

Slavery in marine fisheries

Despite being illegal, slavery still exists across the globe. In global marine fisheries enslavement can be found on vessels, in processing facilities and aquaculture settings and thus affects all parts of the sector's supply chain. Eradicating slavery requires a programmatic approach involving governments, civil society actors and businesses.

Overview

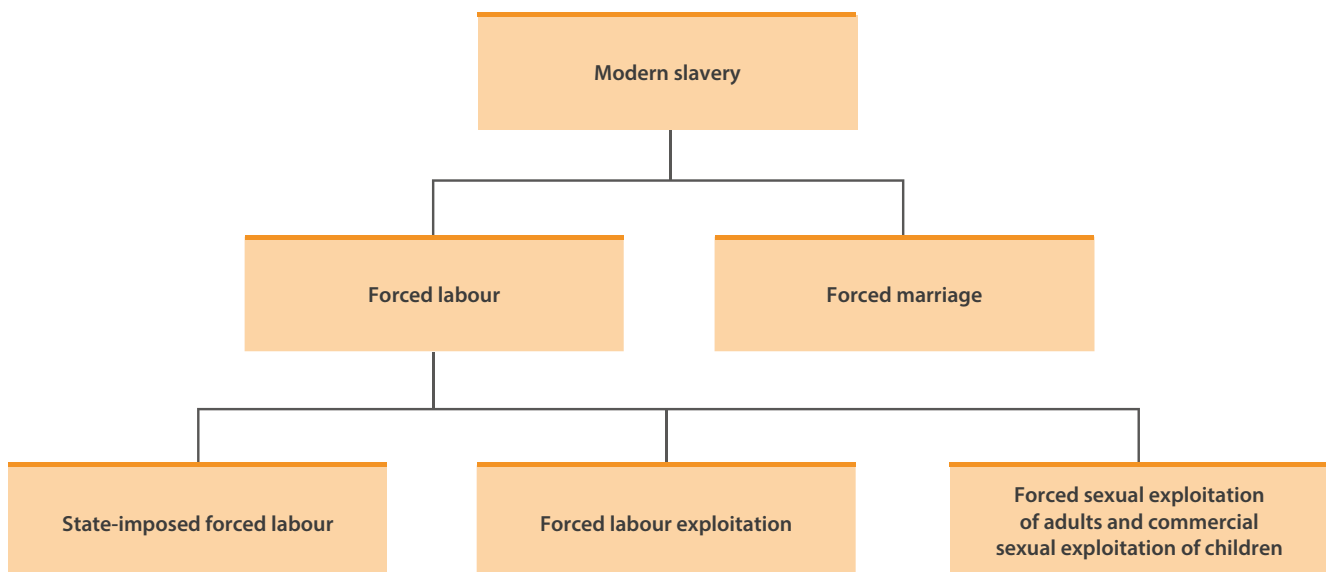
Slavery poses a conundrum to society and business because it is illegal and unjust while also being found in many global supply chains. This briefing describes what constitutes slavery, estimates of its incidence and what sustains enslavement. Focus then turns to marine fisheries supply chains proposed actions that might be taken to eliminate it.

The illegality of slavery in international law

While enslaving another human has been condemned morally for many centuries, eradicating slavery has accelerated in the last two centuries¹. First, chattel slavery, which is owning another person as property, was outlawed by the 1815 Declaration Relative to the Universal Abolition of the Slave Trade. This successful

declaration sought to influence countries to make slavery a crime².

Second, the illegality of slavery was reaffirmed in the 20th century in the wake of the First and Second World Wars. The Slavery Convention agreed by the League of Nations in 1926 acknowledged that despite chattel slavery becoming uncommon, slavery like restrictions of individual liberty still existed. The 1948 Universal Declaration of Human Rights and Palermo Protocol (which addresses issues arising from human trafficking) reinforced this position. Moreover, a variety of labour standards (such as the International Labour Organization's Convention 29, focusing on forced labour) are part of the transnational governance infrastructure.



Recognizing that slavery is a dynamic and persistent practice, we are entering the third phase of attempts to eliminate it. The terminology used presently is that of 'modern', 'new', or 'contemporary' slavery. While these phrases have no formal standing in international legal documents, these terms are often used in business discussions and the term 'modern slavery' will be used in this document.

Defining slavery

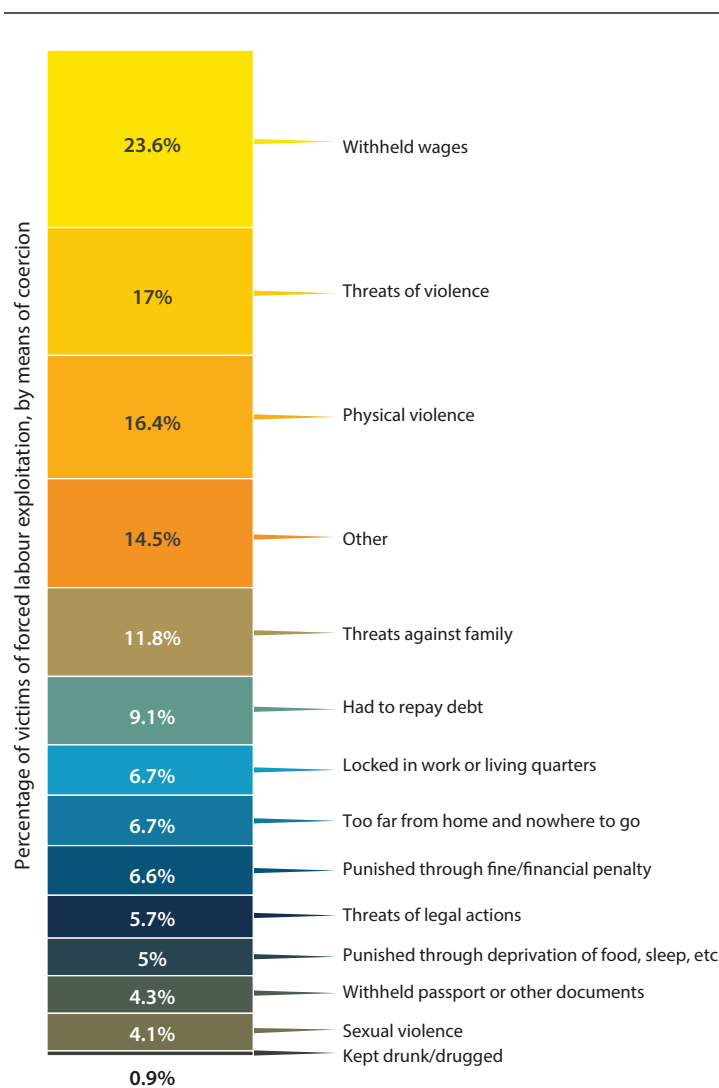
Slavery describes an array of practices, each of which has particular dynamics and remedies.

Slavery in the global marine fisheries industry is primarily present under the 'forced labour exploitation' category, where forced labour conditions are imposed by private agents. This sector also involves child labour and trafficking of people across national borders (as well as within countries) for enslavement⁴.

Enslavement is achieved and sustained by multiple means where withholding of wages is a frequent occurrence. Withholding wages also arises in the context of debt bondage. Debt bondage starts with the need for funds e.g. a family emergency. The funds are then exchanged for future labour and if the debt can be passed onto future generations of the same family it is called 'chronic bondage'. A debt can also be incurred where individuals are drawn into work, often remote from where they live and sometimes as a result of trafficking, which creates a debt that then has to be paid off. The creation of the debt may be known to the individual, e.g., through the payment of brokers fees or can be created through deception. Deception could be when the debt is unknowingly incurred in the process of obtaining work. This type of debt bondage has been observed in the marine fisheries industry where employment fees are commonplace and fishers often travel to obtain employment.

Debt bondage may become a slavery-like practice when: (i) the terms of the exchange create a trap of bondage when the debtor is unable to earn enough to repay the debt); (ii) if the value of the labour exchanged for debt repayment is very low. Often the accounting for this value is controlled by the creditor; (iii) where exorbitant charges are made for food and lodging. This may also be under the control of the creditor, making

MEANS OF COERCION



Means of enslavement. Source: International Labour Organisation, 2017, p36 [3].

it even less likely that the debt can be repaid; and (iv) if the process creates enslavement through control and violence (both threatened and executed).

Identifying a practice as slavery is not straightforward as there are degrees of freedom/unfreedom that "depending on their severity ... help determine whether the situation constitutes slave labour"⁵. Likewise, while advances for labour may signal the start of a process of bondage it might also create an incentive for employers to use workers and hence does not necessarily equal unfreedom. In addition, the way in which work is organized in particular industries will make it more/less likely that enslavement might be possible. The informal working environment for fishers is relevant in this case.

In summary, slavery arises where there is a loss of free will because another person exercises control over an individual, there is the appropriation of the labour of the person who is enslaved (or their actual body in the case of sexual exploitation and forced marriage) and the use of violence (or the threat of violence) is often present to

enforce the enslaved state. In these settings informed consent is unlikely to have been provided (and it may also be the case that those enslaved lack sufficient education to know what terms they are agreeing to). Finally, where consent is acquired through deception or fraud, then the individual cannot be said to have consented to the exchange.

Estimates of incidence

Estimates of modern slavery are produced by the International Labour Organization and the Global Slavery Index. 64% of the total forced labour category (equating to 15,975,000 individuals) is associated with private sector forced labour exploitation³.

Corporate responsibility for slavery

Prohibition of slavery has come from the human rights agenda, as articulated through inter-governmental agreements that require states to pass and enforce domestic laws to prevent enslavement. This means that companies are primarily responsible for human rights by virtue of domestic law.

Where a state lacks the ability to monitor and enforce human rights laws, a 'governance gap' emerges and this has resulted in an argument developing that companies (because they have the resources) should hold themselves to high standards of human rights performance regardless of a state's ability to effectively enforce its obligations⁶. The principle of holding one's self accountable for the impacts arising from operations has also extended to a responsibility for human rights abuses in an organization's supply chain. This position

underpins the United Nations Framework for Business and Human Rights (<https://business-humanrights.org/en/un-guiding-principles>) principles of 'protect, respect and remedy': that is, the State's duty is to protect, the corporate responsibility is to respect and both have a duty to remedy abuses.

More recently some countries have passed laws focusing on identification and eradication of slavery in supply chains of companies. These acts include the Californian Transparency in Supply Chains Act, 2010; United Kingdom Modern Slavery Act, 2015; French Corporate Duty of Vigilance Law, 2017; the Netherlands Child Labour Due Diligence Act, 2017; and a proposed Australian Global Supply Chains Reporting requirement. These acts require companies headquartered in these countries to report on their global impacts⁷. The presumption of acts of this sort is that a requirement to provide information may prompt companies to seek to address modern slavery incidence as well.

Further, laws and processes aimed at addressing employment standards also contribute to addressing modern slavery (these two approaches have distinctive aspects as well as commonalities⁸). The value of a labour rights framing is that it is concerned with employment standards in general and views slavery as the most severe form of exploitation but one that can be addressed within the employment relationship. In particular, with a labour rights focus slavery is not seen as an exceptional aberration that individuals have to be 'saved' from but as a condition that can be resolved through individual and collective worker agency alongside corporate and government action.

MODERN SLAVERY: GLOBAL RESULTS

Number and prevalence of persons in modern slavery, by category, sex and age

		Total forced labour	Forced marriage	Modern slavery	
WORLD	No. (thousands)	24 850	15 442	40 293	
	Prevalence (per thousand)	3.4	2.1	5.4	
REGION	Africa	No. (thousands)	3 420	5 820	9 240
		Prevalence (per thousand)	2.8	4.8	7.6
	Americas	No. (thousands)	1 280	670	1 950
		Prevalence (per thousand)	1.3	0.7	1.9
	Arab States	No. (thousands)	350	170	520
		Prevalence (per thousand)	2.2	1.1	3.3
	Asia and the Pacific	No. (thousands)	16 550	8 440	24 990
		Prevalence (per thousand)	4.0	2.0	6.1
	Europe and Central Asia	No. (thousands)	3 250	340	3 590
		Prevalence (per thousand)	3.6	0.4	3.9

Incidence of modern slavery by region. Source: International Labour Organisation, 2017, p. 19 [3].

The anatomy of modern slavery

Enabling factors for slavery

There are a number of factors ^{5,9} associated with the emergence and persistence of slavery, including:

Economic insecurity: where individuals lack livelihood options it becomes more likely that they may be involved in risky employment contexts where slavery might exist. This is borne out by the fact that both legal and illegal migrants are more likely to be enslaved. In addition, migrants often have fewer recognized rights than citizens and may avoid seeking help if they are illegal immigrants/have been trafficked, lack social connections that protect against exploitation and little means to return 'home' for any such protection; and, are more likely to be living and working in the same place, thereby creating a dependency on their employer that may lead to/reinforce debt bondage.

Governance weaknesses: detection and elimination of slavery requires labour and human rights governance frameworks to be fully operational. Issues, therefore, arise where there are poor institutional/governance capacities, when inspection regimes are weak and where penalties for offences are small relative to the economic gains from enslavement.

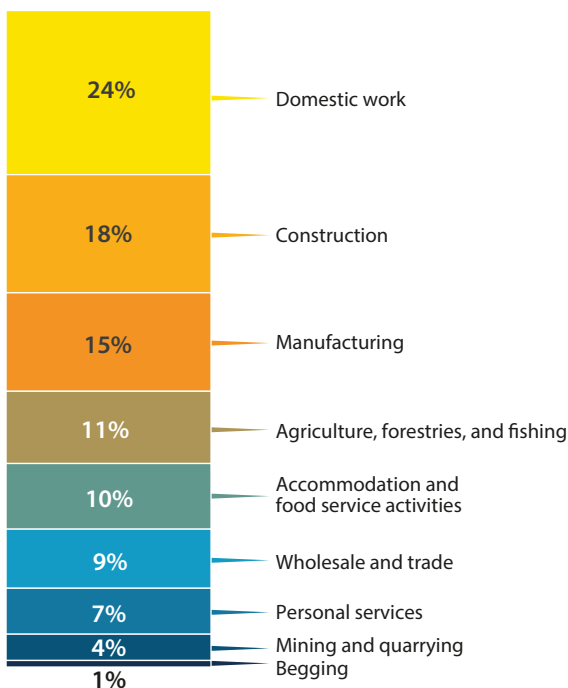
Corruption: given that slavery is illegal in domestic and international law, some level of corruption is usually necessary for it to be sustained, for example, through the payment of bribes to state officials to ignore enslavement. Moreover, it has been observed that slavery is often also associated with other criminal activities such as people, drugs and arms smuggling and, in marine fisheries it sometimes appears to coincide with illegal, unregulated and unreported (IUU) fishing.

Industry sector characteristics: the way in which work is organized makes enslavement more or less likely. In particular, factors that are associated with slavery include: a relatively unorganized sector, requiring employment brokers and impeding the formation of labour unions, unskilled labour requirements, which also reduces working agency, and labour practices that rely on the use of casual labour and flexible employment relations.

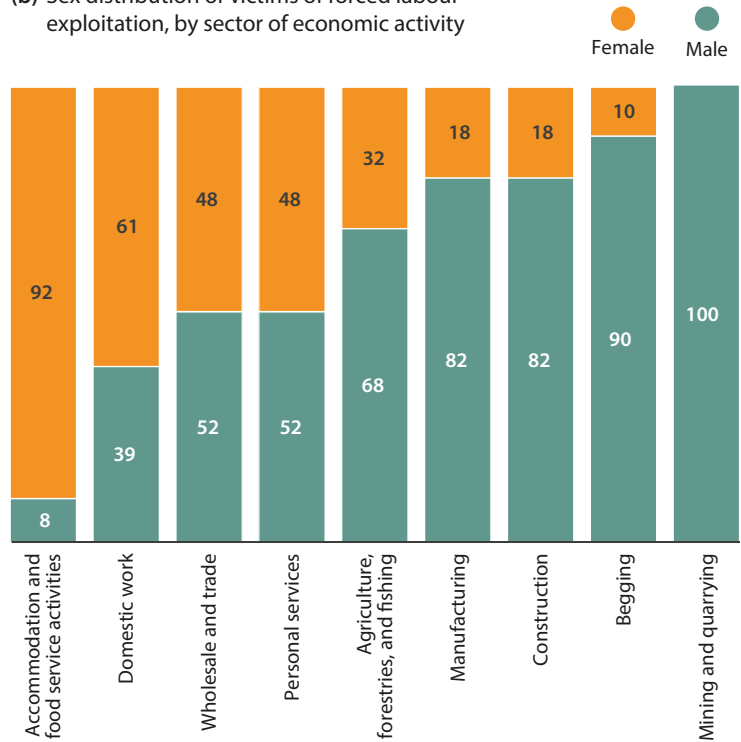
Other financial aspects: enslaved individuals may be 'unbanked', that is, they have no means of retaining wages in a secure location or of remitting funds to their dependents in their home countries. While it might be assumed that no payment is made to enslaved individuals, this is not always the case. For example, as part of the process of ensuring ongoing enslavement,

SECTOR OF FORCED LABOUR EXPLOITATION

(a) Sectoral distribution of victims of forced labour exploitation



(b) Sex distribution of victims of forced labour exploitation, by sector of economic activity



Forced labour exploitation by sector. This figure breaks down the estimate of private forced labour exploitation by sector with agriculture, forestry and fishing accounting for some 11% of the total (equating to 1,750,000 people - there is no further breakdown of incidence). It is also apparent that there is a male gender profile in this category of enslavement. Source: International Labour Organisation, 2017, p.32 [3].

payments are sometimes made as a way to keep individuals in the employment relationship. Likewise, employers sometimes hold 'wages' earned on the promise of future payment which are then forfeited should an individual leave the employment relationship (that is, 'credit bondage').

Eradication strategies

Outlawing slavery is insufficient for its eradication and interventions are required on many fronts^{10, 11}.

Actions at the state level include:

1. Any initiatives/actions/capability enhancements that provide protection against enslavement are likely to support its eradication. For example, being educated and having viable economic alternatives will strengthen individuals' ability to avoid being enslaved. Likewise well-functioning workers organisations should reduce the incidence of slavery
2. Addressing corruption is likely to support the eradication of slavery and the presence of sound governance provides protection against slavery-like practices
3. Enslavement is a profitable course of action and hence any interventions that reduce its profitability such as increased probability of detection and/or penalties if detected, will reduce the incidence of slavery-like practices
4. Addressing the nature of employment practices in an industry may help reduce slavery practices, such as organizations having a more direct economic relationship with those undertaking work (as opposed to sub-contracting arrangements)
5. Support for those seeking to escape and remain free from enslavement is also necessary, especially if they continue to have vulnerabilities to exploitation (one element of which is having already been exploited).

At the company level, due diligence reviews to identify and eliminate modern slavery in direct operations and supply chains are often used (supported by corporate policies, staff training, resourcing due diligence and reporting processes). There are a number of issues arising for organizations attempting to do this, namely:

1. Those undertaking slavery are likely to deny and hide such practices making a 'checklist' approach ineffective^{12, 13}. Some aspects of slavery are also linked to transnational crime and hence detection of illegal practices will be difficult
2. Products that have involved slave labour are indistinguishable from non-slavery produced

commodities (slavery is often found in commodity-based industries) making traceability of goods/resources an essential element of addressing slavery

3. The nature of globalized supply chains is such that they may contribute to the pressures that result in modern slavery, such as driving the price of commodities down. In addition, layers of sub-contracting also make detection of slavery harder. Therefore, addressing slavery may be associated with developing new business relationships
4. The development of new approaches to auditing that are capable of detecting slavery in supply chains¹⁴. For example, using remote sensing and other forms of surveillance (using a risk based approach) to inform supply chain decisions may be required.

Global marine fisheries context and issues

All forms of slavery could be relevant in the context of global marine fisheries^{15, 16, 17}. Likely locations of slavery in the seafood industry include:

On fishing vessels: identifying enslavement on vessels is hard given they can remain at sea for extended periods of time. Interactions with regulators, however, happen at sea, including fisheries control vessels, when vessels come into ports, and via working recruitment processes and fishers' registration. Work on vessels shares many of the characteristics that arise in other slavery contexts, including workers living and working in the same location and the high incidence of migrant labour in some fisheries.

In aquaculture settings: given these activities take place in coastal waters they will be subject to domestic regulation and any slavery may be more readily observable. Different countries will have different employment laws; health and safety regulations; requirements regarding worker recruitment and registration and how workers are paid. Countries vary substantially in their capacities to monitor and enforce laws.

In fish processing facilities: which may share similarities with both fishing and aquaculture, depending on the location of the activities.

Remedies for addressing modern slavery in the context of global marine fisheries include¹⁸:

1. Selected bans of transshipment. Transshipment enables more efficient fishing operations but might also increase the possibility that slavery goes undetected. Transshipment of fishers has been identified as an indicator of enslavement.
2. Changing recruitment practices: employment brokers play a valuable role in linking workers

to vessels but can also be the means by which enslavement is initiated. A common practice is for a worker to pay employment brokers for their services, which are often pledged from their future earnings. This may create an enabling environment for debt bondage. The principle of 'employer pays' for brokers fees is an example of attempting to address this potential for enslavement.

3. Developing more robust payments methods: at the heart of slavery is the failure to make appropriate payments for work. A less direct method for detecting slavery, therefore, is the tracing of wage payments to ensure that these are of the quantity that one would expect given the vessel in question. Moreover, making these payments secure in terms of being paid directly to a bank account that only the individual can access would be further proof that slavery is not present.
4. Tackling corruption and promoting good governance: governance regimes that seek to address other crimes in seafood production will help detect slavery. Particular flag states may be more able to support good labour practices on board vessels and prioritizing supply relationships with vessels flagged to particular states may be desirable.
5. Developing new relationships: modern slavery arises in complex supply chains that are often beyond the direct control and influence of the ultimate purchaser of fish. Changing the nature of relationships in the supply chain offers possibilities for addressing modern slavery but only if enacted in conjunction with other means: paying more for fish products in a system that contains slavery merely makes the returns from enslavement larger.
6. Monitoring using novel technologies: fishing activities 'out of sight' may contribute to enslavement. Activities that increases the transparency of at sea activities or in processing locations are useful and might include technologies such as cameras on deck.
7. Restricting areas of operation: in order to mitigate risks, a partial or full withdrawal of operations from certain regions might be justified. Examples of this include not fishing in areas where the risk of IUU fishing and modern slavery is high and/or unknown.

Summary

This briefing provides an outline of the nature of modern slavery and how it is sustained. Many factors contribute to enabling enslavement, including unequal economic development, lack of regulations and enforcement, and industry structures including the prevalence of sub-contracting and the unskilled nature of the work. Other practices, such as wage payments including an element of profit share of a catch make the calculation of wages indeterminate and under the control of actors who are more powerful than the workers, including captains on vessels. The invisibility of this workplace creates further vulnerabilities for fishers.

References

1. Siller, N. (2016) 'Modern Slavery': Does International Law Distinguish between Slavery, Enslavement and Trafficking? *Journal of International Criminal Justice*, 14 (2), pp. 405-427.
 2. Bales, K., Robbins, P. (2001) "No One Shall Be Held in Slavery or Servitude": A Critical Analysis of International Slavery Agreements and Concepts of Slavery. *Human Rights Review*, January-March, pp. 18-45.
 3. International Labour Organization. (2017) *Global Estimates of Modern Slavery*. (ILO: Geneva).
 4. Mendoza, M., McDowell, R., Mason, M., Htusan, E. (2016) *Fisherman slaves: Human Trafficking and the Seafood We Eat* (Associated Press: Washington).
 5. McGrath, S. (2013) Many Chains to Break: The Multi-dimensional Concept of Slave Labour in Brazil. *Antipode*, 45(4), pp. 1005-1028
 6. Ruggie, J. (2008). Protect, Respect and Remedy: A Framework for Business and Human Rights. *Innovations*, Spring, pp. 189-212.
 7. Craig, G. (2017) The UK's Modern Slavery Legislation: An Early Assessment of Progress. *Social Inclusion*, 5(2), pp. 16-27.
 8. Shamir, H. (2012) A Labour Paradigm for Huam Trafficking. *University of California LA Law Review*, 60, pp. 76-136.
 9. Lerche, J. (2007) A Global Alliance against Forced Labour? Unfree Labour, Neo-Liberal Globalization and the International Labour Organization. *Journal of Agrarian Change*, 7(4), pp. 425-452.
 10. Greer, B., Purvis, J. (2016) Corporate supply chain transparency: California's seminal attempt to discourage forced labour. *The International Journal of Human Rights*, 20(1), pp. 55-77.
 11. McGrath, A., Mieres, F. (2017) *Four Principles for Addressing Trafficking, Forced Labour and/or Slavery (TFLS) in Supply Chains*. European Policy Brief: DemandAT project.
 12. Gold, S., Trautrim, A., Trodd, Z. (2015) Modern slavery challenges to supply chain management. *Supply Chain Management: An International Journal*, 20(5), pp. 485-494.
 13. New, S. (2015) Modern slavery and the supply chain: the limits of corporate social responsibility? *Supply Chain Management: An International Journal*, 20(6), pp. 697-717.
 14. Gale, F., Ascui, F., Lovell, H. (2017) Sensing Reality? New Monitoring Technologies for Global Sustainability Standards. *Global Environmental Politics*, 17(2), pp. 65-83.
 15. Chatantavanich, S., Laodumrongchai, S. and Stringer, C. (2016) Under the shadow: forced labour among sea fisher in Thailand. *Marine Policy*, 68(1), pp. 1-7.
 16. Kittinger, J., Teh, L., Allison, E., Bennett, N., Crowder, L., Finkbeiner, E., Hicks, C., Scarton, C., Nakamura, K., Ota, Y., Young, J., Alifano, A., Apel, A., Arbib, A., Bishop, L., Boyle, M., Cisneros-Montemayor, A., Hunter, P., Le Cornu, E., Levine, M., Jones, R., Koehn, J., Marschke, M., Mason, J., Micheli, F., McClenachan, L., Opal, C., Peacey, J., Peckham, S., Schemmel, E., Solis-Rivera, V., Swartz, W., Wilhelm, T. (2017) Committing to socially responsible seafood. *Science* 356, 912-913.
 17. Marschke, M., Vandergeest, P. (2016) Slavery scandals: Unpacking labour challenges and policy responses within the off-shore fisheries sector. *Marine Policy*, 68(1), pp. 39-46.
 18. International Labour Organization. (2016) *Fishers first: Good Practices to End Labour Exploitation at Sea*. (ILO: Geneva).
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