

Confronting a Scandal

In fighting for the rights of migrant workers in the Irish fishing industry, the International Transport Workers' Federation has put the government on notice

The International Transport Workers' Federation (ITF) campaigns for rights and fair treatment for fishers around the world. It also famously has a worldwide force of 125 inspectors whose job it is to protect seafarers from exploitation and injustice. Nowhere have these two facets come together more forcefully in the last few years than in Ireland, where the issue of the abuse of fishers has become embodied in the chief inspector (ITF co-ordinator) for the United Kingdom (UK) and Ireland, Ken Fleming.

In a breakthrough moment in July, Fleming was able to put the Irish government on notice that a permit scheme it introduced in 2016—in part to respond to stinging exposés in 2015 of its inaction by the ITF, *The Guardian* newspaper and the Irish press—had, instead, allowed, and even legitimized, legalized slavery.

The permit system was supposed to give migrant workers legal status and protect their rights. Under it, the government made available 500 one-year permits to owners, who were required to pay the statutory minimum wage to migrant workers and provide them with a solicitor-backed contract. While welcoming government action on the issue, the ITF had warned that without effective inspection and enforcement, the permits would be worthless. In reality, months of vessel inspections and (often clandestine) meetings with victimized fishers revealed that the scheme had, instead, excluded many crew members, and permitted many employers to move from paying crews on a share system to paying the minimum wage—meaning that some crews were working over 100-hour weeks.

The truth was made public in a testimony to the Irish government's Joint Oireachtas Committee on Jobs, Enterprise and Innovation by the Irish Migrants Rights Centre and the ITF. In his damning submission (which starts at 13' 47" in the film referenced below), Fleming said that the current regulatory regime for non-European Economic Area (EEA) migrant fishers was not fit for purpose, and called for sweeping changes. He told the committee: "I warned, as early as January 2016, that the scheme would not work because the boatowners—

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with whom I'd been working for 10 years to try and get change—would not comply with the raft of legislation. Sadly, I've been proved right and the permit has been reduced to nothing better than a dog licence".

Employment laws

As evidence, he presented the committee with a research report into how the scheme was actually enabling exploitation, rather than outlawing it, then recounted how the ITF was in contact with over 150 fishers, of whom fewer than 10 per cent were employed by owners of fishing vessels with permits. None of them had ever been interviewed by the Workplace Relations Commission (WRC), which has responsibility for enforcing employment laws. Most of them were unaware of its existence.

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Ken Fleming receiving the Mother Jones Award. There was a culture of fear in fishing ports that inhibited fishers from speaking out and it was only in recent months that they had begun to come forward in significant numbers to report abuses

Significantly, many of those fishers were on the run from the authorities for seeking redress over unpaid wages and compensation for injuries. Some had been threatened with deportation if they complained. Several were being pursued by hospitals for payment of bills incurred for the treatment of injuries sustained onboard.

The ITF registered the following areas of concern:

- The permit scheme was restricted to vessels over 15 m in length, and it had become a practice among some employers to redeploy non-EEA fishers on smaller vessels when ports were inspected by the statutory agencies.
- Skippers were interpreting the requirement that fishers must be paid the national minimum wage of €9.15 an hour for a 39-hour week as putting a cap on wages during any trip. As the working day is a minimum of 15 hours and a fishing trip normally lasts from five to ten days, this meant fishers were

often working between 75 and 150 hours, but only being paid for 39 to 40 hours.

- Where permits were secured, some employers were deducting the legal costs (usually around €1,300) from fishers' wages.
- WRC inspectors who visited vessels inspected by the ITF failed to discover breaches of the scheme that the ITF had identified on the same vessels.
- There was a culture of fear in fishing ports that inhibited fishers from speaking out and it was only in recent months that they had begun to come forward in significant numbers to report abuses.

Ken Fleming went on to say that the ITF is, with reluctance, considering initiating its own legal proceedings, having exhausted all existing remedies and being confronted by an institutional mindset that is in denial of its failure to vindicate the rights of this very vulnerable group of people. It has already facilitated several trafficking complaints on behalf of

fishers with the Garda Síochána—the Irish national police force—and is awaiting a response.

Among the measures required are:

1. a moratorium on permits to out-of-country fishers to prevent the ‘churning’ of personnel and indefinite continuation of the current system of exploitation;
2. removal of the exemption from the permit scheme of vessels under 15 m;
3. a cooling-off period to safeguard and regularize the employment of existing fishers;
4. decoupling of the permit from a single specified employer to the fisher. (This has been done recently but with little actual application.)
5. enforcement of the State’s employment, revenue, fishery-protection, and health-and-safety laws by prosecuting non-compliant skippers and boatowners;
6. re-instatement of health-insurance cover for fishers, including provision for occupational injuries. (This was withdrawn unilaterally by the WRC as an unfair burden on employers).
7. introduction of a statutory instrument authorizing the Marine Survey Office (MSO) to ensure all employees on Irish fishing vessels hold BIM (Ireland’s Seafood Development Agency) safety cards, and prosecute non-compliant owners of vessels;
8. simplification of permit procedures so that applications can be made directly to a central registry that is open to public inspection and a Personal Public Service (PPS) number attached to each permit;
9. appointment of the MSO as the lead statutory enforcement agency; (It has the most expertise in this area and should be adequately resourced to do the job, although this would also require a mindset that understands and honours its obligations to seafarers in the fishing sector.)
10. a requirement on the Garda Síochána to make decisions on


whether a prima facie case of trafficking exists that requires investigation within five working days, as in the UK;

11. inclusion of the ITF in a reconstituted task force as an equal partner so that its expertise and experience can be utilized to help make the scheme effective;
12. facilitation of ITF inspections of fishing vessels to monitor and support effective compliance and enforcement;
13. recognition of ITF inspectors as key witnesses in cases where prosecutions are brought against boatowners when the ITF has been involved in the initiation of a complaint; and
14. ratification and enforcement by the Irish State of the International Labour Organization (ILO) Convention No. 188, concerning work in the fishing sector.

The results of the testimony to the Oireachtas were immediate, helping to create a national debate, and putting the Irish government on notice that the issue was not going to be dropped.

A month later, there was also unexpected recognition for the role played by the ITF’s Ken Fleming when he was awarded the Spirit of Mother Jones award, which recognizes those who fight for social justice. The award is named after the Ireland-born US trade union leader Mary Harris Jones, known as ‘Mother Jones’, who was once called “the most dangerous woman in America”.

James Nolan, from the award’s committee, said: “Ken Fleming has been willing to challenge the official silence on the blatant exploitation of many seafarers and migrant fishers in Ireland and the UK. He is a fearless, passionate and determined defender of the workers who have been denied their rights, and continually exposes and challenges the system which treats many of them as virtual slaves.”

On receiving the award, Fleming paid tribute to the team that works with him, including his ITF inspector colleagues, his fellow activist Padraig Yeates, and his colleagues at the ITF in London. 

For more

<http://www.Marineconservationnorthernireland.Co.Uk/?P=179>

Forced Labour in Northern Ireland—The Fishing Industry

<http://Conflictresearch.Org.Uk/Reports/Migration/Forced-Labour-Northern-Ireland-Full.Pdf>

Forced Labour in Northern Ireland: Exploiting Vulnerability

<https://www.Agriculture.Gov.Ie/Media/Migration/Publications/2015/Taskforcereport141215.Pdf>

Report of the Government Task Force on Non-EEA Workers in the Irish Fishing Fleet

<https://www.Icsf.Net/En/Samudra-News-Alert/ArticleDetail/55402-Migrant-Fisherm.Html?Language=EN>

Migrant Fishermen in Ireland ‘Treated Like Slaves’

<http://www.etf-europe.org/fisheries.cfm>
European Transport Workers’ Federation—Fisheries

itfglobal.org/en/resources/reports-publications/fish-report-2017/

Exploitation Permitted: How Ireland’s Atypical Permit Scheme Drives the Exploitation of Migrant Workers

<https://www.irishtimes.com/news/ireland/irish-news/scheme-for-fishing-crews-is-legitimising-slavery-1.2965818>

Scheme for Fishing Crews is ‘Legitimising Slavery’