organized a training for maritime labor inspectors in line with the Maritime Labor Convention, 2006 (MLC). Adopted in February 2006 by the ILO, MLC, 2006 comprehensively addresses the working and living conditions of seafarers and sets out standards for decent and productive work for seafarers. <sup>66</sup>
<b>JICA</b>	JICA provided funding for the port facility in Mindanao. <sup>67</sup>
<b>Norway-NORAD</b>	The Philippines is a non-priority country for NORAD, so their only activity is a USD25 million mixed credit facility managed by the Development Bank of the Philippines. <sup>68</sup>
<b>USDOL</b>	An USDOL-funded USD6.6 million program from 2007 to 2011 withdrew and prevented children from the worst forms of child labor through education and livelihood interventions in several regions, including Mindanao. Deep-sea fishing was one of the livelihoods.  Another USDOL-funded USD4.75 million project, implemented by ILO-IPEC from 2009 to 2013 will withdraw and prevent 8,500 children from the worst forms of child labor through the provision of educational and non-educational

	<p>services in Quezon, Masbate, Northern Samar and Bukidnon. The project targets children engaged in fishing, among other types of work.<sup>69</sup></p>
<b>USAID</b>	<p>The US is the largest bilateral foreign assistance grant donor to the Philippines. USAID has a significant presence in the Philippines, and about 60percent of economic assistance resources are targeted to Mindanao.<sup>70</sup> Programs in Mindanao seek to enhance private sector-led growth, improve access to credit for micro- and small-enterprises, increase agricultural productivity, improve the provision of economic infrastructure, and boost the employability of youth.<sup>71</sup></p> <p>USAID's Fisheries Improved for Sustainable Harvest (FISH) project (2007-2010) helped fishers in the Philippines by assigning an independent team to assess fishing industry challenges and to recommend good fisheries management practices.<sup>72</sup> FISH was funded by USAID and implemented in partnership with BFAR, other national government agencies, LGUs and non-governmental (NGO) and other assisting organizations.<sup>73 74</sup></p> <p>Beginning in 2009, USAID and the US Department of State provide USD 40 million over five years to the <u>Coral Triangle Initiative</u> (CTI), a consortium formed to promote sustainable fisheries and coastal resource management programs in the six countries that comprise the Coral Triangle. (East Timor, Indonesia, Malaysia, Papua New Guinea, the <u>Philippines</u>, and the Solomon Islands.)<sup>75</sup></p>
<b>World Bank</b>	<p>The World Bank is very active in the Philippines. Active projects focused on fishing and/or Mindanao are:</p> <p>Mindanao Rural Development Program (MRDP) Phase II - Natural Resource Management Component, a USD16.6 million project from 2009-2014 which aims to: (i) improve livelihood opportunities of targeted communities; and (ii) institutionalize a decentralized system for agriculture and fisheries service delivery that promotes participation, transparency and accountability.<sup>76</sup></p> <p>The USD 50 million 5-year Multi Donor Facility for Mindanao Reconstruction and Development Project was extended to 2012, and focuses on capacity building and decreasing conflict in Mindanao.<sup>77</sup></p> <p>The USD 38.86 million ARMM Social Fund Project, approved in May 2010, will be used mainly for grants to finance community-driven development sub-projects and capacity-building assistance for communities, local government units, and regional agencies.<sup>78</sup></p>
<b>WWF</b>	<p>WWF has extensive activities in the Philippines related to fishing.<sup>79</sup> The main tuna-related program is WWF's Promoting Sustainable Tuna Fisheries in the Coral Triangle Program, which encompasses 6 countries and promotes building a sustainable live reef food fish trade, promoting sustainable tuna fisheries, and financing marine protected areas.<sup>80</sup> Other programs focus on coastal resources, ecological studies, ecotourism, and community-based resource management and food security. None of these projects have a labor component.</p>

## Methodology & Limitations

Verité's research in the Philippines aimed to assess the presence of indicators of forced labor in the tuna sector within an investigation of working and living conditions. The following broad priorities guided the research:

- collecting and updating existing information on the demographics and livelihood strategies of workers in tuna fishing in the Philippines;
- documenting working conditions and identifying any existing indicators of forced labor within the tuna sector;
- describing the circumstances that contribute to the presence of indicators of forced labor within the tuna sector.

The lead Verité researcher has over a decade of experience in labor and human rights monitoring and managing research projects related to human and labor rights, and the issue of debt bondage and its relationship to labor brokers in supply chains in particular.

The lead Verité researchers partnered with the Philippine NGO, SALIGAN, in this research. SALIGAN provides legal resources and advocacy to women, farmers, workers, the urban poor, indigenous peoples, and local communities. SALIGAN had a base of operations in the provinces of Mindanao, where the research took place, and was therefore able to assist in facilitating access to respondents and their communities, and in communicating in local languages.

The research commenced with a literature review, expert consultations, and a rapid appraisal process. Field research comprised worker surveys, focus group discussions, and case studies. Upon completion of the field research, the data were collated, cleaned, and analyzed by the Manila-based team. Verité staff then conducted further quantitative and qualitative analysis of the data, cross-checking the conclusions drawn, and adjusting them in accordance with ILO guidance on "Identifying Forced Labor in Practice."

Verité also conducted a post-hoc analysis of data in all six country studies by applying a larger set of forced labor indicators issued by the ILO in December 2011 (*Hard to see, harder to count: Survey Guidelines to Estimate the Forced Labour of Adults of Children*),<sup>81</sup> which are intended for use in forced labor survey design and analysis but which were not available at the time the fieldwork was carried out.

### Research Design

The research was designed to be a qualitative investigation into the presence of indicators of forced labor and other exploitative labor conditions. Verité's methodology was anchored in the principles of ILO Convention 29, which contains the internationally accepted definition of forced labor. At the start of the research initiative, categories for indicators of forced labor were developed based on ILO guidance titled, "Identifying Forced Labor in Practice", which was published by the Special Action Program on Forced Labor in a 2005 report, *A Global Alliance Against Forced Labour: Global Report*

*under the Follow-Up to the ILO Declaration on Fundamental Principles and Rights at Work.* The ILO's guidance breaks down indicators of forced labor into those related to lack of consent and to menace of penalty. Information about wages and hours was also included in Verité's study, as wage and hour violations may constitute indicators of forced labor.

The research also sought to clarify the presence of exploitative practices that, while not rising to the technical level of forced labor, nonetheless denote labor rights concerns. Verité sought additionally to shed light on the demographics of workers involved in these sectors.

The first phase of the research was a preparatory rapid assessment.<sup>82</sup> The research process began with initial meetings in Manila to conceptualize the project, identify the sectors and locales to be researched, and develop an appropriate methodology. General Santos City was chosen as the site for the research, given its position as the top tuna-producing region in the country. Existing research was reviewed and contacts were made with experts in the tuna sector. A legal review of existing policies, laws, and ordinances related to forced labor, human trafficking, and the tuna sector was completed. A Site Assessment and Social/Institutional Mapping were likewise carried out during the first phase, wherein the team was able to map out all relevant worksites for both the formal and informal sectors: relevant institutions (markets, schools, hospitals, etc.); workers' living areas in relation to their workplaces; all the stakeholders/key players and the nature and level of their involvement in the industry; relevant government programs in place; financial structures in place; and the presence and characteristics of debt bondage, payment schemes, and price control schemes. Several key respondent interviews with the government, NGOs, and other key actors in the General Santos tuna industry were also conducted.

It was determined that tuna fish workers comprised four major groups: handliners, purse seiners, fresh-frozen workers, and canning workers.

Based on findings from the preparatory rapid assessment, the team prepared for the second phase of the research: primary field research in targeted areas. Specific research questions were developed, including:

- questions designed to solicit basic demographic data on workers involved in the tuna sector:
  - age
  - sex
  - education
  - household composition
  - status of land ownership
  - employment history
- questions designed to solicit basic data on the work establishment:
  - name and location
  - number of years employed by the establishment
  - for fishing: geographic area covered by the boat



- general physical condition of the establishment
- questions designed to solicit information on basic living conditions:
- questions designed to solicit information on entry into the sector:
  - migration and recruitment patterns
  - evidence of lack of consent, deception, fees paid, loans taken
- questions designed to solicit information on working conditions:
  - nature of the work
  - terms of work
    - contract, employment agreement
  - wages and payment mechanisms
    - wage levels
    - evidence of delayed payment, withholdings, deductions
    - currency of payment – in cash or in kind
  - hours of work
    - average levels and highest levels
    - evidence of compulsory/forced overtime
  - verbal / physical harassment
  - health and safety
  - degree of geographic isolation
- questions designed to solicit information on existence and circumstances of debt:
  - presence of debt
  - circumstances of debt – reason for borrowing, interest, to whom debt is held, whether it acts as a binding agent, whether it is inherited
  - patterns of debt-taking
  - payment arrangements
- questions designed to solicit information on freedom of movement
- questions designed to solicit information on presence and nature of child labor

Three sets of questionnaires were developed for each category of worker, for initial data gathering, individual interviews, and focus group discussions. Interview tools were not designed as quantitative survey tools; rather they were designed for qualitative, in-depth interviewing. Questions were open-ended, and guidelines to help structure the interviews were included. Respondents were asked to describe “usual” conditions for the past 12 months.

Focus groups were used to probe more deeply on major issues of concern that had surfaced during individual interviews. In some cases, focus groups were used where respondents were uncomfortable during individual interviews (see discussion of handliners in *Sampling and Access* below). Focus groups explored the following topics:

- employment relationship/status
- actual working conditions – in particular, wages and benefits
- debt – probing for information on advances, in-kind loans, borrowing, and views on the financier-fisherman dependency relationship
- exploration of freedom of movement and freedom to leave employment
- grievance mechanisms and access to protection and legal recourse

Following the field research, researchers conducted a second round of expert consultations to validate and triangulate findings and to seek input for policy recommendations.

Key informants consulted over the course of the study included:

- Representatives of NGOs and labor advocacy groups
- Academics, including from the College of Fisheries of Mindanao State University
- Employers, and industry associations, including manpower associations and cooperatives and associations of handline and purse seine operators
- Government officials, both regional and central, including from the Department of Labor and Employment, the Bureau of Fisheries and Aquatic Resources, and the National Labor Relations Commission
- Officials from the General Santos City Fish Port
- Journalists covering the tuna industry and labor issues
- Politicians with interest or involvement in the tuna sector and labor issues
- Researchers solicited input from the tuna industry association; however, the association was reluctant to engage in discussions.

## Research Timing

The timing of the research was as follows:

Spring 2009	Preparatory research, rapid assessment: Desk research, social mapping, expert consultations and initial data gathering
June to Sept 2009	Primary research: Individual interviews and focus group discussions with handliners, purse seiners, fresh-frozen and canning workers; downloading and consolidation of field data
May 2010	Primary research: Focus group discussions with handliners
August 2010	Primary research: Targeted additional interviews with workers at fresh-frozen-smoking production sites
February 2011	Primary research: Validation session with workers
May 2011	Primary research: Validation session with additional stakeholders
Fall 2011	Data analysis and report writing

## Location and Scope of the Research

Approximately 90 percent of the national tuna industry production is located in Mindanao, providing over 100,000 jobs and annual direct revenues of USD 400 million. General Santos City is the center of this tuna industry.<sup>83</sup> Six of the country's seven major tuna canning factories are located in General Santos City, as well as 15 fish processors and exporters which comprise 80 percent of all fish processors in the country.<sup>84</sup>

The municipal waters of General Santos City have been overfished and no longer yield enough volume; therefore, fishers must venture far and beyond national waters in order to catch fish.

A total of 92 workers were interviewed individually; and 24 workers were interviewed in focus-group discussions. All 27 focus group participants were handliners; an additional 11 handliners were interviewed individually. Fourteen purse seiners, 28 cannery workers, and 39 fresh-frozen processing workers were interviewed individually. A relatively lower number of purse seiners were interviewed in light of the two-year ban on tuna fishing in the tuna-rich migratory highway that cuts across the Western Pacific region imposed in 2010 by the Western and Central Pacific Fisheries Commission (WCPFC). This ban largely affects purse seiners. Handliners are not affected.

## Sampling and Access

Research on handliners and purse seiners was conducted in two ways: using a convenience sampling technique at the fish ports and snowball sampling in communities of origin. Handliners and purse seiners come from General Santos City and from a network of villages along the coastline. Cannery workers were selected for interviews using convenience sampling. Interviewers made initial contact with workers outside the processing facilities, when workers were entering the facility at the beginning of the day and then made arrangements to meet with willing respondents at their homes or at other neutral locations. Fresh-frozen processing workers were selected for interviews using street sampling. Initial contact was again made outside the work facility, and the interview was conducted later at a neutral location.

Most respondents spoke the local language of Bisaya, which itself has various dialects. Interviews were conducted directly in Bisaya by representatives of the NGO SALIGAN and lead researcher; and translated into Tagalog for data processing.

General Santos City is one of several places in Mindanao where conflict between Muslim inhabitants and Christian settlers from other regions of the Philippines has led to violent clashes. Provinces identified as conflict-prone areas also surround the City -- either heavily militarized areas or sites of violent clan conflict (*rido*).<sup>85</sup> Heavy militarization and insurgency in nearby areas of southern Mindanao have deprived some farmers of their land and pushed them to seek employment in General Santos City. Considering that they have no safe place to go to and no other means of

livelihood, they are highly vulnerable to being taken advantage of and of being led into exploitative situations.

Researchers had to be very sensitive to the level of insecurity in the region. SALIGAN, through another local organization, Alliance of Progressive Labor (APL), had worked with the communities surrounding General Santos City in the past, and was able to facilitate introductions and access to workers. In 2010, martial law was imposed in the province next to General Santos, which compromised the ability to conduct fieldwork there.

Because of the tuna ban and pressures facing the industry, industry representatives were hesitant to engage with the study. Some civil society actors were similarly hesitant to engage, out of concern for how the results might be used, and whether the industry – which is the lifeblood of the region – could be harmed.

Several workers interviewed reported fear that any public conversation on their working conditions would result in them being blacklisted from future employment. Blacklisting is a well-known phenomenon in the industry. Field researchers took extra care to be discreet with their interviews and to protect informants. Handliners proved to be the most cautious about individual interviews; thus the decision was made to gather information from this group via focus group discussions, where these workers appeared to be more comfortable and open.

In sum, the combination of political instability and insecurity in the region; the critical importance of the tuna sector in providing jobs for the region and the threat to the industry posed by overfishing – causing most everyone in the sector to be protective of its survival; the common practice of blacklisting, which leads workers to be hesitant to engage; the small-town environment of General Santos City, where word – and rumor – can travel fast; combined with the backdrop of poverty and lack of alternative livelihood, meant that the study needed to make a “light footprint” in order to be successful in gathering credible information and to gain the willingness of respondents to participate. Thus a qualitative approach was taken with the research, interviewing handfuls of workers dispersed across villages and work locations, and maintaining a low profile for the study.

## **Data Analysis and Validation**

Data was captured through semi-structured interviews and focus-group discussions. Once data from field interviews was tabulated, researchers triangulated the findings with previously gathered information, including desk review, rapid appraisals, and stakeholder consultations. A new round of expert consultations with various representatives of government and civil society was also conducted, to verify and enrich the understanding of results. Researchers also held a validation workshop with 100 workers (25 handliners, 25 purse seiners, 25 cannery workers, and 25 fresh frozen workers) to present preliminary findings and gather feedback and input.

Verité headquarters staff performed further analysis of the data to verify the accuracy of the qualitative findings, and analyzed the data in accordance with ILO guidance on “Identifying Forced Labor in Practice,” as described in the Research Design section.

Verité also conducted a post-hoc analysis of data in all six country studies by applying a larger set of forced labor indicators issued by the ILO in December 2011 (*Hard to see, harder to count: Survey Guidelines to Estimate the Forced Labour of Adults of Children*), which are intended for use in forced labor survey design and analysis but which were not available at the time the fieldwork was carried out.

## **Limitations**

The ILO has recently noted the numerous difficulties associated with meaningful sampling of populations potentially involved in forced labor.<sup>86</sup>

Several research challenges can be considered as limitations to the study:

Because this study is not statistically representative at the national or sectoral level due to the use of non-random sampling, findings should not be generalized to the entire population or used to establish the prevalence of indicators of forced labor or forced labor itself. However, clear patterns emerged, and once triangulated with other sources, findings can point to the existence of trends and offer insight into realities facing workers.

Although handliners appeared to be more comfortable being interviewed in a focus group setting rather than on an individual basis, it is possible that some workers did not share details around sensitive information during focus groups.

Fear of blacklisting was prevalent across all areas of research. While researchers took great care to conduct interviews discreetly and to protect the identities of informants, nonetheless it is likely that informants were not completely forthcoming about their work situations. Also, because of the precarious economic health of the tuna sector generally, it is reasonable to assume that some respondents might have been less than forthcoming in order to protect the reputation of the sector as well as their individual positions.

The above factors contributed to an environment in which researchers were not able to produce quantitative data or to estimate the prevalence of indicators of forced labor.<sup>87</sup> Even given all of these limitations, the researchers feel confident that the research provides a solid picture of the primary labor issues of concern among handliners, purse seiners, cannery workers, and fresh-frozen processing workers.

## Research Findings

Major research findings are reported in three separate sections, for handline fishing, purse seine fishing, tuna canning and fresh-frozen processing.

The categories for indicators of forced labor are based upon the ILO's guidance on "Identifying Forced Labor in Practice," which are broken down into lack of consent and menace of penalty, as shown below.<sup>88</sup>

<b>Box 1: Identifying forced labour in practice</b>	
<b>Lack of consent to work (the "route into" forced labour)</b>	<b>Menace of a penalty (the means of keeping someone in forced labour)</b>
<ul style="list-style-type: none"><li>• Birth/descent into "slave" or bonded status</li><li>• Physical abduction or kidnapping</li><li>• Sale of person into the ownership of another</li><li>• Physical confinement in the work location – in prison or in private detention</li><li>• Psychological compulsion, i.e. an order to work, backed up by a credible threat of a penalty for non-compliance</li><li>• Induced indebtedness (by falsification of accounts, inflated prices, reduced value of goods or services produced, excessive interest charges, etc.)</li><li>• Deception or false promises about types and terms of work</li><li>• Withholding and non-payment of wages</li><li>• Retention of identity documents or other valuable personal possessions</li></ul>	<ul style="list-style-type: none"><li>• Physical violence against worker or family or close associates</li><li>• Sexual violence</li><li>• (Threat of) supernatural retaliation</li><li>• Imprisonment or other physical confinement</li><li>• Financial penalties</li><li>• Denunciation to authorities (police, immigration, etc.) and deportation</li><li>• Exclusion from future employment</li><li>• Exclusion from community and social life</li><li>• Removal of rights or privileges</li><li>• Deprivation of food, shelter or other necessities</li><li>• Shift to even worse working conditions</li><li>• Loss of social status</li></ul>

Information about wages and hours has also been included, as wage and hour violations may constitute indicators of forced labor.

Although the presence of these indicators signals an increased risk for forced labor, each case must be assessed individually to determine the interplay of indicators and the context to determine whether or not it rises to the level of forced labor. The following findings are based on worker interviews, as well as researchers' direct observations, expert consultations, and a comprehensive literature review.

## Handline Fishing in General Santos City, Philippines

### *Introduction and Current Understanding*



Figure 3 - General Santos City Port - Verite Photo

Handlining, a traditional passive fishing method in which a hook and line are dropped into the water, is the means by which large sashimi-grade yellow fin tuna are caught by Philippine fishers. Handlining is considered an environmentally sensitive method for capturing tuna since it does not use large nets.<sup>89</sup>

Handlining requires a high degree of specialized skill and knowledge on the part of the fisher such as when to throw the line; how to hold it; and how to pull and haul in the fish. Care must be taken not to damage the fish. If the fish struggles, the fisher must know how to control it or the risks of getting pulled overboard. Further, fishers must have knowledge about patterns and movement of fish. According to interviews, this knowledge is passed on from generation to generation of fishers, and acquired over time through years of experience.<sup>90</sup>

There are two types of handline fishing conducted out of General Santos City: *palaran* and *pamariles*.<sup>91</sup> The categories are distinguished by the fishing grounds or location of

work. The *palaran* handliners fish in the municipal waters surrounding the Philippines, while *pamariles* fishers venture to distant waters beyond the Philippine territory. Both types can yield big tuna that may be designated for the export market, depending on the quality of the meat.

The *palaran* or municipal handline fishers have been using the hook-and-line fishing gear for as long as fishing has been a livelihood in these communities. Handliners interviewed said that, in the past, this was the only type of fishing that occurred and they did not restrict themselves to just catching tuna, since there were other fish species available.

*Palaran* use smaller vessels of approximately 18 to 36 feet in length. These vessels have smaller engines, which limit them to shorter trips. They usually leave the port in the afternoon; fish throughout the evening and night; and return in the morning. This allows them to fish over night when tuna are feeding near the surface. Because the vessels have limited space for ice, they must quickly return to port to sell their catch at the market, or they risk a precipitous drop in quality and price.<sup>92</sup> *Palaran* will also seek other types of tuna, and do not seek fish for the export market exclusively.

The *pamariles* or distant-water handliners have larger vessels and can venture into areas such as the Moro Gulf, Mindanao Sea, and Davao on the Tawi-Tawi islands. According to informants, these trips take approximately two days (depending on weather conditions) from port.

Due to the declining catch in the Philippine Exclusive Economic Zone (EEZ), the larger handline vessels scour the international waters for tuna, amidst the looming threats of apprehension and detention due to poaching. Handliners are not covered by bilateral fishing agreements. Fishers travel as far as the territorial waters of Indonesia (specifically within the Irian Jaya region), Australia, Papua New Guinea, and Fiji to catch tuna. Fishing trips to Indonesia may last 20 days roundtrip, while trips to farther places like Australia and PNG may last upwards of a month.<sup>93</sup>

*Pamariles* also carry auxiliary boats or *kawa-kawa* to scout for tuna around *payaos* (fish aggregating devices used by purse seiners). Each vessel can carry up to 10 *kawa-kawa*. The 'mother vessels' are equipped with a radio, compass, and a global positioning system. *Paramiles* vessels can also carry more ice than *palaran* vessels.

The handliners interviewed for this research were engaged as *pamariles* or distant-water handliners, although most of them started out as municipal fishers.<sup>94</sup> Researchers focused on *pamariles* because initial rapid appraisals had identified the potential for greater vulnerability to forced labor, due to the longer length of trips. Further, because of the resource depletion, the tuna sector in General Santos is now primarily comprised of *pamariles* fishers.



In the 1970's, growing demand for sashimi-grade yellow-fin tuna brought Japanese fish traders to General Santos City, eager to source new supplies for the Japanese markets. Yellow-fin commands high prices compared to other tuna products, particularly in Japan.<sup>95</sup> With the opening of this new market, investors were encouraged to put their money in tuna fishing ventures, which in turn drew in fish workers from the other coastal provinces to General Santos City.<sup>96</sup> Some of the fishers came from even as far as the central part of the Philippines, lured by opportunities not available in their own coastal towns. This also encouraged fishers who used to conduct independent artisanal/municipal tuna fishing to become part of fleets that ventured far beyond Philippine waters, and for longer periods of time, in the name of higher catch and better income.

According to key informant interviews, there was a convergence of the demand for tuna with the skills that artisanal fishers possessed: using traditional methods and skills, fishers could capture large tuna with little damage to the fish, qualifying it for sashimi grade. However, the fishers themselves did not have the capital to finance trips, so entrepreneurs became financiers, setting up the structure for the sector today.<sup>97</sup>

According to a financier interviewed for this research, the amounts vary depending on the size of the crew, the distance of the fishing grounds, and the duration of the venture. Previous research estimated the cost of a longer voyage at approximately 1,900 USD.<sup>98</sup> Informants interviewed estimated that today, costs are nearly twice that, due to an increase in the cost of fuel and the necessity of traveling further to seek tuna.

A handline fishing venture can be composed of a crew of eight to 20 fishers, depending on the size of the boat. Each vessel has a boat-operator who acts as a leader and takes command of the rest of the crew and the entire operation. Each operation also has its own engine mechanic, and in certain cases, someone who oversees the workers' meals and provisions. All the other passengers on the boat are handliners.

The role of the financier is critical in the handline operation and financiers play several roles, and thus have deep leverage in the sector. The financier provides capital to finance a trip to the boat owner. Some financiers also own boats themselves. In General Santos City, financiers of handline fishing ventures are often wealthy individuals or corporations that may also own purse seine operations or other businesses. They are also, more often than not, the buyers of the tuna caught by the handliners, or the traders, thus they are able to dictate the price or the value of the catch.

As the demand for tuna has depleted fish populations over the past four decades, handliners have had to venture farther and farther away from the Philippine's waters in recent years and more and more frequently into Indonesian waters, in order to catch tuna.<sup>99</sup>

An estimated 50 percent of the large tuna landed in General Santos City by municipal handliners are not caught within Philippine territory, but rather in the territorial waters of Indonesia, Palau, or Papua New Guinea.<sup>100</sup> There has been little reliable data on the

volume of catch made by handliners outside Philippine waters, as reporting on where the fish are caught was not always a strict requirement in the past. Recently, the EU and other importers of tuna have imposed standards and protocols regarding the traceability of the product they are sourcing from other countries. One of these requirements, according to the Bureau of Fisheries and Aquatic Resources (BFAR), is that the fish is tagged and its source properly identified.

Some handline workers report that they do not really understand these standards and are not involved in the tagging, saying further that, when they are out fishing, they do not always know when they have gone beyond Philippine waters. Other workers, however, said that they have been fishing freely in Indonesian waters for as long as they can remember and that these waters are considered by them as part of their traditional fishing grounds.<sup>101</sup>

A moratorium on commercial fishing vessels was passed in 2004 in order to abate overfishing.<sup>102</sup> When this moratorium was lifted, another one, implemented by the Western and Central Pacific Fisheries Commission (WCPFC) in 2010, was implemented, and is still in effect at present. The current ban on fishing does not include handliners. However, the non-renewal of fishing agreements between the Philippines and Indonesia has severely affected the productivity of handliners, and has an impact on their safety as well. That is, because venturing into Indonesian waters is illegal in many cases, handline fishers risk arrest. Thus, another development being pushed by the stakeholders is the designation of an exclusive fishing ground for the handliners, in order to sustain the viability of the handline fishing sector.

## **Research Findings**

### **Demographic Characteristics of Respondents in Handline Tuna Sector**

Age: The 14 handliners involved in this research were aged 19 to 78 years old. At least four respondents interviewed said that they themselves began fishing before the age of 15. However, respondents said that labor does not currently occur in the sector. Researchers found no indicators of current child labor; however, there do not appear to be stringent checks on age for hired workers.

Gender: All the handline fishers interviewed were male. The work of distant-water tuna handling has been traditionally male-dominated, while land-based work in post-harvest facilities has been more open to women workers. In one focus group discussion conducted, all the five men in the family were handliners; while their wives took on whatever jobs they could get from the many facilities surrounding the fish port.<sup>103</sup>

Educational Attainment: Some of the handliners interviewed reported having had no, or only very little, formal education. This was more common among older (above 50 years old) handliners who said that, in their time, they had to work as soon as they were able to, and education was either not a priority or was not affordable. Most of the handliners completed basic elementary education, while a few had some high school education. None of the workers interviewed were college-educated.

Entry into Sector: Many of the handliners related that they have been working as handliners for as long as they could remember. The workers also said that, in the past, it was customary for the fishers to bring along their sons in order to train them in the practice of handlining.

Some workers also said that bringing sons along on fishing expeditions was a way to relieve the families of the burden of feeding too many children at home. The workers are provided food, or are able to provide food for themselves, while out on fishing trips.<sup>104</sup>

Most of the handliners said that they have no other means of employment or livelihood; they are not skilled in other forms of labor, and do not have the required education or training background for other types of work.

Migration Status: According to respondents, many fishers are local to General Santos City, but there is also migration into the General Santos area among those hoping that this region would prove to be more lucrative than in their home territory. Some handliners interviewed came from as far as Leyte, another island-province in the central part of the Philippines.

Some of the original General Santos residents shared that their families originally came from the central or northern parts of the Philippines, and were part of the wave of migration in the early 1970s, from the Visayas to Mindanao.

## **Presence of Indicators of Forced Labor in Handline Fishing**

**Forced Illegal Activities:** Filipino handline fishers are frequently detained by Indonesian authorities for fishing illegally in Indonesian waters.<sup>105</sup> Detention can last from two to six months. Workers interviewed who have been detained there in the past reported that the conditions in detention cells are poor, especially the food. While detained, they have no means of communicating with family, and they are also unable to support their families financially while detained.

Handliners who had been released stated that they were released after seeking the help of the consul in Indonesia. At present, hundreds of Filipinos are still detained in Indonesian jails for illegal fishing.<sup>106</sup>

Several fishers reported that they were not aware that their boat was fishing illegally in Indonesian waters until they were detained. Some reported that the boat owner assured them that the voyage would be legal (either through avoiding Indonesian waters or by registering legally) only to find out that they had been deceived.

**Inflated Indebtedness:** Three workers reported that they are regularly provided with loans of 500 to 1,000 pesos and 20-25 kilos of rice, given at no interest at the start of a fishing venture. The amount advanced and the cost of the rice is automatically deducted from their wages.

Workers' families may also take in-kind loans (such as medicine, food, or rice) while the fisher is at sea. These goods are provided on credit, but at prices that are significantly higher than the market rate. All debt is deducted from a fisher's earnings. When the workers' earnings from the share are not enough to cover the advance, the workers may pay the balance later on, or it is recorded as "utang" or debt, which they can pay off by joining the next venture. Information regarding loans was confirmed through informal interviews with workers families.

Workers reported that often, after all deductions are made they will have no earnings after a trip. To provide for their family between trips, they take additional loans from boat owners or financiers, and the cycle continues: the worker is compelled to join the same financier's venture again, such that he can start paying off debts.

Rather than complain about their debt burden, workers referred to their employers/financiers as their saviors in times of financial difficulty. "Utang na loob" which translates to "debt of/from one's being," is often used by workers, to describe the factor that defines their attachment to their employers. The idea of 'utang na loob' suggests that workers feel they owe their lives to this person and that they should repay their gratitude with their work and their loyalty. In this sense, their employers or financiers play the role of a patron to the workers.

**Deception about nature of work:** Eight handliners reported that they had no contract. Because conditions are "just understood," rather than formalized, in some cases, work

conditions (such as the profit sharing scheme, task assignments, length of a voyage) may suddenly change while fishers are already at sea. In these instances, despite the adverse impact of the changes to their work conditions, the handliners do not have the means to disagree or to refuse to follow new arrangements. In most cases, changes have to do with duration of the work, which can be extended, by the operator, and the location or distance from the port, to which the workers have no say. This may mean that workers are participating in illegal work (venturing into Indonesian waters) without their consent.

Isolation: As tuna becomes harder to find due to overfishing, voyages become longer and longer. While at sea, due to the nature of fishing, fishers are isolated on the vessel with no means to leave.

Exclusion from Future Employment: Fishers reported that if they complain about work conditions, they could be terminated and possibly blacklisted. Interviewed fishers reported that coworkers/ fellow fishers who had criticized their supervisor or boat owner and had consequently been effectively blacklisted from the sector. While researchers were not able to confirm specific cases of blacklisting, even the perception of blacklisting may prevent fishers from expressing any grievances.

Wages: According to interviews with both handliners and financiers, the handliners are not employees, but are considered partners in a venture. Earnings are therefore referred to as “shares,” rather than wages and divided via the sukod or lilima scheme (described in Background and Setting.) However, workers interviewed noted that while they may technically be considered partners, they are treated as employees in practice and they are closely supervised by the boat operator and have little agency in their choices. For example, the fishers themselves do not make decisions about factors such as the length of voyage, the schedule of work or geographic itinerary.

Regardless of the sharing scheme used on a particular vessel, fishers interviewed reported that they have recently been barred from entering the weighing and classification sections of the port, so they do not have verification of the price of their catch. Instead, they must rely on the word of the boat owner or operator and trust that the financier – who is almost always the trader and buyer – will be fair in their dealings. Some workers said that they notice discrepancies in how their catch is valued and priced. They stated that their years of experience in handlining have taught them to estimate the weight and grade of their own catch, and they are able to informally gauge or estimate the value of their catch. They said that, in the past, their estimates were always proven correct. However, recently, when they are given their share, the amount they receive almost always falls short of their expectations. The change in policy is likely due to the overall downturn in the tuna sector, and general decrease in profitability.

Handliners reported that they never earn a fixed amount and they cannot predict how much they are going to earn. Their earnings depend on the catch and on the payment scheme the financier/owner chooses to apply. Some workers reported that, on the boat, it does not matter if workers do not agree to the sharing scheme; it is a system that has

been around for many years, and it is the same system applied in all handline operations.

Pay can sometimes be delayed; handliners stated that it could take a few days to a week after landing for them to receive their share of the earnings. Occasionally, they then need to take small loans from the financier or other sources available to them such as friends or local moneylenders for income smoothing. These do not appear to lead to ongoing or onerous debt.

Working Hours: Fishers interviewed reported that in order to catch and haul in an average-sized 50-kilo fish, the fishers often have to work an entire day. Then, after baiting a fish on the line, the fishers have to keep the line in the water for 12 to 14 hours or more and very slowly draw the fish in, waiting for it to naturally weaken enough to be hauled into the small boat. It generally takes three people to do this with an adult tuna fish. This process translates to very long hours of work with no breaks or rest, and sometimes all through the night until the following day. However, when there are periods without fish on the line, workers can take extended rest periods when they want.

The length of voyages themselves has grown longer. As yellow-fin tuna become increasingly difficult to come by, trips can take up to 45 days as fishers venture to more remote waters.

### **Other Issues of Concern regarding Working Conditions in Handline Fishing**

Hazardous Conditions: Workers interviewed reported a wide variety of health and safety concerns including extreme weather conditions; being pulled overboard by a large tuna on the line; and the threat of piracy. As vessels venture further out and trips become longer, fishers spend longer periods of time away from shore. This leaves workers who become ill on the trip vulnerable to being without medical care for long periods. Workers interviewed reported that an operator would usually turn to a near port if a worker were gravely ill, but that shore cannot always be reached soon enough. Workers reported knowledge of incidents where fishers had died because of a lack of timely medical attention. Sleeping quarters/cabins are generally made available, especially on big boats, but when boats are crowded, workers often sleep on the deck in open air with no protection from the elements.

The fishers also reported incidents of workers suddenly going missing while out at sea (it was speculated that these workers had fallen overboard). The handline fishers are not guaranteed financial assistance, and families of missing fishers likewise do not get any financial assistance or benefits, since the workers in the handline sector are not entitled to social security benefits or other government mandated benefits and insurances.

Lack of Contracts/Employment Agreements: All handliners interviewed for this research reported that there are no contracts written or signed in the handline fishing operation.

Neither are there pay slips or receipts provided. On the whole, they stated that transactions are mostly undocumented or unrecorded.

Workers reported that employment or work arrangements in the handline fishing operation are very informal, although the relationships between boat owners or operators and the crew, or between the financier and the handliners, can last over the course of years. Workers can work for the same operator for many years. That said, the parameters that define the relationship are actually very clear and very well established. Some workers also said that, even when the agreements are unwritten, they are considered binding. The practices are systemic – established through time, and widely known and accepted among all the parties involved. However, handliners stated that while they are at sea, agreements are not always adhered to (see ‘Deception About Nature of Work’ and ‘Forced Illegal Activities.’)

### **Case Study – Rowena, Missing Handline Fisherman’s Wife, Deep in Debt**

Rowena’s husband and son are both distant water handliners. Her husband has always been a fisherman, and they have been married for more than 20 years. Her husband’s fishing is the main source of income for the whole family. Recently, one of her sons decided to join her husband in fishing since the family could no longer afford to send him to school, and the husband’s income from fishing was no longer enough to support the growing family’s needs.

Rowena herself tries to help out by taking on jobs whenever and wherever she can, in any of the post-harvest facilities, which sometimes hire “extras” during high production season. She, along with other women in the community, line up outside the factory very early in the morning and wait outside the gate, by the walls of the facility, with no guarantee of being chosen as one of the extras for the day. Sometimes, she says, they wait outside the factory the entire day, under the sun, because one never knows when the gate will open and the factory will need additional hands. When she is lucky, she gets to work two days straight. It has been months now since her last job at a smoked-fish facility. She stated that production is down everywhere because of the ban imposed on fishing grounds where the fish that are processed in the facilities are caught. She says that her husband and son are lucky, in a way, because as handliners, they are not affected by the ban.

Rowena is worried for her husband and her son. They normally stay out at sea for one month, but at the time of the interview, had been at sea for nearly two months. She had not heard from them. She has been to the boss’s office and visited the financier and owner of the handline operation that contracted her husband and son. She was told that “the boys are fine,” that she should not worry. But, she says, there are many reasons to worry: she has no money; she has to feed her family; she has already incurred debts from neighbors and from a loan shark who charges a ten percent weekly interest on a 1,000 peso loan.

Before the men left for the fishing venture, the financing company gave the families of the fishers a sack of rice and 1,500 pesos. These are considered advance payments, later to be deducted from the actual earnings. Rowena says that the provisions ran out a long time ago, and she has been getting by on loans. She stated that she tried borrowing from the office of the boss but was told that she could only borrow money with the approval of the boat operator. The boat operator acts as the leader among the handliners. She says that she was told at the office that the boat operator has not yet communicated his approval.

She is also worried about the safety of her husband and son. She knows that getting caught and detained in Indonesia is a common occurrence. Her husband has been caught and detained before, but he was lucky to have been working under a generous boss at that time. The boss bailed him and his fellow fishers out after only two days in detention. Rowena also shared that just a few months earlier, her nephew died at sea, and the family was not informed of it or of the circumstances surrounding the death, until the body was brought home.



### **Case Study – Elfin, Deceived about Wages and Conditions**

Elfin has been a handline fisherman since 1998, and previously worked for one of the biggest handline and purse seine operators in General Santos City. He was with this company for more than five consecutive years. Delfin reported having been caught a number of times by Indonesian patrols. He was detained recently in Botong, Indonesia for two months. He reported that the conditions in detention were bad, especially the food. There was also no means of communicating with his family, and of course he could not support them financially while detained. He was only released after seeking the help of the consul in Indonesia.

Delfin feels that he has no choice but to join fishing ventures because he has no other options: if he was able to find another type of job, he would leave fishing altogether. He feels that the lilima scheme is unfair, but that there is no way to protest.

Delfin stated that sometimes arrangements – especially the length of time they have to be out at sea, the sharing scheme, task assignments, etc. – suddenly change without the fishers being consulted.

### **Case Study - Alex, Detained in Indonesia Three Times**

Alex is 37 years old and married with five children. He has been detained three times in Indonesia. He has been a fisher since 1994. In 2000, he was apprehended and detained in Indonesia while working on a fishing boat owned by a General Santos City tuna magnate. All 14 workers on his boat were detained for one week. He managed to escape from prison, after hearing that he was going to be transferred to a provincial jail and held for three years.

He was detained again in 2002 while working for a vessel owned by a different financier. For the two weeks he was in detention, he was barely fed. He was able to escape again.

The final time he was detained was in 2008. Alex had believed this boat to be registered to fish legally in Indonesia. The financier paid fines, and the crew was released.

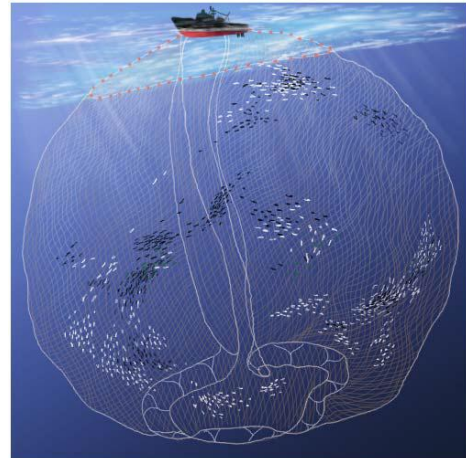
Alex is afraid of being detained again, but feels that he has no other livelihood option.

## Purse Seine Fishing in General Santos City, Philippines

### ***Introduction and Current Understanding***

Purse seiners are commercial fishing operations that use a large net with sinkers on one edge and floats on the other. The net hangs vertically in the water, and encloses fish when its ends are pulled together and closed like a drawstring purse. Fishers then pull the net closed with a drawstring-like motion to capture the fish. The entire net can be pulled on board, or the fish can be lifted out via smaller nets.<sup>107</sup>

There are three general classifications of purse seine operation in General Santos. They are classified according to vessel size: (1) super-seiners, (2) large seiners, and (3) and medium and “baby” seiners. Super-seiner vessels have a gross tonnage that range from 489-1,382 GT. Large seiners are those weighing more than 250 GT. Medium and small (baby) seiners are those weighing less than 250 GT.<sup>108</sup>



Mathew Squillante 2002

**Figure 4: Monterey Bay Aquarium, Fishing Methods Fact Card.**

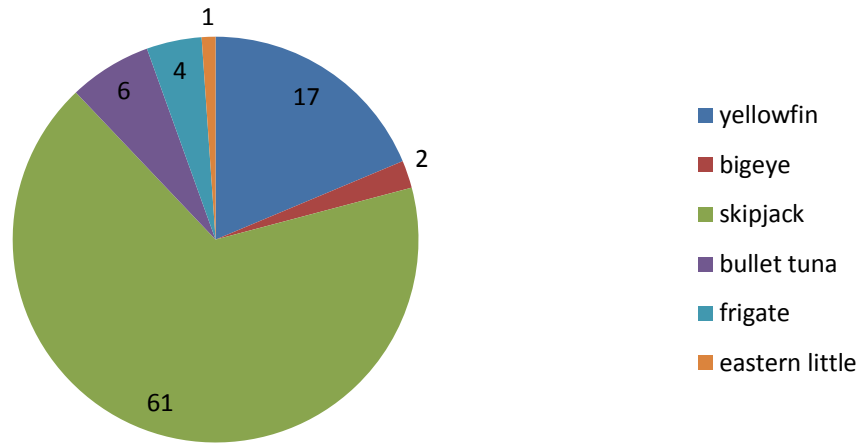
[http://www.montereybayaquarium.org/cr/cr\\_seafoodwatch/content/media/MBA\\_SeafoodWatch\\_Longlining%26PurseSeiningFactCards.pdf](http://www.montereybayaquarium.org/cr/cr_seafoodwatch/content/media/MBA_SeafoodWatch_Longlining%26PurseSeiningFactCards.pdf)

Apart from handliners, purse seiners are the major tuna producers in Philippine waters. In addition to operating within the Philippines Exclusive Economic Zone (EEZ,) seiners operate in the high seas, or in the waters of Indonesia and Papua New Guinea (PNG).

Purse seine fishing in General Santos City is associated with the use of floating Fish Aggregation Devices (FAD) known as *payaos*.<sup>109</sup> Because large groups of fish are caught at one time, including by-catch, purse seine fishing has greater environmental implications than a more selective method such as handlining.

The catch of purse seines in General Santos City is primarily skip-jack and yellow-fin tuna, with smaller amounts of big eye, frigate tuna, eastern little tuna, and assorted other small pelagic fish.<sup>110</sup> Much of the skip-jack and yellow-fin catch ends up processed in General Santos City canneries.

## Approximate Percent Catch of General Santos Purse Seiner by Type of Fish



The Western and Central Pacific Fisheries Commission imposed a two-year purse seine and Fish Aggregator Device ban on two large areas of ocean in the western Pacific to try to stem overfishing and depletion of marine resources. Prior to the ban, there were approximately 15,000 jobs in the purse seine sector in General Santos City.

The processing sector in General Santos City, particularly the canning sector, is also particularly affected by the ban, as approximately 60 percent of purse seiner catch is used in canneries, with the remaining 40 percent being sold in local and domestic markets.<sup>111</sup>

Interviews with purse seine operators indicate that a typical purse seine fishing expedition is capital-intensive, requiring thousands of dollars in start-up capital.<sup>112</sup> According to recent estimates, “a single medium-sized tuna fishing fleet consisting of a mother boat, service and other auxiliary vessels including a set of 30 to 60 fish aggregating devices could cost up to P30 million (USD 700,000).”<sup>113</sup>

One purse seine operation usually requires a fleet of vessels, comprised of a ‘mother boat’ that has auxiliary service boats and light boats. The mother boat and the light boats stay in the open sea for periods of 6 to 12 months (although workers generally only stay for 6 month terms). The mother boat stays in a fixed position, and it is the light boats that move around the ocean, to inspect the FAD or look for areas where large schools of fish may be found. Once a target school of fish has been found, the light boat directs the mother boat to these areas. The fish that are collected by the fleet are transported by a service vessel to the fish landing area at the General Santos City Fish Processing Center (GSCFPC). The service vessels frequently travel from the mother boat station to the fish port, and may sometimes ferry service crews back home, or to the mother boat.

## **Research Findings**

### **Demographic Characteristics of Respondents in Purse Seine Fishing**

Age: The 14 purse seine workers interviewed ranged in age from 26-61, with the majority falling between 26 and 36. Workers below the age of 18 are not legally allowed to work aboard purse seiners, and researchers did not see evidence of minors.

Gender, Marital and Family Status: All of the workers interviewed were male, which based on observation and key informant interviews, is reflective of the sector. Most of the workers are also married with children, and were the sole breadwinners of their families.

Educational Attainment: The purse seine workers interviewed had relatively high levels of education, as several purse seine companies require a minimum of a high school diploma. Several workers had taken college classes, and one worker interviewed had graduated from college. Some workers also reported that they had been required to undergo training in occupational safety.

Migration Status: About 25 percent of fishers interviewed were originally from General Santos City. The remaining 75 percent interviewed came from other coastal provinces in Mindanao, and some from the Visayas (island provinces of Leyte and Bohol, in the central part of the Philippines).

Fishers who migrated primarily attributed their migration to lack of employment in their villages of origin. Others stated that they were specifically recruited to work in purse seine operations in General Santos, and eventually decided to move their families there. Some had been displaced from areas in Southern Mindanao that are heavily militarized due to long-standing conflicts between government and rebel forces.

Work Position: Purse seine operations consist mainly of sea-based work, but companies that own such operations also own some land-based work processes such as canneries. The fishers interviewed for this research were all engaged as workers in purse seine operations in various processes and work classifications, including:

- Master Diver (“Bosero”)
- Master Fisherman
- General Labor
- Ice Crusher, Loader
- Scaler
- Fish Classifier
- Light Boat Operator
- Net Hauler (“likisero”)
- Boat Captain
- Oiler
- Maintenance
- Machine Operator

## **Presence of Indicators of Forced Labor in Purse seine Fishing**

**Inflated Indebtedness:** All workers interviewed reported that it is customary for purse seine fishers to be granted a cash advance ranging from PhP 500 – 1,000 (USD 11.80 - 23.60) and a sack of rice for his family prior to the start of each venture. The total value of loans and advances taken will then be deducted from their earnings. Workers themselves are also charged for the cost of their own meals while they are at sea, and this too is deducted from their earnings.

Some fishers said that they sometimes do not understand the basis of calculation for deductions as the value of the in-kind goods like rice is unclear, and no receipts are provided. In some cases, the value of the in-kind goods is obviously steeply inflated, leading to inflated indebtedness. For example, one worker reported that his family receives bags of rice while he is at sea. The bags of rice are necessary for family survival, as otherwise they would not have adequate food. However, when they have to repay the cost of the bag of rice, they are required to pay an amount that is much higher than the cost of a bag of rice would be on the open market.

Notwithstanding the advance provided to the workers at the start of every operation, about half of the workers said that they or their immediate family members regularly have to take loans because the pay they receive is generally very low, and the payments are usually delayed.

Seven respondents reported borrowing money from their employer (although, due to the complex financing schemes, it was often unclear whether the loan was ultimately from the company or the boat operator). Those who borrow from their employer said that the amount is deducted from their earnings at no interest and that loans are considered a form of advance payment.

Fishers who borrowed from moneylenders said that they have to pay interest rates of approximately 10 percent per month. The lack of interest makes borrowing from the company more desirable. Further, workers who borrowed money from the company saw this as a benefit, saying that their bosses were the only ones they knew they could approach for loans easily.

Some workers said that because payment is typically calculated at the end of six months and there is no guarantee of a high catch, workers therefore cannot know how much money to expect. In the interim, their families have to borrow/take an advance every two weeks, the total of which will be deducted from their final share – usually 3.3 percent of the total catch at the end of six months.

One worker reported that although fishing has a reputation for good wages, the pay is actually very low – “sometimes you land with nothing, no cash after everything has been deducted, especially if the weighing and calculation for the price of the fish takes time, by the time you get paid, you have so many debts.” One worker reported that because he only gets his full pay after seven months, every month he and other workers have to

take a monthly advance. There is no official record kept, so he does not know whether the advances he has taken will erase any potential earnings he might make. He said that he was currently in debt to the company for a total of 60,000 PHP (1,406 USD) but that there was no interest being charged.

Although not explicitly reported in these terms by respondents, this type of debt has the potential bind workers to their bosses, whom they see as benevolent, and “life-savers.”

Isolation: Purse seiners’ fishing grounds take 10 to 36 hours to reach from the port and the fleet can be stationed there for several months to a year (with an average of 6 months). With the exception of severe emergencies, workers have no opportunity to leave the vessel for the duration of the trip.

Dismissal/Exclusion from Future Employment: During focus group discussions, workers who reported being dissatisfied with some work conditions reported not feeling safe about complaining, as they might lose their jobs, be terminated, or blacklisted. They also said that workers, who have filed complaints, especially if the complaints reached the courts, are not able to get back to work and are blacklisted. One worker said that he “can’t complain about wages, otherwise I could lose my job.” This worker said that the boat captain usually just tells workers who complain about jobs to work elsewhere, as there are others who are willing to take the job they will be vacating. Another worker said, “Everyone sees how bad the situation is for workers, but we can’t complain, we don’t know how to, or who to turn to.” The workers in this sector are not organized. Moreover, work arrangements with the purse seine operators or with boat-owners do not allow workers to organize themselves and to have meaningful representation in the workplace.

Wages: Workers reported varying payment arrangements and benefits, but earnings were generally set as a percentage of the catch; depending on which company a worker was engaged by, the percentage could range from about 2.7 percent to six percent of the total catch. In some cases, wages are based on total catch of the entire fleet and divided up among all workers, which makes it very hard for workers to determine if they have received a fair share.

Because workers are not paid on a standardized schedule, and wages are heavily dependent on volume of catch, it is difficult to compare the responses regarding earnings as reported to researchers.

Captain	PhP 15,000 (USD 354.65) monthly plus PhP 150,000 – 200,000 (USD 3,546.50 – 4,728) bonuses at the end of the year
Captain	Approximately PhP 13,000 (USD 307.42) per month
Ice loader	PhP 300 (USD 7.10) per week or PhP 1,200 (USD 28.37) per month
General Laborer	PhP 1,100 – 1,500 (USD 26.00 – 35.47) per month
Fisher	PhP 3,000 – 5,000 (USD 70.92 – 118.20) per month
Fisher	PhP 18,000 (USD 425.52) per 7 months or PhP 2,500 (USD 59.10) per month
Fisher	PhP 40,000 (USD 945.53) per 8 months or PhP 5,000 (USD 118.20) per month

Workers reported common instances of underpayment and miscalculations of earnings. One respondent said that there were times when they were not paid at all. This happens when the financier/company does not get the return of investment, or no profit after all expenses are deducted. This worker said, “We don't understand how it happens, but when we calculate how much we're supposed to get we see that we get paid so much less than what we expect. We can't complain, otherwise we lose our jobs.” Another worker said that the sharing system had been explained initially, but the terms as the worker understood them had not been followed and that he was currently owed five months back pay.

Many workers also reported not being paid in a regular, timely manner, and said that, sometimes, they have to wait several days for the calculation to be finalized before they can be paid. Most workers are not provided with pay slips, so they have to accept their earnings in good faith.

Working hours: Most workers said that there are no caps on work hours; they describe work hours as very long in purse seine operations. They stated that they “sometimes have to work 24 hours,” and they “can't leave work just anytime, because we have to work when asked,” or “as long as there's fish to work on.” On the other hand, this also means that workers have rest periods between catches.

A few workers – master divers, maintenance crew, and boat captains – have more regular hours. Master divers work about five hours, on the average, although they said that they are asked to help out in the boat however they can while they are onboard. Maintenance crews also work only eight hours per day. Boat captains work, on average, seven hours per day, but they stated that most of the time they have to work whenever there is a need. Most workers remain on-board the vessel for six month periods.



## **Other Issues of Concern regarding Working Conditions in Purse seine Fishing**

**Lack of Formal Contracts or Work Agreements:** The workers reported varying employment arrangements in relation to the company/owner of the operation. A few workers said that they are employed directly by the company as regular workers, but most workers said that they were non-regular, and only worked as "temporary" or "contractual" workers.

Only one worker reported being provided with a copy of his contract, all the others said they were not provided with copies. Most reported that they did not sign any contract at all, and those arrangements and agreements were mostly unwritten. Moreover, about half of the workers said that "everything's understood," and that "arrangements are the same in all operations, anyway," so that there was not much need for details, only simple instructions. However, because there is an expectation that terms of fishing will be understood without a contract or employment agreement, workers said that conditions of work are rarely explained up front. One worker reported being required to sign a blank sheet of paper that served as his "contract."

Of the workers who said that they had employment agreements— whether written or unwritten - some said that these were not always followed, especially the pay practices in terms of amount and schedule of payment.

All workers also said that the length of the contract or engagement is either not specified, or not clear. A few workers said that, in purse seine operations, the work relationship exists for as long as it suits the employer. One worker said that it lasts as long as it is favorable to both parties. Lack of written contracts and formal agreements between workers and the principal – whether the company or the boat operator – leave workers vulnerable to employment conditions that could shift without their consent, particularly because workers are physically isolated at sea on vessels.

**Benefits:** Most workers said that there were no other benefits or entitlements provided apart from the payment they received based on a percentage of the catch, and the advances/loans that they were provided as a matter of protocol every time they join an operation. Five respondents reported being provided with SSS (social security) and Philhealth (health insurance) benefits.

**Health and Safety:** Workers reported a range of health and safety concerns. Workers have limited access to healthcare while at sea. They further reported that a few workers have died while at sea, due to poor attention to their health and safety. Some workers also reported that because of the long work hours with no rest, they have constant pain in their backs. One worker assigned to work involving crushing ice for the fish said that his hands were constantly shaking and in pain from handling ice. He reported that they were not provided with proper safety gear, and were not allowed to go on breaks – especially when they have to crush and load the ice for the fish to be delivered on time. Other workers said that accidents and engine troubles can happen while they are out at sea, and that they are always vulnerable to sea piracy.

Workers also mentioned that they have to be watchful all the time for unpredictable, harsh weather conditions, big sea waves, and strong sea currents.

The workers are aware that they could also be apprehended by authorities, such as sea patrol officers investigating whether their vessel has the right documents and permits, although their boats generally avoid Indonesian waters and thus do not get detained like handliners.

## Post Harvest Canning Sector

### *Introduction and Current Understanding*



Figure 5 - Tuna Processing Plant, General Santos City.<sup>114</sup>

The tuna-canning sector is General Santos City's largest private sector employer with an estimated 8,000 workers. The growth of the tuna fishing sector in recent decades in General Santos City necessitated a similar rise in the fish-processing sector. Out of 7 tuna canneries operating in the Philippines, 6 are located in General Santos City, where research was conducted.<sup>115</sup>

Work in tuna canneries is labor intensive; workers within the facility generally have one repetitive task to perform. Tasks include removing fins and scales, cutting, removing intestines and bones, and cooking. Once the fish is cooked, it is sorted and cut by hand, any remaining bones are removed and it is canned. The cans then need to be inspected, sealed and labeled.<sup>116</sup>

Despite troubles facing the industry such as rising fuel prices, and bans on overfishing, the canning sector has remained robust and canned tuna represents the bulk of tuna products sold in export markets. According to the Tuna Canners Association of the Philippines (TCAP) over 90 percent of the canneries' output is destined for the export market, including markets in the United States, Germany and Thailand.

Skipjack tuna caught by commercial purse seiners make up a large portion of canned tuna in General Santos. In addition to the tuna landed by Philippine vessels, foreign vessels also supply the canneries with tuna. According to the Tuna Canners Association in General Santos City, the 6 canneries have a combined production capacity of about 700 metric tons per day.

The association is made up of these canning companies:

- Alliance Tuna International, Incorporated
- Celebes Canning Corporation
- General Tuna Corporation
- Ocean Canning Corporation
- Philbest Canning Corporation
- Seatrade Development Canning Corporation<sup>117</sup>

In terms of production capacity, the biggest of these is General Tuna, followed by Alliance, and then Philbest. Ocean Canning and Seatrade Development Canning have the same production capacity. The smallest canner is Celebes.<sup>118</sup>

The growth of the canning sector has also encouraged the rapid growth of another industry in General Santos City – the employment agencies, and manpower cooperatives that place workers in canning jobs. These employment firms are contracted by canning firms directly to place workers in their facilities.

Previous studies have described workers as high school graduates, usually in their 20s and 30s, who are either local to General Santos City or migrated from the Visayan Region.<sup>119</sup> Although there are harsh conditions including long hours of standing, cannery jobs are considered a desirable option for formal sector employment, and they are often among the only formal sector jobs available to women, who make up the majority of the workforce.<sup>120</sup>

## ***Research Findings***

### **Demographic Characteristics of Respondents in Tuna Canning**

Age: Most of the workers interviewed were in their 20s and 30s at the time of the interview, with both age groups almost equally represented. Eleven (of 28) workers were in their 20s, while nine workers were in their 30s. A few workers (4 of 28) were in their very late teens. A few others (4 of 28) were beyond their 40s.

Gender: More than 80 percent of the workers were female. Workers said that, inside the factories, male workers were rarely seen in the production lines.

Migrations Status/Place of Origin: Approximately 50 percent of workers interviewed were from General Santos City. Most of these workers said their parents had been migrants to General Santos.

The remaining respondents had migrated from other areas of the Southern Philippines and the Visayan region, seeking employment in the tuna-processing sector. These migrant workers were from towns including South Cotabato, North Cotabato, Kidapawan City, and Saranggani Province.

Educational Attainment: According to informants, a high school diploma is normally a requirement for cannery employment. With the exception of one worker, all workers interviewed reported that they had a high school degree.

Two workers had college degrees, while several others reported some other type of post-secondary training including vocational or college classes.

Job type:

At the time of interviews:

- Eleven workers were employed as loiner;<sup>121</sup>
- Seven were employed as packers;
- Three were employed as skimmers;
- Two worked as general-all around production workers;
- Two worked as assistants;
- One was engaged as a member of the leveling crew;
- One other as a beheader; and
- One as a filler.

**Indicators of Forced Labor among Respondents**

Debt: About 65 percent of the workers stated that there have been instances in which they had to borrow money. Twelve workers stated that they borrowed from their agencies or cooperatives. Ten of the workers who said they borrowed from the cooperative stated that their loans are paid through salary deductions.

While some workers did not know the interest rates on their loans, workers who were aware of interest reported rates of between three and five percent per month. Nine workers stated that existing loans with their respective agencies or cooperatives<sup>122</sup> made leaving difficult, although they did not specify a menace of penalty that would prevent them from leaving.

Cooperatives usually provide different types of loan products – emergency loans, salary loans, multi-purpose loans – with varying amounts. An emergency loan can be taken during verified emergencies, and upon the approval of the cooperative’s officers. The most common type of loan is the salary loan, the amount of which is usually equivalent to the borrower’s monthly salary, and can be payable from a month to 2 years. Workers who were currently in debt to the cooperative at the time of the interview reported amounts close to their monthly wages, and were paying off loans with a portion of their salary.

Four workers interviewed reported that they were indebted to other individuals such as friends, landlords or family members.

The frequency of borrowing among workers interviewed was highly variable. Most workers reported that they borrowed money for household goods “as necessary,” which ranged in practice from twice a month to once a year.

Threat of Dismissal: Workers reported that they could neither form nor join unions or worker associations. There are also no worker representatives in the workplace. Workers have to go directly through their supervisors or line leaders to raise any type of concern. Because of contractualization and outsourcing (through cooperative employment), workers in a facility are prevented from organizing into a union. Cooperative workers working inside a facility are not the facility’s employees so they are not entitled to representation within the facility, or to join any existing workers’ association in the facility, or to avail of a facility’s grievance mechanism. Being members of the cooperative that provides them their jobs, they are likewise precluded from filing cases against their own cooperatives, since, by law, they are part of the cooperative, and they cannot sue themselves. Workers noted that they felt that if they expressed any kind of grievance, they would be easily replaced.

Wages: Some workers stated that their contracts/agreements indicate that they will be provided with legally mandated benefits, apart from the basic wage. A few said that their contracts only guaranteed that they would be paid only the legal minimum wage, with no mention of other legally mandated benefits. Others stated that based on their contracts, they were to be paid basic wages, and the reported amounts ranged from PhP213 (USD 5.00) to PhP224 per day (USD 5.28). As the minimum wage in the region was PhP 245 (USD 5.78) at the time of interviews, these amounts were below the daily minimum wage.

All workers stated that they are paid regularly, and that they are provided with pay slips or receipts.

Workers also complained of deductions: at several cooperatives, uniform and identification cards cost PhP 1,200 (USD 28.30); and every contract renewal results in PhP100 (USD 2.36) for cooperative fee. Two other workers noted that they are unsure what the deductions are for. The lack of transparency in deductions leaves room for possible exploitation by unscrupulous employers.

Working hours: According to worker and key informant interviews, a regular shift at a cannery is 12 hours, of which 8 hours is considered regular work hours, and all hours worked beyond that is considered overtime. In some cases, overtime may be required. Workers reported that the typical one full shift in a cannery is 12 hours. Recently, due to lower volumes of catch in the port, some canneries have reportedly cut down to eight-hour shifts. Workers work an average of 6 days per week.

Two workers stated that overtime is sometimes not paid, and that the hours worked are not recorded.

## **Other Issues of Concern Regarding Working Conditions in Tuna Canning**

**Recruitment, Hiring:** Most workers interviewed had begun working in the canning sector within the past three years, although one worker said that she had started as early as 1995. Workers said it was common to move from cannery to cannery, depending on the availability of work.

Most workers reported that they did not pay fees as part of the recruitment process. The fees that were reported were incidental and for small items such as document processing. These fees ranged from approximately PhP 1200 – 2000 (USD 28.30 – 47.16). Workers with debts for these fees reported being able to pay them off within a short time period.

Regardless of whether they are employed by a company directly, or through a cooperative or manpower agency, workers reported that they are required to sign contracts prior to the start of employment, but that they are not provided with copies of their signed contract. Most workers felt that they understood the terms of their contract, although approximately 17 percent of workers interviewed said that the terms of their contract were not clear or were never explained to them.

The terms of the contracts, as reported by workers, had some slight variations, although all of these indicated payment of regular monthly wages. However in some cases, the wage indicated on the contract was lower than the monthly minimum wage.

Most of the workers stated that the provisions in their employment contracts were followed in practice. Other workers stated that the provisions in their employment contracts are not followed in practice, but that workers “just accept the way things are done.” One stated that there are, for instance, unexplained deductions from her pay, but that there is no recourse for her (see ‘Grievance Mechanisms’.)

**Employment Relationships:** In 2009, most workers interviewed stated that they were hired through employment agencies but that they were supervised and paid by the canning factories. These relationships were for 5-month contracts. Workers would be required to reapply at the end of every contract.

By 2010, according to key informants, canning facilities were no longer directly employing workers. Instead, workers who had previously been employed by the facility were now members of “manpower cooperatives,” who were contracted by the canning facilities. The recruitment agencies that had previously been recruiting and hiring workers for facilities had reorganized themselves as manpower cooperatives. Key informants noted that by sourcing from these cooperatives, factories are essentially attempting to avoid accountability and avoid providing workers their legal benefits under the labor code. Several workers reported that they were “transferred” from being directly employed by the canning company to being employed by the cooperative without their consent; once a cooperative was started, they were automatically transferred into it, although they had already been working at the plant. Six of the workers, when they

submitted documents to the cooperative were under the notion that they had to use other people's personal documents in order to be employed, so they could remain "temporary workers."<sup>123</sup>

As defined by the Cooperative Code of the Philippines, manpower cooperatives, like all other cooperatives, must be "a duly registered association of persons, with a common bond of interest, who have voluntarily joined together to a lawful social or economic end, making equitable contributions to the capital required and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles." The Manpower Cooperatives operating in the sector function either as Service Cooperatives (which engages in providing labor and other related services) or Workers Cooperatives (whose main purpose is providing employment and business opportunities to its members), both types of which are governed by the country's cooperative laws, and are required to operate in accordance with cooperative principles.<sup>124</sup>

However, although they were all duly registered under the Cooperative Development Authority of the Philippines, most of these manpower cooperatives are still essentially functioning as employment agencies, and even admitted as such, saying that the only reason they reorganized and registered as a cooperative is because their clients (the canning agencies) required them to do so in order to be able to continue supplying workers to their facilities.<sup>125</sup> Moreover, because the Cooperative Code of the Philippines governs the manpower cooperative, there is a mistaken notion that the Labor Code does not govern the employment arrangement of the member-workers supplied by the manpower or service cooperative. The confusion or ambiguity on which law shall govern contractual arrangement entices employers to prefer manpower or service cooperatives to independent contractors.

Contract and Employment Type: None of the workers were regular (permanent, tenured) employees in the canning facility where they were currently assigned. Even the few workers who reported being directly employed by the canning company for many years said that their contracts had to be renewed periodically, subject to performance evaluation or the company's needs, which then technically classified them as either "casual" (temporary, project-based) employees, or probationary employees. Workers were generally not knowledgeable about the differences among the different types of employments, and exhibited low awareness of their own employment status, their entitlements and rights under the different working arrangements, saying that they were only interested in having jobs and being able to keep them. Workers reported varying terms, when asked about contract periods. Contract periods as described to interviewers were temporary, fixed and/or short-term,<sup>126</sup> or purely dependent on the service contract that their manpower cooperatives had with the canning company. Several workers were unsure of their contract type.

Many workers described their status as casual. Some of them stated that they are employed by the facility as "contractual" under 5-to-6-month contracts, which are renewed after expiration. Two other workers stated that they are employed under



contracts that last for less than 6 months, which can be renewed after expiration. The last one stated that she is employed under one-year contracts. All the other workers, in relation to the canning company they were assigned, were subcontractors. This means that they were not direct employees of the company, but were providing services to the client-company on behalf of the cooperatives to which they were members.

Some workers stated that they have a regular employment status only with their cooperative. However, they also indicated that the contract is for one year, and that it is renewable. Another worker stated that she had casual employment with the factory, and a regular employment with her agency. Similarly, she stated that the contract is for one year, and that it is renewable.

Some workers described themselves as “permanently” employed by the cooperative, by virtue of their membership status in the cooperative. However, based on interviews with cooperatives, although the membership can be permanent for as long as the worker-member kept the membership active following cooperative rules, there is no guarantee that workers can enjoy continuous paid work.<sup>127</sup> The company to which he/she is assigned by the cooperative can choose to cut the number of workers sourced from the cooperatives at any time.

According to one of the biggest manpower cooperatives, their workers are guaranteed at least 3 straight months of employment, and beyond that, factors such as performance, demand from clients, and willingness of the worker are considered.<sup>128</sup> Almost all workers, regardless of their employment relationship, reported that their work contracts expired either before 6 months, or within one year. In terms of conditions for renewal, only one worker reported that her contract/agreement was automatically renewed every year. One other worker stated that the length of employment was not specified in the contract/agreement, and that, as far as she knew, a worker may be removed at any time.

One worker said that she had been engaged with the same company for 14 continuous years, but that she was never formally regularized, her contract still expires each year, and is still subject for renewal.

Manpower cooperative representatives, however, reported that this was no longer in practice with the outsourcing of labor. They said that the workers no longer need to do this since they were applying and getting employed directly by the cooperative, merely through membership in the cooperative.

Discipline and termination: One worker reported that pregnant workers are not renewed. These workers, she said, have to first deliver their babies before reapplying. Workers reported that disciplinary procedures are applied very strictly, and there is almost never a chance for a worker to explain himself or herself. Some workers expressed that, generally, there is no due process in the implementation of discipline and termination procedures. For instance, a worker is suspended immediately for committing a mistake. One of them reported that a supervisor allegedly imposed an

immediate 15-day suspension with no pay on the worker responsible when he found fish parts in a trash bin. One worker stated that slow workers are reprimanded. Another worker stated that immediate suspension is imposed on workers who are wasteful in fish preparation. Some workers stated that work performance, which is the basis for renewal of contracts, is not monitored systematically.

### **Case Study – Malaya, Limited Options**

Malaya is a twenty two year old college graduate from North Cotabato; Malaya began working as a production worker in 2008, primarily to send money home to her family. The only job security Malaya has is in the form of a temporary, renewable, six-month contract to an employment agency, which she signed, but did not receive a copy of. In order to keep her job and ensure that her contract is renewed, Malaya must work a minimum of eight hours a day in addition to working mandatory overtime hours. Mandatory hours are supposed to be stipulated in a contract and agreed to by the worker at the start of the employment. However, because Malaya has no copy of her contract, it is difficult to verify her consent. These extra hours often go unrecorded; meaning Malaya rarely receives compensation for her additional work. To make ends meet, she regularly borrows from friends. Besides the issue of overtime, the terms of her contract seem to be followed in practice, but regulations are very strict and follow a “no work, no pay” policy. If Malaya falls ill and misses work without a medical certificate, not only will she not be compensated for her time off, she will be summarily suspended. She is not allowed to leave her workstation, and if her supervisors believe she is slacking off in the least, they may suspend her for two weeks on end. Although she recognizes her work conditions to be less than desirable, without savings to draw from, Malaya feels that her options are limited.

### **Case Study – Ines, Forced to Resign when Pregnant**

Ines is twenty-seven years old and has a high school level education. Her employment relationship is with a cooperative with an assignment to a cannery. She has been working in the sector since 2007. She was required to pay a 1,500 PHP fee to secure her job, the money for which she borrowed from a private lender. She was able to pay off that debt within two pay periods of starting her job. She is a casual worker on a six-month contract, but she can renew her contract as long as the facility is happy with her work. She regularly borrows money from the cooperative and repays her debt via salary deduction with 5 percent interest each month. Ines was forced to resign when she became pregnant, and could not renew her contract until she had delivered.

## Fresh Frozen Processing

### *Introduction and Current Understanding*



Figure 6 - Verite photo

Fresh/frozen/chilled tuna processors (referred to for the remainder of this report as ‘processors’) primarily prepare tuna coming from handling ventures, as well as high-quality tuna from purse seining. They produce fresh and frozen tuna products for export, primarily to the US and Europe.<sup>129</sup>

The highest quality tuna product, “fresh tuna,” is used as sashimi meat and is exported whole. Frozen tuna is processed for use in supermarkets or restaurants (normally as a steak or filet, although lower quality tuna may be cubed.)<sup>130</sup>

In General Santos, the fresh-frozen processors also serve as the exporters of frozen products. They purchase raw materials such as tuna landed in the General Santos City Fish Port (GSCFP) from traders, or they purchase directly from fishing ventures. The processing of various frozen products is then completed in the facilities in the fish port complex.

The work processes directly associated with this sector start with unloading the fish, and then progress to classifying, grading, and hauling the products to the processing plants, where various production processes occur in the facilities.

Work for the fresh-frozen sector workers starts when the fish are unloaded from the vessels. Big tuna supplied by handliners is first sent to the weighing scales and is then examined by classifiers. To qualify for the export market, the tuna has to be of a certain weight, and the meat has to be of a certain quality. Classifiers extract meat from the fish using a tiny tube, and the meat is analyzed, the fish is graded, and it is then designated either for export or for local markets.<sup>131</sup>

Buyers and sellers employ their own classifiers, and the work of the classifiers from both sides determines how the fish will be traded. The fish is graded according to three categories of quality, Grades A, B, and C, and according to market destinations, local or international.<sup>132</sup>

Interviews with financiers and processors indicate that rising fuel costs, taxes, and restrictions on commercial fishing due to the ban on and non-renewal of fishing agreements are discouraging financiers from investing in fishing ventures. Consequently, many of the facilities have either cut down work shifts or temporarily closed down, with the end-result of workers losing their jobs.

A program launched by the Department of Labor and Employment (DOLE) was created to address job losses. As of August 2010, more than 20 companies had already declared job cuts and closures, and more than 1,000 workers had already availed of the livelihood starter kits developed by DOLE.<sup>133</sup> Some financiers and operators had also already sold their boats and were moving on to other businesses in the meantime. Some workers interviewed, however, stated that they could not avail of the DOLE program, as they did not know how to go about it on their own, without the endorsement of their employers or “bosses” (for those who did not have work contracts with their principal).

While efforts are being made to allow a portion of the Western Pacific seas to be fished, or to have the ban lifted altogether, a few of the industry’s largest participants have expressed full support for a full ban on commercial fishing in the WCPFC-identified areas.

Even with the slump in tuna production (tuna landings), “increased international prices of canned and processed tuna, as well as fresh chilled yellow-fin tuna exports, are keeping the Philippine tuna industry afloat. Over the last five years, the annual export earnings of Philippine tuna are still within the range of USD 280 million despite reduced production.”<sup>134</sup>

## **Research Findings**

### **Demographics of Respondents Engaged in Fresh Frozen Processing**

Age: Workers interviewed ranged in age from 17 to over 60, although the majority of respondents were in their 20s and 30s.

Several workers reported anecdotally that children are hired to work in ice plants and freezer storage on a temporary basis when there is a large supply of fish. These workers noted that there were no age restrictions, and no mechanisms in place to check for age, so it would be relatively easy to hire minors. Researchers repeatedly visited the facilities where child workers were reported, but were unable to definitively confirm these reports.

Origin: Most respondents were from General Santos City. Several noted that they had migrated from other areas of Mindanao (primarily the Visayas and Bicol region) to seek work in the tuna sector.

Educational Background: Most workers interviewed reported that they had attained at least some high school education, and a few also had college or vocational classes in areas such as computer science, electrical works, and engineering technology.

Sex, Marital Status: Over 70 percent of respondents were male. Most were also married with children.

Entry into Sector: Most respondents had entered the sector in the past 5-10 years, although a few had started as early as 1982.

Job Type: Most of the interviewees worked as general workers, or all-around laborers, with some of them reporting specific types of work. Specific types of labor performed include:

- (1) warehouse worker/"bodegero;"
- (2) classifier;
- (3) loader;
- (4) slicer/"matadero;"
- (5) mixer;
- (6) packer;
- (7) production worker;
- (8) receiver;
- (9) recorder at the fish port;
- (10) truck driver and fish classifier;
- (11) tuna tester and classifier; and
- (12) value-added tuna products worker.

## **Indicators of Forced Labor among Respondents**

Dismissal/Exclusion from Future Work: There are no workers' unions in this sector. The workers are not organized, and differing work arrangements and employment status ensure that workers cannot easily avail themselves of their right to freedom of association.

Some workers also reported that company rules are implemented very strictly in this sector. For instance, a worker can be immediately terminated if he is caught stealing fish, if he comes to work late, or incurs absences. Workers said that immediate termination is a common occurrence. One stated that he cannot be absent or he could lose his job and another worker could easily take his place. Another worker reported that sometimes when fish are lost or stolen, all the workers suffer because they are collectively required to pay for what is stolen when no one confesses to the theft. Workers' reported that immediate termination is a reality in this sector. They stated that workers are considered to be dispensable and easy to replace.

The lack of formal agreements on employment terms and conditions leave workers especially vulnerable to exploitation. As with workers in other sectors, fresh-frozen workers' unclear work arrangements and lack of direct employer-employee relationships with their "bosses" can preclude workers from availing of labor protections and receiving legally mandated entitlements.

Wages: Pay practices in this sector are largely unregulated, with workers reporting varying wages and rates, most of which do not meet the legal basic minimum rate. They also reported unexplained deductions and a lack of pay records or pay slips. Workers who admitted to borrowing money, taking advances, and incurring debts all cited incomes below subsistence level.

Payment and benefits arrangements varied greatly, according to workers' reports. On the whole, most workers are not guaranteed the legal minimum basic wage. Wages are determined in a variety of ways. Arrangements reported to researchers include:

- PhP 200 (USD 4.69) per day, no benefits
- PhP 100 (USD 2.34) per fish classified
- "in-kind" payments of fish that the worker can sell to earn money – average approximate PhP 100 (USD 2.34) per day
- 2 to 3 percent share of total catch divided among workers on a per-project basis
- Approximately 700 PhP (USD 16.43) per week, depending on the amount of fish weighed
- PhP 3,000 (USD 70.45) plus medical benefits
- PhP 2,500 (USD 58.71) per month
- PhP 210 (USD 4.93) per day, plus benefits
- PhP 10 (USD .23) per box of fish loaded

Almost all of the workers stated that they understood how their wages or payments were calculated. However, when pressed for details, workers noted that it is difficult to understand wage calculations or gauge if they are accurate, particularly under profit sharing schemes. For example, one worker was promised 2 percent of the profit, and believes he is normally paid this, but noted that he has no way of knowing whether the calculations are accurate.

A small number of workers reported that they are not paid according to their agreement with their employer. For example, one worker was promised the minimum wage, but receives a lower amount. Another worker reported that his pay structure is inconsistent and constantly subject to change.

Further, three workers reported unexplained deductions from their earnings. An employer interviewed stated that these deductions are to cover loan payment advances.

Most workers feel that they understand how their wages are paid, but that in general, their wages are low and do not cover daily expenses such as transportation, food, water, and accommodation.

More than half of the workers interviewed reported that they were always paid on time, but others reported that they have experienced delayed payments of their wages. One worker stated that the delay was reportedly due to the lengthy process of calculating their wages. Three workers stated that the “no fish, no work, no pay” policy results in pay cuts, delayed payments, or no income at all.

Pay slips are reportedly inconsistently provided. This makes it hard to workers to verify that they are being paid as promised.

A few workers expressed concerns about the looming fishing ban at the time of the interview, which was eventually implemented in August and September 2010. They noted that the ban would result in no income for them, since they work under a “no fish, no work, no pay” structure. Two other workers echoed this sentiment, and noted as well that their pay is not guaranteed, as it is contingent upon orders and fish actually caught.

Working Hours: Workers stated that the length of their work each depended on the volume of fish caught per day. Most stated that there were no limits on work hours and that they had to work continuously for as long as there were fish to haul or process. This means that during some periods, they work overtime, while during other periods, work is hard to come by. Approximately one-fourth of the workers interviewed stated that they worked for a specific number of hours. Four of these workers reported that they work for eight hours per day. Two reported that they work 12 hours per day. One reported that he worked for at least four hours per day. Another worker reported that he worked 6 to 12 hours per day.

Debt: Many of the workers interviewed stated that there have been instances in which they had to borrow money from at least one source. Nearly half of them reported that

they borrowed from their neighbors, some borrowed from the companies they worked for, and others reported borrowing money from their families. At least one of them borrowed from coworkers, while another borrowed from an individual moneylender. Two workers did not specify the source of their loans or debts.

Those who borrowed from their employing companies paid their debts through salary deductions. The worker who borrowed from an individual moneylender reported that his loan had an interest of 15 percent per month.

Amounts loaned to workers reportedly ranged from small amounts necessary for daily expenses to approximately PhP 20,000 (USD 474.28). Most of the workers who reported taking loans stated that the amounts they borrowed were for family needs such as food and utility expenses.

Workers reported borrowing at various rates and frequency. Four workers reported that they regularly or always borrow. One worker stated that he borrows at least once every month, while another stated that he borrows twice per month. Four other workers reported that they sometimes or often borrow money. Two workers reported that they borrow only as need arose.

One worker reported that he had a debt of PhP 8,000 (USD 187.89), which he found difficult to pay because he only earns approximately PhP 3,000 (USD 70.46) per month. He stated that his daily expenses were not sufficiently covered by his pay; for instance, his transportation expenses consume around PhP 800 (USD 18.79) of his monthly wage.

### **Other Issues of Concern regarding Working Conditions in Fresh Frozen Tuna Processing**

**Recruitment Processes:** A few workers reported that they spent money to process and obtain certain documentary requirements. They reported that they incurred expenses amounting to approximately PhP 150 (USD 3.15) to PhP 2,000 (USD 46.87) as one-time fees. The rest reported that they did not spend anything in relation to their recruitment or hiring. In most cases, the workers were directly hired with minimal documentation required. Of those who incurred expenses for documentary requirements, one worker obtained a loan of PhP 2,000 (USD 46.87) from his relatives, which was repaid in four installments. Another incurred a loan of PhP 500 (USD 11.74) loan from the company for which he works, which he paid through salary deduction. The size of these loans was not large enough to bind workers to their job through debt.

**Work Contracts and Agreements:** Approximately 80percent) of the workers interviewed reported that they did not sign any type of contract or employment agreement. The workers who did sign a contract were not provided with a copy. Workers noted that written contracts were superfluous because details were explained to them verbally or “already understood” by the General Santos community.



Workers felt that, in general, the reality of their work conditions was consistent with their expectations and understanding of the sector. However, workers noted that in terms of wages and benefits, they felt that practices did not meet the conditions that had been initially explained to them by their employers. However, workers were free to leave their employment once the reality of these conditions became apparent.

Entry into Sector: A number of workers claimed that they simply applied informally and, upon acceptance, began working for the company. They stated that they agreed to work at certain work areas (storage, fish port) or at certain jobs (preparing fish for canning, slicing). One worker stated that he agreed to take over the position left by his father and was hired. Some stated that they worked as “extras” until absorbed by the company.

Health and Safety: Workers expressed concerns over the risk of injuries, accidents, fatigue, exhaustion, and illnesses due to long work hours without rest and carrying heavy loads.

Lack of Proper Screening for Child, Juvenile Labor: There is a significant risk of the presence of child labor in this sector. Although Verité received only anecdotal, third hand reports of child and juvenile labor, lack of formal screening and application procedures opens this sector to risks of employing child labor.

Employment Relationships and Status: Many respondents were unaware of their actual employer and the status of their employment. Based on key informant interviews, as well as information from workers who could identify their employer, there appear to be two types of workers:

- those employed directly by fresh-frozen processing businesses
- those employed indirectly through a boat owner or a manpower agency.

Less than half of the workers interviewed stated that, as far as they knew, they were regular employees occupying permanent positions. At least 2 workers stated that they are regular employees, in that they were entitled to legally mandated benefits of regular workers, although they were not entirely certain about whether they were permanent or temporary workers. One of them stated that he assumes that he is a regular employee because he has been employed in the same company since 2001.

The status of the rest of the workers was temporary/casual, or contractual (under fixed, or short-term renewable contracts). Some workers who described their employment status as “temporary” stated that they could be removed from operations at any time. However, one worker noted that his engagement has been continuous thus far; although there is no guarantee of how much longer this status would continue.

Four workers reported that they were casual employees – meaning that they were employed for as long as there is work to be done. Three of them stated that, based on experience, their casual employment with their respective employers may be renewed whenever conditions were favorable to the employer.

Five workers stated that they were contractual workers. They work under fixed- or short-term contracts, with no guarantee of renewal.

The other workers were uncertain about their employment status because they had no written employment agreements and their status was never explained to them. One worker reported that his parents “only brought me in to work there with them” and did not know to classify his status. Even among workers who did respond to the question, the wide variety in terms used to describe employment status illustrates a potential lack of awareness among workers.

#### **Case Study – Gene**

Gene, age 19, currently works for [COMPANY REDACTED]. He has worked as a laborer with the company since he was 17 years old. He holds an elementary school education. He was hired as a general laborer to prepare fish that is ultimately brought to GenTuna Century for canning. Gene’s parents helped him get a job at the company, where they also work. He does not have an official written contract. He is paid an average of PhP 200 (USD 4.7) per day, and is not given benefits of any kind. Gene does, however, receive the wages he was initially promised, but never receives a pay slip. He did not have to pay any fees upon being recruited or hired for his job, nor has he been required to take out loans or borrow money to make ends meet. There are no limits on the number of hours worked, instead Gene states that as long as there are fish to unload and store, everyone must stay until the work is completed. He does not currently want to leave his employment at [COMPANY REDACTED] because he could not survive a day without some income. In addition, he wants to save money so he can go back to school.

#### **Case Study – Angel**

Angel age 23, is currently employed at [AGENCY REDACTED], where she was assigned to work at [COMPANY REDACTED]. She is a laborer and has worked in this industry since 2005 when she was 17 years old. She has two years of high school education. She was hired on a six- month contract, but is not assured of renewal. She reported that she has never signed a written contract. She did not have to pay any fees for recruitment or when hired for her job. She understands how her wages are calculated, and she is paid according to the number of boxes received. Usually, she receives 500 pesos (USD 11.74) during each pay cycle. She is given a pay slip and is always paid what is due. She has frequently borrowed money – typically from her grandparents. She has no upper limit on the number of hours she is required to work. She feels that her pay is too low; so low, that no one could live off of her salary. She spends between 30-60 pesos (USD .70 – 1.40) per day simply to get to work. She does not believe that she could leave her current job easily, in spite of her desire to move, because jobs are scarce and difficult to come by in her area.

## Conclusion: Risk Factors for Forced Labor Identified by the Research

This report has covered background information on the Philippines tuna sector, the methodology that was developed to study the presence of indicators of forced labor in particular areas of the Philippine's tuna sector, the presence of indicators of forced labor and other labor violations, and the factors that increase workers' vulnerability to labor exploitation. While these findings are not statistically representative, the report provides an overview of the indicators of forced labor and other forms of labor exploitation uncovered amongst fishers, as well as factors that increase workers' vulnerability to labor exploitation. In particular, the report highlights the effects that the downturn in the Philippines tuna sector (caused in part by overfishing) have had on the workers in that sector. Further, the report provides insight into an increasing casualization in the labor force.

### Risk Factors

Verité's research identified certain groups of workers that may be particularly vulnerable to exploitation:

Migrant workers: Nearly half of the respondents in canning and over half of the respondents in purse seine fishing had migrated to the General Santos area from other regions of the Philippines. Many had migrated from regions facing political instability and violence. Their migration status heightens their vulnerability, as they may be more likely to take exploitive jobs due to lack of alternative livelihoods, and the undesirable option of returning to the regions they left behind.

Workers under profit sharing schemes: Fishers who make their earnings through profit sharing schemes are vulnerable to unreliable wages. In most cases, their share in the catch is considered as their wage. This practice is widespread even though the Supreme Court has affirmed that the relationship of the fish worker and the boat owner or company is that of an employer-employee. The low and unpredictable wages of fishers exacerbate their dependence on loans. Because fishers have no formal employment agreement, it is difficult for them to advocate for themselves when payment practices are considered unfair or break their informal agreement.

Workers on vessels that travel to international waters: Among handliners and their families interviewed, the threat of being detained in Indonesia is serious. Once on board, fishers have little control over the conditions of the voyage, including whether or not it obeys all laws. Fishers are sometimes deceived about the legal status of the plans for a particular trip. While these workers are not being detained for the purpose of binding them to their jobs, they are nevertheless in situations where they are detained due to situations beyond their control. When workers spend long periods of time in international detention,

their families may sink further and further into debt just to survive.

Verité identified several indicators and dynamics that increased workers vulnerability to forced labor or exploitation:

Longer trips: As fish stocks continue to shrink due to overfishing, vessels must take longer and longer journeys into more and more remote areas. In some cases fishers, particularly handliners, risk being detained if their ship ventures (even unknowingly) into Indonesian waters. Workers may ask the boat admiral or financier what the ships plans are or if it has a registration for the journey it plans to make, but once a fisherman is on board, he is essentially at the mercy of the admiral. If plans change, due to the inherent restricted freedom of movement and isolation on a vessel, the fisherman has little choice in the matter. The hazards are also heightened by the lack of medical care available on these long voyages; workers who become ill may be deprived of medical care until it is too late. Further, the longer trips make each trip less profitable, as more money is spent on gasoline, ice and supplies.

Lack of transparency in payment mechanisms: Several fishers interviewed were not certain of how their pay was structured. For example, a fisherman might have deductions taken out of his wages, while not understanding what those deductions are for. Other workers noted that although their pay is dependent upon the weight of the catch, they are no longer allowed to participate or observe when the catch is weighed. While it is difficult to know whether fishers are in fact cheated of earnings through this mechanism, the lack of transparency certainly opens the door for deception.

Low wages/Inflated indebtedness: As wages become lower due to declining catches and possible deception in payment practices, workers become increasingly dependent on taking loans to smooth income disruptions; while the loans are sometimes from friends, family or local money lenders, some workers take loans from the financier of the tuna operation. The loans can be in cash or “in-kind” – that is, they receive a bag of rice instead of cash, and the debts are paid off through salary deductions from future trips. Accounting for loans is lax, and workers may not even be sure of whether their loans are paid off. By the time all deductions have been made, particularly after an unprofitable trip, the worker may have almost no new earnings, compelling him again to take loans to support himself and his family. Loans are particularly critical for the family of a purse-seiner, who is generally paid after 6 month engagements at sea. The loans his family takes while he is at sea may be deducted from his earnings and by the time he returns home, he has no earnings and must go back out again.

For many workers in the tuna sector who earn low wages, taking loans from their employer appears to be their only option for access to credit. There are in fact programs in place (i.e. The Agro-Industry Modernization Credit and Financing

Program, part of the Agriculture and Fisheries Modernization Act of 1997) that aim to provide such credit to workers including fisher folk through the participation of the government and banking sector. However, informants note that implementation of this program could be greatly improved, as the program is not highly utilized and there is not much awareness of it. This could be addressed through dissemination of information. Additionally, the program (or programs like it) should be more accessible to the poorest fishers who often have the hardest time accessing services. For example, key informants noted that some fishers who have tried to access credit services have had their loan applications turned away because of excessively stringent requirements. Further, the forms can be arduous, and subsistence workers do not have the time to devote to paperwork.

Increasing casualization of labor force: Perhaps in response to lower and more unpredictable catches, canning facilities have shifted to hiring nearly all of their workers through labor cooperatives which provides them with a highly flexible labor pool and allows them to avoid a direct employment relationship and the ensuing benefits for workers that relationship would entail. The growing casualization of the canning work force has had a particular impact on women who make up the bulk of the canning workforce and are often the wives or female family members of the fishers. Workers employed through agencies face constant labor insecurity as their contracts are generally only 5 or less than 6 months. Workers employed by cooperatives also face job insecurity since one of the requirements for them to maintain their cooperative membership is to keep themselves employed. They may reapply at the end of each employment period, but there is no guarantee they will be re-hired. Cannery workers themselves may take loans from their employing cooperative, again increasing their debt.

Lack of formal employment agreement or grievance mechanism: Very few workers in the tuna sector have formal working agreements or relationships with their employers. For fishers, this means that it is difficult to negotiate any terms of work including benefits, wages, or length of trip. Canning facility workers hired through agencies also lack any sort of grievance mechanism. Fresh frozen workers interviewed displayed lack of awareness of their employment status, making expressing grievances difficult. This lack of meaningful grievance mechanism compounds workers' fears of dismissal or exclusion from future employment.

Overall, workers in the tuna sector have limited ability to control or change any of their working conditions. Systems are set by those who have more money (financiers and traders), and workers feel that their only option is to "accept things as they are." Compounding their lack of agency, they are urgently feeling the effects of the environmental degradation in the form of bans and reduced catch rates which lower the profitability of the entire sector.

## Lessons Learned

This research exposed some of the challenges of conducting research on hidden populations and vulnerable workers. These challenges faced included:

Interviewing workers who were fearful of the ramifications of speaking. Workers expressed fear that if they made any complaints about working conditions or their employment situation, they would be completely blacklisted from the sector and barred from future employment. This is not an unfounded fear. One worker spoke of a friend of his who had protested a change in how wages were calculated, and had subsequently been turned away from any fishing venture he tried to join. Because tuna so dominates the economy of General Santos City, without the opportunity to work in the tuna sector, earning a livelihood is difficult.

Workers also expressed fear that research into the tuna sector, including research into the labor and human rights of workers would be used, even if unintentionally, to further weaken an already precarious sector. To address this challenge, interviewers took several approaches. First, they had conversations with workers that addressing issues in the industry would hopefully lead to a strengthening of the entire sector, rather than a weakening. Researchers also realized that some workers felt more comfortable speaking in group situations, rather than one on one with a researcher. To accommodate this, researchers set up focus group discussions with handliners, which helped reassure the fishers that they were not alone. In some cases, researchers found it necessary to put away their survey forms all together. While this led to more exploratory and anecdotal findings, it allowed researchers to gather information on sensitive subjects, while ensuring the comfort of respondents.

Interviewing a population that is often inaccessible. Because much of a fisherman's time is spent at sea, research could not occur at the worksite. To address this challenge, researchers created a social map of the workers' villages and used a street sample technique at the fish ports; and snowball sampling in communities of origin.

Interviewing a population that is not necessarily aware of all conditions of work. Some workers interviewed had difficulty responding to questions regarding their work conditions. For example, several canning facility workers could not articulate the terms of their contracts – whether temporary, fixed term, etc. This made consistently and accurately coding data difficult. To address this challenge, researchers encouraged respondents to describe the terms “in their own words” to the best of their ability. Researchers also triangulated information gleaned from interviews with information from key informants who are highly involved with the population.

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## Appendix I: Legal Review

### Forced Labor

Slavery and forced labor are prohibited under Articles 272 and 274 of the Revised Penal Code. According to the ILO, the Penal Code establishes prison sentences and fines for forcing individuals to work through debt bondage or under the threat of violence.<sup>135</sup> General legal provisions against forced labor are included in the Constitution of the Philippines. Laws prohibit trafficking in persons and establish stiff sentences of up to life imprisonment for those convicted of trafficking.<sup>136</sup> Trafficking for forced labor and slavery is prohibited under Republic Act 9208 (Anti-trafficking in Persons Act of 2003), which prohibits the extraction of work or services from any person by means of enticement, violence, intimidation, threat, use of force or coercion, debt-bondage, or deception.<sup>137</sup> The ILO reported that the Act establishes long prison sentences for those found guilty of trafficking.<sup>138</sup> Republic Act 9231 or the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act expressly prohibits the worst forms of child labor, including all forms of slavery and trafficking of children, debt bondage, and forced labor. However, labor experts interviewed by Verité noted that these laws only covered children, victims of trafficking, and victims of forced labor subjected to violence or debt bondage, making it difficult for authorities to prosecute cases of adults subjected to forced labor without the use of trafficking, debt bondage, or violence.

Under Section 236(g) of the Philippine Labor Code, the Secretary of Labor and Employment has the authority to require the compulsory arbitration of labor disputes in industries that he or she judges as “indispensable to the national interest.” The declaration of a strike in connection with such disputes is prohibited and may be punished by imprisonment with compulsory labor.<sup>139</sup> The ILO has deemed this provision to be in contravention of Convention 105. The ILO has recommended that the Government of the Philippines limit the provisions of its legislation to disputes affecting industries performing “services whose interruption would endanger the life, personal safety, or health of the whole or part of the population.”<sup>140</sup>

Section 142 of the Philippines’ revised Penal Code allows for the imprisonment of individuals who commit acts of sedition, incite others to engage in seditious acts, or commit slander against the government. Section 154(1) allows the imprisonment of anyone who publishes writings that put the public order at risk or endanger the state. The ILO notes that any forced labor imposed on individuals for political views or participation in a strike is contrary to Convention 105.<sup>141</sup>

Section 28(1) of the Basic Principles in the Standard Minimum Rules on the Treatment of Prisoners followed by the Bureau of Jails Management and Penology (BJMP) states,

“No prisoner shall be employed, in the service of the institution, in any disciplinary capacity.” Verité research indicates that there are seven penal farms in the Philippines where longer-term prisoners work as part of their rehabilitation. The terms and nature of their employment are not clear.

Under section 1727 of the revised Administrative Code prisoners may be compelled to work. Verité’s research in the Philippines did not find definitive evidence that legal regulations on the work of prisoners for private entities in the Philippines are sufficiently articulated so as (a) to provide a clear prohibition on the hiring of prisoners to private entities, and (b) to require that prison labor be voluntary and that conditions approximate those of a free-labor relationship, as required by ILO Convention 29. Furthermore, Verité’s research determined that potential violations of the above-stated principles in the Philippines arise from agreements that the Philippine Government has concluded with private companies such as Samsung Electronics Corporation and Tagum Development Corporation on the use of prison land, facilities, and inmates. The ILO has requested clarification from the government of the Philippines on the provisions governing this work, specifically any guarantees that workers are not placed as the disposal of private entities.<sup>142</sup>

### **Child Labor**

The laws and legal system of the Philippines are in compliance with Conventions 138 and 182 on child labor. The Labor Code sets the minimum working age at 15, except when a child works for his/her parents, provided that the employment takes place where only family members are working and does not interfere with schooling, which is compulsory for children between the ages of six and 12.<sup>143</sup> However, the ILO reported in 2010 that the minimum age provision did not appear to apply to children employed in the agricultural sector.<sup>144</sup>

Children below age 15 may not work more than 20 hours per week or four hours per day. They are not allowed to work between 8:00 pm and 6:00 am. Workers between 15 and 18 years of age may not work more than 40 hours per week or eight hours per day, or between the hours of 10:00 pm and 6:00 am.

Section 107 of the Child and Youth Welfare Code permits children under the age of 16 to engage in light work. A definition of light work is not provided in the law, and it appears that there is no light work restriction for children under the age of 13.<sup>145</sup>

The Labor Code also specifies that juveniles under the age of 18 shall not be employed in work that is deemed hazardous or deleterious by the Secretary of Labor and Employment. Categories of hazardous work were defined by the Department of Labor and Employment in 1999, and these categories comply with ILO Convention 182.

Slavery and forced labor of children are prohibited under Articles 272 and 274 of the Revised Penal Code.

In December 2003, the Philippines adopted new legislation that strengthens protections against the Worst Forms of Child Labor.<sup>146</sup> The law strictly regulates the employment of working children, fully prohibits the employment of children in the worst forms of child labor, establishes a trust fund for child laborers, provides stricter penalties for the violation of laws protecting children from all forms of abuse, cruelty, neglect, exploitation, and discrimination, and provides some crisis intervention mechanisms. In 2003, the Philippine Government passed a resolution to prohibit children from becoming members of armies or armed opposition groups and Acts 9231 and 9208 of 2003 prohibit the recruitment of children into armed conflict.

Republic Act 9231 or the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act, expressly prohibits the worst forms of child labor, including all forms of slavery and trafficking of children, debt bondage, and forced labor. The Act prohibits the use of minors in prostitution, drug smuggling, and occupations that are harmful to their physical or psychological wellbeing. The Act specifically forbids children from engaging in work that is performed underground, underwater, or at dangerous heights; or work that involves the manufacture or handling of explosives and other pyrotechnic products. In November 2010, the Department of Labor and Employment (DOLE) issued Department Circular No. 3, which provides guidelines for the closure of establishments for violating Republic Act 9231. Under the circular, a business that violates the Act more than three times may be closed by the Labor Secretary or DOLE. Prior notice and a hearing are required before closure except in cases of death, serious injury, or imminent danger to children.<sup>147</sup>

### **Freedom of Association**

The Philippines' Constitution provides general protection for the right of workers to form and join labor unions that are independent of the government. The right to freedom of association is restricted for some categories of public employees, including firefighters, prison guards, members of the military, and police officers. Contract workers, public sector employees in policy-making positions or with access to confidential information, and private sector management-level employees with access to management's labor relations information are also prohibited from forming or joining labor unions.<sup>148</sup>

In 2005, the Department of Labor and Employment (DOLE) released DO No. 40-C-05, thereby amending the Omnibus Rules and granting foreign employees with valid working permits the right to self-organization, to join labor unions, and to engage in collective bargaining. Previously, a foreign employee was only accorded this right if a



reciprocal right was granted to Philippine employees in the foreign employee's country of origin. In 2009, the ILO requested further action to amend sections 269 and 272 (b) of the labor code in order to extend the right to organize to all foreign nationals living lawfully in the Philippines and not only those with valid work permits.<sup>149</sup> In 2010, the ILO reported that Republic Act 8042 imposes restrictions on foreigners' trade union activities and allows for the deportation of foreigners who violate these restrictions.<sup>150</sup>

In 2003, the Philippines adopted new legislation that simplified the registration process for labor union locals affiliated with existing certified federations; the legislation was also intended to simplify and accelerate the registration process for labor unions, as well as the process for certification elections.<sup>151</sup> The 30-day registration period was also reduced to ten days.<sup>152</sup> This new legislation was passed in response to longstanding criticism that the procedures for union registration and certification of elections were too lengthy, subject to business interference, and led to heightened vulnerability for workers attempting to organize a labor union.

Republic Act 9481 - also known as the Act on Strengthening Workers' Constitutional Right to Self Organization in the Area of Registration, Representation, and Union Cancellation – came into effect in June 2007. The Act was widely viewed by in-country labor experts as a key victory for the labor sector, as it will help the labor movement increase its membership and strengthen its capacity to defend and advance workers' rights and welfare. The Act amends critical provisions of the Labor Code on registration requirements, the creation of local union chapters, the cancellation of union registration, and the coexistence of workers' unions and supervisors' unions in the same establishment, federation, or national union. The DOLE reports that the Republic Act 9481 only allows for the cancellation of union registration in cases of misrepresentation, false statements, or fraud in connection with its organization or elections.<sup>153</sup> The Act significantly reduced the government's authority to cancel union registrations, and the government of the Philippines has noted that it uses caution when utilizing its authority to cancel a union's registration. In 2008, for example, one union registration certificate was cancelled; and the decision was subsequently appealed and overturned.<sup>154</sup> Provisions also give unions the right to "non-disclosure" of their membership during election certification proceedings. Labor experts reported that in the past, the requirement for disclosure of candidates provided an impetus for employers to bribe, coerce, and harass workers running in elections.<sup>155</sup>

Labor unions are not restricted from forming or joining international federations of labor unions.

The Labor Code offers protection against anti-union discrimination and business interference in the establishment, functioning, and administration of labor unions. A 2008 Supreme Court ruling on certification elections explicitly prohibited employers from

interfering with or opposing a union's certification election process in any way, including filing a motion to dismiss the election results or making allegations that any employees are ineligible to vote.<sup>156</sup>

The Constitution requires that the government guarantee the right of collective bargaining and the right to strike in accordance with the law. Strikes in the private sector are legal but are subject to procedural restrictions. Public sector workers have limited bargaining rights and are prohibited from striking.

### **Conditions of Work**

The Labor Code of the Philippines specifies that regional minimum wages shall be set by Regional Tripartite Wages and Productivity Boards.<sup>157</sup> Regionally-determined wage orders can be appealed through a national body, the National Wages and Productivity Commission. The regional wage board orders cover all private sector workers except domestic servants and others employed in the service of another person.<sup>158</sup>

In 2009, the highest regional daily minimum wage set was PHP 382 (USD 8.47) for non-agricultural workers in the capital region, while the lowest daily minimum wage was PHP 210 (USD 4.66) for agricultural workers in the Autonomous Region of Muslim Mindanao.<sup>159</sup> In 2005, three regions granted minimum wage increases to workers. In 2009, the U.S. Department of State reported that under a new law, workers who earn the minimum wage are not required to pay income tax.<sup>160</sup>

On April 20, 2004, the Department of Finance issued the Guidelines to Implement the Registration of Barangay Micro Business Enterprises and the Availment of Tax Incentives, which allows exceptions on the payment of the minimum wage for enterprises engaged in production with total assets less than PHP three million (USD 66,540). The law does not define monitoring procedures and does not establish a minimum amount, in lieu of the minimum wage, that employers in this sector must pay their workers. According to the U.S. Department of State, the regional wage boards did not allow any wage exemptions during the first half of 2009.<sup>161</sup>

Regular work hour limits are set at eight hours per day and 48 hours per week for industrial workers and at 40 hours per week for government workers. A weekly day of rest is mandated for all workers. Provisions against excessive overtime are weak in Philippine law. All hours worked in excess of regular working hours must be compensated at an overtime premium of 125 % for regular overtime and 130 % for overtime worked on holidays.<sup>162</sup> However, the U.S. Department of State has reported that there was no legal limit on mandatory overtime.<sup>163</sup>

The Labor Code contains a number of provisions requiring companies to set up and maintain on-site safety committees and health clinics, and authorizes the Secretary of Labor and Employment to establish and enforce occupational health and safety standards to ensure safe working conditions in all workplaces. There are no explicit legal provisions in the Philippines that allow for workers to remove themselves, without jeopardy to their employment, from situations in the workplace that endanger their health or safety. The U.S. Department of State reported that the Philippines' occupational health and safety laws were adequate; however, the World Health Organization (WHO) reported that certain additional policies and laws were required to ensure the health and safety of workers.<sup>164</sup>

Sexual harassment in employment, education, or training is illegal between supervisors and their subordinates, according to the Anti-Sexual Harassment Law, Republic Act 7877.

### **Fishing Specific Laws**

Republic Act 8550 (or the Fisheries Code of 1998) aims to provide support to fisherfolk, with particular attention to municipal fisherfolk. The support specifically includes technology and research, adequate financial, production, construction of post-harvest facilities and marketing assistance. The law also aims to ensure that fishworkers shall receive a just share for their labor.

Republic Act 8550, defines "fishworker" as a person regularly or not regularly employed in commercial fishing and related industries, whose income is either in wage, profit-sharing or stratified sharing basis, including those working in fish pens, fish cages, fish corrals/traps, fishponds, prawn farms, sea farms, salt beds, fish ports, fishing boat or trawlers, or fish processing and/or packing plants. Excluded from this category are administrators, security guards and overseers. This law categorically provides that fishworkers shall be entitled to the privileges accorded to other workers under the Labor Code, Social Security System and other benefits under other laws or social legislation for workers. It also provides that fishworkers on board any fishing vessel<sup>165</sup> engaged in fishing operations are covered by the Philippine Labor Code.<sup>166</sup>

Under the law, the type of the vessel operated by the fisherfolk does not determine whether he/she is a fishworker. The law only requires that the boat, ship or other watercraft operated by the fishworker is equipped to be used for taking of fishery species or in assisting one or more vessels in the performance of any activity relating to fishing including, but not limited to, preservation, supply, storage, refrigeration, transportation and/or processing. As such, individuals engaged as handline fishing by

commercial vessels or commercial fishing operators in the tuna industry is considered a fishworker under Republic Act 8550.

Hence, fishworkers, as defined under Republic Act 8850 are entitled to the following benefits or privileges:

1. Minimum wage<sup>167</sup> or wage increase under the Collective Bargaining Agreement
2. Holiday pay<sup>168</sup>
3. Premium pay for work on rest day or special day<sup>169</sup>
4. Overtime pay<sup>170</sup>
5. Night Shift Differential pay<sup>171</sup>
6. Service Incentive Leave pay<sup>172</sup>
7. Security of Tenure<sup>173</sup>
8. Separation pay<sup>174</sup>
9. Retirement pay<sup>175</sup>
10. 13th month pay<sup>176</sup>
11. Maternity<sup>177</sup> or Paternity<sup>178</sup> benefits
12. Employee Compensation Program<sup>179</sup>

The Fisheries Code regulates the issuance of commercial fishing<sup>180</sup> vessel license and fishworker license for crew and skipper/master fisher. The license issued to large commercial fishing vessels by the Department of Agriculture shall allow the fishing vessel to operate only in Philippine waters seven (7) or more fathoms deep.<sup>181</sup> However, the law also provides that the fishing vessels of Philippine registry may operate in international water or waters of other countries which allow such fishing operations provided that the fishing vessel shall secure an international fishing permit and certificate of clearance from the Department of Agriculture. The fish caught by such vessels shall be considered as caught in Philippine waters and therefore not subject to all import duties and taxes only when the same is landed in duly designated fish landings and fish ports in the Philippines.<sup>182</sup> The law also clarifies that fishworkers on board Philippine registered fishing vessels conducting fishing activities beyond the Philippine Exclusive Economic Zone are not considered as overseas Filipino workers. As such, the Labor Code of the Philippines shall govern their terms and conditions of employment.<sup>183</sup>

The Fisheries Code also requires that all fishing vessels shall be provided with adequate medical supplies and life-saving devices to be determined by the Occupational Safety and Health Center. The law also provides that a fishing vessel of

twenty (20) GT or more shall have as a member of its crew a person qualified as a first aider duly certified by the Philippine National Red Cross.<sup>184</sup>

Any fishing vessel found to have violated the minimum safety standards shall be prevented from continuing with the fishing activity and the owner and captain's license to operate the commercial fishing vessel shall be suspended until the safety standard has been complied with.<sup>185</sup>

Handline fishing, as defined under Republic Act 9379, is a traditional fishing method that uses the hook and line, a passive fishing gear with a single vertical line carrying one hook and used by simply dropping the line into the water and waiting for the fish to bite.<sup>186</sup> Handline fishing boat, on the other hand, is defined as a fishing boat with or without an outrigger, and with or without auxiliary small boats on board that exclusively utilizes the handline fishing method.

Section 5 of this law provides that handline fishing boats of Philippine registry may operate in international waters or waters of other countries that allow such operations provided that safety and other standards of seaworthiness is complied with and international fishing permit and certificate of clearance are secured.

The fact that fishing activity is conducted in international waters or territorial waters of other countries make it more difficult for Department of Labor and Employment to inspect the employers' compliance with labor and safety standards. As such, fish workers who are engaged as operators of handline boats in international waters or territorial waters of other countries may be more vulnerable to inhumane working conditions or even to forced labor.

### **Contract Labor**

Department Order No. 18-02 defines contracting or subcontracting as an arrangement whereby a principal agrees to put out or farm out to a contractor or subcontractor the performance or completion of a specific job, work or service within a definite or predetermined period, regardless of whether such job, work or service is to be performed or completed within or outside the premises of the principal<sup>187</sup>. Department Order No. 18-02 spells out the Philippine government policy allowing contracting and subcontracting arrangements subject to regulations for the promotion of employment and the observance of the rights of workers to just and humane conditions of work, security of tenure, self-organization, and collective bargaining<sup>188</sup>. However, unions and workers organizations continue to contest this policy on contractual labor.

As provided under Department Order No. 18-02, a legitimate contracting arrangement can be characterized as a trilateral relationship. This arrangement involves three parties: a) principal<sup>189</sup>; b) contractor or subcontractor<sup>190</sup>; and c) worker or contractual employee<sup>191</sup>. The principal and the contractor or subcontractor may be a natural or juridical person (corporation or partnership).

In other words, contracting or subcontracting is considered legitimate if the following circumstances concur: 1) The contractor or subcontractor carries on a distinct and independent business and undertakes to perform the job, work or service on its own account and under its own responsibility, according to its own manner and method, and free from the control and directions of the principal in all matters connected with the performance of the work except as to the results thereof; 2) The contractor or subcontractor has substantial capital or investment; and 3) The agreement between the principal and the contractor or subcontractor assures the contractual employees' entitlement to all labor and occupational safety and health standards, free exercise of the right to self-organization, security of tenure, and social and welfare benefits.

In conformity with the Labor Code, Department Order No. 18-02 maintains that labor-only contracting is a prohibited contractual arrangement.<sup>192</sup> Labor-only contracting<sup>193</sup> refers to an arrangement where the contractor or subcontractor merely recruits, supplies or places workers to perform a job, work or service for a principal, and any of the following elements is present: a) the contractor or subcontractor does not have substantial capital or investment which relates to the job, work or service to be performed and the employees recruited, supplied or placed by such contractor or subcontractor are performing activities which are directly related to the main business of the principal; b) the contractor does not exercise the right to control over the performance of the work of the contractual employee.

If the contractual arrangement is adjudged to be a labor-only contractor, then this will bring the following effects. First, the subcontractor will be treated as the agent or intermediary of the principal. Since the act of an agent is the act of the principal, representations made by the subcontractor to the employees will bind the principal. Second, the principal will become the employer as if it directly employed the workers engaged to undertake the subcontracted job or service. It will be responsible to them for all their entitlements and benefits under the labor laws. Third, the principal and the subcontractor will be solitarily treated as the employer. Fourth, the employees will be construed as employees of the principal.<sup>194</sup>

The formation of manpower or service cooperative is primarily governed by the Cooperative Code of the Philippines.<sup>195</sup> Application for registration is applied with the Cooperative Development Authority (CDA).<sup>196</sup> The CDA will issue certificate of registration in case of approval of the application.<sup>197</sup>

Considering that the manpower cooperative is governed by the Cooperative Code of the Philippines, there is some degree of ambiguity on whether the Labor Code does not govern the employment arrangement of the member-workers supplied by the manpower or service cooperative. The confusion or ambiguity on which law shall govern contractual arrangement entices employer to prefer manpower or service cooperative over independent contractors.

## Appendix II: Summary of Presence of ILO Indicators of Forced Labor

As discussed in the Methodology section, Verité analyzed its findings with respect to the indicators of forced labor presented in the ILO's 2011 publication, *Hard to See, Harder to Count: Survey Guidelines to Estimate Forced Labour of Adults and Children*. A chart of these indicators follows.

		Present
<b>Indicators of unfree recruitment of adults</b>	<b>Strong Indicators of Involuntariness</b>	
	Tradition, birth (birth/descent into 'slave' or bonded status)	
	Coercive recruitment (abduction, confinement during the recruitment process)	
	Sale of the worker	
	Recruitment linked to debt (advance or loan)	
	Deception about the nature of the work	Handliners reported that while they are at sea, conditions of work such as length of voyage can change without their consent.
	<b>Medium Indicators of Involuntariness</b>	
	Deceptive recruitment (regarding working conditions, content, or legality of employment contract, housing and living conditions, legal documentation or acquisition of legal migrant status, job	



location or employer, wages/earnings)	
Deceptive recruitment through promises of marriage	
<b>Strong Indicators of Menace of Penalty</b>	
Denunciation to authorities	
Confiscation of identity papers or travel documents	
Sexual violence	
Physical violence	
Other forms of punishment	
Removal of rights or privileges (including promotion)	
Religious retribution	
Withholding of assets (cash or other)	
Threats against family members	
<b>Medium Indicators of Menace of Penalty</b>	
Exclusion from future employment	

	Exclusion from community and social life	
	Financial penalties	
	Informing family, community, or public about worker's current situation (blackmail)	
<b>Indicators of work and life under duress of adults</b>	<b>Strong indicators of involuntariness</b>	
	Forced overtime (beyond legal limits)	
	Forced to work on call (day and night)	
	Limited freedom of movement and communication	
	Degrading living conditions	
	<b>Medium indicators of involuntariness</b>	
	Forced engagement in illegal activities	Some voyages may be illegal without the workers' knowledge or consent; if sailing into Indonesian waters, workers risk being arrested or detained.
	Forced to work for employer's private home or family	
	Induced addiction to illegal substances	
Induced or inflated indebtedness (by falsification of	Workers reported that fishers and their families take loans from financier which are repaid via deductions from their earnings. There is no official record to track loans taken or earnings	

accounts, inflated prices for goods/services purchased, reduced value of goods/services produced, excessive interest rates on loans, etc.)	deductions.
Multiple dependency on employer (jobs for relatives, housing, etc.)	
Pre-existence of dependency relationship with employer	
Being under the influence of employer or people related to employer for non-work life.	
<b>Strong indicators of penalty (or menace of penalty)</b>	
Denunciation to authorities	
Confiscation of identity papers or travel documents	
Confiscation of mobile phones	
Further deterioration in working conditions	
Isolation	Isolation is inherent to the nature of fishing.

Locked in workplace or living quarters	
Sexual violence	
Physical violence	
Other forms of punishment (deprivation of food, water, sleep, etc.)	
Violence against worker in front of other worker	
Removal or rights or privileges (including promotion)	
Religious retribution	
Constant surveillance	
Withholding of assets (cash or other)	
Withholding of wages	
Threats against family members	
<b>Medium indicators of penalty (or menace of penalty)</b>	
Dismissal	
Exclusion from future employment	Workers report that if they express grievances, they will be blacklisted.
Exclusion from community and social life	

	Extra work for breaching labor discipline	
	Financial penalties	
	Informing family, community or public about worker's current situation (blackmail)	
<b>Indicators of impossibility of leaving employer for adults</b>	<b>Strong indicators of involuntariness</b>	
	Reduced freedom to terminate labor contract after training or other benefit paid by employer	
	No freedom to resign in accordance with legal requirements	
	Forced to stay longer than agreed while waiting for wages due	
	Forced to work for indeterminate period to repay outstanding debt or wage advance	
	<b>Strong indicators of penalty (or menace of penalty)</b>	
	Denunciation to authorities	
	Confiscation of identify paper or travel	

documents	
Imposition of worse working conditions	
Locked in work or living quarters	
Sexual violence	
Physical violence	
Other forms of punishment (deprivation of food, water, sleep, etc.)	
Removal of rights or benefits (including promotion)	
Religious retribution	
Under constant surveillance	
Violence imposed on other workers in front of all workers	
Withholding of assets (cash or other)	
Withholding of wages	
Threats against family members (violence or loss of jobs)	
<b>Medium indicators of penalty or menace or penalty</b>	
Dismissal	

Exclusion from future employment	See 'Exclusion from Future Employment' in 'Work and Life Under Duress.'
Exclusion from community and social life	
Extra work for breaching discipline	
Financial penalties	
Informing family, community or public about worker's current situation (blackmail)	

## Appendix III: Summary of Presence of ILO Indicators of Forced Labor

As discussed in the Methodology section, Verité analyzed its findings with respect to the indicators of forced labor presented in the ILO's 2011 publication, *Hard to See, Harder to Count: Survey Guidelines to Estimate Forced Labour of Adults and Children*. A chart of these indicators follows.

		Present
<b>Indicators of unfree recruitment of adults</b>	<b>Strong Indicators of Involuntariness</b>	
	Tradition, birth (birth/descent into 'slave' or bonded status)	
	Coercive recruitment (abduction, confinement during the recruitment process)	
	Sale of the worker	
	Recruitment linked to debt (advance or loan)	
	Deception about the nature of the work	
	<b>Medium Indicators of Involuntariness</b>	
	Deceptive recruitment (regarding working conditions, content, or legality of	



employment contract, housing and living conditions, legal documentation or acquisition of legal migrant status, job location or employer, wages/earnings)	
Deceptive recruitment through promises of marriage	
<b>Strong Indicators of Menace of Penalty</b>	
Denunciation to authorities	
Confiscation of identity papers or travel documents	
Sexual violence	
Physical violence	
Other forms of punishment	
Removal of rights or privileges (including promotion)	
Religious retribution	
Withholding of assets (cash or other)	
Threats against family members	

	<b>Medium Indicators of Menace of Penalty</b>	
	Exclusion from future employment	
	Exclusion from community and social life	
	Financial penalties	
	Informing family, community, or public about worker's current situation (blackmail)	
<b>Indicators of work and life under duress of adults</b>	<b>Strong indicators of involuntariness</b>	
	Forced overtime (beyond legal limits)	
	Forced to work on call (day and night)	
	Limited freedom of movement and communication	
	Degrading living conditions	
	<b>Medium indicators of involuntariness</b>	
	Forced engagement in illegal activities	
	Forced to work for employer's private	

home or family	
Induced addiction to illegal substances	
Induced or inflated indebtedness (by falsification of accounts, inflated prices for goods/services purchased, reduced value of goods/services produced, excessive interest rates on loans, etc.)	Workers reported that fishers and their families take loans from purse-seine companies which are repaid via deductions from their earnings. There is no official record to track loans taken or earnings deductions.
Multiple dependency on employer (jobs for relatives, housing, etc.)	
Pre-existence of dependency relationship with employer	
Being under the influence of employer or people related to employer for non-work life.	
<b>Strong indicators of penalty (or menace of penalty)</b>	
Denunciation to authorities	
Confiscation of identity papers or travel documents	

Confiscation of mobile phones	
Further deterioration in working conditions	
Isolation	Isolation is inherent to the nature of fishing. Workers report trips lasting six months to a year.
Locked in workplace or living quarters	
Sexual violence	
Physical violence	
Other forms of punishment (deprivation of food, water, sleep, etc.)	
Violence against worker in front of other worker	
Removal or rights or privileges (including promotion)	
Religious retribution	
Constant surveillance	
Withholding of assets (cash or other)	
Withholding of wages	
Threats against family members	
<b>Medium indicators of penalty (or menace of penalty)</b>	

	Dismissal	
	Exclusion from future employment	Workers report that if they express grievances, they will be blacklisted.
	Exclusion from community and social life	
	Extra work for breaching labor discipline	
	Financial penalties	
	Informing family, community or public about worker's current situation (blackmail)	
<b>Indicators of impossibility of leaving employer for adults</b>	<b>Strong indicators of involuntariness</b>	
	Reduced freedom to terminate labour contract after training or other benefit paid by employer	
	No freedom to resign in accordance with legal requirements	
	Forced to stay longer than agreed while waiting for wages due	
	Forced to work for indeterminate period to repay outstanding debt or wage advance	

<b>Strong indicators of penalty (or menace of penalty)</b>	
Denunciation to authorities	
Confiscation of identify paper or travel documents	
Imposition of worse working conditions	
Locked in work or living quarters	
Sexual violence	
Physical violence	
Other forms of punishment (deprivation of food, water, sleep, etc.)	
Removal of rights or benefits (including promotion)	
Religious retribution	
Under constant surveillance	
Violence imposed on other workers in front of all workers	
Withholding of assets (cash or other)	
Withholding of wages	
Threats against family members	

(violence or loss of jobs)	
<b>Medium indicators of penalty or menace or penalty</b>	
Dismissal	
Exclusion from future employment	See 'Exclusion from Future Employment' in 'Work and Life Under Duress.'
Exclusion from community and social life	
Extra work for breaching discipline	
Financial penalties	
Informing family, community or public about worker's current situation (blackmail)	

## Appendix IV: Summary of Presence of ILO Indicators of Forced Labor

As discussed in the Methodology section, Verité analyzed its findings with respect to the indicators of forced labor presented in the ILO's 2011 publication, *Hard to See, Harder to Count: Survey Guidelines to Estimate Forced Labour of Adults and Children*. A chart of these indicators follows.

		Present
<b>Indicators of unfree recruitment of adults</b>	<b>Strong Indicators of Involuntariness</b>	
	Tradition, birth (birth/descent into 'slave' or bonded status)	
	Coercive recruitment (abduction, confinement during the recruitment process)	
	Sale of the worker	
	Recruitment linked to debt (advance or loan)	
	Deception about the nature of the work	
	<b>Medium Indicators of Involuntariness</b>	
	Deceptive recruitment (regarding working conditions, content, or legality of employment contract, housing and living conditions, legal documentation or acquisition of legal migrant status, job location or employer,	



wages/earnings)	
Deceptive recruitment through promises of marriage	
<b>Strong Indicators of Menace of Penalty</b>	
Denunciation to authorities	
Confiscation of identity papers or travel documents	
Sexual violence	
Physical violence	
Other forms of punishment	
Removal of rights or privileges (including promotion)	
Religious retribution	
Withholding of assets (cash or other)	
Threats against family members	
<b>Medium Indicators of Menace of Penalty</b>	
Exclusion from future employment	
Exclusion from	

	community and social life	
	Financial penalties	
	Informing family, community, or public about worker's current situation (blackmail)	
<b>Indicators of work and life under duress of adults</b>	<b>Strong indicators of involuntariness</b>	
	Forced overtime (beyond legal limits)	
	Forced to work on call (day and night)	
	Limited freedom of movement and communication	
	Degrading living conditions	
	<b>Medium indicators of involuntariness</b>	
	Forced engagement in illegal activities	
	Forced to work for employer's private home or family	
	Induced addiction to illegal substances	
	Induced or inflated indebtedness (by falsification of accounts, inflated prices for goods/services purchased, reduced	Workers reported that workers take loans from their employers, the balance of which is deducted from their earnings. Workers noted that this makes it hard to leave.

value of goods/services produced, excessive interest rates on loans, etc.)	
Multiple dependency on employer (jobs for relatives, housing, etc.)	
Pre-existence of dependency relationship with employer	
Being under the influence of employer or people related to employer for non-work life.	
<b>Strong indicators of penalty (or menace of penalty)</b>	
Denunciation to authorities	
Confiscation of identity papers or travel documents	
Confiscation of mobile phones	
Further deterioration in working conditions	
Isolation	
Locked in workplace or living quarters	
Sexual violence	
Physical violence	
Other forms of punishment (deprivation	

of food, water, sleep, etc.)	
Violence against worker in front of other worker	
Removal or rights or privileges (including promotion)	
Religious retribution	
Constant surveillance	
Withholding of assets (cash or other)	
Withholding of wages	
Threats against family members	
<b>Medium indicators of penalty (or menace of penalty)</b>	
Dismissal	
Exclusion from future employment	Workers report that if they express grievances, they will be blacklisted.
Exclusion from community and social life	
Extra work for breaching labor discipline	
Financial penalties	
Informing family, community or public about worker's current situation (blackmail)	

<b>Indicators of impossibility of leaving employer for adults</b>	<b>Strong indicators of involuntariness</b>	
	Reduced freedom to terminate labour contract after training or other benefit paid by employer	
	No freedom to resign in accordance with legal requirements	
	Forced to stay longer than agreed while waiting for wages due	
	Forced to work for indeterminate period to repay outstanding debt or wage advance	
	<b>Strong indicators of penalty (or menace of penalty)</b>	
	Denunciation to authorities	
	Confiscation of identify paper or travel documents	
	Imposition of worse working conditions	
	Locked in work or living quarters	
	Sexual violence	
	Physical violence	
	Other forms of punishment (deprivation of food, water, sleep,	

etc.)	
Removal of rights or benefits (including promotion)	
Religious retribution	
Under constant surveillance	
Violence imposed on other workers in front of all workers	
Withholding of assets (cash or other)	
Withholding of wages	
Threats against family members (violence or loss of jobs)	
<b>Medium indicators of penalty or menace or penalty</b>	
Dismissal	
Exclusion from future employment	See 'Exclusion from Future Employment' in 'Work and Life Under Duress.'
Exclusion from community and social life	
Extra work for breaching discipline	
Financial penalties	
Informing family, community or public about worker's current situation (blackmail)	

## Appendix V: Summary of Presence of ILO Indicators of Forced Labor

		Present
<b>Indicators of unfree recruitment of adults</b>	<b>Strong Indicators of Involuntariness</b>	
	Tradition, birth (birth/descent into 'slave' or bonded status)	
	Coercive recruitment (abduction, confinement during the recruitment process)	
	Sale of the worker	
	Recruitment linked to debt (advance or loan)	
	Deception about the nature of the work	
	<b>Medium Indicators of Involuntariness</b>	
	Deceptive recruitment (regarding working conditions, content, or legality of employment contract, housing and living conditions, legal documentation or acquisition of legal migrant status, job location or employer,	

wages/earnings)	
Deceptive recruitment through promises of marriage	
<b>Strong Indicators of Menace of Penalty</b>	
Denunciation to authorities	
Confiscation of identity papers or travel documents	
Sexual violence	
Physical violence	
Other forms of punishment	
Removal of rights or privileges (including promotion)	
Religious retribution	
Withholding of assets (cash or other)	
Threats against family members	
<b>Medium Indicators of Menace of Penalty</b>	
Exclusion from future employment	



	Exclusion from community and social life	
	Financial penalties	
	Informing family, community, or public about worker's current situation (blackmail)	
<b>Indicators of work and life under duress of adults</b>	<b>Strong indicators of involuntariness</b>	
	Forced overtime (beyond legal limits)	
	Forced to work on call (day and night)	
	Limited freedom of movement and communication	
	Degrading living conditions	
	<b>Medium indicators of involuntariness</b>	
	Forced engagement in illegal activities	
	Forced to work for employer's private home or family	
	Induced addiction to illegal substances	
	Induced or inflated indebtedness (by falsification of	Limited numbers of workers reported that workers take loans from their employers, the balance of which is deducted from their earnings. Researchers did not determine that this acts to bind

accounts, inflated prices for goods/services purchased, reduced value of goods/services produced, excessive interest rates on loans, etc.)	workers to their job.
Multiple dependency on employer (jobs for relatives, housing, etc.)	
Pre-existence of dependency relationship with employer	
Being under the influence of employer or people related to employer for non-work life.	
<b>Strong indicators of penalty (or menace of penalty)</b>	
Denunciation to authorities	
Confiscation of identity papers or travel documents	
Confiscation of mobile phones	
Further deterioration in working conditions	
Isolation	

Locked in workplace or living quarters	
Sexual violence	
Physical violence	
Other forms of punishment (deprivation of food, water, sleep, etc.)	
Violence against worker in front of other worker	
Removal or rights or privileges (including promotion)	
Religious retribution	
Constant surveillance	
Withholding of assets (cash or other)	
Withholding of wages	
Threats against family members	
<b>Medium indicators of penalty (or menace of penalty)</b>	
Dismissal	
Exclusion from future employment	Workers report that if they express grievances, they will be blacklisted.
Exclusion from community and social life	

	Extra work for breaching labor discipline	
	Financial penalties	
	Informing family, community or public about worker's current situation (blackmail)	
<b>Indicators of impossibility of leaving employer for adults</b>	<b>Strong indicators of involuntariness</b>	
	Reduced freedom to terminate labor contract after training or other benefit paid by employer	
	No freedom to resign in accordance with legal requirements	
	Forced to stay longer than agreed while waiting for wages due	
	Forced to work for indeterminate period to repay outstanding debt or wage advance	
	<b>Strong indicators of penalty (or menace of penalty)</b>	
	Denunciation to authorities	

Confiscation of identify paper or travel documents	
Imposition of worse working conditions	
Locked in work or living quarters	
Sexual violence	
Physical violence	
Other forms of punishment (deprivation of food, water, sleep, etc.)	
Removal of rights or benefits (including promotion)	
Religious retribution	
Under constant surveillance	
Violence imposed on other workers in front of all workers	
Withholding of assets (cash or other)	
Withholding of wages	
Threats against family members (violence or loss of jobs)	

<b>Medium indicators of penalty or menace or penalty</b>	
Dismissal	
Exclusion from future employment	See 'Exclusion from Future Employment' in 'Work and Life Under Duress.'
Exclusion from community and social life	
Extra work for breaching discipline	
Financial penalties	
Informing family, community or public about worker's current situation (blackmail)	

## Appendix VI: Survey Tools

### PERSONAL INFORMATION

1. Male  Female
2. Age \_\_\_\_\_
3. Married? Yes  No
4. Number of Children: \_\_\_\_\_ Ages: \_\_\_\_\_
5. What is your place of origin? \_\_\_\_\_
  - a. If migrated, reasons for migration:  
Lack of employment opportunities in place of origin? Yes  No   
Violence/unrest in place of origin Yes  No   
Recruited for employment in General Santos City Yes  No   
Other:
6. How many years of school have you attended? How many years of vocational training?
7. How long have you worked here?
8. What is your job title or classification?
9. What tasks are you engaged in?
10. Are you a *permanent*  *temporary*  *foreign contract worker*   
*seasonal/fixed-term contract*
11. What are your professional eligibilities/certifications?

### LIVING CONDITIONS

12. Is the house rented?
13. How much is rent?
14. How many people are living in the house?
15. How many people to a room?
16. How is the house constructed/which materials?
17. Is there potable water?
18. Is there electricity?
19. Is housing accessible by public transportation?
20. How long does it take to get to worksite from housing?

**CURRENT EMPLOYMENT**

- 21. Name and address of worksite/facility:
- 22. Name and address of employer (or of cooperative/employment agency if not directly hired by the company):
- 23. Work description/designation:
- 24. Motivations/reasons for current employment:
- 25. Is current work under contract?

- a. If yes, what is length of contract \_\_\_\_\_

- 26. Status of employment? Conditions of employment?

**PREVIOUS EMPLOYMENT/INCOME SOURCES**

- 27. Immediately prior to current employment
  - a. Name of company/facility
  - b. Work description/designation:
- 28. Other means of livelihood when in between contracts/projects
- 29. Year of first employment in fishing sector?
- 30. If previous employment was in the same sector, how similar or different were the terms of employment from the current employment?
  - a. Length of contract
  - b. Status of employment
  - c. Conditions of employment
- 31. Other family members also employed in the same activity?

**MODES OF HIRING AND RECRUITMENT**

- 32. How did you first find out about this work opportunity

	Details
Through a family member or friend	
Through job ads/notices	
Approached by an agent/recruiter	
Other means (provide details)	

- 33. What is your relationship to this person who first informed you about the work?
- 34. How well do you know this person?
- 35. Name and address of this person:
- 36. How did this person describe the engagement in terms of
  - a. Description?



- b. Location?
  - c. Payments and benefits?
  - d. Period?
  - e. Length of contract?
  - f. Other?
37. Describe and narrate the process of recruitment for/involvement in the job (asking the respondent to 'tell the story,' using a timeline if necessary).

**FOR WORKERS IN FORMAL SECTOR:**

38. How did you secure your job? What steps/processes did you have to go through?

<i>Did you apply directly?</i>	
<i>Did you apply through ...a cooperative? ... an employment agency? ... a labor broker?</i>	
<i>Did you have to borrow/use another person's personal documents?  If YES, why? Who informed you about this arrangement?</i>	
<i>How long did the application process take?  What other documents were required?  Who processed these documents?</i>	

<p><i>Did you have to pay someone to secure this job? To put together the requirements?</i></p> <p><i>If yes, how much?</i> <i>What was the money supposed to be for?</i></p> <p><i>How did you finance the cost of securing this job?</i></p> <p><i>Did you have to borrow money?</i> <i>-from whom?</i> <i>-at what interest?</i> <i>-what are the payment terms?</i></p>	
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**FOR WORKERS IN THE INFORMAL SECTOR**

For workers in the “**informal**” sector (engaged in capture, sea-based work, various paid services at the fish port):

39. How did you secure your job; how did you become part of this engagement?

<p><i>Who assisted you in securing this position?</i></p> <p><i>...someone known to you personally?</i> <i>... an employment agency?</i> <i>... a labor broker?</i></p>	
<p><i>Did you have to pay an amount in order to secure a spot in this engagement/project?</i></p> <p><i>What was the money supposed to be for?</i></p>	
<p><i>How did you finance the cost of securing this job/spot?</i></p>	

<p><i>Did you have to borrow money/make a loan?</i></p> <p><i>If yes, how much?</i></p> <p><i>-from whom?</i>  <i>-at what interest?</i>  <i>-what are the payment terms?</i></p>	
<p><i>Did you have to make an advance [loan] prior to the start of engagement?</i></p> <p><i>If yes, how much?</i></p> <p><i>-from whom?</i>  <i>-at what interest?</i>  <i>-what are the payment terms?</i></p>	

**CONTRACTS AND AGREEMENTS**

- 40. Are you under contract/agreement with:
  - a. Boat operator/owner/piado
  - b. Employer/company
  - c. Cooperative/placement-agency
- 41. When were the agreements finalized?
- 42. Conditions of contract

	YES	NO
Were you made to sign a contract, or any kind of document?		
Were you given your own copy of the contract/employment agreement?		
<p>Did the contract/employment agreement indicate the following:?</p> <p>-no. of work hours          -rate of wages/shares          -benefits          -payment schedule          -length of the contract</p>		

-restrictions, regulations		
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43. What other agreements were made prior to the start of employment?

44. How do you ensure that the agreements will be honored?

**WORK AND LIVING CONDITIONS**

45. What kind of facility/work area are/were you assigned to?

46. What kind of work did you do, exactly (worker describes in his/her own words)?

47. Work Conditions

	YES	NO
Was this the same kind of work you expected?		
Was this the same one promised to you?		
Were the other terms in your agreement consistent with the actual practice in the work site? (Please ask worker to explain)		

**WAGES AND COMPENSATION**

48. Ask interviewee to describe or illustrate. Ask for copy of payment receipts or pay slips

49. How much do you earn on daily/weekly/monthly basis?

50. Do you understand how your shares/payments are calculated?

51. Please provide the details of actual conditions of work:

	Canning	Fresh-frozen	Purse-seiner	Handliner
Number of work hours				
Rate of wages/shares				
Benefits				
Payment schedule				
Length of the contract				
Restrictions, regulations				

52. Do you consider this to be fair and reasonable compensation? Yes  No
- a. If no, how do you manage to survive? (expenses vs. income)? Other income sources?
53. Are you always paid on time? Yes  No
54. Are you provided a pay slip or receipt? Yes  No
55. Are there instances when you have to borrow money/take a loan? Yes  No
- a. Why?
- b. What do you use loaned money for?
- c. From whom do you borrow/take a loan?
56. How often do you borrow/take a loan?
57. What are the times of year you are more likely to take a loan?
58. What are the usual terms of the loan?
59. How do you pay?
60. Are you currently in debt?
- a. To whom?
- b. How much?

## LIVING CONDITIONS

61. For workers engaged in capture:

	details
Do your sleeping quarters provide you the following?:  Privacy Safety and Security Comfort  <i>(please ask to describe)</i>	
Are you provided the following?:  Meals Drinking Water Other basic provisions	
Are all of the above provided for free?	
Are the provisions sufficient/satisfactory?	

62. What sort of problems, troubles, difficulties at work have you encountered, or often encounter, while at work?

Issues	How long and how frequent are these problematic conditions present? ( <i>i.e., always, most of the time, sometimes, rarely</i> )	Who were/are involved/responsible? What did this person do, exactly?	What happened [to you], as a result of these problems?
Underpayment or non-payment of compensation/wages			

Long work hours			
Insufficient/ unaffordable food and other provisions			
Non-remittance of deductions and non- availment of benefits			
Accidents and injuries  Compromised health, safety, security			
Harassment and abuse			
Restrictions on movement, communication			
Restrictions on association			
Poor living conditions			
Debt bondage			

63. What were the problems with the work/living conditions exactly? Why? When did it start?
64. What other factors at work, or in your personal life, contribute to your problems?
65. What have you done, so far, about these problems?
66. Do you intend to file/have you filed a formal complaint?

- a. If YES, how do you intend to go about it? What kind of assistance would you need?
  - b. If NO, what is/are stopping you from filing a formal complaint? What alternative means of redress are you going to take?
67. Did/do you ever plan on leaving the place or ceasing work/employment?
  68. What would be your reasons for wanting to leave?
  69. What makes leaving the work situation difficult?
  70. What alternatives do you have in mind/are available to you? What alternative livelihood do you know of?
  71. Why do you not take these alternatives?
  72. What initial steps do you intend to take to make your situation better?
  73. What kind of assistance would you need in order to pursue this?
  74. What factors are hindering you from pursuing this?
  75. Who or what institutions did/do you usually ask assistance from?
  76. How did/do you know about them?
  77. How have they responded to your call for assistance?

(Note to interviewer: End interview by asking about the interviewee's present situation, major concerns, plans, etc.)

**Interviewer's Notes:**

Name of Interviewer: \_\_\_\_\_

No. of workers in interview: \_\_\_\_\_ Location of Interview: \_\_\_\_\_

- Is/are worker(s):
- Comfortable and provided useful information
  - Cautious & reserved (but provided useful information)
  - Appears to be coached
  - Afraid to speak

Other impressions and observations:



## Endnotes

<sup>1</sup> USAID, *Fostering Economic Revitalization in Southern Philippines*, USAID Frontlines, April 2008, [http://www.usaid.gov/press/frontlines/Apr08\\_FrontLines.pdf](http://www.usaid.gov/press/frontlines/Apr08_FrontLines.pdf)

<sup>2</sup> Muslim separatist groups have been active in Mindanao (the island in the Philippines where General Santos City and the tuna industry is based), and clashes with government forces have been violent. Although a ceasefire was declared in 2009, over 5,000 people were displaced by fighting in 2010.

Alertnet. *Philippines Mindanao Conflict*. <http://www.trust.org/alertnet/crisis-centre/crisis/philippines-mindanao-conflict>

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<sup>122</sup> According to stakeholder consultations, these cooperatives are generally cooperatives in name-only. That is, workers do not necessarily receive benefits, shares or rights. Membership in a cooperative is increasingly required of canning workers. Once a member of a cooperative, workers have no official employment relationship with the factory in which they work.

<sup>123</sup> This was a practice workers had used when directly employed by the companies. In order to enjoy continuous employment, workers resorted to re-applying using different names every time the contract expired, so that canning companies could avoid documenting that workers were essentially regular permanent workers. Workers said that the company human resources officers were fully aware of this practice, and often told them, when their contract expired, that "they knew what to do." In most instances, they said, the hiring officer would simply transfer their ID pictures to the new cards bearing a new name.

<sup>124</sup> Cooperative Principles:

1. Voluntary and open membership
2. Democratic member control: one member-one vote
3. Member economic participation: members contribute equitably to the capital of the coop. Part of the capital is common property of the coop and members receive limited compensation or interest on capital subscribed and paid as a condition of membership.
4. Autonomy and independence
5. Education, training and information
6. Cooperation among cooperatives
7. Concern for community: with sustainable development as framework

<sup>125</sup> Interview with six cooperatives, conducted in August 2010

<sup>126</sup> In essence, both fixed and short-term contracts are 'fixed' in that they both have an expiration or end-term. However, the technical term used for contracts with only 6 months or less as contract period is "short-term". A fixed-term contract can be more than 6 months, usually a year.

<sup>127</sup> Interview with six cooperatives conducted in August, 2010.

<sup>128</sup> Interview with the General Santos City Branch Head, conducted in August 2010.

<sup>129</sup> Noel C. Barut and Elaine G. Garvilles, "Part I: Information on Fisheries, Research and Statistics," in *Philippine Annual Report to the Western and Central Pacific Fisheries Commission*, (WCPFC 2009), <http://www.spc.int/DigitalLibrary/Doc/FAME/Meetings/WCPFC/SC5/AR-CCM-19.pdf>, p10.

<sup>130</sup> Cesar Allan Vera and Zarina Hipolito, *The Philippines Tuna Industry: A Profile, International Collective in Support of Fishworkers*, 2006

<sup>131</sup> In the course of this research, it was found that between 2009 and 2011, the amount and the size of the fish landed in the fish port have significantly decreased. In 2009, when this research started, researchers witnessed the landing of many export-quality tuna weighing as heavy as 85 kilograms, and on the average 40 kilograms. During the last visit to the fish port in early 2011, there was barely any

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activity, and the fish landed were significantly smaller in volume, as well as in size. Noticeably, there were also many fewer workers at the fish port.

<sup>132</sup> Interview with local university Professor Connie Portugal, Dean, School of Fisheries.

<sup>133</sup> Interview with DOLE officials, fresh-frozen sector workers, conducted in August, 2010.

<sup>134</sup> Espin Edwigo, "Another Look at the Philippine Tuna Industry in Crisis," Asian Correspondent, 4 Feb, 2012, <http://asiancorrespondent.com/75256/the-philippine-tuna-industry-in-crisis-another-look>, accessed on February 5.

<sup>135</sup> International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. *Individual Direct Request: Forced Labor Convention No. 29*. 2009. (accessed June 2010).

<sup>136</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. *Country Reports on Human Rights Practices 2007: Philippines*. March 2008. <http://www.state.gov/g/drl/rls/hrrpt/2007/100535.htm> (accessed April 2008).

<sup>137</sup> Government of Republic of the Philippines. *Anti-trafficking in Persons Act of 2003 (Republic Act 9208)*. [http://www.lawphil.net/statutes/repacts/ra2003/ra\\_9208\\_2003.html](http://www.lawphil.net/statutes/repacts/ra2003/ra_9208_2003.html).

<sup>138</sup> International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. *Individual Direct Request: Forced Labor Convention No. 29*. 2009. (accessed June 2010)

<sup>139</sup> International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. *Individual Observation concerning Abolition of Forced Labour Convention, 1957 (No. 105) Philippines (ratification: 1960)*. 2008. <http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=10086&chapter=6&query=Philippines%40ref&highlight=&querytype=bool&context=0>

<sup>140</sup> International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. *Individual Observation: Convention No. 105*. 2006.

<sup>141</sup> International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. *Individual Observation: Convention No. 105*. 2006.

International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. *Individual Observation concerning Abolition of Forced Labour Convention, 1957 (No. 105) Philippines (ratification: 1960)*. 2008. <http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=10086&chapter=6&query=Philippines%40ref&highlight=&querytype=bool&context=0>

<sup>142</sup> International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. <http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=22388&chapter=9&query=Philippines%40ref&highlight=&querytype=bool&context=0>

<sup>143</sup> International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. *Direct Request: Convention No. 138*. 2006.

<sup>144</sup> International Labour Organization. *CEACR: Individual Observation concerning Minimum Age Convention No138. Submitted 2010* <http://www.ilo.org/ilolex/english/newcountryframeE.htm> (accessed June 2010).

<sup>145</sup> International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. *Direct Request: Convention No. 138*. 2006.

<sup>146</sup> Government of the Republic of the Philippines. *The Republic Act 9231 (An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child)*.



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<sup>147</sup> Aning, Jerome. "Rules issued on closing firms using child labor." *Philippine Daily Inquirer*. November 8, 2009. <http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20091108-234932/Rules-issued-on-closing-firms-using-child-labor>.

<sup>148</sup> International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. *Direct Request: Convention No. 87*. 2009.

<http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=22570&chapter=9&query=Philippines%40ref&highlight=&querytype=bool&context=0>

International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. *Direct Request: Convention No. 87*. 2005.

<http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=16442&chapter=9&query=Philippines%40ref&highlight=&querytype=bool&context=0>

International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. *Direct Request: Convention No. 87*. 2004.

<http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=15153&chapter=9&query=Philippines%40ref&highlight=&querytype=bool&context=0>

International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. *Direct Request: Convention No. 87*. 2003.

<sup>149</sup> International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. *Individual Observation concerning Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1953) Philippines*. 2009.

<http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=10610&chapter=6&query=Philippines%40ref&highlight=&querytype=bool&context=0>

<sup>150</sup> International Labour Organization. *CEACR: Direct Request concerning Migrant Workers (Supplementary Provisions) Convention No 143. Submitted 2010* <http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=24919&chapter=9&query=Philippines%40ref&highlight=&querytype=bool&context=0> (accessed June 2010).

<sup>151</sup> The Department of Labor and Employment (DOLE) issued Department Order No. 40-03 (Series of 2003) entitled Amending the Implementing Rules of Book 5 of the Labor Code of the Philippines in February 2003.

<sup>152</sup> Government of the Republic of the Philippines. Department of Labor and Employment. "Philippine Department of Labor and Employment Responses to Verité Summary of Findings on the Philippines." January 2005. Unpublished.

<sup>153</sup> Government of the Republic of the Philippines. *Republic Act 9481*. [http://www.lawphil.net/statutes/repacts/ra2007/ra\\_9481\\_2007.html](http://www.lawphil.net/statutes/repacts/ra2007/ra_9481_2007.html)

<sup>154</sup> International Trade Union Confederation. *Annual Survey of Violations of Trade Union Rights 2008: Philippines*. <http://survey08.ituc-csi.org/survey.php?IDContinent=0&Lang=EN> (accessed April 2009).

<sup>155</sup> Government of the Republic of the Philippines. *Republic Act 9481*. [http://www.lawphil.net/statutes/repacts/ra2007/ra\\_9481\\_2007.html](http://www.lawphil.net/statutes/repacts/ra2007/ra_9481_2007.html)

<sup>156</sup> Government of the Republic of the Philippines. Supreme Court Decision. G.R. No. 160352, 23 July 2008. *Republic of the Philippines, by Department of Labor and Employment (DOLE), PETITIONER, vs. Kawashima Textile Mfg., Philippines, Inc., RESPONDENT*. <http://www.supremecourt.gov.ph/news/courtnews%20flash/2006/07/07130601.php>.

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<sup>157</sup> However, it should be noted that the minimum wage laws exempt employers with fewer than 10 employees – estimated at 80 percent of the country’s enterprises – from having to pay the legal minimum wage. In addition, the Labor Code enables employers to hire workers as apprentices and pay them only 75 percent of the legal minimum wage; and there is evidence that this provision is abused. While these legal provisions significantly weaken minimum wage protections, they do not qualify for a deduction under Verité’s scoring methodology.

<sup>158</sup> Government of the Republic of the Philippines. Department of Labor and Employment, Bureau of Labor and Employment Statistics. “Minimum Wage Rates by Sector and Region, Philippines: As of September 2009.” [www.bles.dole.gov.ph/Current%20Labor%20Statistics/oct09/Tab21.pdf](http://www.bles.dole.gov.ph/Current%20Labor%20Statistics/oct09/Tab21.pdf) (last accessed November 2009).

<sup>159</sup> Government of the Republic of the Philippines. Department of Labor and Employment, Bureau of Labor and Employment Statistics. “Minimum Wage Rates by Sector and Region, Philippines: As of September 2009.” [www.bles.dole.gov.ph/Current%20Labor%20Statistics/oct09/Tab21.pdf](http://www.bles.dole.gov.ph/Current%20Labor%20Statistics/oct09/Tab21.pdf) (last accessed November 2009).

U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. *Country Reports on Human Rights Practices 2009: Philippines*. March 2010. <http://www.state.gov/g/drl/rls/hrrpt/2009/100535.htm> (accessed June 2010)

<sup>160</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. *Country Reports on Human Rights Practices 2009: Philippines*. March 2010. <http://www.state.gov/g/drl/rls/hrrpt/2009/100535.htm> (accessed June 2010)

<sup>161</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. *Country Reports on Human Rights Practices 2009: Philippines*. March 2010. <http://www.state.gov/g/drl/rls/hrrpt/2009/100535.htm> (accessed June 2010).

<sup>162</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. *Country Reports on Human Rights Practices 2009: Philippines*. March 2010. <http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119054.htm> (accessed June 2010).

<sup>163</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. *Country Reports on Human Rights Practices 2009: Philippines*. March 2010. <http://www.state.gov/g/drl/rls/hrrpt/2009/100535.htm> (accessed June 2010)

<sup>164</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. *Country Reports on Human Rights Practices 2008: Philippines*. March 2009. <http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119054.htm> (accessed April 2009).

World Health Organization. Regional Office for the Western Pacific. *Philippines Country Report. 2007*. <http://www.wpro.who.int/NR/rdonlyres/26CC7FD5-E412-4C99-BA13-C24883B501B7/0/PHLcountryprofile.pdf>.

<sup>165</sup> Any boat, ship or other watercraft equipped to be used for taking of fishery species or aiding or assisting one (1) or more vessels in the performance of any activity relating to fishing, including, but not limited to, preservation, supply, storage, refrigeration, transportation and/or processing. (See Section 4 paragraph 41)

<sup>166</sup> Section 25, Republic Act 8550

<sup>167</sup> Republic Act 6727

<sup>168</sup> Article 94, Labor Code

<sup>169</sup> Article 93, Labor Code

<sup>170</sup> Article 87, Labor Code

<sup>171</sup> Article 86, Labor Code

<sup>172</sup> Article 95, Labor Code

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- <sup>173</sup> Article 279, 282 & 283, Labor Code
- <sup>174</sup> Article 283 & 284, Labor Code
- <sup>175</sup> Article 287 of Labor Code as amended by R.A. 7641
- <sup>176</sup> P.D. 851
- <sup>177</sup> Social Security Law (R.A. 8282)
- <sup>178</sup> Republic Act 8187
- <sup>179</sup> Presidential Decree 626
- <sup>180</sup> The taking of fishery species by passive or active gear for trade, business & profit beyond subsistence or sports fishing, to be further classified as: (1) Small scale commercial fishing - fishing with passive or active gear utilizing fishing vessels of 3.1 gross tons (GT) up to twenty (20) GT; (2) Medium scale commercial fishing - fishing utilizing active gears and vessels of 20.1 GT up to one hundred fifty (150) GT; and (3) Large commercial fishing - fishing utilizing active gears and vessels of more than one hundred fifty (150) GT. (See Section 4 paragraph 10 of RA 8550)
- <sup>181</sup> Section 26, Republic Act 8550
- <sup>182</sup> Section 32, Republic Act 8550.
- <sup>183</sup> Section 32, Republic Act 8550
- <sup>184</sup> Section 37, Republic Act 8550
- <sup>185</sup> Section 103, Republic Act 8550
- <sup>186</sup> Sec. 3(1), Republic Act 9379.
- <sup>187</sup> Section 4 (a), Department Order No.18-02.
- <sup>188</sup> Section 1, Department Order No. 18-02.
- <sup>189</sup> Any employer who puts out or farms out a job, service, or work to a contractor or subcontractor, whether or not the arrangement is covered by a written contract
- <sup>190</sup> Any person or entity engaged in contracting or subcontracting arrangement.
- <sup>191</sup> One employed by a contractor or subcontractor to perform or complete a job, work or service pursuant to an arrangement between the latter and a principal called “contracting” or “subcontracting”.
- <sup>192</sup> Section 5, Department Order no. 18-02.
- <sup>193</sup> Section 5, Department Order No. 18-02, Manila Water Co., Inc. vs. Pena, et al., G. R. No. 158255, July 8, 2004.
- <sup>194</sup> Manila Electric Company vs. Benamira, G. R. No. 145271, July 14, 2005
- <sup>195</sup> Republic Act 6938 as amended by Republic Act 9520.
- <sup>196</sup> Section 16, Republic Act 6938 as amended by Republic Act 9520.
- <sup>197</sup> Section 17, Republic Act 6938 as amended by Republic Act 9520.