



# Struggling against the Black Tide: Vietnamese Fishermen and the Politics of the BP Oil Spill

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**Abstract:** Vietnamese Americans in New Orleans gained national attention after Hurricane Katrina in 2005, when they were among the first groups to return to the devastated city. However, the BP Oil Spill in 2010 caused further disruption, severely impacting their livelihoods and the broader fishing industry in Louisiana. This article examines the imbalance of power in the compensation process managed by BP's claims agency, highlighting that not only Vietnamese Americans, but also White and Black fishers, faced structural challenges and exclusion. By tracing the experiences of the Vietnamese fishing community, this study explores how they navigated the process of seeking recognition and justice while resisting the constraints of BP's compensation protocols. Ultimately, the article argues that the collective efforts of affected individuals and community organizations have the potential to challenge and reshape systems of power and inequality.

**Keywords:** Vietnamese Americans; BP Oil Spill; fishing industry; compensation process; power imbalance.

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## 1. BP Oil Spill and Vietnamese Americans

### 1.1. BP Oil Spill Disaster and Inequality

On April 20, 2010, the *Deepwater Horizon* oil drilling rig in the Gulf of Mexico exploded following a failed drilling attempt. The explosion killed 11 people and injured 17 others. In the first few days after the incident, the media focused on the rescue efforts and family reunions of the victims. It soon became known that the explosion had caused the oil well to leak.

The leak was not fully staunched until almost three months later, on July 14, 2010 (Juhasz 2011).

The oil field was located approximately 50 miles off the Louisiana coast. The rig was owned by Transocean Ltd., and was operated under a lease by BP Exploration and Production, Inc., a subsidiary of British Petroleum (BP). Between April 20 and July 15, an estimated 5 million barrels of oil – over 200 million gallons – spilled into the Gulf. The Deepwater Horizon spill (“the Spill”) was thus the largest ever to have occurred in U.S. waters. Many feared that the impact of this oil spill would be comparable to that of the *Exxon Valdez* oil

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spill in Alaska in 1989.<sup>1</sup> After five months, National Geographic magazine published a special issue on the spill, drawing attention to the impacted creatures, rescue efforts, and future sustainability of the environment as well as the fishing industry. While some fishermen expressed concerns about the long-term effects on the seabed from the oil killing the larvae and eggs of marine creatures, others were worried about the possibility of a potential market collapse, as nobody would buy seafood in the region because of fears of poisoning (Barcott 2010).

This article not only presents the impact of the BP Oil Spill on local communities but also examines the process by which the Vietnamese fishing community sought respect and justice while resisting BP's compensation protocol. To do so, the paper briefly introduces the history of the development of the fishing network and the fishing industry in Louisiana. It then shows the initial impacts of the oil spill on local communities. The paper continues by discussing the interactions among BP's compensation agency (Gulf Coast Claims Facility, GCCF) with community members, community-based organizations, and U.S. political figures. By showing the imbalance of power between claimants and the GCCF, the paper suggests that once affected groups joined together for a common purpose, a profound impact can be made.

Bonilla-Silva (2001) contends that dominant groups in the U.S. create social practices and ideologies to maintain their racially-based advantages, forming a social structure that perpetuates racial inequality. For him, racism is not primarily about individual ideas, but about this "social edifice erected over racial inequality".

<sup>1</sup> According to the official report, 11 million US gallons spilled into the Prince William Sound in the Gulf of Alaska.

(Bonilla-Silva 2001: 22) He believes that eliminating racial inequality and the practices that maintain it would, in turn, eliminate racism and even racial categories themselves. He further argues that the white supremacy system has evolved from overt to covert discrimination since the Civil Rights era. Current racial inequality, though persistent, is now more subtle and harder to recognize. Bonilla-Silva (2001: 48) highlights that the ongoing disparities faced by Black people and other racial minorities in the U.S. stem from a racial structure that, although changed, still persists.

Bonilla-Silva asserts that although color-blindness sounds progressive, "its theme, style, and storylines are used to explain and justify racial inequality" (Bonilla-Silva 2001: 79). According to Bonilla-Silva, Whites appear "not racist" because they support equality, fairness, and meritocracy as abstract principles while denying the existence of systematic discrimination and disregarding the enormous and multifarious implications of massive existing racial inequality. Eventually, "the political beauty of color blindness as an ideology is that it allows Whites to state their racial views as if they were principled, even moral positions" (Bonilla-Silva 2001: 80). This article will use the BP Oil Spill event as a case study to explore how structural inequality has been made possible.

This qualitative research was conducted in New Orleans, Louisiana, U.S., from 2010 to 2013. Ethical approval for the study protocol was secured from the University of Toronto, and the necessary research visa documentation was facilitated by Tulane University. The main method for data collection was qualitative. I lived in the fishing community and participated in a number of events throughout the fieldwork period. Interviews were conducted with fishermen, oyster-shuckers, captains,

deckhands, and boat owners. The interviews were then transcribed and analysed using the framework of race and inequality. All names in this paper are pseudonyms.

### **1.2. Seafood Occupation of Vietnamese Americans**

In Louisiana, there are Vietnamese fishing communities in Houma (Dulac), Empire, Venice, Morgan City, Village de l'Est (New Orleans) and Slidell. While these communities are central hubs, many individuals also live farther away and commute by personal vehicles. Despite working in the fishing industry, Vietnamese fishermen in Louisiana come from several places in Vietnam, not simply from fishing villages along the coast. Zhou and Bankston (1997) point out that a number of people in Versailles came from fishing villages such as Phuoc Tinh in Vietnam. However, there are fishermen, captains, and boat owners with no prior fishing experience before arriving in the United States. Many of them only learned the necessary fishing skills after leaving Vietnam.

Of the five successive waves of Vietnamese refugees in the United States, fishermen in Louisiana mainly come from the first and second waves. The first wave, according to several sources, such as James Freeman (1992), consists of 300,000 people, many of whom worked for the Republic of Vietnam (former political regime in South Vietnam). They come from a variety of locations such as Phan Thiet, Vung Tau and Phu Quoc. Many were northerners who migrated from the North of Vietnam after the 1954 Geneva Accords. They left their villages around April 30, 1975 on their own boats. Being Catholics, they were sponsored under the program of Archbishop Philip Hannan to come to New Orleans.

The second wave consisted of the friends and relatives of the first wave, as well as people who did not leave Vietnam in 1975 but found it difficult to live under the new conditions. They spent a few months or even a year preparing for their escape. From 1978 to 1980, a number of people from both coastal areas and places farther inland like Sai Gon [Ho Chi Minh City], Ho Nai, and Long Khanh attempted to flee by boat. They became what the media called "boat people". After being sponsored to come to the United States, they learnt through relatives and friends that the weather conditions in Louisiana were similar to those in Vietnam and that there was a Vietnamese Catholic village in New Orleans. After initial visits, they settled in Louisiana.

These first two waves played an important role in establishing fishing networks among the Vietnamese in Louisiana. After a few weeks receiving assistance from the Catholic Archdiocese of New Orleans, Vietnamese people began to look for employment opportunities. Some people sought jobs in shrimp-beheading and oyster-shucking factories, while others began to work as busboys at local restaurants or housekeepers in hotels before entering the fishing industry. Four primary types of jobs related to fishing were boat owners, captains, deckhands, and seafood-processing workers.

Besides those jobs, a number of Vietnamese-owned restaurants have made seafood cuisine popular. For the last decade, the number of people working in fishing and fishing-related jobs has decreased as those working in the industry reach retirement age. Another reason is that the 1.5 generation and the second generation have grown up and worked in mainstream, non-fishing related jobs. These trends have reduced the percentage of Versailles

Vietnamese Americans working as fishermen and seafood processors. Despite no longer being the occupation of the majority of the population in Versailles, fishing and seafood-related jobs have remained significant occupations for people who lack other job skills and English proficiency. Because Vietnamese people have lived in Versailles and worked in the fishing industry for a long period, mostly from the early 1980s to 2000s, Versailles has been called a fishing village [*làng ngư phủ*].

## 2. Broken Responses

The explosion of the *Deepwater Horizon* drilling rig in April, 2010 threatened the livelihoods of Vietnamese American fishing communities in five states along the Gulf of Mexico: Texas, Louisiana, Alabama, Mississippi and Florida. Consisting of around 30 percent of the Vietnamese population (12,000) in New Orleans, fishermen and seafood-related workers were some of the occupations most directly affected by the oil spill and were helpless in this critical situation. The oil spill led to the closure of the fishing grounds in Louisiana for several months (from May to August, 2010). Unfortunately, the period from April to September was the most productive fishing and shrimping time of the year. Therefore, the loss of income was severe for people who relied on sea products. For example, Mr. Tung, a boat owner, complained that: "I didn't fish after the oil spill in [April] 2010, I began to fish again in October 2011 after some other people had started. I was afraid that if the fish contained some poisonous materials, I might be sued in the future". He continued: "Deckhands, more precisely, fishermen in the world, work mostly out the sea. Therefore, they enjoy when living on land. With money in

hand, fishermen often spend impulsively, without thinking about tomorrow. Deckhands here also have that thought. I know a lot of deckhands who, after the oil spill, can't find a job on land. I myself have to support a deckhand in my house". This was the case for many others involved in the seafood industry in Louisiana. Mr. Muoi, a deckhand, shared with me: "You think earning 500 USD per week is good, but I have to eat and spend money for transportation and other expenses. Although I live out the sea most of the time, I still have to pay for things on land such as car insurance, accommodation, utility bills and meals. You know, in the U.S., low-income people just have enough to live". In an article in *The Washington Post*, Dung Nguyen told a reporter "that all he knows is that his wife, their five daughters, his mother-in-law and his granddaughter – all of whom live with him in a modest rented home in the industrial eastern edge of New Orleans – are counting on him for survival. I don't know how I'm going to live" (Mui 2010).

In addition, some boat owners had taken out loans from commercial banks before the fishing season. The closure of the sea gates made them unable to repay the loans. Mr. Chinh, who came to Versailles in 1979, said: "As the owner of the boat, I always have to take care of it and prepare for every trip. This year [2010], I borrowed a few thousand US dollars to prepare for the new fishing season. However, I couldn't go out after the oil spill in April".

Seafood processing workers were also significantly affected. Mrs. Sy complained: "I used to work as an oyster-shucker for P&G. Last year [2010], I was unemployed because of the oil spill. From April to July, I still had oysters to shuck, but there were far fewer than before, so I worked only two days a week. On July 14, when they could

not buy any more oysters, they laid me off". Mrs. Ky expressed a similar sentiment: "After Hurricane Katrina, I was sad and depressed because my house was damaged. In 2010, the oil spill made me sad again because I lost my oyster-shucking job. I was sick for a few months after that. Now I'm planting vegetables such as mints, Thai basil, and squash in my ruined house for sale. Before Katrina, I used to earn about 300 to 400 USD per week, but now only 70-100 USD, and the gas and other expenses have increased".

The loss of income also caused difficulties for the families of fishermen and seafood-processing workers. Mr. Muoi had to provide financial support for his wife and children in Vietnam. The financial impact of the oil spill left him unable to earn money to send to his family. Some deckhands spoke about their increased drinking habits or engaging in gambling in their spare time. Mrs. Ky and her husband could not afford to pay university tuition for their children. She told me: "Since the oil spill, I did not have enough money for my son and daughter to pay their tuition. Therefore, they had to decide to study in a cheaper and less-competitive college". The financial strain went beyond tuition, she continued: "When they went to school, they also needed a car to travel. We did not have any chance to get a car and to pay for the gas and maintenance fees. I am very upset". Father Vien mentions "the mental health concerns – depression, lack of sleep, tension in homes – that need to be addressed, a task made difficult by an absence of Vietnamese-speaking therapists in a community that still stigmatizes the admission of emotional distress" (Ravitz 2010). The School of Public Health and Tropical Medicine at Tulane University has conducted a health risk assessment due to seafood consumption among Vietnamese Americans in Village de l'Est. The survey

found "no unacceptable risk within these groups" (Wilson et al. 2014:158). However, the authors suggest that "it is unreasonable to hold the regulatory risk assessment process accountable for ignoring potential health effects within this vulnerable demographic" (Wilson et al. 2014: 158).

The oil spill also created a sense of distrust among the fishing community through the Vessels of Opportunity (VoO) program. VoO is a project established by BP to hire local fishing boats to collect oil spreading on the surface of the coastal area. The project was launched in May 2010. Vietnamese boat owners applied to participate in the project. According to the regulations, everyone hired must pass a training course on oil-spill-collecting techniques and safety. There were two kinds of courses: a four-hour course and a 40-hour course. VoO only selected boat owners to participate in the project, and the hired boat owners had to provide their own onboard deckhands. Since the payment was high, ranging from 1,200 USD per day for a short boat (less than 30 feet) to 3,000 USD per day for a long boat (more than 65 feet), the number of applicants far surpassed program capacity.<sup>2</sup> A source of tension in the community was that, according to many people, some boat owners who applied later got called while many others who had applied much earlier were kept waiting. Among the fishermen, the boat selection process of the VoO was perceived as inadequately transparent. Moreover, boat owners tended to hire their relatives or close friends as deckhands instead of employing the people who had worked for them before the oil spill. Mr. Trung shared with me:

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<sup>2</sup> Factsheet on BP Vessels of Opportunity Program: [http://www.bp.com/liveassets/bp\\_internet/globalbp/global\\_bp\\_uk\\_english/incident\\_response/STAGING/local\\_assets/downloads\\_pdfs/factsheet\\_bp\\_vessels\\_of\\_opportunity\\_program.pdf](http://www.bp.com/liveassets/bp_internet/globalbp/global_bp_uk_english/incident_response/STAGING/local_assets/downloads_pdfs/factsheet_bp_vessels_of_opportunity_program.pdf)

“Boat owners are often captains, so they just go with their family members. I passed the training course, but nobody has called me. Just have to wait.”

Nevertheless, the biggest source of worry for fishermen was the question of the severity of the spill; and how long it would affect the fishing industry. These significant questions were consistently raised in local meetings. My fieldnotes read: “In 26 August 2010, in the meeting with officers from the U.S Public Health Service, the meeting room of the Mary Queen of Vietnam – Community Development Corporation was packed with over 50 Vietnamese fishermen, seafood processing workers, and reporters. A shrimper asked if the reproduction of shrimps would be affected when they lived in the oil-affected water. Then a fisherman questioned whether the bluefin-tuna would be affected if they ate the oiled fish and shrimps. No one could provide a clear answer. The discussion all ended up with proposing the testing methods and in-progress research”.

While most people were just waiting to see the impacts, some others looked for other job opportunities called “on-land work” [*làm bờ*]. Most of this on-land work consisted of lawn care and residential construction. People who were luckier managed to find off-shore jobs, for which they would be taken to work as cleaners and painters on off-shore oil-drilling rigs. While these jobs would provide them with the same income they had made fishing, few applicants were hired.

In sum, the oil spill severely impacted Vietnamese American fishermen in Louisiana. Most of them expressed uncertainty regarding the future of the fishing industry in the Gulf Coast. In the meantime, people had to struggle to survive while waiting for aid programs from the U.S government, charities and BP.

### 3. Government’s Responses

#### 3.1. Emergency Programs

Fifteen days after the oil spill, on May 5th, 2010 BP began to provide compensation payments for those affected by the disaster. Since the affected cases varied, BP divided those applying for compensation into several categories. For the Vietnamese Americans in New Orleans, the categories were mainly boat owners, deckhands and oyster-shuckers. Among my informants, boat owners received three cheques of 5,000 USD from May to August 2010. Deckhands received three cheques of 2,500 USD and oyster-shuckers received 2,000 USD for the same period. Until the establishment of the GCCF on 22 August 2010, BP had paid 395,619,857 USD for 154,000 claims in the Gulf Coast states (British Petroleum 2013). However, the funds were not distributed evenly. Some people considered this immediate effort of BP a proactive response (Partlett and Weaver 2011: 1343).

#### 3.2. GCCF

In the critical period following the oil spill, Vietnamese American fishermen and seafood-processing workers did not know whom they could rely on. Congressman Joseph Cao (Republican, 2nd district of Louisiana) emerged as a promising figure for the whole fishing community. Mr. Cao was born in Vietnam in 1967 and left for the United States after the fall of Saigon in 1975. He shocked the U.S. political world by defeating Mr. William J. Jefferson in the race for Congress in 2008, and was the first Vietnamese American elected to the House of Representatives, where he served for one two-year term from 2009-2011 (Nguyen Vu Hoang 2022). Congressman Cao addressed the problem of the oil spill very early on. As

the representative of the congressional district where the Vietnamese American fishing community was located, he quickly got involved in the situation. Two months after the spill, on 15 June 2010, Congressman Cao had an opportunity to meet Lamar McKay, the President of BP America, when he appeared before the House Energy and Commerce Committee as a part of a congressional testimony. "Cao, Vietnamese-American Republican, mentioned the anger among his constituents at BP's response to the Gulf oil disaster" (Tacopino 2010). Congressman Cao requested that BP process the claims faster and urged them to prepare for long-term effects of the oil spill.<sup>3</sup>

President Barack Obama, after the spill, recognized the long-term impact of the disaster and met with BP for solutions. On June 16, President Obama and BP officials agreed that BP would put 20 billion USD over four years into a fund that would cover spill damages, including claims. The fund, as Obama stated, would be managed by an independent third party. In July, BP and President Obama agreed that Mr. Kenneth Feinberg, an attorney who had worked entirely pro bono as the Special Master of the compensation fund for the victims of the 9/11 disaster, would oversee the claim process managed by the GCCF, which had 35 claims offices in several cities in the affected states: Alabama, Florida, Louisiana, Mississippi, and Texas (GCCF 2010a, 2010b; Reporter 2010). The Deepwater Horizon Oil Spill Trust Agreement was issued on August 6, 2010 (British Petroleum 2010).

On August 18, 2010, an inaugural meeting with Kenneth Feinberg was organized at the Pontchartrain Center in

Kenner, Louisiana. I attended with the staff of the Community Development Corporation (CDC).<sup>4</sup> The large meeting room, with approximately 500 seats, was full. Whites made up a strong majority of the people in attendance, followed by about 50 to 60 Vietnamese Americans and about 20 Black Americans. Vietnamese people therefore represented only a small proportion of the total attendees. At 2 p.m., a representative of BP came and introduced Feinberg as the person overseeing all matters related to the BP oil spill. Feinberg presented himself as someone on the side of the affected people. Seemingly understanding the attendees' frustration with BP's claims process, Feinberg confidently said: "No more excessive delays. I'm going to do my best. I work for you" (Reyes 2010). U.S. Senator Mary Landrieu (Democrat, Louisiana) also attended the public meeting in Kenner. Besides the meeting in Kenner, two more public meetings of the GCCF were organized in Houma, Louisiana and Biloxi, Mississippi for the convenience of residents.

The main announcement Feinberg made concerned the GCCF claim process: "The 20 billion USD BP fund will be administered in two stages. People, businesses or other groups that have been adversely affected by the spill can apply to Mr. Feinberg between Aug. 23 and Nov. 23 to see if they are eligible for emergency payments. After Nov. 23, only final settlement claims will be accepted, and the cut-off date for sending those is Aug. 23, 2013, the documents say" (Urbina 2010). For the payment method, a new solution was adopted: "Instead of the month-by-month checks that BP had been handing out, Mr. Feinberg will begin authorizing emergency payments worth up to six months of loss of income

<sup>3</sup> Congressman Cao was not re-elected for a second term in November 2010 and was therefore unable to continue pressuring BP.

<sup>4</sup> CDC was a local organization in the Vietnamese community.

compensation. Any emergency payments will be deducted from the final settlement disbursed" (Urbina 2010).

In the meeting in Kenner, knowing that BP would not have a Vietnamese interpreter, the CDC provided simultaneous interpretation for the Vietnamese audience. The CDC had provided 40 wireless headsets using their own resources to assist their community members. However, the number of Vietnamese Americans in the meeting exceeded the headset supplies. Many people did not have the opportunity to listen to the interpretation. For many attendees, then, their only takeaway from the meeting was to wait until August 23, 2010 to see what the GCCF would require them to do.

#### 4. In Search of Fairness: The Role of Organization and Community Members

The GCCF promised to open a new process for people affected by the oil spill disaster. According to the GCCF Protocol (2010b), the process essentially had two phases: first, anyone affected could file a claim at a GCCF location, online through the GCCF website, or by sending the application through the U.S Postal Service. They could also file for an emergency advance payment. The GCCF would then evaluate each claim and offer an emergency advance payment for up to six months while waiting for the calculation of the final payment. If people accepted the final offer from the GCCF, they would waive the right to sue BP and its partners in the future. If not, they could choose to pursue an appeal process or litigation. According to *The New York Times*, "[F]ishermen, shrimpers and seafood processors as well as hotel and restaurant owners with beachfront property in areas where oil washed ashore will have

the easiest time getting reimbursed" (Urbina 2010).

Although the compensation protocol of the GCCF looked reasonable, the compensation rates for people affected by the BP oil spill presented an issue, resulting in a long-term debate between the affected individuals and the GCCF, represented by Kenneth Feinberg. Moreover, the arguments between the two sides clearly reveal the underlying distribution of power. It not only shows the imbalance between claimants and the claim facility, but also highlights the essential pro-capitalist and white privilege structures in the United States. The following sections discuss each party's conception of what compensation should entail. It reveals the powerful position of Kenneth Feinberg and the GCCF relative to the affected people.

##### 4.1. *Imbalance of Power on Decisions*

From August 23 to November 23, 2010, the GCCF made emergency advance payments to 165,000 out of more than 460,000 applications filed (Hammer 2010).<sup>5</sup> After the announcement of the new claims protocol, people who were in need of money had to file the claim first. This protocol was seen as unjust and created uncertainty for claimants. Moreover, it also reflected an imbalance of power in which the GCCF had the power to make decisions about individual cases while the affected people had been suffering from a lack of income and employment. In the same vein, Feinberg was appointed by BP and President Obama to be the chief administrator in the GCCF, and implemented the compensation scheme

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<sup>5</sup> The documentation that claimants had to submit included, but was not limited to: Form W-2, Form 1099-MISC, paycheck stubs and payroll records. The protocol mentioned that after November 23, 2010, the GCCF would only process two types of claims: interim payments and final payments.

based on what could be described as his pro-capitalist, White-centric ideology. Not only were Vietnamese Americans uncertain about the compensation protocol. Other people working in the fishing industry, such as Native Americans, White Americans and Black Americans, also thought it severely unjust.

Despite seeing it as unjust, many people had no choice other than going to a GCCF office to file a claim. Because the GCCF took over the BP Claims Office, all of the documents submitted to it were transferred to the GCCF. Therefore, each claimant just needed to provide more information and would receive an identification number for their file. Mr. Muoi, a deckhand, told me: "I decided to file the claim and also requested an emergency advance payment for six months. If I took one month's payment only, I would have to come here every month. And who knows what if they stop after five months!" Based on the same reasoning, most of the affected people first applied for the emergency advance payment and waited for an offer of a final payment for their lost income. With the amount varying based on the income of each individual and business, the GCCF sent out cheques to claimants' addresses for emergency advance payments.

In addition to the fishermen, those working in seafood-processing factories/stores also came in to file their claims. Mrs. Sy said: "After the oil spill, the factory where I worked didn't receive as many oysters as before. So I was laid off. I haven't been employed since July 2010". Mrs. Ky was in the same situation: "The spilled oil must have killed lots of oysters. And because many workers were laid off, they also could not afford to eat oysters. I lost my job after the oil spill, I was so sick for the first few months. Then my daughter asked me to plant vegetables and I sold them at the Saturday morning market (*chợ chòm*

*hòm*) and other local Vietnamese supermarkets. BP made us lose our job. They did not give us that much".

A large number of Vietnamese seafood processing workers in Versailles found themselves in the same situation. Oyster-shucking and shrimp-beheading had been their major source of income for over 30 years since they arrived in New Orleans. For fishermen and shrimpers, since their catches varied between trips, their income in 2009-2010 ranged from 1,000 USD to 3,000 USD for every 20 to 30-day trip. Meanwhile, oyster-shuckers had a more consistent income, in the range of 300 to 400 USD per week. This main source of income had allowed them to buy houses and raise families. Laid off as a result of the oil spill, they faced the threat of long-term unemployment. Deckhands and oyster-shuckers were economically dependent on others in the fishing industry. While the deckhands had to rely on boat owners and captains to earn money from the catch, oyster-shuckers were dependent on the number of oysters that their factories purchased based on orders from local restaurants. After the oil spill, their livelihoods were severely impacted. Many of them did not know how to earn money to pay for their families' daily expenses. Therefore, although they did not want to receive the unjust compensation they were offered, they had to file for the emergency advance payment and hope for a favorable outcome in their case.

From August 23 to November 2010, the GCCF paid nearly 2.5 billion USD in emergency claims to almost 165,000 claimants out of 460,000 emergency payment applications and denied 104,000 applications in Louisiana due to a lack of documentation (Hammer 2010).

On December 13, 2010, Feinberg made an announcement regarding the second

phase of the compensation process, offering an option of “quick” payments for almost 170,000 claimants who had already received emergency advance payments. Individuals were offered 5,000 USD and businesses were offered 25,000 USD on the condition of waiving their rights to sue BP and other parties in the future (Hammer 2010). Claimants who selected this option would not have to submit any more documentation and the payments would be made quickly (Schwartz 2010; Skoloff 2010). A few days after Feinberg’s announcement, the Gulf Coast Attorneys General provided a letter responding to the quick payment option on December 16, 2010. The letter “urged claimants to proceed with caution in evaluating whether to accept an offer of final payment or quick final payment from the GCCF or to sign any release”. The Attorneys General made it clear for the public that once claimants signed the release, they “can never recover any additional money from BP or other responsible party for damages resulting from the oil spill” (Attorneys General 2010). This notice from the Gulf Coast Attorneys General highlighted the imbalance of power between Feinberg and the claimants. He had simply offered the same amount to everyone regardless of differences in income prior to the spill. Moreover, the local news pointed out that by offering cheap and easy payments to the claimants at the time they needed money the most, Feinberg not only aimed to clear “the decks for more complicated claims”, but also to keep “as many spill victims as possible from seeking compensation in the court, an expensive process that can drag on for decades, but also can force the oil companies to pay expensive punitive damages of anywhere from double to five times the victims’ actual losses” (Hammer 2010). In response, Feinberg countered that “the quick-pay

option is not coercive. Rather, he said, it’s a no-pressure alternative for those who don’t have additional documentation of losses” (Hammer 2010).

Although the quick payment was a “no-pressure” alternative, according to Feinberg, many claimants were in desperate need of money after six months (August 2010 to February 2011) without jobs. On January 27, 2011, Feinberg stated that “in less than two months, over 85,000 individuals and businesses located in the Gulf region, who previously received Emergency Advance Payments, had already accepted the additional “Quick Payment Option” of 5,000 USD for individuals and 25,000 USD for businesses. These payments total 693,710,000 USD” (Senate 2011).

On February 2, 2011 the GCCF released a proposal titled *Payment Options, Eligibility and Substantiation Criteria and Final Payment Methodology* (GCCF 2011a). The proposal officially announced the three types of claims: Interim Claims, Final Claims and Quick Final Payment. Interim Claims permitted claimants to seek compensation for past losses without waiving the right to continue to submit additional claims in the future; Final Claims for past and future loss required claimants to waive their rights to sue BP and other potentially liable parties. People who sought Interim Claims or Final Claims had to submit further documentation proving their damages due to the Oil Spill. The Quick Payment option was said to be “always available to any claimant who received an Emergency Advance Payment or Interim Payment” (GCCF 2011a: 1). On February 18, 2011 the GCCF officially released a document containing final rules that governed *Payment Options, Eligibility and Substantiation Criteria and Final Payment Methodology* (GCCF 2011b).

In February 2011, the situation remained vague and chaotic. Many Vietnamese Americans had to choose the quick payment option. Mrs. Ky had to accept a final payment of 25,000 USD for her children in order to pay for their university tuition and fees. She cried when explaining to U.S. Congressman Cedric Richmond (Democrat, Louisiana's 2<sup>nd</sup> district) and U.S. Congresswoman Judy Chu (Democrat, California's 27<sup>th</sup> district) in a public meeting with the community and the GCCF on November 5, 2011: "My family could not afford to pay tuition for my daughter. My son needed a car to travel to school. We also had utility bills and basic daily expenses. BP really forced us into this suffering situation, and we had to accept the offer of an unfair final payment". Mr. Muoi, a deckhand, also talked about a similar critical economic condition: "My wife and my children are in Vietnam. I did not find a way to earn money to send to them. Therefore, I had to sign for the quick final payment". In fact, during an interview with me, Mr. Muoi was worried as his rent was nearly due. He said: "I have to find money to pay for the rent at the beginning of next month and for my cell phone on the 25<sup>th</sup>. Da\*n it, what to do now?" Mr. Thanh, a boat owner, commented: "I think that deckhands really were at a disadvantage if BP put pressure on them by delaying their claims. They had to sign the quick final payments to get money to live. If not, they would not have accommodation, money to pay for bills and daily expenses. I think it is unfair". The cases of Mrs. Ky and Mr. Muoi not only revealed the unfair options of the GCCF payment process, but also raised the question of power between the involved stakeholders —specifically, the GCCF and the affected parties.

Father Vien also pointed out to me the psychological issues that the oil spill caused for fishermen: "Fishermen are people who

risk their lives at sea. They live with the wind and waves, and are free to go anywhere they want. Freedom has become their essence, but they now have to queue up in line for vouchers. It severely affects their psyche". What Father Vien said was corroborated by a Vietnamese American fisherman who spoke in a community meeting at the CDC. The fisherman said publicly: "I do not want to bring monthly bills to the CDC, asking for handouts. It's so annoying. I don't know about the future, but recently the catch has been no good". Mental illness and distress affected not only Vietnamese Americans but also people in other fishing communities. Clint Guidry, the President of the Louisiana Shrimp Association, told me: "Many shrimpers in my community were so worried that they couldn't sleep. They don't know what the future might be. It's a nightmare".

#### **4.2. The Supremacy Position of the GCCF**

While the quick payments offered by the GCCF were mainly accepted by low-income people such as deckhands and seafood processors, they were not accepted by people with average incomes. Boat owners and captains had substantially more financial independence thanks to their savings and ownership of the means of production. They tried to go fishing after the fishing grounds reopened in late August 2010. The 2010 and 2011 fishing seasons were ultimately lost. Mr. Thanh, who went shrimping after the lakes had reopened in 2010, commented: "After the oil spill, I saw the decrease of the amount of shrimp. I didn't know if it was the impact of BP (oil spill) or of water resource. Last year (2011), I still went shrimping after the lake opened. I only stopped when the lake was closed for the second time. However, this year (2012), the first trip of the season was poor, the second trip was worse. It was just enough

for the fuel, no more benefits. I remember that I used to bring home money after a one-week trip. I don't know whether the shrimps were affected by the oil spill". Mr. Giang, who was also a shrimp boat owner, said: "The compensation is not much, but the last shrimp season was a failure. In 2011, I went for several trips on the sea and the lakes, they were all losses. On only a few trips did I get enough money for the fuel. Brown shrimps were good for a few weeks then disappeared; white shrimps were also gone. The shrimps looked weirdly yellow". The loss of income was significant.

In the fishing industry, boat owners had to buy oil and food in advance for each trip, and to cover the costs of boat maintenance. Compared to the loss of income of the deckhands, the expenses of the boat owners were much more complex. According to the boat owners that I interviewed, the GCCF calculation of the loss was unfair. Based on the amount of compensation money that fishermen received, outsiders often assumed that fishermen benefited greatly from the oil spill. Nevertheless, Father Vien realized the impact the oil spill had on fishermen. He shared with me: "The impact is heavy and significant, not only on fishermen, but also on dock owners who had been wholesalers in the industry. The oil spill influenced people other than fishermen as well. I remember a situation when a fisherman came to apply for financial aid after the BP Claims Office had paid him 5,000 USD per month. A staff member said 'You received 5,000 USD, it was much more than my salary; why did you come to ask for more?' They did not understand the fact that fishermen might earn 5,000 USD per month, but they only worked three months in a year. Meanwhile, the staff members were paid monthly. You know, they might earn 10,000 USD to 20,000 USD per week. But they had to pay for boat maintenance, docking, and

insurance themselves. Now, they were getting 5,000 USD per month. People from outside may perceive that fishermen benefit from the oil spill. But there were boat owners who did not have money to pay for loans. That was a difficulty for fishermen".

Regarding the boat owners' and captains' situation, they disagreed strongly with the offers of quick payments from the GCCF. Mr. Giang, a boat owner, stated: "I received a total of 116,000 USD from both BP and the emergency advance payment of the GCCF in 2010. After that I haven't received any more money. I haven't accepted the final offer of 25,000 USD yet because it is too little compared to what I used to earn in the past. I have enough documentation to show a proof of 500,000 USD". In the same vein, Mr. Thanh, a captain, shared with me his opinion of fairness in an interview:

Thanh: I filed for an emergency advance payment and received 21,000 USD from the GCCF. After that they offered me 25,000 USD for a final payment. I haven't accepted it yet because I used to earn more than that amount.

Hoang: So, how would it be fair?

Thanh: To be fair, they have to recalculate because our annual income is not the same every year. They have to compensate us for the amount that we used to earn before 2010.

Hoang: How much money, do you think, would satisfy you?

Thanh: Satisfaction has no limit. We spend money if we have money. I think, we should be compensated for three years. For example, deckhands who used to earn 30,000 USD a year should receive 90,000 USD. It is fair. Boat owners should have more.

Hoang: Why do you want to have three years of compensation?

Thanh: Because shrimps have been killed by the spilled oil, we don't know if next year they would still be alive, and the year after that. We don't know whether we could continue to live in the fishing industry.

Expressing a similar idea, Mr. Giang pointed out the problem that "The spilled oil has covered and killed the larvae. Shrimps could not have things to eat. It is a problem. The shrimps would move to other locations if they found it polluted here. Another problem is that we cannot see it until the next few years. For example, the oil of Exxon Valdez in Alaska in 1989 spilled 16 million gallons. After that, the herrings still returned; the second year there were fewer; the third year they disappeared, and for the last 25 years, they have not returned to the area. But here [the amount of the spilled oil] is 270 million gallons". This is also a common concern expressed by fishermen and seafood processing workers. All of them were worried about the long-term impact of the oil spill on their livelihood. They also could not understand how the GCCF's claim adjusters had calculated their cases. The only information they had was from the letters of final payment offer from the GCCF.

Mr. Tung, a boat owner who had worked in the fishing industry for 30 years, expressed his disagreement with how the GCCF workers viewed the loss of income: "These people live in the forest, they don't understand the fishing work. If they had hired people who worked in the fishing occupation, these people would have given them [GCCF] useful advice, and there wouldn't have been these problems. It is not that all fishermen are silly; many are very smart and experts in the field. They understand the work of the industry".

#### 4.3. *The Litigation*

By December 2010, GCCF had paid nearly 2.5 billion in emergency claims to almost 165,000 claimants out of 460,000 emergency payment applications. Feinberg said the GCCF paid "a little less than 5,000 USD per payment on average" (Hammer 2010). Since the announcement of the quick final payment options, 5,000 USD for individuals and 25,000 USD for businesses in December 2010, about 85,000 people and businesses had accepted the quick payment option as of January 27, 2011 (Senate 2011). However, as mentioned in the earlier section, only deckhands and other affected people who could not afford to pursue a lengthy litigation process accepted these offers of compensation that were widely considered inadequate. The boat owners and captains, while continuing to fish in the Gulf Coast, turned to local law firms for assistance.

Recognizing the hardships of their people, local organizations quickly got involved and managed to make use of their contacts to benefit community members. On November 5, 2011, the Japanese American Citizens League cooperated with the CDC, the Vietnamese American Young Leaders Association of New Orleans, and Waltzer & Wiyugul Law Firm, and invited the GCCF to a town hall meeting with two congresspersons, Judy Chu and Cedric Richmond, and affected people at Sarah T. Reed High School in Village de l'Est. In the presence of congresspersons, the affected people freely expressed their concerns and anger about BP and the GCCF, including their worries about the long-term future of their livelihood. About 150 people attended the meeting, including the media. Vietnamese people received simultaneous interpretation by a Vietnamese American woman, a staff member of Waltzer &

Wiygul Law Firm. Although the GCCF and congresspersons tried to listen and replied to the critical questions from the audience, they simply promised to work on these issues with Feinberg. The meeting ended with rage from many of the fishermen because of the lack of clear answers and new information about the future of their livelihood (Marks 2012).

On February 26, 2012, the United States District Court for the Eastern District of Louisiana ordered GCCF to cease its operations and to initiate a Transition Program to prepare for a Court Supervised Claims Program (Barbier 2012). The GCCF ceased its operations and transferred the remaining cases to the Court Supervised Settlement Program through the Transition Program. Under this new program, the settlement of claims was administered by the court-appointed settlement administrator Patrick Juneau. Within this program, the Claims Administration Vendors appointed by the Court would evaluate and process claims in accordance with the Settlement Agreement. Attorney Juneau would oversee the settlement program, reporting its progress to the Court regarding the program. By June 2012, after the Transition Program ended, the GCCF and the Transition Program had paid a total of 6,670,705,516 USD for individual and business claims (British Petroleum 2013). From June 4, 2012 onwards, Vietnamese American claimants pursuing litigation knew little about the developments in the Court Supervised Claims Program, and could only wait to hear from their attorneys.

In June 2012, Binder, Dijker, and Otte, an international firm working in the industries of accounting, professional services, tax and consulting, at the request of the U.S Department of Justice, issued an executive report on the GCCF, concluding:

The GCCF was designed to respond, and did respond, with urgency to the economic difficulties of those most likely affected by the Spill. However, because of the complexity and unprecedented nature of the task undertaken by the GCCF, it was inevitable that some claimants and stakeholders would have concerns about its operations. While hundreds of thousands of individual and business claimants received payment without litigation over the two years immediately following the Spill, many others have sought an alternative to the GCCF. We hope that all those who have been genuinely affected by the Spill ultimately receive an appropriate resolution to their claims.

(BDO Consulting 2012: 88)

This section has described the imbalance of power between the GCCF and the affected people in the compensation process. While people with low incomes had to accept the quick payments and waive their right to sue BP for any other spill-related losses, more financially independent people sought help from attorneys with the hope that their compensation would be better. They all faced disadvantages due to the powerful position of the GCCF and the privileged position of Kenneth Feinberg in establishing the rules of a process in which they were the victims.

## 5. Conclusion

Five years after Hurricane Katrina, Louisiana fishermen faced another human-made disaster – the BP oil spill triggered by the explosion of an oil well in the Gulf of Mexico. Fishing activities were suspended for four months, and in accordance with the Oil Pollution Act (OPA) of 1990, BP provided emergency compensation through its Claims Office, followed by settlements

managed by the Gulf Coast Claims Facility (GCCF). This compensation process exposed a profound imbalance of power between those responsible for the income loss and the claimants.

While this article focuses on the Vietnamese American fishing community in New Orleans, it offers a broader perspective on how the BP oil spill affected diverse local fishing communities. It reveals that perceptions of fairness varied depending on one's position within the claims process. The GCCF, often viewed as a white-dominated institution, became a site where its administrator, Kenneth Feinberg, was seen to exercise his privilege at the expense of those affected. His handling of claims reflected a broader power hierarchy – one in which claimants, including Vietnamese Americans, Black Americans, Native Americans, and working-class White Americans – occupied a subordinate position.

This case illustrates that communities in marginalized and unequal positions can, through collective effort and organized resistance, challenge dominant institutions and demand recognition. It affirms the power of collective action in confronting systemic imbalances and amplifying the voices of those too often excluded from decision-making processes.

The BP Oil Spill exposed how White-supremacist power structures affected Louisiana's fishing industry, extending beyond race to encompass power dynamics. The Gulf Coast Claims Facility (GCCF), led by Kenneth Feinberg, exemplified this by privileging its own compensation methodology over the needs of diverse victims, regardless of their race, sex, or class. While compensation was provided, the process highlighted the privileged position of white decision-makers. Victims felt unheard, often forced into costly

litigation to dispute the GCCF's rigid, internally developed calculation methods. This created a stark power imbalance between the privileged decision-makers and subordinate claimants. Following Bonilla-Silva (2001), the GCCF, by promoting abstract equality while ignoring systemic disparities, could claim to be "not racist." Yet, this color-blind rhetoric ultimately justified the inequalities faced by all affected fishermen and women—Vietnamese American, White, and Black—demonstrating how privileged positions perpetuate systemic discrimination under the guise of progressiveness.

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