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# BROKEN PROMISES

## Why Thailand should stay on Tier 3 in the 2015 US Trafficking in Persons report

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In February 2015, Thailand released its Trafficking in Persons 2014 Country report, outlining Government efforts to combat human trafficking over the last year. Thailand's report makes the case for the country to be removed from Tier 3 on the US State Department's 2015 Trafficking in Persons (TIP) report, following its downgrade in 2014.

EJF's [Slavery at Sea](#) report, released last year, assessed Government efforts to tackle modern slavery in seafood supply chains throughout 2013 and early 2014. This briefing reviews the progress made by the Government over the last year to improve efforts to prevent and suppress human trafficking in the fishing industry. EJF believes that Thailand has not sufficiently improved efforts to fully comply with the minimum standards for the elimination of trafficking. In particular, the Government has failed to:

- (1) Address one of the key factors perpetuating trafficking and abuse into the fishing sector, namely the existence of an unregulated industry of labour brokers;
- (2) Make substantive progress in its ability to identify victims of trafficking, forced and bonded labour aboard fishing vessels;
- (3) Enforce existing laws and regulations in an unbiased and rigorous manner, particularly with regards to state officials engaged in human trafficking;
- (4) Adopt a victim-centred approach to the protection of those who have escaped or been rescued from modern-day slavery.

**Based on these failures and the ongoing occurrence of systematic trafficking and abuse in the fishing industry throughout the last year, EJF strongly recommend that Thailand remains on Tier 3 in 2015. This will send a clear signal to the Government that a substantive programme of action and series of reforms must be implemented to comply with the minimum standards for the elimination of trafficking.**



## 1. Recruitment into the fishing industry

Despite large scale registrations of undocumented migrant workers in 2014 – including roughly 70,000 workers in the fishing industry – recruitment onto fishing vessels continues to be conducted through informal channels. In July 2014, the private sector requested that the Government act to register and regulate the country's illegal brokers, citing them as principle facilitators in the ongoing trafficking and abuse of migrant workers.<sup>1</sup> However, rather than introducing legislation to regulate brokers – by, for instance, amending the Recruitment and Job-Seekers Protection Act, B.E. 2528 (1985) to cover migrants as well as Thai nationals – Department of Fisheries (DoF) officials maintain that the Government is seeking to eliminate brokers through the use of Labour Coordination Centres for the Fishing Industry (LCC).<sup>2</sup>

The Ministry of Social Development and Human Security's (MSDHS) 2014 National Action Plan to Prevent and Suppress Human Trafficking (NAP) allocated over \$250,000 to LCCs for the management of recruitment into the marine fisheries sector.<sup>3</sup> However, private sector participation in the LCCs remains voluntary, even though LCC officials are supposedly tasked with inspecting recruitment practices as well as working and living conditions. Employers have shown little interest in the LCCs due to their inability to resolve the chronic labour shortage facing the fishing industry – which is estimated to be as high as 50,000. Sources have reported to EJF that resources in some LCCs have been all but entirely diverted towards the recording of the arrival and departure of vessels; according to officials, the current volume of port-in, port-out recordings (around 200 vessels per day) already presents a challenge to authorities.<sup>4/5</sup> In late 2014, the chronic labour shortages facing the industry, as well as pressure to combat human trafficking, prompted the Government to initiate a pilot project to crew boats with offenders on early release from Thailand's overcrowded prisons – a scheme subsequently retracted and denied following outrage from domestic and international civil society.<sup>6/7</sup>

## 2. Identification of victims of human trafficking in the fishing industry

In the second half of 2014, Thailand began a programme of joint inspections at sea. These inspections involve multiple statutory agencies including the Marine Police, the Department of Fisheries and officials from relevant Departments in the Ministry of Labour. Despite significant resources being committed to the training of existing and new inspectors in the 2014 NAP, many of the critical flaws and oversights in Thailand's identification of human trafficking victims highlighted by the BBC in early 2014, and subsequently reiterated in EJF's report [Slavery at Sea](#), remain unresolved.<sup>8/9</sup> Video footage of an at sea inspection in late 2014 clearly shows officials interviewing workers in the presence of the captain or gangmaster – who appears to also be acting as a key intermediary between officials and the crew.<sup>10</sup> Another media report from early 2015 alleges that joint inspections of two vessels in Phuket – in which four Myanmar nationals were detained for processing and deportation as irregular migrants – failed to interview workers privately to “determine their work conditions, base wages or to establish if they were trafficked into Thailand.”<sup>11</sup>

Between 1<sup>st</sup> October and 17<sup>th</sup> December 2014, Thai officials inspected a total of 58 vessels and 761 crew and only identified one vessel illegally employing 30 undocumented migrant workers.<sup>12</sup> No cases of exploitation were identified in a more recent round of inspections involving 414 vessels and 1,936 crew.<sup>13</sup> The low rate of instances of trafficking, forced and bonded labour identified by Thai authorities is not just the result of inadequate screening processes or an artefact of the apparent focus on vessels in the short-haul fleet; where the risk of such abuses relative to the number of vessels is considerably less than aboard long-haul vessels.<sup>14</sup> In September 2014, the Deputy Director-General for the Department of Labour Protection and Welfare (DLPW) highlighted the fact that while the financial and human resources available to his department had not increased, Government targets meant that each labour inspector was now responsible for around 1,300 establishments; a number over six times more than that recommended by researchers at a Thai university.<sup>15</sup> Later in the same month, senior Ministry of Labour officials admitted that the effectiveness of at sea inspections remained curtailed by jurisdictional limitations, the lack of available vessels and budgetary restrictions on fuel.<sup>16</sup>



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### 3. Continued cases of trafficking, forced and bonded labour

Throughout the last year, there have been regular reports of trafficking, forced and bonded labour occurring aboard Thai fishing vessels. The table below includes a selection of reports to illustrate the ongoing and widespread nature of abuse occurring in the industry during 2014 and early 2015.



04/03/2014	A group of six Burmese migrants are rescued from vessels docking at the pier owned by the company highlighted in EJF's <i>Sold to the Sea</i> and <i>Slavery at Sea</i> reports. <sup>17</sup>
29/05/2014	Migrants trafficked to a vessel operating in the Gulf of Thailand are able to buy their freedom after secretly phoning relatives for assistance. <sup>18</sup>
4/06/2014	Authorities report assisting two individuals trafficked to work aboard fishing vessels from ports in Nakorn Sri Thammarat and Songkhla. <sup>19</sup>
11/06/2014	Two reported lost at sea after three victims of trafficking and forced labour jump into the ocean in an attempt to escape a fishing boat operating in Thai waters. <sup>20</sup>
12/07/2014	Father and son trafficked into debt bondage are rescued from a pier in Phuket after contacting relatives for help. <sup>21</sup>
18/09/2014	One of Thailand's largest media organisations releases a major exposé on the trafficking networks serving Thai fishing vessels in Indonesia. <sup>22</sup>
24/09/2014	One Thai and five Burmese rescued in Samut Sakhon, the former had been trafficked just 11 days prior with a further two individuals whose fate remains unknown. <sup>23</sup>
10/10/2014	35 Thai nationals trafficked to Thai fishing boats are rescued by authorities in Indonesia and processed for repatriation. <sup>24</sup>
04/10/2014	Thai authorities admit that 1,772 potential victims of trafficking languish in Ambon's immigration detention centre (Indonesia) alone – some 70 per cent are migrants. <sup>25</sup>
03/11/2014	An escaped victim of trafficking and forced labour swims ashore in Pattani, and reports of a fleet of some 50 vessels crewed by more than 100 people in similar conditions. <sup>26</sup>
27/11/2014	Two Thai children, 15 and 13 years old, are rescued from forced labour aboard a vessel operating out of Ambon, Indonesia. <sup>27</sup>
25/01/2015	Thailand's Navy rescues a 50 year old Thai man trafficked onto a fishing boat in Nakorn Sri Thammarat in October who received \$6.14 for four months hard labour. <sup>28</sup>
27/01/2015	Thai police officers seize a father and son at a jetty in Phuket and sell them into slavery aboard a Thai fishing trawler. <sup>29</sup>

## 4. Enforcement

Over the course of the last year, Thailand has continued to arrest foreign nationals on suspicion of trafficking individuals into forced and bonded labour aboard fishing vessels.<sup>30/31/32/33</sup> EJF have identified only one instance of Thai nationals being arrested on human trafficking charges.<sup>34</sup> This case occurred in early 2015 and was directly related to a well-publicised investigation by a Thai media organisation exposing the trafficking of Thai nationals to fishing vessels operating out of Ambon, Indonesia. Even where the names of fishing vessels aboard which abuses have occurred is known and reported to the authorities by victims, EJF have not been able to identify any instances during 2014 in which the owner(s) of said vessels were subject to investigation, arrest or prosecution on human trafficking charges or in relation to the violation of existing labour laws.

Widespread corruption continues to result in weak enforcement of the law and low prosecution rates for Thai officials, brokers and business owners involved in human trafficking. A pair of Thai nationals, arrested for 'smuggling' Rohingya in early 2015, alleged that bribes in excess of \$9,000 per truckload are paid to corrupt officials in order to transit checkpoints. Thailand's new Permanent Secretary for Labour has recognised that systemic corruption exists throughout the lower ranks of officials in the Ministry of Labour and has pledged in his inaugural speech to make 'zero corruption' a cornerstone of his administration.<sup>35</sup>

The corruption which undermines enforcement efforts is not confined to low-ranking Government officials. In September 2014, Thai Rath quoted a confidential source alleging the involvement of senior Government officials in the trafficking of Thai nationals to fishing vessels operating out of Ambon, Indonesia.<sup>36</sup> Immediately following and subsequent to this report, Thailand's Prime Minister has underlined the importance of eradicating corruption among state officials facilitating trafficking, forced and bonded labour.<sup>37/38</sup> Thailand's National Anti-Corruption Commission has been tasked with investigating the complicity of Government officials, however it is unclear whether any of the 104 human trafficking convictions in 2014 – a 54 per cent decrease on the previous year – involved state or police officials.<sup>39/40</sup>

## 5. Victim protection

Testimonies collected by EJF from trafficking victims and senior officials in the Myanmar Government during 2014 demonstrate that Thailand has failed to improve conditions in the regional trafficking shelters run by the MSDHS. It is evident that the lack of adequately trained staff and interpreters in these facilities presents a fundamental obstacle towards Thailand's development of a victim-centred approach and, in some cases, a direct threat to the personal safety of victims of trafficking and abuse. A senior source in the Myanmar Government reported to EJF that they believe that around four in every five incidents occurring in MSDHS shelters are a result of the lack of onsite interpreters.<sup>41</sup>

In May 2014, 10 of the victims rescued from fishing vessels in Kantang in March 2013 – whose cases are recorded in EJF's [Sold to the Sea](#) and [Slavery at Sea](#) reports – were repatriated to Myanmar following a violent incident at the Ranong MSDHS shelter.<sup>42</sup> The incident began when the group's leader, Khin Zaw Win, and five others were using the WiFi access in part of the shelter compound to browse the BBC Burmese website for news updates on their mobile. In the same part of the compound, three of the shelter staff were drinking alcohol and the group became concerned that they were being stared at in a hostile manner. Khin Zaw Win placed several calls to Burmese contacts in local civil society organisations who advised them to remain calm and to not confront the shelter staff.

Upon attempting to leave the area, Khin Zaw Win was summoned to the group of staff whereupon one of the security guards immediately assaulted him. Khin Zaw Win retaliated and the three inebriated staff members – two security guards and the shelter's bus driver – proceeded to beat him. At one point, the driver drew a handgun and threatened to shoot Khin Zaw Win before the assistant to the Director of the shelter stepped in and ordered the man to holster the weapon. The entire group of Kantang victims proceeded to leave the shelter in protest at the assault and demanded immediate repatriation to Myanmar, which was eventually facilitated by the Myanmar Anti-Trafficking Task Force (ATTF).

A senior source in the Myanmar Government reported to EJF that the MSDHS incident report stated that the shelter staff were attempting to control the group of victims, who were drunk, and that the situation subsequently escalated.<sup>43</sup> According to this official, the falsification of incident reports – in order to represent victims of trafficking as being at fault – is a common occurrence. Khin Zaw Win alleges that there was no formal investigation of the incident and that he was at no time asked by any Thai official or member of staff at the shelter to give his account of events.

This event was not an isolated occurrence, and there are several reports from other shelters such as in Phatum Thani of trafficking victims being assaulted, threatened at gunpoint, beaten by shelter staff and sustaining severe injuries requiring their hospitalisation.<sup>44/45</sup> As with the Ranong incident report, facts were falsified or altered to blame the victims rather than the abusive staff.<sup>46</sup>

Over the last few years, Thailand has made numerous high-profile announcements regarding policies and plans to enhance efforts to address human trafficking. Yet few of these announcements have resulted in concrete actions and meaningful change. Placed in the context of 2014 and previous years, the recent establishment by Thailand's Prime Minister of five high-level policy committees to combat human trafficking – one of which specifically addresses human trafficking and IUU fishing in the seafood industry – resembles an attempt to reassure observers that meaningful action is being taken by the Government.<sup>47</sup>

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Based on the evidence presented in this summary, EJF makes the recommendation that Thailand remain on Tier 3 in 2015 and until such a time as substantive progress in implementing effective policies and improving efforts to combat trafficking is clear and apparent.

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Due to pressure from the US government, Thailand's military government is paying more attention to human trafficking. They are trying to cooperate more closely with NGOs and community organisations which are already working on these issues. They have also tried to crack down on trafficking rings and rescue some victims of trafficking.

Thailand needs to work more systematically with NGOs and the Myanmar government. Most importantly, they have to monitor activities at sea and take action as quickly as possible. The Government needs to review its policies on trafficking as well as issues around enforcement to rectify problems which currently seem to protect human traffickers over victims of trafficking.

The Thai government has made progress on human trafficking but it is too early for them to move off of Tier 3 in 2015. There remains a lot to do.

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Executive Director of an organisation working to protect the rights of Burmese migrant workers in Thailand

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HRDF has been tracking and providing legal assistance to four cases of forced and bonded labour in the fishing industry since 2009. From the cases we work on, we have identified failures at every stage of the process: from the rescue process itself and victim identification, to the investigation and prosecution of legal cases.

The main factor underlining these failures is the lack of rigorous enforcement of existing laws.

Thailand's Anti-Trafficking in Persons Act of 2008, for example, is rarely used by competent officials to obtain evidence of the use of forced labour aboard fishing vessels. Police officers are typically reluctant to arrest the captains and owners of vessels, which is why prosecution rates for Thai nationals in these cases is somewhat lower than we might expect. Added to this is the fact that most victims of trafficking, forced and bonded labour remain hidden as a result of incompetent victim identification procedures.

Throughout 2014, we have seen many policies launched to tackle human trafficking - especially in the fishing industry. However, the situation regarding forced labour has not improved. Statutory agencies conducting joint inspections have reportedly identified no cases of human trafficking. Yet two of the cases HRDF received in the last year were from Warasin port in Chonburi, where inspectors claimed to have found no instances of trafficking or abuse.

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Anti-Human Trafficking in Labour Project,  
Human Rights and Development Foundation (HRDF)

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The Thai government's responses to the challenge of human trafficking in the fishing sector have continuously been too little, too late, and the cost has been counted in the countless lives lost of men and boys from Thailand's neighbouring countries who sought work in Thailand and were duped or forced on to the boats. To date, the brokers who force people on to boats, the government officials in Thailand who back them, and the fishing boat captains and owners who physically abuse and exploit them have had little to fear from Thai government anti-trafficking efforts.

As events showed in 2014, reinvigorated anti-trafficking rhetoric from the military junta NCPO government has not appreciably changed the dire situation for fishermen on the piers, in the ports, and on the boats where exploitation and forced labour is taking place.

Thailand has to engage in no less than an overhaul of its fishing industry if it is serious in addressing the systematic and pervasive use of trafficked men in its fishing fleets. The question now is whether there is really political will in Bangkok to do so - and so far, the jury is very much still out on that answer.

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Phil Robertson, Deputy Director, Asia Division,  
Human Rights Watch (HRW)

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Thailand gives the appearance of having accelerated efforts to combat human trafficking, but in reality civil society participation is still very much missing.

The regulatory framework concerning vessels fishing within and outside of Thai waters, which perpetuated the human trafficking problem, has just been changed. Recent developments give the impression that Thailand has not quite accepted the reality of the situation.

The military government has strengths and weaknesses: it is capable of making state officials approach human trafficking with seriousness, but it is still on the defensive and most of the work continues to be conducted over the table rather than on the ground.

After the last 4 to 5 months of increased action, the Government is still not able to define the indicators for its intended programme of change, which is based on old information, and it has not managed to deal with the real human traffickers: the vessel owners and business operators.

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Sompong Srakaew, Director of the Labour Rights  
Promotion Network (LPN)



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