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মৎস্য আহরণ ও চাষ

## Sector-wide Human Rights Impact Assessment (SWIA) in small-scale artisanal fishing communities in Barguna and Cox's Bazar district of Bangladesh



THE DANISH  
INSTITUTE FOR  
HUMAN RIGHTS

## **Sector-wide Human Rights Impact Assessment (SWIA)**

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and Cox's Bazar district of Bangladesh

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***Prepared jointly by:***

BILS, COAST Trust and Manusher Jonno Foundation

***With the support of***

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## Contents

<b>Preface</b>	<b>5</b>
<b>Section 1: Introduction</b>	<b>8</b>
1.1 Aim of the study	8
1.2 Scope	9
1.3 Limitations	11
1.4 Methodology	11
1.5 Introductory remarks on artisanal small-scale fisheries in the SWIA sites	13
1.6 Governance	14
1.6.1 Commitments to sustainable development	15
<b>Section 2: SWIA findings</b>	<b>17</b>
2.1 Labour conditions	17
2.1.1 Occupational health and safety	19
2.1.2 Payment of fishermen	21
2.1.3 Debt bondage	23
2.1.4 Child labour	25
2.1.5 Trade unions and local organizing	26
2.1.6 Local authorities' oversight measures	26
2.1.7 Human rights guidance on decent work	27
2.2 Standard of living	31
2.2.1 Poverty	32
2.2.2 Housing and water	33
2.2.3 Health	34
2.2.4 Covid 19	34
2.2.5 The 65 Day Ban	35
2.2.6 Social security	36
2.2.7 Human rights guidance on an adequate standard of living	38
2.3 Women	41
2.3.1 Economic and personal insecurity	41
2.3.2 Women's work	42
2.3.4 Human rights guidance on women's dignity and wellbeing	42
2.4 The right to a healthy environment	45
2.4.1 Fishers' perception of environment and climate change	46
2.4.2 Key findings from desk study on climate change impacts on the marine and coastal environment	46

2.4.3 Human rights guidance on the right to a healthy environment	48
<b>Section 3: Policy and programming messages</b>	<b>52</b>
3.1 Labour conditions	52
3.1.1 Gaps and opportunities in current legal and policy framework	52
3.1.2 Opportunities in SDG planning and programming	55
3.1.3 Recommendations	56
3.2 Standard of living	60
3.2.1 Summary of key issues of concern	60
3.2.2 Gaps and opportunities in current legal and policy framework	60
3.2.3 Opportunities in SDG planning and programming	62
3.2.4 Recommendations	65
3.3. Women	67
3.3.1 Summary of key issues of concern	67
3.3.2 Gaps and opportunities in current legal and policy framework	67
3.3.3 Opportunities in SDG planning and programming	67
3.3.4 Recommendations	69
3.4 The right to a healthy environment	71
3.4.1 Summary of key issues of concern	71
3.4.2 Gaps and opportunities in current legal and policy framework	71
3.4.3 Opportunities in SDG planning and programming	71
3.4.4 Recommendations	73
Annex 1: Overview of dialogues and workshops with stakeholders	75
Annex 2: List of stakeholders interviewed	78
Annex 3: Overview of institutions involved in governance of the small-scale fishers' labour and livelihood	80
Annex 4: Overview of laws, policies and legislation reviewed	84



## Preface

This report is the result of three years of cooperation between Manusher Jonno Foundation (MJF), Bangladesh Institute of Labour Studies (BILS), COAST Trust, and the Danish Institute for Human Rights (DIHR). The partnership started in early 2018 under the auspices of the DIHR's Sustainable Oceans project, funded by the Swedish International Development Cooperation Agency (Sida), and the partners would like to express a heartfelt thank you to Sida, for allowing us to jointly carry out the work that has resulted in this report.

It is the combined expertise, experiences, local knowledge, and institutional partnerships of all partner organizations involved in this project that has allowed us to analyze the situation in coastal artisanal fishing communities that we present on the following pages. This report presents findings that have been generated through a combination of structured interviews, focus group discussions, key informant interviews – and not least multi stakeholder discussions and community dialogues. The partners are grateful for the enthusiasm and openness with which we have been met in villages, among local authorities, in the Department of Fisheries, and among academics working in this field, and we believe the conversations we have had along the way, and will continue to have in the months and years to come, are as important as this report. It is our wish that the report will serve as a reference point for the continuation of these dialogues, and that we can nurture lasting commitment to human rights-based development of the marine small-scale fisheries sector among all stakeholders.

## About the partners

**Manusher Jonno Foundation (MJF)** has coordinated the implementation of activities under the Sustainable Oceans project in Bangladesh. MJF is one of the largest national grant making organisations in the country, disbursing funds and capacity building support for human rights and governance work to a broad range of organizations. Since 2002, MJF has been striving to build capacities of poor and marginalised people in Bangladesh to demand basic services and raise their voice against violations of their rights. MJF also works with public institutions to ensure their responsiveness towards marginalised people. Policy advocacy is another feature of MJF's work, and it has been directly involved in some of the most progressive and pro-poor laws and policies enacted over the last 10 years in Bangladesh.

**Bangladesh Institute of Labour Studies**, known as **BILS**, is the only labour institute in Bangladesh, and has been working on labour issues since its establishment in 1995. BILS endeavours to uphold the causes of working



people and Trade Unions of Bangladesh and promote just and worker-friendly policies and laws. 12 major national trade union federations are associated with BILS, and it strives to play a catalyst role in bridging between trade unions, civil society and the government on labour market issues. With a view to building a just and democratic society and enabling workers' organizations to play an appropriate role as a major force, BILS works with capacity building of Trade Unions through training, research and information sharing. Among many other topics, BILS has studied labour rights in the fisheries sector, and cooperated with fishers' labour unions around advocacy initiatives in that regard.

**COAST Trust** is an independent, non-profit and progressive coastal NGO in Bangladesh, having registration with the NGO Affairs Bureau of the Government of Bangladesh, as well as with the Microcredit Regularity Authority (MRA) from Bangladesh Bank. Its main objective is to uplift the socio-economic conditions of the poor and vulnerable coastal people through interventions like micro finance and technical support, disaster risk reduction, primary health care, non-formal education, etc.. COAST Trust also works on linkages between local level activities and policy level advocacy, and has implemented a number of initiatives over the years focusing on the socio-economic challenges of artisanal marine fishers. COAST Trust is affiliated with several international organizations, and currently receives funding support from a range of donors and partner organizations.

**The Danish Institute for Human Rights (DIHR)** is Denmark's national human rights institution - an independent state-funded institution, with a mandate to promote and protect human rights and equal treatment in Denmark and abroad. Internationally, we fulfil our mandate by collaborating with CSOs, academics, state actors, multilateral institutions, etc. to integrate human rights into national, regional and international frameworks. In our work, we apply our partnership concept, which implies engaging in institutional cooperation with partners on shared goals regarding promotion and protection of human rights. This includes joint implementation of activities, where the partners are the indisputable experts on the context of their own field of operation, and our expertise serve to support their work through sharing of new methodologies or analytical approaches.

It is our wish that the report will serve as a reference point for the continuation of these dialogues, and that we can nurture lasting commitment to human rights-based development of the marine small-scale fisheries sector among all stakeholders.



### The Sustainable Oceans Project

In many parts of the world, the fisheries- and aquaculture sectors face severe human rights challenges that call for action. And while the environment impacts of the sectors are gaining more and more attention worldwide, so far the human rights implications of the sectors have only been addressed in a fragmented and piecemeal manner.

In collaboration with various partners in Chile, Bangladesh and Africa, the Danish Institute for Human Rights is implementing the global project 'Sustainable Oceans – Pursuing a human rights-based approach to fisheries and aquaculture' with support from Sida. The project has documented human rights impacts in the fisheries and aquaculture sectors, and seeks to contribute to national and global multi-stakeholder dialogues on sustainable development, responsible business and human rights. The 2030 Agenda, and in particular the implementation of Sustainable Development Goal 14, constitutes a unique framework for coherence and for effective partnerships.

Read more about the Sustainable Oceans project at the DIHR's website:

<https://www.humanrights.dk/projects/promoting-human-rights-fisheries-aquaculture>

## Section 1 Introduction



### 1.1 Aim of the study

This report presents the findings of a sector wide human rights impact assessment (SWIA)<sup>1</sup> carried out in small-scale artisanal fishing communities in Barguna and Cox's Bazar Districts in Bangladesh during 2019-2020. The SWIA examined the living- and working conditions of poor small-scale fishers and their families through a human rights lens. This approach allows for a holistic analysis of their situation, in line with the current development paradigm's multi-dimensional understanding of poverty, and the 2030 Agenda's grounding in human rights.

The population in the SWIA field sites is highly dependent on fishing, and authorities in both places estimated that 70-90 percent of the population derive their livelihoods either directly from fishing, or from associated

<sup>1</sup> A sector-wide impact assessment (SWIA) is a human rights impact assessment that assesses the human rights impacts of an industry or economic sector in a specific country context. The assessment aims to understand the impacts on the human rights of those working in the sector itself and in the full value chain as well as those who can be adversely affected by the sector, such as communities or consumers.

production and trade, such as maintenance of boats and tools for fishing (nets, anchors, etc.), or processing of fish.<sup>2</sup> It is our aim to document the situation in these communities with a primary focus on the artisanal fishers and their families, with a view to inform policy development and development of programming for the benefit of this vulnerable population group.

This report presents findings on the labor conditions, the standard of living, the situation of women – and the environmental and climate change-related human rights issues at stake in the fishing communities. Section 1 presents the scope of the study and the methodology applied, and introduces the small-scale artisanal fisheries sector in Bangladesh and its governance. The study's findings are presented in detail in section 2, organized under thematic sub-sections on a) Labour conditions; b) Standard of living; c) Women's rights, and d) The right to a healthy environment. The implications of the findings for policy development and development planning are elaborated on in section 3 under the same thematic headings, with particular emphasis on contextualizing the findings to the goals and targets under the 2030 Agenda for Sustainable Development, in light of the Government's strong commitment to this Agenda. Section 3 also contains a series of specific recommendations for policy makers and stakeholders in the sector.

Dialogue is the primary aim of the SWIA, and at the time of finalizing this report, the three organizations that carried out the SWIA, MJF, BILS and COAST Trust had already successfully engaged several institutions and actors in discussing the issues documented and discussed on these pages.<sup>3</sup> This report is therefore not a starting point for the conversation, but rather serves as a point of reference and a resource for continued dialogue with government actors and other stakeholders who can contribute to improving the labour rights and standard of living for the small-scale artisanal fishers and their families.

### 1.2 Scope

Marine fisheries constitute an important economic activity in Bangladesh, and fish plays a crucial role in the average per capita food consumption and is an important source of protein. Bangladesh has achieved self-sufficiency in fish production, and while a large part of the production comes from fresh-water inland capture fisheries and aquaculture, marine capture fisheries account for more than half of the production. And within the marine fisheries sector, artisanal small-scale capture fisheries still account by far for the biggest share of the production, even though the marine industrial fisheries sub sector is

<sup>2</sup> Field data from Patharghata and Moheshkhali respectively, May 2019.

<sup>3</sup> Please refer to Annex 1 for a full overview of stakeholder dialogues throughout the SWIA process.

growing, and can be expected to continue doing so with the recent settlement of the marine boundary dispute (more on this below).

[Unit: Metric Ton]

Sector	2017-18			2016-17	
	Production	Production Increase	Growth Rate (%)	Production	Growth Rate (%)
River	232066	14766	6.80	217300	54.51
Sundarbans	632	463	273.96	169	55.04
Marine Industrial	11060	4112	59.18	6948	88.04
Marine Artisanal	273440	1440	.53	272000	8.58
<b>Total</b>	<b>517198</b>	<b>20781</b>	<b>4.19</b>	<b>496417</b>	<b>25.69</b>

Source Yearbook of Fisheries Statistics of Bangladesh, 2017-18, p. 66.

Artisanal marine fishermen are generally considered a poor and marginalized population group, yet their contribution to the country's fisheries production and food security is significant, as reflected in the table above. It is roughly estimated that around 0.5 million fishermen earn their living from artisanal marine capture fisheries, and it is the labour conditions and standard of living of this population group the SWIA has examined.<sup>4</sup>

Recent statistics show that the artisanal marine fisheries sector comprise 67,669 motorized and non-motorized wooden boats operating in the Bay of Bengal.<sup>5</sup> They work with relatively simple gear and carry ice cubes on board for storage of the catch. This study focuses on the motorized section of artisanal fisheries, operating from wooden boats that typically go fishing for 5-7 days in marine waters relatively near to the coastline, on up to 40 meters of depth.<sup>6</sup> This sub-sector falls within what is classified as artisanal or small-scale fisheries by international standards, where the criteria is the length of the vessel falling below 25 meters.<sup>7</sup>

4 Bangladesh bans sea fishing for all, affecting half a million people, The Third Pole, June 19, 2019. <https://www.thethirdpole.net/2019/06/21/bangladesh-bans-sea-fishing-for-all-affecting-half-a-million-people/>

5 Md Mostafa Shamsuzzaman, Mohammad Mahmudul Islam, Nusrat JahanTania, Md. Abdullah Al-Mamun, Partho Protim Barman, Xiangmin Xu, Fisheries resources of Bangladesh: Present status and future direction. *Aquaculture and Fisheries, Volume 2, Issue 4*, July 2017, Pages 148.

6 The regulations of marine fisheries divide the fishing ground into three zones, of which the first zone of up to 40 meters of depth is reserved for artisanal fishers, and only larger motorized industrial scale vessels are allowed to fish in the deeper sea. Yearbook of Fisheries Statistics of Bangladesh, 2018-2019, Department of Fisheries, Ministry of Fisheries and Livestock, Government of the People's Republic of Bangladesh, March 2020.

7 FAO, Marine Small-Scale Fisheries of Bangladesh: A General Description. <http://www.fao.org/3/a-ae486e.pdf>

FAO estimates that small-scale fisheries produce two thirds of the catch worldwide, and thus contribute significantly to both economies and food security at a global scale, particularly in developing countries and among the poorer segments of the population. So, while this study is primarily intended to inform policy and planning dialogues in Bangladesh, it may very well carry messages of broader relevance, or serve as inspiration for similar studies, in other countries and local contexts. As the FAO remarks, "...Policies need to refocus on addressing the needs and challenges of small-scale fisheries, which are a critical source of employment, livelihoods, food and nutrition for millions of coastal families and communities".<sup>8</sup> To do that we need in-depth knowledge on the situation on the labour rights, livelihood situation and standard of living for small-scale fishers and their families, and that is what this study seeks to contribute with in the Bangladeshi context.

### 1.3 Limitations

For practical reasons, a limited study area needed to be selected for the data generation. Two of the country's most significant marine fisheries districts were chosen, namely Barguna District and Cox's Bazar District. Both districts account for a significant proportion of the country's valuable catch of Hilsha fish. Within these districts, Moheshkhali Upazila and Pathorghata Upazila were chosen as data collection sites, both known to have a significant proportion of fishers within their populations.

Fisheries in the deep sea beyond the zone of waters of up to 40 metres of depth is classified as industrial fisheries in Bangladesh - and thus not included in the scope of this study. A separate and smaller study on the industrial fisheries sector has been carried out to complement the picture presented here with documentation of the labour rights and standard of living of fishers employed in that sector. The study on industrial fisheries will be published separately, as a stand-alone document.

### 1.4 Methodology

The study has been inspired by the DIHR's Sector Wide Impact Assessment (SWIA) methodology, developed with its partners Institute for Human Rights and Business (IHRB) and the Myanmar Centre for Responsible Business (MCRB) and first applied in Myanmar<sup>9</sup>. The purpose of a sector wide impact assessment is to look at the human rights impacts of a specific business or economic sector in a geographical context. The SWIA methodology combines in-depth data

8 <http://www.fao.org/policy-support/policy-themes/sustainable-small-scale-fisheries/en/>

9 For examples of the SWIAs conducted in Myanmar, see: <https://www.myanmar-responsiblebusiness.org/sectors/>



generation in multiple field locations with legal and policy analysis, stakeholder interviews and dialogues at local and national levels. The purpose of this methodology is to help stakeholders see the “bigger picture” of potential negative impacts of a sector’s activities, as well as potential opportunities for positive human rights outcomes, and to make choices based on this broader picture.<sup>10</sup>

The partners behind this study adapted the SWIA methodology to their experience and expertise, as well as the sector- and country context. They selected two SWIA sites where they already had a presence, which allowed for rich stakeholder dialogues early on in the process, which again helped define the scope of the study. After initial exploratory community-level dialogues stakeholders from both sites were convened in Dhaka, along with selected academics, and representatives from other civil society organizations working in the sector for a multi-stakeholder dialogue.<sup>11</sup> A commissioner from the National Human Rights Commission also attended the multi-stakeholder dialogue, and the Department of Fisheries was represented by the Director of Marine Fisheries. This dialogue identified themes of particular importance for a holistic study on the livelihood and labour rights situation, which inspired the drafting of the questionnaires later used for data collection in the SWIA sites.

One of the partners, COAST Trust, had previous experience with large questionnaire-based studies, and this approach was followed here too, in order to build a significant body of interview data. Before drafting the questionnaires, the DIHR supported the partners in developing a series of brief human rights fact sheets, that served to guide the formulation of the questionnaires in order to approach the subject under a human rights lens. Questionnaires were then drafted, and field tested in April 2019 in continuation of local community level kick-off dialogues. The final questionnaires were applied in the two field sites by a group of volunteers, under the guidance of an experienced researcher who had taken on the role as SWIA Coordinator. A total of app. 1400 men and 600 women responded to the questionnaire in face-to-face conversations with the field volunteers between May and July 2019. After that, their responses were entered in an electronic data processing programme (Microsoft Excel and SPSS).

The data collectors underwent 4 days of training prior to starting data collection. They were trained in interview techniques, data validity measures, etc., and a special emphasis was given to building their understanding the human rights framework behind the study design.

<sup>10</sup> Read more on DIHR’s website: <https://www.humanrights.dk/business/tools/sector-wide-impact-assessments>

<sup>11</sup> The multi-stakeholder dialogue took place on September 30 and October 1, 2018.

The SWIA Coordinator oversaw the data collection, conducted quality checks, and complemented the questionnaire-based data collection with qualitative interviews with a range of stakeholders at both local, District- and Dhaka levels.<sup>12</sup>

In addition to the field data collection, a few complementary studies were conducted to gain a comprehensive overview of the sector. The following complementary studies are drawn on in this report: A Legal and Policy Analysis; a Rapid Situation Analysis in May-June 2020 assessing the situation in the wake of the Covid-19 pandemic and related restrictions; and a desk-study on climate change impacts on marine fisheries in Bangladesh. All these studies are available as stand-alone reports too. Finally, two complementary studies on the Industrial Fisheries Sector and the Shrimp Aquaculture respectively have been carried out under the auspices of this project. Findings from these studies are not included in this report, but they will be published as stand-alone reports.

### 1.5 Introductory remarks on artisanal small-scale fisheries in the SWIA sites

Global literature and policy-making on artisanal fisheries concerns both subsistence-related artisanal fisheries, where single households gain their income from close-to-shore fishing, and more ‘employment-based’ fisheries practices, where owners of smaller boats hire fishers to go out. This study focuses on the latter, namely the artisanal fisheries working from motorized wooden boats that typically go fishing for 5 to 7 days, within 40 meters’ depth. The number of fishermen on these artisanal fishing boats varies from 10 to 25, depending on the boat size and the gear used. In general, the gear used is relatively simple (and requires a low investment), and includes nets that are pulled by hand – and boxes of ice cubes for storing of the catch.

The artisanal marine fisheries sector is based on interaction between five types of key actors, namely money lenders, fish traders, boat owners, captains and fishers. The money lenders and traders (*arotdars*, also known as ‘warehouse owners’) are investors who control the fish market, whereas only the captain and fishers go to sea. The boat owner is in-between these two groups and depends on both the money lenders and the fishers to run his business.

This study focuses on the the artisanal fisheries working from motorized wooden boats that typically go fishing for 5 to 7 days, within 40 meters’ depth.

<sup>12</sup> For a complete list of interviews please refer to Annex 2.



Fishing in the Bay of Bengal is a seasonal affair, and approximately 4-5 months a year are considered the peak seasons, as illustrated in the seasonal calendar below (own figure, based on field data):

Month/activities	April 15- May 15	May 15- June 15	June 15- July 15	July 15- August 15	August 15- September 15	September 15- October 15	October 15- November 15	November 15- December 15	December 15- January 15	January 15- February 15	February 15- March 15	March 15- April 15
Months	Boisha	Joshto	Ashar	Srabor	Bhaddi	Ashin	Kartik	Aghrayar	Posh	Magh	Falgun	Choitro
Fishing Ban period												
Non-fishing period (weather do not permit)												
Rough weather/Strom surge												
Fishing is disturbed (cyclones)												
Fishing period												

## 1.6 Governance

The recent settlement of Bangladesh's marine boundary dispute with India, based on provisions of the UN Convention on the Law of the Sea,<sup>13</sup> has ignited a strong focus on the economic potential of the marine resources that are now internationally recognized as belonging to the Bangladeshi state. Bangladesh's commitment to exploring the economic opportunities in its marine resources is reflected in the Blue Economy initiative, and the legal framework for the governance of the sector is currently under development. Most importantly in the context of the SWIA, a new Draft Marine Fisheries Act-2019, which was approved by the Cabinet division in late December 2019, is currently under consideration of a Parliamentary Standing Committee. Bangladesh also recently acceded the international agreement on Port State Measures, the first binding international agreement aimed at combating illegal, unreported and unregulated fishing.<sup>14</sup> These developments reflect a renewed focus on the need to regulate the fisheries sector, in preparation of an expected increase in investments and economic activities in the context of Bangladesh' 'blue economy'.

In this context it is important to not only look ahead at the development potential of the high-production industrial-scale fisheries but maintain a focus also on the crucial role of artisanal fisheries in local economies where poorer segments of the population earn their livelihood from this sector.

13 The dispute was settled by the Permanent Court of Arbitration [https://pca-cpa.org/en/news/bay-of-bengal-maritime-boundary-arbitration-between-bangladesh-and-india-bangladesh-v-india/#:~:text=08%20July%202014-,Bay%20of%20Bengal%20Maritime%20Boundary%20Arbitration%20between%20Bangladesh%20and%20India,India\)&text=The%20Award%20establishes%20the%20course,and%20beyond%20200%20nautical%20miles.](https://pca-cpa.org/en/news/bay-of-bengal-maritime-boundary-arbitration-between-bangladesh-and-india-bangladesh-v-india/#:~:text=08%20July%202014-,Bay%20of%20Bengal%20Maritime%20Boundary%20Arbitration%20between%20Bangladesh%20and%20India,India)&text=The%20Award%20establishes%20the%20course,and%20beyond%20200%20nautical%20miles.)

14 The FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA) was adopted in 2009, and entered into force in 2016 (<http://www.fao.org/port-state-measures/en/>). Bangladesh deposited its instruments of accession to the Agreement with the Secretary General of the FAO in December 2019.

The livelihood situation, labour rights and standard of living of the small-scale fishers is governed by a large number of public authorities with distinct mandates, and the legal and policy framework regulating artisanal fishing and coastal communities' livelihoods is equally complex. The SWIA has identified twelve ministries and nineteen departments that are involved in the governance of artisanal fishers' livelihoods, overseeing aspects related to marine resource governance, law enforcement, and social welfare. The full list is included in Annex 3 to illustrate the complexity of the field, and to underpin the message often raised by labour union activists and CSOs working in the areas, that mandates and jurisdictions are in some cases unclear and cause inaction where action is needed. E.g. in the management of social security allowances where several agencies are involved, or in protecting fishers from robbers or hazardous weather while at sea. The SWIA findings, however, mostly speak to the need for reforming the labour law and related institutions, which currently are not sufficiently engaged in protecting the rights of fishers on the one hand, and to the need for stepping up efforts to protect the social and economic rights of fishers and protect them from poverty and poor living conditions on the other hand. It also carries strong messages on the need to step up efforts to adequately protect women from discrimination, violence and abuse – and for the need to enhance transparency and participation in marine resource governance and complement conservation measures with adequate compensation schemes when livelihoods are being negatively affected by measures imposed by the authorities. These policy and programming messages are presented in Section 3.

### 1.6.1 Commitments to sustainable development

The Government of Bangladesh has a strong commitment to the 2030 Agenda and the seventeen Sustainable Development Goals (SDGs), and has aligned its development planning with the SDGs. The latest international reporting on progress against the 2030 Agenda and the SDGs (Voluntary National Review report, July 2020)<sup>15</sup>, testifies to the Government's commitment to developing the fisheries sector as a new frontier for economic development, and in alignment with the priorities set out in the targets under Goal 14 on ocean management (Life below water). These priorities include conservation and sustainable management of the fish stock (target 14.2), establishment of marine protected areas (target 14.5), combatting illegal, unreported and unregulated fishing (target 14.4), elimination of harmful fishing subsidies (target 14.6) and protection of small-scale fishers' access to resources and

15 The Government of Bangladesh's Voluntary National Review report from 2020 is available here: <https://sustainabledevelopment.un.org/memberstates/bangladesh>

markets (target 14.b), as well as enhancing the economic benefits of the fisheries sector (target 14.7).<sup>16</sup>

The Voluntary National Review notes that the Government's priorities for ocean management and the development of the marine fisheries sector moving forward will be to enhance institutional capacity; to revise and update laws and policies for better alignment with SDG targets; and to enhance conservation measures, including by stronger enforcement of fishing bans; and to 'improve the market chain'.<sup>17</sup>

Commitments under other SDGs are equally important in the context of the holistic assessment of fishers' livelihood and labour rights situation undertaken with the SWIA, including targets under Goal 8 on Decent Work, targets under Goal 1 on ending poverty, and targets under Goal 5 on Gender equality. These will be highlighted as relevant in section 3 on policy and programming messages.



<sup>16</sup> VNR 2020, p. 127-130

<sup>17</sup> Voluntary National Review 2020, p. 131.

## Section 2 SWIA findings



### 2.1 Labour conditions

The work of artisanal fishermen is characterized by extreme physical and mental hardship, and poor contractual conditions. Almost all the fishermen interviewed work as labourers on medium sized fishing vessels, with no formal work contracts, and no clear agreements regarding working hours, rest, and insurance in case of accidents or death. Fishing is seasonal, with a high intensity during 6 months of the year, where fishermen reportedly go to sea approximately 20 days a month and work 'all the time' – and a lower intensity during 4 months of the year, where fishermen go to sea for approximately 10-13 days per month, and still work long hours with short and unpredictable sleeping breaks. During the cyclone season that takes place during the months April and May fishing boats stay ashore and fishermen need to seek alternative means of income.

According to international human rights standards, everyone has the right to work. The right to work is a foundation for the realization of other human rights and for life with dignity. It includes the opportunity to earn a livelihood

by work freely chosen or accepted. The right to decent work is recognised in a number of human rights conventions and treaties including the Universal Declaration on Human Rights (Articles 23 and 24) and the International Covenant on Economic, Social and Cultural Rights which provide for:

- the right of everyone to the opportunity to gain his/her living by work which he/she freely chooses or accepts;
- the right to the enjoyment of just and favourable conditions of work, in particular remuneration which provides all workers, as a minimum, with fair wages and equal remuneration for work of equal value, and a decent living for themselves and their families;
- Safe and healthy working conditions;
- Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays;
- The right for everyone to form and join the trade union of his choice and the right to strike

Since 1919, the International Labour Organization (ILO) has developed a system of international labour standards setting out basic principles and rights at work. Seven out of ILO's eight core conventions have been ratified by Bangladesh. Bangladesh has not ratified the ILO Minimum Age Convention 138.<sup>18</sup> The principles enshrined in these instruments include the protection of workers' right to freedom of association and collective bargaining; the elimination of all forms of forced labour; the effective elimination of child labour; and the elimination of discrimination in employment and occupation.

The ILO considers fishing one of the most dangerous professions, and in recognition of the need to set international standards protecting the rights of fishers in the small-scale and international scale fisheries alike, the Work in Fishing Convention No. 188 was adopted in 2007.<sup>19</sup> Bangladesh has not ratified ILO Convention 188.<sup>20</sup>

Coastal fishermen in Bangladesh bear witness to the dangers and hardship of the profession, and the SWIA has identified the main labour rights issues at stake in the working life of a fisherman who makes his living from small-scale fishing off the coast of Bangladesh.

18 ILO: up-to-date Conventions and Protocols not ratified by Bangladesh. Available at: [https://www.ilo.org/dyn/normlex/en/?p=1000:11210:0::NO:11210:P11210\\_COUNTRY\\_ID:103500](https://www.ilo.org/dyn/normlex/en/?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:103500)

19 ILO: Decent Working Conditions, Safety and Social Protection. Work in Fishing Convention no. 188 and Recommendation No. 199. Available at: [https://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---sector/documents/publication/wcms\\_161209.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_161209.pdf)

20 ILO: up-to-date Conventions and Protocols not ratified by Bangladesh. Available at: [https://www.ilo.org/dyn/normlex/en/?p=1000:11210:0::NO:11210:P11210\\_COUNTRY\\_ID:103500](https://www.ilo.org/dyn/normlex/en/?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:103500)

## 2.1.1 Occupational health and safety

### Life-saving equipment

The Bay of Bengal is subject to frequent storms and cyclones, and such hazardous weather conditions call for utmost precautions and safeguards protecting fishermen's occupational safety and health. The working conditions documented by the SWIA, however, point towards serious gaps in the protection of small-scale fishermen's safety and security while at work.

Eighty percent of the fishermen interviewed feel that they have insufficient life-saving equipment on board to handle dangerous situations at sea. Less than half of the fisherman respondents say that the boats they work on are equipped with life jackets, while 36 percent report having drums,<sup>21</sup> 10 percent report having floats – and 8 percent say that the boats they work on have no life-saving equipment whatsoever. Fishermen explain the lack of safety equipment due to indifference on behalf of the boat owner – and lack of inspection and enforcement by authorities.

### Warning signals and communication equipment

Resilience towards extreme weather events is highly dependent on timely warnings in the face of dangers. Bangladesh has shown impressive progress in protecting lives in the face of cyclones, flooding and storms in the coastal belt over the past decades, precisely by upgrading cyclone warning systems, and carrying out massive evacuations from vulnerable coastal villages to safe cyclone shelters before severe storms have hit.<sup>22</sup> The SWIA, however, points towards a dangerous gap in the warning signal system when it comes to reaching fishermen already at sea when the storms and cyclones approach. Half of the fishermen interviewed said that there is no warning system that reaches them at sea – and when asked if they know the warning signal system, half of the respondents said no too. Among those who do know the warning signal system, two thirds have self-studied – and only one out of four was trained by their employer (the boat owner) in understanding the signals. Among those who don't know the signal system, half say they manage dangerous weather by experience, and the other half say they manage with God's help. In addition to the lack of training in understanding the extreme weather warnings, inadequate communication equipment plays an important role in warning signals not reaching the artisanal fishing vessels at sea. A

21 Plastic drums are used for storing fish, and the same are used during storms or other extreme weather events, in the absence of life saving equipment (buoys, life jackets, etc.).

22 Ref – impressive progress in protecting lives – death rate when cyclones hit decimated over the course of a few decades



striking 39 percent of the fishermen interviewed report that they have no communication equipment whatsoever on board, and a further 12 percent report that they only communicate with their boat owner and authorities on land by sending and receiving messages through other boats they meet at sea. 35 percent say that they rely on mobile phones as far as they can reach, and only 13 percent use radio communication equipment.

### **Harbour facilities**

Small-scale artisanal fishing in coastal Bangladesh operate with quite basic infrastructure. The geography of the coast is literally a fluid landscape, where land and waterways are interspersed in an intricate web. The coastline consists of a series of estuaries emanating from the large rivers that flow through Bangladesh, and the artisanal marine fishing boats have their home 'harbours' in these brackish waterways. The docking facilities, in most areas, consist of simple wooden or bamboo poles to which the boats are tied up while docked, and only 3 percent of fisherman respondents said that they dock their boats in harbour facilities with concrete walls. Almost all find that the harbour facilities are not safe (97 percent). Boats are vulnerable to changes in the tide, as well as to harsh weather with waves, and fishermen complain that proper infrastructure in the form of outer jetties or breakwaters that could create safer docking conditions are missing. Navigating from sea to shore is also a complicated affair, and fishermen call for stronger regulation and navigation support on behalf of authorities around the harbours and docking areas.

### **Mental hardship and fear**

Fishermen describe intense worries and fear as part of their working life. While at sea, they worry about their family members at home – acutely aware of the high number of incidents of harassment and assaults on women and girls who are home without a man in the house. At the same time, they fear violent encounters with robbers at sea, and many also fear death by drowning. The SWIA data documents that these worries and fears arise from real experiences. Every year fishers die at sea, and in 2018 alone 17 cases of confirmed deaths were recorded in Pathorghata.

### **Food and rest at sea**

The SWIA data document poor access to adequate food during fishing trips, with an inadequate supply of drinking water, and a lack of nutritious food that matches the hard work on board the vessels. Many boats carry only rice and a bit of daal – and fishers often bring their own rations of tea and snacks. Rest is insufficient, and sleeping logistics are extremely crowded, and without proper shade and shelter from the sun.

### **2.1.2 Payment of fishermen**

Most fishermen are paid a share of the market price for the catch upon returning to shore. Their income is highly unpredictable, not only because a fishing trip can be more or less successful in terms of how big a catch is brought to shore – but also because of lack of transparency around the market price the catch is sold for. Approximately one third of the fishermen interviewed found that they are underpaid for their share of the catch, in the sense that their payment is based on a lower rate than the actual market price for the fish on the given day. Conflicts around financial matters are frequent but are rarely brought to the attention of authorities.



The fisheries labour market is part of a trading system, in which various actors play their roles and operate their business under formal and informal rules. The system is interlinked and interdependent. Banks and NGOs operate as important players in the fish trading system, whereas informal institutions and practices, including informal money-lending and debt-bondage, play significant roles too. The figure below illustrates the interplay between formal and informal institutions and practices in the fish trading and fisheries labour market system:



		Money lender (Mohajon)	Fish Trader (Arot dar)	Boat Owner (Malik)	Captain (Sareng/ Majhi)	Fisher (Gowhor/ Shunnobhagi/ Malla)
Fish market	Actors and functions	Invests in fishing trawler and lends money to fish trader	Invests in boat and fishers and controls arot (fish trading market/ ware-house)	Invests in boat to repair and prepare for sailing	Team lead and in charge of fishers	Catching fish as day labor. Share less in profit.
	Financial system (Bank)	Mohajon has access to bank directly, due to credibility, wealth and property	Does not have access to bank. Lack of property to mortgage	Takes loan from fish traders	Only access to fish trader	Banks do not directly invest in fishing boats, gears or labor
Fish market	Financial system (NGO credit schemes)	Do not use NGO loans. Needs bigger loans and takes them from banks.	Yes, often takes loans from NGOs	Yes	Yes, regularly takes loan	Most regular user of NGO loan
	Profit sharing	Buyer, monopoly market, fish trader who takes loan from him has to sell fish to him	5-10% interest of his investment, as per contract with boat owner	After clearing all dues, He takes 50% of the income	From the remaining 50 % , the captain takes two thirds (33%)	About 15 fishers share the remaining 17% of the profit
Labor Market	Actors and functions	Not directly linked	Directly controls the labor market, Dadon system	Also bondages labor in small number	A fisher often stays under the fish trader that the sareng recommends	Fisheries labor. Sells their labor in advance

Figure: Fishing labor market – formal and Informal financial institutions

### 2.1.3 Debt bondage

Some fishermen are caught in cycles of debt and bound to pay off loans (dadon) from boat-owners with their labour. Approximately one third of the questionnaire respondents who reported that they need to take loans to make ends meet said that they have to repay their debt with work. At the time of taking the loan, the fisherman agrees to provide his labour in return for the loan, for a certain period of time. The dadon system de-facto binds the fisherman to the money-lender / boat-owner, and he loses his freedom to bargain for the best possible working conditions and pay, or to seek employment elsewhere. According to the ILO, a worker who works under debt-bondage, and is not free to seek employment where he freely chooses, is a victim of forced labour, which is a serious human rights and labour rights violation and a criminal offence.<sup>23</sup>

#### Debt-bondage and forced labour

The ILO identifies debt-bondage as a form of forced labour, abolished with the Forced Labour Convention (No. 29) in 1930, which is nearly universally ratified – including by Bangladesh.

Not being subject to forced labour is a fundamental human right, and States have an obligation under the Convention to suppress all forms of forced labour.

***ILO Standards on Forced Labour. The New Protocol and Recommendation at a Glance. ILO, 2016***

#### Dadon bonded labour in the Bangladesh fisheries sector

Debt and bonded labour is common among artisanal fishers. The small-scale coastal fisheries sector requires a great labour force during the fishing season. The SWIA's field interviews and observations indicate that the demand for labour has increased in recent years, while the numbers of fishers are decreasing due to frequent deaths at sea. Pathorghata Motsho Kollan Somitti confirms that more than 17 fishers died during 2018.

To tackle the challenge of the labour shortage, money lenders and boat owners follow a system that allows them to bind the labour in advance. This is done through a verbal agreement between the money lender and the fisher, which they seal by signing a blank piece of paper, after which the money lender offers payment in advance. The fact that the verbal agreement is not written down – yet sealed with a signature on a blank document - allows the money lender to alter the conditions of the oral agreement.

23 ILO: What is Forced Labour, Modern Slavery and human Trafficking? <https://www.ilo.org/global/topics/forced-labour/definition/lang-en/index.htm>

During the lean season, the fishers need money for their household expenditures, typically when their savings are exhausted in February or March. During March and April, the fishing labour market is open for hiring. Without alternative possibilities of taking loans, the fishers sell their labour in this market for the upcoming season at a very cheap rate. In Pathorghata, the pay per fisher is 15,000 BDT in a period of nine months. The length of the period was reduced to 6 months due to the 65-day ban on fishing. The payment rates can differ in each fishing labour market, but the process of contracting is similar, and usually involves the signing of a blank document in the presence of three witnesses, who are loyal to the money lender.

Once the fisher has signed this document, he is bound to the money lender, and this process is known as *dadon*. During field visits, the *dadon* practice was observed in both Pathorghata and Cox's Bazar, and different examples of the vulnerability fishers face after having taken a loan against a signature on a blank piece of paper were documented. In some cases, fishers shared experiences of being taken to the police station when seeking to cancel the *dadon* agreement – only to find themselves presented with the piece of paper they had signed – but now with written clauses that were not there when they signed. Money lenders often claimed that the fishers owed a huge amount of money, confirmed by the fisher's signature on the written 'agreement'. From a legal point of view, the fishers have no rights to protest these claims, as their signatures appear on the 'agreements'. However, they do sometimes seek support from local trade unions and local council members when confronted with such police cases.

The impact of bonded labour is manifold, and it undermines the possibility of negotiating fair wages for the labour fishers give in return for the loans. In an interview at Kutubjura, Moheshkhali, many fishers stated that if they were given the freedom to choose a boat and negotiate with the money lender, they would be able to get the double of the salary they were currently working for. Unfortunately, the economic situation in the end of the lean season and the expenses of ordinary household costs such as food, health care, education and clothes, forces them to take out the *dadon* loans.

In Moheshkhali, the Boat Owner Association argued for the process of payment in advance. The association stated that during the season, fishers typically move from one money lender to another if they are not contracted in advance. Furthermore, the association added that if they failed to ensure the labour before the season, the labour payments would become extremely expensive during the season. The Boat Owner Association explained that the businesses would not be able to run without the reasonable prices of labour,

and this is the reason for paying the fishers in advance. Additionally, the money lenders said that they have expenses too and need to pay the bank and *mohajon* (money lender) in time, and by that argued that they are also a part of the greater fish market.

The fishers usually stay with one money lender for generations, and work as team members under the same captain. However, government officials do not allow this system. The chief executive officer of the local government (UNO) of Moheshkhali shared with the research team that anybody complaining about the bonded labour practice, can play a role in changing it. He also added that nobody had complained so far. Pathorghata Police also acknowledged that bonded labour is a practice that is commonly used in the area. However, they are unable to do anything, since the fishers are not complaining about being forced to sign the documents, wherefore the documents seem legal. However, they try to arrange local arbitrations to allow negotiation among the money lenders and the fishers, rather than focusing on recording cases against the fishers.

#### 2.1.4 Child labour

An overwhelming majority of fisherman respondents report that they work with crew members who are under the age of 18 (83 percent), and children as young as 8 years reportedly work on the fishing boats. When asked how young the youngest child they have worked with is, the average response (median) is 12 years.

Children's tasks on board the fishing vessels include physically demanding activities such as pulling nets, as well as sorting and drying fish. Children earn less than adult crew members, and almost 20 percent of the fisher respondents say that children work for food alone and get no salary at all. Given the hardships on board, as described above, these children are engaged in a hazardous form of child labour, which would constitute a violation of international labour rights standards. However, in Bangladesh work in fisheries does not fall under the list of 38 occupations considered hazardous for

#### Worst forms of child labour

ILO Convention No. 182 on the Worst Forms of Child Labour prohibits hazardous child labour, and defines work which could harm children's health or well-being and/or expose them to danger, as falling within the category of "worst form of child labour".

ILO Convention No. 182 was ratified by Bangladesh in 2001.

***ILO Standards on Forced Labour. The New Protocol and Recommendation at a Glance. ILO, 2016***

children.<sup>24</sup> This, and the non-payment of children for their work, indicates that unacceptable forms of child labour are practiced in the small-scale fisheries sector, which calls for urgent scrutiny and response.

### 2.1.5 Trade unions and local organizing

Fishers are working on local organizing and establishment of trade unions for collective bargaining. The SWIA found that fishers' trade unions are challenged by fragmentation, divisions along political party lines – and elite capture in the sense that boat owners and middle men dominate the trade unions, who then lack a strong voice representing the fishers' interests. Furthermore, the fact that fishers are not recognized as labourers under the labour law makes it impossible to undergo the official registration procedure otherwise required for trade unions in the country.

### 2.1.6 Local authorities' oversight measures

While there is no institution mandated to oversee the labour rights of fishers, a certain level of oversight of the fishing vessels exist. According to interviews carried out with multiple stakeholders in the SWIA sites, both industrial trawlers and the smaller mechanized fishing boats used in the small-scale fisheries sector operating below 40 metres of depth, are required to obtain a fishing license before going to sea. Fishing licences are issued by the Marine Fisheries Office (MFO) under the Department of Fisheries, but the licensing requires a prior Certificate of Inspection, also from the MFO, as well as vessel registration from the Marine Mercantile Office (MMO). At the time of data collection, the MFO and MMO provided a one stop service for these processes at different fishing sites. Observations in the field indicated a high level of corruption, in particular in relation to obtaining the Certificate of Inspection – perhaps indicating that quite a few of the certified vessels do not, in reality, live up to the required standards.

Fish trading at the local landing stations too requires a license, and these are held by the *arotdars*, who also serve as money lenders.

Observations in the field indicated a high level of corruption, in particular in relation to obtaining the Certificate of Inspection – perhaps indicating that quite a few of the certified vessels do not, in reality, live up to the required standards.

<sup>24</sup> ILO. Hazardous work list, Bangladesh. Available at: [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new\\_delhi/documents/genericdocument/wcms\\_486739.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new_delhi/documents/genericdocument/wcms_486739.pdf)

Stake-holders	License type	Ministry/ Department	Procedure for getting license	Fees	
Boat/ Trawler	Certificate of Inspection - certifying 'boat fitness' and gears	Mercantile Marine Department, Ministry of Shipping	Regional office in Chittagong, often do not inspect the trawler	Formal fee- 15000 BDT Informal fee – 40,000 BDT	Coast Guard/ River police/
	Licenses for fishing at sea	Department of Maine Fisheries	They rely on the licenses of MMD, if anybody gets license form MMD, MFD does not inspect	Formal Registration fee -7000 BDT Informal- 14000 BDT plus	Coast Guard/ River Police
	Pass for harbor	Department of Fisheries	Does not require any inspection	Formal -850 BDT Informal -2600 BDT	Coast Guard
Arotdar	License for fish trading in BFDC ghat (landing station)	Department of Fishery Development Cooperation	Application form with, national ID, Citizenship certificate, trade license	Retailer Formal -920 BDT Informal -2000 BDT Wholesaler- Formal -1905 BDT Informal – 3500 BDT	BFDC, Union Parishad/ Municipality

### 2.1.7 Human rights guidance on decent work

Artisanal fishermen in Bangladesh are being deprived of the right to decent work when they work without contractual agreements, or where agreements around working hours, conditions, and payment are unclear, or safety equipment on the vessels they work on is inadequate and insufficient to protect their lives from the dangers they face while working at sea.

Fishing workers, through the very nature of their work, are particularly vulnerable to exploitation and forced labour, operating as they do in isolated and hazardous conditions with a lack of inspections. To protect this vulnerable group, the International Labour Organization (ILO) has established basic standards of decent work in the fishing industry with the adoption of

Convention No. 188 on Work in Fishing, along with Recommendation no. 199 in 2007. The Convention and the recommendation establish minimum labour standards to improve the safety, health and medical care for workers on board of fishing vessels, as well as ensuring they have the protection of a written work agreement and access to the same social security schemes as other workers.

It sets out a coherent framework for protecting the rights of fishers, and the ILO encourages countries to identify gaps in existing legislation based on the standards set in the Convention, also before ratification is considered.<sup>25</sup> ILO Convention 188 includes the following provisions:<sup>26</sup>

- It establishes the responsibilities of fishing vessel owners and skippers for the safety of fishers on board and for the safety of the vessels (Article 8);
- It sets a minimum age for work on board fishing boats and requires special protection for young fishers (Article 9);
- It requires fishers to undergo periodic examinations of their medical fitness for work on fishing vessels (Articles 10-12);
- It requires that fishing vessels are sufficiently and efficiently manned (crewed), are under the control of a competent skipper, and that the fishers on board are provided sufficient rest periods (Articles 13-14);
- It requires fishing vessels to have a crew list and fishers to have the protection of a signed work agreement, setting out the terms of the work they are performing (Articles 15-20, and Annex II);
- It entitles fishers to be repatriated when their agreements expire – and for other reasons, and prohibits making fishers pay to obtain their jobs, or blacklisting them (Articles 21-22);
- It addresses how fishers are paid and that they shall have the means to send money home to their families at no cost (Article 23-24);
- It sets standards for living accommodation and food on board (Articles 25-28, and Annex III);
- It establishes requirements for occupational safety and health, as well as a basic level of medical care on fishing vessels; (Articles 31-33);

25 ILO 2015: Fishers First, p. X.

26 ILO (2007), Brochure on Decent Working Conditions, Safety and Social Protection – Work in Fishing Convention No. 188 and Recommendation No. 199. Available at: [https://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---sector/documents/publication/wcms\\_161209.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_161209.pdf)

- It ensures that fishers benefit from social security protection no less favourable than that provided to other workers in their country; and, at a minimum, provides protection in cases of their work-related sickness, injury or death (Articles 34-39).

Bangladesh has not ratified ILO Convention No. 188 yet. However, given the country's large reliance on fishing and the findings from this SWIA that clearly indicate gaps in terms of decent work conditions, it is critically important that Bangladesh strives towards ratification of the Convention. The first step in this process would be to undertake a comparative analysis of the Convention and current national legislation, followed by consultations, to clarify the legal protection provided to fishers, and to identify gaps in that protection to be filled by changes to national laws, regulations or other legally binding measures.<sup>27</sup>

The case of those who take dadon loans, and repay their debt with work, is particularly grave, as such loans can be considered a form of debt-bondage and forced labour according to the ILO's definitions. The Government and national authorities have a duty to eliminate all forms of forced labour, given Bangladesh' ratification of ILO Convention No. 29 on Forced Labour. The Convention requires ratifying States to ensure that the use of forced labour is punishable as a penal offence, and that penalties are adequate and strictly enforced. ILO supervisory bodies highlight that States must not only criminalize and prosecute forced labour, but also take effective measures to prevent forced labour, and to provide victims with adequate protection and access to justice, including compensation. A 2014 protocol to the Convention provides specific guidance in this regard.<sup>28</sup>

Under Article 374 of the Bangladesh Criminal Code, forced labour (compelling a person to work against their will), can lead to a punishment of up to 1 year of imprisonment and a fine.<sup>29</sup>

Given the hazardous conditions of children working on fishing boats, including exposure to harsh weather conditions, no availability of adequate safety gear, long working hours, and non-payment of wages, such work can be considered as a hazardous form of child labour that should be abolished according to ILO Convention 182 (Worst Forms of Child Labour Convention), which is one the

27 ILO, Report of the UN Secretary-General on Oceans and Law of the Sea, 2014. Available at: [https://www.un.org/Depts/los/general\\_assembly/contributions\\_2014/ILO.pdf](https://www.un.org/Depts/los/general_assembly/contributions_2014/ILO.pdf), see page 3. ILO offers a model for such a gap analysis, available at: [http://www.ilo.org/sector/activities/sectoral-meetings/WCMS\\_204806/lang--en/index.htm](http://www.ilo.org/sector/activities/sectoral-meetings/WCMS_204806/lang--en/index.htm)

28 ILO Standards on Forced Labour. The New Protocol and Recommendation at a Glance. ILO, 2016

29 Accountability Hub: Bangladesh- Article 374. See: <https://accountabilityhub.org/provision/art-374/>



eight ILO fundamental labour conventions.<sup>30</sup> In 1999, the ILO adopted the Worst Forms of Child Labour Recommendation No 190. It contains recommendations on the types of hazards that should be considered for inclusion within a country-based definition of the worst forms of hazards faced by children at work.<sup>31</sup> Hazardous child labour or hazardous work is the work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. Bangladesh labour law has set out a list of hazardous work for children, which includes 38 activities/occupations hazardous for children, but this list does not include the fisheries sector.

Bangladesh has made various international commitments to promote and protect the rights of children. It has ratified the UN Convention on the Rights of the Child. In 2001 it also ratified ILO Convention 182 on the worst forms of child labour. Following the ratification, national legislation on hazardous child labour was subsequently revised in 2006, and a list of hazardous forms of child labour was adopted in 2013. However, this list of hazardous forms of child labour does not mention fishing as a hazardous occupation.<sup>32</sup>

In addition, Bangladesh has not ratified ILO Convention 138 concerning the minimum age for admission to employment (Minimum Age Convention). Various organizations including the ILO continue to lobby the Government of Bangladesh to ratify ILO Convention No. 138.



30 Not all work

31 ILO Worst Forms of Child Labour Recommendation 190 (1999). Available at: 1999[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312528](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312528)

32 ILO Hazardous Work List Bangladesh: [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new\\_delhi/documents/genericdocument/wcms\\_486739.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new_delhi/documents/genericdocument/wcms_486739.pdf)

## 2.2 Standard of living

According to international human rights standards, every man, woman and child has a right to a standard of living that is adequate for their health and well-being. This includes the right to food, clothing, housing and medical care and social services – and the right to social security in critical situations beyond the individual's control, such as unemployment, sickness, disability, widowhood, old age or other lack of livelihood (UDHR art. 25.1, and further enshrined in the ICESCR art.11).

The human rights system as well as the current development paradigm addresses poverty and poor enjoyment of human rights as entwined and mutually reinforcing issues of concern. While poverty can cause a poor and inadequate standard of living with e.g. poor housing, un-healthy water and poor nutrition, and thus undermine the enjoyment of human rights, the opposite dynamic is also at play: Inadequate fulfilment of human rights causes or exacerbates human rights violations where for example youth with poor access to schooling or vocational training opportunities end up working under hazardous and unjust conditions.<sup>33</sup>

This section summarizes the SWIA findings in relation to most of the dimensions of an adequate standard of living mentioned above, namely the right to housing, the right to health care, and the right to social security.<sup>34</sup>

In May 2019, when the field data collection this report is based on had just started, the Ministry of Fisheries and Livestock of the Government of Bangladesh announced a new 65 Day ban on fishing in the country's marine areas, including the shallow waters near shore, where the artisanal fisheries operate.<sup>35</sup> The ban was aimed at conserving the fish stock, and it was announced on a short notice. It left the fisheries-dependent coastal communities without any means of livelihood during a time of year that would normally be considered high season for fishing. No compensation schemes were announced when the ban entered into force (unlike the practice during the yearly Hilsa ban in October), and even though some compensation was later offered in the form of rations of rice, it remained unpredictable and

33 See OHCHR's thematic pages on poverty and human rights: <https://www.ohchr.org/EN/Issues/Poverty/Pages/About.aspx>

34 SWIA data does not cover the right to food with enough detail or accuracy to include that issue here, wherefore it is left out of the assessment even though the data does point towards families skipping meals during times of low or no income, as mentioned below.

35 Dhaka Tribune, Fisheries ministry for enforcing 65-day fishing ban in Bay of Bengal, 16 May 2019. See: <https://www.dhakatribune.com/bangladesh/event/2019/05/16/fisheries-ministry-for-enforcing-65-day-fishing-ban-in-bay-of-bengal>

insufficient to cover the losses.<sup>36</sup> In 2020, the 65 Day ban was repeated, and on top of that, Covid 19 had hit the country, causing a series of shocks in the coastal artisanal fisheries sector too. In some upazilas, authorities ordered a halt to all fishing, following a precautionary interpretation of the Government's restrictions on movement to stop the spread of the virus. In other upazilas fishing continued, but even so, the lockdown across the country caused disruptions in the fish-trade, which led to huge losses on the local markets. The 65 Day ban and the Covid 19 restrictions and disruptions of trade underscore the precarious conditions on which the small-scale fishers' livelihoods and standard of living rest. We have therefore dedicated a sub-section below to look in-depth at their situation during these times, based on data from a rapid situation analysis carried out in June 2020.

### 2.2.1 Poverty

The SWIA has documented a high level of economic insecurity in the small-scale coastal fishing communities examined. Almost all the fishermen who were interviewed report that fishing is their main source of income<sup>37</sup> – and does not generate enough money to cover their families' basic expenses. The estimated yearly income varies quite a bit among interviewees, with a median income of around 93,000BDT per year (USD 1075), while expenditures amount to 120,000BDT (USD1390) per year. It is worth noticing too that approximately one third of the respondents have a yearly income of less than 75,000BDT per year (USD865), and that the average yearly income for Bangladeshis amounted to 1,940USD in 2019, according to the World Bank.<sup>38</sup> While the living wage discussion has not extended to the rural workers or fishers' situation yet, for comparison, living wage advocates engaged in the 2018 negotiations around minimum wages in the garment sector argued that a living wage outside of Dhaka (but still urban) would amount to app. BDT13,600 or roughly USD 155 per month.<sup>39</sup>

Only one fourth of the respondents have access to social security allowances (such as a rice ration per fisher family) when their income from fishing does not cover their family's basic needs, and two thirds report that they need to take loans to cover these expenses. Many take loans from banks and NGOs, and some take loans from money lenders or from the boat owner they work

for. Approximately one third of the fishermen interviewed report that they pay back their loans with work, as also described in the labour rights section above (section 2.1.3 and text box on *dadon* bonded labour).

### 2.2.2 Housing and water

The overwhelming majority of the fishing-dependent families involved in the SWIA live in bamboo and straw housing (88 percent) that provides limited protection from extreme weather events such as the sweltering heat, storms, cyclones and flooding that are frequent phenomena in the coastal region of Bangladesh. In comparison, 14 percent of the country's total population lived in bamboo and straw houses at the time of the last census in 2011, and the figure had been decreasing rapidly over the last decade till then.<sup>40</sup>

A bit less than half of the respondents report that their house does not provide adequate space for their families, and half of the respondents do not feel safe in their houses. Only very few respondents know of public support being available for people who cannot afford adequate housing (7 percent), and among those who know of such support being available, the majority has received support themselves, mostly in the form of cash allowances. In these cases, the fisherman ID card has been the basis for claiming and receiving housing support.<sup>41</sup>

The water supply in the SWIA sites is generally insecure and inadequate. 38 percent of the questionnaire respondents report that water sources are not accessible for all. Only a bit more than half of the respondents get their water from tube-wells, while almost one third rely on ponds with surface water. Here too the comparison with the latest available national census data is striking. In 2011 89 percent of the total population of the country had access to drinking water from tube-wells, while only 1.3 percent relied on water from surface ponds.<sup>42</sup> Not surprisingly, many respondents describe the quality of the water they have access to as mediocre. Many complain of a bad smell (40 percent) or 'some smell' (37 percent), 30 percent report that their water is not clear, and half of the respondents report that their drinking water tastes of salt, reflecting the well-known problem of saline intrusion in the coastal region of Bangladesh, which can have significant health impacts. For example, saline water is an important factor for hypertension or high blood pressure in the coastal areas.

36 Some newspaper reporting mention that compensation allowances of rice were mentioned when the ban was first announced. Fishers in the SWIA sites, however, did not get any information on these social security measures.

37 95 percent

38 <https://data.worldbank.org/country/BD>.

39 Living Wage Coalition: [https://www.globallivingwage.org/wp-content/uploads/2018/05/Dhaka\\_Living\\_Wage\\_Benchmark\\_Infographic.pdf](https://www.globallivingwage.org/wp-content/uploads/2018/05/Dhaka_Living_Wage_Benchmark_Infographic.pdf)

40 Bangladesh Bureau of Statistics, Statistics and Informatics Division, Ministry of Planning, Government of the Peoples' Republic of Bangladesh, 2012: Population and Housing Census 2011, Socio-economic and Demographic Report. National Series, Volume – 4, p. XII.

41 Other sources document poor access for fishers to government land (khas land) under government schemes that issue land to the poor. See e.g. <https://igssf.icsf.net/en/samudra/detail/EN/3798-A-voice-for-the.html>

42 Ibid., p. XI.

It can also lead women, especially pregnant women, to an increased risk of (pre)eclampsia, hypertension, as well as infant mortality.<sup>43</sup> More than half of the respondents (56 percent) report that their families suffer from water-borne diseases such as typhoid, diarrhoea, or more diffuse belly pain.

When questionnaire respondents were asked who provides drinking water to their communities, only one fourth answered that the local government authorities are involved. Close to one third report that NGOs have delivered their water supply.

### 2.2.3 Health

Apart from the health issues related to the poor quality of drinking water described above, the main health issue identified in the SWIA is poor accessibility to health services. While most respondents report that primary treatment facilities are available within a reasonable distance from communities (89 percent), emergency care and diagnostic facilities are not available, and 82 percent report that not even basic medicine is available within a reasonable distance. Almost 80 percent of the respondents say that they have to pay for medical services. In contrast, 1 percent of the respondents reported that they get free medical treatment upon showing their fisherman ID card, which is a very small percentage.

The overwhelming majority of respondents are not satisfied with the treatment they get in local health clinics, and an alarming 95 percent report having experienced discriminatory treatment from doctors, based on their identity as fishermen, or because their clothes signal poverty.

### 2.2.4 Covid 19

On March 26<sup>th</sup> 2020, the Government of Bangladesh imposed lockdown measures to contain the spread of the Covid 19 pandemic. People were instructed to stay home and maintain social distancing, and this had a devastating effect on millions of people earning a living from work in the informal sector. In the coastal small-scale fisheries sector, the lockdown measures were interpreted differently in different locations, wherefore some fishers were banned from going to sea (this was the case in 4 Unions in Pathorghata Upazila), others were under the impression that restrictions applied, and yet others continued fishing during the lockdown without disruption. The general restrictions on movement of people, however, affected the fish trade and the whole sector profoundly, and led to significant losses of income for the vast majority of small-scale fishers.

<sup>43</sup> See e.g. Shammi et. Al., 2019: Impacts of Salinity Intrusion in Community Health: A Review of Experiences on Drinking Water Sodium from Coastal Areas of Bangladesh. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6473225/>

A rapid situation analysis carried out through telephone interviews in June 2020 identified a number of serious impacts of the situation on the small-scale fishing communities. While their enjoyment of the right to a standard of living adequate for their health and wellbeing was already under pressure when the SWIA data were being generated in May-July 2019, as described above, the impacts of Covid 19 and the disruptions of fishing and the trade in fish now led to a desperate situation for many: In 2019, 35 percent of the fishers interviewed reported that their families subsisted on an income falling below 2,5 USD per day. In June 2020, 17 percent said they had lost almost all of their income (81-100 percent), and almost 70 percent reported having lost half of their income or more. The majority did not receive any social security to uphold an adequate standard of living (74 percent), and among those who did receive support, almost all reported that it was insufficient or inadequate to fulfil their families' needs (99 percent).

### 2.2.5 The 65 Day Ban

The 65 Day Ban on fishing which was first introduced to the artisanal fisheries sector in May 2019 entered into force again on May 20 2020 in order to preserve the fish stock. Almost all fishers interviewed in Pathorghata and Moheshkhali alike reported that they respected the ban and refrained from fishing. The Coast Guard patrolled the waters in both Cox's Bazar and Barguna Districts where the two SWIA sites are located, and in Barguna the Fisheries Office, the Naval police, the Navy and the local government authority contributed to monitoring the situation too. At a time when the Covid 19-related restrictions and disruptions of the fish trade had already decreased the income of the poor fishers significantly, as explained above, the 65 Day Ban further exacerbated the loss of livelihood and increased poverty. An alarming

#### **Rapid Situation Analysis, June 2020: Covid 19 and the 65 day Ban on fishing**

Data were collected through telephone interviews with randomly selected people in the two SWIA sites in early June 2020 (Pathorghata and Moheshkhali).

A total of 1018 people were interviewed, almost half of these had also been interviewed as part of the SWIA data collection in 2019. All respondents belong to fishing-dependent families whose income rely on fishing.

Findings from the Rapid Situation Analysis were presented to policy makers and the media at a Roundtable and a press conference in Dhaka in September 2020, highlighting the need to urgently address the desperate situation of the poor fishing dependent families who had lost their means of livelihood during the crisis.

33 percent of the respondents reported having no income at all during the ban, while the rest reported an income as low as BDT 3,208 on average, amounting to less than USD 1,25 per day for a whole family.

The Ban had immediate effects on the fisher families' access to food, and even though social security schemes in the form of 43 Kg rice allowances per fisherman were distributed earlier than the first time the Ban was announced (in May 2019), this support was insufficient and inadequate. In some cases, rice allowances were smaller than the announced 43 Kg, with some respondents reporting having received as little as 10 Kg. In other cases the allowance came too late, and fishers waited for up to a month before the rice allowance was available. In the Moheshkhali area half of the respondents to the survey said that they had to cut down their food intake to two meals a day during the ban.

With no income, and insufficient and inadequate compensation from the authorities, the 65 Day Ban pushed fishers to take loans from money lenders or relatives. Almost 90 percent of the respondents reported having taken loans during the Ban, and many reported that they saw no other option but to repay these loans with work. The 65 Day Ban thus has added another layer to the cycles of debt described in the section on bonded labor above, with potential long-term effects on the fishers' rights to an adequate standard of living and decent work.

#### 2.2.6 Social security

Almost all fishers and family members interviewed for the SWIA rely completely on fishing for their livelihood, and as described, the income they earn from fishing is so low that they live in poverty despite working long hours in rough conditions when at sea. Fishing is a seasonal activity determined by the weather, and around four months a year it is unsafe to go out to sea. In addition, the 65 Day Fishing Ban described above, as well as the two-yearly bans on catching the valuable Hilsha species during its breeding season,<sup>44</sup> sets limits on the scope for earning an income from fishing. The local economies in the SWIA sites are largely driven by the fisheries value chain, and most fishers are unable to find alternative income sources when they are unable to fish. This dependency on an income that is not stable, and the fact that the income they get from fishing is low in the first place, leaves the fishers poor and unable to cover the yearly expenses of their households.

SWIA data show that the small-scale fishers are highly dependent on social security schemes for sustaining their families during the off-season, during fishing bans – and when accidents hit, and a bread winning fisher loses his

ability to go to sea due to accidents, sickness or death. The fishers acknowledge that the bans have a positive effect on the fish stocks, and thus on their income in general, so they are not, in general, opposed to the bans – but they request support for sustaining their families without increasing their debt during low- or no-income periods of the year. Many also point towards the need for identifying alternative income sources, and request support from authorities in that regard.

When examining the coping strategies of the fishers and their families during times with low or no incomes, only 25 percent of the respondents reported having access to social security allowances (known as social safety nets) during these times. Those who do get social security allowances report that support consists of food items such as rice, dal and oil (82 percent), while a few report that they receive cash (14 percent).

Around half of the respondents who reported having received social security allowances received this support during a fishing ban, where they could not make an income – others report having received support after the injury of a family member (29 percent), after a robbery at sea (14 percent), or after the death of a family member (6 percent). The vast majority (90 percent) state that the support received was not enough to cover their needs.

Recent years have seen an increased Government focus on the need to provide social security to the fishers during ban periods, and in 2015 the fisherman ID Card was introduced to identify 'genuine fishermen'. The distribution of social safety net allowances (rice) during ban periods is based on these ID Cards, and fishermen with a Fisherman ID Card can get the allowance from local authorities.<sup>45</sup> In practice, however, the distribution of allowances based on the Fisherman ID cards is un-transparent and unpredictable. Fishers reported that the list of beneficiaries was revised by local authorities, and it was not clear what the roles and cooperation between the local fisheries authorities (Upazila Fisheries Office) and the local government (Upazila Parishad and Union Parishads) was supposed to look like when distributing the social security allowances. This created a climate under which it became challenging for the weakest fishers to get access to support. Having an ID Card did not guarantee access, as the Union Parishads distributed the relief among the fishers in accordance with 'their own rules'. On top of that, the criteria for obtaining a Fisherman ID Card are not transparent or predictable in the first place, so while the social safety net programmes do indeed play an important role in sustaining the poor artisanal fishers during times of need, the access to support remains un-transparent and accountability is low.

44 The Hilsha ban was introduced in 2011 to protect the fish stock from over exploitation.

45 <http://fisheries.gov.bd/site/page/43ce3767-3981-4248-99bd-d321b6e3a7e5/->



### 2.2.7 Human rights guidance on an adequate standard of living

The Guiding Principles on Extreme Poverty and Human Rights, adopted by the UN Human Rights Council in 2012, spell out clearly that poverty is a human rights concern that must be addressed in public policies. The Guiding principles state that “eradicating extreme poverty is not only a moral but also a legal obligation under existing international human rights law.”<sup>46</sup> Based on this premise, the Guiding Principles spell out how the norms and principles of human rights law should play a major part in tackling poverty and guiding all public policies affecting persons living in poverty. This entails ensuring that the State’s measures to tackle poverty must target and reach the poorest members of society, and take into account the multidimensional obstacles to human rights enjoyment they face.

The SWIA findings described above bear witness to the intricate link between the lack of basic resources and daily-life necessities – and the poor enjoyment of an adequate standard of living the small-scale fishers enjoy. This echoes the Committee of Economic, Social and Cultural Rights’ definition of poverty as “a human condition characterized by the sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights.”<sup>47</sup> It follows, that authorities efforts towards reducing poverty needs to address the situation through a broad range of measures, ranging from regulating the labour market to protect the right to decent work with an adequate income,<sup>48</sup> to providing social security in times of need, as well as progressively fulfilling the right to basic necessities such as health care, adequate housing and access to safe drinking water. And at the same time, address power dynamics that deprive marginalized groups from finding their way out of poverty.

The right to adequate housing means that people should have adequate shelter that allows them to live in peace, security and dignity. The government is not expected to provide housing to the whole population but must make sure that the housing market is regulated, and that people do not live in life- or health-threatening conditions, in overcrowded slums and informal settlements, or in other conditions which do not uphold their human rights and their dignity. Where the poorest and most vulnerable do not have housing, the government is expected to either provide housing or assist in finding or paying for housing. Adequate housing should be accessible to all, including disadvantaged and

vulnerable groups. In addition to this, the government must ensure the availability of services, materials, facilities and infrastructure – including safe drinking water and adequate sanitation.<sup>49</sup>

The latter is further underpinned by the Committee on Economic, Social and Cultural Rights’ general Comment No. 15 on the Right to Water, where they state that that “the human right to water is indispensable for leading a life in human dignity and is a prerequisite for the realisation of other rights. The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. Water must be:

1. available – there must be a sufficient and continuous water supply for personal and domestic uses;
2. accessible – water and water facilities must be available to everyone without discrimination.;
3. acceptable – water should be of an acceptable colour, odour, taste, and water services provided must account for cultural sensitivities.;
4. of an acceptable quality – it must be safe and therefore free from substances that constitute a threat to a person’s health.<sup>50</sup>

The right to health is recognized in the Universal Declaration of Human Rights as part of the right to an adequate standard of living (art 25), and in the International Covenant on Economic, Social and Cultural Rights (ICESCR). The Constitution of the World Health Organization recognises the enjoyment of the highest attainable standard of health [as] one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition. The right to health recognizes the indivisibility of human rights, in that a range of underlying determinants of health relate to other fundamental human rights, as described above. Including safe drinking water and adequate sanitation; safe food; adequate nutrition and housing; healthy working and environmental conditions; health-related education and information; and gender equality. Further, the Committee on Economic, Social and Cultural Rights (CESCR) stress that all health services, goods, and facilities must be provided to all without any discrimination and must be: 1) available in sufficient quantity within a State; 2) physically, financially, and intellectually

46 Guiding Principles on Extreme Poverty and Human Rights, OHCHR, 2012, p.2. <https://www.ohchr.org/en/issues/poverty/pages/dgpinintroduction.aspx>

47 Statement by the CESCR, May 4, 2001. E/C.12/2001/10

48 Addressed in this report in more detail in the Labour Rights section above.

49 OHCHR and UN Habitat Fact Sheet no. 21, The Right to Adequate Housing. [https://www.ohchr.org/Documents/Publications/FS21\\_rev\\_1\\_Housing\\_en.pdf](https://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf)

50 ESCR General Comment No. 15, The Right to Water. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11&ctl00\\_PlaceHolderMain\\_radResultsGridChangePage=2](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11&ctl00_PlaceHolderMain_radResultsGridChangePage=2)

accessible; 3) medically and culturally acceptable; 4) scientifically and medically appropriate and of good quality.<sup>51</sup>

The right for everyone to social security, including social insurance is recognised in article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The right to social security is of central importance in guaranteeing human dignity for all persons when they are faced with circumstances that deprive them of their capacity to fully realise their Covenant rights.

Through the provision of social welfare or assistance, States must guarantee protection to everyone, particularly the most vulnerable members of society, in the event of unemployment, maternity, accidents, illness, disability, old age or other such life circumstances. States must progressively realise the right to social security through measures to offer protection, through cash or in kind, which enables individuals and families to acquire at least essential health care, basic shelter and housing, water and sanitation, food, and the most basic forms of education. The artisanal fishers experienced an acute need for social security during the 65 Day Ban that was first introduced in 2019, and even more so in 2020, when the 65 Day Ban and the Covid-19 lock-down overlapped and effectively deprived many fishers from earning any income whatsoever.



51 CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12).

## 2.3 Women

Equality and non-discrimination, including equal rights of men and women, are core human rights principles. Everyone should be treated equally, and women are entitled to the same human rights and fundamental freedoms as men. This is a central theme of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and when ratifying this convention states have an obligation to protect and promote women's human rights. Bangladeshi society is generally described as male-dominated and patriarchal, and it is widely documented that many women hold disadvantaged positions and live with multiple forms of discrimination.<sup>52</sup> The SWIA reaffirms these trends, and bears witness to layers of discrimination, neglect and abuse in the lives of women in fishing-dependent communities.

### 2.3.1 Economic and personal insecurity

Women whose husbands work on fishing vessels live with a high degree of insecurity. They do not feel safe in their own homes when their husbands are at sea, and the fact that fishing is a dangerous profession with a relatively high risk of injury or death constitutes a fundamental threat to their own and their children's means of livelihood. Three quarters of the female respondents who have experienced the loss or grave injury of a husband, father or son at sea, did not receive any compensation. They manage with help from relatives, and many report that they cut back on their own food intake to make ends meet (40 percent), or that they stop sending their children to school (26 percent). Those who do get some compensation to sustain the family mostly get this from boat owners, very few report having received subsistence support from the local government.

The fundamental insecurity of women in fishing communities go beyond the economic insecurity that come with the dangers fishermen are exposed to. In their daily lives too, women lack protection of their personal safety and integrity. The majority of the female respondents report that they have experienced problems and harassment when male family members go to sea (68 percent). In qualitative interviews, women explained that they fear for the safety and integrity of their children, and for their own honour. When asked what they perceive as the main problem for women, 13 percent of the female respondents mention sexual assaults. And 10 percent of those who have lost their husbands at sea report having experienced sexual assaults, while 5 percent report of sexual harassment. Given the sensitivity of and stigma

52 UN Women: <https://asiapacific.unwomen.org/en/countries/bangladesh>; Human Rights Watch: <https://www.hrw.org/report/2020/10/29/i-sleep-my-own-deathbed/violence-against-women-and-girls-bangladesh-barriers>; Mostafiz, Meah, Discrimination Against Women in Bangladesh (August 30, 2015). Available at SSRN: <https://ssrn.com/abstract=2653303>

related to speaking openly about the topic, and in light of the well-documented widespread sexual harassment and abuse women experience in Bangladesh, the actual numbers might be even higher.

Data on schooling underpins the negative influence the perception of girls' vulnerability or lack of protection in the public space have on their schooling. Primary schooling is compulsory in Bangladesh, and the SWIA documents that the far majority of children do complete primary school, with only around 10 percent of the boys and 15 percent of the girls dropping out before completing class five. Respondents explain girls' higher drop-out rates as a result of family restrictions on girls' movement and personal development. School drop-out among girls deprive them of the possibility to develop their full potential, and constitute a threat to their future development and well-being.

### 2.3.2 Women's work

While fishing at sea is an almost exclusively male occupation, some women make an income from post-harvest activities on land, such as cleaning of nets and sorting of fish, fish-drying, and fish processing. 64 percent of the females interviewed claim that they are engaged in such income-generating activity. Some women also fish in the saline / brackish coastal rivers, pulling nets by hand while wading through the water, and make a small and rather unpredictable income from selling a few fish or crabs.

Almost all male respondents agree that women do not get equal pay (93 percent) but earn less than men. They explain that women's labour is cheaper (38 percent), and some say that women 'agree to work for less' (38 percent), or that women are not capable of doing the same amount of work as men over the course of a given time span (24 percent). This discrimination is internalized by women to the extent that they, when asked about the unequal pay, explain it in the same way as men, and claim that it is only natural that they earn less, given their lower productivity. In addition to this very tangible discrimination, experienced by women every time they get their pay for their work, many women describe how they are being criticized for working with men, and identify this stigmatization as one of the biggest problems women in the fishing communities face.

### 2.3.4 Human rights guidance on women's dignity and wellbeing

Women experience inequality and discrimination in many parts of the world, and it is against this background that the international community adopted the Convention on the Elimination of Discrimination against Women (CEDAW)

in 1979.<sup>53</sup> The CEDAW encapsulates the gender-specific dimensions of human rights violations in order to better protect the rights of women.<sup>54</sup>

The international human rights system has grown increasingly attentive to the need to take specific measures to promote and protect the human rights of women, and international standards spell out clearly the need to understand the underlying societal structures and power relations that define and influence women's ability to enjoy their human rights to effectively protect women from violations, violence and abuse.<sup>55</sup>

The CEDAW enshrines the duty of the State to affirm women's rights to non-discrimination in education, employment and economic and social activities (art. 10, 11, and 13) – and pays special attention to the situation of rural women, and the need to take into account in policy and government programming the significant roles which rural women play in the economic survival of their families, and enshrines women's right to access social security, and to agricultural credits and loans (art. 14).

It also spells out that the duty of the State to protect and fulfil women's rights encompass the duty to protect women from violations in their homes and communities, and in 1993 the CEDAW was complemented with the UN Declaration on Violence against Women. The Declaration reaffirmed the need to take stronger measures to protect all women from violence, including sexual harassment and abuse.

Finally, the CEDAW pays particular attention to addressing prejudices and practices which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for men and women. (article 5). It enshrines the duty of the State to eliminate stereotyped concepts of men and women, for example through education.

The CEDAW is monitored internationally by the Committee on the Elimination of Discrimination against Women, and during the 2016 review of the situation in Bangladesh, the Committee raised concerns about the persistent patriarchal attitudes and discriminatory stereotypes about the roles and responsibilities of women and men in the family and in society. They argued that this constitutes serious barriers to women's equal enjoyment with men of their human rights

53 Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), read more on OHCHR's introduction to the Convention, and find the Convention in its full form at: <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>

54 OHCHR: Women's Rights are Human Rights (2014), p. 25. Available at: <https://www.ohchr.org/documents/events/whrd/womenrightsarehr.pdf>

55 Ibid, p. 25



and their equal participation in all spheres of their life.<sup>56</sup> In the fisheries sector such discrimination is seen in relation to the pay inequality between men and women, and in the abuse and fundamental insecurity women face when they lack the company of their husbands at home.

Bangladesh ratified CEDAW in 1984 but with reservations on articles 2, 13(a), 16.1(c), and 16.1(f). In justification, the government cited “conflict with Sharia law based on Holy Quran and Sunna.” The conflict, however, was not specified and does not account for the fact that around 10 percent of the country’s population is non-Muslim, to whom Sharia law does not apply.

Bangladesh’s Constitution guarantees equal rights for women. Article 28[2] for example ensures equal rights for all citizens “in all spheres of the State and of public life”.<sup>57</sup>

The FAO’s Guidelines for Small-Scale Sustainable Fisheries are another valuable framework regarding the rights of women in small-scale fisheries. Gender considerations are incorporated as a cross-cutting topic into the various sections of the Guidelines. There is a specific section that addresses the need to improve gender equality in the entire fisheries value chain. It calls for a) equal participation of women in decision-making processes and organizations, b) appropriate technologies, and c) supportive policies and legislation. It encourages the compliance with relevant international human rights law, such as CEDAW, and the development of monitoring and evaluation systems to assess the impact of legislation, policies and actions for effectively addressing and mainstreaming gender issues.<sup>58</sup>



<sup>56</sup> Ibid

<sup>57</sup> The Daily Star, CEDAW at a dead end in Bangladesh?, 8 March 2019. See: <https://www.thedailystar.net/star-weekend/news/cedaw-dead-end-bangladesh-1711840>

<sup>58</sup> FAO, Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication At a glance, see: <http://www.fao.org/3/a-i4487e.pdf> (page 11)

## 2.4 The right to a healthy environment

The international human rights system shows increasing concern for the relationship between the enjoyment of human rights and the existence of a healthy and sustainable environment. In the words of the OHCHR

“All human beings depend on the environment in which we live. A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation.

Without a healthy environment, we are unable to fulfil our aspirations. We may not have access to even the minimum standards of human dignity.”<sup>59</sup>

The right to a healthy environment encompasses the right to access and use natural resources essential to upholding livelihoods and an adequate standard of living, not least for the poor and most vulnerable groups.<sup>60</sup> It also encompasses climate change as a serious human rights concern, in that it threatens the very foundation of life and livelihoods. And the UN Special Rapporteur on Human Rights and the Environment has explored how human rights obligations apply in the environmental context.<sup>61</sup>

Fishers interviewed as part of the SWIA show deep concerns about environmental and climate change-related changes observed over the past years, and they are acutely aware of the fact that their livelihood depends on a healthy environment where ocean resources lend themselves to upholding the economy of the small-scale fisheries sector. This section describes the artisanal small-scale fishers’ perception of the state of their natural environment as recorded during the SWIA field data collection, and summarizes findings from a desk-based study on climate change’s impact on coastal fisheries in Bangladesh. The desk study was carried out as a complementary study under the SWIA, in consideration of the fact that the Bay of Bengal is recognized internationally as extremely vulnerable to climate change, wherefore it was deemed essential to complement field data on local perceptions of climate change with scientific findings on effects on the fish stock and coastal livelihoods in a broader sense.

<sup>59</sup> OHCHR: About Human Rights and the Environment, <https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/AboutHRandEnvironment.aspx>

<sup>60</sup> A/73/188 Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Report to the UN General Assembly by the Special Rapporteur on Human Rights and the Environment, Mr. David R. Boyd, 2018

<sup>61</sup> Read more about the Special Rapporteur and his mandate, and explore his thematic report and communications here: <https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/SREnvironmentIndex.aspx>



### 2.4.1 Fishers' perception of environment and climate change

Small-scale coastal fishers interviewed during the SWIA are concerned about environmental sustainability and the health of the ocean, and around half of them acknowledge that overfishing can lead to depletion of the fish stock. Female respondents (60 percent) found that the fish stock has decreased over the past 3-5 years.

Fishers also report that the climate has changed in recent years, and an overwhelming majority (88 percent) find that climate change has caused a decrease in their families' income. A few respondents say that this has prompted them to change their profession (4 percent).

The perceived effects of climate change described by the respondents include rising temperatures, increased flooding, less rainfall, more cyclones – and a decrease in the number of fish species as well as in the size of the fish stocks. 52 percent find that climate change has had a negative effect on their families' income, and 22 percent find that it has increased the work load in relation to household chores.<sup>62</sup> Many also report that climate change has had negative impacts on the water quality and reduced the quality of drinking water.

### 2.4.2 Key findings from desk study on climate change impacts on the marine and coastal environment

Bangladesh is extremely vulnerable to climate change, especially around the coastal areas, due to its susceptibility to cyclones, floods and other extreme weather events. A recent report by Germanwatch enlists Bangladesh as the seventh most vulnerable country on the Climate Risk Index 2020, and as one of the countries that has been most affected by climate change in the last 15 years. The population's high dependency on agriculture and fisheries, and the poverty and high population density, exacerbate the situation further.<sup>63</sup>

Climate change has multidimensional impacts on the ecosystems in which artisanal small-scale fishers operate, and is likely to affect the reproduction process, migration patterns and survival rates of fish. Fish stocks' reproduction, growth and migration patterns are all influenced, directly and indirectly, by meteorological factors such as temperature, rainfall and hydrology. When the water temperature rises, the oxygen level is affected – and this may influence

the growth and reproduction of fish stocks.<sup>64</sup> At the same time, the rising sea level is changing the salinity concentration in the estuaries and brackish water bodies in the coastal areas, which can trigger changes in fish habitats and breeding grounds, since fish habitats are highly dependent on the level of salinity of the river system.<sup>65</sup>

These scientific conclusions suggest that artisanal fishers' perceptions on changes in fish stocks over the course of recent years (described in section 2.4.1 above) may indeed be related to climate change-induced patterns of change in the ecosystem. Needless to say, such changes will have profound effects on the livelihood and general standard of living of the artisanal fishers now and in the years to come, and will affect their income, food and nutrition, health and general wellbeing. On top of that, their right to water, housing and a broad range of social and economic rights is impacted by frequent flooding, cyclones and storm surges that damage coastal infrastructure.<sup>66</sup> It is noteworthy too that pollution stemming from industrial sewage, unsafe shipping on the coastal waterways, etc., also plays a major role in degrading the ecosystem and health of the ocean, and thereby the livelihoods of small-scale fishers and coastal communities. Analysing these dynamics, however, lie beyond the scope of this study.<sup>67</sup>

The table below provides a summary of the climate change impacts on fishers' and coastal communities livelihoods and standard of living identified in the desk study:<sup>68</sup>

Fishers also report that the climate has changed in recent years, and an overwhelming majority (88 percent) find that climate change has caused a decrease in their families' income. A few respondents say that this has prompted them to change their profession (4 percent).

<sup>64</sup> Op. cit. p. 6.

<sup>65</sup> Op. cit. p. 9.

<sup>66</sup> When cyclone Amphan that hit the Bay of Bengal in May 2020 it was estimated that around 10 million people were affected, with half a million-people losing their homes (<https://news.un.org/en/story/2020/05/1064712>).

<sup>67</sup> Oils spills in the Sundarbans have been well documented in the media in recent years, as has industrial pollution of rivers, and there is an emerging movement of human rights defenders dedicating themselves to defend the right to a healthy environment.

<sup>68</sup> Copied from Samia Selim et. al, 2020 (slightly adapted). The table summarizes information from the Ministry of Environment, Forest and Climate Change, Government of People's Republic of Bangladesh's THIRD NATIONAL COMMUNICATION OF BANGLADESH TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE, 2018.

<sup>62</sup> The data do not reveal which household chores have changed as a consequence of climate change.

<sup>63</sup> Findings presented here are derived from a study commissioned under the SWIA and published as a stand-alone report: Samia Selim et al., 2020: Impact of Climate Change on the Bay of Bengal – Review of impacts on coastal social-ecological system – fishing, fisheries and the marine environment.

Climate change effects	Impact on coastal fisheries and livelihoods
Flood & River Bank Erosion	<ul style="list-style-type: none"> <li>River bed siltation by river bank erosion affects fish migration, breeding ground, production and livelihoods of fishermen and women</li> </ul>
Cyclone and Storm Surge	<ul style="list-style-type: none"> <li>Loss of coastal fishermen's and women's lives and properties (housing, net, boats)</li> <li>Damage to fish markets and other infrastructure for trade</li> </ul>
Sea Level Rise	<ul style="list-style-type: none"> <li>Increase of saline water area by inundation of low-lying coastal area will increase brackish water fish/shrimp production</li> <li>Change in oceanic water mass and oceanographic parameters affects marine fish stock, fish migration and biodiversity</li> </ul>
Salinity Intrusion	<ul style="list-style-type: none"> <li>Positive impact on coastal shrimp culture</li> <li>Increased salinity level in the estuaries and brackish water bodies, changing fish habitats and affecting subsistence fishing with small or no boats</li> </ul>
Erratic Rainfall	<ul style="list-style-type: none"> <li>Insufficient/irregular rainfall adversely affects the natural spawning of fish and ultimately fish production</li> </ul>
Temperature rise and Variation	<ul style="list-style-type: none"> <li>Affects breeding performance of fish and fish production</li> <li>Affects the whole ecosystem and fish biodiversity</li> <li>Higher temperature increases metabolic function and growth of fish - if the dissolved oxygen and food supply are optimum, fish growth and production increase</li> <li>Higher temperature may enhance primary productivity but can cause reduction in dissolved oxygen, which will in turn decrease fish stocks</li> </ul>

### 2.4.3 Human rights guidance on the right to a healthy environment

In recent decades, international human rights bodies have elaborated on how fundamentally important a healthy environment is for the full enjoyment of a wide range of human rights. Among other things, it is recognized that states have a duty to protect the environment in order to live up to their obligations to protect and fulfil human rights. This includes protecting ocean resources from degradation stemming from pollution, overfishing, climate change-induced changes in the ecosystem and the fish-stock, etc. It also includes a duty to take special care to respect, protect and fulfil the rights of those who are most at risk from environmental harm, in a broader sense, in defence of human dignity. In other words, artisanal coastal fishers in Bangladesh whose livelihood, standard of living and human dignity is threatened by environmental degradation and climate change-induced disasters require special attention on behalf of authorities.

In 2018, the UN Special Rapporteur on Human Rights and the Environment summarized his observations on how international human rights law relates to the enjoyment of a safe, clean and healthy environment in the form of 16 framework principles on human rights and the environment. These principles reflect the application of existing human rights obligations in the environmental context, based on authoritative interpretations and jurisprudence from treaty bodies and other human rights mechanisms.<sup>69</sup>

The principles do not create new obligations for States but serve to guide public authorities and other actors on how to align policy and practice with emerging international standards in the field. Some of them speak quite clearly to the situation described in section 2.4.1 and 2.4.2 above, and can serve to guide adequate protection of the livelihood, standard of living and human dignity of the small-scale fishers in Coastal Bangladesh, in the face of the environmental degradation they are experiencing. Some examples are included here, though the list is non-exhaustive, and further analysis would be needed to fully explore the application of the Principles to this context:

#### **Framework Principle 1: States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights**

In the context of small-scale artisanal fishing in Bangladesh, this implies protecting Ocean resources from pollution, over-exploitation and other degrading activities and factors, as well as protecting coastal areas from climate change-induced threats to infrastructure and natural resources (housing, water, etc.).

**(...)... human rights law requires States to take special care to respect, protect and fulfil the rights of those who are most at risk from environmental harm.** As the Human Rights Council has recognized, while the human rights implications of environmental damage are felt by individuals and communities around the world, the consequences are felt most acutely by those segments of the population that are already in vulnerable situations (see Human Rights Council resolution 34/20).

*Report of the Special Rapporteur on Human Rights and Environment to the General Assembly, 2018 (A/73/188, para. 22)*

<sup>69</sup> Some obligations described in the framework principles are based directly on treaties or binding decisions from human rights tribunals, others draw on statements of human rights bodies that have the authority to interpret human rights law (A/HRC/37/59, para 8).

**Framework Principle 6: States should provide for education and public awareness on environmental matters**

SWIA data shows that artisanal small-scale fishers are aware that overfishing harms the fish stock, and they notice changes in the environment that they attribute to climate change. Increased efforts on behalf of the State towards ensuring public awareness on these issues would enable fishers to mobilize stronger engagement in promoting regulation and enforcement of regulation that protects ocean resources and the coastal environment.

**Framework Principle 9: States should provide for and facilitate public participation in decision-making related to the environment, and take the views of the public into account in the decision-making process**

As documented in section 2.2 above, artisanal small-scale fishers were taken by surprise when the new 65 Day Ban on fishing in near-shore marine waters went into force for the first time in May 2019. They found themselves unprepared for this unpredictable loss of income and livelihood. After weeks of uncertainty, and pressure from CSOs and trade unions, the government slowly started to pay out compensation in the form of safety-net allowances of rice to the affected fishers. Such uncertainty and hardship could have been avoided had the coastal, fishing-dependent communities been heard in public consultation before the Ban was formally adopted and announced. Public hearings are essential to foresee how affected populations of any given environmental policy or measure are affected, allowing measures to be put into place to avoid untoward, unjust or disproportionate effects on particular groups.

**Framework principle 14: States should take additional measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities.**

Landless coastal fishers who live in make-shift houses on public land on the banks of estuaries in one of the most climate change-affected coastal areas of the world are, needless to say, both vulnerable, and at particular risk, from the recurring extreme weather events that are known to hit the area. Special measures are needed to protect their human rights and dignity.

**Framework principle 16: States should respect, protect and fulfil human rights in the actions they take to address environmental challenges and pursue sustainable development**

This principle too speaks to the policy-making around conservation of ocean resources in the form of temporary fishing bans and the declaration of marine conservation areas. The SWIA has shown that most fishers acknowledge the need to take steps to protect ocean resources from degradation – and they

acknowledge that the October ban on hilsha fishing has had a very positive effect on the fish stock. But their right to an adequate standard of living must be taken into account when such measures are put into place, for example in the form of social security allowances that compensate for the economic loss they incur. Or, in the form of support for alternative livelihood practices.



it is recognized that states have a duty to protect the environment in order to live up to their obligations to protect and fulfil human rights. This includes protecting ocean resources from degradation stemming from pollution, overfishing, climate change-induced changes in the ecosystem and the fish-stock, etc. It also includes a duty to take special care to respect, protect and fulfil the rights of those who are most at risk from environmental harm, in a broader sense, in defence of human dignity.



## Section 3 Policy and programming messages



### 3.1 Labour conditions

The SWIA has documented the physical, mental and economic hardships fishermen face in relation to their work. Their right to decent work is not realized, and key issues to address include:

- The widespread lack of work contracts, which leaves fishermen without guarantees of fair payment and safe working conditions
- The lack of a national minimum wage for the fisheries sector
- The insecure access to compensation when fishermen are injured or die at sea
- Debt-bondage
- Children working on fishing vessels under hazardous conditions

#### 3.1.1 Gaps and opportunities in current legal and policy framework

There is a major legal gap when it comes to protecting the labour rights of small-scale fishers, given the fact that Bangladeshi labour law takes a sectoral

approach, and addresses only specific 'industrial sectors'. In the Bangladesh Labour Act 2006 'Fishing trawlers' and the 'fish processing industry' are included as sectors covered under the labour law, but small-scale coastal capture fisheries are not mentioned. This leads to a de-facto non-recognition of the rights and safeguards protected under the law for fishers employed in the small-scale fisheries sector – and a lack of oversight of the working conditions on board the vessels. Other sectors with particular needs are addressed with separate provisions under the Act (e.g. tea garden workers and newspaper workers), but there are no such provisions for small-scale coastal fishers.

Bringing small-scale coastal fishers into the purview of the law would address many of the labour rights issues identified in the SWIA, including issues relating to employment contracts, appointment letters, working hours, leave, leisure, health, safety, wages, overtime, termination & retirement benefits, treatment facilities, social security (gratuity, provident fund, insurance, etc.), compensation for workplace accidents, trade union rights, access to labour courts, etc.

Recent years have seen an intense focus on enhancing protection of labour rights, in the wake of major factory accidents in 2012 and 2013 that drew global attention to the poor working conditions in the country's garment industry. The Bangladesh Labour Policy of 2012 thus commits to aligning existing labour law and regulations with international standards enshrined in ILO Conventions, including in the areas of ensuring decent work both in the formal and non-formal sector; enhancing the living standard of working people; increasing social safety for the workers; ensuring healthy and safe workplaces; eliminating discrimination between males and females in the workplaces; and creating employment opportunities and non-discriminatory workplaces for the marginalized groups of people. In 2013, an Occupational Health and Safety Policy was adopted too.

These processes have not yet, however, impacted on the protection of small-scale fishers' occupational health and safety. The Occupational Health and Safety Policy 2013 builds on the Labour Act's sectoral approach, and refers mainly to workers of industries, including for example the garment sector and ship recycling. It includes several provisions on the duty to prevent accidents at the workplace, but does not cover all occupations of the country.

There is a need, therefore, to amend legislation, policy and guidelines to address the situation of fishers employed in coastal small-scale fisheries and ensure adequate protection of their right to decent work.



#### Provisions of the Bangladesh Labour Act that are not currently applicable to fishers employed in the small-scale marine capture fisheries sector

- As per Section 5 the employer must issue an appointment letter and an ID card with photograph to the worker.
- Section 6 and 7 states that it shall be the duty of every employer to keep and maintain a service book having all particulars of the employee.
- Section 8 lays down a duty to employer to prepare and maintain a worker register during working hour.
- Section 16 provides that laid off workers will get compensation from the employer.
- Section 19 ensures death benefit to the family or nominee.
- Section 20 ensures that no person will be retrenched without one month prior notice. Compensation for no notice is equivalent to 30 days wages.
- Section 22 mentions that no employee shall be discharged without the certificate of registered physician.
- Section 22(2) makes provision for compensation equivalent to one-month wage for every year service for discharge.
- Section 46(1) provides maternity benefit to the pregnant worker who has completed six months under the owner on the date of confinement. She will get 8 weeks preceding and 8 weeks immediately following the confinement date.
- Section 78KA makes provision for providing Personal Protective Equipment (PPE) to the workers.
- Section 89-99 provides welfare measures like first-aid appliances, maintenance of safety record book, washing facility, canteen facility.
- According to Section 100-119, workers are allowed to get different types of leave, holidays, and overtime with regular wages.
- Section 149 prohibits the employers to give wages at the rate below the minimum rate of wages.
- According to Section 150, every worker is entitled to compensation for injury and occupational diseases.
- According to Section 176, every worker has the right to form and join in trade unions.
- Section 264 states about workers access to the provident fund.
- Section 138-142 make provisions on determination and declaration of minimum wages.

### 3.1.2 Opportunities in SDG planning and programming

Addressing the poor labour conditions of small-scale fishers will help Bangladesh achieve Sustainable Development Goal 8 on inclusive economic growth and decent work. In coastal areas populated by small-scale fishers, Goal 8 can only be achieved if the issues described in the SWIA findings, and summarized above, are addressed.

Bangladesh' latest reporting on its progress in achieving the SDGs was presented at the High Level Political Forum in July 2020 in the form of a Voluntary National Review report.<sup>70</sup> The 2020 VNR promises that a better work environment will be created for men and women. It goes on to review progress in achieving each of the targets under SDG 8, including the four targets on decent work and labour rights (target 8.3, 8.5, 8.7 and 8.8, see text box). This VNR does not include any observations on the labour rights situation in the small-scale fisheries sector. It does, however, present observations on the challenges around formalizing the largely informal labour market, where more than 80 percent of the

#### **SDG 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.**

SWIA findings point towards a need to prioritize the following targets in coastal areas populated by small-scale fishermen:

**Target 8.3** Promote development-oriented policies that support productive activities, **decent job creation**, entrepreneurship, creativity and innovation, and encourage the **formalization** and growth of micro-, small- and medium-sized enterprises, including through access to financial services

**Target 8.5** By 2030, achieve full and productive employment and **decent work for all** women and men, including for young people and persons with disabilities, and equal pay for work of equal value

**Target 8.7** Take immediate and effective measures to **eradicate forced labour**, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and **by 2025 end child labour in all its forms**

**Target 8.8** Protect labour rights and **promote safe and secure working environments for all workers**, including migrant workers, in particular women migrants, and those in precarious employment

<sup>70</sup> Bangladesh Voluntary National Review (VNR) 2020. Accelerated action and transformative pathways: realizing the decade of action and delivery for sustainable development. Government of the People's Republic of Bangladesh, June 2020.

workforce is working under informal conditions and without contracts, and highlights that this poses a challenge to the sustainable development of the country, given that informal employment implies a lack of social protection and legal rights for a very large part of the work force.<sup>71</sup>

The review of progress in achieving target 8.7 focuses solely on child labour, and is completely silent on the aspects related to eradicating forced labour. It does not mention the fisheries sector either. The SWIA findings on debt-bondage, which, according to ILO's definition, constitutes forced labour, reconfirm the need to work strategically with this element too of target 8.7 in Bangladesh, and the target cannot be achieved without addressing these issues. Likewise, the reporting on progress in achieving target 8.8 focuses solely on fatal occupational injuries and remains silent on progress in securing a safe working environment in a broader sense.

SDG 14 on life Below Water and oceans management may provide leverage for promoting stronger regulation and enforcement of standards for safety and security on fishing vessels: The government reports in its latest VNR that the Department of Fisheries has developed a database for artisanal and non-mechanized boats, where 67,669 boats have been registered as of July 2020.<sup>72</sup> It is unclear whether this database is related to the issuing of licenses for fishing observed in the field (see section 2).

### 3.1.3 Recommendations

**To policy makers: Take immediate steps to enhance the protection of fishers' rights at work:**

- Clearly define the rights and responsibilities of fishers, including small-scale fishers and fish workers in relevant national labour legislation
- Amend the Bangladesh Labour Act 2006 to include provisions on fishers employed in the small-scale coastal fisheries sector: Bringing small-scale coastal fishers into the purview of the law would address many of the labour rights issues identified in the SWIA, including issues relating to employment contracts, appointment letters, working hours, leave, leisure, health, safety, wages, overtime, termination & retirement benefits, treatment facilities, social security (gratuity, provident fund, insurance, etc.), compensation for workplace accidents, trade union rights, access to labour courts, etc.<sup>73</sup> A review of the Act along these

lines would also be a natural follow up on the Bangladesh Labour Policy 2012, under which the Government commits to align existing labour law and regulations with international standards enshrined in ILO Conventions.

- Adopt regulatory instruments on Occupational Health and Safety that address the particular situation and needs of small-scale fishers or amend existing instruments to adequately address their needs: The National Occupational Safety and Health Policy includes several provisions on the duty to prevent accidents at the workplace but does not cover all occupations of the country. There is a need, therefore, to amend legislation, policy and guidelines to address the situation of fishers employed in coastal small-scale fisheries and ensure adequate protection of their health and safety at work.
- Include the fisheries sector in ongoing social dialogue around introducing an Employment Injury Insurance Scheme under which victims of work place injuries or death, and in the latter case dependents of the deceased, would be effectively and fairly compensated, in line with international standards as enshrined in the ILO Employment Injury Benefits Convention, 1964 (No. 121).<sup>74</sup>
- **Ratify ILO's Work in Fishing Convention, No. 188**, the convention that addresses matters as minimum age for work on a fishing vessel, medical standards, work agreements, occupational safety & health, and social security. In order to achieve such ratification, collaborate with partners such as the ILO in conducting a gap analysis of Bangladesh' existing legal framework for work in fishing followed by a Section-by-Section analysis of the gaps between national laws and the definitions, scope, general principles, and provisions of Convention 188. Such a gap analysis will allow the Bangladesh Government to understand where there are gaps in national legislation
- **Eliminate forced labour and bonded labour in the fisheries sector as a matter of high priority and take appropriate steps to criminalize its use as, as per constitutional guarantees:** The Constitution of Bangladesh enshrines the fundamental duty of the State to protect people from all forms of exploitation. Article 34 prohibits all forms of forced labour,

71 Review of target 8.3 on decent job creation and formalization of enterprises

72 VNR 2020, p. 128.

73 Please refer to Annex 2 for a list of provisions

74 Read more about the ongoing process towards introducing an Employment Injury Insurance Scheme in Bangladesh at the ILO's website: <https://www.ilo.org/global/topics/geip/projects/bangladesh/lang-en/index.htm>. See also ILO Technical Recommendations on the Feasibility Assessment of an Employment Injury Insurance Scheme in Bangladesh, March 2019.

and states that any contravention of this provision “shall be an offence punishable in accordance with law”. These provisions reflect obligations under ILO Convention No. 29 on Forced Labour, which has been ratified by Bangladesh. The use of forced labour is a serious human rights and labour rights violation, and the Government has a duty to take effective measures to prevent forced labour, take legal action against perpetrators, and to provide victims with adequate protection and access to justice, including compensation.

- **Ratify ILO Minimum Age Convention No. 138.** Currently Bangladesh has not ratified ILO Convention 138 that sets a minimum age for children to work. Through ratification of this Convention, the Bangladesh government will have to develop national legislation to penalize violations of minimum age legislation. Such legislation should include all occupations that involve working children including in informal work, such as in small-scale fisheries.
- **Revisit the Hazardous Work List for children, to assess whether the fishing sector is to be considered a hazardous occupation.** Develop criteria for defining hazardous work for children onboard fishing vessels. These could include hours at sea, weather conditions, type of gear used, related work processes, and general working (and living) conditions onboard the vessel.<sup>75</sup>
- Establish a **Minimum Wage Board** and establish a **minimum wage** for fishers in accordance with living wage levels, matching the hardships of the profession
- **Make crew lists mandatory** and enforce their use through routine inspections: Clear records of who works on a vessel on a given time are a prerequisite for protection of the right to adequate payment, and to compensation in case of injury or death. Penalize captains and boat owners who send sub-standard or underequipped vessels to sea, or do not carry a crew list that allows authorities to trace who is working on the vessel
- **Set clear standards for fishing vessels’ conditions,** protective and life-saving equipment for crew members, and carrying capacity and ensure enforcement of set standards for conditions on fishing vessels

through allocation of adequate funds and resources to carry out routine inspections.

- **Ensure fishers’ right to organize themselves in trade unions** and enhance efforts at collective bargaining for better conditions at work: the scope for forming fishers’ trade unions is very limited now due to limitations under the Bangladesh Labour Act

#### To boat owners:

- Boat owners should ensure that all official registration formalities are carried out, including:
  - ▶ Formal registration of the boat
  - ▶ Fitness certificates for the boat
  - ▶ Insurance coverage for all crew
  - ▶ A registration book with crew list, that includes owners’ name and all crew members’ names going out to sea. Such records should be kept by Boat Owners’ Association
- Boat owners should ensure that adequate personal protective equipment for all crew members, and life-saving equipment such as life buoys and communication and radio equipment are in place on the vessel

#### To local authorities:

- Ensure that licensing agencies that provide fishing licences are accessible in all fishing communities and that adequate systems are in place for approval of fishing licenses to boat owners, including on-site inspections of fishing trawlers
- Provide financial assistance to and allow trade unions to operate without repercussions, in order to fulfil their duty to negotiate on behalf of and support the rights of fishers
- Increase patrolling by naval ships to protect fishing vessels and crew members from robbers at sea

The Constitution of Bangladesh enshrines the fundamental duty of the State to protect people from all forms of exploitation. Article 34 prohibits all forms of forced labour, and states that any contravention of this provision “shall be an offence punishable in accordance with law”.

<sup>75</sup> For more guidance on addressing child labour in fisheries and aquaculture, see this ILO report: <http://www.fao.org/3/i3318e/i3318e.pdf>, page xiii

## 3.2 Standard of living

### 3.2.1 Summary of key issues of concern

The standard of living in the small-scale fishery communities examined under the SWIA cannot be seen in isolation from the labour rights conditions described in the previous section. The SWIA data reveals a high level of poverty, both in monetary terms, and manifested in the poor quality of housing and water available to the fishers and families interviewed. The income is far below the national average, and not sufficient to cover the needs of ordinary household expenditures. Needless to say, this is linked to the poor payment fishers receive for their work, and the cycles of debt and bonded labour conditions under which many work. At the same time, insufficient access to social security, and a lack of alternative livelihood options, which again is linked to the poor access to vocational training or publicly funded employment schemes, exacerbates the poor standard of living.

In summary, a human rights-based analysis of the standard of living in the small-scale fishing communities reveals the following key issues of concern:

- Poverty
- Poor housing and poor access to clean and safe water
- Limited access to health care
- Limited and unpredictable access to social security – particularly alarming during the 65 Day Fishing Ban and Covid 19 restrictions
- Lack of support for development of alternative livelihoods, incl. poor access to vocational training

### 3.2.2 Gaps and opportunities in current legal and policy framework

The Constitution of Bangladesh enshrines the State's fundamental responsibility to take appropriate measures towards the full realization of economic and social rights, with a view to secure progressive realization of the right to an adequate standard of living, in line with international human rights law.<sup>76</sup> Article 15 states that (highlights in bold added)

*"It shall be a fundamental responsibility of the State to attain, through planned economic growth, a constant increase of productive forces and a steady improvement in the material and cultural standard of living of the people, with a view to securing to its citizens –*

- a. *the provision of the **basic necessities** of life, including food, clothing, **shelter**, education and **medical care**;*

- b. *the right to work, that is the right to guaranteed employment at a reasonable wage having regard to the quantity and quality of work;*
- c. *the right to reasonable rest, recreation and leisure; and*
- d. *the right to **social security**, that is to say, to **public assistance in cases of undeserved want** arising from unemployment, illness or disablement, or suffered by widows or orphans or in old age, or in other such cases."*

These provisions speak directly to the State's duty to address the issues identified in the SWIA and summarized above. Bangladesh has over the years taken numerous policy initiatives to realize the pledge of the Constitution and address poverty and its interlinked dimensions of poor health and nutrition, a low level of education, etc. A series of social safety net policies have been introduced to support those in need – be it widows, the elderly, or communities hit by natural disasters.

The social safety net programmes are recognized as having played a significant role in poverty reduction but are also criticized for not necessarily reaching the poorest and most marginalized.<sup>77</sup> Corruption, clientelism, and complex distribution systems where different local authorities are involved in the distribution of the different social safety net schemes result in poor coordination and lack of transparency, and a low level of accountability. In 2015, a new Social Security Strategy was adopted with the explicit aim of coordinating and consolidating existing schemes to achieve better efficiency and results. The SWIA findings point towards the need for such enhanced coordination and uncovered a need for more clarity around entitlements. Fishers complain about the lack of a clear policy defining the criteria for issuance of the fisherman ID Card, which is used as a basis for receiving allowances specifically targeting fishers during e.g. fishing ban periods. Some also mentioned that other social security schemes (known as social safety nets) in Bangladesh are implemented via direct cash transfers to beneficiaries, while the allowances fishers receive during bans consist in rice. Policy coherence and mainstreaming of direct cash transfers could most probably address complexities around reaching those entitled to benefit from the schemes and limiting the scope for corruption along the distribution chain.

<sup>77</sup> The World Bank: Social Safety Nets in Bangladesh Help Reduce Poverty and Improve Human Capital (Feature story, April 29, 2019. <https://www.worldbank.org/en/news/feature/2019/04/29/social-safety-nets-in-bangladesh-help-reduce-poverty-and-improve-human-capital>).

<sup>76</sup> E.g. the International Covenant on Economic, Social and Cultural Rights, art. 2(1).



### 3.2.3 Opportunities in SDG planning and programming

The poor standard of living documented by the SWIA calls for action under a number of SDG targets. Target 14.b speaks directly to the situation of small-scale fishers and entails a commitment to promote an adequate standard of living in their communities, with its focus on securing their livelihoods by providing access to marine resources and markets. For small-scale fishers, a life in dignity, free from poverty and unfulfilled basic needs such as poor and unhealthy housing and water, insufficient access to health care, etc., is closely linked to securing their access to earning a living, that is, their access to marine resources, and to the markets where fish are traded for cash. The target is strongly anchored in international human rights standards and reflects the international human rights system's interpretation of how the human right to an adequate standard of living applies to small-scale food producers, including fishers, enshrined in the *UN Declaration on the Rights of Peasants and Other People Working in Rural Areas* (see text box).

Adequate implementation of target 14.b is thus key to addressing the poor standard of living in the small-scale fishing communities that the SWIA has documented. Indicator 14.b.1 requests States to report on their level of achievement of the target by indicating the "Degree of application of a legal/regulatory/ policy/institutional framework which recognizes and protects access rights for small-scale fisheries". The latest Bangladeshi VNR, however, pays very limited attention to the issue of access rights. It states very shortly that the principle "jal jar jola tar" applies to the management of marine resources in Bangladesh, meaning that 'the water body belongs to the one who has a net' – in other words, water bodies and markets are open to all. There is no quota system regulating the catch in marine capture fisheries in the shallower areas where the artisanal fishers operate, but the sector is regulated

#### **SDG target 14.b**

Provide access for small-scale artisanal fishers to marine resources and markets

#### **UN Declaration on the Rights of Peasants and other People Working in Rural Areas (UNDROP)**

##### **Article 5.1**

Peasants and other people working in rural areas have the right to have access to and to use in a sustainable manner the natural resources present in their communities that are required to enjoy an adequate standard of living conditions, in accordance with article 28 of the present Declaration. They also have the right to participate in the management of these resources.

through bans during certain times of the year, as described above. Interestingly, the VNR goes beyond the discussion of access rights, and reports on the broader implications of protecting the livelihoods of small-scale fishers, and highlights the following achievements:<sup>78</sup>

- Registration of 1.62 million fishermen in a database, and distribution of 1.42 million identity cards among them
- Establishment of the Hilsha conservation and development fund (BDT 35 million), with the aim of supporting alternative livelihoods during the yearly bans on fishing hilsha
- Provision of financial aid to families of fishermen who died due to natural disasters (storms, cyclones, tidal bores), pirate attacks, or attacks by wild animals (tigers, crocodiles and bites of snakes) – or went missing for three months or more, or were permanently disabled by accidents while fishing

This focus on social security, and the support for alternative livelihoods, is well aligned with the needs identified by the SWIA. But for these initiatives to adequately address the poverty and low standard of living in the small-scale fishing communities, there is a need to ensure transparency and accountability in the social security system, as described in section 3.2.2 above. It is also key to address the interlinked issues of poverty, poor housing and water, etc., in a holistic way, and use a broader range of SDGs as leverage for adequate support to improving the standard of living in the poor small-scale fishing communities. Targets that address key issues identified in the SWIA include targets on poverty reduction, including target 1.3 on social protection, and target 1.b on accelerated action for poverty eradication,<sup>79</sup> as well targets on access to relevant vocational training (4.3 and 4.4) which could enable fishers to identify alternative livelihoods; and target 6.1 on universal and equitable access to safe and affordable drinking water for all, and target 3.8 on universal health coverage and access to quality essential health care services, among others. For all these targets, the SWIA findings call for targeted measures to address the vulnerable situation of small-scale poor fishing communities at risk of being left behind.

<sup>78</sup> VNR, p. 130

<sup>79</sup> Bangladesh is widely recognized for its success in reducing poverty and increasing the standard of living, showcased in the high level of achievement of the Millennium Development Goals. Poverty declined from 40 percent in 2005, to 20.5 percent in 2019 (VNR 2020, p. 11), and poverty reduction is still a key priority for the Government. The current long-term planning framework Vision 2041, seeks to eliminate extreme poverty in Bangladesh, and reach Upper Middle Income Country status by 2031 and High Income Country Status by 2041, with poverty approaching extinction (VNR 2020, p. 19-20).

### *The FAO Voluntary Guidelines for Sustainable Small-scale Fisheries*

As mentioned above, SDG target 14.b reflects and builds on human rights standards. It also reflects the FAO Voluntary Guidelines for Sustainable Small-Scale Fisheries, adopted by the FAO Committee on Fisheries in 2014.<sup>80</sup> The SSF Guidelines serve to guide States on devising environmentally sustainable and human rights-based strategies for developing and regulating the small-scale fisheries sector. Their primary focus is on subsistence-oriented small scale fisheries, characterized by self-employment where fishers independently earn a living from catching and selling fish. The SSF Guidelines do, however, acknowledge that small-scale fisheries take many forms in different national and local contexts around the world, wherefore they contain elements relevant for the more (informal) employment-based dynamics that characterize the small-scale coastal fisheries sector in Bangladesh, as described in section 2.1 and 3.1 above on labour rights. The SSF Guidelines are a useful tool for sector-specific guidance on a human rights-based approach to small-scale fisheries. For the small-scale fisheries sector in Bangladesh documented in the SWIA, the SSF Guidelines contain useful elements on

- Recognizing the role and value of small-scale fisheries for the realization of human rights and social development in coastal areas, and the need to consider small-scale fishers livelihoods when developing fisheries management policies, and involve fishers in decision-making
- The need to address basic needs in small-scale fishing communities, including education, access to health care, support for adequate housing and safe drinking water, etc.
- The need to provide social security to small-scale fishers
- The need to ensure access to credit and insurance schemes
- Promoting decent work in informal employment in the sector, including by amending legislation to adequately protect fishers' right to occupational health and safety, in recognition of the complexities around securing safety at sea, and with due attention to enforcement of compliance
- Eradicating forced labour and bonded labour
- Supporting alternative or supplementary income generating activities

<sup>80</sup> FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, available at: <http://www.fao.org/documents/card/en/c/14356EN>

### 3.2.4 Recommendations

**To policy makers: The highest priority should be given to protect the livelihood of small-scale fishers, and ensure an adequate standard of living in their communities<sup>81</sup>**

- Provide social safety net allowances to fishers during ban periods and make sure that allowances reach those in need: Enhance transparency and accountability by establishing clear and formalized procedures, and by informing fishers of their entitlements and the procedures under which they can get support
- Formalize the issuing of fisher ID cards by setting clear criteria for obtaining the Card and clarifying which entitlements card holders have a right to
- Reduce the complexity in distribution of the different types of social security allowances, where a range of local agencies are involved, and the type of support differs between rice and direct cash transfers.
- Consider the adequacy of food ration support as compared to direct cash transfers to recipients' bank accounts,<sup>82</sup> with a view to enhancing transparency and predictability, and limit potential corruption
- Complement social security allowances in cash or kind with government-supported income-generation schemes
- Develop an enabling environment for productive employment opportunities through relevant education and vocational training that can secure alternative livelihoods and an income that allows for an adequate standard of living
- Secure small-scale fishers' access to credit schemes, with a view to secure their economic development opportunities and free them from the poverty trap of indebtedness to local money-lenders that often entail debt-bondage and exploitative working conditions that exacerbate poverty and a poor standard of living

<sup>81</sup> Protecting marine resources and securing the long-term vitality of the fish stock is an important element in protecting the livelihoods of small-scale fishers. For the sake of maintaining a clear structure in the report, and notwithstanding the interdependence and interlinkage of the human rights issues at stake, observations and recommendations related to the human right to a healthy environment are dealt with in section 5 below.

<sup>82</sup> Direct cash transfers are used under certain social security schemes, but the fishing-ban related schemes consist in rations of rice.

### **To government and non-government development planners**

- Address the poverty and vulnerability of small-scale coastal fishing communities through targeted programming in the fields of education, vocational training, health, housing, water and sanitation

### **To local government agencies: Ensure equal access to services for poor small-scale fishers**

- Ensure equal access to health care for poor and marginalized fishers and their families
- Ensure local capacity by health care providers to treat diseases common among fishers, including skin diseases
- Improve access to information related to health services – both in relation to diseases common in the fishing communities, and as a measure to promote health and well-being in the poor fishing communities, particularly important during times of crisis such as the Covid-19 pandemic

### **To civil society: Promote the rights of poor small-scale fishers at risk of being left behind, and support communities directly**

- Nurture local organizing and development of community resilience through social networks
- Make sure fishers' situation and voices are brought to the attention of local government actors as well as policy-makers at national level
- Build awareness among fishers on their human rights and labour rights
- Build awareness on the Sustainable Small-Scale Fisheries Guidelines among fishers as well as government authorities and policy makers
- Engage in local government agencies SDG planning with a view to developing targeted programming for poor small-scale fishers, addressing the risk that they are being left behind

The SSF Guidelines do, however, acknowledge that small-scale fisheries take many forms in different national and local contexts around the world, wherefore they contain elements relevant for the more (informal) employment-based dynamics that characterize the small-scale coastal fisheries sector in Bangladesh

## **3.3. Women**

### **3.3.1 Summary of key issues of concern**

Women in the small-scale fishing communities are marked by the dangers and insecurity that characterize their husbands' occupation (fishing). Their situation is vulnerable in both economic and personal terms, and the main human rights issues for women in the small-scale fishing communities identified in the SWIA include:

- Poor economic security, high risk of poverty
- Poor access to social security allowances when their bread-winning husbands are injured or die at sea
- Unequal pay when engaged in wage-earning work
- Widespread sexual harassment and abuse causing a general sense of insecurity

### **3.3.2 Gaps and opportunities in current legal and policy framework**

The SWIA did not study the legal and policy framework governing women's rights in detail, as this goes beyond the scope of the SWIA. In short, it is worth highlighting that the Constitution enshrines equal rights of men and women (art. 27), forbids any form of discrimination on the basis of sex, and promises equal opportunities in all areas. Women do, however, remain disadvantaged due to the prevailing patriarchal social structure, and a number of legal and policy initiatives have been adopted over the years to promote women's rights and socio-economic status. These include the National Women Development Policy (2011) which included elements on promoting women's economic security through assistance for female entrepreneurs, the Domestic Violence Prevention and Protection Act (2010), and the Child Marriage Restraint Act (2017).<sup>83</sup>

### **3.3.3 Opportunities in SDG planning and programming**

Bangladesh' Voluntary National Review on progress against the SDGs in 2020 remarked that women and children are considered the most vulnerable section of society, wherefore 'numerous initiatives have been taken to ensure their safety and security'.<sup>84</sup>

It highlights initiatives around protecting women from poverty through social protection schemes, and states that priority has been given to reach women and children under the National Social Security Strategy. It also emphasizes

<sup>83</sup> The Borgen Project: Six Facts About Women's Rights in Bangladesh. <https://borgenproject.org/womens-rights-in-bangladesh/>; refworld.

<sup>84</sup> VNR 2020, p. 12.

initiatives to promote ultra-poor rural women's economic security through a public work employment scheme and commits to stimulating women's labour force participation in the future.<sup>85</sup>

In its review of achievements under SDG 5 on Gender Equality, the VNR acknowledges the challenges that remain with regard to protecting women from violence and sexual abuse:

“Violence against women (VAW) in different ways—physical, sexual and mental/ psychological, has been high both at home and outside in Bangladesh while women empowerment is also progressing. As violence originates from multiple sources and has multiple causes, its elimination requires multiple actions. These include the motivation of family, enhancing community support, enforcement of legal provisions, improving women's capabilities, access to low-cost prosecution services and economic self-reliance of women. The government has adopted many initiatives but more works need to be taken given the scale and complexity of the problem.”<sup>86</sup>

The SWIA findings echo the need to take strong action to protect women from violence and abuse and secure their economic wellbeing and freedom from poverty. Several SDGs speak directly to addressing the underlying human rights issues faced by women in the SWIA sites, and need to be prioritized in local SDG planning, including targets on poverty reduction (Goal 1) and targets on achieving gender equality (Goal 5):

#### **SDG targets addressing women's economic security and freedom from poverty**

**Target 1.3** Implement nationally appropriate **social protection** systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable

**Target 1.4** By 2030, ensure that all men and women, in particular the poor and the vulnerable, have **equal rights to economic resources**, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance

#### **SDG targets addressing women's right to be free from sexual harassment and abuse**

**Target 5.1** End all forms of discrimination against all women and girls everywhere

**Target 5.2** Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation

The VNR acknowledges a need to achieve better implementation of laws, policies and programmes on gender equality and promotion of women's rights and development, and it pledges to take steps to 'increase women's chance for decent economic participation'; to provide social protection and social safety net programmes designed to address women in vulnerable situations; and to 'provide immediate relief, rehabilitation, and protection of the survivors of discrimination (and) violence'.<sup>87</sup> The SWIA findings call for prioritizing women in poor, small-scale fishing communities under such initiatives, and for all actors to take pro-active steps to change social norms and practices that allow for discrimination, harassment and abuse of women in these communities.

### **3.3.4 Recommendations**

**To policy makers:** Promote women's economic security and freedom from poverty, and protect them from discrimination, violence and abuse

- Recognize the vital role of women in small-scale fisheries and promote their equal rights and opportunities as per the FAO's Guidelines for Sustainable Small-Scale Fisheries, where gender is a cross-cutting issue
- Promote and protect women's right to equal pay for equal work

**To Local authorities: Protect women from discrimination, violence and abuse**

- Make sure social security allowances reach vulnerable women from small-scale fisheries dependent households when needed (e.g. in connection with loss of their husbands' income when they become disabled or pass away in an accident at sea)
- Enforce women's right to equal pay for equal work
- Show by example that sexual harassment and violence against women is illegal and punishable by law through adequate follow up with due processes when victims approach local authorities for help

**To civil society: Promote social change towards greater respect for women's rights**

- Build public awareness on the equal rights of women and men, and what it takes to create a society where all can enjoy equal freedoms and personal integrity free from violence and abuse
- Target women with information campaigns and confidence-building, equipping them to demand dignity and freedom from violence and exploitation, and to seek support and file legal cases when their rights are violated

<sup>85</sup> Strengthening Women's Ability for Productive New Opportunities (SWAPNO) project. VNR 2020, p. 12.

<sup>86</sup> VNR 2020, p. 70

<sup>87</sup> VNR 2020, p. 71.



- Target men with dialogue initiatives that provide a space for reflecting on gender roles and nurture self-reflection and growth of new mindsets free from gender-stereotyping and framing of women and girls as inferior

The VNR acknowledges a need to achieve better implementation of laws, policies and programmes on gender equality and promotion of women's rights and development, and it pledges to take steps to 'increase women's chance for decent economic participation'; to provide social protection and social safety net programmes designed to address women in vulnerable situations; and to 'provide immediate relief, rehabilitation, and protection of the survivors of discrimination (and) violence'



### 3.4 The right to a healthy environment

For the artisanal small-scale fishers in the SWIA sites, the right to a healthy environment is under threat both in the sense that the ocean ecosystem on which their livelihood is built is under pressure from pollution, overfishing and climate change impacts that affect the fish stock – and in the sense that their housing, water and other infrastructure is under pressure from climate change-induced frequent extreme weather events.

#### 3.4.1 Summary of key issues of concern

- The marine environment is negatively affected by climate change, pollution and over-exploitation of resources, leading to a decline in fish stocks
- The Government has taken firm action to protect the fish stocks by introducing fishing bans, creating marine sanctuaries, etc. – but these measures risk pushing vulnerable fishermen into desperate poverty
- The standard of living of the artisanal coastal fishing communities is threatened by climate-change induced flooding, salinization of water, and extreme weather events
- Fishers are aware of the degradation of the marine environment and the need to protect the fish stock, but they are not adequately involved in neither policy-making nor monitoring and reporting initiatives

#### 3.4.2 Gaps and opportunities in current legal and policy framework

The SWIA did not study the legal and policy framework governing the protection of the coastal and marine environments in detail, as this goes beyond the scope of the SWIA. In short, it is worth highlighting, however, that the Constitution does contain a provision on the protection of the environment 'for the present and future generations':

Article 18A (Protection and improvement of environment and biodiversity) states that-

"The State shall endeavour to protect and improve the environment and to preserve and safeguard the natural resources, bio-diversity, wetlands, forests and wild life for the present and future citizens."

#### 3.4.3 Opportunities in SDG planning and programming

Sustainable Development Goal 14 offers a strong framework for action on protection of ocean resources and the marine environment. It contains targets on reducing pollution; on sustainable management and restoration measures where resources are degraded; on establishment of conservation areas, etc.. The latest Voluntary National Review on Bangladesh' progress against these

targets showcase a range of initiatives in that regard, including the fishing Bans mentioned above, but also the establishment of marine conservation areas. In addition to this, the VNR mentions emerging measures towards better oversight and protection of marine resources, starting with surveys of fish stocks (monitoring), and regulation of industrial fisheries' access to the Ocean commons. The latter includes tracking of vessels and issuance of catch certificates – and ratification of the FAO's Port State Measures Agreement, which aims at preventing, deterring and eliminating illegal, unregulated and unreported fishing by preventing vessels engaged in such fishing from using ports and landing their catches.<sup>88</sup> In addition to these initiatives, the VNR highlights that further regulation of the whole sector is underway, with the Draft Marine Fisheries Act-2019 which is currently under scrutiny by a Parliamentary Standing Committee.<sup>89</sup> All these initiatives carry potential to significantly protect the ocean resources of Bangladesh, and therewith contribute to protecting the fisheries-dependent coastal population's right to

#### SDG 14.1

By 2025, **prevent and significantly reduce marine pollution** of all kinds, in particular from land-based activities, including marine debris and nutrient pollution

#### SDG 14.2

By 2020, **sustainably manage and protect marine and coastal ecosystems** to avoid significant adverse impacts, including by strengthening their resilience, and take action for their restoration in order to achieve healthy and productive oceans

#### SDG 14.4

By 2020, **effectively regulate harvesting and end overfishing**, illegal, unreported and unregulated fishing and **destructive fishing practices and implement science-based management plans**, in order to restore fish stocks in the shortest time feasible, at least to levels that can produce maximum sustainable yield as determined by their biological characteristics

#### SDG 14.5

By 2020, conserve at least 10 per cent of coastal and marine areas, consistent with national and international law and based on the best available scientific information

#### SDG 14.6

**Provide access for small-scale artisanal fishers to marine resources and markets**

a healthy environment. Effective implementation, and coordination between authorities mandated to oversee oceans governance is, however, essential for these initiatives to have the intended positive effect. Some scholars point towards continued shortcomings in that regard.<sup>90</sup>

### 3.4.4 Recommendations

**To policy makers and fisheries authorities: The fish-stock must be protected from over-exploitation**

- Sustainable yield/total allowable catch (quota) must be determined through thorough assessments on a regular basis
- Regulate industrial fisheries with a view to shift extraction-oriented practices to sustainably managed operations, through mandatory monitoring, reporting and species-specific trade transparency and accountability mechanisms
- Adopt science-based fishery management practices to fine-tune spatial and temporal closures and gear modifications
- Strictly and equitably enforce the ban on prohibited, non-selective fishing gear. This will inevitably improve the productivity by protecting juvenile fish and crustacean larvae
- Adopt science-based, informed management plans for existing and newly proposed protected marine areas and critical ecological areas
- Trespassing at sea during ban periods must be monitored and effectively stopped, including trespassing by Indian trawlers

**To public authorities in coastal areas: Pollution of the marine environment must be stopped**

- The ocean should be protected from harmful land-based activities such as polluting industries, leaking of untreated sewage, and excess use of chemicals in agricultural production that contribute to eutrophication
- Oil pollution from ocean and inland vessels, including from ship breaking yards, must be stopped
- Marine pollution must be monitored closely, and artisanal fishers can contribute to such efforts if they are invited to document and share observations with the relevant authorities

<sup>88</sup> Bangladesh VNR 2020, p. 127-129.

<sup>89</sup> Bangladesh VNR 2020, p. 127-129.

<sup>90</sup> Mohammad Robayat Rahman, Illegal fishing and laws of Bangladesh, Daily Star Law Review, October 6, 2020 (<https://www.thedailystar.net/law-our-rights/news/illegal-fishing-and-laws-bangladesh-1973365>)

**To the Bangladesh Fisheries Development Cooperation and Universities:  
Enhance the knowledge base on climate change resilience for marine  
ecosystems and resources**

- Support inter-disciplinary research on the impact of climate change on marine resources in the Asia-Pacific region (incl. the social dimension of fisheries resource management)

the VNR mentions emerging measures towards better oversight and protection of marine resources, starting with surveys of fish stocks (monitoring), and regulation of industrial fisheries' access to the Ocean commons...

... All these initiatives carry potential to significantly protect the ocean resources of Bangladesh, and therewith contribute to protecting the fisheries-dependent coastal population's right to a healthy environment.



**Annex 1: Overview of dialogues and workshops with stakeholders**

	Date and Place	Nature of program and place	Issue and agenda	Organized by	Participants no and types	Remarks
1	17 Sep 2018 Cox's Bazar	orientation Meeting & Discussion	- Project Briefing - Scoping - consensus building	COAST Trust	Fishermen, Boat owners, Trade Unions, CSOs media	
2	18 Sept, 2018	Orientation Meeting & Discussion,  Patharghata	- Project Briefing - Scoping - Consensus building	BILS	Total 18 Trade Unions, Association, CSO media, Councilor.	A local level pre-orientation informing them and prepare them for multi-stakeholder seminar
3	30 Sept 2018	Initial multi-stakeholder seminar  Dhaka	- Identify I human rights challenges Initiate (SWIA)	MJF	Govt representative, Locals from Moheshkhali and Patharghata, CSOs, National Human Rights Commission, DIHR Team, MJF, Coast Trust an BILS.	
4	23 – 25 April 2019	Inception and Capacity Building of Stakeholders  Cox's Bazar	- To orient the SWIA - Presenting factsheets and research modality  - To orient the data collectors on SWIA	COAST Trust	Inception: Total 25 Training: total 21 Volunteers' team, Data Collectors, district coordinator, COAST Trust & MJF	
5	29-30 April and 02 May 2019	Inception and Capacity Building of Stakeholders  Patharghata	- To orient the SWIA - Presenting factsheets and research modality - To orient the data collectors on SWIA	BILS	Inception: Total 39  Training: total 17 Volunteers' team, Data Collectors, district coordinator, BILS & MJF	



	Date and Place	Nature of program and place	Issue and agenda	Organized by	Participants no and types	Remarks
6	May – November 2019	Tri-partite Dialogue at the community level to raise awareness on rights based issues  Moheshkhali	<ul style="list-style-type: none"> <li>- To discuss on the rights based issues regarding the fisherfolk community</li> <li>- To collect recommendation to do advocacy at national level for a suitable policy for the fishers</li> </ul>	COAST Trust	Dialogue: 9 Total: 1500  Local Government representatives, representatives of fisherfolk community, Government officials, boat owners and other stakeholders	
7	8 September 2019	Research Inception and Opinion Sharing Dialogue with Shrimp related Stakeholders	<ul style="list-style-type: none"> <li>- To brief the research in details (context, modality, process)</li> <li>- Section wise discussion on the questionnaire</li> <li>- To understand shrimp related practical situation in Khulna</li> <li>- To capture recommendations from the group representatives</li> </ul>	BILS	Dialogue Total: 18  Government representatives, representatives of employers, representatives of workers, NGO representatives	
8	14 September 2019	65 days ban on fishing in the Bay of Bengal: Impact on the coastal fishermen  Dhaka	<ul style="list-style-type: none"> <li>- To share findings from the survey on 65 days ban on marine fishing</li> <li>- To discuss on the advantages and possible negative consequences of the ban</li> <li>- To recommend for protecting marine resources</li> </ul>	COAST Trust	Seminar  Minister of Fisheries and Livestock, Director General of the Department of Fisheries, Director (Marine Fisheries), Assistant Director of the Department of Fisheries, NGO representatives, Locals from Moheshkhali and Patharghata, Journalists	

	Date and Place	Nature of program and place	Issue and agenda	Organized by	Participants no and types	Remarks
9	29 October – 21 December 2019	Tri-partite Dialogue at the community level to raise awareness on rights based issues  Patharghata	<ul style="list-style-type: none"> <li>- To discuss on the rights based issues regarding the fisherfolk community</li> <li>- To collect recommendation to do advocacy at national level for a suitable policy for the fishers</li> </ul>	BILS	Dialogue: Total: 1250  Local Government representatives, representatives of fisherfolk community, Government officials, boat owners and other stakeholders	
10	5 January 2021	Informal discussion with fishermen  Char Kukrimukri, Bhola	<ul style="list-style-type: none"> <li>- To discuss on the challenges the fishermen face at Bhola</li> <li>- To collect recommendation from them to overcome the challenges</li> </ul>	COAST Trust	Informal discussion Total: 15  Fishermen, boat owner, warehouse owner	
11	6 January 2021	Consultation workshop with stakeholders  Charfasson, Bhola	<ul style="list-style-type: none"> <li>- To share the draft finding from SWIA and validate them</li> <li>- To discuss on the challenges the fishermen of Bhola face</li> <li>- To collect recommendation made by the Bhola stakeholders</li> </ul>	COAST Trust	Consultation Workshop Total: 30  Fishermen, boat owners, warehouse owners, local representative, representatives from Patharghata and Cox's Bazar, journalist	



## Annex 2: List of stakeholders interviewed

A total of 19 focus group discussions (FGD) and 21 key informant interviews (KII) were carried out, the full overview is provided below.

Sl.	FGD/KII	Date	Interviewee	Location
1	FGD	15-06-19	Women group	Dhakkhin Nalbila , Moheshkhali
2	FGD		Teacher Group	Moheshkhali
3	FGD		Youth Group	Shatgoria , Moheshkhali
4	FGD	16-06-19	Boat Owner	Paurashava Bazaar,Thakurtola Moheshkhali
5	FGD		Fishery Workers group	Meheriapara, Kutubjum Moheshkhali
6	FGD		Sareng Committee (Captains)	Kutubjum Moheshkhali
7	FGD		Women Group	Moheshkhali
8	KII	17-06-19	UNO Officer	Moheshkhali
9	KII		Social Welfare Officer	Moheshkhali Upazila
10	KII		City Mayor	Moheshkhali
11	FGD	18-06-19	Fishery League	Moheshkhali
12	FGD		Fishery Sangathan	Moheshkhali
13	FGD	25-05-19	Haringhata Sangathan	Pathorghata
14	FGD		Fishing Club	Pathorghata
15	FGD		Pathorghata Ghat Union	Pathorghata
16	KII	28-05-19	Fisher	Chitagong fishery ghat Moheshkhali
17	FGD		Women Group	Moheshkhali
18	FGD	29-05-19	Group of Youth (boys)	Moheshkhali
19	FGD	23-05-19	Fisher association	Cox's Bazar
20	KII	29-05-19	Captain (Majhi/Sarang)	Thakurtola, Moheshkhali
21	FGD	29-05-19	Fishery Ghat, Fisher owner association,	Paurashava Pathorghata
22	KII	05-12-20	Officer In charge, Police Station	Pathorghata
23	KII	11-10-19	Woman (widow)	Pathorghata
24	FGD	05-09-19	Group of Youth (girls)	Pathorghata
25	KII	05-11-19	Women	Pathorghata
26	KII	04-09-19	Women	Pathorghata

Sl.	FGD/KII	Date	Interviewee	Location
27	FGD	05-11-19	Char duani Fishery somiti	Pathorghata
28	KII	05-09-19	Masho Trollar Majhi	Char Duani, Pathorghata
29	KII	27-08-19	PIO	Pathorghata
30	KII	28-08-19	Coast Guard	Pathorghata
31	KII	05-09-19	Kalmegha Union Chairman	Pathorghata
32	KII	07-09-19	Headmaster Union- School	Pathorghata
33	KII	15-12-19	Marine Director	Dhaka
34	FGD	04-09-19	Fishers groups	Pathorghata
35	KII	07-09--9	Headmaster Government Primary School, Horinghata	Pathorghata
36	FGD	04-09-19	Fishers' groups Pathorghata Sadar Union	Pathorghata
37	KII	15-12-19	Marine Director Department of Fisheries Ministry of Livestock and Fisheries	Dhaka
38	KII	05-03-20	Professor Md. Abdul Wahab, PhD. Team Leader, ECOFISH Bangladesh	Banani, Worldfish Office
39	KII	4-03-20	Md Nadiruzzaman Senior Scientist, Centre for Earth System Research and Sustainability (CEN), University of Hamburg	Online interview -
40	KII	06-03-20	Farhana Sayed Member Secretary of Thematic Committee, Bangladesh Commission for Human Rights	Kawran Bazar, Dhaka

### Annex 3: Overview of institutions involved in governance of the small-scale fishers' labour and livelihood

Ministry	Departments	Mandate	Activity in relation to artisanal fishing
Ministry of Defense	Bangladesh Navy	<ul style="list-style-type: none"> <li>Security of Bay of Bengal</li> <li>Monitoring and enforcing trespassing</li> <li>Maintain the Law and order at sea</li> </ul>	<ul style="list-style-type: none"> <li>Patrolling the sea in 21 zones, each zone covers 10 sq km</li> <li>Except for one km around the coast in the shallow sea deep sea is patrolled by Navy.</li> </ul>
Ministry of Home Affairs	Coast Guard	<ul style="list-style-type: none"> <li>Performing the duties of maintaining law and order situation; preventing smuggling, illegal fisheries and piracy</li> <li>Guardian at Sea</li> </ul>	<ul style="list-style-type: none"> <li>Enforcing legality in fishing and net, safety gears, license checking, ban implementation, pollution control, human trafficking, robbery, illegal smuggling,</li> <li>They receive complaints about robbery and other emergency situation</li> </ul>
	Bangladesh Police	<ul style="list-style-type: none"> <li>To enforce law, maintain social order, reduce crime, enhance public safety and ensure internal security with active support of the community</li> </ul>	<ul style="list-style-type: none"> <li>Authority to file case of robbery, loss of life at sea, conflict in fisher community</li> </ul>
	Rapid Action Battalion	<ul style="list-style-type: none"> <li>Enforcing law and order in unstable situation</li> </ul>	<ul style="list-style-type: none"> <li>Robbery and smuggling control, particularly at harbor areas</li> <li>Patrolling and enforcing Hilsha fishing ban</li> </ul>
	Bangladesh River Police	<ul style="list-style-type: none"> <li>Ensuring a safe and secure environment of the rivers and waterways. Control on vessels to prevent accidents</li> </ul>	<ul style="list-style-type: none"> <li>Preserving and protecting fish (mother fish), Fish Sanctuary/ Breeding Ground/Endangered Species/Biodiversity and Wildlife in rivers and water ways</li> <li>Taking initiatives to prevent crimes like dacoity, smuggling, kidnapping, extortion etc.</li> </ul>

Ministry	Departments	Mandate	Activity in relation to artisanal fishing
Ministry of Public Administration	Upazila Nirbahi Officer	<ul style="list-style-type: none"> <li>Enforcing all law, act and policy, coordinating all government agencies at upazila</li> </ul>	<ul style="list-style-type: none"> <li>Magistrate role, coordination among agencies, supervising</li> <li>Special allocation in critical situation for victims</li> </ul>
Ministry of Fisheries and Livestock	Upazila Fisheries Officer	<ul style="list-style-type: none"> <li>Fisheries development</li> <li>Inland Capture</li> <li>Inland Culture</li> <li>Marine Capture</li> </ul>	<ul style="list-style-type: none"> <li>Distribution of Fisher ID card</li> <li>Fisher welfare</li> <li>Fish production and export processing</li> </ul>
	Marine Director	<ul style="list-style-type: none"> <li>Marine fishery, production, conservation,</li> <li>Fishing monitoring</li> </ul>	<ul style="list-style-type: none"> <li>Boat license</li> <li>Pass for fishing</li> </ul>
	Bangladesh Fisheries Research Institute	<ul style="list-style-type: none"> <li>Innovation for effective production and use of fish resource</li> </ul>	<ul style="list-style-type: none"> <li>Research on fish culture, marine resource use</li> </ul>
	Bangladesh Fisheries Development Corporation (BFDC)	<ul style="list-style-type: none"> <li>Ensuring and facilitating fish collection, landing, processing, storing, sales, quality and safety of fish product</li> </ul>	<ul style="list-style-type: none"> <li>Development of Fishery ghat, ice supply, processing</li> <li>Revenue collection,</li> <li>Providing license for fish trading</li> </ul>
Ministry of Local Government, Rural Development and Co-operatives	Union Parishad	<ul style="list-style-type: none"> <li>Ensure provision of health services at the Union Health Centers and sanitation,</li> <li>Disputes resolution,</li> <li>Registration of birth, death and marriages, preparation of agricultural and fisheries</li> <li>Development projects ,</li> <li>Assist credit programs and</li> <li>Help rural poor</li> </ul>	<ul style="list-style-type: none"> <li>Issuing Citizen certificate,</li> <li>Issuing Death certificate,</li> <li>Listing vulnerable groups,</li> <li>Implement Vulnerable Group Feeding Program (VGF)</li> <li>Mitigating conflict</li> </ul>

Ministry	Departments	Mandate	Activity in relation to artisanal fishing
	Municipality	<ul style="list-style-type: none"> <li>Registration of birth, death and marriages,</li> <li>poverty alleviation, education, sanitation, development projects ,</li> <li>assist credit programs</li> </ul>	<ul style="list-style-type: none"> <li>Issuing Citizen certificate,</li> <li>Issuing Death certificate,</li> <li>Listing vulnerable groups and distributing Relief</li> <li>Implement Poverty alleviation program</li> <li>Implement Vulnerable Group Feeding Program (VGF)</li> <li>Mitigating conflicts</li> </ul>
Ministry of Social Welfare	Social Welfare Officer	<ul style="list-style-type: none"> <li>Social welfare, protection, empowerment and development for the poor and vulnerable.</li> </ul>	<ul style="list-style-type: none"> <li>Social safety net programs that provide cash support</li> <li>Special allocation in critical situation for vulnerable people</li> </ul>
Ministry of Disaster Management and Relief	Project Implementation Office	<ul style="list-style-type: none"> <li>Project and relief distribution and implementation (mostly disaster related risk)</li> </ul>	<ul style="list-style-type: none"> <li>Oversee Vulnerable Group Feeding Program (VGF)</li> <li>Oversee Gratuitous Relief (GR) fund program</li> </ul>
Ministry of Shipping	Mercantile Marine Department	<ul style="list-style-type: none"> <li>Implementation of SOLAS (Safety of Life at Sea) Convention. It regulates international minimum standards for the construction, equipment and operation of ships longer than 24 meters.</li> <li>Comply with IMO, ILO, IOMOU, RECAAP</li> </ul>	<ul style="list-style-type: none"> <li>License for water vessel</li> <li>Jet and Ghat development</li> <li>Surveying all sea going Bangladeshi vessels</li> <li>Implement Blue Economy initiatives</li> <li>Marine pollution control</li> </ul>
Ministry of Youth and Sports	Department of Youth Development	<ul style="list-style-type: none"> <li>Reducing youths unemployed (youths aging from 18-35 years)</li> </ul>	<ul style="list-style-type: none"> <li>Skill development</li> <li>To support livelihood</li> </ul>

Ministry	Departments	Mandate	Activity in relation to artisanal fishing
Ministry of Labour and Employment	Department of Labor	<ul style="list-style-type: none"> <li>Promoting labor welfare</li> <li>Trade union license</li> </ul>	<ul style="list-style-type: none"> <li>Providing registration to trade unions</li> </ul>
Ministry of Water Resource	Water Development Board	<ul style="list-style-type: none"> <li>Coastal embankment development, maintenance</li> <li>Coastal canal excavate for storm surge protection</li> </ul>	<ul style="list-style-type: none"> <li>Many fishers live along the earthen coastal embankment and they are involved in maintenance of the embankment</li> <li>Many fisher inhabits in the land belongs to water development board</li> </ul>
Ministry of Environment, Forest and Climate Change	Department of Environment	<ul style="list-style-type: none"> <li>Making legal safeguard for environmental and climate change</li> <li>Enforcing Wildlife Conservation and Security Act, 2012.</li> <li>Global agreements related to marine resource management</li> </ul>	<ul style="list-style-type: none"> <li>Declaration of marine protected area. Swatch of No Ground, a submarine canyon in the Bay of Bengal</li> <li>Restricts fishing and other offshore commercial and any form of unauthorized activities in the area,</li> <li>Ensuring long term protection of marine life there</li> </ul>





## **Annex 4      Overview of laws, policies and legislation reviewed**

### **1 National Laws, Policies, regulations and Legislation:**

- 1.1 The Constitution of Bangladesh
- 1.2 The Bangladesh Labour Act, 2006 (amendment in 2018)
- 1.3 The Bangladesh labour Rules, 2015
- 1.4 The National Labour Policy, 2012
- 1.5 The Occupational Health & Safety Policy-2013
- 1.6 The National Fisheries Policy, 1998
- 1.7 National Fisheries Strategies-2006
- 1.8 The Bangladesh Fisheries Development Corporation Act, 1973.
- 1.9 The Marine Fisheries Ordinance-1983
- 1.10 The Protection and Conservation of Fish Act-1950 and Rules-1985
- 1.11 The National Water Policy, 1999
- 1.12 Government Jalmahal Management Policy-2009
- 1.13 Bangladesh Environmental Protection Act, 1995

### **2. Regional and International Instruments**

- 3.2 ILO Declaration on Fundamental Principles and Rights at Work, 1998
- 3.3 Work in Fishing Convention, 2007 (No.188)
- 3.4 FAO Small Scale Fisheries Guidelines (The Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries)

### **3. Regional Fisheries Management Bodies**

- 4.1 Asia-Pacific Fishery Commission (APFIC)
- 4.2 The Bay of Bengal Programme Inter-Governmental Organization (BOBP-IGO)