November 30, 2023

JOINT SUBMISSION TO THE U.N. SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD ON THE HUMAN RIGHTS SITUATION OF FISHERFOLK AND FISH WORKERS IN THE FACE OF OFFSHORE OIL AND GAS ACTIVITY

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Oil and gas activity on coastlines and at sea adversely impacts the human rights of small-scale fishers and fish workers. From exploration and drilling in the seabed, to coastal processing, subsea pipelines, and overseas shipping of fossil fuels—offshore oil and gas activity poses a growing threat to the rights, livelihoods, and food security of fisherfolk around the world. Offshore projects are growing in number, and today represent more than 30% of global oil and gas production.[1] Because offshore oil and gas activities are inherently difficult to monitor and manage, many adverse impacts go unnoticed and unmitigated, from leaks, well blowouts, and other emergencies, to everyday harms associated with industry operations and infrastructure.

Every phase of the offshore oil and gas lifecycle threatens the rights of small-scale fisherfolk and fish workers on the frontlines, and imperils the marine and coastal ecosystems on which they depend.

1. Noise pollution caused by seismic surveys used to locate undersea oil and gas reserves during **exploration** can seriously, and even fatally, harm marine life—from microorganisms to whales—with devastating consequences for the coastal and aquatic food webs of which small-scale fisheries are a part.[2] In fact, seismic airgun blasting has been shown to decrease catch rates of commercial fish species by about 50% on average over thousands of square miles, with even greater losses closer to the source.[3]
2. At the **production** phase, the greatest danger is from well blowouts during drilling, which increases the deeper the water, [4] and can trigger massive oil spills capable of devastating fisheries.[5] The installation of offshore infrastructure is also often accompanied by the creation of exclusion zones that prevent fisherfolk from accessing fish stocks critical for both income generation and subsistence, leading to loss of livelihood and food insecurity.[6]
3. The **transport** of oil and gas via pipelines and vessels carries the risk of oil spills from ruptures or collisions, allisions, groundings and sinkings.[7] Undersea pipelines can also create safety hazards to fisherfolk by entangling fishing equipment and vessels, endangering life and property.[8] Routine discharges from transport vessels contaminate oceans with hydrocarbons, toxic metals, and dangerous chemicals in a rampant practice called "bilge dumping." [9] These harmful substances can bioaccumulate in the tissues of marine life that are eventually consumed by fishing communities,[10] leading to cancers and other health impacts.[11] Noise generated by transport vessels also contribute to ecological disturbances, while the vessels themselves facilitate the spread of invasive species that can outcompete native species and wreak havoc on marine and coastal ecosystems.[12]
4. Even after an offshore project is closed at the **decommissioning** phase, unplugged or poorly plugged wells and abandoned infrastructure can continue to leak oil, radioactive materials, and other toxins into the ocean, contaminating the ecosystems on which fishing communities depend.[13]

Offshore oil and gas activity also harms fishers and fishworkers through its climate impacts. Offshore projects have outsized yet largely underreported climate footprints due to emissions from the common industry practice of gas flaring, [14] methane leaks from offshore and coastal infrastructure, [15] and the massive amounts of energy needed to power production operations.[16] They also release enormous quantities of greenhouse gases during transport and through the emissions that are the inescapable consequence of the end use of the produced oil and gas as intended.[17] By accelerating climate change and increasing CO2 atmospheric concentrations, oil and gas activity exacerbates sea level rise, ocean warming, ocean acidification, and other impacts already adversely affecting food production from fisheries and shellfish aquaculture,[18] and

jeopardizes communities' physical property as well as their spiritual and cultural connections to their coasts and oceans.[19]

The local and global impacts of offshore oil and gas activity undermine fundamental human rights at both the local and global scales. Small-scale fisheries account for at least 40% of the world's total fisheries catch.[20] In endangering them, offshore oil activity can jeopardize the food security of entire regions and the livelihoods of roughly 500 million people.[21] By driving the climate crisis, imperiling entire marine ecosystems, and leading to economic and physical displacement, offshore activity thus threatens the rights to food,[22] an adequate standard of living,[23] health,[24] work,[25] a healthy environment,[26] and culture,[27] among other rights.

States have a duty to protect the rights of fishers and fish workers from such harm. States have a duty under international human rights law to prevent and mitigate foreseeable threats to rights,[28] including those posed by the conduct of private actors.[29] Their continued approval and financing of offshore oil and gas activity—given its inherent risks to fundamental human rights—violates this well-established duty.

In light of the above, we, the undersigned, respectfully urge the U.N. Special Rapporteur on the Right to Food, in addressing the human rights situation of small-scale fishers and fish workers in his forthcoming report, to:

(1) highlight the ongoing and growing threats posed by oil and gas activity in and on oceans and across the offshore lifecycle;
(2) recommend that States carefully assess and disclose through thorough impact assessments and good faith public consultations the impacts of proposed offshore oil and gas activity on local fisheries and fisherfolk rights—including through their climate impacts—and require the mitigation of such effects before approving or financing any such projects; and
(3) call on States to reject the advancement of and/or suspend any offshore oil and gas projects that deprive affected fisherfolk and fish workers their enjoyment of fundamental human rights, including the right to food.

We thank the U.N. Special Rapporteur on the Right to Food, Michael Fakhri, for the opportunity to present this input. For any questions or clarification, please do not hesitate to contact ukhatri@ciel.org.

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[1] Alana K Ayasse et al, "Methane remote sensing and emission quantification of offshore shallow water oil and gas platforms in the Gulf of Mexico", *Environ. Res. Lett.* v.17 (2022).

[2] *See* McCauley, Robert, Ryan D. Day, Kerrie M. Swadling, Quinn P. Fitzgibbon, Reg A. Watson, Jayson M. Semmens. "Widely used marine seismic survey air gun operations negatively impact zooplankton", *Nature ecology & evolution,* 1st ed (2017); Lindy Weilgart, "A review of the impacts of seismic airgun surveys on marine life," *Submitted to the CBD Expert Workshop on Underwater Noise and its Impacts on Marine and Coastal Biodiversity* (2014), at p. 3. https://www.cbd.int/doc/meetings/mar/mcbem-2014-01/other/mcbem-2014-01-submission-seismic-airgun-en.pdf.

[3] Oceana, *Fishing, Seismic Testing, and Offshore Drilling*, (2022).

[4] *See* Alejandra Borunda, "We still don't know the full impacts of the BP oil spill, 10 years later", *National Geographic* (Apil 20, 2020) (explaining that for every 100 feet deeper a well is drilled, "the likelihood of a company self-reported incident like a spill or an injury increased by more than 8 percent").

[5] *See, e.g.*, Ben Doherty, "'Very hard life now': 12 years after the Montara oil spill, Indonesians are still fighting to be heard", *The Guardian* (Jan. 15, 2022) (describing how the 2019 Montara oil spill killed seaweed crops, destroyed fishing grounds, and polluted waters over more than 90,000 sq km of ocean); Natural Resources Defense Council, "Summary of Information concerning the Ecological and Economic Impacts of the BP Deepwater Horizon Oil Spill Disaster", Issue Paper (2015) ("One study projects that the overall impact of lost or degraded commercial, recreational, and mariculture fisheries in the Gulf could be $8.7 billion by 2020, with a potential loss of 22,000 jobs over the same timeframe.").

[6] Nathan Andrews et al, "Oil, fisheries and coastal communities: A review of impacts on the environment, livelihoods, space and governance", *Energy Research & Social Science* v. 75 (2021). *See also* Sam Mednick, "'Communities can fall apart': Senegal gas project drives locals to desperation," *EuroNews* (via Associated Press) (April 14, 2023); Massaër Dia, A Sangomar, "Djiffère, Diowar et Niodior: Pétrole et Pêche ne font pas bon ménage", *Business221* (July 19, 2023).

[7] Indeed, the last few years alone witnessed multiple major tanker and pipeline spills around the globe. *See, e.g.*, Robin Estrin et al, "Oil from massive Orange County spill expected to wash onshore for several days", *Los Angeles Times* (Oct. 4, 2021); Panarat Thepgumpanat & Panu Wongcha-um, "Thai cleanup underway after oil spill off eastern coast", *Reuters* (Jan. 26, 2022); Janet McConnaughey, "New report: Oil spills from offshore transportation way down", *Associated Press* (Sept. 28, 2022). *See also* Andrea Galieriková & Matúš Materna, "World Seaborne Trade with Oil: One of Main Cause for Oil Spills?", *Transportation Research Procedia* v. 44 (2020) (explaining that oil spills in the Atlantic offshore Europe attributable to oil tankers have spilled 1.4 million tons of oil over the last 50 years).

[8] Sally Rouse et al., "Commercial fisheries losses arising from interactions with offshore pipelines and other oil and gas infrastructure and activities", *ICES Journal of Marine Science* v.77 Issue 3 (2020)

[9] Laura Paddison et al., "Revealed: ships may dump oil up to 3,000 times a year in Europe's waters", *The Guardian* (March 22, 2022), Tatianna Evanisko, Skytruth, *Bilge Dumping: What It Is, Why You Should Care, and What Can Be Done* (2020).

[10] *See, e.g.*, Margherita Ferrante et al, "PAHs in seafood from the Mediterranean Sea: An exposure risk assessment", *Food Chem. Toxicol.* (2018).

[11] *See* Center for Disease Control, Agency for Toxic Substances and Disease Registry, "What Health Effects Are Associated With PAH Exposure?", *Case Studies in Environmental Medicine* (2009) (discussing the toxicity of Polycyclic Aromatic Hydrocarbons (PAHs)).

[12] *See, e.g.*, Henn Ojaveer et al, "Twenty five years of invasion: management of the round goby Neogobius melanostomus in the Baltic Sea", *Mgmt. of Biological Invasions* v.6(4)(2015).

[13] *See* Fenny Kho et al, "Current understanding of the ecological risk of mercury from subsea oil and gas infrastructure to marine ecosystems", *Journal of Hazardous Materials* v.438 (2022); Amy MacIntosh, "Ecotoxicological effects of decommissioning offshore petroleum infrastructure: A systematic review", *Critical Reviews in Environmental Science and Technology* v.52 Issue 18 (2022).

[14] Esme Stallard et al, "Revealed: Huge gas flaring emissions never reported", *BBC News* (Sept. 29, 2022) (referencing a study that revealed gas flaring in dozens of oil fields operated by some of the world's top fossil fuel companies—BP, Eni, ExxonMobil, Chevron, and Shell—emitted 20 million tons of CO2 equivalent in 2021, equivalent to the annual GHG emissions of 4.4 million cars.).

[15] Alana K Ayasse et al, "Methane remote sensing and emission quantification of offshore shallow water oil and gas platforms in the Gulf of Mexico", *Environ. Res. Lett.* v.17 (2022)(finding that shallow-water platforms in the Gulf of Mexico have more persistent and significantly higher methane loss rates stemming from offshore infrastructure than typical onshore production sites (23-66% compared to 3.3-3.7%)).

[16] In fact, studies show that halting the expansion of offshore drilling and phasing down production from existing subsea wells could cut emissions by 6.3 Gt CO2e/yr by 2050, which is around 13% of the total emissions reductions needed to keep warming under 1.5°C. *See* Oceana, *Beyond Expectations: Ocean Solutions to Prevent Climate Catastrophe (2022)*, at p. 1.

[17] According to a 2015 study, tankers transporting crude oil extracted from both onshore and offshore wells accounted for 101 million metric tons of CO2 emissions, which was 13% of total maritime emissions that year. Sharath Ankathi et al, "Greenhouse gas emissions from the global transportation of crude oil: Current status and mitigation potential", *Journal of Industrial Ecology* v.26 Issue 6 (2022). LNG has a massive climate footprint because of huge amounts of energy needed to liquefy, store, and regasify the fuel for transport, on top of the already energy-intensive process of extracting the gas from subsea wells. *See* Alexander Q. Gilbert & Benjamin K. Sovacool, "Carbon pathways in the global gas market: An attributional lifecycle assessment of the climate impacts of liquefied natural gas exports from the United States to Asia", Energy Policy v.120 (2018)

[18] IPCC, *Climate Change 2023: Synthesis Report. A Report of the Intergovernmental Panel on Climate Change. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* [Core Writing Team, H. Lee and J. Romero (eds.)], IPCC, Geneva, Switzerland, A.2.4 C.

[19] *See*, *e.g.*, Lerato Tsotetsi, "'Victory for the planet' – South Africans celebrate court win to stop Shell's destructive oil exploration", *Greenpeace* (Sept. 8, 2022) (explaining how a South African court acknowledged the key role of the ocean in the livelihoods and spiritual and cultural life of affected coastal communities, who launched a successful legal challenge to Shell's seismic survey plans offshore the Wild Coast).

[20] Food and Agriculture Organization, Duke University and WorldFish, *Illuminating Hidden Harvests: The contributions of small-scale fisheries to sustainable development* (2023), at p. XXXII.

[21] *Id.* at p. XXIV.

[22] International Covenant on Economic, Social and Cultural Rights, 16 December 1966, 993 U.N.T.S. 3 (entered into force on 3 January 1976) [hereinafter ICESCR], art. 11; Universal Declaration of Human Rights (UDHR), G.A. Res. 217 A(III), art 3 (Dec. 10, 1948), art. 25.

[23] *Id.*

[24] *Id.*

[25] ICESCR at art. 6.

[26] U.N. General Assembly, The human right to a clean, healthy and sustainable environment, *Resolution adopted by the General Assembly on 28 July 2022*, UNGA Res. A/RES/76/300 (Aug. 1, 2022); Human Rights Council, The human right to a clean, healthy and sustainable environment, *Resolution adopted by the Human Rights Council on 8 October 2021*, HRC Res. A/HRC/RES/48/13, (Oct. 18, 2021).

[27] ICESCR at art. 15.

[28] *See* UN General Assembly, 85th Plenary Meeting, *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, UN Doc. No. A/RES/53/144, 9 December 1998, art. 2 ("Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms…"); Human Rights Committee, *General Comment No. 31 - The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, U.N. Doc. CCPR/C/21/Rev.1/Add.13, 29 March 2014 [hereinafter HRC GC No. 31], para. 7; Committee on Economic, Social and Cultural Rights, *General Comment No. 20 - Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights)*, UN Doc. No. E/C.12/GC/20, 2 July 2009 [hereinafter CESCR GC No. 20], para. 8.

[29] *See* Human Rights Committee, General Comment No. 36, para. 22; Committee on Economic, Social and Cultural Rights, General Comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, U.N. Doc. E/C.12/GC/24, paras. 26-28 (2017).