

SLAVERY AT SEA

The Continued Plight of Trafficked Migrants
in Thailand's Fishing Industry



Protecting People and Planet

A report produced by EJF supported by Humanity United



Protecting People and Planet

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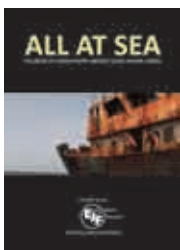
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OUR MISSION

To Protect People and Planet

EJF believes environmental security is a human right.

EJF strives to:

- Protect the natural environment and the people and wildlife that depend upon it by linking environmental security, human rights and social need
- Create and implement solutions where they are needed most – training local people and communities who are directly affected to investigate, expose and combat environmental degradation and associated human rights abuses
- Provide training in the latest video technologies, research and advocacy skills to document both the problems and solutions, working through the media to create public and political platforms for constructive change
- Raise international awareness of the issues our partners are working locally to resolve

Our Oceans Campaign

EJF's Oceans Campaign aims to eradicate Illegal, Unreported and Unregulated (IUU) or 'pirate' fishing. We are working to create full transparency and traceability within seafood supply chains and markets. We actively promote improvements to policy-making, corporate governance and management of fisheries along with consumer activism and market-driven solutions.

Our ambition is to secure truly sustainable, well-managed fisheries and with this the conservation of marine biodiversity and ecosystems and the protection of human rights.

EJF believes that there must be greater equity in global fisheries to ensure developing countries and vulnerable communities are given fair access and support to sustainably manage their natural marine resources and the right to work in the seafood industry without suffering labour and human rights abuses.

We believe in working collaboratively with all stakeholders to achieve these goals.

For further information visit www.ejfoundation.org/oceans

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Abbreviations

APEC	Asia-Pacific Economic Cooperation	J/TIP	Office to Monitor and Combat Trafficking in Persons
CPUE	Catch Per Unit of Effort	MAT	Myanmar Association of Thailand
EEZ	Exclusive Economic Zone	NAP	National Action Plan to Prevent and Suppress Human Trafficking
EJF	Environmental Justice Foundation	TIP	Trafficking in Persons
ILO	International Labour Organization	UNIAP	United Nations Inter-Agency Project on Human Trafficking
IOM	International Organization for Migration		
IUU	Illegal, Unreported and Unregulated (fishing)		

SLAVERY

REMAINS AN INTEGRAL PART OF THAILAND'S EXPORT-ORIENTED FISHERIES SECTOR



A migrant fisher looks up from inside an empty hold used to store fish after unloading at the port of Ranong © EJF

- Thailand is the third largest seafood exporter in the world, with seafood exports valued at \$7.3 billion in 2011.^{1/2} The European Union imported more than \$1.15 billion (€835.5 million) worth of seafood from Thailand in 2012, while the value of imports by the United States exceeded \$1.6 billion in 2013.^{3/4}
- The Thai fishing industry remains heavily reliant on trafficked and forced labour. It is clear that rising overheads, exacerbated by the need to spend more time at sea for smaller catches due to over-fishing and chronic mismanagement of the fishery will continue to encourage these abuses.
- As boat operators have looked to cut costs, working conditions and wages have suffered, causing many workers to turn away from the industry and forcing some employers to rely on criminal trafficking networks to meet the labour shortfall.⁵
- NGOs, international organisations, governments and industry have identified the Thai seafood sector as an area of high concern for forced and trafficked labour.^{6/7/8/9/10/11}
- Thailand has spent four consecutive years on the Tier 2 Watchlist of the US Department of State's Trafficking in Persons report and now faces a mandatory downgrade to Tier 3 in 2014 if the major issues are not adequately addressed.¹²
- To address a series of criticisms made by observers, Thailand's Ministry of Social Development and Human Security (MSDHS) released the 2013 National Action Plan to Prevent and Suppress Human Trafficking (NAP).¹³ The document itself is broad in scope and undermined by vague objectives. EJF investigations have revealed evidence that the Thai Government is falling far short of critical commitments made in the action plan.
- Investigations in 2014 document the continued prevalence of trafficking in the Thai fishing industry, with operators now taking greater precaution to avoid detection, including transshipping trafficked workers at sea.
- Corruption remains a major obstacle to efforts to combat human trafficking in Thailand. EJF investigations uncovered evidence of continued police collusion in the trafficking and exploitation of migrant workers aboard Thai fishing boats. Further, EJF's investigations reveal that local officials often provide protection and even assistance to unscrupulous brokers and business owners engaged in the trafficking and abuse of migrant workers.
- The case of the 14 men rescued from a port in Kantang – first reported in EJF's 2013 Sold to the Sea report – reveals serious structural failings in how Thai authorities deal with human trafficking victims and cases more generally. After nearly a year in a Government shelter and little progress on their case, the victims told EJF in 2014 that they are frustrated and now more focused on returning home than pursuing their case.
- Without determined action at the highest levels of Government to identify and successfully prosecute criminals, corrupt officials and unscrupulous business operators, alongside the introduction and enforcement of comprehensive measures to regulate Thailand's fishing fleets and recruitment practices, violence, exploitation and slavery will remain an ongoing feature of Thailand's seafood industry.

“

In the last two years, nothing has changed on the issue of human trafficking in fisheries... It just stays the same. Nothing new, no improvements – because the problems are still there.

”

Kyaw Lin Oo, interpreter for victims of human trafficking



A photograph of a fishing boat on the water. The boat is cluttered with fishing gear, including nets, ropes, and buoys. A man in a purple shirt stands on the deck in the foreground. Another person is visible in the background on the boat. The water is blue and the sky is clear.

This report draws on evidence gathered during investigations carried out between 2012 and 2014 to assess Thailand's performance in fulfilling its commitments to combat human trafficking.

EJF's latest investigation in January and February 2014 included interviews with rescued trafficking victims, boat owners, officials and other stakeholders in Thailand's fishing industry.

INTRODUCTION

Thailand's fishing industry, and the seafood sector more widely, remain heavily reliant on trafficked and forced labour as an integral part of their business model. Unscrupulous business owners, criminal trafficking networks and corrupt officials continue to profit from the exploitation of vulnerable migrant workers, while Government activities to tackle the issue have been wholly inadequate.

Since 2012, the Environmental Justice Foundation (EJF) has reported on the shocking and systemic abuse of migrant workers in the Thai seafood sector, which has been identified by international NGOs, governments and industry as an area of high concern for forced and trafficked labour.^{14/15/16/17/18/19} In 2013, EJF released two reports on human trafficking and labour abuse in Thailand's fisheries sector. The first, *Sold to the Sea*, exposed severe human rights abuses, human trafficking and murder in Thailand's fishing industry. The *Hidden Cost* documented human trafficking and associated human rights and labour abuses, including confiscation of identification documents, withholding of pay, forced detention and bonded labour in the Thai shrimp industry.

Both reports provide recent examples of problems that have long plagued the industry in Thailand. Since the late 1980s, Thailand's increasing prosperity and low unemployment rate have led many Thai citizens to turn away from low-paid work in the country's more labour-intensive sectors, including construction, fishing and seafood processing.^{20/21} At the same time, Thailand's comparatively underdeveloped neighbours have provided a cheap and plentiful supply of migrant labour, which has acted to discourage businesses from investing in labour-saving production processes.²² Consequently, entire sections of the Thai economy have become strongly reliant on migrant labour. Workers from Myanmar, Laos and Cambodia now constitute up to 10 per cent of Thailand's workforce, and as much as 90 per cent in the seafood industry.^{23/24}

Thailand's developed economy and job opportunities – combined with restrictive employment law and an overly bureaucratic, confusing and expensive immigration process – have caused smuggling networks to flourish. Well-established irregular migration routes across porous borders act in combination with corruption and inadequate victim identification to exacerbate the risks of human trafficking, exploitation and abuse facing migrants to Thailand.²⁵

Poor and chaotic fisheries management has resulted in the majority of Thailand's fisheries becoming over-exploited.²⁶ Consequently, fishing vessels now spend longer periods at sea for lower catch returns.²⁷ Rises in fuel prices have further increased operating costs, encouraging vessel operators to maintain profits by cutting overheads. The result is that boat operators perpetuate poor working conditions and keep wages low. This has led to a significant labour shortage, with a shortfall estimated to be as high as 50,000 people.²⁸ This labour shortage in turn fuels abusive practices in the fishing industry, with employers and brokers resorting to deception, corruption, coercion and violence in order to meet the demand for workers.^{29/30}

“

It can therefore be said that this labour shortage – estimated to be as high as 50,000 workers – is both a cause and an effect of the abusive labour practices that are seen in the fishing sector.

”

ILO (2013)

Growing international pressure – including Thailand spending its fourth consecutive year on the US Department of State's Tier 2 Watchlist for Trafficking in Persons – has forced the Government to produce detailed plans for tackling the problem. However, despite big promises and high profile announcements, little has actually changed.^{31/32/33} Forced, bonded and slave labour remain commonplace across the country; particularly in the seafood industry and aboard Thailand's fishing boats.³⁴ Thailand now faces a mandatory downgrade to Tier 3 in 2014 if the major issues are not adequately addressed.³⁵

Despite the threat of a downgrade, a move that many fear would have severe consequences for the country's largely export driven economy, Thailand has consistently failed to act on the recommendations made in the US Department of State's 2013 Trafficking in Persons (TIP) report, as well as falling short of its own commitments to tackle human trafficking made in documents such as the 2013 National Action Plan to Prevent and Suppress Human Trafficking (NAP).^{36/37}

During investigations in January and February 2014, EJF documented the continued prevalence of trafficking in Thailand's seafood industry and identified specific failings in the Government's actions to tackle the issue. Through interviews with recent trafficking victims, business operators and local representatives of Government agencies, EJF's investigations reveal the continued and systematic exploitation of migrant labour, facilitated by endemic corruption and perpetuated by an official response seemingly more concerned with sound bites than solutions.

By returning to the case of 14 trafficked Burmese men rescued from a port in Trang province in March 2013 – first revealed in the *Sold to the Sea* report (May 2013) – EJF is able to present firsthand accounts of the experience of trafficking victims from within the Thai system. Nearly one year since their rescue, the victims interviewed by EJF told of their frustration at the slow legal process, confusion over the exclusion of the wealthy boat owner from the case, their lack of legal support or interpretation services and their now overwhelming desire to return home, even if it means the perpetrators escape justice.

These testimonies provide compelling evidence that many of the ‘systemic disincentives’ – highlighted by the US Department of State as discouraging trafficking victims from pursuing legal action – remain prevalent obstacles to successful trafficking prosecutions.

Testimony from other recently rescued or escaped victims of trafficking demonstrate that, despite strong commitments from officials and ambitious plans to tackle trafficking in Thailand, migrants continue to be trafficked, enslaved and abused in the country’s highly profitable seafood industry.

EJF investigations have found that the day after the 14 men were rescued in Kantang, another large group of migrants were beginning their journey through the forest that, for many, would lead to enslavement aboard Thai fishing boats.³⁸ As documented in *Sold to the Sea*, on 10 March 2013 14 trafficked Burmese migrants were rescued from a port in Kantang, following months of exploitation, abuse and violence while working aboard a Thai fishing boat.³⁹ However, a trafficking victim who escaped from a fishing boat in Chonburi province on 13 December 2013 after 10 months at sea, told EJF how he and 36 other migrants were just beginning their journey towards slavery on 11 March, only a day after the rescue in Trang province.⁴⁰ The final leg of this journey, which ended at a port in Chonburi province, was completed in marked Thai police cars used by the trafficking gang.

Efforts to highlight and address the serious labour and human rights abuses and the endemic corruption occurring throughout Thailand have been severely hampered by ambiguity and inappropriately applied legislation. Thailand’s controversial Computer Crimes Act 2007 has been used to silence activists and journalists working to expose trafficking, labour abuse and corruption, including a recent libel lawsuit brought by the Thai Navy against the Phuketwan newspaper over a report alleging Navy involvement in the trafficking of Rohingya refugees.^{41/42}



Poor fisheries management and non-selective gears have caused Thailand's fisheries to become over-exploited © EJF

As a result of the global export reach of Thailand’s seafood industry (Thailand is the world’s third largest seafood exporter), human trafficking and related exploitation is a global issue; affecting the most vulnerable people in Thailand and involving seafood products reaching the world’s wealthiest markets in North America and the European Union.

This report draws on evidence gathered by EJF during investigations carried out between 2012 and 2014 – including interviews with a variety of stakeholders in Thailand’s fishing industry – to assess Thailand’s performance against the commitments outlined in its 2013 NAP as well as actions to suppress human trafficking carried out in response to recommendations outlined in the US Department of State’s 2013 TIP report. EJF’s report finds that activities to suppress and prevent human trafficking in 2013 have remained misguided, occasionally incompetent and at times corrupted by the interests of powerful and influential individuals at the local and regional level. The report makes the case for Thailand’s downgrade to Tier 3 of the US Department of State’s Trafficking in Persons Report for 2014.

“

We don’t expect much now since neither the Myanmar nor Thai authorities have come to see us for a very long time. We go to court and come back to the shelter. It has been almost one year now, so we don’t expect much anymore. Therefore, we want to go home as soon as possible.

”

Khin Zaw Win, a recent trafficking victim

POOR FISHERIES MANAGEMENT

Weak Monitoring, Control and Surveillance

OVER-FISHING

IUU FISHING

DECLINING CATCHES

Fishing vessels fish further away
and spend longer periods at sea

Increased
pressure to
reduce costs

Ineffective
and fewer
inspections

Labour
shortage

HUMAN TRAFFICKING AND FORCED LABOUR

In January 2014, EJF boarded a trawler catching trash fish operating out of Kantang, Trang. The vessel, Boonlarp 7, is owned by the same company EJF had investigated in 2013 and documented in the report, *Sold to the Sea*. As EJF boarded, Boonlarp 7 was pulling up its nets to unload its catch. Six hours trawling had netted approximately 200 to 280 kg of trash fish. The captain of the vessel said they usually trawl two to four times a day for four or five hours at a time. Boonlarp 7 stays out anywhere between 20 days and 5 months and this fleet is known to fish in Thai, Indonesian and Malaysian waters. But even trash fish catches are declining. In 2011, fishing vessels catching trash fish in this area had to spend 40% more time to get the same amount of catch as in 2010.

A day's worth of the catch volume witnessed by EJF won't cover the operating costs of the vessel – diesel alone for a trawler of this size is 30,000 baht (\$920) a day. With a target net profit of around 20,000 baht (\$613) a day, any captain who is unable to keep costs down is replaced by boat owners within a few weeks.



In the 45 years between **1961** and **2006**, the Gulf of Thailand fishery saw a **97% reduction** in the catch per unit of effort (CPUE). According to Thailand's Department of Fisheries, the average CPUE for the Gulf of Thailand in **2011** had reduced to **25.01 kg per hour**, while Thailand's other main fishery in the Andaman Sea was **41.2 kg per hour**.

Sources:
Department of Fisheries, Thailand (2008 & 2011)

OVER-FISHING AND SLAVERY IN THAILAND'S SEAFOOD INDUSTRY

Criminal Defamation and the Computer Crimes Act 2007

Thailand's controversial Computer Crimes Act was introduced in 2007 under the post-coup Government led by General Surayud Chulanont. It was designed to provide authorities with a means of regulating internet content, particularly in relation to violations of the country's lèse majesté laws, which make it a crime to criticise or insult the king. While lèse majesté has generated significant international concern itself, the vague wording and sweeping powers afforded by the Computer Crimes Act have more recently been used to silence activists and journalists through defamation suits.

Section 16 makes it a crime to make publicly accessible information on a third party in a manner that is likely to "damage their reputation, cause insult, incite hatred or become a cause for shame".⁴³ While Thailand's Penal Code already contained relatively strict defamation provisions, Section 16 both widens their application and provides for longer prison sentences.⁴⁴

In the last two years, two high-profile defamation cases have been brought against foreign and domestic individuals working to raise awareness of corruption and human trafficking in Thailand. In April 2013 labour rights activist Andy Hall was sued by Natural Fruit Co. Ltd. for his contribution to a Finnish report on abuses in the Thai fruit canning industry. If convicted, Mr Hall could face up to two years in prison, and fines of \$10 million.⁴⁵ In December 2013, the foreign editor and a Thai journalist at a small English-language newspaper, Phuketwan, were sued by the Thai Navy following the publication of an investigation into the navy's involvement in the trafficking of Rohingya refugees.⁴⁶ Both of these cases remain ongoing.

“

The laws are vague and overly broad, and the harsh criminal sanctions are neither necessary nor proportionate to protect the monarchy or national security.

”

Frank La Rue, United Nations Special Rapporteur on the right to freedom of opinion and expression⁴⁷

Thailand's largely industrialised fishing sector is one of the most profitable in the world and Thailand is currently the third largest exporter of fish and fisheries products by value, with seafood exports valued at \$7.3 billion in 2011.^{48/49} However, rapid expansion of 'fishing effort'* has led Thailand's national fisheries to become dangerously over-exploited, putting further pressure on boat operators to cut costs in the face of declining catch sizes.⁵⁰

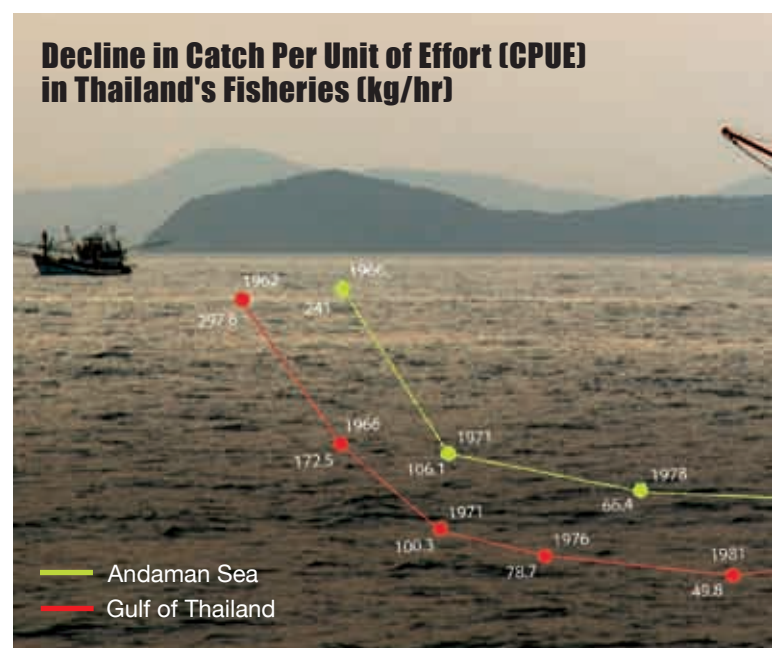
The Asia-Pacific Economic Cooperation (APEC) Fisheries Working Group describes Thailand's fisheries management as characterised by "a lack of political will... to implement, rather than merely articulate, the actions required to address IUU [Illegal, Unreported and Unregulated] fishing".⁵¹ Insufficient capacity to enforce management measures resulted in a 97 per cent reduction in the catch per unit of effort (CPUE) in the Gulf of Thailand in the 45 years between 1961 and 2006.⁵² According to Thailand's Department of Fisheries, in 2011, CPUE in the Gulf of Thailand was 25 kg per hour, while Thailand's other main fishery in the Andaman Sea dropped to 41 kg per hour.⁵³

Boat owners and operators interviewed by EIJ reported significantly reduced catches and the need to spend longer periods at sea. According to Mr Thongkam, who owns more than 20 vessels operating out of Trang province: "The boats used to go out for five or seven days before returning to shore. Nowadays, we are talking about at least 15 days before the boats return to shore. When they do get back, there's not even much fish!"⁵⁴

As fuel and other core operating costs have increased, further compounded by the need to spend progressively more time at sea as a result of over-fishing, operators have looked to make savings in other areas. Labour costs and working conditions have been identified as areas where cuts can be made, which the International Labour Organization (ILO) says has fundamentally changed the structure of employment and driven both Thai and migrant workers away from the industry.⁵⁵

* 'Fishing effort' is a measure of the amount of fishing calculated by combining capacity and fishing activity

Decline in Catch Per Unit of Effort (CPUE) in Thailand's Fisheries (kg/hr)



The unwillingness of migrants to take jobs on fishing boats has created a severe labour shortage estimated to be as high as 50,000 workers.⁵⁶ To fill this shortfall brokers and exploitative employers often resort to deception, coercion and violence in an industry characterised by abuse.^{57/58}

According to the US Department of State’s 2013 TIP report, “a significant portion of labor trafficking victims within Thailand are exploited in commercial fishing.”⁵⁹ Testimonies gathered by EJF recount murders of fellow crew members at sea and on shore, supporting the shocking figure from a 2009 survey by the United Nations Inter-Agency Project on Human Trafficking (UNIAP) that found 59 per cent of interviewed migrants trafficked aboard Thai fishing boats reported witnessing the murder of a fellow worker.⁶⁰

Despite a number of high profile media stories and reports into conditions aboard Thai fishing boats, it is clear that violence and abuse remain widespread across the industry, particularly amongst migrant fishers from Myanmar.^{61/62/63} A 2013 ILO study found that more than 16 per cent of Burmese fishers had been severely beaten while on the job.⁶⁴ In an interview with EJF, one trafficking victim who escaped from a boat on 13 December 2013 spoke of routine and severe beatings carried out against himself and fellow crew by the boat’s Thai captain.

The widespread use of violence and the heavy reliance on trafficked workers to fill labour shortages and reduce costs is partly a consequence of the Government’s reluctance to ensure sustainable management of fisheries as well as the industry’s unwillingness to modernise and invest in labour-saving technology.^{65/66} In this way, the abuse of vulnerable migrant workers underpins the economic model of Thailand’s seafood industry. The Thai fishing industry’s competitiveness, and thus its position as the world’s third largest seafood exporter, is supported by a brutal system of slavery at sea.



A migrant fisher sorts trash fish aboard the Boonlarp 7. Poor fisheries management means even trash fish catches have declined significantly © EJF



“

I made a mistake by opening the box where the fish are stored and he hit me from behind. It was so hard that I was knocked unconscious and he smashed my face against the ice.

”

A trafficking victim who escaped from a boat in December 2013

The US Department of State Trafficking in Persons (TIP) Report Tiers Explained:

The Department of State's Office to Monitor and Combat Trafficking in Persons (J/TIP) coordinates the United States' fight against human trafficking through bilateral and multilateral diplomacy, targeted foreign assistance, and public engagement on trafficking in persons.

The Department's annual Trafficking in Persons (TIP) report is considered one of the most comprehensive measurements of activities to tackle human trafficking around the world and represents the US Government's primary diplomatic tool for engaging with other countries in the global fight against human trafficking.

The TIP report places countries onto one of three tiers based on their governments' efforts to comply with the "minimum standards for the elimination of trafficking" found in Section 108 of the Trafficking Victims' Protection Act.

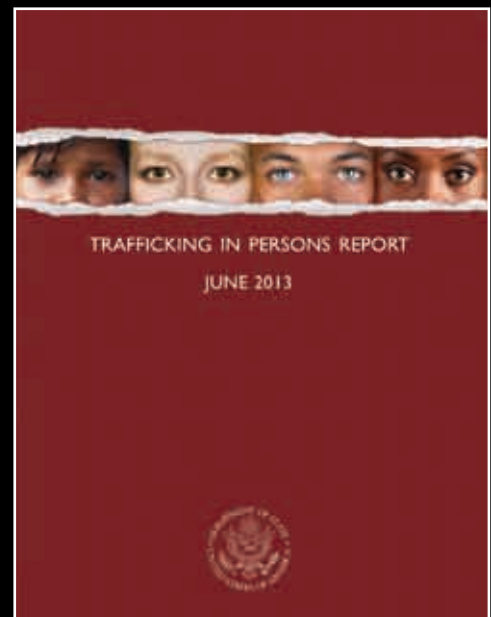
2013 was the first year that a law limiting the number of years a country could be on the Tier 2 Watch List came into effect. For Thailand in 2014, who have now spent their fourth consecutive year on the Watch List, this law requires that the country is either upgraded to Tier 2 or downgraded to Tier 3.

“

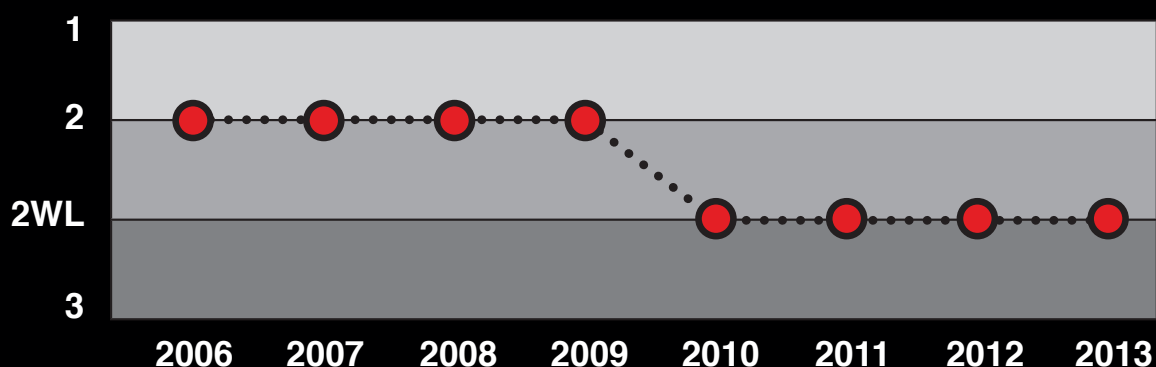
When we stop this crime from happening in the first place, we are preventing the abuse of those who are victimized as well as the ripple effect that caused damage throughout communities into our broader environment and which corrupt our global supply chains. We all have an interest in stopping this crime.

”

Secretary of State John Kerry at the launch of the 2013 TIP report (19 June, 2013)



THAILAND TIER RANKING BY YEAR



TIER 1:

Countries whose governments fully comply with the United States' Trafficking Victims Protection Act's (TVPA) minimum standards.

Tier 2:

Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards.

Tier 2 Watchlist:

Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards AND:

The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing; there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or the determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year.

Tier 3:

Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so.

Penalties for Tier 3 Countries:

Governments of countries on Tier 3 may be subject to certain sanctions, whereby the US government may withhold or withdraw non-humanitarian, non-trade-related foreign assistance.

A Tier 3 ranking also increases the chances that products from countries occupying that position will be included in the President's Executive Order 13627 regarding restrictions on Federal procurement of goods and services that may involve trafficked labour. Thai shrimp is currently restricted under the Order, though a downgrade to Tier 3 may see restrictions placed on other products.

THAILAND'S RESPONSE TO TRAFFICKING

“Senior officials regularly made public statements expressing their commitment to combating trafficking, though these efforts did not always yield concrete results.”

US Department of State
2013 Trafficking in Persons report

In 2013, the Thai Government committed to suppress the trafficking of migrants onto fishing vessels through a series of inspections, the establishment of a framework to regulate labour in the fishing industry and the investigation, arrest and punishment of those involved in human trafficking.^{67/68/69/70} In response to accusations that Thailand's treatment of victims of human trafficking systematically marginalises them, the Government also committed to adopting a 'victim-centered' approach in its processing of human trafficking cases.⁷¹

In its 2013 TIP report, the US Department of State granted Thailand a waiver to avoid a downgrade to Tier 3 following the submission of a written plan which it said, if implemented, “would constitute making significant efforts to meet the minimum standards for the elimination of trafficking”.⁷² Such a waiver will not be possible in 2014 as a result of Thailand spending its fourth consecutive year on the Tier 2 Watchlist, meaning the Department of State must place Thailand in either Tier 2 or Tier 3 in 2014. Based on evidence gathered by EJF in the last two years, as well as that of others monitoring the industry, EJF believes a downgrade to Tier 3 is the only suitable course of action.

An overly ambitious, poorly defined Action Plan

In fiscal year 2012-13, the Thai Government agency spearheading anti-human trafficking efforts, the Ministry of Social Development and Human Security (MSDHS), unveiled the 2013 National Action Plan to Prevent and Suppress Human Trafficking (NAP).⁷³ The document announces a broad coalition of stakeholders and an ambitious series of activities designed to tackle the problem of human trafficking in Thailand and improve the situation facing escaped and rescued victims, with specific reference to abuses within the fishing industry.

The NAP aims to address a series of criticisms made by observers, including the US Department of State. Its broad scope and ambitious overarching goals are undermined by vague objectives, an overabundance of meetings and trainings and poorly defined indicators of success for individual action points. EJF's investigations have revealed evidence of the Government falling far short of critical commitments outlined in the NAP and examples of how it has continued to fail to address many of the systemic issues identified by the US Department of State as undermining efforts to combat human trafficking within Thailand.⁷⁴

“

The Government says a lot [about its efforts to combat human trafficking] but they never really go into any specific details. They are very vague. Whenever there is a particular problem, they start to talk about it. But when the problem goes away, that's the end of the process for them. When it arises again, they'll restart their efforts.

”

Nattawut Sangnak, fishing boat owner

“

The Government attempts to produce a lot of policies in order to meet the expectations and evade the criticisms of other countries.

”

Somsak Tongwijit, Director of a Thailand-based organisation working to improve the welfare of migrants

33%
of the declared budget in the 2013 NAP was for meetings, trainings and seminars



SPECIFIC FAILINGS ON COMMITMENTS AND RECOMMENDATIONS

Failure to establish an effective and integrated system to coordinate labour

“Observers remained concerned that the process to legalize migrant workers with its associated fees, as well as costs imposed by poorly regulated and unlicensed labor brokers, increased the vulnerability of migrant workers to trafficking and debt bondage. The government did not address the complex bureaucracy of the national verification system or the language barriers faced by migrants seeking verification, hindrances that led the majority of migrant workers to rely on unregulated brokers to access the program, leaving them vulnerable to exploitation and extortion by brokers.”

US Department of State
2013 Trafficking in Persons report

The Thai Government has established the registration of undocumented migrant labour as one of its core strategies to combat human trafficking and abuse in the Thai fishing industry.^{75/76} In November 2013, the Permanent Secretary for Labour, Jirasak Sukhonthachart, admitted that previous Government registration efforts had failed to successfully regularise migrant labour working in the fisheries sector.⁷⁷ Despite this, the Government announced two new rounds of registration for 2013 and 2014, which specifically target migrant fishers.⁷⁸

The registration process relies on Thai boat owners submitting the details of undocumented labourers working aboard their vessels and then taking each individual through a complex and relatively expensive registration procedure involving three separate Government agencies and the local Fisheries Labour Coordination Center. Despite committing to establish eight of these centres in its 2013 NAP, EJF has discovered that the Government has failed to establish fully-functioning centres in several provinces where human trafficking onto fishing boats is prevalent, including Ranong and Chumphon. In November 2013, the Government announced that it had withdrawn private sector oversight of these centres – citing growing anxiety on the part of foreign observers that the arrangement represented a conflict of interest.⁷⁹



Myanmar passports at a broker's office in Songkhla. A complex and expensive immigration system means informal recruitment remains the norm © EJF

“

The Government aren't particularly interested in [human trafficking]. They simply want us to arrange work permits and passports so that they can collect the fees. They are not fully concerned with ensuring the welfare of workers.

”

Usasiri Chosuwan, pier owner

Boat owners and pier operators interviewed by EJF confirmed that the recruitment of migrant fishers continues to be conducted through informal channels – predominantly through the use of Thai and Burmese crewmasters in contact with a network of labour brokers. The continued use of unregulated brokers exacerbates the risk of vulnerable migrant workers being placed into debt bondage – a common dimension of forced labour aboard fishing vessels.⁸⁰ Thai business owners have reservations over the benefits of the registration process.^{81/82} In particular, they fear that the tendency of migrant fishers to move areas or change employers will result in them losing any money spent regularising each worker. Even when regularised, the current system of coupling migrant workers to specific employers often forces migrant fishers to choose between staying with an abusive employer, bribing their employer for release or losing their legal status.

“

The Thai Government is encouraging migrant workers to obtain registration so that they can be covered under our healthcare scheme. Registration will help protect them from forced labour and trafficking.

”

Yingluck Shinawatra, Prime Minister of Thailand⁸³

Whilst the establishment of an effective and integrated system to coordinate labour within the fishing industry is an essential part of the fight against human trafficking and abuse, it is clear that the current system cannot manage or monitor the movement of fishers nor ensure that migrant workers facing abuse are easily able to change employers.⁸⁴ In addition, the Government's ability to directly suppress the trafficking of labour aboard fishing boats by regularising migrant fishers is significantly undermined by the voluntary nature of the registration process in combination with a poor regulatory and enforcement framework governing the use of migrant labour. The lack of a coherent migration policy at the national level is also a significant contributor to this problem.^{85/86}

Failure of inspections and victim identification

“Rather than confronting employers who subjected workers to forced labor and debt bondage with criminal prosecution, the government responded with worksite inspections, despite expert consensus that inspections are not effective in identifying forced labor.”

US Department of State
2013 Trafficking in Persons report

“

Officials who inspect migrant labour aboard vessels at sea are not going to bring [exploited migrants] back to shore to resolve the situation. They would rather extort them for money than bring them back to the shore.

”

Usasiri Chosuwan, pier owner

In January 2014, the Government unveiled the pilot of its new vessel inspection scheme aimed at eradicating child labour and human trafficking in the fishing industry, as originally outlined in the 2013 NAP.⁸⁷ The inspection regime is aimed at establishing random, biweekly inspections of fishing boats in port and monthly inspections at sea in Thailand's 22 coastal provinces – with a specific focus on Samut Sakhon, Rayong, Trat, Chumphon, Songkhla, Ranong and Satun. Initial inspections of four boats operating out of Samut Sakhon identified one instance of suspected child labour.⁸⁸

The Government's at sea inspection scheme is fundamentally flawed. The competence of Thai officials in identifying cases of human trafficking is of particular concern. In 2012, 608 inspections of vessels by the Thai Navy and Marine department failed to identify any instances of trafficked labour.⁸⁹ Similarly, a summary of inspections across Samut Sakhon and Songkhla in January 2014 refers to undocumented fishers but makes no mention of forced, bonded or trafficked labour.⁹⁰ A recent BBC investigation demonstrated that officials neglected to bring a interpreter as part of the at sea inspection process and were subsequently unable to determine that some workers were under debt bondage and had been deceived into working on the boat – both of which are key indicators of human trafficking.⁹¹

“

[This inspection is] part of an ongoing effort to make inspections of vessels in this province a regular event in order to suppress the use of child labour and human trafficking. We are ready to accept that there will be instances of illegal labour but that these will be in the minority.

”

Atid Banyasopad, Government spokesperson for Samut Sakhon province ⁹²

Some business owners raised fears that inspections at sea present new and easier opportunities for corrupt officials to extort money from undocumented migrants. Further, the disturbing trend of transshipping trafficked crew members between vessels operating outside of the Thai Exclusive Economic Zone (EEZ) for extended periods of time, detailed later in this report, highlights the need to focus anti-trafficking efforts on particular types of vessel and calls into question the efficacy of Government inspections in inshore waters.

During 2012, inspections of 54,090 workplaces identified thousands of violations indicative of human trafficking, though Thai officials recognised only two cases of forced labour.⁹³ The shortcomings of inspections at sea are mirrored in the process of workplace inspections on land. The 2013 NAP commits to inspecting 30,000 private sector facilities – with a specific focus on businesses within the fisheries sector – and screening 1.23 million migrant workers in order to combat exploitation.⁹⁴ Inspections of 10 fishing piers in Samut Sakhon in January 2014, revealed 77 undocumented migrants but no cases of human trafficking.⁹⁵ The regularisation of undocumented migrant labour appears to be the principal objective of inspections. In comments on the new inspection system, a Government spokesperson described in detail the number of undocumented labourers in Samut Sakhon, yet makes only a passing reference to the inspections as a counter-trafficking measure.⁹⁶

A senior officer in the Immigration Bureau revealed to EJF that workplace inspections are wrought with systemic failures. Inspectors rarely use trained interpreters, who have to be arranged in advance via the Department of Social Development and Welfare. Instead, officials use the pier’s gangmaster who is usually able to communicate with migrant workers. It is these individuals however, who are often key components of the network of brokers, business owners and corrupt local officials engaged in the trafficking of vulnerable migrants. The senior Immigration official stated that random raids on business premises without a warrant required specialist training and also suggested that he was unable to effectively inspect some facilities for labour violations due to the power and influence of the owners. He admitted that there were only three officials in the entire province capable of conducting workplace inspections and that, in the last year, he was not aware of the Government having committed any additional resources towards his office in order to intensify anti-human trafficking activities.⁹⁷

“

We saw no signs of harm on their bodies or in their facial expressions. By looking into their faces and their eyes they didn’t look like they had been forced to work.

”

Pol. Maj. Gen. Chatchawal Suksomjit as quoted by BBC ⁹⁸

“

[Workplace inspections] most likely won’t have any impact because gangmasters aren’t going to tell you if they are using forced labour! It’s not effective. Bringing along their own interpreter would be better.

”

Usasiri Chosuwan, pier owner

Victim identification should be at the core of any anti-trafficking effort.⁹⁹ Despite a commitment to provide training to two grades of inspection officials in high-risk areas for human trafficking across the country, it appears that a persistent lack of adequate training continues to fundamentally constrain the Government’s ability to systematically identify instances of abuse.¹⁰⁰ Whilst high-ranking officials spearheading counter-trafficking efforts continue to fall prey to misconceptions regarding evidence of restraint or imprisonment as being key indicators of human trafficking, the Government continues to have a piecemeal approach to victim identification.^{101/102} In 2013, EJF staff witnessed senior local police officers order a boat owner to retrieve an individual from one of his vessels after an NGO had named him as a victim of human trafficking. The authorities made no effort to either bring the boat in for inspection or determine whether other crew members aboard the same vessel were victims of forced labour or human trafficking. This approach is indicative of the reluctance by authorities to disturb the business activities of pier and boat owners, therefore hampering efforts to identify victims of human trafficking.

Failure to prosecute and convict perpetrators

“Ensure suspected perpetrators of trafficking – including those involved in practices internationally recognized as indicators of forced labour such as the confiscation of travel documents or imposition of significant debts by employers or labor brokers – are criminally investigated and convicted offenders receive stringent penalties.”

US Department of State
2013 Trafficking in Persons report

Despite an almost four-fold increase in the number of trafficking-related cases investigated between 2011 and 2012, prosecutions dropped by 40 per cent during the same period.¹⁰³ In 2012, just 10 people were convicted on charges related to trafficking. The Government’s persistent failure to effectively punish those involved in human trafficking in the fishing industry is linked to its reluctance to pursue powerful individuals and corrupt officials and an inability to ensure a fair and efficient legal process.

The US Department of State describes Thailand’s judiciary as “subject to corruption”.¹⁰⁴ The Thai Government’s own anti-corruption strategy acknowledges the judicial system as weak and subject to constant manipulation by influential individuals.¹⁰⁵ Judicial corruption is pervasive: whilst one nationwide survey found that 30 per cent of Thai households involved in court cases had been asked by judges or public prosecutors for bribes, Transparency International’s 2013 Global Corruption Barometer states that almost one-fifth of such households had actually paid one.^{106/107}



Police question a businessman in relation to a human trafficking case. Thai business owners regularly escape investigation, prosecution and conviction © EJF

EJF’s investigations have uncovered serious flaws in the processing of human trafficking cases within Thai courts. During interviews with EJF, an interpreter who has been working on cases involving human trafficking onto fishing boats for over a decade revealed that business owners, the police, shelter staff, court officials and even judges routinely pressure victims of human trafficking to drop their case and return home. Usually, victims will be approached at the behest of the business owner involved in the case and offered money to go back to their country. Through interviews with the victims and others close to the case, EJF has uncovered that representatives of the Thai boat and pier owner in the Kantang case were given privileged and pre-arranged access to the victims by the police in order to pressure them into not implicating him. This included the offer of money upon their return to Myanmar in exchange for their silence.

Court-appointed interpreters are often incapable of accurately rendering victim testimonies. Sometimes, court interpreters deliberately misinterpret victim testimonies in order to alter the court’s sentence and make it less severe.¹⁰⁸ The victims in the Kantang case documented in *Sold to the Sea* claimed to EJF that they recognised their court-appointed interpreter as an employee of the boat owner. Victims have also been pressured into omitting key details of their ordeal before giving testimony to the court.¹⁰⁹ They will be told that the court officials are already fully aware of all the details from the testimonies of police officers and that they need not describe the working conditions, hours or instances of physical abuse.¹¹⁰

“
In the many cases that I’ve seen, sometimes it’s the Labour Court, sometimes lawyers for the business owners, sometimes police officers working on the case, sometimes judges who are the ones who force victims to take money and go home. They say: “You don’t have to stay, you don’t have to wait, just take the money, get home quickly and it’s over.”
”

Kyaw Lin Oo, interpreter for victims of human trafficking

“
[Thai officials] negotiated the compensation down on behalf of the boat owner. They told us: “accept this amount or you will lose every penny and your case will go on for one or two years.”
”

Khin Zaw Win, a recent trafficking victim

One of the most significant factors inhibiting the effective prosecution of persons involved in trafficking is the length of time it takes to process cases. Human trafficking cases usually take many years to progress through the courts. The outcome, when it arrives, is typically not in favour of the victims.¹¹¹ For victims of human trafficking residing in Government shelters, this is often an intolerably long time.¹¹² EJF's source suggested that this may be an orchestrated tactic designed to sap the motivation of those pursuing human trafficking cases. The length of time it takes for human trafficking cases to be processed by the courts certainly acts as one of the "systemic disincentives" identified by the US Department of State as discouraging victims of human trafficking from reporting their abuse to the Thai authorities.¹¹³

Over the last year, the Thai Government has remained reluctant to pursue influential individuals, particularly corrupt local officials, involved in the trafficking of persons. In January and February 2014, EJF followed up on the progress of the ongoing case of 14 Burmese victims of trafficking rescued from the port in Kantang, Trang. EJF found that the Thai owner of the boats and pier from which the victims were rescued has not been investigated in relation to the case. The local police force in Kantang revealed to EJF that, should no witnesses come forward to implicate business operators, the responsibility lies with the crewmaster. The crewmaster in this case, a Thai national, is currently serving a three and a half month sentence for 'sheltering undocumented migrants' and has evaded any charge related to the trafficking and forced labour of the migrants on his vessels. The boat and pier owner pleads ignorance of any wrongdoing and claims that Burmese brokers were responsible for the trafficking of workers and the extreme violence that occurred in his premises.¹¹⁴ EJF has discovered that the police failed to investigate four brutal executions of trafficked fishers at the pier in question, despite there reportedly being a number of witnesses and compelling evidence of the involvement of pier staff.

“

When we attended court, they arranged interpretation on the spot. The interpreter at the court hearings was the same one, the one we knew who worked for the boat owner as a fish collector. We refused to accept him. The boat owner only sent us his workers as interpreters.

”

Khin Zaw Win, a recent trafficking victim

“

If you ask me, it shouldn't take this long. I reckon that the business owners try to prolong the case, to slow it down. They might be involved with officials who are responsible for the case and prolong it in order to make the victims lose their motivation to pursue the case.

”

Kyaw Lin Oo, interpreter for victims of human trafficking



The failure to prosecute and convict Thai business operators and corrupt officials undermines Thailand's efforts to combat human trafficking © EJF

FAILURE TO IMPROVE VICTIM SUPPORT

THE CHOKPHANLEE SHRIMP FACTORY

EJF's 2013 The Hidden Cost report identified a shrimp pre-processing facility based in Samut Sakhon, the Chokphanlee factory, with major and systemic labour violations – including the use of trafficked and child labour. Despite EJF's findings, the owner Mr. Suphan – also a captain in the Royal Thai Police – has not faced any consequences or legal proceedings from the Thai authorities and continues to supply a major exporter in the region. No witnesses now seem willing to come forward. One Burmese woman interviewed by EJF stated that whilst she had initially pursued a case against Mr. Suphan, she dropped the charges due to slow legal procedures and out of fear for her and her family's personal safety.

“Employ a victim-centered approach to victim protection, including specialized services for child sex trafficking victims and labor trafficking victims, and increase incentives for victims to cooperate with law enforcement in the investigation and prosecution of trafficking cases”

US Department of State
2013 Trafficking in Persons report

In some cases, Thailand's treatment of those who are rescued or escape from the clutches of abuse and forced labour could be described as 'a criminalisation of the victim'.¹¹⁵ One source, who has worked closely with numerous male victims of labour trafficking, described to EJF how cramped conditions within shelters, arbitrary restrictions on personal activities such as reading, the indifference or outright hostility of shelter staff and an imposed lack of contact with their families at home has severe psychological effects. Many of these problems are compounded by the lack of a permanent interpreter amongst shelter staff. Interviews conducted by EJF identify life in the shelters as a key factor contributing to the decision of many victims to abandon their pursuit of justice and return home.

“

It is not possible for a boat owner to be unaware of problems within their own business, within their own operation – as well as how to resolve them.

”

Nattawut Sangnak, fishing boat owner

“

I have not yet seen a business owner be punished or convicted in accordance with the law against human trafficking.

”

Kyaw Lin Oo, interpreter for victims of human trafficking

“

The opinions of shelter staff and victims rarely align. The shelter staff want to control the shelter but the victims don't want to be there. In the end, they want to live in freedom, go outside to wherever they want to go, buy whatever they want to buy. Some can't take it so they go home – they can't contact their families so they want to go back. They don't care if they win or not, they just want to go home and tell their parents that they are still alive.

”

Kyaw Lin Oo, interpreter for victims of human trafficking

UPDATE: THE KANTANG CASE

San Htike Win, 30



“ When I got in contact with my mum through a friend, she was so happy and begged me to come back. But I had to tell her that we can't leave the shelter – we have to stay here from sunrise to sunset. ”

“ I've been in this shelter for 11 months but I've only been to court twice. The criminals that were arrested have admitted their crimes but the Thai authorities are taking much longer to process our case than is necessary. ”

“ I really want to go home, to where my parents are. My desire to go back is getting stronger every day. ”

Aye Ko Ko, 17



“ No one helps us. No organisations come to see us, like they did before. Some people are tired of it all and just want to go home. If I were the only one left, it would be best if I went home too. ”

In January 2014, EJF followed up on the progress of the 14 victims rescued from Kantang in March 2013. Following their rescue, the men were initially held in the police station in Kantang, before being moved to a Government run shelter in Ranong. After 11 months in the shelter, they told EJF of their frustration at the way the case was progressing, their treatment as victims and their desperation to return home. Their frustration at the slow court process was exacerbated by the fact that the over 860km round trip to attend court often ended without them being questioned. They also failed to understand why the owner of the boats was excluded from the trial. Their case represents a live and ongoing example of the Thai Government's failure to support victims and facilitate an effective judicial process against perpetrators of trafficking. One victim told EJF of his intention to return home in March, regardless of whether the case was finished or not.

Khin Zaw Win, 47



Maung Toe, 36



“ We don’t expect much anymore since both the Thai and Myanmar authorities haven’t come to see us for a very long time. We go to court and come back to the shelter – it’s been like this for almost one year now... We just want to go home as soon as possible. ”

“ Various people have come since we arrived here. They said they were from different organisations. They asked questions and got some information but never came back again... I don’t think they were interested in our case. I reckon they were probably representing the boat owner or the court – they only asked what they would want to know. ”

“ If we go home by ourselves, they said they are going to arrest us. This is why they recorded our addresses [in Myanmar]... We don’t dare go home on our own but they won’t send us back either. No organisations come to see us. We are in the middle of nowhere. ”

“ The difficulty is that now the people at the shelter are different from the time when we arrived. They spoke warmly and politely to us at first. Now they don’t want to talk to us at all. We don’t want to stay here anymore. We are waiting for them to send us back to Myanmar. We are not happy to stay here. ”

“ Once the case was exposed, we thought we would be able to go home. But now we realise it is not as we thought. Over one year later, we feel very disappointed and hopeless. ”

“ We can’t trust any organisation so we don’t dare speak to just anyone. That would be suicide. Many organisations that have interviewed us have seemed like they are on our side. But, when we were in court, they took the other side. So we don’t dare to trust anybody. ”

ONGOING INCIDENTS OF ABUSE

This map represents the rescue operations from fishing boats conducted by one Bangkok-based organisation, the Myanmar Association of Thailand (MAT), between January 2013 and February 2014.

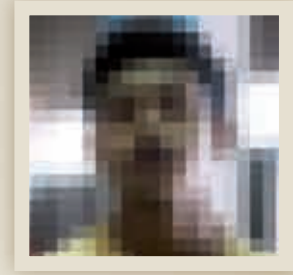


Trafficking victim, 21

“

The guys who brought us here were experts... We starved on the way but then they took us by police car and we were transferred to the pier. There we were sold.

”



This young man's story is all too common. Following many others from his area, at 20 years old he felt compelled to leave Myanmar in search of a well-paid job in Thailand. He arrived at the border town of Myawaddy and was soon befriended by a man named Ko Nge, who promised him a good job with overtime pay at a pineapple factory in Thailand.

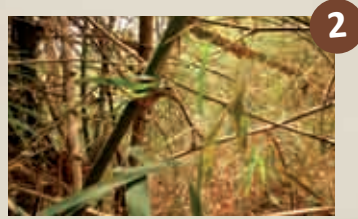
After passing through two more brokers and paying approximately half of the fee upfront, he was ready to begin the long and dangerous trek through the forest into Thailand. On 11 March, 2013 he and 36 other Burmese migrants began a journey that, for some, would lead eventually to being sold onto Thai fishing boats; others wouldn't complete the journey at all. Three travelers were lost along the way, including an elderly man who was allegedly murdered for refusing to go on.

After making it through the forest, the group were divided into two groups at an unknown location and driven to Kamphaeng Phet, where they were split into smaller groups. One group of six were transferred into two marked police cars and driven by men in plain clothes, for the remainder of the journey to the Warasin Port in Samae San, Chonburi Province.

Realising he had been lied to, he refused to work on the boat. As the six men sat in the Thai broker's house, they were lured out one by one to 'help' with jobs outside and put onto the boat. When all six were aboard, the boat started its engines and headed to sea.

He worked on the boat, without pay, for 10 months. He and his fellow crew suffered abuse and violence at the hands of the boat's captain, including one attack that left him partially deaf.

Confined to the boat when in port, escape was impossible. Police officers returned or re-trafficked escaped workers to boat owners offering the best price. On 13 December 2013, he feigned illness and slept outside on a bridge. In the morning, he got on the first bus he could and made it to Pattaya, where a Thai man helped him to reach Mahachai.



Imprisoned at Sea

According to boat owners, local NGOs and migrant fishers – including victims of human trafficking – interviewed by EJF, the use of trafficked and forced labour aboard Thai vessels operating outside of Thai waters is widespread. Fishing in Malaysian, Indonesian and Burmese waters, and even going as far afield as Somalia and Russia, these Thai vessels stay out at sea for extended periods of time, sometimes years. Many, including one of the boats from which victims in the Kantang case escaped, engage in IUU fishing. A common practice by boats operating illegally is to assume the identity of another fishing vessel that is licensed or conceal their identity completely - these vessels are known as ‘ghost ships’ in Thai.^{116/117}

Larger vessels bring water, fuel and supplies to Thai fishing boats operating overseas and transport their catches to ports in Thailand. Whilst transshipments effectively allow vessels to stay at sea indefinitely, individual boats must nevertheless return to shore for repairs. By transshipping trafficked fishers between boats within the same fleet or selling crew members between boats at sea, unscrupulous Thai operators imprison fishers for years and minimise the risk of them being able to escape whilst close to shore.

Sometimes, life aboard the boats can lead to acts of desperation. In November 2013, Burmese crew member Than Zaw Htwe fought with Thai crew members in a bid to take over a Thai trawler anchored off the coast of Ranong, Thailand. The Thai captain and other crew had gone ashore on a carrier vessel when Than Zaw Htwe took the opportunity to seize the boat before surrendering to a Navy patrol in Burmese waters. According to Pol. Lt. Myo Win Hlaing of the Yangon Police, Than Zaw Htwe had been kept at sea for seven years, coming ashore only a few times, and had worked without receiving wages.¹¹⁸

Imprisoning migrant workers on vessels fishing in the high seas is not a new phenomenon. In 2008, Al Jazeera reported on a remote island in Indonesia’s Maluku province where up to one thousand trafficked Burmese were eking out a precarious existence after escaping forced labour on Thai fishing vessels.¹¹⁹ Over the last three years, Cambodian, Malaysian and Indonesian authorities and NGOs have routinely rescued hundreds of trafficked fishers who have managed to swim ashore after fleeing Thai-flagged vessels; however, this number does not include the many others who drown while attempting to escape.^{120/121/122/123/124}

“

[But] more recently, trafficking has spread to Malaysia and Indonesia. Migrant workers are trafficked as they move from one place to another. In Indonesia, Myanmar people are being forced to work on fishing boats.

”

Deputy Police Col. Khin Maung Hla, Myanmar Anti-Human Trafficking Police Force¹²⁵

“

In Mahachai and Songkhla they trick people onto boats for two or three years and rotate them between vessels. They don't go ashore. Now that's scary.

”

Thongsak Limwong, fishing boat owner



To avoid inspections, boats will tranship trafficked workers at sea away from authorities © EJF

A Thai Government spokesperson has previously argued that they cannot investigate incidents of abuse and murder aboard vessels operating outside of Thai jurisdiction.¹²⁶ While managing distant-water vessels presents challenges to flag States, the United Nations Convention on the Law of the Sea (UNCLOS) is explicit regarding the responsibilities of flag States to exercise its jurisdiction over ships flying its flag. In particular, Section 2b of Article 94 states that every State shall “assume jurisdiction under its internal law over each ship flying its flag and its master, officers and crew in respect of administrative, technical and social matters concerning the ship.”¹²⁷

The trend however shows no sign of abating: in early 2013, eight Cambodian fishers who had been trafficked onto a boat and placed into debt bondage were rescued by the International Organization for Migration (IOM) and the Indonesian police from boats in the Aru Islands, near West Papua.¹²⁸ Testimony from repatriated Cambodian fishers reveals that some had spent upwards of nine years at sea in foreign waters.¹²⁹ As land-based enforcement measures intensify, it may be the case that Thailand’s slave fleets simply go further out, for longer.



Sai Ko Ko

In March 2013, 21 year old Sai Ko Ko from Thanbyuzayat in Mon State, Myanmar, arrived in the Thai port town of Mahachai for the second time. The first time, two years ago, a Burmese broker had brought him from the border town of Mae Sot, promising an advanced payment of 30,000 baht (\$914) for a job on a fishing boat. When he arrived on the boat, Sai Ko Ko realised that he had been sold to a Thai captain.

Initially, the captain informed him that he would work for one year without wages to pay off the cost of ‘buying’ him. After the first year, he was told that he would have to work another year. The captain never revealed how much he had been sold for. After two years, and having given up all hope of a wage, Sai Ko Ko fell ill. He requested that he be allowed to rest for one of the 4-5 hour shifts. In response, he was beaten and thrown overboard.

“

[The captain] verbally abused me but I was so sick I couldn’t work. He knocked me down, dragged me and threw me into the sea.

”

Sai Ko Ko

Sai Ko Ko ended up in an Indonesian immigration detention centre. After two months, he secured work on another Thai fishing boat by bribing one of the Burmese crew. This time, he hid in the hold of a transshipment vessel as it returned the boat’s catch to port in Thailand. After concealing himself for five days he was discovered by the Thai crew, who released him as they disembarked in Mahachai.

“

If you’re talking about a fish caught on a Thai boat that has gone overseas, that has gone to Malaysian waters, Indonesian waters or further afield, you’re definitely talking about a fish tainted with forced labour.

”

Phil Robertson, Deputy Director, Human Rights Watch, Asia Division¹³⁰

REASONS FOR FAILURES

Lack of real political will

“Thailand was granted a waiver from an otherwise required downgrade to Tier 3 because the government has a written plan that, if implemented, would constitute making significant efforts to meet the minimum standards for the elimination of trafficking and is devoting sufficient resources to implement that plan”

US Department of State
2013 Trafficking in Persons report

Over the last year, the Thai Government has placed senior members of the Yingluck administration in charge of anti-human trafficking efforts.¹³¹ The Government has publicly highlighted its efforts to regularise undocumented migrant workers in the fishing industry, implement a new inspection regime and streamline the processing of human trafficking cases through the courts.^{132/133/134} The fact that these efforts have nevertheless failed to have a serious impact on how migrant labour in the Thai fishing industry is recruited, the inability of Thai officials to identify victims of trafficking and abuse and the unsatisfactory judicial process should force the international community to ask serious questions about the veracity of the Government’s claims.

The US Department of State’s 2013 TIP report highlights the tendency of Thai authorities to favour high-profile public announcements over concrete action.¹³⁵ After four years on the Tier 2 Watchlist, the Government remains reluctant to move beyond the superficial and the symbolic. Over the last year, it has equated efforts to prevent and suppress human trafficking with a campaign to regularise undocumented labour. It has failed to provide the necessary resources to undertake effective inspections and its judicial system continues to alienate victims of abuse in favour of those who traffic and abuse vulnerable migrants.

“

We need to catch the attention of business owners and get them on our side before we can find effective solutions. Consequently, we have started with the soft way, using political techniques to open dialogue and build understanding. If they don’t respond, then we will act according to the law.

”

Chalerm Yubamrung, Minister for Labour¹³⁶

Endemic corruption

“Corruption remained widespread among Thai law enforcement personnel, creating an enabling environment for human trafficking to prosper. Allegations of trafficking-related corruption persisted during the year, including in cases of sex trafficking and forced labor of migrants”

US Department of State
2013 Trafficking in Persons report

Over the last two years, Thailand has dropped 20 places on Transparency International’s Corruption Perception Index.^{137/138} A 2012 research paper describes how the high degree of interconnectedness between the public and private sectors established over the last decade has resulted in close personal connections between business owners, politicians and civil servants from the local government level upwards.¹³⁹ Last year, the US Department of State noted that “convictions against public officials on corruption-related charges are rare, and the legal system offers inadequate deterrence against corruption”.¹⁴⁰

In Thailand, local level corruption is endemic. One authoritative nationwide survey showed that Thais view Sub-District Administrative Organisations (SAO) as some of the most corrupt institutions in the country.¹⁴¹ These local level governance systems are often dominated by powerful quasi-official individuals known as Sub-District Chiefs. Through a complex system of patronage, Sub-District Chiefs are able to determine the outcome of elections for key local offices, including those of senior police officers. In one instance, EJF discovered that a Sub-District Chief, himself a fisheries magnate, was able to successfully mobilise enough support amongst local business owners in order to blockade a port area and bar entry to Government labour inspectors. In several of the port areas where human trafficking onto fishing boats is a major problem, EJF has identified close and public links between business operators and local government officials. The boat and pier owner implicated in the Kantang case is a recognised ‘consultant’ to the municipal authority – whose Mayor and Deputy Mayor are members of his immediate family.

EJF’s investigation revealed that local officials extend significant protection and even assistance to unscrupulous brokers and business owners engaged in the trafficking and abuse of migrant workers. Brokers with ‘big connections’ are seldom arrested. The actions of Ko Myo, the ruthless Burmese broker exposed in EJF’s Sold to the Sea report, were reportedly shielded from scrutiny by a senior officer in the local Immigration Police. At the same time, business owners operate with impunity. A senior officer in the Royal Thai Police involved in one high-profile human trafficking case in 2013 revealed to EJF that, immediately following the opening of the case, he received phone calls from numerous influential individuals within the province pressuring him not to investigate a prolific local businessman whose pier and fishing boats were implicated in the case.

“

They told us that we were due to attend court the next day and asked us not to mention the boat owner's name before the court. They also asked us not to mention any information related to the boat owner, such as the boat's serial number and the name of the fish processing facility. We were told that the boat owner was prepared to give us 'hush money' on our return [to Myanmar].

”

Khin Zaw Win, a recent trafficking victim

The 2013 TIP report also noted how Thai authorities actively enable trafficking networks to flourish. Over the last year, Thai authorities have been implicated in the systematic trafficking of Rohingya asylum seekers.^{142/143} Whilst multiple Government officials have been arrested, so far none have been convicted. One Senior Sergeant in the Royal Thai Police was simply dismissed from his post as a result of his involvement in human trafficking.¹⁴⁴ A trafficked Burmese migrant interviewed by EJF in February 2014, revealed how he and five other trafficked migrants were transported in police cars from a staging point in central Thailand to the port in Samae San, Rayong, and into the hands of a Thai trafficker. He also described how local police would capture migrants escaping the boats only to return them to the owner or re-traffic them onto another boat.

Corruption presents one of the biggest obstacles to effective anti-trafficking measures in Thailand. The Government's reluctance to pursue, prosecute and convict powerful individuals involved in trafficking networks sends a clear signal to the international community that Thailand is not prepared to fulfil its stated commitments or respond to the recommendations of foreign governments. So long as Thailand places the impunity of influential criminals above the basic rights of vulnerable migrants, its efforts to combat human trafficking will remain ineffective.

“

Boat owners would say to the police: "Bring them to me and I'll give you a good price"

”

A recently escaped trafficking victim

“

Businesspeople who are powerful enough to "negotiate" with the Government – this is the problem which we cannot solve. When various policies are drafted, some businesspeople or business associations object to ensure that the policies are not implemented.

”

Somsak Tongwijit, Director of a Thailand-based organisation working to improve the welfare of migrants



Thailand's porous borders and endemic corruption fuel human trafficking © EJF

Industry reluctance to modernise

The overwhelming majority of migrants in Thailand work for low-wages in ‘difficult, dangerous and demeaning’ occupations in the agricultural, construction and seafood industries.¹⁴⁵ Since the late 1980s, Thailand’s rapid development and transition towards export-oriented industry has created a structural demand for labour. As the developmental impacts of a newly-industrialising economy unfolded across Thailand, increasing prosperity made many Thais reluctant to work in low-paid, labour-intensive sectors. Instead, Thailand began to absorb foreign migrants from its relatively underdeveloped neighbours. This abundant supply of cheap foreign workers has created a distortion in the Thai labour market. It has disincentivised business owners from investing in more technologically-advanced production processes and has generated a strong dependence on migrant labour in many sectors.^{146/147} Within this context, labour trafficking has long been a problem in Thailand.¹⁴⁸ But now, as migrants become increasingly aware of the appalling conditions that pervade the Thai fishing industry and turn away from working on the boats, brokers and employers are increasingly resorting to unscrupulous methods to meet the labour demand.¹⁴⁹

On average, registered foreign labourers contribute around 760 million baht (\$23.3m) to the Thai economy every year – some 2.3 per cent of the country’s GDP.¹⁵⁰ The contribution of undocumented migrants working in Thailand’s grey economy remains unknown. Despite this, Thai authorities and business owners have colluded to create an atmosphere of hostility and exploitation that has systematically marginalised and alienated migrant communities resident within the country.¹⁵¹ Migrants to Thailand have long faced restrictions on their labour rights, mobility, unionisation, access to healthcare and education and even their reproductive rights.¹⁵² Over the last few decades, the Government’s reluctance to enfranchise its migrant communities and integrate them into Thai society has supported an economic model which places a higher value on the low-cost production of commodities for export using marginalised and exploited labour than on the recognition of basic human rights. Thailand’s ineffectual response to the problem of human trafficking within its fishing industry is not only emblematic of this neglect; it is a key factor contributing to its unwillingness to engage with the issue in a systematic and positive way.



Thai fishing boat owners have been reluctant to invest in labour-saving technology © EJF

Thailand’s largely export-driven economy is the sixth largest in Asia and by far the largest in the region.¹⁵³ Thailand’s seafood industry represents a significant foreign currency earner, with exports valued at \$7.3 billion in 2011, making it the third largest seafood exporter in the world.¹⁵⁴

There is growing consumer awareness of sustainability and human rights issues associated with the production of food and other consumer goods in many countries. Whilst there has been relatively widespread coverage of the environmental impacts of fishing for a number of years, there has been relatively limited coverage of the issues faced by the people who catch and process the fish. However, the last three to five years has seen a number of high profile articles and reports on human rights abuses in the Thai fishing industry, which have gone some way in raising awareness, and have led some consumers to initiate dialogue with retailers and brands, or stop buying some Thai seafood products altogether.

“

The general population are a part of this, the consumers. They need to realise that the food they get, the fish they eat, comes at the risk of another individual being tortured.

”

Somsak Tongwijit, Director of a Thailand-based organisation working to improve the welfare of migrants

“

Consumers will buy and eat fish as long as they can afford to. But if they knew about us, I think they would have sympathy and no longer consume these products.

”

San Htike Win, a recent trafficking victim

European Union

In 2012, the value of European Union seafood imports from Thailand exceeded \$1.15 billion (€835.5 million), with the UK representing approximately 30 per cent of this value, followed by Italy and Germany.¹⁵⁵

In March 2013, Thailand commenced Free Trade Agreement (FTA) talks with the European Union – Thailand’s third largest trading partner – aimed at addressing regulatory issues, competition and sustainable development, among other things.¹⁵⁶ The EU and Thailand held their third round of FTA negotiations in Brussels on 9-13 December 2013 with the next round set for March 2014. Thailand’s record on human trafficking and its apparent failure to address many associated issues may also have implications for the success of FTA talks with the EU. According to a 2011 Joint Communication from the European Commission, “the human rights situation in the partner country should be considered when the EU decides whether or not to launch or conclude FTA negotiations.”¹⁵⁷

In September 2013, the European Commissioner for Trade, Karl De Gucht, responded to a written question regarding Thailand’s human rights record in relation to the ongoing EU-Thai FTA negotiations submitted to the European Commission by Pat the Cope Gallagher MEP.¹⁵⁸ Mr De Gucht stated that the Commission “was deeply concerned by reports on human trafficking in the Thai fisheries sector” and stressed that “effective implementation of core labour standards, including the elimination of child labour and forced labour, should form an important part of the Trade and Sustainable Development chapter.”¹⁵⁹

Further, the European Commission’s Trade policy states that all bilateral trade agreements concluded by the EU should “contain provisions on Trade and Sustainable Development. These include adherence to key international labour and environment standards and agreements.”¹⁶⁰ For example, during recent partnership negotiations with countries such as Vietnam and Malaysia, the EU has included specific provision to address human rights and labour abuses. In the case of ongoing talks with Malaysia, the European Council, European Commission and European External Action Service made specific recommendations for the negotiations for an EU-Malaysia partnership and cooperation agreement, including a commitment “to protect and promote human rights and fundamental freedoms throughout the negotiations for an EU-Malaysia partnership and cooperation agreement, in particular the freedoms of expression, assembly and association, and sexual orientation and gender identity, and the promotion of ILO social and labour standards; to ensure the implementation of the human rights clause in any agreement.”¹⁶¹

Similarly, the EU-Vietnam Partnership and Cooperation Agreement (PCA), signed in June 2012, explicitly provides for “the establishment of an effective and preventive policy against illegal immigration, smuggling of migrants and trafficking in human beings, including ways to combat networks of smugglers and traffickers and protect the victims of such trafficking.”¹⁶²

United States

Thai seafood imports by the United States – Thailand’s second largest trading partner – were valued at more than \$1.6 billion in 2013.¹⁶³

Unlike the EU, the US is not currently engaged in FTA talks after they were suspended in 2006 following the dissolution of the Thai Parliament and the subsequent military-led coup.¹⁶⁴ However, in 2012 Thailand expressed its desire to join the Trans-Pacific Partnership (TPP) negotiations currently taking place.¹⁶⁵

In the past, the United States has employed FTAs and other trade related mechanisms to push for labour and human rights reform in partner countries. For example, the US-Colombia Trade Promotion Agreement (TPA), enacted on 15 May 2012, includes a ‘Commitment to Protect Labor Rights’ designed to address “concerns regarding protections for worker rights, violence against Colombian labor union members, and the prosecution of those who commit such violence.”¹⁶⁶ The case made by the Office of the United States Trade Representative (USTR) in favour of an FTA with Colombia quoted then President George W. Bush on the important strategic implications of supporting democracies that promote human rights.¹⁶⁷

“
*Our fight against human trafficking
is one of the great human rights
causes of our time,
and the United States
will continue to lead it.*

President Barack Obama, September 25, 2012¹⁶⁸

More recently, USTR was involved in the suspension of Bangladesh’s trade benefits under the Generalized System of Preferences (GSP) “in view of insufficient progress by the Government of Bangladesh in affording Bangladeshi workers internationally recognised labour rights.”^{169/170}

While the Thai Government must address the shortcomings in their efforts to combat human trafficking and its related labour abuses, urgent action is also needed from governments and industry in the main export markets to ensure human rights and labour issues are adequately addressed. Major importers and retailers in the US and EU should use their influence to demand transparency and ensure the products they are selling are free from exploitation and human rights abuses.

CONCLUSION

The Thai seafood industry, its vital contribution to the country's economy and the corrupt officials who depend upon it are heavily reliant on the exploitative labour practices and poor working conditions integral to its business model. Poor and chaotic fisheries management have further exacerbated and entrenched the situation as severely reduced catch volumes resulting from decades of over-fishing require boats to spend more time at sea. The pressure this places on operators and business owners to make savings has perpetuated poor working conditions and kept wages low, resulting in a significant labour shortage as workers turn away from the industry. As employers struggle to meet this shortfall and continue fishing, many turn to trafficked workers; deceived, coerced and sometimes beaten into working aboard their boats.

The ongoing and systemic nature of this problem has been documented by EJF since 2012 and highlighted by governments, including the United States and European Union, who have provided detailed recommendations for tackling the issue. Recognising the international pressure and potential damage to the country's image and industry, the Thai Government has made a range of promises and commitments to address these concerns, including those laid out in the 2013 National Action Plan. However, implementation of these commitments, as well as efforts to address the recommendations articulated in the US Department of State's 2013 Trafficking in Persons Report, have failed to address fundamental issues such as endemic corruption, as well as poor enforcement, victim identification and support, working conditions and an inadequate migration policy.

The findings of EJF investigations laid out in this report – including interviews with a variety of stakeholders in the Thai fishing industry – demonstrate clearly the continued failings of the Government to earnestly and honestly address this serious issue. The case of the 14 men rescued from Kantang shows how the system continues to fail victims and inhibits prosecutions of offenders. Victims' frustration over lengthy periods spent in shelters, a lack of interpretation or legal support, an inability to work and a uniform mistrust of the Thai legal system and Thai authorities represent troubling barriers to Thailand's realisation of a truly victim-centred approach.

Similarly, endemic corruption both fuels trafficking and subverts the legal process designed to deter and punish offenders. Testimonies gathered by EJF allege direct police involvement in human trafficking as well a close relationship between officers and abusive employers, which included the return of escaped workers for a fee. The victims from the Kantang case also reported being offered 'hush money' ahead of their court appearance by individuals related to the owner of the boats. The wealthy and influential owner of those boats and the pier they were rescued from, where multiple murders are alleged to have occurred, has yet to be investigated.

It is clear that exploitative labour practices and abuse remain an integral part of the Thai seafood industry's business model. The continued failure by both Government and industry to act could have severe consequences for the sector and the wider Thai economy.

Concerns voiced by consumers, traders and retailers in key importing nations can lead to voluntary market restrictions, as buyers will move away from the Thai suppliers until such time that abuses are proven to have been eradicated.

Effective Government action will require significant improvements in oversight and enforcement by Thai authorities as well as within the industry itself and by global buyers and retailers.

Far greater transparency and traceability are needed throughout the Thai seafood industry. This will require urgent commitments from governments and industry to apply the necessary pressure for immediate and effective action to combat slavery as well as forced and bonded labour.

This report finds that activities to suppress and prevent human trafficking in 2013 have remained misguided, occasionally incompetent and at times corrupted by the interests of powerful and influential individuals at the local and regional level. The report makes the case for Thailand's downgrade to Tier 3 of the US Department of State's Trafficking in Persons Report for 2014.

“

At the moment, we still don't have any specific laws or policies which are capable of assisting fishers. They may be trying to create them, but it's already too late for the people who are killed and dumped in the ocean every day.

”

Somsak Tongwijit, Director of a Thailand-based organisation working to improve the welfare of migrants

“

Human trafficking is reducing someone to, or holding someone in, a condition of compelled service.

”

Luis CdeBaca, US Department of State Ambassador-at-Large to Monitor and Combat Trafficking in Persons



A migrant fisher sorts trash fish aboard the Boonlarp 7. Poor fisheries management means boats have to stay at sea for longer. © EJF

RECOMMENDATIONS

The Thai Government must:

- Fully implement a comprehensive and integrated national action plan to prevent and suppress human trafficking that addresses the deficiencies in previous plans as well as their implementation.
- Ratify and implement the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons (2000), as well as implementing the provisions of its own Anti-Trafficking in Persons Act (2008). Thailand should urgently build the capacity of the police, navy, immigration officials, prosecutors and labour inspectors to identify accurately and deal effectively with trafficking cases and ensure those responsible for human trafficking are held to account.
- Investigate and prosecute Thai nationals, particularly public officials and business owners, found to be involved in human trafficking in the fisheries sector. The Government must ensure that sanctions are proportionate and dissuasive, and that special attention is paid to combating the corruption that is integral to human trafficking in Thailand.
- Ratify and implement the 2007 ILO Work in Fishing Convention (No. 188), which establishes international standards for decent work and living conditions of those employed on fishing vessels. In addition, Thailand should ensure that there are robust systems to monitor the working conditions of those in the fishing industry, particularly those working at sea.
- Urgently address the serious failings in the current inspection programme both on land and at sea. Agencies responsible for inspections must be given sufficient resources to carry out their work, including through the provision of independent and competent interpreters who can assist in victim identification.
- Rapidly establish an institutional framework for regulating recruitment practices within Thailand's fishing industry, which addresses the shortcomings facing both migrant workers and employers within the current system.
- Fully implement the 2010 OHCHR 'Recommended Principles and Guidelines on Human Rights and Human Trafficking' and ensure that trafficking victims are adequately protected (also in accordance with Article 6 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons). As stated in the principles, trafficking is a violation of human rights, and human rights principles must guide the behaviour of all those involved in trafficking cases.
- Immediately work to remove systemic disincentives that discourage victims from pursuing cases, including long stays in shelters and lengthy court proceedings. It is also necessary to provide adequate food, shelter, legal counsel and interpretation services to victims held by the authorities, particularly when assisting with prosecutions.
- Establish extensive partnerships to foster cooperation with relevant social and judicial agencies from neighbouring countries - particularly those representing a source of trafficking victims such as Myanmar and Cambodia - in the interest of information sharing and victim support, as expressed in Article 10 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons (2000).
- Address the serious decline in the fisheries of the Gulf of Thailand and the Andaman Sea, by ensuring sustainable fisheries management, and effective Monitoring, Control and Surveillance (MCS). Immediate and decisive action should be taken to address IUU fishing by Thai fishing vessels, both in Thailand's Exclusive Economic (EEZ) and in other countries' jurisdictional waters.
- Ban transshipments at sea, which allow for fishing boats to be at sea for months, and sometimes years, at a time. Transshipment at sea allows fishing boats to escape proper regulation and increases the likelihood of human rights abuses and IUU fishing.

The international community should:

- The US Department of State, in consultation with local NGOs and migrant workers groups, should consider downgrading Thailand to Tier 3 of the 2014 TIP report ranking pending a full assessment of progress towards addressing the deficiencies highlighted in the 2013 TIP report, and the implementation of the 2013 National Action Plan to Prevent and Suppress Human Trafficking.
- The European Commission, European Parliament and Member States should ensure that concerns over human trafficking are specifically raised in the context of trade negotiations between the EU and Thailand, in accordance with commitments made by the European Commission.
- The European Commission should work with the Thai Government to address human trafficking in the fisheries sector, in line with the Action-Oriented Paper on strengthening the EU external dimension of action against trafficking in human beings: 'Towards Global EU Action Against Trafficking in Human Beings.'
- The UN FAO should urgently proceed with the development of a comprehensive Global Record of fishing vessels that will assign each industrial vessel a UVI and contain information on vessel ownership, fishing activities and fishing authorisations. Thailand should use the UVI as a means of monitoring and documenting working conditions onboard boats and compliance with fisheries laws. Boats involved in human trafficking should be refused fishing licenses.

The private sector should:

- Support international initiatives designed to increase transparency and traceability in seafood supply chains and specifically a Global Record of fishing vessels using International Maritime Organisation (IMO) numbers as appropriate Unique Vessel Identifiers (UVI).
- Commit to conclusively demonstrate that their supply chains are free from trafficking in persons and other human rights violations.
- Urgently investigate their Thai seafood supply chains, including for wild-caught fish and farmed shrimp. In particular retailers, brands and seafood companies should investigate the sustainability of the Thai fisheries in their supply chains, and their links to the human rights abuses highlighted in this report. This investigation should include "trash fish", which is supplied to shrimp farms as fishmeal.

Consumers should:

- Demand retailers commit to ensuring all seafood products are produced sustainably and without trafficked, forced or bonded labour.
- Demand "net to plate" traceability for all seafood products to ensure that environmental or social and human rights abuses are identified and removed from every stage of production.



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*"Consumers will buy
and eat fish as long as they can
afford to. But if they knew about us,
I think they would have sympathy
and no longer consume
these products."*

San Htike Win