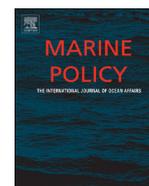




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New Zealand's fisheries management system: Forced labour an ignored or overlooked dimension?



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ABSTRACT

New Zealand's fisheries management system is regarded by many as world leading promoting innovation and economic efficiency. However, success claims have excluded the labour dimension. The fisheries management system has long encouraged and facilitated the use of low-cost foreign charter vessels using migrant crew, to extract the maximum value from fisheries. Migrant crew members have been exploited for over three decades aboard many of these vessels. In May 2011, Indonesian crew from the South Korean fishing vessel *Shin Ji*, fled their employer citing abuse by their Korean officers along with the non-payment of wages. This paper is a case study about the *Shin Ji* crew in which the International Labour Organisation Indicators of Forced Labour are applied to interviews undertaken with the crew. Analysis of interviews and corroborating data reveals the crew came to New Zealand with the expectation of first world conditions and pay, but instead were subjected to forced labour. This paper adds the labour dimension into the debate surrounding New Zealand's fishery management system.

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1. Introduction

*'We are slaves because normal employees have a voice, but we do not...didn't expect this when we signed the contract, but once on the boat in New Zealand we are trapped...we were trapped into modern slavery.'*¹

New Zealand is widely regarded as having a comprehensive and sophisticated fisheries management system [1]. Based on a competitive market-based approach, it is underpinned by individual transferable quotas (ITQs) in order to provide certainty of returns and incentives for economic and social efficiency, thus encouraging maximum value to be sustainably extracted from fishery resources. It also enables 'fishers to efficiently manage their own affairs' [2], encouraging investment, innovation, and rationalisation leading to more productive capital and labour [3]. A key economic objective of the system is the minimisation of harvesting costs, particularly costs associated with capital and labour. In the years preceding its introduction the industry was in a state of crisis [4]. Many operators were losing money, and could not afford much needed maintenance or to pay decent wages. Shortly after being established the system was described as a promising innovation to revolutionise fisheries management [2] which would lead to

improved catch monitoring, resource management and productivity [5].

Since this early analysis a number of reports have confirmed the success of the fisheries management system e.g. [6,7–11]. Annala [7] noted that 'there has been increased industry responsibility in the conduct of their fishing operations', while Pearse [11] found economic performance had much improved. Bess [8] confirmed seafood businesses had gained a competitive advantage through 'substantial capital investments in world-class fishing vessels ...and processing facilities.' Others, however, e.g. [12,13–16] argued that success claims were unproven. In a corrective to the 'success rhetoric' Rees [14] found that it is 'fallacious' to suggest that the fisheries management system had improved socio-economic performance due to its impact on small independent fishermen, fishing communities, or its long term impact on the industry because of the reduced skill base following rationalisation.

New Zealand companies first began using foreign charter fishing vessels (FCVs) in the late 1970s and their use was further encouraged and facilitated by the government's neo-liberal reforms, introduced in the mid-1980s [17]. Initially, FCVs were seen as a way for the industry to develop New Zealand's exclusive economic zone with 'an influx of new ideas, different technologies and ways of fishing' [14]. Operators argued that FCVs are the most efficient and flexible method of maximising economic returns [18]. In the 2011 there were 27 FCVs, harvesting about 40 per cent of New Zealand's total allowable commercial catch [19]. Of these 13 were South Korean flagged, manned by migrant Asian workers. The majority of the South Korean FCVs were older vessels that had

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operated in New Zealand's waters for more than two decades and significantly had not advanced the industry technologically [20,21].

Exploitative labour conditions are often associated with illegal, unregulated and unreported (IUU) fishing vessels and unregulated fisheries, and not a feature of well managed fisheries, such as those in Canada, Iceland and New Zealand. Yet, despite New Zealand's fisheries management system being recognised internationally as world leading [1,22,23], there have been significant problems aboard many FCVs fishing legally in New Zealand waters. In fact, the exploitation of foreign fishing crew has been a feature of the New Zealand deep sea fishing industry for over three decades [24]. In the 1990s exploitative labour practices aboard FCVs were being debated in Parliament. One Member stated: 'we have closed our eyes at home...to those abuses occurring under our noses...we cannot have a commercial fishing industry develop on the backs of Third World exploited labour' [25]. While another Member pointed out 'that some of the quota holders refuse to pay New Zealand wages...they bring in joint-venture vessels, pay the crews \$1 a day, then reap a reward through what we would call unfair labour practices' [26]. Claims of human rights abuses, modern day slavery and appalling conditions continued to surface in Parliament over the next two decades [27–29]. Despite the government undertaking a range of initiatives to improve conditions aboard FCVs, problems remained.

In May 2011, Indonesian crew from the chartered South Korean fishing vessel *Shin Ji*² refused to work citing over-work and abuse by their Korean officers along with the non-payment of wages. They were followed by migrant crew from other South Korean vessels [24,30,31] resulting in a wave of publicity and a public outcry about the exploitation of migrant fishing crew in New Zealand [32–35]. This led to the authors interviewing around 300 people, including foreign crew members, observers and industry personnel. The foreign crew had worked on 13 FCVs fishing in New Zealand waters. The majority were serving crew, but some had returned home to Asia, while others were deserters and hiding from authorities. This paper is a case study of the forced labour practices towards the crew of one FCV, the *Shin Ji*. The case highlights the use of exploitative labour practices to minimise harvesting costs in the pursuit of economic efficiency. It outlines the recruitment, vulnerability, and exploitation of the *Shin Ji* crew in New Zealand and their eventual return home after being threatened with deportation.

The paper proceeds as follows. Section Two discusses the methodology and introduces the International Labour Organisation (ILO) Indicators of Forced Labour. Section Three provides additional background information on the regulatory environment in New Zealand and the introduction of a non-binding Code of Practice. Empirical evidence of deceptive and coercive labour practices based on the ILO Indicators of Forced Labour are discussed in Section Four. Section Five discusses the findings and concluding thoughts about New Zealand's market-based fisheries management system which has perversely effectuated economic efficiency.

2. Research framework

Forced labour is a gross violation of human rights and according to the ILO 'almost all cases of human trafficking result in forced labour' [36]. The ILO Forced Labour Convention 1930 (No. 29) defines forced labour as 'all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntary' [37]. This includes all

types of work, whether legal or not. 'Menace of penalty' encompasses the loss of any right or privilege, or imposition of any sanction through coercion. Even if a person has voluntarily entered into an employment relationship, their 'free and informed consent is negated by deception or coercion of the employer or recruiter' [38]. Eleven Indicators of Forced Labour have been identified by the ILO's Special Action Programme to Combat Forced Labour (SAP-FL) [37]. These are listed in Table 1. While the presence of one indicator may be indicative of forced labour, in the majority of cases forced labour occurs where there are several indicators.

Semi-structured interviews in New Zealand and Indonesia were undertaken with twelve crew members who worked on the *Shin Ji* between 2009 and 2011. Access to the crew was initially gained through the Indonesian Society in New Zealand. Interviews were conducted using Indonesian translators and lasted between one to four hours with follow up interviews undertaken. Semi-structured interviews were also undertaken with industry personnel and New Zealanders involved with the crew. In order to verify interview data individual pay slips, crew bank statements, and photographs of working and living conditions were obtained. The crew also provided recordings of their conversations with their employer and agents. Additionally, information pertaining to Ministerial communication was obtained under the Official Information Act 1982.

3. Setting the scene

In 2006 a non-binding Code of Practice on Foreign Fishing Crews and a new immigration policy for the issuing of crew work visas was introduced following increased desertions and continual reports of abuse aboard some FCVs. Authored by the Department of Labour, the Seafood Industry Council and the New Zealand Fishing Industry Guild, the purpose of the Code of Practice was to ensure 'the highest level of compliance in relation to both immigration requirements and applicable laws of New Zealand' [39]. The Code outlined that crew must receive decent treatment and that the New Zealand companies undertook to monitor this. It also outlined that the crew must be paid fair pay³ meaning the wages paid to crew should be reflective of local New Zealand rates, but in no case should wages (inclusive of deductions) fall below the rates governed by the Minimum Wage Act 1983. Beginning 1 January 2009, crew were entitled to be paid the minimum hourly rate of \$NZ12.50 an hour (\$US7.50)⁴ plus an additional \$NZ2.00 an hour (\$US1.20). But, the provisions of the Employment Relations Act 2000, the Holidays Act 2003 and the Health and Safety in Employment Act 1992 did not apply to FCVs. Thus, the Code of Practice only reflected the Minimum Wages Act 1983 and the Wages Protection Act 1983. In other words, the normal protections inherent in New Zealand's domestic suite of labour legislation were not (and continue not to be) available to the crew of FCV vessels as they are beyond the reach of the Code [20,21]. Furthermore, the preamble to the Code of Practice stated that fishing industry participants did not agree to the minimum wage requirements.

4. The trajectory to forced labour

4.1. Recruitment

The majority of the crew came from the Tegal region in Central Java, one of the most impoverished areas of Indonesia. This is a

³ 'Letter from Minister of Immigration to the CEO of the Seafood Industry Council': released under Official Information Act request, 20 October 2009.

⁴ \$US amounts calculated at historical exchange rates according to Oanda Corporation.

² The *Shin Ji* was chartered by Tu'ere Fishing Limited a New Zealand company.

Table 1
ILO Indicators of Forced Labour.

Abuse of vulnerability	<ul style="list-style-type: none"> ● An employer taking advantage of a worker's vulnerable situation (e.g. has few employment options, lacks knowledge of local language or laws, or belongs to a minority ethnic group that sets the worker apart from the local population). Forced labour is very likely in multiple dependency situations, where the worker depends on their employer for the job, housing, food, and payment of wages to the family.
Deception	<ul style="list-style-type: none"> ● False promises regarding type of work, hours of work, wages, housing and living conditions resulting in a worker being trapped in abusive conditions.
Restriction of movement	<ul style="list-style-type: none"> ● Not permitted to freely leave the vessel when in port or movement within the vessel restricted (e.g. denied access to the deck, galley, showers, and toilets).
Isolation	<ul style="list-style-type: none"> ● Isolated in remote locations, contact with outsiders prohibited or restricted.
Physical and sexual violence	<ul style="list-style-type: none"> ● The ILO stresses that 'as violence is not acceptable as a disciplinary measure under any circumstances, it is a strong indicator of forced labour'.
Intimidation and threats	<ul style="list-style-type: none"> ● Verbal abuse to coerce workers to undertake tasks they prefer not to do. Threatened with the loss of wages, calling in of employment securities, and other financial penalties after complaining about conditions or wanting to quit.
Retention of identity documents	<ul style="list-style-type: none"> ● Being unable to freely access own passports and seaman's book, retained by the employer or agent.
Withholding of wages	<ul style="list-style-type: none"> ● Deliberate and systematic withholding of wages to compel a worker to continue working.
Debt bondage	<ul style="list-style-type: none"> ● Debt to the employer or recruiter arising from loans to cover recruitment costs, condition precedent recruitment fees and securities, or potential debts from breach of contract penalties. Inflated or improper charges for transport, food and safety clothing making it difficult for a worker to pay-off their debt.
Abusive working and living conditions	<ul style="list-style-type: none"> ● Abusive living and working conditions that a worker would not freely accept, including a lack of protective gear for hazardous work, degrading work involving the provision of sexual services, corporal punishment, and inhumane living conditions.
Excess overtime	<ul style="list-style-type: none"> ● Forced to work more hours than is permitted under local laws. Denied days off, sick days and holidays, and being on call 24 hours a day, 7 days a week.

region characterised by high unemployment with a large percentage of people living under the poverty line (approx. \$US75 per month). Hence, an offer of \$US200–500 per month to work on a fishing vessel in New Zealand was attractive. Crew were recruited through family contacts and other crew, through recruiting brokers, or directly by manning (recruitment) agents who advertise in local newspapers. 'We know the agent usually through friends or family and even though [the contact person] was not satisfied with the agent, have no choice as we are jobless, we can't find a job and have to be independent to help our parents, so our last choice is to work for the agent'.⁵

Crew had to provide condition precedent guarantees and securities to the manning agency and several were required to pay a cash bond of up to \$US300. They were also required to hand over birth certificates, family identity documents, and education certificates; hence the agent effectively 'takes my family's, and my, identity'.⁶ Birth, education and family identity documents are difficult and costly to replace and in some instances, education courses would have to be retaken if the manning agent did not return the documents. A manning agent told one crew member 'if you didn't give these things for the guarantee we won't transfer money to your wife'.⁷ On signing their contract with the manning agent, crew agreed 'to be completely submissive and obedient to the rule established by The First Party [manning agent]'.⁸ The crew were flown to New Zealand with the cost, albeit at an inflated level, deducted from future wages.

4.2. Exploitation aboard the *Shin Ji*

The May 2011 walkout was not the first recorded incident of problems aboard the *Shin Ji*. The vessel first arrived in New Zealand in 2009 and a few months later, eleven Indonesian crew fled the vessel handing themselves into the Police. They spent the night as vagrants in the custody of the Auckland Police and the next day, Maritime Union officials transferred the crew to the Auckland International Seafarers Centre. The men resolutely refused to return to their vessel alleging ill-treatment by its Korean

officers – weekly salt water showers, no hot water and no pay for four months' [40]. International Transport Federation Inspector, Grahame McLaren negotiated with the New Zealand charter agent on behalf of the crew and in total the crew received \$NZ52,775 (\$US34,130)⁹ in wages and were repatriated to Indonesia. Terry Nobbs of the Seafarers Centre was firmly of the opinion that the New Zealand agent was more anxious about getting the *Shin Ji* back to sea than concerned about the welfare of the crew [40].

Two years later, in May 2011 other *Shin Ji* crew members refused to work despite being threatened that they 'will be sent home and not get paid'.¹⁰ As with the earlier crew members, they cited abusive working and living conditions, the non-payment of wages, excessive working shifts, as well as sexual abuse. Earlier that year, the Bosun drowned while clearing a blockage in an eel tank aboard the vessel¹¹ and half of the crew traumatised by his death returned home after breaking their contracts. The remaining seven crew, were required to do the work of fourteen. They repeatedly asked for more help and by May the situation had reached breaking point. Early one morning the captain woke the senior oiler – who was forced to illegally work as the Chief Engineer – demanding he turn on the generator. The oiler refused and was abused by the captain. He recalled telling the captain 'I'm not the chief engineer and have no qualifications; it's illegal if I do it and I don't want the responsibility to do it anymore'.¹²

Another recounted that the captain:

Told me to repair the engines starting at 7 a.m. I worked all day fixing the engines and was very tired so while having dinner at about 7 p.m. the captain called me to go back to work. I said wait a minute to finish eating and he went crazy swearing and insulting me, calling me all the worst names dog, monkey, pig... I cannot take it anymore.¹³

Crew members were forced to work long shifts. Sixteen hour days and shifts up to thirty hours in length were common. One crew member reported during the 'last 21 months I never had a

⁹ Currency converted at historical exchange rates according to Oanda Corporation.

¹⁰ Interviewee 5.

¹¹ Interviewee 13.

¹² See footnote 10.

¹³ See footnote 6.

⁵ Interviewee 1.

⁶ Interviewee 7.

⁷ See footnote 6.

⁸ English translation of an Indonesian contract.

day off, only time off at night after work finished, we often work from 6 a.m. to 2 a.m. or 4 a.m. the next day, or from 4 a.m. to 10 p.m. at night, some of us cannot stay awake for so long, so we work until we fall asleep'.¹⁴ Crew often took stimulants to stay awake and fatigue resulted in a number of injuries. One crew member was knocked unconscious by faulty equipment while another two were required to work after sustaining serious injuries. They were not allowed to see a doctor and were detained, allegedly unlawfully, below deck when in port so that New Zealanders would not see their injuries. Yet another was seriously injured by the line hauler. The cook stitched his head wound up and after the captain finished abusing him, was ordered back to work. One with a severe toothache was refused permission to see a dentist. Another, in severe pain from a very swollen leg disobeyed the captain's orders and asked the New Zealand agent to take him to hospital.

Crew members were also required to sign blank or fictitious timesheets:

Yes we sign timesheets, but sometimes no hours are written or only a few hours. Normally we work 16–20 hours every day... We have no choice but to accept whatever is written on the timesheets if we don't sign we won't get paid...It's pressure and force by the Koreans and the agent back home.¹⁵

Wage fraud was evident. One member crew found a Department of Labour Factsheet which sets out their rights including minimum pay entitlements:

I found this document for the first time on February 2011 underneath my friend's mattress who went back to Indonesia. After I read the document, I realized that I should get paid minimum wages, following New Zealand rules. Before, I did not know because no one ever told me about this.¹⁶

Another commented that even if they had known about the Factsheet it would not have made any difference as the 'Captain doesn't care and we don't want to create a problem'.¹⁷ Under the Code of Practice, the Factsheet must be provided by the employer or their New Zealand agent to each crew member after arriving in New Zealand.

Crew bank statements were obtained and analysis was carried out of the wages paid to one crew member, Aashir.¹⁸ He worked on the *Shin Ji* for almost two years and Aashir's salary according to his Indonesian contract, was \$US100 per month. Aashir's bank statements showed that his family received his first salary payment of IDR500,000 (\$US50) in 2009 from the Indonesian manning agent. This was followed by three payments of IDR500,000 during the next three months. All four payments should have been IDR1,000,000 (\$US100) each but half of the money was kept by the manning agent as their fee. The payment of employment fees by crew to manning agents is expressly prohibited by New Zealand immigration policy.¹⁹ From 2010 the full IDR1,000,000 monthly salary was paid. In total, Aashir received IDR20,000,000 (approx. \$US2,000)²⁰ for the time he spent working on the vessel. He also received cash advances amounting to \$NZ2,840 (\$US2,056)²¹ from the vessel Captain. Aashir's total income for 93 weeks was

approximately \$US4,056 – about \$US43.61 per week, or \$US0.35 cents per hour (the minimum wage was \$US10.20 an hour). Aashir twice borrowed money from the manning agent for his family to pay mounting expenses.

Work and living conditions on the *Shin Ji* were described by crew members and New Zealand informants as inhumane. Food was inadequate in quality and quantity and usually half way through a voyage food was rationed. Meals included stale bread and rotting fish bait, from which crew selected the best pieces of bait to eat. They were 'not allowed to cook or take any food from the pantry'.²² The pantry was locked. Often crew were verbally abused for taking too long to eat a meal and sometimes had to forego a meal. There was also a lack of proper protective clothing, especially boots and gloves for use in the –18° freezer hold. Crew commonly received frostbite and freezer burns to feet, legs and hands, resulting in walking impediments. They asked the captain for better boots and gloves, but their requests were ignored. Mistakes often led to one officer hitting crew around the head, and harsh punishments: 'One of the crew make a mistake and we were all woken up in the morning, and in our pyjamas were ordered to go and stand in the freezer'.²³ There were also incidents of sexual abuse. One captain would:

Ask us one by one to give him a massage for one hour each, but we refused and he got very angry abusing us...we feel very pressured to do it and scared to resist. Every day captain wants massage for hours until after he falls asleep. If it's my turn to go on watch, it's also my turn to massage him...feel very unhappy but no choice.²⁴

Inhumane work and living conditions went hand in hand with other illegal activities. Crew were required to discharge bilge oil at night and 'we are supposed to burn the rubbish, but we are ordered to throw it into the sea'.²⁵ Crew were also ordered to high-grade; 'if the fish are too big or too small we will throw them back, depending on the area. If in the small fish area we dump about 70 per cent and if in the other area we throw back about 10–15 per cent of the catch'.²⁶ Fish that they did not have quota for was particularly dumped.

4.3. Industrial action

Two days after the crew members walked off their vessels and refused to work they were moved to a motel. Their New Zealand employer left them with a scant two days' worth of basic sustenance – mostly instant noodles and eggs. During the next ten days, he contacted them a number of times urging them to return to work, but after they refused he would tell them to prepare to leave for the airport however no one turned up. Their families were intimidated to pressure the crew members to return to work: 'Agents in Indonesia contacted my family at home; my mom was shaking and crying'.²⁷ Thirteen days after being moved to the motel, their employer finally arrived and urged the *Shin Ji* crew to leave New Zealand. Following legal advice they refused to leave and after being threatened by their employer and associates they fled to a safe house.

The crew members were worried that if they returned home before the completion of their contract, their agent would not return their securities and would confiscate their property 'they won't stop until they get it'.²⁸ They were particularly concerned

¹⁴ Interviewee 3.

¹⁵ Interviewee 5.

¹⁶ See footnote 5.

¹⁷ Interviewee 4.

¹⁸ Aashir is a non-de-plume.

¹⁹ 'Letter from Ministers of Immigration, Labour and Fisheries to the CEO of the Seafood Industry Council': released under Official Information Act request, July 2008.

²⁰ Currency converted at historical exchange rates according to Oanda Corporation.

²¹ Ibid.

²² See footnote 14.

²³ Interviewee 6.

²⁴ See footnote 11.

²⁵ See footnote 5.

²⁶ Interviewee 2.

²⁷ See footnote 26.

that the manning agent would not pay them their unpaid salary. 'Every month [their employee] was supposed to transfer our salary to Indonesia, but sometimes he doesn't do this for two or three months so we don't really know what's been paid to Indonesia'.²⁹ The crew refused to leave until they received their wages as well as other money withheld by the manning agent: 'it has to be paid to us here before we leave, we won't get it in Indonesia, this happened to other crew'.³⁰ While at the safe house, the crew members were visited by Immigration New Zealand (INZ) officials and an Indonesian translator who had also acted for their New Zealand employer during the industrial dispute. The presence of the translator caused the crew to 'lose trust' in INZ and heightened their fears about talking to government officials. Crew were required to sign a document and were told by the translator 'you have to sign this document which I have been told is deportation of criminals'.³¹ The crew members reluctantly signed. Two days later a Senior INZ official visited and provided them with airline tickets. According to their host, the crew members were informed they must depart New Zealand in the morning otherwise they will be deported and 'banned from working in the Commonwealth for five years'.³²

This caused a reporter to seek clarification from INZ's CEO,³³ who confirmed that the crew had been given the opportunity to depart voluntarily and that they had been served with Deportation Liability Notices. INZ's position was that 'there was no longer any requirement for the crew to remain in New Zealand'. However, the crew refused to leave until they were paid as they had no money to travel from Jakarta airport to their villages in Tegal, a six hour drive. Following the crew's claims for unpaid wages the New Zealand charter party, a guarantor for the payment of their wages, placed itself in voluntary administration in late June 2011. This left little recourse for the crew who finally returned home three months after first engaging in industrial action.

4.4. Return to Indonesia

On their return home, the seven *Shin Ji* crew visited their manning agent in Jakarta who returned their securities, but refused to pay them the retained portion of their salaries. All were blacklisted by their manning agent. Eventually their lawyer accepted on their behalf an offer of \$NZ6,000 each (\$US5,000)³⁴ in full and final settlement of the \$NZ1,121,525 (\$US933,700)³⁵ owed in unpaid wages [41]. When the authors visited the former crew members in Tegal, one had started a small pancake business, while others were using their money to stave off abject poverty as they remained blacklisted, unemployed and destitute.

5. Discussion

This case study explains how a group of Indonesian migrant fishermen came to New Zealand for the purpose of earning a decent income and instead, became victims of forced labour (see Table 2). While low wages and poor working conditions are by themselves not symptomatic of forced labour, the treatment the *Shin Ji* crew endured illuminates a number of dimensions, of the ILO's definition of forced labour, including: debt bondage, retention of identity documents,

intimidation and threats, inhumane living and working conditions, and withholding of wages. While the exploitation of labour took place in New Zealand waters, the trajectory to forced labour began in Indonesia where the manning agent engaged in financial exploitation. Aboard the vessel crew were subject to physical, sexual and psychological abuse – a gross violation of their human rights.

Crew were asked why they endured the abusive treatment. One responded: 'we are afraid because we have signed the contract, we have family, and they have our certificates. When you sign the contract, you don't expect these things to happen in New Zealand...too late once on the boat, I am trapped'.³⁶ All crew commented that it was not easy to leave their vessel as the New Zealand agent retained their passports and seaman's books. Yet, when the crew sought to take action, officials appeared more concerned with encouraging the crew to leave New Zealand. The Department of Labour's (DoL) own investigation highlighted that the Department had historically, been 'unwilling or unable to fully resolve problems in the industry'.³⁷ This lack of action '...has allowed the situation to deteriorate...and this lack of oversight allowed the operators of many FCVs to exploit crew members under their control.' Consequently, not only is there an institutional void in New Zealand's exclusive economic zone [30], but there is also an absence of responsibility and accountability. This research found that for the crew members of the *Shin Ji*, and indeed many other foreign fishing crews, a self-regulation approach has failed. In spite of domestic laws, strict work visa requirements and the Code of Practice on Foreign Fishing Crew, operators of the *Shin Ji* flouted their ethical and legal responsibilities to monitor and ensure crew had decent work and living conditions. What's more, crew were required to engage in a range of illegal activities, including the illegal dumping of rubbish and quota species. If widespread this distorts catch statistics and is a threat to the integrity of the quota management system [42]. The crew reported that indeed, high-grading activities were deliberate, systematic, and extensive.

This case study clearly shows that New Zealand's fisheries management system has 'not delivered on its promise of responsible fishers with long time horizons' [12]. The deliberate exploitation of migrant fishing crew, thus calls into question the success of New Zealand's system, due to its failure to achieve social outcomes. An important social and political objective of the system was to improve economic returns, including raising income levels within the industry. Success claims have excluded the labour dimension, particularly the perspectives of the workers themselves. Unless the real impact of the fisheries management system on income levels and labour conditions is properly understood, it is naive to suggest that New Zealand's fishery management system has been a success. Future studies should place a much heavier onus on social responsibility factors, particularly the labour dimension.

6. Conclusion

This case study adds the much needed labour dimension into the debate about New Zealand's market-based fishery management system. New Zealand's system is advocated as world leading and economically efficient, but for whom? Certainly, not the crew of the *Shin Ji* and their families, and this is to say nothing about the reputational damage to New Zealand's image. Indeed, the system appears to have perversely effectuated economic efficiency. Having the fishing industry develop on the backs of forced labour is

²⁸ See footnote 5.

²⁹ See footnote 17.

³⁰ See footnote 17.

³¹ See footnote 5.

³² Interviewee 8.

³³ Confidential personal communication, 14 July 2011.

³⁴ Currency converted at historical exchange rates according to Oanda Corporation.

³⁵ Ibid.

³⁶ See footnote 14.

³⁷ 'Department of Labour Memorandum on Assessment of information re fishing industry': released under Official Information Act request, 6 June 2012.

Table 2
ILO Indicators of Forced Labour applied to the *Shin Ji* crew.

Abuse of vulnerability	<ul style="list-style-type: none"> Contract condition precedents and language barriers caused crew to conform: 'we can't communicate with him [captain], we can't do anything on the boat...we are afraid, we signed the contract, we have family, they have our certificates...we can't go outside for the work problems'.^a
Deception	<ul style="list-style-type: none"> Required to sign an Indonesian employment contract that did not comply with New Zealand law. Required to also sign a New Zealand employment contract along with visa application forms without reading them. Crew member's signatures allegedly forged on a mandatory Korean contract. Misled about the New Zealand minimum pay, work hours and type of work. Not provided with a copy of the Department of Labour Factsheets.
Restriction of movement	<ul style="list-style-type: none"> Not allowed to leave the vessel to seek medical treatment. Required to remain below deck if injured when in port. Not permitted to access the pantry when hungry (pantry locked).
Isolation	<ul style="list-style-type: none"> Not permitted to speak to New Zealanders when in port.
Physical and sexual violence	<ul style="list-style-type: none"> Corporal punishments. Required to give the captain a full body massage daily.
Intimidation and threats	<ul style="list-style-type: none"> Officers insulted all crew relentlessly calling them derogatory and obscene names (dogs, pigs, and monkeys) very offensive to Muslims. Complaints about conditions and pay resulted in threats – termination of employment, loss of wages and bonuses, financial penalties, calling in employment securities. Coerced to illegally dump rubbish and fish, pressured to lie to authorities about hours of work and required to hide from authorities when injured.
Retention of identity documents	<ul style="list-style-type: none"> Securities taken by the manning agent to gain the crew's compliance. 'Manning Agents use our certificates, guarantees and salary to control us and our families so they can pressure us to conform'.^a Passports and seaman's books kept by New Zealand agent/charter party.
Withholding of wages	<ul style="list-style-type: none"> Up to 90 per cent of the first 3–4 months' salary withheld as agent's fee. Thereafter, up to 50 per cent of salary withheld.
Debt bondage	<ul style="list-style-type: none"> Several borrowed money, at an indeterminate rate of interest, from the manning agent while travelling to the vessel and while aboard the vessel.
Abusive working and living conditions	<ul style="list-style-type: none"> Verbally abused for taking a meal break. Food was inadequate and locked away; on occasions crew resorted to eating rotting fish bait. Lack of proper protective clothing, resulting in frostbite and freezer burns. Requests for cold weather boots and gloves routinely ignored by the captain. Fatigue resulted in preventable accidents. One crew was made to work with a head injury resulting from gear failure. Crew denied medical treatment. Forced to operate engines without qualifications.
Excess overtime	<ul style="list-style-type: none"> Hours worked in excess of recorded hours. Forced to sign false timesheets under threat of non-payment. Frequently worked 16–30 hour shifts. Required to work 16 hour shifts unloading directly after fishing. No rostered days off in port or holidays.

^a Interviewee 1, Auckland.

morally indefensible and cannot be justified as an efficient rational economic activity. Ultimately, the economic performance of the industry as well as the fairness and effectiveness of the fisheries management system are not matters to be closeted away 'within closed fisheries circles, they are issues of great concern for the public at large' [43]. This case study found social outcomes are of crucial importance. Other studies have shown that the introduction of fisheries management systems in other countries, such as Canada and Iceland has led to increased safety, higher wages and better working conditions [44]. Yet, unlike those countries New Zealand's fisheries management policies have over several decades, encouraged and facilitated the use of low-cost FCVs, manned by migrant workers, with the profit motive disconnected from stewardship objectives.

This study highlights that 'economic principles are clearly not the only factors that may require attention or action from a government or regulator' [45]. The ILO points out fisheries management policies can either facilitate or deter the use of forced labour in the fisheries sector [38]. Oversight and transparency-enhancing measures created to address violations or avoidance of fisheries regulations should be extended to cover labour practices. For too long New Zealand Government fisheries policies have facilitated the use of forced labour. Only now is New Zealand beginning to head in the right direction with major policy and legislative reforms underway, to enhance the robustness of its fisheries management regime. In fact, the 'aim is to send a clear message that all vessels operating in New Zealand waters must fully meet New Zealand employment, vessel

safety, and fisheries laws' [46]. Principally this involves reflagging FCVs to New Zealand, increasing official observer coverage and extending their powers to cover crew employment, health and safety, and vessel pollution matters. Additionally, as vessel operators are subject to licencing, social responsibility obligations are becoming a condition of obtaining and retaining a fishing licence. However, the legislation has yet to be enacted and only, time will tell if these policy interventions are effective. Ultimately, until 'this most evil of exploitation' [47] is eliminated from New Zealand's waters, New Zealand cannot claim to have a world leading fisheries management regime.

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