

100.CA001

violation of safety regulation

captiv
women
workers

violation of human rights

women workers in the **fish processing** industry-need to **act**

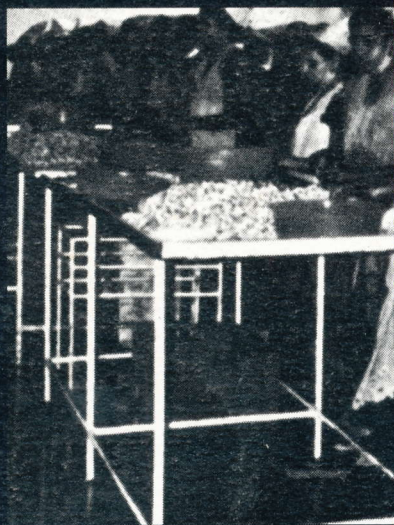
= **burning** eyes + nausea + shortened **work-span**

BRANDED BONDED

October 8, 1994.

The District Magistrate, Northern Goa stated in his verdict that it had been brought to his notice that these persons worked as bonded labourers in Rahul Foods, a fish processing factory at Dauji near old Goa. That they were supplied to the factory by the latter's agents in contravention of the provisions of the Bonded Labour System (Abolition) Act of 1976. That those labourers not only got wages below that stipulated by the minimum wages act, they almost never got it in time. That those beguiled workers, labouring for over 10 to 16 hours daily without proper food or facilities, were not allowed to move about or even write home freely.

When heard, these labourers expressed a clear wish to go back home and put an end to their nightmare. His judgement: "Under the circumstances, I hold that the labourers mentioned are bonded labourers under the contractor R. Venu, his agents Babu and Paluraj, and Rowland David, owner of Rahul Foods."



BIG FISH EAT SMALL FISH: CHEAP LABOUR, CHEAP FLESH

Workers in the peeling section are paid on a piece-rate basis. One basin of 5 kgs fetches Rs. 2.50 to 3. An experienced worker can peel about 20 to 25 basins a day. A newcomer should be happy to get even Rs. 750 a month. An experienced worker who can also satisfy the contractor may get upto Rs. 1800. The contract labour system, involving multiple layers of agents and sub-agents, exposes the women to uncertainties about work and living conditions, and also frequent sexual harassment, all of which the women stomach for the sake of their family.

Marine food products today constitute an important sector of the Indian economy. Processing into canned and frozen marine products is catering to the export market. It provides employment for thousands of workers. However, a closer look at this industry reveals that the exchange eclipses the very energy source that sustains it.

WHO RUNS THIS INDUSTRY?

16 to 25 year old migrant women workers, employed on contract or piece rate basis form the formative stages of this industry most women from non-fishing communities are also now

A LUCRATIVE INDUSTRY?

1. From \$ 409.56 million in 1987-88, India's export earning from marine products has touched \$ 1295.85 million in 1997-98: a threefold increase in just 10 years.
2. The industry accounts for approximately 4.3% of the country's total export earning.
3. India is the second largest exporter of marine products from the third world.
4. The industry has a sustained growth not only of exports but also of unit value of the export. This growth, being far larger than accounted for by Rupee depreciation, means an upward movement for the products' price in the international market.
5. The industry's growth has been accompanied by a rapid increase in the quantum of fish catch per year. From 4.16 million tonnes in 1991-92, the catch rose to 5.38 million tonnes in 1997-98.
6. All this has resulted in a spurt in mushrooming of processing units along the Indian coastline. Today there are 407 freezing units, 13 canning units, 154 ice making units, 11 fishmeal units and about 489 cold storage units in this sector. Many more unregistered smaller units play in the export circuit by tying up with the registered ones.

FROZEN BY THE CAN

The fish processing industry is almost entirely export oriented and is categorised into pre-processing and processing. The former involves grading, packing, weighing and freezing. The workplace is often cold and damp. In the grading and packing section, workers have to stand for long hours. In the freezing section, workers spend their workdays squatting on floors covered with ice. Cold damp conditions make them highly susceptible to respiratory ailments. Handling of frozen material results in skin rashes, peeling of skin. Rheumatism and other joint problems are common diseases. Minimum safety devices are not provided. Where they are, the workers are not trained to use them.

PROTECT LABOUR RIGHTS

Accn No: 2701

WHAT SHOULD THIS CAMPAIGN ACHIEVE?

The prime need of the hour is the workers' right to organise and form unions . Towards this:

1. The marine products exporters association should come out with a factsheet on the labour conditions in the industry.
2. The fish processing industry should accept the charter of demands on minimum labour standards prepared by the campaign.
3. In the absence of workers' organisations, a watchdog institution should be created to monitor labour conditions in the industry .
4. The State Women's Commission in all the coastal states should be involved in regulating the condition of women workers in this industry. The Kerala State Women Commission's policy intervention can act as a reference point

TORTURE TO VICTORY: SMALL BUT SIGNIFICANT

Suja Abraham. Woman worker from Kerala.

Unable to cope with work environment, ran away from Ravi Fisheries, Thane, Mumbai...only to be hounded by the factory goons and taken back. Locked up without food, harassed and tortured. Desperation drove her to attempt suicide. The result was a fractured spine and multiple leg fractures; and a police case lodged by the Laghu Kamgar Union on behalf of the workers. Soon after, to vent their anger against the Ravi Fisheries tragedy, girls at Britannia Seafood started agitating. Their demand: eight hour working days and better wages. The owner's reaction was sharp. About 250 odd workers from both units were bundled into trains and sent back to Kerala the same evening. And then...the Bombay High Court delivers a pro-worker judgment: both units to re-appoint sacked workers; Ravi Fisheries to pay Suja Abraham Rs. 2500 for the rest of her life; all factory owners, in particular the above two, to open their factory premise and workers' accommodation to the NGO Bhartiya Mahila Federation, for inspecting the working and living conditions.

CHARTER OF MINIMUM LABOUR STANDARDS

**To be Conscientiously
and Voluntarily Adopted by the
Fish and Seafood-Processing
Industry**

INTRODUCTION

The charter presented here is a part of a campaign carried out by the National Campaign for Labour Rights (NCLR) against the extreme exploitation by the fish- and seafood-processing industry of their workers, who are predominantly migrant women.

The founding fathers of our Constitution had envisaged India on the lines of a welfare state. One implication of this vision was that economic development would be encouraged but not at the cost of certain standards of social justice. And to that end, Part III of the Constitution gave individuals a number of Fundamental Rights with respect to the State. Within this, apart from Articles 14, 19 and 21, which confer rights to equality, freedom and life (and of which Article 19(1)(c), or the right to form associations or unions, is of special interest to us), we may find certain provisions dealing exclusively with labour issues, such as Article 23, which prohibits forced labour and traffic in human beings, and Article 24, which prohibits child labour. Similarly, Part IV, known as the Directive Principles of State Policy, contains several provisions dealing exclusively with labour-related issues. Examples include Articles 39(a) (right to livelihood), 39(c) (equal pay for equal work), 41 (right to work, education and public assistance), 42 (provision for just and humane conditions of work and maternity relief) and 43A (participation of workers in management of industries). Also, Article 38 directs the State to secure a social order for the promotion of welfare of the people. Furthermore, India is a signatory to the UN Declaration on Human Rights and has ratified most of the Core ILO Conventions. All these precepts bear a direct relevance to the present issue. Processed fish and seafood occupy an important place in the Indian economy due to the valuable foreign exchange they earn. At the same time, the industry is also characterised by rampant violations of labour standards. In other words, the industry is a living example of precisely what the founding fathers of the Constitution sought to prevent. A second factor relates to international pressures. The success of the fish- and seafood-processing industry lies in the impact that it has made in the international market, especially the developed countries. Lately, however, people of these nations have become extremely human-rights conscious, and are actively seeking to prevent from entering into their countries goods that have been produced through human rights violations. Allied to this are the attempts to enforce labour standards by linking them to trade-sanctions within the WTO framework. In other words, therefore, the Indian fish- and seafood-processing industry is in a grave danger of losing its most lucrative markets through the operation of a combination of public censure and legal efforts. And the best way to counter this development is by pre-empting its foundations, i.e. by

unilaterally ensuring adherence to labour standards before further public censure or sanctions are incurred.

From all this, we may safely conclude that compliance with certain minimum labour standards is not only consistent with the philosophy of the Constitution but also beneficial, even essential, to the long-term survival of the industry itself. The following charter is an attempt to formalise the recognition of this fundamental truth.

PREAMBLE

The following is a charter of minimum labour standards intended to ensure that fish- and seafood-processing industries are sustained in a humane and non-exploitative manner. It is designed to be voluntarily accepted and followed by the owners and managers of fish- and seafood-processing units and factories. If any provision of this charter is found at any time to be inconsistent with any provision of law in force, then the former will be rendered invalid to the extent of the inconsistency for as long as the inconsistency remains.

By accepting this charter, the owners and managers of processing units also voluntarily undertake to adhere in full to their legal obligations, and also the core ILO and universal human rights standards.

FUNDAMENTALS

- * Factory-owners shall acknowledge their legal obligations and liabilities as pertains to wages, overtimes, maximum working hours, amenities etc., and hereby undertake to satisfy them in full.
- * Since the fish- and seafood-processing industry runs for more than 120 days in a year, it cannot be treated as intermittent, seasonal or casual in nature as per Section 1 of the Contract Labour (Regulation and Abolition) Act of 1970. Consequently, all the provisions of the said Act shall be adhered to.
- * Factory owners and managers shall ensure that particulars of all workers are given to the relevant authorities and pass books issued to the workers as per Section 12 of the Inter-State Migrant Workmen Act, 1970. They shall also ensure that all allowances specified in Sections 14 and 15 of the said Act are paid.
- * Furthermore, factory owners and managers shall undertake to ensure that in all cases of workers employed on a contract basis, the said contracts are in properly written form and signed with the free informed consent of all parties. They also undertake to provide each worker with a copy of the contract enumerating all the mutual rights and obligations of all the parties, and written in a language understood by the worker, and to prominently display it in workplaces where the workers are easily able to read it.

WAGES, WORKING HOURS AND OVERTIME

* Factory-owners understand that, as per Section 21 of the Contract Labour Act (1970) and Section 17 of the Inter-State Migrant Workmen Act (1979), they are also, along with contractors, responsible for ensuring that wages are duly paid to the workers.

* They agree to either themselves pay to each worker or ensure the payment to each worker within a period of time reasonable under the circumstances either the legal minimum wages due to her/him, or the amount stated in the contract, whichever is greater, together with all the other benefits (including overtime wages) legally accruing to her/him.

* Regular working hours shall not exceed nine hours within a twenty-four hour period, including breaks for lunch and tea, for six days in a week. Moreover, this period must begin not earlier than 7.30 in the morning and end not later than 7.30 in the evening. Any work done outside this period shall be automatically classified as overtime.

* As per Section 59 of the Factories Act (1948), any work done for more than nine hours a day and or forty-eight hours a week shall be automatically classified as overtime. All such work shall be compensated according to Section 59 referred to above.

* Overtime work shall be undertaken on a strictly voluntary basis. No force, coercion or intimidation may be exerted on any worker in this regard.

* Proper records shall be maintained (e.g. in the form of registers), and at times vouchers or receipts given, of overtime put in by each worker. Each record must be countersigned by the worker.

LIVING AND WORKING CONDITIONS

* Workers shall be provided with all protective equipment necessary in specific circumstances. These shall include by way of illustration gloves, gumboots, and aprons. Further, warm clothing in the nature of sweaters or woollen overalls shall be provided to workers working in cold environments.

* Factory-owners also undertake to either themselves provide or ensure that contractors provide workers with clean, hygienic living quarters or dormitories within a reasonable time.

Further, they undertake to ensure that contractors provide facilities such as canteens, rest-rooms, clean drinking water, latrines, and first-aid equipment (as mentioned in Sections 16 to 19 of the Contract Labour Act) failing which, as per Section 20, they should provide the same themselves and recover compensation for the same from the contractors.

* They also agree to provide all workers with adequate health care facilities as prescribed by applicable laws and otherwise.

MISCELLANEOUS

* No restrictions shall be imposed on the movements of workers after working hours. No coercion or intimidation of any kind shall be exerted on them to restrict their movements. The workers' inherent right to communicate with people from outside shall be recognised and upheld and no restrictions will be placed and no coercion or intimidation will be exerted on them in this regard.

* The right of the workers to form associations and trade unions, and to bargain collectively (ILO Conventions 87 and 98) shall be upheld. Workers' representatives shall not be discriminated against (ILO Convention 135). There shall be no victimisation of workers. Dismissal of workers shall not take place except according to the due process of law. If it is seen that a worker, especially a worker active in union activities, has been dismissed without adequate cause, the owner shall undertake to forthwith take her/him back in employment and also pay her/him suitable compensation.

* Children shall not under any circumstances be employed in the factories.

FOLLOW-UP

* Factory-owners undertake to allow trade unions and other concerned organisations to freely inspect working and living areas and interact with the workers in seclusion from any managerial personnel.

* They also agree that, if the said unions or other organisations conclude that the provisions mentioned above have not been given effect to within a reasonable period of time and that no serious effort has been undertaken by them in this regard, then they shall be subjected to periodic checks by an independent body.

CAVEAT

* IT IS HEREBY CLARIFIED THAT THE ABOVE WILL NOT UNDER ANY CIRCUMSTANCES REPLACE THE INSTRUMENTS OF COLLECTIVE BARGAINING. It is not intended to supplant an agreement reached by employers, workers and their unions entered through a process of collective bargaining. Nor is it meant to bar workers from individually or collectively demanding any further rights.

**CHARTER OF
MINIMUM
LABOUR
STANDARDS**

The working conditions in these units are very harsh. The workers are made to work without any protection. This renders the workers highly susceptible to common diseases like malaria, chickenpox, and jaundice. Serious disorders like respiratory problems, arthritis and rheumatism are also common among these workers. Peeling and handling frozen material over long periods of time leads to the skin of the palms developing rashes and even peeling off. If they remain untreated for long, they may develop serious infections. These may even compel the affected worker to leave the job. It also transpires that employers do not provide any medical facilities. Such a practice is questionable even from the point of view of expediency, since the health of the workers has a direct bearing on the hygienic quality of the product and, consequently, its saleability in the international market.

The above are only some of the most glaring problems characterising this industry. We would like your ministry to respond to the issue of labour rights in this sector and come out with a fact sheet on this issue so that we can initiate a dialogue on it. This is extremely important for an export oriented industry because it also has to be internationally accountable for the labour right records. As you know, this sector is already being internationally monitored for hygiene of the product and environmental impact. It has also faced sanctions in the past due to these reasons. Hence, it would also be in the interest of the processing industry and national economy to improve labour conditions in this sector.

We are attaching with this letter a charter of minimum labour standards articulating some of the major issues related to the workers' welfare. We sincerely hope that your association would respond to these issues and adopt a constructive approach for initiating a dialogue on the topic.

With Regards,

help this campaign succeed

The President,
The Seafood Exporters Association of India
Seafood House
Willingdon Island
Cochin - 682003
Kerala

Dear Sir,

We are a group of trade unions, NGOs, and concerned citizens who have been monitoring the developments in the fish- and seafood-processing industry, particularly from the perspective of labour rights. We have conducted a number of studies to gather in depth information about labour conditions in this sector and have come to a conclusion that the situation in this regard appears to be alarming, to say the least. We wish to convey our observations through this letter and also to establish communication with your association on this issue.

We are aware that over the last few years marine food products have come to occupy an important position among India's exports and, consequently, a major source of foreign exchange so vital to India's economy. We also appreciate the new employment opportunities it has opened for the workforce. However, we are dismayed to note that not only have the gains of the sector's phenomenal growth not percolated down to the workers employed therein, but that the situation of the latter remains no better than that of bonded labourers.

The industry is almost completely run on the basis of young migrant women workers who are employed either on contract or piece rate basis. The factory owners disclaim any responsibility for the workers on the pretext that the latter are the responsibility of not them but the contractors. As a matter of fact, this is in complete violation of the Contract Labour Act, which holds that the ultimate responsibility of the workers lies with the principal employer.

It has been observed that the living condition of the workers is inhuman and highly oppressive. Around 40 to 50 women are provided with one hall which generally has just a couple of bathrooms. These dwelling units, usually located atop or beside the processing unit, are also characterised by extremely unhygienic conditions and a lack of sanitary facilities. Living in such proximity of the processing unit also expose the workers to hazardous substances and chemical leaks.

You may be aware that a strict surveillance is maintained over the women workers in fish processing industry and they are not allowed to go outside the factory premise or their place of accommodation. A total control over the lives of the women workers is an important characteristic of this industry. It's a virtual confinement for them where they live like bonded labour.

The workers are made to work from 8 AM to 8 PM with just a one-hour lunch break and a half-hour tea break. In peak season, workers are often forced to work beyond the normal 12 hours. Also, paying them extremely low wages is the norm rather than the exception, and a large number of units don't even pay their workers the legally stipulated minimum wages. In a study conducted by Centre for Education and Communication, it was revealed:

In Mumbai, 20 workers out of 50 get less than Rs.1,500.

In Mangalore, most of the workers earned between Rs. 900-1,200, peaking to Rs. 2,000 in some busy months. At the same time, there are also months when the income dips to the level of Rs. 500.

In Tuticorin, in the sample of 47 it was found that 34 got upto a maximum of Rs. 1,500 and 18 of them got below the prescribed minimum wage.

In Calcutta, out of a sample of 32 workers, 14 were found to get below Rs. 1,000; on the higher side, it was found that seven got more than Rs. 2,000.

The Secretary
Union Ministry of Labour
Government of India
Shram Shakti Bhavan
Rafi Marg
New Delhi-110001

Dear Dr. Mishra,

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We hope that your ministry would look into the specific issues raised by us and take stern steps to effectively enforce the relevant labour laws in this sector. In particular, we request you to organise a tripartite meeting (i.e. between representatives of the workers, the industry and the Government) with a view to evolve mechanisms to address issues regarding the fish- and seafood-processing industry, such as the constitution of a welfare board for its workers.

Yours sincerely,

help this campaign succeed

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To be Presented to the Prime Minister**OUR DEMANDS**

1. Strict implementation of the provisions of the Inter-State Migrant Workmen Act in the fish processing industry. The act stipulates that the migrant workers should be registered both at the home State as well as the State where they migrate. This provides them certain protections from exploitation by employers.
2. Enforcement of the Contract Labour Act. The fish processing industry, where contract labour is overwhelmingly used, does not observe this Act at all. According to it, all contractors should be registered with the respective labour department before recruiting workers. The Act has a series of provisions to protect the rights of the workers employed by the contractors.
3. Strict monitoring and implementation of the Minimum Wages Act.
4. Creation of a welfare board, which looks after the social security needs of the worker, funded by the welfare cess collected from the exporters.
5. Compulsory monitoring of the workers' health.
6. Bringing the workers under the ESI Act.
7. Observance of the right to information by the industry.

Name

Organisation

Address

Signature

please collect as many signatures as you can

important segment of India's exports. The fish processing industry is an industry almost entirely dependent on migrant women. A recent survey reveals how the bright sun of foreign powers it.

from Kerala, Karnataka and Tamil Nadu, form the bulk of the work force. Although in the past they came from fishing communities, women are now joining the industry in large numbers.

THE WORKERS ARE NOT QUITE SURE

From 75,000 to 1,00,000 migrant women constitute cheap labour, easy to manipulate. Even an eight-to-eight work schedule, and much more during the peak season, does not earn many of these women the legally stipulated minimum wages. The pretext that this is a seasonal industry is enough to deny them regular employment (which would entitle them to other benefits as well) to these women who join the unit when they return. The fact that the new aquaculture farming complemented by changing patterns of export demands has resulted in increased fish harvesting is an issue the industry would not like to highlight. Usually put up atop or beside the unit to ensure instant availability at any time of the night or day, 10 to 12 girls are crowded in a 15 ft. x 12 ft. room. Lack of basic sanitation facilities and constant leakage of ammonia from the plants throws all national and international norms to the winds.

The final processing is generally done in two stages, one is cleaning, peeling, washing and icing. The latter, on a large stretch of aluminium table and trays of water. Throughout their working hours. Those in the peeling are cold water dripping from the icy raw material. While suffering from chicken pox and jaundice, continued peeling and skin and if untreated (which is usually the case), a serious work. Serious respiratory problems, arthritis and the gloves and boots are in most cases not provided. The use of these measures, making the measure ineffective.

PROTECT EMPLOYMENT

WHAT CAN YOU DO?

It hardly needs to be said that there is a need to act. And act fast. You can make a difference. Join the campaign to ensure at least a dignified living and working condition for these women. Send the enclosed letter to the addressee. Send us back the mass signature form.

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THE NET IS SPREAD. WHOSE IS THE CATCH?

The workers in the industry are not directly recruited by the unit owners, but through a chain of contractors and agents. Elderly women workers have proven to be an important link in this chain for it is they who can persuade gullible village girls to migrate and contribute to their always-in-need families. The bait: good wages, free accommodation, free food. Their ordeal starts with the train journey itself. Policemen and goons start off the nightmare that usually lasts till the girl contracts some disease which would rob her even of the paltry sum she could earn. The workforce, their food, accommodation, salary, everything, is entirely controlled by the contractors. The unit owners abdicate responsibility towards workers. No provision of the Contract Labour Act or the Inter-State Migrant Workmen Act is followed, making the girls vulnerable to their

WOMEN IN FACTORIES ... LIKE FISH IN CANS?

Shobhana. 20 years. Home, Padapakkara, a small village in Kerala, India

Started working when I was around 14 years old. Between a nine to nine work schedule, our only respite is a half hour tea break in the morning and evening and a one hour lunch break. Rice gruel for all three meals is our dole.

Working overtime goes without saying. Paid for two hours when we do five, refusal to put in overtime is an open invitation to physical assault.

Thirty to forty of us stay in a leaking shed. Three toilets between 250 of us means we can get to work in time only if three to four of us bathe together.

The message of my father's death... the tale goes on.

**ACT
FAST.
OPEN
THIS**

ICSF
FOR DIGITIZATION
DATE: 23/11/2018

ammonia based plants

For details write to: Secretariat
National Campaign on Labour Rights (NCLR)
173-A, Khirki Village, Malviya Nagar, New Delhi-110017
E-mail: nclr@nd.gov.in