



HUMAN
RIGHTS
WATCH

HIDDEN CHAINS

Rights Abuses and Forced Labor in Thailand's Fishing Industry



Hidden Chains

Rights Abuses and Forced Labor in Thailand's Fishing Industry

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Rights Abuses and Forced Labor in Thailand’s Fishing Industry

Maps..... i

Glossary of Terms and Acronyms v

Summary 1

 Forced Labor.....4

 Weak Inspection Regime..... 6

 The Way Forward 8

Methodology..... 11

I. Case Study: The Story of Saw Win.....15

II. Labor Migration in Thailand.....17

 Labor Migration into Thailand 17

 Thailand’s Migration Policymaking 18

 Regularizing Migrant Workers in Thailand23

III. Recruitment Processes in the Fishing Industry..... 26

 Demands for Migrant Labor in the Fishing Industry..... 26

 Recruitment of Workers in the Fishing Industry..... 29

 Importance of Social Capital and Migrant Networks.....32

 Journeys into Thailand33

 Legal Status of Migrant Workers.....36

 Gaps in Registration Frameworks39

IV. Abusive Employment Practices and Working Conditions in the Thai Fishing Industry ... 43

 Retention of Pink Cards and Inability to Change Employers43

 No Respect for Employment Contracts..... 49

 Excessive Working Hours53

 Exploitative Payment Systems59

 Lack of Occupational Safety and Health Protections..... 71

 No Right to Form or Lead a Labor Union.....76

Constant Surveillance and Unlawful Detention	77
Threats, Intimidation, and Violence	83
Murder at Sea.....	86
V. Case Study: Ratsada, Phuket	88
Corruption among Phuket Authorities	89
Unexplained Deaths, Bodies Floating in the Water	90
VI. Conclusions on Forced Labor in the Thai Fishing Industry.....	94
Forced Labor among Currently Employed Fishers.....	97
Unfree Recruitment.....	97
Work and Life under Duress	98
Impossibility of Leaving an Employer	99
VII. Government Efforts to Prevent Forced Labor in the Fishing Sector	101
Migrant Worker Registration	102
Use of Employment Contracts	103
Portability of Legal Status	103
Labor Inspections in Port.....	104
Labor Inspections at Sea	109
Building Capacity in Key Government Agencies	113
VIII. Recommendations.....	115
To the Government of Thailand	115
To the Office of the Prime Minister	116
To the Ministry of Labour	117
To the Department of Employment	118
To the Department of Labour Protection and Welfare	119
To the Command Center for Combatting Illegal Fishing	120
To the European Union and Member States.....	121
To the Government of the United States	121
To the Governments of Burma, Cambodia, and Laos.....	122
To the Association of Southeast Asian Nations (ASEAN) and Member States.....	123
To International Buyers, Importers, Distributors, and Retailers of Thai Foods	123
Acknowledgments.....	124
Appendix I: Indicators of Forced Labor in the Thai Fishing Industry	125
Appendix II: Indicators of Forced Labor Identified Only among Designated Victims of Trafficking.....	128

Appendix III: Profiles of Victims of Forced Labor Identified among Current Workers in the Thai Fishing Industry..... 129

Appendix IV: Sample Fishing Industry Employment Contract (Bor Mor. 1) 132



Naypyidaw ★

BURMA

Rangoon ●

Payathonsu-Chedi Sam Ong ■

Htee Khee-Phu Nam Ron ■

Andaman Sea

Kawthaung-Ranong ■

INDONESIA

Malacca Strait

LAOS

Myawaddy-Mae Sot ■

THAILAND

Bangkok ★

Poipet-Aranyaprathet ■

Battambang ●

Ban Laem-Daun Lem

CAMBODIA

Koh Kong-Hat Lek ■

Phnom Penh ★

VIET NAM

Gulf of Thailand

MALAYSIA

★ Capital

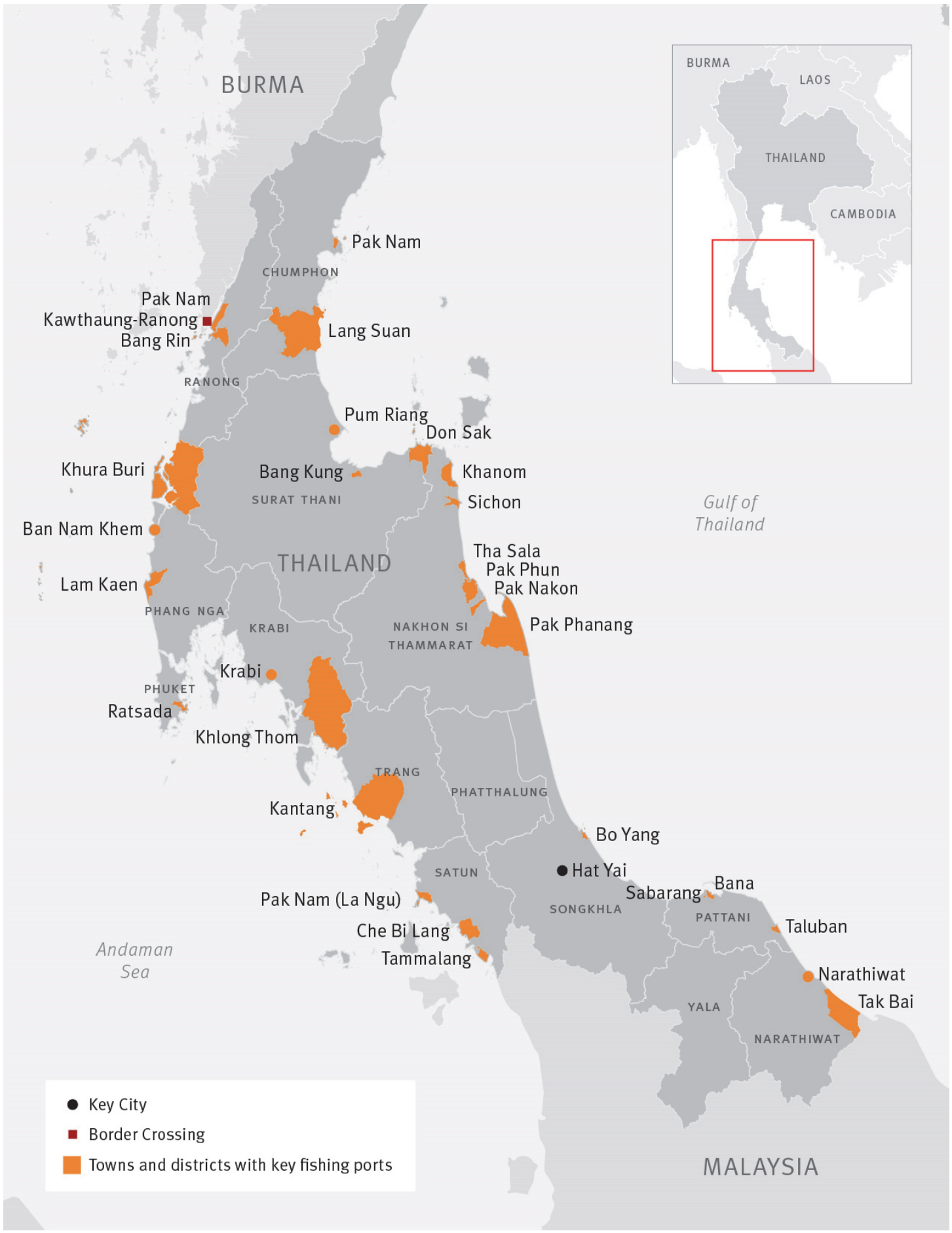
● Key City

■ Border Crossing

■ Provinces in which Human Rights Watch conducted research







Glossary of Terms and Acronyms

Boatswain	Senior member of crew responsible for supervising and coordinating deckhands on a fishing boat, especially in the deployment, retrieval, and repair of fishing nets. Typically, an experienced, bilingual migrant worker.
Broker	Unlicensed labor contractor or third-party intermediary who may be involved in different aspects of recruitment, placement, and/or supervision of workers, typically in exchange for a fee or a percentage of a worker’s pay. Boatswains may also act as brokers.
Debt bondage	Status or condition arising from a pledge by a debtor of their personal services or of those of a person under their control as security for a debt if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.
DLPW	Department of Labour Protection and Welfare, within the Ministry of Labour, responsible for enforcing laws on wages, conditions of work, and worker and employer organizations.
DOE	Department of Employment, within the Ministry of Labour, responsible for managing migrant workers in Thailand.
Falling net	Square shaped column of web suspended from long poles extending from the side of a boat. A heavy lead line allows the column to sink quickly when released around a school of fish that have been gathered at night by lights on the fishing boat.
Fisher	Deckhand aboard a fishing boat, also referred to in this report as “worker” or “crew.”
Forced labor	Work or service exacted from any person under the menace of any penalty and for which the person has not offered themselves voluntarily. See ILO Forced Labor Convention, 1930 (No. 29), article 2(1).
ILO	International Labour Organization, a specialized agency of the United Nations.
IOM	International Organization for Migration, an intergovernmental organization in the field of migration that in 2016 became a “Related Organization” to the United Nations.
IUU	Illegal, unreported, and unregulated fishing, refers to any fishing operation in contravention of conservation and management measures and reporting procedures at national, regional, and international levels.
MOL	Ministry of Labour, regulates all aspects of wages, conditions of work, labor rights, migrant worker management, and labor-worker relations. In the fishing sector, the ministry oversees registration and issuance of migrant work documents, and inspection of fisher crews at PIPO centers and in vessel inspections at sea.
MSDHS	Ministry of Social Development and Human Security, plays a leading role in Thailand’s anti-trafficking response and operates anti-trafficking shelters for men, women, and children.

NCPO	National Council for Peace and Order, the junta established after the May 2014 military coup. It is headed by Prime Minister Gen. Prayut Chan-ocha.
NFAT	National Fisheries Association of Thailand, a coalition of regional, sub-regional, provincial, and sub-provincial fisheries organizations primarily representing the interests of industrial fishing operators.
OSS center	One Stop Service centers, ¹ static and mobile offices administered by the Department of Employment and set up in locations with significant migrant populations. Employers can bring foreign workers to OSS centers for registration under the government’s “pink card” scheme. Registration services for migrants working in the fishing sector have also been available at Fisheries Labour Coordination Centers. ²
Pink card	Non-Thai identification cards, ³ which are pink in color, issued to migrant workers that grant permission to temporarily reside and work in Thailand. Migrants working in fishing and seafood received pink cards under a system administered separately from other sectors.
PIPO	Port-in, Port-out control centers, a nationwide network operational since May 2015 that forms the cornerstone of Thailand’s new fisheries monitoring, control, and surveillance efforts. Vessel and crew inspections are conducted by multidisciplinary teams each time a fishing vessel departs from or arrives in port.
Purse seine	Large net used to encircle a school of fish and closed at the bottom to entrap them. Different types of purse seine fishing methods are used in Thailand to target different species.
Skipper	Captain of a fishing vessel.
TIP	Trafficking in persons.
Trafficking	The recruitment, transportation, transfer, harboring, or receipt of persons, by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or a position of vulnerability, or giving or receiving payments or benefits to achieve the consent of a person in control of another person, for the purpose of exploitation. See United Nations Convention against Transnational Organized Crime, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, article 3(a).
Trafficking survivor	Interviewees designated as victims of trafficking by Thai authorities, Indonesian authorities, or the IOM.
Trawl net	Cone-shaped net towed by one or two boats on the bottom or mid-water. There are two main types of trawl net fisheries in Thailand: those operated by single vessels (otter board trawls) and those operated by two vessels (pair trawls).

¹ Formal name in Thai: ศูนย์บริการจดทะเบียนแรงงานต่างด้าวแบบเบ็ดเสร็จ.

² Formal name in Thai: ศูนย์ประสานงานแรงงานประมง.

³ Formal name in Thai: บัตรประจำตัวคนซึ่งไม่มีสัญชาติไทย.

Summary

Our money is with [the owner], so he can decide to give us permission [to change jobs] or not. They hold all the power and we can't do anything.

—Sinuon Sao, Cambodian migrant on a fishing vessel, Mueang Rayong, Rayong, November 2016

Despite several years of highly publicized efforts to address problems in the Thai fishing industry, the Thai government has not taken the steps necessary to end forced labor and other serious abuses on fishing boats.

This report documents forced labor and other human rights abuses in the Thai fishing sector. It identifies poor working conditions, recruitment processes, terms of employment, and industry practices that put already vulnerable migrant workers into abusive situations—and often keep them there. It assesses government efforts to address labor rights violations and other mistreatment of migrant fishers. It also highlights improvements and shortcomings in Thai law and the operational practice of frontline agencies that allow victims of forced labor to fall through gaps in existing prevention and protection frameworks. For example, in an official report from 2015, the Thai government noted that inspections of 474,334 fishery workers had failed, astonishingly, to identify a single case of forced labor.⁴

The prevalence of forced labor in the Thai fishing industry reflects a longstanding lack of respect for basic rights in the sector. Human Rights Watch's findings show that labor and human rights violations come together under different configurations to put workers into situations of forced labor, as defined in the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29).

In June 2014, the *Guardian* newspaper reported that fish caught by victims of trafficking working aboard Thai fishing boats were being used to feed shrimp grown and exported for

⁴ Royal Thai Government, *Trafficking in Persons Report 2015: The Royal Thai Government's Response, January 1 – December 31, 2015* (Bangkok: Royal Thai Government, 2016), p. 108.



A fisher at the prow of a boat, mooring rope in hand, as the vessel arrives in port in Pattani, August 12, 2016.

sale in the freezers of the world’s top four retailers.⁵ Ten days later, the United States Department of State downgraded Thailand in its annual Trafficking in Persons (TIP) report to Tier 3, the lowest possible status. Prompted in part by numerous media exposés that raised serious concerns about killings, beatings, and trafficking of migrant fishers, many from Burma and Cambodia, the European Commission in April 2015 issued a “yellow card” warning to Thailand, identifying it as a possible non-cooperating country in fighting illegal, unreported, and unregulated (IUU) fishing. A subsequent “red card” would lead to European Union sanctions.

In response, Thailand’s military junta, the National Council for Peace and Order (NCPO), has overhauled fishing industry monitoring, control, and management regimes. New interagency inspection frameworks have been established across the country, and teams of officials are now supposed to check fishing boats each time they depart and arrive in port. Laws have been strengthened and penalties for infringing on fishers’ rights have substantially increased.

⁵ Kate Hodal, Chris Kelly, and Felicity Lawrence, “Revealed: Asian Slave Labour Producing Prawns for Supermarkets in US, UK,” *Guardian*, June 10, 2014, <https://www.theguardian.com/global-development/2014/jun/10/supermarket-prawns-thailand-produced-slave-labour> (accessed February 6, 2017).



Burmese port workers sort fish in Ranong city, March 13, 2016.

These reforms have focused primarily on establishing control over fishing operations and tackling IUU fishing. Yet they have had little effect on human rights abuses that workers face at the hands of ship owners, senior crew, brokers, and police officers. Meanwhile, the impact of stronger regulatory controls on improving conditions of work at sea has been limited as a result of poor implementation and enforcement.

In some respects, the situation has gotten worse. For instance, the government’s “pink card” registration scheme, introduced in 2014 in an effort to reduce the number of undocumented migrants working in Thailand, has tied fishers’ legal status to specific locations and employers whose permission they need to change jobs, creating an environment ripe for abuse. The pink card scheme, as well as practices where migrant workers are not informed about or provided copies of required employment contracts, has become means through which unscrupulous actors conceal coercion and deception behind a veneer of compliance. In this way, routine rights abuses go unchecked as officials are content to rely on paper records submitted by fishing companies and the government employs labor inspection frameworks that fail to closely examine actual labor practices at sea.

A young Burmese fisher sorts trash fish onboard a trawler in Laem Sing, Chantaburi, November 11, 2016.



Many of the human rights problems in Thailand's fishing industry are common to migrant workers in sectors throughout Thailand's economy, whose exploitation is aggravated, and sometimes caused, by the government's haphazard national policies on labor migration.

In its migration policies, the Thai government has sought to balance negative public attitudes about migration and alleged national security concerns about migrants with strong economic demand for low-cost labor. The result has been contradictory and inconsistent migration policymaking. Its current orientation toward stronger controls and crackdowns on irregular migration have proven ineffective and merely pushed migrants toward more expensive and less safe border crossings, increasing profits for smugglers and traffickers.

Forced Labor

Since 2016, Human Rights Watch interviewed 248 current and former workers in the fishing industry about recruitment practices, salaries and payment systems, working hours, occupational health and safety, and a range of other issues. This group included 95 individuals whom Thai authorities or others had designated as victims of trafficking.



Burmese fishers present their pink cards during a Port-in, Port-out (PIPO) inspection in Laem Sing, Chantaburi, November 11, 2016.

Human Rights Watch research identified 20 forced labor situations in 34 group and individual interviews with fishers, accounting for 90 of the 138 fishers we interviewed who were still employed on boats at the time of the interviews.⁶

Forced labor in the Thai fishing industry has persisted amid a culture of abuse, even as the government has undertaken high-profile initiatives to clean up the sector and portray a better image internationally. Despite some improvements, the situation has not changed substantially since a large-scale survey of 496 fishers in 2012 found that almost one in five “reported working against their will with the menace of a penalty preventing them from leaving.”⁷

Human Rights Watch’s research found that migrant workers who voluntarily enter employment aboard Thai fishing vessels often cannot leave because boat owners, skippers, and brokers hold them in forced labor. They may work alongside individuals who

⁶ This is not a statistically valid survey and is not intended to be interpreted as such. See Methodology and Section VI for further details.

⁷ Supang Chantavanich et al., *Employment Practices and Working Conditions in Thailand’s Fishing Sector* (Bangkok: ILO, 2013), p. 75.



Cambodian fishers are asked by officials to don lifejackets and pose for photos during a PIPO inspection in Laem Ngop, Trat, November 9, 2016.

secured their jobs through similar channels but who are not victims of forced labor, or alongside individuals who can be considered trafficking victims as a result of the way they were recruited.

Weak Inspection Regime

Human Rights Watch's research found multiple indicators of forced labor that Thai inspection frameworks fail to adequately or systematically address, including deception regarding key terms of employment; retention of identity documents; wage withholding; recruitment linked to debt; excessive work hours; and obstruction of workers' freedom to change employers.

Key inspection frameworks that the Thai junta introduced in 2015 are undermined by a lack of meaningful interaction between workers and officials. Labor inspectors often operate under false assumptions that only undocumented migrants can be victims of exploitation, and rely on dubious paper records and unverified information from senior crew or employers to monitor practices and working conditions. Inspections focus on the



A boatswain hands out pink cards to a falling netter crew prior to a PIPO inspection in Laem Ngop, Trat, November 9, 2016. Employers frequently retain, and sometimes seize, identity documents belonging to fishers.

monitoring and control of workers, ensuring only that the fisher is matched to his pink card and his name appears on the crew manifest for the boat he is on.

Senior officials from frontline agencies, meanwhile, noted to Human Rights Watch that government victim identification efforts often focus on the more overt or objective conditions of exploitation, such as forcible confinement or physical mistreatment. In some cases, assessments rely only on superficial efforts to identify victims of abuse, such as seeing whether workers present indications of physical mistreatment.

The Thai government's failure to identify and assist victims of forced labor in the fishing industry who have not been trafficked is partly because forced labor is not a stand-alone offense under Thai law. Without legal provisions criminalizing the practices that put individuals who have voluntarily begun work in the fishing sector into situations of forced labor, victims have little hope of accessing appropriate remedies or seeing perpetrators held to account.



A trawler comes into port in Ratsada, Phuket, May 22, 2016.

The Way Forward

To address exploitation and abuse in the industry and ensure victims are adequately protected, Thailand should enact legislation to prohibit all forms of forced labor, giving due consideration to the various means and elements of this crime. Thailand's anti-trafficking law was amended in 2017 to include additional means by which people can be placed into forced labor, such as debt bondage, but it still fails to provide protection to victims of forced labor who have not been trafficked.⁸ Thailand needs a stand-alone law which recognizes that forced labor is a broader concept than trafficking in persons and that the means by which people are put into forced labor are more numerous than specified in existing Thai law.

Labor inspectors need better tools and training to help them investigate employer practices and working conditions to spot indicators of forced labor. Adequate resources, especially trained inspectors, screening tools, and more interpreters, need to be made available to key

⁸ See Section VI for further details.



Baskets of trash fish are piled at a fishmeal processing plant in Ranong, March 12, 2016.

government agencies such as the Department of Labour Protection and Welfare and the Department of Employment, which both operate under the Ministry of Labour.

Inspection regimens and interview frameworks should be fundamentally revised to ensure that workers' voices are placed at the center of new procedures that include guarantees to protect workers who speak out. Legal provisions that discriminate against migrant workers by preventing them from organizing or leading unions should be urgently eliminated so that all workers can exercise their right to freedom of association. Loopholes in labor laws and regulations should be amended and compliance with labor standards rigorously enforced. All those responsible for abuses, including vessel owners, skippers, brokers, and corrupt officials, should be held accountable by authorities.

Recruitment into the fishing industry should be fair. Employers, not workers, should be responsible for paying recruitment costs. Third parties providing migrant workers to fishing boats should be regulated effectively by ensuring that brokers are licensed, operating through formal recruitment channels, and closely monitored to ensure they comply with clearly established rules preventing extortionate recruitment fees. Workers are entitled to written copies of employment contracts in a language they understand. Employers should

be required to fully explain to workers their rights and the terms and conditions of work before they sign a contract.

Workers should be paid in a timely manner, no less than once per month. They should be compensated for overtime, which the government should regulate and oversee more strictly.

Migrant workers should be able to access identity documents, leave employment, and change employers freely. They should have adequate rest and work in safe and acceptable conditions, in line with applicable regulations. Vessel operators need to comply with Thai health, safety, and welfare standards.

The government should also better engage with nongovernmental organizations to inform fishers of their labor rights and work to provide remedies when abuses occur. The Labour Relations Act, B.E. 2518 (1975) should be revised to eliminate discriminatory requirements that only Thai nationals may establish unions or be elected to committees from which the union leader is selected. This provision prevents migrant workers from Burma, Cambodia, Laos, Vietnam, and other countries from asserting their rights to organize and collectively bargain for better wages and working conditions.

As Thai government reforms continue apace, international producers, buyers, and retailers of Thai foods have a prominent role to play in ensuring they do not benefit from forced labor. They should be actively encouraging the Thai government and fishing industry to establish a rights-respecting culture that will result in the eradication of widespread forced labor in the fishing sector.

Methodology

This report is based on interviews and research conducted from 2015 to 2017 by a consultant and multiple Human Rights Watch staff.

A total of 248 current and former workers in the fishing industry, comprising 174 Burmese, 70 Cambodian, and 4 Thai nationals, participated in 58 focus group and individual interviews. These interviews included 95 men who had been designated as victims of trafficking, mostly by Thai authorities (hereafter “trafficking survivors”).⁹ All had either escaped or been rescued between May 2014 and July 2016. The remaining 153 men interviewed by Human Rights Watch were, with a few exceptions, working in the fishing industry when they were interviewed.

Interviews with trafficking survivors and workers were supplemented by additional interviews with vessel operators, skippers, and industry leaders, as well as representatives from civil society groups, international organizations, and key Thai government agencies.

Research was conducted in 17 of Thailand’s 22 coastal provinces: Trat, Chanthaburi, Rayong, Chonburi, Chachoengsao, Samut Prakan, Samut Sakhon, Samut Songkhram, Chumphon, Surat Thani, Nakhon Si Thammarat, Songkhla, Pattani, Trang, Phuket, Phang Nga, and Ranong. These research sites were chosen to include Thailand’s most important public fish landing sites by both value and volume (Pattani, Phuket, Ranong, and Songkhla), key seafood industry processing hubs (such as Samut Sakhon), and ports reported to have both greater and lesser cases of exploitation in the fishing sector.

Research aimed to explore how work at sea varies according to the type of fishing vessel and business model. Interviews were conducted with crew working aboard vessels that used various types of fishing gear, including trawlers, seiners, falling and gill netters, dredgers, and crab trappers.

Interviewees were between 13 and 55 years old. Some migrant workers had more than 25 years’ experience working in Thailand; others had only just entered the country for the first

⁹ A minority of these individuals were designated as victims of trafficking by Indonesian government officials or the IOM.

time. Similarly, the subjects' years of experience working in the fishing industry varied from two decades or longer to none at the time of interview. In addition to fishing deckhands, Human Rights Watch also interviewed senior members of fishing crews including boatswains, engineers, cooks, helmsmen, and skippers.

Selection of interview subjects took place via various methods, including Human Rights Watch's own discussions in migrant communities and referrals from civil society organizations assisting migrant workers.¹⁰ Since fishers are often gone from port for days to years at a time, selection was also influenced by availability of migrant workers.

Human Rights Watch interviewed some trafficking survivors at government shelters with the permission of the Ministry of Social Development and Human Security. Wherever possible, we conducted interviews in secure locations arranged by local organizations. Interviews were conducted in Thai, Burmese, and Khmer, with some interviews being conducted without interpretation in a second or first language (typically Thai) common to both the interviewer and the interviewee.

The names of all workers and trafficking survivors used in this report are pseudonyms and, in some cases, additional identifying information has been withheld or changed to protect them from possible retaliation from employers or local government officials. The images of workers included in the report do not represent victims of forced labor or individuals interviewed during this research. No compensation was provided to interviewees in exchange for information. To facilitate frank discussions about sensitive issues, Human Rights Watch agreed to conduct interviews with industry representatives and government officials on condition of anonymity, unless otherwise noted.

All interviews were conducted with the informed consent of the individuals involved. Subjects were informed that they could decline to answer questions or end the interview at any time. Interviews followed sets of guiding questions developed by Human Rights Watch and the consultant. Lines of inquiry were determined by the interview context and the specific experiences of the interviewee. The challenging environments in which some interviews were conducted meant it was not possible to standardize questions in interviews with all 248 subjects.

¹⁰ Non-probability sampling method, comprising convenience and purposive sampling.

Indicators of forced labor from among the 58 interviews were catalogued according to a set of indicators of forced labor for the Thai fishing industry developed by Human Rights Watch.¹¹ This framework included a set of 45 operational indicators reflecting the researcher's own insights, guidance to auditors on indicators of forced labor,¹² and an ILO methodology for estimating forced labor among adults.¹³

Combinations of indicators among 34 interviews were examined under this framework in order to identify instances of forced labor based on the ILO methodology.¹⁴ Insights from this process are summarized in Section VI of the report. The findings related to this portion of the research are not representative of employer practices, terms of employment, working conditions, or forced labor prevalence at the national or sectoral level.

The research had several limitations. Work on different types of fishing boats varies according to fishing method, productivity and yield, weather and sea conditions, season, and, in some cases, lunar phase. For this reason, it was not possible to interview fishers working aboard a representative selection of vessels at any given port during any single research trip. Further, Human Rights Watch interviewed comparatively few men (39 individuals) who had worked aboard long-haul overseas fishing vessels; none of those individuals were still working in the sector at the time of interview. Few fishers from long-haul vessels are included because many of these men are overseas for years and return infrequently to Thai ports. This factor was compounded by government reforms that have significantly reduced the number of overseas boats in operation.

In addition, specific lines of inquiry regarding worker exploitation and responsibility for rights abuses in some interviews (conducted in port areas, aboard vessels, and, to a lesser

¹¹ See Appendix I. These operational indicators for the Thai fishing sector are not intended to represent an exhaustive list.

¹² See Sedex, *Guidance on Operational Practice & Indicators of Forced Labor*, February 2016.

¹³ Of the 45 indicators developed by Human Rights Watch, 43 correspond with one of 31 indicators of involuntariness or penalty in the ILO framework. One of the remaining two indicators was introduced based on evidence that involvement of multiple brokers in transnational migration to Thailand increases the risk of exploitation on arrival. The second indicator concerned restrictions on labor mobility linked to Thai government policy on migrant worker registration systems, reflecting Sedex guidance which treated this as an indicator of forced labor in a risk assessment framework. See International Labour Organization, *Hard to See, Harder to Count: Survey Guidelines to Estimate Forced Labour of Adults and Children* (Geneva: ILO, 2012), pp. 23-5; United Nations Inter-Agency Project on Human Trafficking, *Human Trafficking Sentinel Surveillance: Poipet, Cambodia 2009-2010* (Bangkok: UNIAP, 2010), p. 50; Sedex, *Guidance on Operational Practice & Indicators of Forced Labor*, p. 22.

¹⁴ Consisting of a mix of individual and focus group interviews with workers (n=138) employed in fishing at the time of interview.

extent, in government shelters) could not be pursued due to the confirmed or suspected presence of senior crew, including more experienced migrant workers who work as boatswains and often are close confidants of skippers, or government officials. The presence of boatswains (who, in some cases, are involved in the exploitation of other workers) in some focus groups may also have affected the responses provided during those interviews.

I. Case Study: The Story of Saw Win

After two years without setting foot on land, I realized that I needed to help myself. From then on, I started washing the skipper's clothes and massaging him. In return, he didn't hit me or force a heavy workload on me. But then, when we were in Malaysian waters, he killed another member of the crew. That was when I decided I had to escape.

In 2011, Saw Win, 57, migrated to Thailand to find a job, hoping to earn money to send to his family in Burma.¹⁵ He told Human Rights Watch that he traveled with a broker he had met in the town of Kawthaung at the southern tip of Burma, who said he would get him across the border and secure a food processing job that would pay 150 baht (US\$4.50) a day. However, once he reached the Thai side of the border, Saw Win was put in the cargo bed of a truck, sandwiched between other undocumented migrants. It was difficult to breathe, especially when smugglers covered them with tarpaulin to hide them from police checkpoints. The other migrants hit him on the head and told him to lie still when he fidgeted.

When Saw Win arrived in Kantang, a port town in Trang province on Thailand's southwest coast, he was confined to a room with 40 other men. In the morning, the men were separated and sold to different brokers controlling migrant crews working at the town's various fishing piers. Saw Win said he worked on a trawler with no pay for three months. He assumed he would be set free when the boat returned to port, but the broker's men were waiting at the pier and locked him away again, this time for three days.

Saw Win's broker then sold him to a boat in Songkhla, on Thailand's southeast coast. A carrier boat transported him into the South China Sea where he was forced to board a purse seiner fishing illegally for mackerel in Indonesian waters. Saw Win tearfully described the year spent aboard the ship. The Thai skipper regularly beat the crew with an iron rod and threatened them at gunpoint. "Payment" was meager amounts of food, withheld if the skipper did not think the crew had worked hard enough. Some men became

¹⁵ The names of all workers and trafficking survivors used in this report have been changed to protect them from possible retaliation from employers or local government officials.

malnourished and seriously ill, contracting diseases like scabies. One crew member became so sick he could no longer work. Saw Win said that he was still conscious when the skipper threw him overboard. The man drowned.

Saw Win was eventually sold at sea to another Thai purse seine boat. By now valued as a more experienced crew member, he was physically abused less than others. But crew members were brutally punished, such as the ethnic Mon fisher held responsible for a torn net: “The skipper was angry and started to beat the Mon boatswain to punish him. Then the skipper pushed the boatswain to the deck and strangled him to death and threw his body into the sea. I was so scared.”

One night, Saw Win decided to jump overboard near the Malaysian coast. Luckily, another passing Thai purse seiner plucked him from the water and concealed him on the boat. Soon afterward, he set foot in Malaysia, his first time on land in almost two years.

Saw Win eventually returned to his home in Burma, but he had lost several years of earnings, and local wages were too low to support his family. He returned to Thailand, this time bringing several family members with him. Saw Win and his son spoke with Human Rights Watch in September 2016 in a busy port town in southern Thailand, where male migrants commonly work in the fishing industry. Although not all those men have been trafficked to Thailand like Saw Win, he still sees them facing serious abuses at the hands of brokers, employers, and corrupt police.

Saw Win said he wished that more established Burmese migrants in Thailand would stop acting as brokers and profiting from abuse of fellow Burmese; that the fishing industry would stop relying on underground brokers profiting off the mistreatment of migrants; and that the Thai government would start listening to the organizations acting on behalf of the rights of workers.

II. Labor Migration in Thailand

This is not an isolated problem but a problem that crosses borders. I know now that there are human traffickers, so people shouldn't trust the words of another so easily.

—San Hla, Burmese trafficking survivor, Bang Rin, Ranong, March 2016

Labor Migration into Thailand

The movement of labor across Thailand's long, porous borders has unfolded as rising inequality, breakneck economic growth, and rapid social change continue to transform mainland Southeast Asia. In the decade spanning the mid-1980s to the mid-1990s, Thailand was the fastest growing economy in the world, and during this period transitioned from a net exporter to a net importer of migrant workers.¹⁶

The exact number of migrant workers and their dependents residing in Thailand from Burma, Cambodia, and Laos is unknown. A 2014 estimate found that workers in Thailand from those three neighboring countries were equivalent to between 5 and 8 percent of Thailand's working-age population of over 38 million.¹⁷ The World Bank reported that Thailand has the highest number of migrant workers in the Association of Southeast Asian Nations (ASEAN), with 3.76 million in 2015—53 percent from Burma, 26 percent from Laos, and 21 percent from Cambodia.¹⁸ Thai government statistics for migrant worker registration indicate 1,726,415 registered migrant workers from Burma, Cambodia, and Laos, as of November 2017.¹⁹

¹⁶ Phasuk Phongpaichit, "The Thai Economy in the Mid-1990s," *Southeast Asian Affairs*, 1996, pp. 369-381; Rosalia Sciortino and Sureporn Punpuing, "Migration in the Context of Thailand," *International Migration in Thailand 2009* (Bangkok: IOM, 2009), p. 14.

¹⁷ Jerrold W. Hugueta, "Thailand Migration Profile," *Thailand Migration Report 2014* (Bangkok: UN Thematic Working Group on Migration in Thailand, 2014), p. 3.

¹⁸ Mauro Testaverde et al., *Migrating to Opportunity: Overcoming Barriers to Labor Mobility in Southeast Asia* (Washington, DC: World Bank, 2017), <https://openknowledge.worldbank.org/bitstream/handle/10986/28342/9781464811067.pdf> (accessed December 15, 2017), p. 42.

¹⁹ Department of Employment, "Statistics on the Number of Approved Migrant Workers Still Working in Thailand," November 2017, https://www.doe.go.th/prd/assets/upload/files/alien_th/7052e59ba89b4962a8ef46cb3814050c.pdf (accessed December 15, 2017).

Migrants commonly go to Thailand seeking better employment opportunities, but migration is also driven by an array of factors, including conflict and development-induced displacement; family reunification; social discrimination and political persecution; lack of jobs; demographic changes; and land seizures and landlessness.²⁰ For young men working in Thailand’s fishing industry, social expectations back home can strongly affect migration decision-making.²¹

Migration to Thailand from neighboring countries is shaped by demand for low-wage labor in Thailand. Thailand’s export-oriented manufacturing, agricultural, construction, and seafood sectors have absorbed high numbers of low-skilled workers from Burma, Cambodia, Laos, and, more recently, Vietnam.

Fishing is not the only sector where exploitation is rife. A large-scale survey in 2017 of almost 2,000 migrants working in low-skilled jobs in Thailand and Malaysia found that labor rights abuses were experienced by over half of all migrants working in six different economic sectors, with the highest rates in the fisheries and construction sectors, in which 69 percent of migrants reported experiencing rights abuses in the workplace.²²

Thailand’s Migration Policymaking

National security concerns are central to migration policy in Thailand.²³ Policymakers, particularly in the National Security Council, military, and police, perceive low-skilled and especially irregular migrants from Burma, Cambodia, and Laos as “illegal aliens” who undermine social order and economic security, engage in criminal activities, and spread disease.²⁴ One head of a provincial Department of Labour Protection and Welfare office

²⁰ For example, Human Rights Watch research found that loss of land in parts of Karen State serves as a factor in families deciding to send their sons and daughters to seek work in Thailand. See Human Rights Watch, *The Farmer Becomes the Criminal: Human Rights and Land Confiscation in Burma’s Karen State*, November 2016, <https://www.hrw.org/report/2016/11/03/farmer-becomes-criminal/human-rights-and-land-confiscation-karen-state>.

²¹ Maryann Bylander, “Contested Mobilities: Gendered Migration Pressures among Cambodian Youth,” *Gender, Place and Culture: A Journal of Feminist Geography*, vol. 22(8) (2014), pp. 1-17.

²² Harkins et al., *Risks and Rewards: Outcomes of Labor Migration in South-East Asia* (Bangkok: ILO and IOM, 2017), p. 55.

²³ Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand*, February 2010, <https://www.hrw.org/report/2010/02/23/tiger-crocodile/abuse-migrant-workers-thailand>.

²⁴ Malee Sunpuwan and Sakkarin Niyomsilpa, *Survey of Thai Public Opinion towards Myanmar Refugees and Migrant Workers: An Overview*, Institute for Population and Social Research, Mahidol University, 2014, <http://www.ipsr.mahidol.ac.th/ipsrbeta/FileUpload/PDF/Report-File-475.pdf> (accessed February 6, 2017).

told Human Rights Watch that there was a relentless flow of “illegal” migrants, who were “stealing” jobs from Thai nationals.²⁵

Xenophobia is also reflected in public attitudes. An October 2016 YouGov poll found that respondents from Thailand had the most negative perception of immigrants among 22 countries surveyed, reflecting the impact of prejudicial news coverage and anti-immigrant rhetoric from officials and opinion leaders.²⁶ In a 2013 International Labour Organization (ILO) survey, approximately 80 percent of Thai respondents agreed that migrants commit a high number of crimes, that the government should increase restrictions over immigration, and that irregular migrants should not expect to have any rights at work.²⁷

Sadly, there has been little improvement in public attitudes since November 2007 when Gen. Sonthi Boonyaratglin, then deputy prime minister, stated that all pregnant migrant women from Burma, Cambodia, and Laos should be forced to return to their home countries to give birth, and urged police to start targeting those women.²⁸ The apparent rationale was that if women gave birth in Thailand, they would want to settle in the country.

Thailand’s policy approach to managing labor migration has increased the vulnerability of migrants to trafficking and exploitation. Policymakers have failed to see migrants as active decision-makers or migration as a long-term, self-sustaining social process upon which both Thailand and its neighboring countries have become structurally dependent. This has led to policies that have had the opposite effect to that which policymakers intended.²⁹

Since migrant workers from Burma, Laos, and Cambodia were first regularized in Thailand in 1996, successive Thai governments’ crackdowns on irregular migration have increased risks and costs to migrants, rather than decreasing migration and permanent settlement as intended by policymakers.³⁰

²⁵ Human Rights Watch interview with provincial DLPW director (location withheld), September 30, 2016.

²⁶ Matthew Smith, “International Survey: Globalisation is Still Seen as a Force for Good in the World,” *YouGov*, November 27, 2016, <https://yougov.co.uk/news/2016/11/17/international-survey/> (accessed December 8, 2016).

²⁷ International Labour Organization, *Public Attitudes to Migrant Workers: A Four-Country Study* (Bangkok: ILO, 2013), p. 20.

²⁸ Shah Paung, “Pregnant Workers Fear Repatriation from Thailand,” *The Irrawaddy*, http://www2.irrawaddy.com/article.php?art_id=9422 (accessed February 6, 2017); “Migrant Workers Deserve Better,” *The Nation*, <https://www.pressreader.com/thailand/the-nation/20071116/281788509709564> (accessed November 15, 2017).

²⁹ Stephen Castles, “Why Migration Policies Fail,” *Ethnic and Racial Studies*, vol. 27(2) (2004), pp. 205-227.

³⁰ Raising barriers to migration also has the effect of decreasing the number of migrants who return to the country of origin, as migrants tend to settle in the destination country when opportunities for cheap, easy, or safe circular migration are

In some cases, cracking down on irregular migration can increase migrants' reliance on human smuggling networks, heightening their dependence on brokers and exposing them to greater danger of being trafficked.³¹ Migration for low-skilled work through irregular channels is used by poorer households in origin countries as a coping strategy. In Cambodia, for example, migration to Thailand, in the sense that it is largely irregular, can be considered “pro-poor” relative to other opportunities such as Malaysia.³² During interviews, migrants unable to pay broker fees up front related how they had been forced into debt bondage in the fishing industry on arrival to reimburse the cost of their journey. Some individuals reported being sold by brokers to employers or their representatives.³³

There is high demand for cheap, precarious labor in multiple sectors of the Thai economy, which has resulted in migration policymaking that is rife with inconsistencies, often reflects divergences between interest groups such as the electorate and industry leaders, and accepts or tacitly encourages the irregular entry of low-skilled migrant labor.³⁴

After initially clamping down on undocumented workers in May-June 2014—arresting and deporting close to 3,000 migrants after just 19 days in power—Thailand's new military government faced an international backlash as tens of thousands of migrant workers were left stranded at the Thai-Cambodian border. The Thai junta responded with contradictory statements, insisting there were no deportations and that it recognized the importance of migrant workers in the economy, while at the same time facilitating “voluntary” returns to Cambodia after having issued statements describing such workers as a “threat.”³⁵ By June 20, a reported 226,000 Cambodian migrants had either fled or been deported from Thailand.³⁶

curtailed. See Hein de Haas and Simona Vezzoli, “Migration and Development: Lessons from the Mexico-US and Morocco-EU Experiences,” *International Migration Institute*, vol. 22 (2010).

³¹ Douglas S. Massey and Fernando Riosmena, “Undocumented Migration from Latin America in an Era of Rising U.S. Enforcement,” *Annals of the American Academy of Political and Social Science*, vol. 630(1) (2010), pp. 294-321.

³² Maryann Bylander, “Poor and on the Move: South-South Migration and Poverty in Cambodia,” *Migration Studies*, vol. 5(2) (2017), pp. 237-266.

³³ Human Rights Watch interviews with eight Burmese trafficking survivors, Rattaphum, Songkhla, September 29, 2016, and Kyaw Moe, Burmese migrant working on a trawl fishing vessel, Samae San, Chonburi, March 2, 2016. See also, Human Rights Watch, *From the Tiger to the Crocodile*.

³⁴ Christina Boswell, “Theorizing Migration Policy: Is There a Third Way?” *International Migration Review*, vol. 41(1) (2007), p. 95.

³⁵ Mekong Migration Network, *The Precarious Status of Migrants in Thailand: Reflections on the Exodus of Cambodian Migrants and Lessons Learned* (Chiang Mai: MMN, 2014), pp. 13-14.

³⁶ *Ibid.*, p. 2.

Thai business leaders responded by stressing the importance of migrant labor to their sectors. Midway through the crisis, the president of the National Fisheries Association of Thailand (NFAT) claimed that more than 15 percent of Thai fishing boats had already been forced to port because of a shortage of workers brought about by the departures.³⁷ Under pressure from employers, fishing fleet owners, and plantation owners in eastern Thailand, the junta issued an executive order on June 25, 2014, announcing new measures to facilitate low-skilled migration and the return to Thailand of migrant workers from Cambodia.³⁸

On June 23, 2017, the government promulgated the new Royal Decree concerning the Management of Foreign Workers' Employment, B.E. 2560 (2017), surprising both migrant worker communities and Thai employers. Harsh punitive provisions set out that migrant workers arrested without a work permit would face criminal charges and imprisonment of up to five years and/or fines between 2,000 to 100,000 baht (US\$61 to \$3,050). Employers who hired migrant workers without a work permit or in a restricted profession would face fines of between 400,000 to 800,000 baht (\$12,203 to \$24,406) per worker.³⁹ As a result, tens of thousands of Burmese, Cambodian, Lao, and Vietnamese workers, especially those without the correct documents, panicked, gathered their belongings, and fled to their home countries.⁴⁰

Employers in sectors like fishing and construction expressed a mixture of anger, dismay, and concern at the disproportionately high fines and their suddenly diminished workforce, which they considered key to maintaining the competitiveness of companies in many sectors of the economy. Workers and employers alike decried corruption by police who they alleged were engaged in extorting the many enterprises and workers unable to comply with the decree in a timely way.⁴¹ The NFAT was particularly vocal in opposing the law,

³⁷ "Chairman of Thai Fishing Federation Apprehensive – Foreign Workers Flee, Bankrupt Fishing Industry All Over the Country" ("นายกประมงไทย หวั่น-ต่างด้าวเฟ้น ทำธุรกิจประมงเจ๊งทั้งประเทศ"), *Manager Online*, June 17, 2014, <http://www.manager.co.th/South/ViewNews.aspx?NewsID=957000068064> (accessed December 1, 2017).

³⁸ Interim Measures in Solving the Problem of Migrant Workers and Human Trafficking, NCPO Order No. 70/2557 (2014) (ประกาศคณะรักษาความสงบแห่งชาติ ฉบับที่ ๗๐/๒๕๕๗ เรื่อง มาตรการชั่วคราวในการแก้ไขปัญหาแรงงานต่างด้าวและการค้ามนุษย์), June 25, 2014.

³⁹ Royal Decree concerning the Management of Foreign Workers' Employment, B.E. 2560 (2017) (พระราชกำหนด การบริหารจัดการการทำงานของคนต่างด้าว พ.ศ. ๒๕๖๐). Unofficial translation on file with Human Rights Watch.

⁴⁰ Amy Sawitta Lefevre, "Thailand's New Labor Rules Send Thousands of Migrant Workers Fleeing," Reuters, July 3, 2017, <https://www.reuters.com/article/us-northkorea-missiles-oil-idUSKBN1A20G1> (accessed July 5, 2017).

⁴¹ "Police Warned Against Extorting Migrants," *Bangkok Post*, July 3, 2016, <http://www.bangkokpost.com/news/general/1279755/police-warned-against-extorting-migrants> (accessed July 5, 2017).

criticizing the government for precipitating the flight of migrant workers back to their home countries.

The government responded by delaying implementation and promising improvements. On July 4, Prime Minister Gen. Prayut Chan-ocha used his absolute power under article 44 of the 2014 interim constitution to suspend implementation of provisions of the law dealing with punishments for workers and employers until January 1, 2018.⁴² On July 6, the junta-appointed National Legislative Assembly supported passage of the decree, enacting it into law by a vote of 177 to 0, with 11 abstentions.⁴³ All sections of the decree, except for the provisions affected by the article 44 order, went into effect after being gazetted.

Based on NCPO Order No. 33/2560 (2017), an interagency process chaired by the Ministry of Labour set about revising the suspended provisions of the decree, as well as additional sections. United Nations agencies, diplomats, and representatives of civil society organizations including Human Rights Watch were consulted periodically during this process.⁴⁴ On December 19, 2017, the Thai cabinet decided to continue the non-implementation of articles 101, 102, 119, and 122, and allow additional time to make other reforms, setting a new deadline of June 30, 2018, to make and pass needed revisions to the decree.⁴⁵

Parts of the law reflect the strong influence of national security considerations on migration management. Most notably, article 15 states: “To ensure the benefit to the Kingdom of Thailand’s security and public safety, the minister of interior, with approval from the cabinet, may issue an announcement regarding the areas for accommodation of

⁴² Temporary Measures to Correct Errors in the Management of Foreign Workers’ Employment, NCPO Order No. 33/2560, July 4, 2017. The specific articles in the Royal Decree concerning the Management of Foreign Workers’ Employment that were suspended are arts. 101, 102, 119, and 122. Article 101 applies to punishment of irregular migrant workers who are apprehended in Thailand and are not victims of trafficking. Article 102 applies to employers who hire irregular workers. Article 119 requires migrant workers to seek permission to work from the registrar (a government official) or face fines of 20,000 to 100,000 baht (US\$610 to \$3,050). Article 122 sets out penalties for employers who receive a migrant to work who does not have a work permit, with fines of 400,000 to 800,000 baht (\$12,203 to \$24,406) per such migrant hired.

⁴³ “Thailand: Migrant Worker Law Triggers Regional Exodus,” Human Rights Watch news release, July 7, 2017, <https://www.hrw.org/news/2017/07/07/thailand-migrant-worker-law-triggers-regional-exodus>.

⁴⁴ Consultation meeting on the draft Royal Decree concerning the Management of Foreign Workers’ Employment, Department of Employment, Ministry of Labour, Bangkok, December 6, 2017, accompanying documents on file with Human Rights Watch. See also, Human Rights Watch conversations with senior official at the Office of the Prime Minister, Bangkok, July 9 and December 6, 2017.

⁴⁵ Letter from Jarin Chakkaphark, permanent secretary of the Ministry of Labour, to the national police chief regarding NCPO Order No. 33/2560, December 28, 2017.

migrant workers with work permits, permitted workers, and any specific groups or any areas.”⁴⁶ With this authority, the interior minister can make determinations of where migrant workers can and cannot reside while working in Thailand. However, in interagency discussions to revise the law, the Council of State indicated opposition to article 15, stating it is a violation of rights of migrant workers, and the council’s recommendation to remove article 15 from the law received support in an inter-agency meeting.⁴⁷

Regularizing Migrant Workers in Thailand

Thailand’s lack of a coherent, long-term national policy framework on labor migration exacerbates the risk of forced labor and trafficking. The absence of affordable and accessible legal channels pushes migrants toward riskier crossings and into the hands of brokers who may be involved in trafficking networks. For undocumented and registered migrants working in fishing, the failures of Thai labor migration policy make the risks of trafficking and exploitation higher.

Since Thailand’s first cabinet resolution on low-skilled labor migration in 1996, successive governments have implemented policies characterized by periodic amnesties and registration schemes that permit irregular migrants to work temporarily, pending deportation or full regularization.

In the early 2000s, Thailand introduced its first national policy allowing legal entry for low-skilled migrants when it signed bilateral memorandums of understanding (MOUs) on employment cooperation with Burma, Cambodia, and Laos. By the late 2000s, there were three channels enabling low-skilled migrants to work temporarily in Thailand.⁴⁸ The first was to register with the Thai government to obtain permission to work under a temporary status while awaiting deportation, and then extend that status. Second, migrants could undergo a nationality verification (NV) process with home country officials to obtain a

⁴⁶ Royal Decree concerning the Management of Foreign Workers’ Employment, B.E. 2560 (2017), art. 15.

⁴⁷ Consultation meeting on the draft Royal Decree and presentation by Council of State representative, December 6, 2017.

⁴⁸ In practice, formal mechanisms for low-skilled labor migration in Thailand have been fraught with uncertainties and inefficiencies from their inception. The regulations and application procedures, devised by the DOE (under the Ministry of Labour) and approved by an interagency committee and ultimately the Thai cabinet, have been correctly criticized for being poorly communicated and ineffectively promoted among migrant communities, as well as being too time consuming, bureaucratically complex, and expensive. These complicated and poorly understood registration processes have provided opportunities for corrupt officials in both Thailand and origin countries, as well as under-regulated actors such as brokers and recruitment agencies, to earn under-the-table profits and exploit migrants’ vulnerabilities.

temporary passport or certificate of identity, then move to regularized status.⁴⁹ Third, prospective migrants could attempt to be hired under MOU procedures, and thereby travel through formal migration channels facilitated by recruitment agencies in the labor-sending country working with Thai agencies, the Department of Employment (DOE), and Thai employers.

However, high fees charged by recruitment agencies in origin countries have limited entry through formal channels: in 2013, only 5 percent of Thailand's migrants were working under the MOU scheme.⁵⁰ In 2016, an International Organization for Migration (IOM) survey of 600 Cambodian migrants found that 80 percent traveled to Thailand irregularly.⁵¹ A 2017 survey conducted by the ILO and IOM of over 1,000 people who migrated to Thailand from Burma, Laos, Cambodia, and Vietnam for low-skilled work found that irregular channels were more than two-thirds faster and more than twice as cheap as regular channels.⁵²

In June 2014, the NCPO issued Order No. 70/2557, Interim Measures in Solving the Problem of Migrant Workers and Human Trafficking.⁵³ It led to more than 1.5 million migrant workers and 92,000 dependents from Cambodia (45 percent), Burma (41 percent), and Laos (14 percent) being registered via the “pink card,” or non-Thai identification card, scheme.⁵⁴ Migrants who hold pink cards cannot leave their province of registration for more than seven days, requiring written permission from local government officials, and are alienated from some social protection mechanisms, such as the Workmen's Compensation Fund.

⁴⁹ Thailand's NV process, which underpinned efforts to move the bulk of Thailand's irregular migrants to regularized status, has also lacked coherence and continuity. The process, which called for all Cambodian, Burmese, and Lao nationals working in Thailand to have their nationality verified by visiting officials from their countries and have passports issued to them by their governments, has been characterized by a series of passed deadlines and extensions since its original date for completion in February 2012. These failures arose from a variety of causes, including Thai regulatory weaknesses, disputes between Thailand and Burma, and failures of the governments of Burma, Cambodia, and Laos to conduct verification visits in the field and issue passports to migrant workers in a timely way.

⁵⁰ Claudia Natali et al., “International Migration Policy in Thailand,” *Thailand Migration Report 2014* (Bangkok: UN Thematic Working Group on Migration in Thailand, 2014), p. 15.

⁵¹ Bung Sengkong and Ananth Baliga, “Cambodian Migrants to Thailand Still Lack Papers: IOM,” *Phnom Penh Post*, August 10, 2016, <http://www.phnompenhpost.com/national/cambodian-migrants-thailand-still-lack-papers-iom> (accessed March 13, 2017).

⁵² Harkins et al., *Risks and Rewards*, p. 36.

⁵³ NCPO Order No. 70/2557 (2014).

⁵⁴ Office of Foreign Workers Administration, Statistics on Foreign Workers Given Permission to Work Temporarily in the Kingdom 2016 (สถิติจำนวนคนต่างด้าวที่ได้รับอนุญาตทำงานคงเหลือชั่วคราวอาณาจักร ตุลาคม 2559) (Bangkok: Ministry of Labour, October 2016).

The scheme was originally intended as a temporary measure to provide more time for the NV process and regularization. But by March 2015, the low number of temporary passports and certificates of identity issued by the Burmese and Cambodian governments, and a large application backlog, had prompted many workers to reconsider engaging in the NV process. Thailand's government was forced to extend the validity of pink cards beyond October 2014 to mid-2015. Since then, the validity of pink cards has been extended repeatedly. On December 19, 2017, the Thai cabinet decided to extend the pink cards for another six months until June 30, 2018.⁵⁵

The DOE's Office of Foreign Workers Administration currently states that migrant fishers from Burma and Cambodia must have their nationality verified before their pink cards expire, but citizenship verification processes by those two governments are so slow that further extensions or other solutions may need to be found.⁵⁶

On February 23, 2016, the government instituted a de-regularization policy that made the legal status of a significant number of workers more precarious. It invalidated all temporary passports and visas due to expire before March 2016, and forced migrants with these documents and those still awaiting NV to revert to the more restrictive pink card system.⁵⁷ It also prohibited new irregular migrants from registering for pink cards.

⁵⁵ Letter from Jarin Chakkaphark, December 28, 2017.

⁵⁶ Department of Employment, "Foreigners With Ordinary Pink Cards (Expiring on March 31, 2018); Fishers and Seafood Processing Workers (Expired on November 30, 2017) Must Do What?" https://www.doe.go.th/prd/alien/faq/param/site/152/cat/25/sub/24/pull/detail/view/faq-detail/object_id/195 (accessed December 13, 2017).

⁵⁷ Decision of the RTG Cabinet on Management of Migrant Workers (มติคณะรัฐมนตรีเมื่อวันที่ ๒๓ กุมภาพันธ์ ๒๕๕๙ เรื่องการบริหารจัดการแรงงานต่างด้าว), February 23, 2016.

III. Recruitment Processes in the Fishing Industry

Our guides [through the jungle] were part of a gang. The pickup driver and the skipper took turns watching us so we couldn't sneak away. They had guns.

—Ye Zarni Tun, Burmese trafficking survivor, Bang Rin, Ranong, March 2017

Demands for Migrant Labor in the Fishing Industry

Over the last three decades, as economic development in Thailand opened up new opportunities for employment, Thai nationals have increasingly avoided work in fishing due to dangerous and dirty working conditions, low wages, and the negative social status attached to the profession.⁵⁸ At the same time, Thailand's population is aging, with almost 400,000 fewer Thais ages 15 to 39 entering the workforce each year.⁵⁹ Migrant workers from less-developed neighboring countries like Burma, Cambodia, and Laos, which also have young populations, are filling the gaps in the labor market.

In 2015, the Department of Fisheries noted that 82 percent of Thailand's 172,430 fishers were migrant workers.⁶⁰ In May 2017, the DOE reported that 49,138 migrant workers were registered as working in the fishing industry—33,851 with pink cards, 13,856 through the nationality verification process, and 1,431 through the MOU process.⁶¹ Following further registrations in July and August, the number of registered fishery workers from Cambodia, Laos, and Burma had risen by 10,605 workers.⁶²

⁵⁸ International Organization for Migration, *Trafficking of Fishermen in Thailand*, January 2011, <https://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/countries/docs/thailand/Trafficking-of-Fishermen-Thailand.pdf> (accessed February 6, 2017).

⁵⁹ Jerrold W. Hugué, "Thailand Migration Profile," *Thailand Migration Report 2014* (Bangkok: UN Thematic Working Group on Migration in Thailand, 2014), p. 4.

⁶⁰ Department of Fisheries, *Marine Fisheries Management Plan of Thailand: A National Policy for Marine Fisheries Management, 2015-2019* (Bangkok: Ministry of Agriculture and Cooperatives, 2015), p. 10. Since this figure includes artisanal fishing communities, which are overwhelmingly Thai, the share of migrant workers in industrial fishing is likely greater.

⁶¹ Office of Foreign Workers Administration, "NFAT Makes a Proposal to MOL to Solve the 60,000 Person Labor Shortage" ("สมาคมประมงแห่งประเทศไทยยื่นข้อเสนอกระทรวงแรงงาน แก้ปัญหาขาดแคลนแรงงานประมงกว่า 60,000 คน"), May 9, 2017, https://www.doe.go.th/prd/alien/service/param/site/152/cat/23/sub/o/pull/detail/view/detail/object_id/2327 (accessed July 5, 2017).

⁶² Department of Employment, "Number of Remaining Registered Fishing and SFP Migrant Workers from Cambodia, Lao PDR, and Myanmar in Thailand," 2017, unpublished document on file with Human Rights Watch. This data does not indicate the number of port workers, as opposed to fishers, included in the total.

Low-skilled, poorly paid young migrant workers—both regular and irregular—have long maintained the competitiveness of some of Thailand’s key export-oriented industries, including fishing.⁶³ Evidence indicates that high availability of low-skilled migrants can reduce incentives for companies to shift to more technologically advanced forms of production.⁶⁴ This trend is apparent in Thailand’s fishing industry, where there has been a demonstrable reluctance to invest in upgrading fleets with labor-saving technologies that increase efficiency and output.⁶⁵ This failure to invest in business models with higher labor productivity and less reliance on cheap labor has been complicated by unsustainable fishing levels and declining yields over the last half-century.⁶⁶

The low productivity of many Thai fishing firms has depressed wages, making it harder to attract workers and exacerbating demand for cheap labor. Every vessel operator, skipper, and representative from provincial fishing associations interviewed by Human Rights Watch said there was a shortage of workers in the fishing sector. In recent years, this persistent labor shortfall may have worsened as new migrants spurn fishing for relatively higher paid jobs onshore. Recent industry estimates suggest the sector lacks as many as 74,000 workers.⁶⁷

As a result, since 2014 the government and private sector have floated various initiatives to address the labor deficit, including putting convicted prisoners on early-release schemes to work on fishing boats and joint public-private campaigns to entice Thais into the industry.⁶⁸

⁶³ Elaine Pearson, *The Mekong Challenge—Underpaid, Overworked and Overlooked: The Realities of Young Migrant Workers in Thailand* (Bangkok: ILO, 2006), p.88.

⁶⁴ Uri Dadush, *The Effect of Low-Skilled Labor Migration on the Host Economy* (Washington, DC: Global Knowledge Partnership on Migration and Development, 2014), http://www.knomad.org/powerpoints/working_papers/Effect%20of%20Low%20Skilled%20Labor%20Working%20Paper%201.pdf (accessed December 6, 2016).

⁶⁵ Conversely, investing in more technologically sophisticated fishing methods can have positive impacts. One Burmese fisher described to Human Rights Watch how, in 2013, the company he works for decided to mechanize the laying and hauling of crab traps aboard their boats. This shift raised the number of traps set from roughly 3,000 to 6,000 per night and wages rapidly doubled in line with productivity, although this came at the expense of adequate rest hours. See Human Rights Watch interview with Aung Soe, Don Sak, Surat Thani, September 9, 2016.

⁶⁶ Environmental Justice Foundation, *Pirates and Slaves: How Overfishing in Thailand Fuels Human Trafficking and the Plundering of Our Oceans* (London: EJF, 2015).

⁶⁷ “Fishing Feels Pinch of Migrant Squeeze,” *Bangkok Post*, July 26, 2017, <http://www.bangkokpost.com/archive/fishing-feels-pinch-of-migrant-squeeze/1293855> (accessed August 19, 2017).

⁶⁸ “Thailand: Don’t Supply Prisoners to Fishing Boats,” Human Rights Watch news release, December 10, 2014, <https://www.hrw.org/news/2014/12/10/thailand-dont-supply-prisoners-fishing-boats>; Rungnapha Songwonsombat, “Samut Songkram Pilots Scheme Encouraging Thai Workers to Take Up Fishing to Address Future Labor Shortages” (“จ.สมุทรสงคราม

Research on the Thai fishing industry has pointed to how chronic labor shortages interact with the unattractiveness of work in fishing—particularly low wages, long hours, and dangerous and difficult working conditions—to increase the risk of forced labor within the sector.⁶⁹ Migrants are increasingly familiar with the risk of exploitation that fishing work presents, due to awareness-raising efforts by civil society groups, widespread coverage in Burmese and Khmer-language media, and the ability to communicate more easily and cheaply through instant messaging, smart phones, and growing internet connectivity.

From 2015 to 2016, thousands of vessels were forced to stop fishing as part of the Thai government’s response to the so-called yellow card from the European Commission, under which Thailand’s exports faced potential sanctions barring import of its seafood into the European Union because of widespread illegal, unreported, and unregulated (IUU) fishing.⁷⁰ To retain as many of the 60,000 migrant fishers thought to be affected by these stoppages as possible, the Ministry of Labour in July 2015 allowed migrants to register for work with more than one vessel operator.⁷¹

In 2016, a senior provincial official attached to a multidisciplinary inspection team described to Human Rights Watch how migrant fishers, unaware of the restrictions related to their employment, were abandoning fishing vessels in favor of onshore work in sectors such as construction, even though doing so meant becoming an undocumented migrant worker at risk of arrest and deportation.⁷² Vessel operators and civil society organizations similarly noted unauthorized movement from the fishing industry into onshore sectors.

นำร่องส่งเสริมแรงงานไทยเข้าสู่ภาคประมงแก้ปัญหาการขาดแคลนแรงงานในอนาคต”), *National News Bureau Thailand*, December 5, 2015.

⁶⁹ Supang Chantavanich et al., *Employment Practices and Working Conditions in Thailand’s Fishing Sector* (Bangkok: ILO, 2013), p. 29.

⁷⁰ The EU, through the the IUU Regulation carding process, will periodically assess and judge whether an external country has undertaken reforms sufficient to end IUU practices, and therefore earn a “green card” that lifts the potential of sanctions, or has failed to make the reforms, thus prompting the issuance of a “red card” that will enact the sanction. See Council Regulation Establishing a Community System to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, EC 1005/2008, September 29, 2008, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:286:0001:0032:EN:PDF> (accessed February 6, 2017).

⁷¹ Napapen Supakoson, “Labor Minister says No Plan to Extend Timeline for Registration of Foreign Workers in Fishing, Focus on Legalization” (“รวม.แรงงาน ยืนยันยังไม่มีความคิดขยายเวลาจดทะเบียนแรงงานต่างด้าวประมง เน้นนำเข้าอย่างถูกกฎหมาย”), *National News Bureau Thailand*, July 13, 2015.

⁷² Human Rights Watch interview with deputy head of a provincial PIPO center (location withheld), November 11, 2016.

Industry representatives interviewed by Human Rights Watch consistently highlighted the challenges they faced because of the Thai government's response to the threat of sanctions by the EU and United States. Vessel operators who spoke to Human Right Watch said that regulatory reforms since mid-2015 had resulted in significant negative economic impacts on their businesses.⁷³

Recruitment of Workers in the Fishing Industry

A lack of straightforward and affordable formal systems for regular migration means most migrants have little choice but to engage brokers and human smugglers. Most migrants from Cambodia, Burma, and Laos migrate to Thailand for work irregularly.⁷⁴ A migrant worker registration scheme introduced by the military government in 2014 has provided migrant fishers, most of whom were previously undocumented, with pink cards.⁷⁵ During interviews, the majority of fishers arriving in Thailand both before and after 2014 described using irregular channels, sometimes involving multiple brokers, and informal recruitment into the fishing industry.

Labor brokers in countries of origin and destination areas recruit new workers on behalf of employers, skippers, or boatswains. Recruitment often involves multiple brokers—typically not Thai nationals—specializing in finding workers, obtaining documentation, transporting people within destination countries, and connecting migrants with job opportunities.⁷⁶ Migration facilitated by informal brokers generates significant risk: UN research on Cambodian migrants to Thailand indicates that the risk of labor exploitation or trafficking increases 1.5 to 1.7 times with each broker involved in the journey to and across the Thai border.⁷⁷

⁷³ Vessel operators typically emphasized the increased costs associated with compliance (e.g., costs for vessel tracking hardware and its ongoing operation or cost of replacing illegal fishing gear), as well as lost income, for example from temporary vessel stoppages or changes to the ways fishing rights are allocated. Some new costs are directly associated with reforms to the way workers are employed. For example, operators told Human Rights Watch about increased administrative costs associated with preparing and updating the package of documents required by each worker to pass PIPO inspections.

⁷⁴ Harkins et al., *Risks and Rewards: Outcomes of Labor Migration in South-East Asia* (Bangkok: ILO and IOM, 2017), p. 34.

⁷⁵ Chantavanich et al., *Employment Practices and Working Conditions in Thailand's Fishing Sector*, p. 36.

⁷⁶ S. Srakaew and P. Tangpratchakoon, *Brokers and Labour Migration from Myanmar: A Case Study from Samut Sakhon* (Bangkok: Asian Research Center for Migration, 2009).

⁷⁷ United Nations Inter-Agency Project on Human Trafficking, *Human Trafficking Sentinel Surveillance: Poipet, Cambodia 2009-2010* (Bangkok: UNIAP, 2010), p. 50.

Many brokers are unscrupulous and exploit workers, but many others exist to provide a service to migrants in the absence of accessible alternatives.⁷⁸ But in either case, the informality of the process and the lack of any formal oversight or regulation generate risks for migrants. The networks of brokers who smuggle and traffic migrants to Thailand are typically flexible and lack central coordination. In this respect, the involvement of organized and higher-echelon criminal elements is limited to certain functions, for example “gatekeepers”⁷⁹ at key border crossings who cultivate relationships with corrupt officials to facilitate the transit of large numbers of undocumented migrants traveling with different brokers.⁸⁰

Among workers interviewed by Human Rights Watch, the main route into the fishing industry was through recommendations from friends, relatives, or acquaintances in their home communities, in border areas, or while working in other sectors in Thailand, such as construction, agriculture, or manufacturing. Recommendations typically pinpointed specific companies, advice about various ports, and phone numbers for a broker or boatswain looking to fill shortages.⁸¹

Most survivors of trafficking Human Rights Watch interviewed had chosen to migrate voluntarily, but were subsequently trafficked during their journey to Thailand. The predominant route for involuntary entry into the fishing sector involved a broker who had either directly approached the migrant or whom the migrant had approached without a recommendation. Brokers involved in human trafficking were sometimes known to their victims, as Hlaing Min described:

⁷⁸ Some migrant fishers interviewed by Human Rights Watch said that they trusted the brokers that they engaged and were satisfied with both the quality of service and the fees charged to them. See, for example, Human Rights Watch interview with seven Burmese migrants working on purse seine and trawl fishing vessels, Pak Nam, Chumphon, September 8, 2016.

⁷⁹ Men trafficked to Kantang, for example, said that a local broker cultivated relationships with corrupt Thai officials manning checkpoints in order to transport undocumented migrants south from the Kawthaung-Ranong border crossing. In turn, this individual had connections to a “gatekeeper,” the wife of a senior Burmese immigration official in Kawthaung, who allegedly facilitated the transport of large numbers of undocumented migrants across the Thai-Burma border. See Human Rights Watch interview with eight Burmese trafficking survivors, Rattaphum, Songkhla, September 29, 2016.

⁸⁰ There is evidence that Thailand’s overseas fishing industry has intersected closely with organized criminality. The Indonesian government implicated foreign fishing fleets, including Thai vessels, in a variety of organized criminal activities, from wildlife trafficking to drug smuggling. In Thailand, authorities have previously shut down industrial-scale counterfeiting operations producing fake documentation for migrants working on overseas boats. See “Fake Seaman Book Press Seized” (“จับโรงพิมพ์ปลอมซีแมนบุ๊ก”), *Thai Rath*, August 16, 2014, <https://www.thairath.co.th/content/443624> (accessed September 5, 2017).

⁸¹ See, for example, Human Rights Watch interview with nine Cambodian migrants working on a light-assisted falling net fishing vessel, Laem Ngop, Trat, November 9, 2016.

We knew one of the brokers from back in Burma, he was one of our neighbors. Let me tell you, it was only when we arrived in Thailand and saw the trouble we were in that we realized he was a trafficker. We'd just thought that he was helping us find a job.⁸²

Traffickers access and exploit vulnerable individuals in different ways. Than Naing told Human Rights Watch how he was trafficked after paying a broker 12,000 baht (US\$365) from his savings to travel to Thailand to visit his wife who was working in Phuket.⁸³ Police arrested Kaung Lay and placed him in an immigration detention center in Ranong when a trafficker came to visit and told him he could get him a job. "He bailed me out of jail and sent me to Kantang," Kaung Lay said.⁸⁴

Tong Seng, a 29-year-old Cambodian working aboard a light-assisted purse seine in Rayong, said that his uncle-in-law had trafficked him and three others to Thailand at age 13.⁸⁵

Some companies and vessels prefer to recruit from social networks, typically without involving brokers. As a Burmese boatswain in Phang Nga said: "When we need to recruit new workers, we rely on friends or contacts from among the current crew."⁸⁶

However, recruitment systems that do not involve brokers are impractical for many operators, especially for larger companies that struggle to fill labor shortages. Employers often rely on skippers, who in turn depend on boatswains who may maintain contact with brokers in local communities or brokers involved in conveying workers directly from neighboring countries. Some boatswains are themselves brokers, while some brokers who operate onshore may have formerly worked at sea.

Many employers do not have time to manage the recruitment process themselves. One operator of a tuna purse seiner in Pattani said:

⁸² Human Rights Watch interview with nine Burmese trafficking survivors, Bang Rin, Ranong, March 11, 2016.

⁸³ Human Rights Watch interview with 11 Burmese trafficking survivors, Bang Rin, Ranong, March 14, 2016.

⁸⁴ Human Rights Watch interview with six Burmese trafficking survivors, Mueang Songkhla, Songkhla, March 15, 2016.

⁸⁵ Human Rights Watch interview with Tong Seng, Cambodian migrant working on a light-assisted purse seine fishing vessel, Mueang Rayong, Rayong, November 12, 2016.

⁸⁶ Human Rights Watch interview with 10 Burmese migrants working on a purse seine fishing vessel, Baan Nam Khem, Phang Nga, March 7, 2016.

Is a boat owner with 27 vessels meant to know how to recruit workers? They can ask the government for 30 workers for each vessel, that's about 900 people. But the government wouldn't even be able to find 30 people! How do you expect us to operate our boats like that?⁸⁷

Brokers in origin, border, and destination areas also collude with employers, skippers, and boatswains to deceive or coerce migrants into work in fishing. The informality in recruitment systems prevents workers from becoming informed about their rights or about working and living conditions in the industry before starting work.⁸⁸

Importance of Social Capital and Migrant Networks

Interpersonal networks connect migrants, former migrants, and residents in origin and destination areas through kinship, friendship, and community. Over time, migrant networks have been shown to increase the likelihood of international movement because they lower the costs and risks of migration and increase the expected gains from migrating.⁸⁹ Connections within migrant networks link potential migrants in origin areas with those in destination areas, and provide access to social capital—information, funds, assistance, and influence—they can use to safely navigate the migration journey.

Migrant fishers receive a number of important advantages if they have families or relatives in the local community in Thailand, previous experience working in Thailand, or other connections to transnational migrant networks. This can improve their chances of finding decent employment and their understanding of their rights, or provide support networks that buffer against unemployment periods or heavy reliance on brokers and other intermediaries.

Those without such connections are at heightened risk of abuse. Burmese and Cambodian migrant workers interviewed by Human Rights Watch considered new entrants into the industry as being at the highest risk of trafficking and exploitation. Several crew identified

⁸⁷ Human Rights Watch interview with Thai tuna purse seine operator, Mueang Pattani, Pattani, August 10, 2016.

⁸⁸ Ministerial Regulation concerning Labour Protection in Sea Fishery Work, B.E. 2557 (2014) (กฎกระทรวงคุ้มครองแรงงานในงานประมงทะเล พ.ศ. ๒๕๕๗), <http://www.labour.go.th/th/attachments/article/23969/23969.pdf> (accessed April 19, 2017), sec. 17.

⁸⁹ Douglas S. Massey, "Social Structure, Household Strategies, and the Cumulative Causation of Migration," *Population Index*, vol. 56(1) (1990), pp. 3-26.

information-sharing on employers, vessels, skippers, boatswains, and brokers among longer-term migrants as a key factor in reducing vulnerability.⁹⁰ Human Rights Watch found that many of the migrant fishers working in comparatively better circumstances had either been in the industry or country for a long time or were engaged in circular migration, with semi-regular returns home.⁹¹

Journeys into Thailand

Relatively porous borders, corruption among border officials, demand for low-skilled workers, and a thriving migration industry of agencies and brokers combine to create an environment conducive to regular and irregular movement of migrants from Burma and Cambodia via well-established migration corridors.

Current and former fishers interviewed by Human Rights Watch predominantly reported using one of seven border crossings into Thailand from Cambodia and Burma. In Cambodia these include Poipet-Aranyaprathet, Koh Kong-Hat Lek, and Daun Lem-Ban Laem, while in Burma they include Kawthaung-Ranong, Htee Khee-Phu Nam Ron, Payathonsu-Chedi Sam Ong, and Myawaddy-Mae Sot.

Most fishers migrated from rural regions of Burma and Cambodia. Many were temporary migrants working for several months to a few years, with annual or biannual trips home for festivals, holidays, and celebrations. Many also lived in ports across Thailand, typically with families. Some migrants structured their work in the fishing industry around their anticipated return to their home villages for agricultural harvests.⁹²

Most current and former workers in the fishing industry cited similar reasons for their decision to migrate, including poverty and the poor overall economic situation in home communities, reunification with family members working in Thailand, and disputes with family members in origin countries.

⁹⁰ See, for example, Human Rights Watch interview with Kyaw Moe, Burmese migrant working on a trawl fishing vessel, Samee San, Chonburi, March 2, 2016.

⁹¹ See, for example, Human Rights Watch interview with four Cambodian migrants working on a light-assisted purse seine fishing vessel, Mueang Rayong, Rayong, November 8, 2016.

⁹² Human Rights Watch interview with nine Cambodian migrants, November 9, 2016.

The journeys undocumented migrants take to Thailand are often long and circuitous. Irregular migration necessarily involves guidance and supervision, significantly reducing migrants' control over the process and increasing their exposure to danger and coercion—as illustrated by a case involving 35 Burmese men rescued from Phuket in early 2016.⁹³ Most of the 35 men passed through the Payathonsu-Chedi Sam Ong border crossing between May 2015 and January 2016 on temporary border passes and were met on the Thai side by a Mon broker, who had told them they would be able to work in sugar plantations, shrimp processing factories, or construction sites.⁹⁴ They were told they would be paid monthly salaries of 8,000 to 9,000 baht (\$244 to \$275) with free accommodation. Recruitment fees would be paid off over two to three months through deductions from their salaries.

The men said they were taken to a nearby sugarcane plantation, where they had their photos taken. Most were then put on pickup trucks where they had to lay together head-to-toe, covered with a black plastic sheet punctured with breathing holes. Some men were concealed in the luggage compartments of long-distance coaches operated by private companies and covered with goods. The men in pickups were driven by a uniformed police officer—they passed through dozens of checkpoints, sometimes seen but never stopped.⁹⁵ One man told Human Rights Watch: “The [soldiers] told me and another two guys to come down from the cargo bed. They checked our faces without saying anything and then told us to return to the pickup truck.”⁹⁶

Most of the men said that when they reached their different drop-off points, they were handed a fake Burmese passport featuring a picture taken at the sugarcane plantation, transferred into private minivans, and taken to Phuket. Once there, they met other men who had taken different routes. All said they were locked in a room before boarding fishing

⁹³ Human Rights Watch interviews with 11 Burmese trafficking survivors, March 14, 2016; 11 Burmese trafficking survivors, Bang Rin, Ranong, March 11, 2016; and nine Burmese trafficking survivors, Bang Rin, Ranong, March 14, 2016.

⁹⁴ Different temporary border passes are available to Burmese, Cambodian, and Lao nationals. They are issued by provincial authorities, allow the holder right to stay in Thailand for varying lengths of time, and, in some provinces, can be used to legally obtain work.

⁹⁵ Human Rights Watch interview with 11 Burmese trafficking survivors, March 11, 2016.

⁹⁶ Ibid.

vessels. Each time their boats came into port after that, the brokers received them at the pier and returned them to confinement until they were finally rescued in January 2016.⁹⁷

Trafficked into the Fishing Industry

Wai Min Phyoo

In June 2016, a broker came to Wai Min Phyoo's village in Mon State, Burma, with promises of a job in a garment factory in Ratchaburi, an 8,500 baht (US\$260) monthly salary, and free accommodation and food. The brokers stated that the 25,500 baht (\$778) recruitment fee to travel and get the job would be repaid in three months. The broker took Wai Min Phyoo and five others to Dawei, then to Kawthaung, and then across the border at night on longtail boats with 25 others to a village on the Thai side. From there, they were taken by truck and armed guard escort to a palm oil plantation, onto a rubber plantation, then through a forest and over a mountain to a farm. They were not given food. When the migrants tried to leave the house to find food, or spoke too loudly, the Thai owner fired his gun in the air. After two days, the farm owner took them to another plantation, and after a six-hour journey they were placed under guard in another house by an ethnic Rakhine broker. "He and his gang said that we weren't allowed to talk," Wai Min Phyoo said. "He threatened to stab us with his knife if we made any noise." After two nights, they were taken by motorbike to Pattani before being forced onto a fishing vessel.⁹⁸

Kyaw Moe

At age 16, Kyaw Moe traveled by boat with a Burmese broker from Myawaddy across the Moei River into Mae Sot, Thailand, for what he had been told was a construction job that would pay him 300 baht (\$9) per day. From there, a pickup truck took him, seven other undocumented migrants, and a Thai man to Samae San, a town in Sattahip district of Chonburi province. Traffickers took five of the men straight to fishing piers and forcibly confined the other two, including Kyaw Moe, in a lockup for about a week. A trawler owner paid the broker 11,000 baht (\$335) for each of the men. Kyaw Moe spent the next six months on the trawler working without wages to pay off 22,000 baht (\$670) worth of debt and accumulated interest. After six months, the boatswain told Kyaw Moe that his debt was cleared, but he would not be allowed to stop working on the boat until others took his place. Years later, Kyaw Moe remains trapped in Samae San, working for a similarly exploitative employer.⁹⁹

Maung Win

⁹⁷ Ibid. See also, Human Rights Watch interviews with nine Burmese trafficking survivors and 11 Burmese trafficking survivors, March 14, 2016.

⁹⁸ Human Rights Watch interview with 14 Burmese trafficking survivors, Rattaphum, Songkhla, September 30, 2016.

⁹⁹ Human Rights Watch interview with Kyaw Moe, March 2, 2016.

Before Maung Win was trafficked, he worked on a small oil tanker operating out of Songkhla that sold fuel to fishing boats. In June 2016, when the tanker returned to port after a regular voyage, the boat owner did not have Maung Win's 6,000 baht (\$183) salary ready for him. Maung Win decided to spend the night in a brothel and was taken by a motorcycle taxi driver to an establishment near Songkhla's Ta Sa-aan fishing port. In the morning, the brothel's owner, known by the alias "Rak," told Maung Win that he owed 6,000 baht for alcohol and the services of the sex worker. Maung Win explained he was still waiting for his wages, but Rak locked him in a room for 15 days. Rak then took Maung Win to collect 9,000 baht (\$275) from his employer, all of which he gave to Rak. However, Rak then told Maung Win that he would also have to work for him, threatening Maung Win with his alleged connections to the local police. The next day, Rak sent Maung Win by a fishing resupply (carrier) vessel to a Vietnamese trawler disguised as a Thai vessel that was illegally fishing for sea cucumbers in the Gulf of Thailand. He worked on the trawler for 21 days before Marine Police arrested and detained him. Maung Win believes he had been sold to the trawler for 10,000 baht (\$305).¹⁰⁰

Legal Status of Migrant Workers

In a 2013 ILO survey, over half of all migrant fishers interviewed in Thailand were undocumented.¹⁰¹ According to earlier research from the IOM, migrant fishers going to overseas fishing grounds in Malaysia, Indonesia, and elsewhere were typically provided with fraudulent seafarer books that mimicked official Marine Department documents but were filled with false biographic information that identified the migrant fisher as a Thai national. Only the photograph of the holder of the seafarer book was genuine.¹⁰²

In March 2015, the Thai junta issued a cabinet resolution introducing biannual registrations at static and mobile One Stop Service (OSS) centers situated in all coastal provinces.¹⁰³ Currently, most migrant workers in the Thai fishing industry have been registered under the NCPO's pink card scheme, which grants migrant fishers permission to work in the fishing industry for a defined period from the date of issue.¹⁰⁴

¹⁰⁰ Human Rights Watch interview with Maung Win, Burmese trafficking survivor, Rattaphum, Songkhla, September 29, 2016.

¹⁰¹ Chantavanich et al., *Employment Practices and Working Conditions in Thailand's Fishing Sector*, p. 36.

¹⁰² IOM, *Trafficking of Fishermen in Thailand*, pp. 21-24.

¹⁰³ Decision of the RTG Cabinet on Establishing the Labor System for Foreign Workers from Burma, Laos, and Cambodia (มติคณะรัฐมนตรีเมื่อวันที่ ๓ มีนาคม ๒๕๕๘ เรื่อง การจัดระบบแรงงานต่างด้าวสัญชาติเมียนมา ลาว และกัมพูชา), March 1, 2016.

¹⁰⁴ See Royal Ordinance on Fisheries, B.E. 2558 (2015), sec. 83.

During the April-June 2015 registration period, 54,402 migrant fishers obtained pink cards, and 13,000 more registered in an extension period from November 2015 through July 2016.¹⁰⁵ Almost all fishers Human Rights Watch interviewed had a pink card.¹⁰⁶

Pink card registration periods are announced by the Policy Committee on Migrant Worker Issues and Labor Trafficking.¹⁰⁷ The committee receives information from government agencies and private sector stakeholders, including NFAT which submits estimates on worker shortfalls across the sector.

In 2017, the Ministry of Labour announced that migrant fishers needed to renew pink cards by the end of March or risk deportation. By late March, however, over two-thirds of fishers had reportedly failed to do so.¹⁰⁸ In response to the low renewal rate, the DOE revived negotiations with neighboring countries on government-to-government agreements for the recruitment of fishery workers.¹⁰⁹

Some migrant workers interviewed in border provinces such as Chanthaburi, Trat, and Ranong had obtained work permits linked to temporary border passes valid for three months, costing a total of 2,010 baht (\$61).¹¹⁰ Vessel operators employing migrants under this arrangement reported a strong preference for workers registered under pink cards, apparently due to the periodic costs of the work permits and requirement for migrants to report to border authorities every month, resulting in labor shortfalls.¹¹¹ As of May 2017, government figures showed 13,856 migrant fishers had undergone nationality verification,

¹⁰⁵ Office of Foreign Workers Administration, Statistics on Foreign Workers Given Permission to Work Temporarily in the Kingdom 2016 (สถิติจำนวนคนต่างด้าวที่ได้รับอนุญาตทำงานคงเหลือชั่วคราวอาเซียน ตุลาคม 2559) (Bangkok: Ministry of Labour, October 2016).

¹⁰⁶ DOE has a record of each pink card, and individual crew members' details are combined with vessel information in an online database that key agencies access, allowing for field inspections of the cards' validity.

¹⁰⁷ คณะกรรมการนโยบายการจัดการปัญหาแรงงานต่างด้าวและการค้ามนุษย์ด้านแรงงาน [กนร] (Policy Committee on Migrant Worker Issues and Labor Trafficking).

¹⁰⁸ "Migrant Workers Told to Register or Face Deportation," *The Nation*, March 22, 2017, <http://www.nationmultimedia.com/news/national/30309872> (accessed April 5, 2017).

¹⁰⁹ Na-ark Rojanasuvan, "DOE Seeks G2G Deal to Find More Fishermen," *National News Bureau of Thailand*, April 2, 2017, http://thainews.prd.go.th/website_en/news/news_detail/WNSOC6004020010012 (accessed April 5, 2017).

¹¹⁰ Comprised of 350 baht for work permit application; 500 baht for a medical checkup; 500 baht for health insurance; and 700 baht for a temporary border pass.

¹¹¹ Human Rights Watch interview with operator of a light-assisted falling net fishing vessel, Khem Nu, Chanthaburi, November 11, 2016.

and 1,431 were working through MOUs on employment cooperation with neighboring countries.¹¹²

A DOE official said that workers did not want to invest in the nationality verification process due to confusion among migrant fishers regarding its value given the complexity and costs.¹¹³

Kosal, a Cambodian migrant working in Pattani, said: “Nowadays, if we’ve got a passport we just throw it away because of its limitations. Employers will get you a pink card.”¹¹⁴ Another DOE official noted that expensive and bureaucratic application procedures are unsuited to the high degree of labor mobility and flexibility in the fishing sector.¹¹⁵ All industry representatives interviewed agreed that liberalizing the pink card system so that employers were not restricted to specific registration periods was the best way to reduce labor shortages and meet industry needs.

However, the pink card system does not give fishers the same rights as regularized migrant workers because it ties their registered status to a specific employer and their movement to the province of registration. To travel to another province, migrants must get permission from provincial authorities or their employer, and all such travel is limited to seven days.¹¹⁶ Migrant fishers with pink cards can access some social security mechanisms but cannot claim compensation through the Workmen’s Compensation Fund for workplace accidents.

The total cost of a pink card application in 2016 was 3,080 baht (\$94),¹¹⁷ 45 percent lower than pre-2014 registration schemes.¹¹⁸ Migrant workers pay for pink cards at the point of

¹¹² Office of Foreign Workers Administration, “NFAT Makes a Proposal to MOL to Solve the 60,000 Person Labor Shortage.” Human Rights Watch did not encounter any migrant fishers recruited under the MOU process.

¹¹³ Human Rights Watch interview with DOE labor specialist, senior professional level (location withheld), November 11, 2016.

¹¹⁴ Human Rights Watch interview with Kosal, Cambodian migrant working on a light-assisted falling net fishing vessel, Mueang Pattani, Pattani, August 11, 2016.

¹¹⁵ Human Rights Watch interview with DOE labor specialist, November 11, 2016.

¹¹⁶ Such restrictions on freedom of movement contravene the rights afforded to migrant workers under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention), adopted December 18, 1990, G.A. Res. 45/158, annex, 45 U.N. GAOR Supp. (No. 49A) at 262, U.N. Doc. A/45/49 (1990), entered into force July 1, 2003.

¹¹⁷ Comprised of 900 baht for work permit application; 500 baht for a medical checkup; 1,600 baht for health insurance; and 80 baht for pink card production.

¹¹⁸ Royal Thai Government, *Trafficking in Persons Report 2015: The Royal Thai Government’s Response, January 1 – December 31, 2015* (Bangkok: RTG, 2016), p. 100.

application. While most vessel operators reported that they funded the upfront costs of employee's pink cards, it was clear from interviews with fishers that this expense is typically passed on to workers through wage deductions. Few employers acknowledged this exploitative practice in interviews with Human Rights Watch.¹¹⁹

Workers reported paying brokers, boatswains, and employers anywhere from below cost to approximately double the true cost of a pink card, with most interviewees reporting costs that were from 500 to 1,000 baht (\$15 to \$30) above the government-mandated amount. Even experienced workers such as boatswains reported being overcharged significant amounts by their employer for pink cards.¹²⁰ Many workers did not know the official cost of their pink card because their employer had not told them. Pink card fees are part of the overall costs charged to fishers by both brokers and employers, and constitute a common means of ensnaring workers in debt bondage.

Gaps in Registration Frameworks

A key factor aggravating trafficking risks for migrant fishers is that employers can authorize third parties to act on their behalf and register migrants for pink cards. The ability of unregulated brokers to control the recruitment of workers up to the point of placing them on a fishing vessel for work, together with the lack of oversight by key government agencies and some employers over the registration process, exacerbates the risk of forced labor.

¹¹⁹ Human Rights Watch interview with owner of a light-assisted falling net fishing vessel, Khem Nu, Chanthaburi, November 11, 2016.

¹²⁰ Human Rights Watch interview with four Cambodian migrants, November 8, 2016.

Myo Myint Htun

Myo Myint Htun arrived in Pattani from Rakhine State in Burma on July 4, 2016. He had been trafficked from Burma along with 14 others, including a 13-year-old boy, to work on a purse seiner.¹²¹ At first, they refused to work and tried to escape from the pier, but a member of the brokers' gang caught them and sent them back to the boat. The boatswain told them a security guard would shoot them if they tried to escape again. The brokers demanded they work on the boat to repay the cost of bringing them to Pattani. The men offered to pay the brokers back with money from their families in Burma, but the brokers only increased their demands—from 20,000 to 25,000 baht (US\$610 to \$762). Myo Myint Htun said: “We stopped believing that [the brokers] would let us go if we paid them off so we decided to work on the boat for them because it wasn't safe for us to try and make it home by ourselves.”¹²²

The fishing vessel was ready to depart but the skipper told the 13 men and the boy that they could not work aboard it without pink cards. A broker came to the pier to take photos of everyone. When she told them to sign the pink card application form, a few men seized their chance, including Thura Aung:

When they tried to get us to sign the pink card applications, three of us refused and told them we wouldn't work on the boats. We contacted the Burmese embassy and waited for rescue. The others couldn't do their pink cards either because of the delay caused by the three of us.¹²³

The brokers brought an older Burmese man, whom they described as the “boat owner,” to try and convince the three to sign the application forms. Eventually they relented, but not before the Burmese embassy in Bangkok mounted a rescue mission.¹²⁴ Thai authorities, assisted by a Burmese civil society group, rescued the group on July 10, 2016, just before the fishing boat was to leave for the open sea with 14 ostensibly legally documented workers. The 13 men and the child had never interacted with the fishing company owner, spoken to a Thai government official, or visited a One Stop Service center to apply for pink cards.

¹²¹ The 13-year-old told Human Rights Watch that the issue of his age went unchallenged by the brokers he encountered. Thai anti-trafficking shelter staff confirmed to Human Rights Watch that they had verified his age.

¹²² Human Rights Watch interview with 14 Burmese trafficking survivors, September 30, 2016.

¹²³ Ibid.

¹²⁴ Ibid. One of the migrants had a cell phone and contacted his parents in Burma, who called the Burmese Embassy in Bangkok and asked officers to help their son escape.

Migrant fishers reported being taken to OSS centers by employers, pier managers, skippers, brokers, relatives of brokers, associates of brokers, enforcers, and people they did not know. Several vessel operators said they used brokers to register migrant workers. One senior provincial DOE official estimated brokers oversaw 60 percent of pink card applications for fishers in her province.¹²⁵ A vessel operator in Trat province said:

There is so much paperwork since PIPO [Port-in, Port-out] and the pink card system were introduced, I can't manage it all myself. I've had to hire a broker to do all the employment contracts and pink card applications, and they charge me 500 baht per worker. It's raised my operational expenses.¹²⁶

Unscrupulous brokers and intermediaries can take advantage of the fact that third parties can register migrants for work to extract profit from vulnerable workers through coercive practices involving debt bondage and entrapment.

Ko Ko Aung, a Burmese trafficking survivor, was taken to the OSS center in Phuket by the brother of his Thai broker. He told Human Rights Watch he felt constantly guarded during the pink card application process, during which no uniformed official at the center showed any interest in him or his companions, who were also victims of trafficking. On the first day at the OSS center, government officials took their photographs and required them to provide blood and urine samples for medical tests. Then they were given the pink card application form—in Thai, already filled out by the broker, which they could not read. They signed.

That night, after the broker had confined Ko Ko Aung and his companions to a locked room, a former Burmese police officer among them told them they must seize any opportunity to escape. On the second day at the OSS center, the broker gave each of them 3,080 baht (\$94) to pay for the application and pick up their pink cards. As soon as the person supervising them became inattentive, the former police officer fled the OSS center, taking the money with him. The officials did not appear to notice, and the broker's representative took the rest of the men back to the locked room. At no point during the pink card application process did a Thai government official speak to Ko Ko Aung or his

¹²⁵ Human Rights Watch interview with DOE labor specialist, senior professional level (location withheld), September 29, 2016.

¹²⁶ Human Rights Watch interview with operator of a light-assisted falling net fishing vessel, Khlong Yai, Trat, November 10, 2016.

companions. Ko Ko Aung was eventually rescued from forcible confinement by Thai authorities following a tip-off.¹²⁷

Most of the migrant fishers interviewed by Human Rights Watch, including those who could speak Thai, said there was no substantive interaction between them and OSS officials, although some did ask specific questions to collect personal details, such as name and home address, needed for the form.

Technically, migrants are permitted to work on fishing vessels as soon as they have a pink card and can pass through a PIPO inspection. For trafficking victims, this can leave very little time between arrival in Thailand and placement on a vessel. One of the men trafficked to Phuket before Ko Ko Aung but rescued from the same lockup told Human Rights Watch:

I didn't know what was going on when I arrived. They just put me in a lockup and it was only when the boat came in that I realized that was where I'd have to work. I went to do my pink card application on the 4th, and on the 5th I was out on the boat.¹²⁸

DOE officials in some provinces told Human Rights Watch they tried to identify indicators of trafficking or exploitation among workers applying for pink cards, and checked with company owners when they thought a broker might be overseeing a worker's application.¹²⁹

¹²⁷ Human Rights Watch interview with 11 Burmese trafficking survivors, March 11, 2016.

¹²⁸ Human Rights Watch interview with 11 Burmese trafficking survivors, March 14, 2016.

¹²⁹ Human Rights Watch interview with DOE labor specialist, senior professional level (location withheld), November 8, 2016.

IV. Abusive Employment Practices and Working Conditions in the Thai Fishing Industry

If I want to quit working here I need to request permission from the employer. Some employers allow us to leave but some will claim we must pay off debts first. For example, if I can pay 25,000 baht to an employer ... he may allow me to leave but if he isn't satisfied ... I would have to pay whatever he demanded.

—Thet Phyo Lin, Burmese fisher working on a purse seiner, Pattani, August 2016

Retention of Pink Cards and Inability to Change Employers

The retention of identity documents makes workers more vulnerable to forced labor. By confiscating identity documents, employers can control the movements of workers and stop them from changing employers. When employers confiscate identity documents or pink cards, their actions create significant psychological barriers for a migrant worker that can make it impossible to leave the job.

Migrants fear losing the investment that a pink card represents, as well as the protection and benefits, albeit limited, brought by legal status. Lack of a pink card also increases the risk of arrest, detention, and deportation at the hands of Thai police, who often abuse migrants without papers and extort them for payments—sometimes more than a month's salary—in exchange for release.¹³⁰ Many employers issue fishers with laminated facsimiles of their pink cards, while retaining the original. Consequently, migrant workers without genuine cards are unable to move freely outside of the port area, where local police accept the facsimiles issued by known employers.

Pink cards of trafficking victims are typically confiscated and held by the broker, boatswain, or skipper. Said one trafficking survivor: “We applied for a pink card on January 22 and they issued it the next day at 3 p.m., but [the brokers] forced us to go back to the

¹³⁰ Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand*, February 2010, <https://www.hrw.org/report/2010/02/23/tiger-crocodile/abuse-migrant-workers-thailand>, pp. 59-71.

lockup and never gave us the card.”¹³¹ Brokers and skippers also confiscate travel documents such as passports and seafarer books.¹³²

The difference between confiscation and safekeeping of pink cards of non-trafficked workers is often not as clear. Most fishers interviewed had laminated facsimiles or, in some cases, paper photocopies of their cards. The real cards were typically kept by the skipper on the boat or by the employer in their office. Some migrants reported that their pink card represented a significant investment, and that they were happy for their employers to keep it as they were concerned about losing it during work at sea.¹³³

Some workers’ employers kept their pink cards, which they could access upon request to boatswains, skippers, or employers. Part of this group reported that employers would give them their cards only if they gave a “good” explanation why they needed them. “As long as we have a legitimate reason, the owner will give us our documents,” Sinuon Sao, a Cambodian working in Rayong, said.¹³⁴ However, several workers told Human Rights Watch that they were not able to obtain their pink cards on request. Employers and skippers refused requests, stating they kept the cards for safekeeping or until workers paid off debts arising from the cost of the pink card application, wage advances, or other expenses. Veseth San said: “My pink card is with my employer. [He keeps it] because some of us run away without having paid off our debts yet. Some employers think that we will lose [the cards] or run away from them.”¹³⁵

Fishers viewed the confiscation of pink cards under these circumstances as a tactic used by employers to trap men in jobs. Tong Seng, a Cambodian fisher working in Rayong for 16 years, told Human Rights Watch that he had asked his employer to hand over his still-valid pink card at the end of his contract in order to travel back home for a holiday. His employer

¹³¹ Human Rights Watch interview with nine Burmese trafficking survivors, Bang Rin, Ranong, March 14, 2016.

¹³² Human Rights Watch interviews with 11 Burmese trafficking survivors, Bang Rin, Ranong, March 11, 2016, and Jirapan Chompunuch, Thai trafficking survivor, Mueang Samut Sakhon, Samut Sakhon, October 4, 2015.

¹³³ See, for example, Human Rights Watch interview with four Cambodian migrants working on a light-assisted purse seine fishing vessel, Mueang Rayong, Rayong, November 8, 2016.

¹³⁴ Human Rights Watch interview with Sinuon Sao, Cambodian migrant working on a purse seine fishing vessel, Mueang Rayong, Rayong, November 12, 2016.

¹³⁵ Human Rights Watch interview with four Cambodian migrants, November 8, 2016.

bluntly replied that he did not trust him and thought he would disappear with the card and not return.¹³⁶

One important provision of the new Royal Decree concerning the Management of Foreign Workers' Employment is that from June 23, 2017, onward it is a criminal offense for anyone to "seize the work permit or other important document of the foreign worker," with penalties ranging up to six months in prison and a fine of up to 100,000 baht (US\$3,050).¹³⁷

A pink card ties a migrant fisher to a specific employer and their boat.¹³⁸ Some workers interviewed by Human Rights Watch reported that employers, boatswains, or brokers were in control of their pink cards and they were unable to access their cards on request, or felt they could not leave employment without risking the loss of their pink cards.

Soe Lin Aung, who works on a purse seiner in Pattani, entered the fishing industry voluntarily but is now a victim of forced labor. The long hours he works, the amount of money he earns, and how he is paid all violate Thai law and regulations. A broker makes sizeable deductions from his salary. Soe Lin Aung wants to change employers but he cannot. His broker has told the skipper and his employer to hold onto the pink card. The broker told Soe Lin Aung that he must pay them 20,000 baht (\$610) to change jobs. "They are worried that we might change employers if we have [the cards] in our possession," he said.¹³⁹

Since November 2015, the Thai government has said it permits migrants working in fishing and seafood processing to change employers, without limits, to "give migrant workers

¹³⁶ Tong Seng explained that at that time, the company was suffering labor shortages and the employer was trying to keep workers on his purse seiners. Tong Seng and his crew worked on the *ouan dam* ("black net") boats and thus were more skilled and tolerant of longer trips at sea compared to workers from the local *ouan khiao* ("green net") fisheries, so the employer considered them valuable employees. See Human Rights Watch interview with Tong Seng, Cambodian migrant working on a light-assisted purse seine fishing vessel, Mueang Rayong, Rayong, November 12, 2016.

¹³⁷ Royal Decree concerning the Management of Foreign Workers' Employment, B.E. 2560 (2017), art. 131.

¹³⁸ Employers are able to register fishers to work on multiple boats, including on a vessel belonging to another operator (such as a relative), under the same pink card. This process is administered separately from the termination of employment and issuance of a new pink card linked to a new employer.

¹³⁹ Human Rights Watch interview with three Burmese migrants working on purse seine and pair trawl fishing vessels, Mueang Pattani, Pattani, August 10, 2016.

more flexibility and eliminate the ability of employers to use their control over a migrant's ability to work legally in Thailand to make unjust demands.”¹⁴⁰

However, the aforementioned government scheme is critically undermined by the fact that a worker is only able to change employers if their current employer gives them permission to do so in the relevant application form under a section on transferring employers.¹⁴¹ Employers take advantage of this; both vessel owners and skippers told Human Rights Watch that a key benefit of the pink card system is that workers are not able to “run away” anymore.¹⁴²

Ministry of Labour policy provides that if a worker's pink card is still valid, it costs 1,000 baht (\$30) to change employers and obtain a revised pink card under the government's portability scheme. Department of Employment (DOE) officials told Human Rights Watch that fishers can change employers at any time except during the pink card registration periods for new workers, without giving a specific reason. One official said there are five common reasons that workers change employers: an employer's death; company closure; the employer no longer wants to employ migrants; employers fail to pay wages; or the worker suffers abuse.¹⁴³

DOE officials in different provinces varied in their assessment of whether it was common for employers to withhold authorization of transfer to a new job. Some said that workers never had any problems changing employers, while others told Human Rights Watch that problems come from workers still owing money to the employer rather than any effort by employers to control workers by refusing employment transfers.¹⁴⁴

Migrant fishers working in various locations and for different firms have very different understandings of their ability to change employers, a reflection of a general failure on the

¹⁴⁰ Royal Thai Government, *Trafficking in Persons Report 2015: The Royal Thai Government's Response, January 1 – December 31, 2015* (Bangkok: RTG, 2016), p. 49.

¹⁴¹ Form WP.8 (พ.ร.8), section 3.5.

¹⁴² See, for example, Human Rights Watch interviews with owner of five purse seine fishing vessels, Khlong Yai, Trat, November 10, 2016, and Thai skipper working on a light-assisted falling net fishing vessel, Laem Sing, Chanthaburi, November 11, 2016.

¹⁴³ See, for example, Human Rights Watch interview with DOE labor specialist, senior professional level (location withheld), September 29, 2016.

¹⁴⁴ Human Rights Watch interviews with DOE labor specialists, senior professional level (locations withheld), September 30 and November 11, 2016.

part of the government to communicate the 2015 policy shift to workers. Only a handful of respondents interviewed said they had exercised their right to change employers: a group of men working on a pair trawler in Khanom, Nakhon Si Thammarat, changed roughly every six months, and a Burmese migrant working on a dredger in Surat Thani said he had successfully transferred from his former employer in Khanom.¹⁴⁵

Other workers knew that they had to get permission from their current employer to change to another employer, but had been wrongly informed that they could not change employers until after their pink card had expired.¹⁴⁶

Fishers said they would have to pay up to 3,000 baht (\$92) to change employers, although one, Soe Lin Aung, was told he would need to pay 20,000 baht (\$610). In one instance, a boatswain told his crew in the presence of Human Rights Watch that it cost 3,000 baht to change jobs.¹⁴⁷ In other cases, employers or skippers told workers they had to pay for a new card.¹⁴⁸ Several fishers referred to the necessity of hiring a broker specialized in liaising with the new and old employer and DOE in order to transfer jobs—a service that one fisher said cost 2,500 baht (\$76).¹⁴⁹

Several victims of forced labor said employers told them the advances they had received on wages under lump sum payment systems were debts that needed to be paid off, in addition to inflated administrative fees, before they could change jobs.¹⁵⁰

For some workers, freedom to change jobs can depend on the personality of their employer. Hoe Manh, an experienced Cambodian fisher working on a light-assisted falling net in Trat, said:

¹⁴⁵ Human Rights Watch interviews with eight Burmese migrants working on a trawl fishing vessel, Khanom, Nakhon Si Thammarat, September 7, 2016, and Zin Naung Lat, Burmese migrant working on a fishing dredge vessel, Mueang Surat Thani, Surat Thani, September 9, 2016.

¹⁴⁶ Human Rights Watch interview with four Burmese migrants working on trawl net and fishing dredge vessels, Khlong Dan, Samut Prakan, August 18, 2016.

¹⁴⁷ Human Rights Watch interview with 16 Burmese migrants working on purse seine fishing vessels, Mueang Pattani, Pattani, August 11, 2016.

¹⁴⁸ Human Rights Watch interview with Phem Siphon, Cambodian migrant working on a purse seine fishing vessel in Mueang Rayong, Rayong, November 12, 2016.

¹⁴⁹ Human Rights Watch interview with Aung Soe, Don Sak, Surat Thani, September 9, 2016.

¹⁵⁰ Human Rights Watch interview with seven Burmese migrants working on purse seine and trawl fishing vessels, Pak Nam, Chumphon, September 8, 2016.

If your employer is good, he will sign for you when you ask. But if your employer is a bad person, and wants to pressure you into staying, they won't sign for you, and then you will be in trouble.¹⁵¹

Employers often refuse to allow fishers to change jobs because they find it difficult to recruit new workers. Sai Thein Win spoke of his frustration that his employer would not let him change jobs to pursue better wages, even after years of work:

Even though I work hard, my base salary is [3,300 baht per month], while others in my crew are getting paid more than me. Whenever I see an opportunity to change to a job where I can earn [5,800 baht per month] or [7,500 baht per month], my current employer won't let me change. He won't sign the permission even though I have been working here for 10 years.¹⁵²

The money held by employers can be several months or even years' worth of wages under some payment systems.¹⁵³ One Cambodian fisher highlighted the dilemma fishers face when they ask to change jobs: "Our money is with [the owner], so he can decide to give us permission or not. They hold all the power and we can't do anything."¹⁵⁴

Migrant workers have few alternatives if an employer refuses to allow them to change jobs. One DOE official said workers were entitled to complain to the One Stop Service (OSS) center which would, on establishing justifiable cause, refer the case to the Department of Labour Protection and Welfare (DLPW).¹⁵⁵ However, the official did not recall any cases of workers contacting the authorities to make such complaints.

Some migrants said they were too afraid to report employers to officials if they refused to authorize job transfers.¹⁵⁶ Phyo Min Thet, a Burmese fisher working in Phuket, said his

¹⁵¹ Human Rights Watch interview with Hoe Manh, Cambodian migrant working on a light-assisted falling net fishing vessel, Khlong Yai, Trat, November 10, 2016.

¹⁵² Human Rights Watch interview with seven Burmese migrants working on trawl and purse seine fishing vessels, Mueang Ranong, Ranong, March 8, 2016.

¹⁵³ See Section III for further details.

¹⁵⁴ Human Rights Watch interview with Sinuon Sao, November 12, 2016.

¹⁵⁵ Human Rights Watch interview with DOE labor specialist, September 29, 2016.

¹⁵⁶ Human Rights Watch interview with Hoe Manh, November 10, 2016.

method of overcoming barriers to changing employers was simple: abandon his pink card and start again in a different province with another employer.¹⁵⁷

No Respect for Employment Contracts

In December 2014, Thailand introduced a revised framework to regulate work in fishing, aiming to update and close loopholes arising from the much-criticized 1998 Ministerial Regulation No. 10 under the Labour Protection Act, B.E. 2541 (1998).¹⁵⁸ The Ministerial Regulation concerning Labour Protection in Sea Fishery Work, B.E. 2557 (2014) (2014 Ministerial Regulation) legislates on different aspects of work in fishing, including the legal working age; hours of rest; employment contracts; remuneration and holiday pay; holiday periods; sick leave; and repatriation.

According to the International Labour Organization (ILO), the 2014 Ministerial Regulation represents “the most extensive example of legal reform based on [the ILO Work in Fishing Convention, 2007 (No. 188)],” which aims to ensure decent work for fishers across the world.¹⁵⁹ In December 2016, the Ministry of Labour announced that Thailand intended to ratify the ILO Work in Fishing Convention, which sets standards for labor protections, conditions of work, and safety on fishing boats.¹⁶⁰

The 2014 Ministerial Regulation requires employers to prepare written contracts of employment for fishers working aboard their vessels.¹⁶¹ Every employment contract closes with the following:

This contract is made in Thai in duplicate copies with identical texts,
employer and employee each holding a copy. Both parties have thoroughly

¹⁵⁷ Human Rights Watch interview with 12 Burmese migrants working on purse seine and light-assisted falling net fishing vessels, Ratsada, Phuket, March 10, 2016.

¹⁵⁸ Ministerial Regulation No. 10, B.E. 2541 (1998), issued under the Labour Protection Act, B.E. 2541 (1998), http://www.labour.go.th/en/attachments/article/18/Labour_Protection_Act_BE2541.pdf (accessed February 6, 2017).

¹⁵⁹ Birgitte Krogh-Poulsen and Svenja Fohgrub, *Fishers First: Good Practices to End Labour Exploitation at Sea* (Geneva: ILO, 2016), p. 28.

¹⁶⁰ Ministry of Labour, “ก.แรงงาน เตรียมรับอนุสัญญา ILO 2 ฉบับ คาดปี 60 มีความชัดเจนยิ่งขึ้น หวังสร้างหลักประกันคุ้มครองแรงงานในอุตสาหกรรมประมงและอาหารทะเล,” December 20, 2016, <http://www.mol.go.th/content/55506/1482223425> (accessed February 25, 2017).

¹⁶¹ 2014 Ministerial Regulation, sec. 6.

read and understood the contents of this contract and hereby affix signature in the presence of witnesses.¹⁶²

Contracts follow a dual-language template designed by the Ministry of Labour and are available in Burmese, Khmer, Lao, Vietnamese, and English.¹⁶³ These are filled out by employers, representatives of employers, and sometimes brokers in Thai language, and stipulate the worker's role aboard a vessel, the period of employment, and the wages, salary, or share-based payment system where applicable.

Contracts also list key rights of fishers, such as stipulating that workers are entitled to the national minimum wage; defining minimum daily and weekly hours of rest; and outlining employers' responsibilities regarding provision of adequate food, clean drinking water, toilets, medicine, medical supplies, and safety equipment. Contracts state that employers must inform employees before they start work about working conditions on vessels and provide instruction on the use of fishing gear. They also stipulate that workers have a right to communicate with family or government officials, and that employers must ensure workers can access communication equipment.

Every single industry representative interviewed by Human Rights Watch said that 100 percent of fishers had signed employment contracts, although some vessel owners admitted they outsourced their preparation to brokers.¹⁶⁴

Yet most workers interviewed by Human Rights Watch said they had not received a written contract describing key employment terms and conditions, as the law requires. Roughly one-third of fishers interviewed by Human Rights Watch recalled signing a dual-language document but did not know what it was and were not told what it contained.¹⁶⁵ "We have [a signed employment contract]," said one Burmese fisher. "We don't know [what it details]. Our employer won't let us know."¹⁶⁶

¹⁶² Fishing Industry Employment Contract (Bor Mor. 1) (สัญญาจ้างในงานประมงทะเล แบบ ปม.๑). See Appendix IV.

¹⁶³ Ibid.

¹⁶⁴ Human Rights Watch interview with owner of multiple trawl net fishing vessels, Mae Klong, Samut Songkhram, September 29, 2016.

¹⁶⁵ Some workers disputed the value of an employment contract, highlighting what they called the importance of "trusting your employer," and claiming that boatswains verbally explained everything they needed to know.

¹⁶⁶ Human Rights Watch interview with four Burmese migrants, August 18, 2016.

Many fishers said they had only signed documents when applying for pink cards, usually at OSS centers. They stated that they were expected to sign numerous documents at this time as part of the application process. Workers are simply told to sign everything without time to read and review what they are signing, and some employers and brokers may be deceiving workers into signing employment contracts on the premise that they form part of the application for a pink card or other permits. Migrant workers also told Human Rights Watch that they did not receive oral explanations from employers or government officials about key terms of employment. In approximately half of the interviews done by Human Rights Watch, workers said they were either uninformed or misinformed about key terms of employment. As a result, employers can and do violate the terms of written contracts with impunity, and fishers are less able to contest labor rights abuses and forced labor on the boats.

Lim Sokhana went to Thailand in 2008 to reunite with relatives, where he lived with his wife in Chanthaburi province and worked on a shrimp trawler for less than the minimum wage. His employer violated the labor law by withholding two-thirds of his salary for two years and then paying outstanding earnings in a lump sum. Lim Sokhana and other fishers on his boat believed they had signed an employment contract but were not certain. They said that the documents were with their employer and thought that a contract could have been among the various documents they signed when they obtained their pink cards. Since his employer did not give him a chance to read his contract, Lim Sokhana was not able to check whether he had been paid correctly, or read the section of the standardized contract that details his employer's obligation to pay workers the national minimum wage.¹⁶⁷ Without the ability to challenge his employer, Lim Sokhana accepted what he got—6,000 baht (\$183) for 25 long days of work per month.¹⁶⁸

Inspection of employment contracts is part of the Port-in, Port-out (PIPO) control framework, and vessel operators must have and be able to show a contract for each fisher when the vessel departs from or arrives in port. Several senior provincial DLPW officials

¹⁶⁷ On January 1, 2017, Thailand adopted raises of between 5 and 10 baht (US\$0.15 to \$0.30) in minimum wage rates in 69 provinces, with eight provinces retaining the 300 baht (\$9) per day rate. The Thai government is considering another minimum wage increase for 2018, possibly as high as 15 baht (\$0.45) per day, but the amount of the increase and geographical application has yet to be determined. See ASEAN Briefing, "Daily Minimum Wage Rates in Thailand to Increase from January 1, 2017," <https://www.aseanbriefing.com/news/2016/12/02/daily-minimum-wage-thailand-increase-january-1-2017.html> (accessed February 6, 2017); "Minimum Wage Hike Likely this Month," *Thai PBS*, January 5, 2018, <http://englishnews.thaipbs.or.th/minimum-wage-hike-likely-month> (accessed January 5, 2018).

¹⁶⁸ Human Rights Watch interview with four Cambodian migrants working on trawl and purse seine fishing vessels, Mueang Rayong, Rayong, November 12, 2016.

who spoke to Human Rights Watch agreed with the contention that 100 percent of fishers had signed employment contracts. They took the documents provided by vessel operators at face value, saying that workers must have understood the terms and conditions contained within employment contracts “because they’ve signed it already,” and that all workers had duplicate copies of contracts in their possession.¹⁶⁹

However, both industry representatives and other DLPW officials acknowledged that workers’ copies of contracts are typically not in their possession, but instead kept with the skipper, who presents them for inspection during PIPO.¹⁷⁰ No worker interviewed by Human Rights Watch reported having possession of a copy of their written employment contract.

Officials do not serve as witnesses to the signing of employment contracts. Government officials reported that, instead, this role is filled by a representative of the employer.¹⁷¹ In one province, DOE officials admitted that officials generally accept contracts without counter-signatures from one or two witnesses, meaning the witness counter-signature process does not provide any guarantee that workers know or understand they are signing a contract with certain terms and conditions that are binding on the employer.¹⁷²

Although Human Rights Watch interviews with workers indicated that many fishers were unwittingly signing employment contracts at OSS centers during the pink card application process, some DOE officials claimed that contracts are always signed before a worker arrives at the OSS center.¹⁷³ DOE officials in different provinces said that there is no standard practice by OSS center staff regarding contracts, and that efforts to determine whether migrants understand the terms of employment in their contracts or their rights under labor law are inconsistent.¹⁷⁴ One DOE official said such efforts were not necessary as employers had already explained these things to workers by the time they arrived at the OSS center.¹⁷⁵

¹⁶⁹ Human Rights Watch interview with DLPW labor specialist, senior professional level (location withheld), September 30, 2016.

¹⁷⁰ Human Rights Watch interviews with operator of a light-assisted falling net fishing vessel, Khem Nu, Chanthaburi, November 11, 2016, and DLPW labor specialist, September 30, 2016.

¹⁷¹ Human Rights Watch interview with DLPW labor specialist, September 30, 2016.

¹⁷² Human Rights Watch interview with DOE labor specialist, September 29, 2016.

¹⁷³ Ibid.

¹⁷⁴ Human Rights Watch interviews with DOE labor specialists, September 29 and November 8, 2016.

¹⁷⁵ Human Rights Watch interview with DOE labor specialist, senior professional level (location withheld), August 31, 2016.

The Thai government system's lack of concern with fishers' knowledge about their contracts is in stark contrast to the strict requirement that skippers must produce worker contracts for PIPO inspectors each time a vessel departs or enters port.

Confronted with Human Rights Watch's preliminary findings on employment contracts, one senior provincial DLPW official acknowledged that the de facto terms of employment in the fishing sector are likely not commensurate with those detailed in contracts, and that the documents were "a waste of paper" designed to meet regulatory requirements.¹⁷⁶

Excessive Working Hours

Skippers and vessel operators have not adjusted work patterns and practices at sea to comply with the rest hour requirements of the 2014 Ministerial Regulation. Fishers are expected to routinely work grueling hours and, although most workers reported systematically working more than the limits set by national legislation, none of this work is subject to legal protections or entitlements concerning overtime.¹⁷⁷

As a result, many fishers are working hours that challenge human endurance in exchange for the legal minimum wage, or even less.¹⁷⁸ Chan Nyein Aung, a young Burmese migrant in Phang Nga working on a purse seiner, told Human Rights Watch that he goes to sea for 24 days a month, spending an additional three days working for his employer in port. He usually starts working at 2 p.m. when the crew prepares the boat to leave. The vessel fishes at night and usually returns at about 7 or 8 a.m. He must then help unload the catch and clean the deck before going to sleep. He usually works up to 19 hours per day.¹⁷⁹

Under section 5 of the 2014 Ministerial Regulation, fishers must have no less than 10 hours of rest in any 24-hour working period and no less than 77 hours in any 7-day period.¹⁸⁰ The

¹⁷⁶ Human Rights Watch interview with DLPW labor specialist, September 30, 2016.

¹⁷⁷ Under section 3 of the 2014 Ministerial Regulation, the overtime provisions in section 24 of the Labour Protection Act, B.E. 2541 (1998), do not apply to work in the fishing sector.

¹⁷⁸ Where working hours exceed the limits set in national legislation and workers receive the minimum wage or less, a person can be considered a victim of forced labor. See International Labour Organization, "General Survey concerning the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105)," *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 1B), 96th ILC Session, 2007, pp. 71-72.

¹⁷⁹ Human Rights Watch interview with 10 Burmese migrants working on a purse seine fishing vessel, Baan Nam Khem, Phang Nga, March 7, 2016.

¹⁸⁰ 2014 Ministerial Regulation, sec. 5.

minimum rest hours stipulated in section 5 are a domestication of article 14(1) in the ILO Work in Fishing Convention.

Nonetheless, cases of fishers working more than 14 hours a day, a violation of minimum rest period regulations, were extremely common among the workers interviewed by Human Rights Watch. The average working hours among interviewees who provided such information equated to almost 16 hours a day.¹⁸¹ Sai Tun Aung Lwin, a worker aboard a purse seiner operating out of Phuket, said:

We don't have time for actual rest. For example, we'll depart at 6 a.m. from the port and then deploy the nets to catch the fish, and after a while we haul up the load. We'll do that routinely until late at night, depending on the amount of fish we catch. So it's already the morning of the next day by the time we get back to port. However, we don't have a chance to rest because then we have to start unloading all the fish.¹⁸²

Variations in types of fishing gear and methods, vessel and crew size, and degrees of mechanization aboard vessels are key determinants of the intensity and hours of work on a boat. Working hours for a fisher depend on the volume of the catch and whether specific tasks, such as net repair or unloading, are required on any given day.

Although high yields can increase working hours on some boats due to the greater amount of time required to haul, sort, and store the catch, low yields can also result in excessive working hours. For example, Myint Hein Htay, a Burmese trafficking survivor, explained to Human Rights Watch how men on board the trawlers where he had worked had been pushed relentlessly to catch more when yields were low because the skipper's compensation included a percentage of the value of the catch. "They don't care how [much] you are working," Myint Hein Htay said. "Even if you die, they'll just throw your body in the water."¹⁸³

¹⁸¹ This is the mean of 39 values reported to Human Rights Watch as intensive working hours (median=16, mode=15). It does not represent the average working hours of all 248 current and former workers interviewed by Human Rights Watch.

¹⁸² Human Rights Watch interview with 12 Burmese migrants, March 10, 2016.

¹⁸³ Human Rights Watch interview with eight Burmese trafficking survivors, Rattaphum, Songkhla, September 29, 2016.

With financial incentives, and sometimes their own employment, depending on reaching certain catch quotas, the temperament of skippers can be a key factor in total working hours for crew.¹⁸⁴ Han Lin Maung, a Burmese victim of forced labor, said:

On a normal day, we would have some rest, but it really depends on the fish and the captain. The captains would get stressed if there wasn't enough fish. Sometimes you'd have finished deploying and hauling the nets and not even drank a single cup of coffee before it was time to deploy them again.¹⁸⁵

Different vessel types can also determine differences in working hours, although robust comparisons are not possible based on available information because multiple factors tend to affect a worker's estimation of their daily working hours.¹⁸⁶ There is also significant variation in what fishers consider to be work, with on-call periods, work in port, and activities such as net repair and general boat maintenance frequently excluded from fishers' estimations of their working hours.

Working Hours on Different Types of Fishing Vessels

The following summarizes Human Rights Watch's findings on working hours across three common fishing gear types.¹⁸⁷

Trawlers

Fishers aboard trawlers spend most days in a month at sea, with trips lasting from seven days to months. Trawlers tend to have relatively small crews of 4 to 20 individuals. A typical day's work on a trawler consists of three to eight shifts, made up of one to three hours each, setting the trawl net

¹⁸⁴ Demands by skippers for crews to work harder are also one of the primary causes of violence committed by skippers and other senior crew against deckhands. See Section IV for further details.

¹⁸⁵ Human Rights Watch interview with Han Lin Maung, Burmese trafficking survivor, Mueang Samut Sakhon, Samut Sakhon, October 4, 2015.

¹⁸⁶ Human Rights Watch asked fishers how many hours they worked on a typical day as well as how many hours they worked on intensive days when their vessel landed a large amount of fish (referred to as "intensive working hours").

¹⁸⁷ There were insufficient respondents working aboard trappers, gillnetters, and dredgers to obtain an accurate understanding of general hours of work aboard these vessel types. Of the five respondents from these vessels, two violations of the 2014 Ministerial Regulation were identified aboard a gillnetter and a shellfish dredger. A third respondent, working aboard a crab trapper, reported working 14 hours per day on a typical daily fishing trip. See Human Rights Watch interviews with Zin Naung Lat and Aung Soe, September 9, 2016, and 15 Cambodian trafficking survivors, Bang Rin, Ranong, March 11, 2016.

and then several hours of sorting, packing, and storing fish in the hold. Shifts can be sequenced throughout the morning and day and into the night, depending on different factors. Some trawler workers reported rolling 24-hour shift patterns, four hours on and three hours off, for example.

Current and former trawler workers who spoke to Human Rights Watch said they worked 9 to 24 hours a day, with an average of 18.4 working hours on intensive days.¹⁸⁸

Extreme working hours were typically related to situations of forced labor or broken bottom trawl nets requiring extensive onboard repair. Reports of continuous work across multiple (up to three) days were much more common aboard trawlers than other gear types, and again tended to coincide with forced labor or net repair.¹⁸⁹

Purse Seiners

Thai purse seining is labor intensive, with 6 to 40 crew members depending on vessel size and seining method used. Seiners tend to remain in port for approximately four to six days per month, typically during the waxing moon, although some boats scatter makeshift lures to continue fishing throughout this period. Seiners may fish at day or night and deploy nets two to four times in 24 hours. Seiners may wait several hours before deploying nets while fleets of small vessels fitted with electric light lures attract fish. Work generally consists of several intensive shifts involving gear setting, net hauling, fish sorting, and packing.

Current and former workers from purse seiners reported to Human Rights Watch laboring 8 to 23 hours a day, with an average of 16.5 working hours on intensive days.¹⁹⁰

On some vessels, work resumes in the form of net repair after the main fishing shift and a rest period of several hours. Other operators have nets repaired in port. When purse seine nets, which can reach up to 1.8 kilometers in length, are damaged, workers can endure extreme working hours.¹⁹¹ A small number of fishers working on purse seiners reported working continuously across two days during multiple day or weeks-long trips.

Falling Netters

Thai falling netters, which target anchovy and squid, generally have crews of under 15 workers. Falling netters tend to remain in port for about four to seven days per month, typically during the

¹⁸⁸ This is the mean of 15 values reported to Human Rights Watch as intensive working hours (median=18, mode=18).

¹⁸⁹ Although trawl nets are not as extensive in area or length as other net types (e.g., seines or driftnets), the fact that they are usually deployed for bottom fishing increases the likelihood of damage.

¹⁹⁰ This is the mean of 11 values reported to Human Rights Watch as intensive working hours (median=16, mode=23).

¹⁹¹ Human Rights Watch interview with Saw Win, Burmese trafficking survivor (location withheld), August 10, 2016.

waxing moon or due to bad weather conditions. They operate at night, luring fish with lights affixed to booms on the vessel. They may wait up to five hours in between net deployments but can deploy nets many times in a night.

The catch from a fall netter tends to be a concentrated mass of fish that is scooped into slush mixtures of ice and water, eliminating much of the onboard sorting activity common on trawlers or seiners.

Current and former workers from falling netters said they worked 9 to 15 hours per day, with an average of 11.5 working hours on intensive days.¹⁹² However, most respondents did not factor in time spent repairing nets or unloading in port.¹⁹³

Government regulations require employers to fill out a rest schedule for fishers on a “Bor Mor. 2” form for each trip. Individual fishers sign off on daily rest hour schedules recorded on Bor Mor. 2 forms, which are then submitted to DLPW inspectors. Forms encountered by Human Rights Watch during the course of research typically featured fixed rest hour schedules that were printed in advance ready for workers to sign, rather than logged each day aboard the vessel.

Senior DLPW officials from one province said they asked fishers about working hours during PIPO inspections. This claim is suspect as the inspectors claimed that working and rest hours are fixed and do not vary across fishing gear types. A DLPW inspector in a different province said they just listened “to what the employer or skipper tells us about working hours.”¹⁹⁴ Some DLPW inspectors reported checking Bor Mor. 2 forms against fishing logbooks, which detail the time when catch was landed aboard a vessel, although research by other organizations has found such logbooks are unreliable and subject to misreporting.¹⁹⁵

¹⁹² This is the mean of eight values reported to Human Rights Watch as intensive working hours (median=11, mode=10).

¹⁹³ Responses also did not include additional time spent fishing independently for product to sell to their employer for supplementary income, a common and sometimes necessary activity given the payment systems in use aboard some falling netters. For example, a worker may receive a low base salary of 5,000 baht (\$153), with the rest of their earnings pegged to a proportion of the catch value. Poor yields, seasonal fluctuations in fish, or low market prices can all substantially reduce or even wipe out a fisher's share-based increment, and may require a worker to fish independently for supplementary income.

¹⁹⁴ Human Rights Watch interview with DLPW labor specialist, September 30, 2016.

¹⁹⁵ Human Rights Watch interview with DLPW labor specialist, senior professional level (location withheld), November 11, 2016; Greenpeace Southeast Asia, *Turn the Tide: Human Rights Abuses and Illegal Fishing in Thailand's Overseas Fishing Industry* (Bangkok: Greenpeace Southeast Asia, 2016), p. 66.

The lack of fixed rest periods leads to fatigue and increases the likelihood of accidents. Workers on trawlers and seiners reported fishers collapsing due to the relentless work. “It was torture,” Zin Min Thet, a trafficking survivor rescued from a pair trawler, said. “One time I was so tired I fell off the boat, but they pulled me back on board.”¹⁹⁶

At the bottom of Bor Mor. 2 forms is a note that mirrors language from article 21(4) of the EU Working Time Directive (2003/88/EC): “Hours of rest can be split into no more than two periods and one of those two periods must be at least 6 hours in length and there can be an interval of no more than 14 hours between the two periods.”¹⁹⁷

Yet despite being duplicated on a key Thai government form, this rest period sequencing requirement is not reflected in the 2014 Ministerial Regulation. Many fishers interviewed by Human Rights Watch did not have rest periods sequenced as outlined in Bor Mor. 2. Rolling shift work aboard trawlers is particularly concerning as it involves, for example, fishers reporting working two hours on and then one to two hours off over extended periods.¹⁹⁸

In practice, actual hours of work and rest aboard a fishing vessel are difficult for labor inspectors to reliably determine, and systematic monitoring across defined reference periods is equally challenging.¹⁹⁹ This is because working hours can change drastically based on factors such as fishing method, season, technical constraints, crewing status, and local conditions.

Fishing operations are inherently uncertain, and regulations need flexibility that allows employers to exceed working hour limits where necessary, while ensuring fishers are appropriately compensated. Section 5 of the 2014 Ministerial Regulation includes such a provision:

¹⁹⁶ Human Rights Watch interview with nine Burmese trafficking survivors, March 14, 2016.

¹⁹⁷ Form to Arrange Rest Time in Fishing at Sea (Bor Mor. 2) (แบบจัดเวลาพักในงานประมงทะเล แบบ ปม. ๒).

¹⁹⁸ See, for example, Human Rights Watch interview with four Burmese migrants, August 18, 2016.

¹⁹⁹ In 2011, the European Commission issued a report assessing the flag state implementation of articles pertaining to fishers in the Working Time Directive (2003/88/EC), which are also based on article 14(1) of the ILO Work in Fishing Convention. It noted that three European countries “highlighted practical problems in estimating and monitoring actual working time on board, as well as the possibility of easily circumventing the limits.” Another European country also noted that working hours’ limits were exceeded in practice. See European Commission, “Review of the Operation of the Provisions with regard to Workers On Board Seagoing Fishing Vessels Contained in Directive 2003/88/EC,” May 2011, pp. 4-5.

In cases of emergency or necessity, employers can order employees to work during rest periods by ensuring that rest periods are promptly compensated and that evidence of rest periods is prepared.²⁰⁰

However, section 5 also omits key language contained in the ILO Work in Fishing Convention, which “permits, for limited and specified reasons, temporary exceptions [to working hours limits].”²⁰¹ The 2014 Ministerial Regulation fails to ensure that exceptions are temporary and for limited and specified reasons, imposing no legal conditions or limits on the additional time employers can order fishers to work.²⁰²

Exploitative Payment Systems

Labor costs on Thai fishing vessels are second only to expenditure on fuel, and account for about one-third of total operational expenses in key Thai fisheries.²⁰³ Unscrupulous vessel operators reduce labor costs by offering illegal terms of employment and working conditions, using trafficked fishers and exacting forced labor from workers.

Illegal payment systems that withhold fishers’ earnings are frequently used to impose control over fishers and keep them working. Fishers reported having some or all their earnings withheld by employers, both until and after contract termination, and asserted employers used this practice to force them to continue working under abusive conditions.

Some fishers said they were only paid for days at sea and not for days spent working in port, unloading fish, or completing other tasks.²⁰⁴ Workers described being defrauded of earnings based on the value of the catch or illegal deductions for advances, loans, goods, and services. Vessel operators, skippers, and boatswains used a mixture of tactics, including overcharging on goods and services, charging unreasonable rates of interest on

²⁰⁰ 2014 Ministerial Regulation, sec. 5.

²⁰¹ ILO Convention No. 188 concerning Work in the Fishing Sector (Work in Fishing Convention), adopted June 14, 2007, entered into force November 16, 2017, art. 14(2).

²⁰² Without effective legal protections, excessive hours are not a matter of choice for many fishers, who feel compelled to work as ordered on threat of dismissal, wage deductions, verbal denigration, physical beatings, or other forms of punishment.

²⁰³ U. Tietze, Joel Prado, and Jean-Michel Le Ry, *Techno-Economic Performance of Marine Capture Fisheries* (Rome: FAO, 2001), chap. 2.3.

²⁰⁴ Human Rights Watch interview with seven Burmese migrants, September 8, 2016.

credit, and failing to set out clear repayment terms for loans extended, to push fishers into debt bondage and keep them there.

A 2013 ILO survey of almost 500 fishers in Thailand found that the average monthly wage was just under 6,500 baht (\$198), with migrant workers receiving less than half that paid to Thai nationals.²⁰⁵ Since that survey, which also found that just over half of migrant workers received less than 5,000 baht (\$152) per month, the 2014 Ministerial Regulation mandated that fishers are entitled to the minimum wage.²⁰⁶

In some cases, this reform has helped to significantly raise wages. Human Rights Watch found instances of salary increases of up to 50 percent since the new regulation came into effect.²⁰⁷ If fishers were paid overtime in line with requirements for workers in other sectors under the Labour Protection Act, their wages would be even higher. But the picture is not entirely clear, since industry representatives and some DLPW officials described wage rates that were frequently more than those reported by fishers.²⁰⁸

Kyaw Moe was trafficked into the Thai fishing industry at age 16. By the time he was 18, he was earning 4,500 baht (\$137) per month working on a different boat. But in 2015, his boatswain, who was holding his money for “safekeeping,” ran away with the 17,000 baht (\$518) he was owed for six months of work. Kyaw Moe has given up on seeing the money again.

In his latest job on a different trawler, Kyaw Moe did not sign or see a contract. But he agreed with the boatswain that he would receive a wage of 7,500 baht (\$229) per month, to be paid, as before, in a lump sum after completing six months of work. No alternative pay arrangement was offered to him. The boatswain agreed to lend Kyaw Moe small amounts of spending money, to be deducted from the lump sum payment. But the boatswain only lets crew go to shops if they have cleared their debts. If they have not, the

²⁰⁵Supang Chantavanich et al., *Employment Practices and Working Conditions in Thailand's Fishing Sector* (Bangkok: ILO, 2013), p. 53.

²⁰⁶ 2014 Ministerial Regulation, sec. 4.

²⁰⁷ Human Rights Watch interview with Hoe Manh, November 10, 2016.

²⁰⁸ For example, several representatives from provincial Fishing Associations claimed that no fishers in their provinces were paid less than 10,000 baht (\$305) per month. But in reality, only experienced crew or fishers who work on certain types of fishing vessels (e.g., falling netters or crab trappers) or under particular payment systems (e.g., share-based) are likely to receive 10,000 baht per month or more.

boatswain purchases supplies and sells them to the fishers at a marked-up price. Boatswains also distribute a seemingly inexhaustible supply of illegal amphetamines to the crews for 48 baht (\$1.50) a pill: “They’ll sell you however much you want,” Kyaw Moe said. “They just add it to our debt.”²⁰⁹ Many workers are addicted to these drugs, including Kyaw Moe, who is trying to shake his habit.²¹⁰

Kyaw Moe could not tell Human Rights Watch how much debt he currently owes his new boatswain, or how much he will be paid at the end of his contract. The boatswain keeps a written record, but “when it comes to calculating the wages after six months, they make that decision on a whim,” Kyaw Moe said.²¹¹

Debt Bondage

The prevailing business models of brokers are based on fees and service charges. This makes workers vulnerable to debt bondage. Fees may cover transportation, food, documentation, administration, and recruitment, but line item prices are usually not detailed or disclosed to the migrant worker. Costs are borne by the migrant or the employer, or shared between the two, although the latter two methods typically involve arrangements where deductions are made from workers’ earnings to pay back funds advanced by the employer. Some employers, brokers, and boatswains apply simple or compound interest rates on loans advanced to cover recruitment costs.

Employers often seize the indebted migrant workers’ identity documents or otherwise restrict their movements to prevent them fleeing before full repayment.

Substantial fees and associated debts often trap migrants into working for little or no pay. Individuals who are in debt, especially when employers have advanced them funds, are less able to change employers, assert their rights, or negotiate for better conditions or employment terms.

²⁰⁹ Human Rights Watch interview with Kyaw Moe, Burmese migrant working on a trawl fishing vessel, Samae San, Chonburi, March 2, 2016.

²¹⁰ Stimulants are supplied to or forced upon workers in order to increase productivity as well as trap people in debt bondage. This practice is considered a strong indicator of forced labor; see Appendix I.

²¹¹ *Ibid.*

Human Rights Watch identified transportation fees of up to 25,500 baht (\$778) and pink card application fees of up to 6,000 baht (\$183); the government-mandated cost of a pink card is 3,080 baht (\$95).²¹² In one case, Human Rights Watch documented deception by a broker that resulted in an almost 5,000 percent increase in fees on the basic cost of obtaining a travel document.²¹³

Onerous repayment schedules also often render migrants vulnerable to exploitation and forced labor. Said one trafficking survivor:

The brokers said we would have to pay back the transportation costs for three and a half months, but we worked for four months to pay off the debt. After four months, I asked to quit the job, but they beat me and kept me in a lockup for one week, before they forced me to work more.²¹⁴

Risk of debt bondage is especially high when salaries are withheld to service debts and terms of repayment remain unclear to the worker, undefined by the creditor, or subject to change. For example, one Burmese migrant was indebted to his boatswain for 18,000 baht (\$550) after obtaining a fishing job in Pattani. After working several months to repay the debt, the individual did not know the amount of the outstanding debt.²¹⁵

In August 2016, Thailand introduced new legislation and regulations aimed at exercising greater control over the chronically under-regulated agencies that underpin recruitment into many of Thailand's key economic sectors. Both the 2017 Royal Decree concerning the Management of Foreign Workers' Employment and a prior 2016 Royal Decree adopted the "employer pays principle" on recruitment fees, mirroring language from the ILO Private Employment Agencies Convention, 1997 (No. 181) by stating: "No licensee shall charge or collect money nor any other asset from migrant workers."²¹⁶ Employers who do not use licensed agencies for recruiting migrant workers, which applies to most fishing vessel operators, can get approval to recruit workers from neighboring countries directly.

²¹² Human Rights Watch interview with DOE labor specialist, September 29, 2016.

²¹³ Human Rights Watch interview with 15 Cambodian trafficking survivors, March 11, 2016.

²¹⁴ Human Rights Watch interview with nine Burmese trafficking survivors, March 14, 2016.

²¹⁵ Human Rights Watch interview with 16 Burmese migrants, August 11, 2016.

²¹⁶ Royal Decree concerning the Management of Foreign Workers' Employment, B.E. 2560 (2017), art. 42; Royal Decree on the Importation of Migrant Workers for Employment in Thailand, B.E. 2559 (2016) (พระราชกำหนดการนำคนต่างด้าวมาทำงานกับนายจ้างในประเทศ พ.ศ. ๒๕๕๙), art. 25(1).

But in the absence of strict enforcement measures to compel brokers to obtain formal licenses or employers to use only licensed brokers, it seems unlikely that this legislation will disrupt the deeply entrenched informal systems driving recruitment in the fishing industry.

In November 2016, several months after the 2016 Royal Decree came into force, Human Rights Watch met Sokphon, a 21-year-old Cambodian migrant, at a port in Khlong Yai, Trat. Sokphon had journeyed from his home in Kampong Speu province with a companion and entered Thailand irregularly just a few days before. Sokphon and his traveling companion were wasting away their days in port awaiting their pink cards.²¹⁷ Sokphon said he was in debt to his employer, who had advanced him funds to pay the recruitment fees, which would be settled at the end of his employment. Sokphon did not know how much money would eventually be deducted from his salary. But he did know he would be paid in a lump sum after 10 months of work, while in the interim being charged a monthly interest rate of 20 percent on all debts to his employer. A man from Sokphon's boat who had already been working on board for six months told Human Rights Watch that he had initially been indebted to his employer for just under 4,500 baht (\$137) in broker fees. He had only managed to pay back around half his debt over the six months of work.²¹⁸

Fishers paid through intermediaries such as brokers and boatswains are more vulnerable to debt bondage and exploitation. Employers or skippers typically give boatswains a quota of crew to recruit and a budget to pay them, and then boatswains make their own arrangements with individual workers regarding wages.²¹⁹ A Burmese boatswain from a purse seiner in Pattani explained how he paid his crew:

I get 100,000 baht of the profits for this month, then I pay anyone who needs an advance. The wages depend on their ability and experience. We pay 6,000 baht [per month] to the newcomers and then increase that according to experience: from 6,500 to 7,000 to 8,000 to 15,000 baht [per month].²²⁰

²¹⁷ A boatswain later informed Human Rights Watch that he expected to have their pink cards by the end of the month, despite there not being another pink card registration period in 2016.

²¹⁸ Human Rights Watch interview with three Cambodian migrants working on a purse seine fishing vessel, Khlong Yai, Trat, November 10, 2016.

²¹⁹ Human Rights Watch interview with Thai tuna purse seine operator, Mueang Pattani, Pattani, August 10, 2016.

²²⁰ Human Rights Watch interview with 16 Burmese migrants, August 11, 2016.

Some boatswains and brokers manipulate a worker's wages through fraudulent deductions and debt inflation, or take a cut from salaries. One trafficking survivor said:

We got 6,000 to 7,000 baht [from the broker] once every six months when the boat went out to sea. Actually, we knew that the employer gave the broker 15,000 baht for each of us every time we went out to sea.²²¹

In arrangements where senior crew pay wages, the transparency of the accounting system is paramount. Very few workers interviewed kept their own records of transactions, and under these informal payment systems fishers can quickly accumulate a bewildering series of advances, partial wage payments, expenses, debts, and repayments.

Some migrants reported being barred from viewing transaction records detailing payments and loans. Only crew working aboard two boats, among those identified by Human Rights Watch as having some of the best overall employment practices and working conditions, could access transaction records held by their employer or boatswain upon request.²²²

The involvement of brokers in payment of wages to fishers is a strong indicator of trafficking and forced labor situations. Victims of trafficking and forced labor often must pay a portion of their salary to brokers to service debts connected to recruitment. But brokers are involved in other transactions with fishers. Even Thai vessel owners and skippers reported seeing brokers, whom they described as loan sharks, charging interest rates of 100 percent on loans and stripping workers of all their earnings on pay days.²²³ One Burmese trafficking survivor tricked into debt bondage by a broker said:

I borrowed just 5,000 baht when I first came to work here, but the broker told me that the interest on my debt was getting higher and higher every month. It never stopped.²²⁴

²²¹ Human Rights Watch interview with six Burmese trafficking survivors, Mueang Songkhla, Songkhla, March 15, 2016.

²²² Human Rights Watch interviews with Zin Naung Lat, September 9, 2016, and nine Cambodian migrants working on a light-assisted falling net fishing vessel, Laem Ngop, Trat, November 9, 2016.

²²³ Human Rights Watch interview with owner of a falling net fishing vessel, Mueang Rayong, Rayong, November 12, 2016.

²²⁴ Human Rights Watch interview with six Burmese trafficking survivors, March 15, 2016.

Individuals in such situations are typically controlled through fear of denunciation to authorities; of brokers' or employers' relationships with local police; of losing their pink card or withheld earnings; or of physical retaliation, among other considerations. Brokers often try to cultivate a sense of dependency by offering workers access to multiple goods and services, such as job placement, housing, savings and credit accounts, official document brokerage, small goods, food, sex workers, drugs, and alcohol. Brokers often force fishers to incur debt by charging above-market rates for goods and services they provide. According to Saw Win:

Normally, when workers come to port they are meant to receive 1,500 baht, but the brokers sell them food, coffee, and alcohol at a higher price than the local shops, so that next time the workers come to port, they each receive just 500 baht after deductions for their expenses.²²⁵

Trafficking survivors said they were charged for meals while forcibly confined. Said one Burmese survivor:

When we were in the lockup they fed us twice a day, one meal at 9 a.m. and another at 3 p.m. But the meals weren't free. When we went out on the boat they deducted that food cost from our wages. So if you had been in the lockup for five days, that's 500 baht deducted just for 10 meals.²²⁶

Brokers may resort to subtler forms of psychological manipulation, in addition to coercion, threats, and intimidation. One broker, for example, was even described by workers as constantly striving to present a "motherly" persona.²²⁷ Tin Aung Win explained how his employer cooperated with the broker to control him and others:

We didn't have any debt that we needed to pay off, [the broker] just took our money. When the boat came back to shore, we'd go to a room with the employer, the security guard, and [the broker]. The employer would give us our wages and tell us to sign a piece of paper. We'd have our pictures taken

²²⁵ Human Rights Watch interview with Saw Win, August 10, 2016.

²²⁶ Human Rights Watch interview with 11 Burmese trafficking survivors, Bang Rin, Ranong, March 14, 2016.

²²⁷ Human Rights Watch interview with eight Burmese trafficking survivors, September 29, 2016.

as we were handed the wages and signed the pay slips. Then [the broker] would tell us to give the money to her straight away.²²⁸

By creating a system in which it was difficult for victims to even articulate a need for money, the broker made it easier to control them through debt. Said a Burmese trafficking survivor:

If we could provide a good enough reason, we would get money from [the broker]. But we didn't have many good reasons because we could get whatever we could buy, eat, or drink at her shop. We could even sleep with prostitutes there. [The broker] didn't like it if we went to another shop or visited other Burmese people's houses.²²⁹

Human Rights Watch identified several trends regarding the amount, frequency, and method of payment aboard different types of fishing vessels.

Trawlers

Most trawler workers interviewed by Human Rights Watch received a fixed monthly salary or payments made on a lump sum basis following a defined period of employment. Fishers could request advances, or fixed proportions of their monthly salary would be periodically made available to them. In both cases, the amounts were deducted from the final lump sum payment. Up to 93 percent of earnings were withheld under lump sum payment systems, and the mandatory period of employment required prior to receipt of lump sum payments was up to two years. Monthly salaries ranged from 5,000 to 12,000 baht (\$152 to \$365) and, as aboard all vessel types, boatswains helped grade the fishers by ability and years of experience.

Among those interviewed by Human Rights Watch, workers aboard trawlers were more commonly paid less than the legal minimum wage than those on other vessels. Some workers on trawlers had a significant proportion of their wages withheld after contracted periods of employment. Both practices, along with lump sum payment systems, frequently

²²⁸ Human Rights Watch interview with six Burmese trafficking survivors, March 15, 2016.

²²⁹ Human Rights Watch interview with eight Burmese trafficking survivors, September 29, 2016. The broker's shop was located right next to the fishing company compound.

coincided with forced labor cases identified by Human Rights Watch. Trafficking survivors from trawlers who had received earnings reported receiving the equivalent of 1,000 to 4,800 baht (\$30 to \$146) per month.

Purse Seiners

The two most common payment systems aboard purse seiners were lump sum payment systems, which in some cases included bonuses based on the value of the catch, paid at the employer's discretion, and share-based systems, where workers received a base salary in addition to an increment calculated as a percentage of the value of the catch, with the increment sometimes paid on a lump sum basis. Fishers aboard one vessel were paid daily under a fully share-based system.²³⁰ Workers on some vessels were paid fixed monthly salaries or daily wages. The fishers Human Rights Watch interviewed had as much as three-quarters of their earnings withheld under lump sum payment systems and mandatory employment periods of up to two years prior to receiving lump sum payments.

Earnings aboard purse seiners tended to be higher than those aboard trawlers, partly because of the greater skill required to manage purse seine nets and partly because of share-based pay arrangements. Earnings under different payment systems were equivalent to monthly salaries of 3,000 to 11,000 baht (\$92 to \$335), excluding bonuses and increments. Increments based on a percentage of the value of the catch tended to increase monthly earnings by 2,000 to 3,000 baht (\$61 to \$92), although the amounts varied and could be higher, depending on the season and other factors affecting catch volume.

Human Rights Watch identified several cases of workers being paid less than the minimum wage. Withholding of significant portions of earnings for more than several months or years was more common aboard purse seiners than other vessel types. Both practices tended to coincide with situations of forced labor identified by Human Rights Watch. No trafficking survivors from purse seiners reported receiving wages.

Falling Netters

The most common forms of remuneration aboard falling netters were share-based systems (see above). The mandatory period of employment required prior to receipt of lump sum

²³⁰ Human Rights Watch interview with four Cambodian migrants, November 8, 2016.

payments was up to eight months. Workers aboard one vessel received a bonus based on the value of the catch, paid at the employer's discretion, in addition to a base salary.²³¹ Base salaries aboard falling netters ranged from 5,000 to 10,000 baht (\$152 to \$305), excluding bonuses and increments. Increments based on a percentage of the catch's value could increase monthly earnings by up to 10,000 baht, although this amount varied depending on the season and other factors affecting catch volume and productivity.

Some fishers smoothed fluctuations in earnings by using personal fishing equipment to catch fish or squid after or between shifts. One worker reported earning an extra 5,000 to 14,000 baht (\$152 to \$427) per month selling squid to their employer at fixed rates.²³²

Human Rights Watch identified one instance of underpayment aboard a falling netter, where the base salary was below minimum wage for the number of days worked, and an increment of up to 8,000 baht (\$244) had been paid only twice in the prior 12 months.²³³ None of the trafficking survivors interviewed had worked aboard falling netters.

Lump Sum Payment Systems

Lump sum payments mean that different forms of earnings, such as base salaries, shares of catch, and bonuses, are paid in a lump sum at the end of a defined period. In the interim, amounts of money are periodically made available to the worker, typically in the form of unfixd advances or a fixed portion of an equivalent monthly salary.

Lump sum payment systems play a major role in controlling migrant fishers, forcing them to remain with employers who subject them to unfair terms of employment and substandard working conditions, and trapping them on boats in situations of debt bondage and forced labor. Fishers who try to flee face the loss of earnings owed to them, usually six or more months' worth of salary; the loss of legal status; and possible intimidation and violence by vessel owners, skippers, and brokers claiming that the fisher still owes them "debts."

²³¹ Human Rights Watch interview with 12 Burmese migrants, March 10, 2016.

²³² Human Rights Watch interview with Soe Naing, Burmese migrant working on a light-assisted falling net fishing vessel, Mueang Surat Thani, Surat Thani, September 9, 2016.

²³³ Human Rights Watch interview with Hoe Manh, November 10, 2016.

Many fishers responding to questions about payment systems reported being paid under lump sum arrangements. Some payment schedules were said to correspond with the replacement of nets aboard a boat, a major operational expense for any commercial vessel.²³⁴

One payment system in Pattani had a variation based on family status: workers without families in port had to request advances on their lump sum payment if they needed cash; workers with families in port received over 60 percent of their earnings in fixed cash payments spread throughout a working month, with the remainder paid as a lump sum.²³⁵

Bien Vorn, a Cambodian fisher in Rayong, worked on a purse seiner and was paid 10,000 baht (\$305) per month on a lump sum basis with fixed cash payments. The boat usually came into port in Rayong three times per month, and he received 700 baht (\$21) on arrival each time. On the third trip back to port, the vessel would stay in port for several days while the crew repaired the nets. Once repairs were completed, Bien Vorn received 2,000 baht (\$61), and another 500 baht (\$15) when the boat departed. This brought his monthly earnings to 4,600 baht (\$140). After two years of work, his employer would deduct the 24 months' worth of payments already made to him, totaling 4,600 baht per month, plus any other expenses, and pay the remainder as a lump sum. Bien Vorn expected to receive a maximum lump sum of 129,600 baht (\$3,953) after two years of work.²³⁶

Fishers receive few assurances that lump sums will be paid in full and on time, while the catalog of transactions that accumulate between employers and workers over months or years makes it easier to swindle fishers out of their earnings using fraudulent accounting practices and coercion. Bien Vorn said:

You can't leave because if you leave you won't get paid, and if you want to leave at the end it's only if they let you. Unless you leave without your money and your card, you have to obtain their permission.²³⁷

²³⁴ See, for example, Human Rights Watch interview with three Burmese migrants, August 10, 2016.

²³⁵ Human Rights Watch interview with Kosal, Cambodian migrant working on a light-assisted falling net fishing vessel, Mueang Pattani, Pattani, August 11, 2016.

²³⁶ Human Rights Watch interview with four Cambodian migrants, November 12, 2016.

²³⁷ Ibid.

Some employers use advances paid under lump sum arrangements to stop people from changing jobs, informing workers that the cumulative value of advances is a “debt” that must be paid off before they can move to a new employer.²³⁸ Lump sum payment systems are clearly intended to control fishers and retain their services at all costs, even if that contravenes labor law and violates workers’ rights to receive a monthly wage.

Fishers working under lump sum arrangements using advances can also be at risk of debt inflation. Phem Siphon, a Cambodian working under a lump sum payment system on a purse seiner in Trat province, described how he and coworkers had to take loans from their employer to remit money home to their families or go out with friends in the port. Although he needed to borrow cash solely because of the payment system in use aboard the vessel, his employer charged him a monthly interest rate of 20 percent on all loans. “I don’t expect to receive much of a salary after the deductions and expenses,” he said.²³⁹

Many fishers said that getting their full earnings depended on their completing periods of employment that were almost always more than six months, and sometimes over a year. Ye Min Aung said that a broker withheld a third of his wage under a lump sum payment system. The broker had originally told him that he would receive all of his earnings after six months, but after 10 months he was still waiting to be paid. Ye Min Aung had previously asked for the money, but the broker had refused. Now he was too afraid to ask again because he thought the broker might have him beaten up, as he had heard had happened to others.²⁴⁰

In some cases, brokers, boatswains, and employers point to other factors, such as low profits or poor yields, to try and justify fishers’ earnings being withheld. Cambodian fishers working for several months under a lump sum payment system reported being paid the equivalent of just three-quarters of the legal minimum wage because, according to the boatswain, their employment ended early after the trawler was caught engaged in IUU fishing activity.²⁴¹

²³⁸ Human Rights Watch interview with seven Burmese migrants, September 8, 2016.

²³⁹ Human Rights Watch interview with three Cambodian migrants, November 10, 2016.

²⁴⁰ Human Rights Watch interview with three Burmese migrants, August 10, 2016.

²⁴¹ Human Rights Watch interview with four Cambodian former migrant workers repatriated from Indonesia, Chi Khreng, Siem Reap, Cambodia, July 26, 2016.

In interviews with Human Rights Watch, senior provincial DLPW officials cited contradictory interpretations of a specific section of the 2014 Ministerial Regulation to dispute whether lump sum payments are legal or not. Section 10(1) addresses the frequency of payment in the fishing sector: “Whereas wage is calculated on a monthly, daily or hourly basis or on the basis of other time periods not exceeding one month, wage shall be paid not less often than once a month unless otherwise agreed in favour of an employee.”²⁴² Some DLPW officials stated that lump sum payment systems are prohibited because wages are not being paid to fishers on a monthly basis.²⁴³ This view was disputed by other officials who maintained that lump sum payment systems are allowed as long as they are described in a contract of employment or under arrangements that are of benefit to the employee.²⁴⁴ However, some fishers paid under lump sum arrangements are not presented by employers with any alternative or choice.²⁴⁵ Section 10(1) of the 2014 Ministerial Regulation, although applying only to the fishing sector, retains the wording of section 70(1) of the Labour Protection Act, which requires workers to be paid at least once per month.

Lack of Occupational Safety and Health Protections

Work aboard a Thai fishing vessel is dangerous. Decks are in constant motion, especially in bad weather or sea conditions. They are often covered in seawater and slippery discharges from the last haul. Work may be conducted alongside hazardous machinery, electrical wiring, or scalding exhaust pipes. Many vessels lack toilets, making routine bodily functions risky. Fishers either work through the day with little respite from the elements or at night when visibility is poor. Long hours and intensive labor lead to rapid exhaustion. Misuse of alcohol and stimulants such as kratom (*Mitragyna speciosa*) and amphetamines is common and can undermine safety. Inadequate training, poorly maintained vessels, language barriers, and lack of safety equipment put fishers at risk of

²⁴² 2014 Ministerial Regulation, sec. 10(1).

²⁴³ Human Rights Watch interview with DLPW labor specialist, November 11, 2016.

²⁴⁴ Human Rights Watch interviews with DOE labor specialist, August 31, 2016, and DLPW labor specialist, September 30, 2016.

²⁴⁵ Human Rights Watch interview with three Cambodian migrants, November 10, 2016.

accident, injury, and death.²⁴⁶ Surveys of the Thai fishing sector have found that 20 percent of workers and almost 50 percent of trafficking victims have been injured on the job.²⁴⁷ Fishers described to Human Rights Watch the numerous injuries they had witnessed in the past two years. These included cuts and lacerations; broken bones; mangled fingers or lost hands and limbs; fatal and nonfatal head injuries; partial paralysis, electrocutions, and fatalities resulting from workers getting caught in machinery; and multiple deaths when fishers fell overboard and drowned.

Fishers spoke frequently about specific hazards and risks aboard different types of Thai fishing boats, including six commonly cited on-the-job hazards and accidents:

- When power blocks used to haul nets break free of hoists and fly off at speed;
- When warps snap as the net is being hauled by winches and whip across the deck;
- When trawl gallows or other frames that support nets fall on the deck;
- When hands or limbs get entangled in winch drums or other pieces of machinery;
- When unsafe or faulty electrical equipment presents a risk of electrocution;
- When factors such as unsafe working practices, exhaustion, rough conditions, or going to the toilet off the side of a vessel result in a fisher falling overboard.²⁴⁸

After years of working on abusive boats, where skippers beat him and cheated him out of his wages, Han Lin Maung finally worked his way up to a job as a boatswain managing a 20-person crew. One day in Indonesian waters, the skipper ordered the crew to deploy a trawl net. As the crew hauled the nets into the boat, a warp snapped and flew back toward Han Lin Maung, severing a finger on his right hand.²⁴⁹ Three more fingers were mangled when his hand was pulled into the winch drum. With only basic medication aboard, the skipper sent Han Lin Maung on another boat heading to shore, where a doctor told him his fingers should be amputated. Han Lin Maung insisted on going back to Thailand for

²⁴⁶ A 2009 study of fishing vessels operating out of ports across Thailand found that roughly half failed to meet the safety standards set by the Marine Department. Issues identified in the research included that only 39 percent of vessels in southern Thailand performed routine hull maintenance, and less than half of the boats in the northern Gulf of Thailand and Andaman fisheries carried basic safety equipment. See Bundit Chokesanguan et al., “Impact of Fisheries Management in Improving Safety at Sea Measures: A Case Study in Thailand,” *Fish for the People*, vol. 7(2) (2009), p. 33. See also, Peter Hurst, *Safety and Health Training Manual for the Commercial Fishing Industry in Thailand* (Bangkok: ILO, 2014), pp. 6-17.

²⁴⁷ Chantavanich et al., *Employment Practices and Working Conditions in Thailand’s Fishing Sector*, p. 58; Nicola Pocock et al., “Labour Trafficking among Men and Boys in the Greater Mekong Subregion: Exploitation, Violence, Occupational Health Risks and Injuries,” *PLoS ONE*, vol. 11(12) (December 2016), p. 13.

²⁴⁸ Section 16 of the 2014 Ministerial Regulation requires that employers provide toilet facilities that are “appropriate for the type of work and duration spent aboard the vessel.”

²⁴⁹ Warps are long cables attached to the fishing gear, enabling a boat to control its deployment and retrieval.

surgery. He had to arrange his own travel, and waited a month until he could go back to Thailand on a refrigerated cargo ship. By the time he arrived, his fingers had putrefied and required amputation. The company paid for the procedure, but no other compensation. Han Lin Maung said no fishing company will employ him now because of his injury.²⁵⁰

While all vessels use lighting, electrocution can be a higher risk on boats that deploy large light arrays to attract fish. Kyaw Kyaw Toe, a Burmese fisher in Ranong, described one incident:

Six months ago, one of my friends was electrocuted. It was night and the boat needed to fish but one of the lights was faulty. He was trying to fix it when it shocked him and threw him into the ocean where he drowned.... His family didn't receive any compensation but the employer paid 10,000 baht for the funeral expenses.²⁵¹

In many but not all cases, employers paid the medical costs for the treatment of injuries and contributed to funeral costs in cases of death.²⁵² Depending on where fishers were recruited, section 15(2) of the 2014 Ministerial Regulation can require employers to cover the costs of repatriation for workers who are injured, fall sick, or die due to injury aboard a fishing boat.²⁵³ Although injured migrant workers whose employability was affected by on-the-job accidents were not repatriated in most of the cases described to Human Rights Watch, one interview with workers did suggest evidence of compliance with this section of the labor law among employers.²⁵⁴

Some injured fishers do not receive proper medical treatment or access to complaint mechanisms because of situations of exploitation and forced labor. Thet Phy Lin told Human Rights Watch of an altercation in August 2016 when a drunk member of his crew

²⁵⁰ Human Rights Watch interview with Han Lin Maung, October 4, 2015.

²⁵¹ Human Rights Watch interview with seven Burmese migrants, March 8, 2016.

²⁵² Thailand's fishing industry lacks a robust system for the reporting of fatalities and injuries. The ILO estimates that fishing has a global fatality rate of approximately 24,000 deaths per year. See International Labour Organization, *Tripartite Meeting on Safety and Health in the Fishing Industry* (Geneva, 1999), p. 17.

²⁵³ 2014 Ministerial Regulation, sec. 15(2).

²⁵⁴ Human Rights Watch interview with three Cambodian migrants working on a crab trapper, Ban Phe, Rayong, November 8, 2016. Some pink card holders believed that their legal status did not entitle them to be repatriated in case of serious sickness or injury. See, for example, Human Rights Watch interview with 10 Burmese migrants, March 7, 2016.

stabbed him with a knife, inflicting a large gash in his abdomen. Thet Phyto Lin’s employer paid for emergency treatment but refused to cover any additional costs. Thet Phyto Lin wanted to report the incident to police, but his broker would not allow him. Thet Phyto Lin expected to have to return to the same vessel once he had sufficiently recovered, to work alongside the man who had stabbed him.²⁵⁵

Apart from one incident in Pattani involving the loss of a leg, no fishers interviewed by Human Rights Watch knew about accidents in the fishing sector within the last two years that involved employers paying compensation to either injured workers or the families of fishers who had lost their lives at sea.²⁵⁶

As mentioned above, registered migrants holding pink cards—the majority of the workforce in the fishing sector—are barred from accessing compensation for on-the-job accidents through the Workmen’s Compensation Fund. One Burmese fisher working on a purse seiner in Phang Nga said:

If someone falls sick or gets injured they send us to the clinic and pay the bills, but workers don’t get any money. One member of our crew fell into the ocean and died, but there wasn’t even any compensation for that.²⁵⁷

The Ministerial Regulation on Safety Systems, Health, and Welfare in Work for Seafarers, B.E. 2559 (2016) (2016 Ministerial Regulation), which came into effect in January 2016, sets out minimum health, safety, and welfare standards for crew aboard fishing vessels.²⁵⁸ However, key sections on the provision of adequate food, water, rest areas, and medical supplies lack specificity. For example, the regulation requires that vessel operators “provide food and drinking water that is clean, healthy, and of sufficient quantity for the work and period of time spent aboard the fishing vessel.”²⁵⁹ Another section requires that operators provide “medicines and medical supplies for first aid that are appropriate for

²⁵⁵ Human Rights Watch interview with three Burmese migrants, August 10, 2016.

²⁵⁶ See, for example, Human Rights Watch interview with 12 Burmese migrants, March 10, 2016.

²⁵⁷ Human Rights Watch interview with 10 Burmese migrants, March 7, 2016.

²⁵⁸ Ministerial Regulation on Safety Systems, Health, and Welfare in Work for Seafarers, B.E. 2559 (2016) (กฎกระทรวงระบบความปลอดภัย สุขอนามัย และสวัสดิภาพในการทำงานของคนประจำเรือ พ.ศ. ๒๕๕๙), http://www4.fisheries.go.th/local/file_document/20161126123757_file.pdf (accessed April 19, 2017).

²⁵⁹ *Ibid.*, sec. 6.

work aboard a fishing vessel, and such that the number of crew and duration of the fishing operation are taken under consideration.”²⁶⁰

The 2016 Ministerial Regulation details no minimum standards for quantities of food, water, or medical supplies, and requires no such guidance to be issued. This is problematic because there are well-documented health risks to fishers that simple provisions could mitigate. Some fishers working on boats that went out for trips longer than a week reported that it was typical for fresh foods such as vegetables and meat to be exhausted prematurely, leaving only rice and fried or boiled fish for days or more.²⁶¹ Outbreaks of beriberi—caused by a lack of vitamin B₁—aboard overseas fishing boats have resulted in numerous deaths over the years.²⁶² Trafficking survivors rescued from vessels operating in the far reaches of the Indian Ocean for 14 months described symptoms consistent with beriberi, such as swollen limbs and difficulty walking.²⁶³

Requiring vessels to maintain particular nutritional profiles for crew, depending on the length and nature of the voyage, or, in the case of overseas vessels, vitamin B₁ supplements, are two examples of where the 2016 Ministerial Regulation fails to provide effective regulatory interventions to protect the health of fishers.

Moreover, operators of all commercial vessels under 30 gross tons are exempt under the regulation from providing even the most basic standards to ensure the health, safety, and welfare of crew. This is problematic because a significant portion of Thailand’s commercial fleet comprises vessels weighing less than 30 gross tons.²⁶⁴

Despite regulatory requirements, many Thai vessel operators also fail to provide adequate sanitation facilities and medical supplies to treat sickness and inhibit the spread of

²⁶⁰ *Ibid.*, sec. 8.

²⁶¹ Human Rights Watch interview with seven Burmese migrants, September 8, 2016.

²⁶² Greenpeace Southeast Asia, *Turn the Tide*, pp. 11-18.

²⁶³ See Human Rights Watch interview with 15 Cambodian trafficking survivors, March 11, 2016. Other fishing crew from the same fleet who experienced the same exposures (overwork, limited diet) and who had arrived in port days before were clinically tested by Thailand’s Center for Disease Control, with multiple confirmed cases of beriberi.

²⁶⁴ In addition, section 11 of the 2016 Ministerial Regulation requires employers to take crew for medical checkups and obtain a “medical certificate demonstrating that [newly employed crew] are fit for work aboard a fishing vessel before they go out to work in fishing for the first time.” But it also allows for health checks conducted as part of pink card applications, which consist of a basic urine and blood screen for seven diseases, to be used in lieu of a medical certificate as evidence of the fitness of migrants for work in fishing. The health of Thai and non-Thai nationals should be evaluated equally prior to them being declared fit for work aboard a fishing boat.

illnesses in the closed and unsanitary environment of a fishing vessel at sea. Workers interviewed by Human Rights Watch complained that despite routinely suffering from a litany of health concerns such as heat exhaustion, unexplained sicknesses and fever, intestinal problems and diarrhea, and chronic seasickness, fishing boats often stocked only the most basic medical supplies such as acetaminophen.

Some fishers also reported that when they sought medicine from the skipper or said they were unable to work due to sickness, they risked physical retaliation or other forms of punishment.²⁶⁵ Despite fishers being entitled to up to 30 days of paid sick leave each year under section 13 of the 2016 Ministerial Regulation, falling sick on a fishing boat can still mean losing pay for that day. Senior crew use the threat of deductions to compel sick fishers into working without rest. Bien Vorn noted that anyone who became too ill to work had their salaries cut.²⁶⁶

No Right to Form or Lead a Labor Union

Current Thai labor laws, such as the Labour Relations Act, B.E. 2518 (1975) (LRA), prohibit migrant workers from forming or leading trade unions of their own, based on discriminatory provisions that restrict that right to Thai nationals. The LRA provides that 10 or more people may come together to establish a labor union and seek registration with the registrar operating under the auspices of DLPW. However, these 10 or more individuals—commonly known as “founders” of the labor union—must be Thai nationals.

Specifically, section 88 of the LRA provides:

Persons who have the right to establish a labor union must be employees working for the same employer, or employees working in the same description of work (whether or not they work for the same employer), *sui juris* and of Thai nationality.

Section 100 of the LRA sets out that a union committee will “carry out [union] activities and act as representative of the labor union.” However, according to section 101, “a person

²⁶⁵ See “Threats, Intimidation, and Violence” in this section.

²⁶⁶ Human Rights Watch interview with four Cambodian migrants, November 12, 2016.

who is eligible for election or appointment as a member of the committee ... must possess the following qualifications ... (2) have Thai nationality by birth.”²⁶⁷

These two provisions in the LRA violate international human rights conventions that Thailand has ratified. For example, the International Covenant on Civil and Political Rights (ICCPR) states in article 22(1) that “everyone has the right to form and to join trade unions for the protection of his interests.” Such rights are extended to all, without regard to “national or social origin,” as provided for in article 2 of the ICCPR.²⁶⁸ Similarly, article 8(1)(a) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) states that governments undertake to ensure that “the right of everyone to form unions and join the trade union of his choice” will be protected. The ICESCR also states in article 2 that the rights in the covenant are extended to all, without regard to “national or social origin.”²⁶⁹

Thailand has not ratified the ILO conventions on Freedom of Association (No. 87) and the Right to Organise and Collective Bargaining (No. 98). However, as a member of the ILO, Thailand is bound by the ILO’s Declaration on Fundamental Principles and Rights at Work, adopted in 1998. Article 2 states that “all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions,” including “freedom of association and the effective recognition of the right to collective bargaining.”²⁷⁰

Constant Surveillance and Unlawful Detention

Workers aboard a Thai fishing boat face constant surveillance by the skipper and senior crew within a confined space. Certain business models in the fishing industry can increase isolation by emphasizing restrictions on freedom of movement. For instance, Human Rights Watch interviews with trafficking survivors found that the more extreme situations

²⁶⁷ Labour Relations Act, B.E. 2518 (1975), DLPW 45/2547,

http://www.mol.go.th/sites/default/files/images/other/labourRelation2518_en.pdf (accessed February 6, 2017).

²⁶⁸ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976.

²⁶⁹ International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976.

²⁷⁰ ILO Declaration on Fundamental Principles and Rights at Work, June 18, 1998, 37 I.L.M. 1233 (1998).
<http://www.ilo.org/public/english/standards/relm/ilc/ilc86/com-dtxt.htm> (accessed February 6, 2017).

of exploitation and abuse tend to coincide with work aboard long-haul or overseas fishing vessels. A large-scale survey of fishers in 2013 indicated that conditions of forced labor are more prevalent aboard long-haul vessels.²⁷¹

Transshipment at sea—where a fishing boat meets another vessel to exchange fish and supplies—enables vessels to remain at sea for months or even years, strongly increasing isolation and the risk of forced labor. Victims of trafficking and forced labor described being moved or sold between vessels during transshipments. For instance, Chan Um, a Cambodian from Svay Rieng, was trafficked more than 7,000 kilometers via refrigerated cargo vessel (reefer) from Samut Sakhon, Thailand, to a remote area off the East African coast, where he spent 13 months before being rescued during a Thai government inspection at sea.²⁷²

On land, serious rights abuses against fishers invariably involved coercion or forcible detention to ensure that they could not escape. Human Rights Watch identified two key patterns of rights abuses. In the first pattern, traffickers held men and boys and restricted their movements physically or psychologically, such as threatening they would be arrested by police working for the trafficker if they sought to escape, during recruitment and prior to boarding a fishing vessel. Often the broker delivered the fisher to the boat, received payment, and ceased to play an active role in the exploitation of the fisher. In the second, brokers, working closely with skippers and vessel owners, continued to exploit the victim through an ongoing system of onshore detention in which the individual's movements were restricted physically or psychologically in between fishing trips.

Individuals in the first category were generally migrants transported in demeaning or dangerous circumstances, such as tightly concealed in compartments with limited air, and confined at one or more stop-off points during the journey to the destination. Often, they were men who had been promised factory or other onshore jobs and who had put little or no money up for their travel, but instead had agreed to take a job where they would gradually pay off the recruitment fees via deductions paid to a broker.

²⁷¹ Chantavanich et al., *Employment Practices and Working Conditions in Thailand's Fishing Sector*.

²⁷² Human Rights Watch interview with 15 Cambodian trafficking survivors, March 11, 2016.

However, some such brokers turned out to be traffickers and sold migrants for a one-off, per head cash payment from the vessel owner or skipper. In several cases, trafficked fishers were locked up at a private property onshore or aboard a fishing vessel in the port while waiting for the vessel to depart or for another to arrive.

Nyan Thant escaped from a Thai-owned trawler operating out of the port of Benjina, Indonesia, on which he had worked as a trafficked fisher for 18 months. He fled into the jungle near the port with three other Burmese crew members after their vessel arrived in port. But after 11 days their food ran out. When they came out of hiding, the company staff seized Nyan Thant and his companions and locked them in the company compound in a 20-square-foot cell, where they joined another 12 men. The skippers had offered a reward of 500,000 Indonesian rupiah (US\$37) to anyone who captured an escaped fisher. At first, Nyan Thant and his companions refused to go back to the boat, telling their captors that they would jump into the ocean if they were forced back on. Their captors said their alternative was to stay locked up indefinitely. After weeks in the cell, Nyan Thant relented. “We were fed only once a day, but at least we weren’t beaten,” he said.²⁷³

Sopheak Phon, from Kampong Speu, Cambodia, was forced on board a gillnetter fishing boat in a remote area of the Indian Ocean after being trafficked.²⁷⁴ In December 2014, a fleet owner and his staff confined him and 28 other trafficking victims between a warehouse and boats in the company compound. In the days while they waited for their documents, they were made to practice using the kilometers-long nets on the boats. At night, the security guards locked them inside the compound. When Sopheak Phon and several others tried to escape one night, police caught them at a checkpoint. They confiscated Sopheak Phon’s phone and asked him whether he had a passport; he replied that he did not because the employer had confiscated their passports. The police drove the men back to the employer’s house. A Cambodian manager at the company compound subsequently told the men that they had been sold for 30,000 baht (\$915).

One day, they were taken to the Marine Department office to collect their seafarer books.²⁷⁵ Sopheak Phon, who speaks Thai, asked one of the officials whether it would be possible to

²⁷³ Human Rights Watch interview with Nyan Thant, Burmese trafficking survivor, Rangoon, Burma, September 12, 2016.

²⁷⁴ Human Rights Watch interview with 15 Cambodian trafficking survivors, March 11, 2016.

²⁷⁵ Seafarer books are documents issued by the Thai government that are required for a person to exit and enter Thai waters and work on an overseas fishing vessel. They have been widely counterfeited and were previously accepted as travel

stop working after two or three months if he wanted to. The Thai official affirmed that he could. In verdicts rendered in February and March 2017, the Ranong provincial court threw out two trafficking cases involving Sopheak Phon and his companions, clearing the defendants of criminal charges. Among various reasons for the ruling, the court noted that the men had failed to indicate to the police that “they had been lured or forced to work and had boarded a pickup to return to their accommodation [with the employer],”²⁷⁶ and that “the victims had already been asked by the authorities about their consent to work on the boats.”²⁷⁷

Wai Min Phyto, a Burmese man trafficked from Mon State, described what happened to him when he arrived at a pier in Pattani:

There was the boatswain, who would guard us, and then one security guard at the pier. In any case, we didn’t dare to go ashore because we were scared of encountering the security guard—we’d been told [by the boatswain] that he would harm us if we did.²⁷⁸

Other workers and trafficking survivors had their movements restricted during the period between fishing trips. Some fishers said they were not allowed to travel from the fishing pier into the nearby town.²⁷⁹ Other fishers said they were forcibly confined between fishing trips by corrupt police officers being paid by brokers.²⁸⁰

Tanawat Wonmoree, from Roi Et, Thailand, was rescued by Thai officials in January 2016 after 14 years during which a trafficker had controlled him, rotating him between Thai fishing

documents by Indonesian immigration officials. See International Organization for Migration, *Trafficking of Fishermen in Thailand*, January 2011, <https://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/countries/docs/thailand/Trafficking-of-Fishermen-Thailand.pdf> (accessed February 6, 2017).

²⁷⁶ Human Rights Development Foundation, “Provincial Court of Ranong Acquitting Defendants in Black Case no. KM2.4/2559 against 11 Migrant Fishing Crew Members from Cambodia,” March 24, 2017, <http://hrdfoundation.org/?p=1816&lang=en> (accessed April 25, 2017).

²⁷⁷ Human Rights Development Foundation, “Provincial Court of Ranong Acquitting Defendants in Trafficking in Person’s Case against Cambodian Fishing Crew Members,” February 23, 2017, <http://hrdfoundation.org/?p=1792&lang=en> (accessed April 25, 2017).

²⁷⁸ Human Rights Watch interview with 14 Burmese trafficking survivors, Rattaphum, Songkhla, September 30, 2016.

²⁷⁹ See, for example, Human Rights Watch interview with Siev Meng, Cambodian migrant working on a trawl fishing vessel, Sri Racha, Chonburi, November 7, 2016.

²⁸⁰ See, for example, Human Rights Watch interview with three Burmese migrants, August 10, 2016.

vessels and various karaoke establishments in Songkhla. He told Human Rights Watch that he had come into port in Songkhla more than 10 times, and each time the trafficker confined him to a karaoke bar for about a week. On most occasions, four or five other Thais were locked in a room with him. The broker came to visit them every night. There were relatively few women working at the bars, Tanawat said, and they were there “to give the appearance of [a bar], when really these places existed to hold people like me.”²⁸¹

In Ratsada, Phuket, traffickers rotated Burmese victims of trafficking between the trawlers and a secured, corrugated iron lockup next to the broker’s house. One Burmese trafficking survivor said:

Whenever we came back from the trawler, they put us back in the lockup. They only let us out when we were needed to work on the boat. We worked on the fishing boat for a week, and then we were made to go back in the same lockup. We didn’t have a chance to go anywhere else.²⁸²

The lockup was hot, dark, and cramped, especially at night, the Burmese victims said. “Two people even had to sleep in the toilet because there were 39 of us in total,” Myo Khaing told Human Rights Watch.²⁸³ The brokers only opened the door twice a day when the men were fed. The brokers kept the lights out in the lockup at night, so that people were not able to see in. “If someone passed by they would’ve thought that it was empty,” Myo Khaing said.²⁸⁴ One of the trafficking survivors had been rotated between the lockup and Ratsada trawlers for nine months before being rescued. He had witnessed several men try to escape, who ended up getting caught and beaten by the broker and his enforcers.

Trafficking survivors and victims of forced labor in Ratsada and elsewhere described constant surveillance via networks of informants—often motorcycle taxi drivers, shopkeepers, and even police officers—to prevent them escaping the port or town. Myo Khaing told Human Rights Watch: “Everyone thought about trying to escape when they first

²⁸¹ Human Rights Watch interview with two Thai trafficking survivors, Rattaphum, Songkhla, September 29, 2016.

²⁸² Human Rights Watch interview with nine Burmese trafficking survivors, March 14, 2016.

²⁸³ Human Rights Watch interview with 11 Burmese trafficking survivors, March 14, 2016.

²⁸⁴ *Ibid.*

arrived on the fishing boat, but the broker's people were everywhere."²⁸⁵ Maung Win described how motorcycle taxi drivers in Songkhla even recruited for one broker:

[The broker's] karaoke is like a trap. Many Burmese and Thais have fallen into it and been sold to the boats. [The broker] sells men for 20,000 to 30,000 baht.... He has a network of motorcycle taxi drivers who find men and bring them to sleep with women at the karaoke.²⁸⁶

In Kantang, Trang, broker surveillance systems and overt intimidation kept workers confined to port areas for years. Police sold attempted escapees back to brokers for 1,000 to 4,000 baht (\$30 to \$122), which the broker would then inflate and add to the individual's debt.²⁸⁷ One broker regularly reported drunk fishers to corrupt police, who would promptly arrest them. The broker would then "bail them out," adding the bail fee to their debt.²⁸⁸

Trafficked fishers were often unsure of their location beyond the confines of the port area, which, sometimes together with limited Thai language proficiency, trapped them in the port town. The ability of employers, skippers, boatswains, and brokers to monitor and control fishers' movements is strengthened by the government regulation restricting free movement for those with pink cards, which tie the worker's registered status to the employer, and require migrants to get permission from provincial authorities to travel beyond the province.

The isolated port of Samae San, Chonburi, is connected to the nearest highway by a single, straight five-kilometer-long road. "Some people have contacts outside [the port] and they escape by getting a car to pick them up. But those who don't know the routes will usually be caught," Kyaw Moe said.²⁸⁹ Informants help track down escapees and tell corrupt police officers, who capture the men and sell them back to boatswains. Kyaw Moe continued:

²⁸⁵ Ibid.

²⁸⁶ Human Rights Watch interview with Maung Win, Burmese trafficking survivor, Rattaphum, Songkhla, September 29, 2016.

²⁸⁷ Human Rights Watch interviews with six Burmese trafficking survivors, March 15, 2016, and eight Burmese trafficking survivors, September 29, 2016.

²⁸⁸ Human Rights Watch interview with six Burmese trafficking survivors, March 15, 2016.

²⁸⁹ Human Rights Watch interview with Kyaw Moe, March 2, 2016.

“Some people turn themselves in to the police, thinking they will be deported back to Burma, but instead they are sold, and they end up in a worse situation than before.”²⁹⁰

Threats, Intimidation, and Violence

Human Rights Watch documented multiple instances of workers being physically abused aboard vessels. Some skippers, boatswains, and other senior crew beat fishers who did not work fast enough or to their expectations. Sometimes, especially with inexperienced workers, beatings were routine until standards or speed improved. One trafficking survivor said:

We weren't able to work to [the boatswain's] expectations. He wanted us to work faster or better, but we couldn't—we'd work for so long that we just didn't have any energy left.²⁹¹

Fishers also reported being beaten for failing to understand the orders of boatswains because of differences of dialect. In addition to being punched and kicked, fishers described senior crew using various implements in disciplinary actions, including tool sharpening stones, iron rods, stingray tails, coils of rope, and blocks of wood. Humiliating practices used to discipline workers included being drenched with water and culturally specific forms of submission involving skippers forcibly putting the soles of their feet on the heads of crew members, a grave insult in Southeast Asian Buddhist traditions.²⁹²

Trafficking survivors often reported witnessing or experiencing physical violence as a form of punishment for refusal or inability to work due to illness or exhaustion. Tanawat, who was rescued by Marine Police in 2016 after over a decade of forced labor in the fishing industry, told Human Rights Watch that he constantly worried about getting sick because he feared the skipper might kill him by throwing him overboard if he could no longer work. “I've seen this happen more than 10 times,” he said.²⁹³

²⁹⁰ Ibid.

²⁹¹ Human Rights Watch interview with 11 Burmese trafficking survivors, March 14, 2016.

²⁹² Human Rights Watch interview with 15 Cambodian trafficking survivors, March 11, 2016.

²⁹³ Human Rights Watch interview with two Thai trafficking survivors, September 29, 2016.

Chan Um, trafficked to a gillnetter with 12 to 15-kilometer-long driftnets, said that beatings occurred most frequently during net repair sessions. In the 13 months they were continuously at sea, the crew lacked sufficient food, so exhausted men would sneak off to rest during the long hours on deck repairing nets. When caught doing so, they were beaten.²⁹⁴

In a separate case, Ko Ko Win asked to rest while repairing nets. The boatswain replied that it was “up to him.” Taking this as permission, Ko Ko Win went to rest; the boatswain came and beat him with a block of wood. Six weeks later, Ko Ko Win was still injured.²⁹⁵

Kaung Khant Hein, a 20-year-old from Ayeyarwady Region, Burma, told his Thai skipper that he was ill and could not work anymore. He asked to leave the boat. The skipper punched Kaung Khant Hein in the head and kicked him until he was unconscious.²⁹⁶

The boatswain and skipper of a pair trawler based out of Ratsada, Phuket, regularly beat Wai Phyo Naing when he failed to work fast enough. The boatswain had told the fishers that if they were ill, they would be allowed to rest and recover for one shift. If they still could not work after that, they would be thrown overboard. Wai Phyo Naing said that the only thing that got him through the 22-hour workdays was the free coffee: “You didn’t need to sleep for days when you drank the coffee, and you could work continuously.” Wai Phyo Naing guessed the skipper or boatswain had put amphetamines in the coffee, based on how he felt when they got back to shore and from how thin some of the crew were. “We had to take whatever they gave us,” he said.²⁹⁷ After one shift, Wai Phyo Naing collapsed from exhaustion as the crew was hauling the nets. He fell over the side of the boat but managed to grab onto a fender and stop himself from falling in the water. The skipper yelled at the crew, demanding that no one go help him. Wai Phyo Naing had to pull himself back up into the boat. The incident prompted another trafficking victim to escape from the port one morning. He eventually led authorities to rescue more than 30 men from the broker’s lockup in Ratsada.²⁹⁸

²⁹⁴ Human Rights Watch interview with 15 Cambodian trafficking survivors, March 11, 2016.

²⁹⁵ Human Rights Watch interview with nine Burmese trafficking survivors, March 14, 2016.

²⁹⁶ Ibid.

²⁹⁷ Ibid.

²⁹⁸ Ibid.

Threats and intimidation are often used to force workers to comply with orders and to discourage escape. One common threat is for men to be told they will be transferred or sold to another vessel or port. Skippers in the Indian Ocean threatened to withhold sleep and separate siblings assigned to the same boat if workers underperformed. Trafficking survivors said skippers told them that “in the past, we would have all been shot to death for such shoddy work.”²⁹⁹

Trafficking survivors and migrant workers reported brokers referring to Thai authorities to threaten or intimidate migrant fishers. For example, Soe Lin Aung’s broker told him he would have to accept that one-third of his wage was withheld under the lump sum payment system or the broker would report him to Pattani police.³⁰⁰ In another case in Pattani, traffickers told irregular migrants that police would arrest them if they left the pier.³⁰¹ In Ratsada, Phuket, brokers pointed out police in the port area who were in league with them, warning their victims that they would receive no help from local officers.³⁰²

More extreme physical violence is frequently used on men who try but fail to escape boats, company compounds, or the skippers, boatswains, or brokers controlling them. Victims of trafficking of all nationalities reported being beaten for attempting to escape vessels or confinement in port. Punishments, including killings, happened at sea and on land, and perpetrators forced other migrant fishers to observe. Within months of arriving in Samae San, Chonburi, Kyaw Moe had witnessed what happened to someone the boatswains caught trying to escape: “I’ve seen them break arms or legs as punishment.”³⁰³

Tun Myat Thu said that after he fled his employer’s pier to work on a boat operating out of a different pier in Kantang, Trang, thugs armed with handguns, hired by brokers, were waiting for him when his new vessel returned to port. They handcuffed him and took him to the broker’s house, where he was forced to kneel on the floor and threatened with a gun to his head by the broker’s husband, who asked him “whether [he] wanted to work or wanted to die.” Tun Myat Thu had no choice but to return to work on the same fishing vessel.³⁰⁴

²⁹⁹ Human Rights Watch interview with 15 Cambodian trafficking survivors, March 11, 2016.

³⁰⁰ Human Rights Watch interview with three Burmese migrants, August 10, 2016.

³⁰¹ Human Rights Watch interview with 14 Burmese trafficking survivors, September 30, 2016.

³⁰² Human Rights Watch interview with 11 Burmese trafficking survivors, March 14, 2016.

³⁰³ Human Rights Watch interview with Kyaw Moe, March 2, 2016.

³⁰⁴ Human Rights Watch interview with eight Burmese trafficking survivors, September 29, 2016.

Murder at Sea

Current and former fishers gave eyewitness and second-hand accounts of murders at sea. One Thai trafficking survivor described witnessing men who had tried to escape vessels being publicly executed. He said that the victims had a rope tied around their necks and were dragged through the water behind the boat:

Sometimes, when we passed islands, people would try and jump overboard and escape. The skipper would follow them and try to ... bring them back on board and make an example of them like that. Once that was happening, no one could do anything to help them, you just had to watch.³⁰⁵

Skippers also committed murders at sea in outbursts of anger. Trafficking survivors described incidents that included a man being shot dead after swearing at a skipper, and a man strangled, then drowned, because the skipper blamed him for a net malfunction.³⁰⁶

Burmese trafficking survivors recalled four skippers who regularly fished illegally in the Indonesian waters off Aceh in the Malacca Strait, and traded fish, vegetables, and possibly amphetamines with Indonesians on a boat near an offshore oil platform. During one meeting, the Thai skippers shot dead their three Indonesian contacts, before raiding and scuttling the Indonesian ship. The fishers who witnessed the killings speculated that the murders may have been drug-related, or carried out because the skippers suspected the Indonesians were informing the navy about illegal fishing. The skippers threatened their Burmese crew that they “knew what would happen” if they spoke about the incident.³⁰⁷

Several interviewees told of working in ports where murders and unexplained deaths among fishers were high.³⁰⁸ These include Kantang, in Trang province, where reports from nongovernmental organizations (NGOs) have described frequent cases of torture and murder.³⁰⁹

³⁰⁵ Human Rights Watch interview with two Thai trafficking survivors, September 29, 2016.

³⁰⁶ Human Rights Watch interviews with eight Burmese trafficking survivors, September 29, 2016, and Saw Win, August 10, 2016.

³⁰⁷ Human Rights Watch interviews with six Burmese trafficking survivors, March 15, 2016, and eight Burmese trafficking survivors, September 29, 2016.

³⁰⁸ Ibid.

³⁰⁹ Environmental Justice Foundation, *Sold to the Sea: Human Trafficking in Thailand's Fishing Industry* (London: EJF, 2013), https://ejfoundation.org/resources/downloads/Sold_to_the_Sea_report_lo-res-v2.compressed-2.compressed.pdf

Over time, systems of control based on violence and murder achieve a penetrating, almost mythological power that immobilizes the will to resist or escape. Migrants in Samae San, Chonburi, pointed to the mountain looming over the town, choking off escape, and told Human Rights Watch that the corpses of many failed runaways and executed migrants lay there.³¹⁰ Some men trapped in Kantang for years believed their broker was a witch, who at night conducted magical rites where the bones of the fishers she had killed lay buried.³¹¹

(accessed August 11, 2017); Environmental Justice Foundation, *Thailand's Seafood Slaves: Human Trafficking, Slavery and Murder in Kantang's Fishing Industry* (London: EJF, 2015), <https://ejfoundation.org/resources/downloads/EJF-Thailand-Seafood-Slaves-low-res.pdf> (accessed August 11, 2017).

³¹⁰ Human Rights Watch interviews with Kyaw Moe and informant (name withheld), Samae San, Chonburi, March 2, 2016.

³¹¹ Human Rights Watch interviews with six Burmese trafficking survivors, March 15, 2016, and eight Burmese trafficking survivors, September 29, 2016.

V. Case Study: Ratsada, Phuket

The international tourist destination of Phuket Island has white sand beaches, turquoise seas, and a vibrant nightlife that seem far removed from the horrors of forced labor in the Thai fishing industry. However, on the southeast coast of the island in Ratsada, right next to where thousands of tourists embark on ferries to Phi Phi Island every year, lies Phuket's main fishing trawler port.

Myo Kyi had only been at the Thai government anti-trafficking shelter for a short time before one of the staff showed him a picture of a corpse with 13 stab wounds. The dead man was a Thai national known as "Ko Pae" who, along with his Burmese wife, Ma Yo, had trafficked Myo Kyi and at least 34 other Burmese men to trawlers operating out of Ratsada. For months, Myo Kyi was rotated between a cramped lockup controlled by the couple and a pair trawler where senior crew forced him to ingest amphetamines to make it through 22-hour days. At sea, Myo Kyi worked under threat of violence. Onshore, he did what he was told out of fear of arrest by corrupt police associated with the broker. No matter how hard he worked, there was endless debt. Up until the time of his rescue, these hard circumstances had convinced Myo Kyi there was no way out.³¹²

The shelter staff did not provide Myo Kyi with any explanation for the murder of the broker Ko Pae, who had escaped arrest during a January 2016 police raid. Ko Pae had reportedly fled with the pink cards of approximately 200 migrant workers.³¹³ Myo Kyi and other trafficking survivors from Ratsada believe that Ko Pae, a fugitive whose wife had already confessed to police about her involvement in her husband's trafficking activities, may have been silenced to keep hidden some of the secrets from Ratsada's fishing piers.³¹⁴

The men rescued from Ko Pae's lockup in Ratsada reported working on at least five pair trawlers operating out of two piers that they were able to name.

Even after the raid in January 2016, local informants described one of the piers and its boats as places where workers were still subject to excessive hours, retention of identity

³¹² Human Rights Watch interview with nine Burmese trafficking survivors, Bang Rin, Ranong, March 11, 2016.

³¹³ Human Rights Watch interview with informant (name withheld), Ratsada, Phuket, April 8, 2016.

³¹⁴ Human Rights Watch interview with nine Burmese trafficking survivors, March 11, 2016.

documents, debt bondage, and threats and intimidation in a system supplied by brokers and supported by local police.³¹⁵

Human Rights Watch interviews with Burmese trafficking survivors from Ratsada revealed that senior crew members, especially boatswains, also supplied addictive substances like amphetamines to deckhands, and actively participated in their exploitation.³¹⁶

Corruption among Phuket Authorities

Human Rights Watch interviewed numerous sources within the Ratsada migrant community who described how Thai police aid and protect brokers involved in human trafficking. Skippers from Ratsada fishing companies recruit migrants through brokers like Ko Pae, who receive protection from officers in the local police force. The brokers convey trafficked workers across the Sarasin Bridge connecting northern Phuket to the mainland, and then through the Tha Chatchai checkpoint, assisted by corrupt police.³¹⁷

Brokers in Ratsada use their relationships with local police to inflate debts owed by migrant workers. Documented and undocumented fishers alike are arrested on spurious charges by local police, and then forced to borrow money to pay bribes or bail. Police extort up to 500 baht (US\$15) from migrant workers if they catch them with only photocopies or facsimiles of their pink cards. In some cases, police have planted amphetamines on workers they detained, in order to extort even higher sums of up to 20,000 baht (\$610) in exchange for release.³¹⁸ Other migrant workers reported paying 300 baht (\$9) each month in protection money to local police in the area.³¹⁹

Two of Phuket's most successful brokers are Mr. A.M. and Mr. M.Z., both Burmese nationals. Mr. A.M. is the senior of the two, and controls movement of Burmese workers through Phuket's migrant smuggling routes. Mr. M.Z. deals in securing pink cards, operating the *hundi* exchange (an undocumented, trust-based remittance system), and arranging transportation back to Burma.

³¹⁵ Human Rights Watch interviews with informants (names withheld), Ratsada, Phuket, May 23 and 24, 2016, and 12 Burmese migrants working on purse seine and light-assisted falling net fishing vessels, Ratsada, Phuket, March 10, 2016.

³¹⁶ Human Rights Watch interview with nine Burmese trafficking survivors, March 11, 2016.

³¹⁷ Human Rights Watch interview with 12 Burmese migrants, March 10, 2016.

³¹⁸ Human Rights Watch interview with informant, May 24, 2016.

³¹⁹ Human Rights Watch interview with informant, May 23, 2016.

The pair reportedly have strong connections with corrupt elements in Phuket immigration. Immigration police allegedly provide Mr. A.M. with access to a room where on Saturday mornings he collects payments from brokers under his patronage. He also takes the proceeds from bribes given to him by detained migrants and passes the money on to corrupt contacts in immigration, so they can maintain the appearance of incorruptibility by never directly receiving bribes from migrant workers.³²⁰

Local migrant and Thai informants said that Mr. A.M. also uses the room to arrange for Burmese migrants to be deported back to Burma. Both documented and undocumented workers pay Mr. A.M. for this service, who in turn shares the proceeds with officers in charge of issuing deportation notices. The migrants are then sent to Myawaddy, Burma, via Mae Sot, Tak province. According to a reliable source, the trip costs 6,000 baht (\$183) and takes one and a half days.³²¹

When the deportees arrive in Mae Sot, they are transferred by one of Mr. A.M.'s brokers to a border checkpoint controlled by the Democratic Karen Benevolent Army (DKBA).³²² According to a separate source in Ratsada, once on the Burmese side of the border, the migrants are taken to a house where they are forced to change their Thai baht into Burmese kyat at disadvantageous exchange rates.³²³ Once they have exchanged their cash, the brokers take them to the bus station in Myawaddy for onward travel. In Mae Sot in May 2016, Human Rights Watch observed migrant workers and baggage being transferred from two Phuket immigration vehicles onto a Rangoon-registered pickup truck near the Thai-Burma Friendship Bridge.

Unexplained Deaths, Bodies Floating in the Water

On January 17, 2014, Ratsada residents found the corpse of an unidentified male between the ages of 30 and 35 floating near a fishing pier. A search revealed a wallet containing no identification, only a prepaid telephone card worth 100 baht (\$3). Police investigated the scene and found no signs of a struggle. They concluded that the deceased had been a

³²⁰ Human Rights Watch interview with informant, May 23, 2016.

³²¹ Ibid.

³²² The DKBA's coordination with corrupt Thai immigration officials in border gate operations has been well-known for years in the Mae Sot area. See Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand*, February 2010, <https://www.hrw.org/report/2010/02/23/tiger-crocodile/abuse-migrant-workers-thailand>, pp. 68-71.

³²³ Human Rights Watch interview with informant, May 24, 2016.

Burmese worker who had either fallen off a fishing boat or gotten into an argument with another crew member. Officers claimed they would investigate further, but no additional information was ever released about the case.³²⁴ The day before, the corpse of another unidentified male was found floating nearby in the same river. Someone had killed the victim by stabbing him behind his left ear before throwing him into the water.³²⁵

A few months later, in May 2014, locals found another corpse, which police again said had been a Burmese worker, this time on the riverbank near the compound of the same fishing pier. This man had also been stabbed in the left side of his head before being discarded in the water. Police on the scene surmised that the man had died in an argument among fishers, and stated they would investigate further—but again, apparently nothing happened.³²⁶

Human Rights Watch identified other bodies being recovered from around the Ratsada fishing piers, including both piers named by some of the 35 Burmese trafficking survivors rescued in January 2016. Media reports of the discoveries, the latest from November 2016, are eerily similar: first, local residents find a corpse floating near the fishing piers, but nobody can identify the body. Next, the police show up and attribute the death to either a drunken accident or fights among crew members, but also pledge to investigate further. And finally, nothing further is heard about the case in question.³²⁷

Burmese informants living in Ratsada told Human Rights Watch that killings occur regularly. The informants reported two primary causes: arguments about drugs among

³²⁴ “Unidentified Male Corpse Found in Tha Chin Canal Near Famous Fishing Pier, Estimated One Day Old” (“พบศพชายนิรนามในคลองท่าจีนใกล้แพปลาชื่อดังคาดเสียชีวิตมาแล้ว 1 วัน”), *Manager Online*, January 17, 2014, <http://www.manager.co.th/South/ViewNews.aspx?NewsID=957000006517> (accessed December 1, 2017).

³²⁵ “Unidentified Male Corpse Found, Stabbed and Discarded in the Sea in Phuket” (“พบศพชายนิรนามถูกแทงด้วยของมีคมน่าศพที่ทะเลภูเก็ต”), *Manager Online*, January 16, 2014, <http://www.manager.co.th/South/ViewNews.aspx?NewsID=957000005988> (accessed December 1, 2017).

³²⁶ “Unidentified Male Corpse Found in Tha Chin Canal, Phuket Province, Evidence of Stab Wound Behind Left Ear” (“พบศพชายนิรนามในคลองท่าจีน จ.ภูเก็ต มีร่องรอยถูกแทงที่กกหูซ้าย”), *Manager Online*, May 17, 2014, <http://www.manager.co.th/South/ViewNews.aspx?NewsID=9570000054681> (accessed December 1, 2017).

³²⁷ “Unidentified Male Corpse Found Floating in Waters around Phuket Fishing Pier” (“พบศพชายนิรนามลอยน้ำบริเวณแพปลาภูเก็ต”), *Manager Online*, September 1, 2013, <http://www.manager.co.th/Travel/ViewNews.aspx?NewsID=9560000109454> (accessed December 1, 2017); “Corpse Found Floating at Phuket Fishing Pier, Suspected Death from Drowning while Intoxicated” (“พบศพพม่าลอยอยู่หน้าแพปลาที่ภูเก็ต คาดเมาตกทะเลดับ”), *Manager Online*, July 27, 2015, <http://www.manager.co.th/south/viewnews.aspx?NewsID=9580000084687> (accessed December 1, 2017); “Unidentified Male Corpse Found in Waters by Fisheries Marketing Organization Port, Phuket” (“พบศพชายนิรนามในทะเลหน้าท่าเทียบเรือองค์การสะพานปลาภูเก็ต”), *Manager Online*, November 13, 2016, <http://www.manager.co.th/local/ViewNews.aspx?NewsID=9590000113300> (accessed December 1, 2017).

fishers or between fishers and dealers, and trawler skippers or brokers killing noncompliant crew members.³²⁸

Two local informants in Ratsada identified one particular pier as a place where there were frequent quarrels and killings.³²⁹ Similarly, medical staff at Vachira Hospital, where corpses from the Ratsada piers are invariably sent for examination, told Human Rights Watch they receive what they considered to be “many” unidentified corpses recovered from the waters around the compound of the same pier.³³⁰

Human Rights Watch contacted the organization responsible for coordinating the collection of corpses to find out more. The Kusoltham Foundation collects bodies from all over Phuket.³³¹ Over the past 15 years, the foundation has collected the remains of approximately 700 unidentified people, who foundation staff believe are all migrant workers, and interred them in Baan Mai Khao cemetery in Thalang district of Phuket province.

Volunteer body collectors from the Kusoltham Foundation told Human Rights Watch that four to five years ago, they collected floating corpses from around Ratsada’s fishing piers at a rate of about once per month. However, the staff claimed that more recently, they only found a body in that area once every three months. But records obtained by Human Rights Watch in April 2016 dispute that claim, showing that in the 10 months between June 2015 and March 2016, the Kusoltham Foundation collected 17 floating corpses from fishing piers in Ratsada, an average of almost two collections per month.³³²

Informants alerted Human Rights Watch to one case in mid-March 2016, explaining that a Burmese man had surreptitiously made a phone call to a local NGO while he was involuntarily on board a pair trawler departing from a Ratsada pier. The man placed a call from the engine room of the trawler, hoping that the boatswain would not hear him. The

³²⁸ Human Rights Watch interviews with informants (names withheld), Ratsada, Phuket, April 8, May 21, and May 22, 2016.

³²⁹ Ibid.

³³⁰ Human Rights Watch interview with staff from Vachira Hospital (names withheld), Mueang Phuket, Phuket, April 20, 2016.

³³¹ Kusoltham Foundation, “Board and Staff” (คณะกรรมการและพนักงาน), <http://www.kusoldharmphuket.com/human.php> (accessed January 20, 2017). Thailand does not maintain a public ambulance service and emergency medical services are operated by private hospitals and foundations.

³³² Human Rights Watch interview with two volunteers at Kusoltham Foundation (names withheld), Mueang Phuket, Phuket, April 8, 2016.

fisher had been working on the trawl vessel for a year, but he only knew the numbers of the two vessels in his trawler pair, not the boats' names. He had no pink card.

This fisher made the call as the trawler was heading out to sea for a month, reporting that he needed help because four days earlier, his brother had disappeared from the boat, and he was not sure what had happened to him. The NGO alerted the authorities but the PIPO control center in Ratsada was unable to identify and intercept the trawler.³³³ When Human Rights Watch received the list of corpses recovered in the Ratsada area from the Kusoltham Foundation in April 2016, the report indicated that the last recovery of an unidentified corpse, presumed to be a migrant fisher, from the area around one particularly notorious pier, took place on March 10, 2016.³³⁴

³³³ Human Rights Watch interview with informant (name withheld), Bangkok, March 16, 2016.

³³⁴ Human Rights Watch interview with two volunteers at Kusoltham Foundation, April 8, 2016.

VI. Conclusions on Forced Labor in the Thai Fishing Industry

In 1969, Thailand ratified the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29). Thailand was the only country at the ILO conference in June 2014 to vote against the adoption of the ILO Protocol to the Forced Labour Convention, although the government reversed its stance a few days later after facing sustained international criticism.³³⁵ But more than three years since that vote, forced labor is still not defined as a stand-alone offense under Thai law.

Trafficking in persons, however, is well defined in Thailand's Anti-Trafficking in Persons Act, B.E. 2551 (2008). Thailand's anti-trafficking law adapts language from the United Nations Trafficking Protocol in that it defines the act, means, and purpose of trafficking in persons.³³⁶ In January 2017, the government issued a third amendment to the 2008 law that included a change in how trafficking for the purposes of forced labor is defined. The amendment expanded the means by which trafficking victims can be placed into forced labor to include seizure of identity documents and debt bondage.³³⁷

Despite the recent amendment to Thailand's anti-trafficking law, Human Rights Watch research indicates that further changes are required to improve protection frameworks for fishers. Although the Anti-Trafficking in Persons Act recognizes forced labor as a form of exploitation, under the law a victim of forced labor must have been trafficked into exploitation. In a 2017 report on protection gaps in the Thai seafood industry, the ILO flagged the need to ensure that forced labor becomes defined as a stand-alone offense under Thai law.³³⁸

³³⁵ Stephanie Nebehay, "Pact to Halt Forced Labor Snubbed by Thailand, Gulf: ILO," Reuters, June 11, 2014, www.reuters.com/article/us-labour-ilo/pact-to-halt-forced-labor-snubbed-by-thailand-gulf-ilo-idUSKBN0EM1Y020140611, (accessed February 6, 2017); Supalak Ganjanakhundee, "Thailand Reverses Earlier Decision, Backs ILO Protocol on Forced Labour," *The Nation*, June 15, 2014, <http://www.nationmultimedia.com/national/Thailand-reverses-earlier-decision-backs-ILO-PROTO-30236260.html>, (accessed February 6, 2017).

³³⁶ See Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention on Transnational Organized Crime (Trafficking Protocol), adopted November 15, 2000, G.A. Res. 55/25, annex II, 55 U.N. GAOR Supp. (No. 49) at 60, U.N. Doc. A/45/49 (Vol.I) (2001), entered into force December 25, 2003, art. 3(a).

³³⁷ Anti-Trafficking in Persons Act (No. 3), B.E. 2560 (2017), sec. 4.

³³⁸ International Labour Organization, *Situation and Gap Analysis on the ILO Protocol of 2014 to the Forced Labour Convention, 1930, and the Fishing and Seafood Processing Industries in Thailand* (Bangkok: ILO, 2017), p. 12.

The current law is problematic because forced labor is a broader concept than trafficking in persons. Human Rights Watch conducted 34 interviews with workers employed in the fishing industry at the time of interview.³³⁹ Out of the 20 cases of forced labor Human Rights Watch identified among those interviews, 19 related to workers who had voluntarily taken up work in the fishing industry.³⁴⁰ Only in one case did an individual report experiences consistent with having been trafficked into forced labor. The absence of legal provisions treating forced labor as a stand-alone offense obstructs Thai government efforts to identify and assist individuals in situations facing severe rights abuses that are not a direct consequence of trafficking in persons.

Human Rights Watch’s research also pointed to how migration policy under the pink card system affected forced labor in the cases examined. In nine interviews, forced labor was related to restrictions on the freedom of movement under migrant registration frameworks.³⁴¹ Pink card holders require permission from their employer and provincial authorities to travel outside their province of registration, while their legal status is tied to a specific employer or employers at any given time.³⁴²

This finding highlights the impact of government policy in undermining the freedom of a worker to seek better terms of employment or working conditions at firms in other provinces. A nonbinding recommendation supplementary to the ILO Forced Labour Convention calls on states to avoid “restrictions on the voluntary flow of labour from one form of employment to another or from one district to another which might have the indirect effect of compelling workers to take employment in particular industries or districts.”³⁴³ As a party to the convention, Thailand should affirm its efforts to eradicate forced labor by lifting the restrictions on labor mobility in the fishing sector.

The interviews conducted with current fishers were also notable for the types of indicators of forced labor that were not present. Human Rights Watch found 13 different indicators of forced labor exclusively among individuals designated as victims of trafficking by the Thai

³³⁹ Consisting of a mix of individual and focus group interviews, and comprising 138 people in total. See Methodology for further details.

³⁴⁰ This is not intended to be representative of forced labor at the national or sectoral level. See Methodology for further details.

³⁴¹ In operation with different indicators of penalty and with no other indicators of involuntariness.

³⁴² Fishers holding pink cards can work register to work jobs with multiple employers.

³⁴³ ILO Recommendation concerning Indirect Compulsion to Labour, adopted June 28, 1930, No. R35, art. 3.

or Indonesian governments, or the International Organization for Migration.³⁴⁴ Most of these indicators describe overtly coercive or deceptive practices, such as experiences of violence or forcible confinement, underscoring reflections from interviews with provincial Department of Labour Protection and Welfare officials that signaled how some inspectors continue to rely on such overt indicators when trying to identify victims of trafficking.

Gaps in Thai law underscore how victims of forced labor in the fishing sector are falling through the net. Thailand needs new legal instruments treating forced labor as a stand-alone offense and prohibiting forced labor in all its forms. The Thai government has stated it is now actively considering ratifying the ILO Protocol of 2014 to the Forced Labour Convention, which would obligate Thailand to significantly expand its efforts to combat forced labor.³⁴⁵ Among other things, Thailand would be required to develop a national action plan to combat forced labor, and take “effective measures to prevent and eliminate its use, to provide to victims protection and access to appropriate and effective remedies, such as compensation, and to sanction the perpetrators of forced or compulsory labour.”³⁴⁶

The protocol would also require Thailand to “take effective measures for the identification, release, protection, recovery and rehabilitation of all victims of forced or compulsory labour,” and undertake “efforts to ensure that ... coverage and enforcement of legislation relevant to the prevention of forced or compulsory labour, including labour law as appropriate, apply to all workers and all sectors of the economy.”³⁴⁷ However, no clear timetable has been made public by the Ministry of Labour for either ratifying the protocol or making the changes in labor law that would be required to comply with the protocol.

In fishing, a sector with a high degree of labor mobility, migrant worker registration policies should not obstruct workers’ freedom to change employers. To better identify and assist victims of forced labor in the fishing sector, labor inspectors need new operational

³⁴⁴ See Appendix II.

³⁴⁵ “Statement by H.E. General Sirichai Distakul, Minister of Labour, on the Ceremonial Launching of Combatting Unacceptable Forms of Work in Thai Fishing and Seafood Industry,” March 17, 2016, Bangkok, http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/statement/wcms_461365.pdf (accessed February 6, 2017); “Thailand Ratifies ILO Conventions 111 and Considers Two More,” Ministry of Labour, June 14, 2017, <http://www.mol.go.th/en/content/60625/1497764171> (accessed August 6, 2017).

³⁴⁶ ILO Protocol of 2014 to the Forced Labour Convention, 1930, adopted June 11, 2014, No. P29, entered into force November 9, 2016, art. 1.

³⁴⁷ *Ibid.*, arts. 2-3.

tools to help them recognize signs of forced labor in the industry, including, for example, clearer questioning around contracts of employment and working hours.

Forced Labor among Currently Employed Fishers

Human Rights Watch catalogued indicators of forced labor from 58 interviews using a framework adapted from an ILO methodology for estimating forced labor among adults.³⁴⁸ As mentioned above, 34 of the 58 interviews involved migrants employed in the fishing industry at the time of interview. Human Rights Watch used the ILO methodology to estimate forced labor and examine how it manifested in different cases based on information provided during the interviews.³⁴⁹

Forced labor is defined by two key elements: involuntariness and penalty. The ILO breaks down the concept of involuntariness, or lack of consent, into three dimensions: unfree recruitment, work and life under duress, and impossibility of leaving the employer. These three dimensions are further defined by sets of strong and medium indicators of forced labor.³⁵⁰ To be identified as a victim of forced labor under this approach, a person must have at least one indicator of involuntariness in any of the three dimensions and one indicator of penalty (or menace of penalty) relating to that dimension, and at least one of those indicators must be what the ILO considers “strong.”³⁵¹

Unfree Recruitment

One instance of forced labor was identified based on a combination of indicators under the “unfree recruitment” dimension. It related to an individual who was sold to a boatswain and forcibly confined during the recruitment process.³⁵² The ILO noted how some indicators of involuntariness, such as forcible confinement, necessarily involve a degree of coercion, and therefore automatically imply the presence of penalty.³⁵³ This

³⁴⁸ International Labour Organization, *Hard to See, Harder to Count: Survey Guidelines to Estimate Forced Labour of Adults and Children* (Geneva: ILO, 2012). See Methodology for further details.

³⁴⁹ See Appendix III for example profiles.

³⁵⁰ Human Rights Watch developed a set of 45 indicators of forced labor for the Thai fishing industry. See Methodology and Appendix I for further details.

³⁵¹ ILO, *Hard to See, Harder to Count*, p. 96.

³⁵² Human Rights Watch interview with Kyaw Moe, Burmese migrant working on a trawl fishing vessel, Samae San, Chonburi, March 2, 2016.

³⁵³ ILO, *Hard to See, Harder to Count*, p. 28.

interview represented the only case of an individual actively working in the fishing industry at the time of interview that met the definition of a trafficking victim under the UN Trafficking Protocol. It was also the only interview in which an individual reported working against their will under menace of penalty in all three dimensions of the ILO framework.

Work and Life under Duress

Ten instances of forced labor were identified based on a combination of indicators from the “work and life under duress” dimension. In all of these instances, work and rest hours, and patterns of work aboard fishing vessels, formed a component of the forced labor situation. One such case involved an individual working aboard a trawler controlled by a skipper who would not allow the crew to sleep if he felt the vessel had not caught enough fish. The individual reported working a rolling shift pattern around the clock of two hours on, one to two hours off, with some continuous work over multiple days without adequate rest—especially when nets broke or fishing catches were low.³⁵⁴

Eight instances of forced labor in this dimension related to an indicator reflecting excessive working hours in combination with remuneration less than or equal to the national minimum wage of 300 baht (US\$9) per day.³⁵⁵ In two interviews, excessive working hours for wages less than or equal to the applicable minimum wage were identified in addition to other strong indicators of involuntariness and penalty from this dimension.

The first such case involved an individual who reported working aboard a purse seiner for up to 23 hours a day. The skipper kept him on call for 24-hour periods without allowing the fisher adequate rest.³⁵⁶ The individual reported receiving a monthly salary of 6,000 baht (\$183), and described how a broker subjected him, and the other fishers with him, to

³⁵⁴ Human Rights Watch interview with four Burmese migrants working on trawl net and fishing dredge vessels, Khlong Dan, Samut Prakan, August 18, 2016.

³⁵⁵ Excessive working hours were taken to mean reports of working hours at sea during intensive or typical fishing days that exceeded the limits set in section 5 of the 2014 Ministerial Regulation. The ILO notes that a worker who is obliged to work overtime beyond the limits set by national legislation in order to retain their job or earn the minimum wage is considered a victim of forced labor under the Forced Labour Convention. See International Labour Organization, “General Survey concerning the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105),” *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 1B), 96th ILC Session, 2007, pp. 71-72.

³⁵⁶ Human Rights Watch interview with three Burmese migrants working on purse seine and pair trawl fishing vessels, Mueang Pattani, Pattani, August 10, 2016.

serious threats of physical abuse and denouncement to the authorities if they disputed what was clearly an illegal, subminimum wage payment.

The second case involved a Burmese migrant who was not allowed to view records of transactions (payment of earnings, debts, charges for goods and services, etc.) held by his boatswain, and who reported being addicted to amphetamines supplied to him by the same individual. The fisher described feeling isolated by the location of the port where he was working, and reported physical abuse because of failure to comply with work orders aboard the vessel.³⁵⁷

Impossibility of Leaving an Employer

Fifteen instances of forced labor were identified based on a combination of indicators from the “impossibility of leaving an employer” dimension. Ten of these instances related to an indicator of involuntariness that described restrictions on workers’ ability to change their employer. The restrictions arose out of migrant registration frameworks that tie an individual’s legal status to a single location, and restrict their movements to the province of registration.³⁵⁸ Six out of these ten cases involved an indicator of penalty describing the withholding of wages under lump sum payment systems, and three of those six cases also involved menace of penalty arising from seizure of workers’ identity documents.

Five instances of forced labor involved other indicators of involuntariness. These related to indicators describing workers being required to pay debts to their employer prior to being allowed to change employment; workers being forced to pay a fee for changing employment substantially greater than the amount collected by the DOE; or workers being told that they must wait until their pink cards have expired before being eligible to change employers.

In one case, a Burmese man working on a purse seine boat in Chumphon province received between 6,000 and 7,500 baht (\$183 to \$229) every month under a lump sum payment system, with spending money (\$3 to \$6) made available to him as required on arrival and

³⁵⁷ Human Rights Watch interview with Kyaw Moe, March 2, 2016.

³⁵⁸ Sedex guidance on forced labor notes that while tying a worker’s visa or work permit to a single employer is considered a possible indicator of forced labor, the practice is legal in many countries and must therefore be linked with other indicators. See Sedex, *Guidance on Operational Practice & Indicators of Forced Labor*, February 2016, p. 22.

departure from port.³⁵⁹ When the individual attempted to change jobs, he was told by his employer that, in addition to the DOE fee he owed, he also needed to pay off debt comprised of the spending money provided to him over the past several months. In addition to holding a portion of the worker's earnings, the employer also retained the individual's pink card, and the worker was not able to access the card on request.

In a second case, a fisher was not able to leave employment without first paying off debts to a broker arising from his transport to Thailand and recruitment into the job.³⁶⁰ The individual worked under a lump sum system where the employer cleared the accounts every 10 months. An unfixed proportion of earnings was paid to the worker every month via the vessel's boatswain, who paid some of this money directly to the broker to finance the worker's debts. The worker had been told by the boatswain that changing jobs would cost three times the amount charged by the DOE.

In many cases, the fishers trapped in these situations of forced labor face desperate circumstances and rights violations similar to those whom the Thai government formally classifies as trafficking victims. Until Thailand formulates provisions of law, accompanied by effective regulations and policies, to address the gap in response between cases of forced labor and cases of human trafficking, the work to end rights violations in the Thai fishing sector will remain incomplete.

³⁵⁹ Human Rights Watch interview with seven Burmese migrants working on purse seine and trawl fishing vessels, Pak Nam, Chumphon, September 8, 2016.

³⁶⁰ Human Rights Watch interview with 16 Burmese migrants working on purse seine fishing vessels, Mueang Pattani, Pattani, August 11, 2016.

VII. Government Efforts to Prevent Forced Labor in the Fishing Sector

If the employer said there are 30 workers on the boat, [the authorities] call only those 30 workers to be counted.... They only check our cards, call out our names, and let us go.

—Sok Khim, a Cambodian fisher working on a purse seiner in Rayong, November 2016

In 2015, the Thai government stated that its efforts to prevent trafficking in persons in Thailand's fishing industry were underpinned by several key measures, including registering undocumented migrants; employment contracts; portability of pink cards when changing employers; labor inspections in port and at sea; and building capacity within key agencies.³⁶¹

Although monitoring and control of workers aboard fishing vessels has improved in recent years, it has occurred without developing robust systems to investigate employment practices and working conditions as part of efforts to enforce laws and regulations.

Thai officials in key agencies remain ill-equipped for, and in some cases uninterested in, systematically identifying instances of forced labor in the fishing industry. Failures of basic interview and victim protection protocols undermine some inspections at sea, placing workers at risk of retaliation if they report abuses.

Employment contracts are mandatory in the industry and subject to regular inspection, but virtually all fishers have little or no knowledge of the conditions set out in their contracts. Failure to implement reforms designed to promote labor mobility in the sector means that in practice, pink cards continue to tie workers to specific employers unless the fisher receives explicit permission from their employer allowing them to change jobs.

Vessel operators and skippers hold workers' original identity documents, which officials do nothing to challenge. When unscrupulous brokers and traffickers, who have lured men onto

³⁶¹ Royal Thai Government, *Trafficking in Persons Report 2015: The Royal Thai Government's Response, January 1 – December 31, 2015* (Bangkok: RTG, 2016), pp. 104-112.

fishing boats, lead their victims into Department of Employment (DOE) offices to register them for pink cards, government officials do not bother to even talk to, much less interview, the men to find out how they got there or whether they know where they will be working. Vessel operators, skippers, and boatswains hold significant portions of fishers' earnings for months or years, while Department of Labour Protection and Welfare (DLPW) officials who spoke with Human Rights Watch concoct dubious excuses to look the other way.

These problems are either caused or exacerbated by the failure of Thai government agencies to systematically and meaningfully interact with migrant workers in fishing.

Migrant Worker Registration

As discussed above, informal recruitment into the fishing industry places individuals at risk of forced labor. Migration of low-skilled migrants from neighboring countries to Thailand is driven by demand for low-cost, easy-to-control labor in key economic sectors. Securitization of border controls and immigration policy have done little to address irregular migration and vulnerability of migrant workers to trafficking and other rights abuses.

The absence of a coherent, long-term national policy on labor migration exacerbates the vulnerability of migrants by raising the costs and risks of irregular migration, and pushing them toward unscrupulous smugglers and traffickers. A simple prevention approach that Thailand could undertake would be to provide clear, inexpensive, legal, and safe avenues for low-skilled migrants from neighboring countries to enter the employment sectors that want them.³⁶²

The Thai junta's efforts to reduce the high number of undocumented workers in the fishing industry have been successful, but there are well-founded reasons to doubt the extent to which these actions have strengthened anti-trafficking efforts. In practice, the effectiveness of pink card registrations as a trafficking prevention measure is severely undermined by third-party intermediaries, such as brokers and in some cases traffickers,

³⁶² Bilateral MOUs with neighboring countries on the importation of foreign workers is not a viable strategy toward reducing labor deficits in the fishing sector and strengthening prevention efforts, as has been suggested by the Thai government. This is not least because very few countries seem willing to sign such agreements with Thailand. Stakeholders interviewed by Human Rights Watch, including DOE officials, vessel operators, and one MOU broker, agreed that the costly and bureaucratic importation procedures under current bilateral MOU frameworks on labor migration were ill-suited to the high degree of labor mobility and flexibility in the fishing industry.

regularly acting as authorized representatives of the employer during pink card applications at One Stop Service centers.

Use of Employment Contracts

Human Rights Watch interviews with 248 trafficking survivors and fishers found that while issuance of written employment contracts in the fishing industry is widespread, the Thai government has created a paper exercise that does little to change prevailing industry practices, and that strips contracts of any purpose or utility to migrant fishers. Among other findings, it is striking that:

- Only one individual interviewed by Human Rights Watch could recognize and recall reading an employment contract.
- Not a single worker interviewed had a copy of their signed employment contract.
- All but one fisher was unaware of having signed a contract. Most concluded that if they had done so, it must have been while signing various documents that the broker or employer's representative ordered them to sign for the pink card issuance process.
- None had received any oral explanation or responded to questioning from any Thai government official about the terms and conditions set by their contract.

Portability of Legal Status

Although pink cards still officially tie a migrant worker to a specific employer and location, fishers have been entitled to change employers without restriction since late 2015. To do so, however, workers are required by the DOE to obtain written permission from their current employer, which must be submitted along with paperwork to process the change in DOE records.³⁶³ This acts as a fundamental constraint on workers' freedom to change employment. Vessel operators and skippers withhold permission to change employers in many cases, and intimidate those who try. Even when permission is granted, fishers have often paid inflated under-the-table fees to obtain it. Further, many fishers seem wholly unaware of, or badly misinformed about, their ability to transfer to other employers since the reform.

³⁶³ Form WP.8 (ทพ.8). See also, Human Rights Watch interviews with DOE labor specialists, senior professional level (locations withheld), September and November 2016.

Labor Inspections in Port

Compared to the days before Port-in, Port-out (PIPO) inspections—when migrant fishers left on boats unchecked prior to departure, and crew lists of overseas vessels were sometimes comprised of Thai names based on fraudulent documentation—there has been progress. But there has been little advancement on the issue of determining how people aboard boats were recruited, what their employment terms and conditions of work are, and whether they might be victims of forced labor or rights abuses.

Labor inspections in the fishing sector are overseen by multidisciplinary teams coordinated by the Royal Thai Navy’s Command Center for Combating Illegal Fishing (CCCIF), and occur at sea and in port. Labor inspections in port are conducted via the PIPO system.

The military established nationwide PIPO control centers using emergency powers in April 2015, eight days after the European Union issued Thailand with a “yellow card” warning on illegal, unreported, and unregulated (IUU) fishing.³⁶⁴ Thailand’s National Plan of Control and Inspection, 2015-2019, notes that “inspection of fishing crews’ details and working conditions [are] part of the PIPO procedures and inspections of vessels at sea.”³⁶⁵ The government describes the labor inspections under PIPO as a mechanism for upholding the rights of workers and addressing trafficking and forced labor in the fishing industry.

A government report on trafficking in 2016 makes such a claim before noting, further down the same page, that inspections of 474,334 fishery workers through the PIPO system had failed, astonishingly, to identify a single case of forced labor.³⁶⁶

When a vessel leaves or arrives in port, multidisciplinary PIPO teams ostensibly examine 14 different aspects of compliance with regulations concerning fishing operations. The National Plan of Control and Inspection targets all commercial fishing vessels for inspection.³⁶⁷ It was difficult for Human Rights Watch to ascertain standard practice among

³⁶⁴ Solving the Problem of IUU Fishing, NCPO Order No. 10/2558 (2015) (คำสั่งที่ 10/2558 เรื่อง การแก้ไขปัญหาการทำประมงผิดกฎหมายขาดการรายงาน และไร้การควบคุม), April 29, 2015.

³⁶⁵ Department of Fisheries, *National Plan of Control and Inspection, 2015–2019* (Bangkok: DOF, 2015), p. 33.

³⁶⁶ Royal Thai Government, *Trafficking in Persons Report 2015: The Royal Thai Government’s Response*, p. 108.

³⁶⁷ Department of Fisheries, *National Plan of Control and Inspection, 2015–2019*, p. 61.

PIPO teams. In part, this is due to a lack of standardization and resourcing throughout the PIPO network across 22 coastal provinces.³⁶⁸

Human Rights Watch found PIPO inspection procedures were acutely sensitive to external observation, and included staged or spontaneous elements that sometimes left skippers visibly confused. For example, some PIPO teams would require workers to put on lifejackets and pose for photographs when under observation. This activity was clearly staged, with fishers reporting to Human Rights Watch that safety equipment was not usually inspected in this manner. In one instance, the researcher arrived at the end of a PIPO inspection just as the skipper was collecting the sheaf of official documents, records, and certificates from an official. With a glance to the researcher and after a moment's hesitation, the official told the skipper that the inspection was not over, and that they needed to undertake further inspection of the vessel. In evident confusion, the skipper handed the sheaf of documents back to the inspector.

PIPO inspection procedures also varied considerably in format, with some provinces operating static PIPO checkpoints; some using mobile teams to spot-check piers in dense port areas; and some splitting up teams across districts to conduct PIPO inspections in multiple locations. Human Rights Watch observed a single junior Department of Fisheries official undertaking the entire PIPO labor inspection for multiple outgoing vessels.³⁶⁹

Two of the 14 areas of a PIPO inspection relate directly to crewing. The DLPW is responsible for inspecting employment contracts, and the DOE for checking the registration status of migrant workers.³⁷⁰ Central to the PIPO process in this respect is ensuring the correct number of people are aboard the vessel in accordance with crewing quotas, which are determined by the Marine Department based on gross tonnage and fishing gear, and verifying that the names on the crew manifest match the identification documents of the crew on the vessel.

³⁶⁸ Josh Stride and Daniel Murphy, *Assessing Government and Business Responses to the Thai Seafood Crisis* (Humanity United and Freedom Fund, 2016).

³⁶⁹ The government has conducted trainings with law enforcement officers from a variety of agencies on their powers and duties to enforce the Labour Protection Act and Anti-Trafficking in Persons Act.

³⁷⁰ The DLPW has been part of multidisciplinary labor inspection teams in the fishing sector since 2013. See International Labour Organization, "GMS TRIANGLE Project: Protecting Migrant Workers Through Labour Inspection," http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_249418.pdf (accessed October 20, 2016).

The PIPO system is effective in terms of monitoring and controlling who is actually on board a fishing vessel when it departs to sea and arrives back in port. Nevertheless, boatswains bragged to Human Rights Watch about how they could get unauthorized men through a PIPO inspection.³⁷¹

In Samae San, Chonburi, Kyaw Moe reported having worked undocumented on a trawler for months in 2015 while his vessel evaded PIPO controls.³⁷² In December 2016, the CCCIF intercepted a trawler out of Samae San that had 10 additional Cambodian men on it who were not present when the boat had reported through PIPO on its departure from port.³⁷³

Despite PIPO, it remains relatively simple to use non-fishing vessels to shuttle workers to or from an incoming or outgoing boat, or even to sequester workers away aboard incoming or outgoing vessels. PIPO teams in some provinces do not undertake physical inspections of vessels, and it would be straightforward to conceal workers on a boat during such a PIPO inspection. In one instance, Human Rights Watch observed a PIPO inspection being concluded without the vessel, or the full complement of crew, even being present.

The researcher observed PIPO inspections in seven different provinces across the country, with multiple inspections observed at some of the same PIPO control centers over several months, and had the opportunity to speak with various multidisciplinary teams. Human Rights Watch also asked migrant workers and trafficking survivors about PIPO inspections.

Almost all respondents thought that enhanced monitoring and control over fishing vessels through the PIPO system was an improvement. Both Cambodian and Burmese fishers thought that PIPO had made it harder for workers to disappear at sea, because skippers and operators were now accountable to the navy if crew did not return.³⁷⁴

³⁷¹ Human Rights Watch interview with four Cambodian migrants working on a light-assisted purse seine fishing vessel, Mueang Rayong, Rayong, November 8, 2016.

³⁷² Human Rights Watch interview with Kyaw Moe, Burmese migrant working on a trawl fishing vessel, Samae San, Chonburi, March 2, 2016.

³⁷³ “Navy Region 1 Catches Thai Fishing Vessels with Illegal Migrant Workers” (“ทัพเรือภาคที่ 1 จับเรือประมงไทยใช้แรงงานต่างด้าวผิดกฎหมาย”), *Manager Online*, December 22, 2016, <http://www.manager.co.th/QOL/ViewNews.aspx?NewsID=9590000126943> (accessed January 1, 2017).

³⁷⁴ See, for example, Human Rights Watch interviews with Hoe Manh, Cambodian migrant working on a light-assisted falling net fishing vessel, Khlong Yai, Trat, November 10, 2016, and seven Burmese migrants working on purse seine and trawl fishing vessels, Pak Nam, Chumphon, September 8, 2016.

Despite a generally positive view of PIPO as a control mechanism, workers said that the current inspection framework failed to address human rights abuses in the industry. The PIPO system has not opened new opportunities for workers to voice complaints or hold employers accountable, and fishers reported lacking confidence to raise issues with PIPO inspectors. One interviewee noted that workers could not approach PIPO officials with complaints when their identity documents and a significant portion of their earnings were being held by employers.³⁷⁵

In Chumphon province, fishers said they had been drilled by boatswains on responding to any questions from PIPO officials to hide malpractice. In any case, these fishers said, if they did complain, their employers would make excuses for infringements, and the workers would be targeted by corrupt local police paid by brokers and employers.³⁷⁶ Another group of fishers had misinterpreted the nature of PIPO inspections, believing the regular presence at the pier of uniformed officials, who they assumed were police, was one way their employer controlled migrant workers. One fisher said:

We didn't dare to ask [our employer] for an employment contract because whenever we were ashore our pink cards would be shown to the police, and we stay [at the pier] as well.³⁷⁷

In Human Rights Watch interviews with fishing crew, all respondents stated that there was no systematic interaction between PIPO inspectors and workers. They indicated that there was no effort by PIPO officials to interrogate recruitment and employment practices or check whether working conditions complied with legal standards in the sector. Most workers reported interactions with PIPO officers were limited to basic commands, such as officers telling crew to squat somewhere or present pink cards for inspection. Tong Seng, a Cambodian working aboard a purse seiner in Rayong, described a typical PIPO inspection:

³⁷⁵ Human Rights Watch interview with Hoe Manh, November 10, 2016.

³⁷⁶ Human Rights Watch interview with seven Burmese migrants, September 8, 2016.

³⁷⁷ Human Rights Watch interview with two Cambodian migrants working on a light-assisted falling net fishing vessel, Laem Ngop, Trat, November 9, 2016.

[The officials] come maybe 10 at a time in a vehicle—men and women. They have us line up, show our pink cards, call out our names, we raise our hands, they're gone.³⁷⁸

During this process, skippers also submit a sheaf of forms, records, permits, and licenses to PIPO officials for inspection. This collection of papers includes each fisher's written contract of employment, although this is evidently unknown to most workers, many of whom are not aware that they ever signed such documents.

The centrality of pink cards in labor inspections through PIPO is problematic, not least because the government presents both pink card registration and PIPO inspections as measures preventing exploitation, human trafficking, and rights abuses in the fishing sector. In general, many government officials seem to work under the assumption that only undocumented migrants can be victims of trafficking or forced labor.³⁷⁹

DOE and DLPW officials in nine provinces told Human Rights Watch that they believed it was not possible for pink card holders to be victims of trafficking. Frontline inspectors in multiple provinces referred to pink cards when asked by Human Rights Watch how they were sure that workers in the fishing industry were not victims of trafficking.

Although pink cards are the cornerstone of current labor inspection efforts, there is a basic failure on the part of key agencies to recognize or address the risk that migrant workers who have been registered with pink cards can be victims of trafficking or forced labor.

Every single fisher interviewed by Human Rights Watch in 2016 who was working in a forced labor situation was registered with a pink card. Except for individuals trafficked into the

³⁷⁸ Human Rights Watch interview with Tong Seng, Cambodian migrant working on a light-assisted purse seine fishing vessel, Mueang Rayong, Rayong, November 12, 2016.

³⁷⁹ This is not an unreasonable assumption to hold based on past trends, where the majority of victims of trafficking and forced labor have been undocumented. There was also a lack of clarity around the operational definitions of key terms among some frontline inspectors interviewed by Human Rights Watch. For example, provincial officials seemed to frequently conflate practices to identify criminal offenses committed by employers with the interdiction of undocumented migrants, implying that the latter was the primary mode for operationalizing efforts to combat "illegal" work. Some officials indicated that they essentially considered the employment of irregular migrants or "illegal aliens" to be a trafficking in persons offense. This seems to have the effect of reinforcing the assumption within key government agencies that the inspection of the legal status of migrant workers is an effective means of addressing unacceptable forms of work in the fishing sector.

overseas fishing industry, all trafficking survivors interviewed by Human Rights Watch were registered with pink cards or, in a few cases, had been in the process of applying for them.

This includes individuals trafficked before 2014 and later registered by their employers. Tin Aung Win, for example, had been forced to work on trawlers in Kantang for five years by the time he was brought to apply for a pink card.³⁸⁰ This category also includes men and boys as young as 13 trafficked into the fishing industry in 2015 and 2016. In one case, trafficking victims refused to sign pink card application forms, thereby delaying departure of the boat and buying time for a rescue operation to be mounted by one of their parents.³⁸¹

Human Rights Watch research found that unscrupulous actors see pink cards as critical for engaging in human trafficking, forced labor, and debt bondage in the face of enhanced monitoring and control over individuals aboard fishing vessels at sea. This situation, combined with false assumptions about pink card holders among inspectors and officials, severely diminishes the value of conducting basic checks of fishers by PIPO for preventing any rights abuse, much less forced labor and human trafficking.

Labor Inspections at Sea

Inspections at sea are the second pillar upholding Thailand's new monitoring, control, and surveillance architecture. According to the National Plan of Control and Inspection, CCCIF coordinates inspections at sea, targeting 10 percent of fishing vessels in each province, with the Ministry of Labour and four other government authorities acting as the implementing agencies.³⁸²

A Thai government report notes that in 2016, the number of inspections at sea exceeded targets by more than twofold.³⁸³ The report offers statistics on infringements identified in 507 vessel inspections under 14 acts and orders, including two trafficking in persons cases, but does not detail any infringements under the 2014 Ministerial Regulation or the Labour Protection Act.

³⁸⁰ Human Rights Watch interview with six Burmese trafficking survivors, Mueang Songkhla, Songkhla, March 15, 2016.

³⁸¹ Human Rights Watch interview with 14 Burmese trafficking survivors, Rattaphum, Songkhla, September 30, 2016.

³⁸² Department of Fisheries, *National Plan of Control and Inspection, 2015–2019*, p. 33.

³⁸³ Royal Thai Government, *Trafficking in Persons Report 2015: The Royal Thai Government's Response*, p. 26.

As with the PIPO system, inspections at sea have a strong focus on controlling who is aboard a vessel. The National Plan of Control and Inspection states that officials must inspect individuals aboard a vessel against the crew manifest during inspections at sea.³⁸⁴ Provincial DLPW officials reported undertaking interagency and lead agency inspections at sea, with budgets available to support marine fuel costs.

Human Rights Watch did not systematically question trafficking survivors and fishers about inspections at sea. However, Cambodians aboard a purse seiner in Rayong said they were inspected at sea once every two to three months. They said some inspections consisted only of officials asking the skipper how many crew were on the vessel to ascertain compliance with quotas mandated by the Marine Department. In other inspections, when interpreters were present, the crew said they were asked how they were treated and how long they had been at sea. The interviews, which lasted about 30 minutes, took place within earshot of the skipper. One boatswain told Human Rights Watch that this was not a problem because “on our boat we don’t have to lie.”³⁸⁵

Interviews with groups of men from government trafficking shelters revealed inspection officials’ failure to follow victim protection protocols during inspections at sea, excluding potential victims of trafficking and forced labor from protection frameworks.

The first such interview was with 15 Cambodian trafficking survivors rescued from three gillnetters returning from the Indian Ocean in 2016. The vessels were initially inspected at sea and then ordered to return to port so that authorities could conduct full interviews. During the inspection, some of the men told the multidisciplinary team how they had ended up on board the boat and their working conditions.

The crew were put back on the fishing vessels, which the navy escorted to port. During the journey, the skippers informed the crew they had phoned the vessel owner, who had promised the men they would get their full salary and be taken home if they told authorities they had been treated well. After further interviews and several arrests, Thai authorities identified the 15 men as trafficking victims. However, the men told Human Rights Watch that they had been trafficked to the gillnetters in a larger group of 27

³⁸⁴ Department of Fisheries, *National Plan of Control and Inspection, 2015–2019*, p. 29.

³⁸⁵ Human Rights Watch interview with four Cambodian migrants, November 8, 2016.

Cambodians. Skippers had also regularly beaten several of the Thai nationals among the three crews, who had reportedly tried to escape at sea. Thai authorities never identified or assisted these individuals.³⁸⁶

Another case related to an October 2015 Thai government effort to find and rescue men from trawlers operating out of Kantang, Trang, in the waters bordering the Thailand-Malaysia Exclusive Economic Zones (EEZ). Thiha Tun, who was on *Wannit Pramong*, one of the vessels that authorities intercepted, told Human Rights Watch he was excited when he saw the boat, seeing it as “a chance to escape.”³⁸⁷

But some crew were nervous. A raid a few months earlier by the Anti-Trafficking in Persons Division (ATPD) of the Royal Thai Police had strengthened doubts among crews about the possibility of escape, and further eroded trust in the Thai authorities. In that operation, the ATPD had failed to assist five individuals working on board two other trawlers in the same fleet as *Wannit Pramong*.³⁸⁸ According to Human Rights Watch interviews with trafficking survivors, authorities took the five men off the boats, but local ATPD officers then “bullied the workers into saying lies” during interviews conducted in the presence of the company owner.³⁸⁹ The employer later paid each man 5,000 baht (US\$152). The broker felt so emboldened by the outcome of the ATPD investigation, Thiha Tun said, that “when our boat came back in, the broker’s husband told us to take the phone number of the NGOs and call them, they didn’t care.”³⁹⁰

Out in the Malacca Strait in October 2015, the crew of *Wannit Pramong* squatted at the bow of the Thai Marine Police vessel while the skipper was taken toward the stern. Department of Special Investigation and DLPW officers interviewed the crew through interpreters. The officers asked the crew whether they wanted to continue working on the vessel or leave and return to shore. Five fishers said they wanted to leave; one of them said he did not. Like everyone, Thiha Tun explained, that man had heard the stories about people

³⁸⁶ Human Rights Watch interview with 15 Cambodian trafficking survivors, Bang Rin, Ranong, March 11, 2016.

³⁸⁷ Human Rights Watch interview with eight Burmese trafficking survivors, Rattaphum, Songkhla, September 29, 2016.

³⁸⁸ Environmental Justice Foundation, *Thailand’s Seafood Slaves: Human Trafficking, Slavery and Murder in Kantang’s Fishing Industry* (London: EJF, 2015), <https://ejfoundation.org/resources/downloads/EJF-Thailand-Seafood-Slaves-low-res.pdf> (accessed August 11, 2017), p. 31.

³⁸⁹ Human Rights Watch interview with eight Burmese trafficking survivors, September 29, 2016.

³⁹⁰ Ibid.

escaping, but also warnings from the skippers that people who had “escaped” had been sold to another port. Thiha Tun told officers that he could not go back to the trawler:

When I got on board the navy boat, I told [the interpreter] that I couldn’t go back to the trawler or I would be killed.... If this rescue mission hadn’t been successful, then we’d all have been in trouble.³⁹¹

Thai authorities stayed aboard the Marine Police vessel as the five men, instructed by Marine Police to gather their things, boarded the *Wannit Pramong* unsupervised and headed to the cabin space. The skipper followed them and immediately started to try to coerce them into staying. “The skipper told us not to follow the rescuers by telling us that they would sell us to Songkhla,” Thiha Tun said. “We were afraid that if this rescue turned out like [the ATPD] one, it would be certain death for us.”³⁹²

The skipper ordered the men to line up on the deck of *Wannit Pramong* and each signal to the Thai authorities lining the rails of the Marine Police vessel whether they were going to keep working on the boat. The men shouted out in turn, but each time one of them shouted that they wanted to go, the skipper demanded they explain why. Now, only four of them said that they would go. Thiha Tun and the other three men returned to the Marine Police boat and, as it steamed away, watched the two remaining Burmese crew sorting fish on the decks of *Wannit Pramong*:

Those who remained on the trawlers just watched us as we left. We tried to reveal the truth in court and make it clear that it wasn’t just our group, but many other men who didn’t get paid, who are tortured and who suffer at the hands of that employer.³⁹³

On the day Thiha Tun was rescued, Thai authorities intercepted four Kantang trawlers and rescued 12 men in a counter-trafficking operation at sea. Survivors who left the other trawlers told Human Rights Watch they had seen the same thing happen on their vessel: skippers coerced fishers not to leave, and some men, scared and full of doubts about Thai

³⁹¹ Ibid.

³⁹² Ibid.

³⁹³ Ibid.

officials' intentions after the ATPD operation, said they did not want to go back to shore when asked by Thai authorities, who took them at their word and left them at sea. "The people [who were] left behind will be in serious trouble if we don't reveal the truth about what is happening on those boats," Thiha Tun said.³⁹⁴

Building Capacity in Key Government Agencies

Human Rights Watch spoke to PIPO teams and officials from provincial offices of the DOE and DLPW in 10 coastal provinces, whose comments often reflected or aligned with the interests and concerns of vessel operators.³⁹⁵ Their information about practices and conditions such as working hours often contradicted that of fishers. The officials' descriptions of practices under new frameworks and regulatory controls, especially the 2014 Ministerial Regulation, were perfunctory and excluded worker participation or input. Some officials also provided contradicting interpretations of specific sections in the 2014 Ministerial Regulation, such as frequency of payment. Some inspectors admitted they primarily relied on information from skippers and vessel operators, and written records from companies.

Human Rights Watch interviews with officials revealed that assessments based on information from workers, when gathered at all, were limited to a small number of unstructured questions around recruitment, pay, welfare, or working hours. One DLPW inspector described making assessments based primarily on physical indicators of abuse or ill-treatment.³⁹⁶ Another DLPW inspector said they asked workers two key questions: were they working voluntarily and did they know how much they were being paid. Some DLPW inspectors primarily appeared to be making snap judgments based on appearances and superficial decisions about whether something seemed amiss. One officer highlighted the arbitrary nature of their inspections, noting: "We ask them to smile—and mostly people smile."³⁹⁷

³⁹⁴ Ibid.

³⁹⁵ Interviews were conducted in Phuket, Songkhla, Ranong, Samut Songkhram, Samut Sakhon, Samut Prakan, Chonburi, Rayong, Chanthaburi, and Trat.

³⁹⁶ Human Rights Watch interview with three members of a PIPO multidisciplinary team (names withheld), Ratsada, Phuket, May 22, 2016.

³⁹⁷ Human Rights Watch interview with DLPW labor specialist, senior professional level (location withheld), September 30, 2016.

Lack of interpreters providing quality translation is a key shortcoming in labor inspections. Officials rely on interpreters—provided via MOUs reached with civil society organizations and educational institutions—embedded in multidisciplinary teams conducting inspections at sea. Until 2017, many PIPO teams did not even have interpreters. Some PIPO inspectors said they relied on employees, such as boatswains and pier managers, to interpret.³⁹⁸

In some ways, efforts to identify victims of forced labor still resemble the approach of Thailand’s civilian governments before the May 2014 military coup. In 2014, a BBC reporter asked Pol. Gen. Chatchawal Suksomjit, head of a subcommittee on trafficking in the fishing industry operating under the Anti-Trafficking in Persons Committee, how he knew there was no forced labor on a vessel his team had just inspected. “From what we saw, there was no lock-up or detention room,” General Chatchawal replied. “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.”³⁹⁹

Human Rights Watch found that DLPW officials conducting inspections tended to focus on overt or objective indicators of exploitation, such as evidence of physical abuse or forcible confinement, at the expense of identifying subtler forms of deception and coercion, such as withholding identity documents or wages. Thai authorities intersecting with workers at key points in the recruitment process, such as the pink card application process, as well as throughout the period of employment should be trained and equipped with new indicators, protocols, resources, and interpreters to more effectively identify and root out forced labor in the Thai fishing industry.⁴⁰⁰

³⁹⁸ Human Rights Watch interview with head of a provincial PIPO center (location withheld), March 9, 2016.

³⁹⁹ Becky Palmstrom, “Forced to Fish: Slavery on Thailand’s Trawlers,” *BBC News*, January 23, 2014, <http://www.bbc.com/news/magazine-25814718> (accessed June 25, 2016).

⁴⁰⁰ An eight-page Screening for Trafficking Victim Identification Form (Kor Mor. 1) has been available to multidisciplinary teams operating under interagency inspection frameworks since early 2016. It presents some guideline questions that interrogate a broader spectrum of means by which people can be placed into exploitation. No DLPW labor inspectors referred to this screening tool when asked by Human Rights Watch about how they identify fishers who need help.

VIII. Recommendations

To the Government of Thailand

- Adopt legislation prohibiting use of forced labor as a stand-alone offense, giving due consideration to the various means by which people enter and are held in forced labor. Ensure that new legislation has appropriate criminal and civil penalties and protections for victims.
- End restrictions on migrant workers' rights to freedom of movement, including eliminating the requirement that migrants with pink cards must seek prior permission to travel outside their province of registration.
- Formally delink the legal status of migrant workers, including in the fishing industry, from their employer, and make appropriate changes in the registration process.
- Develop effective complaint mechanisms to ensure fishers are able to change employers without obstruction by fleet owners, skippers or boatswains, labor brokers, government officials, or others.
- Direct the Ministry of Labour to compile and publicize a "watch list" of companies and top executives found to have been responsible for human trafficking and forced labor crimes. Publish this list on a prominent government website and ensure it is up to date.
- Significantly increase regulatory supervision of listed companies to ensure that use of trafficked and forced laborers has ceased. Listed companies should remain on the watch list for at least two years after regulators formally find the companies have ended use of such labor.
- Ratify the ILO Work in Fishing Convention (No. 188) and Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29), and immediately enact necessary implementing legislation.
- Amend the Labour Relations Act, B.E. 2518 (1975) to permit non-Thai nationals working in Thailand to establish and register labor unions (section 88) and to be eligible for election to union committees from which leaders of the union are selected (section 101).
- Ratify the ILO Freedom of Association and Protection of the Right to Organise Convention (No. 87) and the Right to Organise and Collective Bargaining

- Convention (No. 98), and ensure that national laws and regulations are amended to conform with those conventions.
- Develop and introduce a policy framework for long-term labor migration management that prioritizes the protection of migrant workers' rights and provides secure legal status in order to reduce the risk of trafficking and forced labor.
 - Develop national labor migration policies that address rights abuses faced by workers and provide best practice, cost-effective means to ensure safe migration channels for low-skilled migrants from neighboring countries. Establish regular migration channels that are inexpensive, simple, and efficient, and communicate policies effectively to target populations.

To the Office of the Prime Minister

- Support increased investigations and prosecutions of human trafficking and forced labor in the fishing sector, and provide necessary budgetary and technical resources for those initiatives.
- Promote government agencies building relationships that encourage information sharing and support the participation of civil society groups and migrant worker communities in counter-trafficking efforts aimed at ending forced labor.
- Publicly support investigations and prosecutions of trafficking and forced labor that move beyond lower-level actors and extend to major players in trafficking networks, including complicit company owners, government officials, and police and other security force officers.
- Establish an independent commission to recommend changes in laws, regulations, and policies adversely impacting migrant workers' human rights in Thailand. The commission should be comprised of respected government officials and members of relevant nongovernmental organizations (NGOs), including migrant worker groups. The commission should be empowered to impartially investigate allegations that both police and other government officials are involved in trafficking and forced labor, issue subpoenas to obtain testimony, and make recommendations for specific criminal investigations.

To the Ministry of Labour

- Revise the Ministerial Regulation concerning Labour Protection in Sea Fishery Work, B.E. 2557 (2014) as follows:
 - Amend section 2 to ensure that the definition of “employer” includes an owner of a fishing vessel who rents the vessel out to another person to conduct business in which the owner does not have direct interests but where the vessel’s profitable operation is maintained by services or facilities provided by the owner.
 - Amend section 5 to ensure that exceptions to minimum rest hours are temporary, limited, and done for only clearly specified reasons set out in the regulation, and that hours of rest are split into no more than two periods, one of which is at least six hours in duration.⁴⁰¹
 - In line with EU Council Directive 2017/159, amend section 5 to include a provision limiting hours of work to 48 hours per week on average, calculated over a reference period of 12 months.
 - Amend section 6 to require employers to provide an oral explanation of key terms of employment detailed within employment contracts. Employers who fail to provide workers with duplicate copies of signed employment contracts (section 6, paragraph 1) must face strong penalties.
 - Amend section 10 to clearly state that wages must be paid directly to the fisher in full at least once per month, regardless of the method or time basis (monthly, daily, hourly) used to calculate the wage. Lump sum payment methods should not trump the requirement for monthly payments.
 - Introduce a provision requiring employers to provide overtime pay at an hourly rate to fishers for each hour of work performed beyond limits specified by regulators, or by collective agreement between employers and social partners representing the interests of workers.
 - Require skippers and other management personnel to request the agreement of fishers each time they wish them to work overtime, and set out penalties for managers who retaliate in any way against fishers who refuse to work overtime. Introduce penalties for operators who compel

⁴⁰¹ This recommendation is in line with provisions of the EU Working Time Directive (2003/88/EC).

fishers to work overtime with threats of dismissal, deductions from pay, or other measures.

- Organize awareness building seminars and trainings in Burmese, Khmer, Lao, and Thai in port areas and migrant communities, working closely with migrant workers and their leaders, migrant communities, and NGOs to build migrant workers' knowledge of their rights under Thai labor laws and the 2014 Ministerial Regulation.
- Accelerate efforts to revise the Labour Relations Act to provide registered migrant workers with the rights to establish and register a labor union and to be elected as a union committee member.

To the Department of Employment

- Revise department regulations to permit fishers to change employers at any time and without restriction. Drop the requirement for workers to obtain written or oral permission from their current employer to leave their employ, and ensure that migrant workers do not have to pay any fee to the DOE to change employers.
- Revise recruitment practices for migrant workers in the fishing industry to ensure that registration is inexpensive, quick, simple, and efficient. Set as a policy objective ensuring that the costs of recruitment between Thailand and neighboring countries are based on actual costs, and take legal action against brokers, manpower agencies, and government officials found to be complicit in inflating fees charged to migrants.
 - Ensure that recruitment is based on an “employer pays” principle and that migrant fishers are not required to pay back the cost of recruitment and movement into Thailand, except for passport fees.
 - Create a public list of manpower agencies in Burma, Cambodia, and Laos that are found to charge excessive fees or otherwise exploit migrant workers, including a process for such agencies to become delisted.
Encourage neighboring states to take legal action against such agencies.
- Establish a public-private working group with members of government agencies, employers, NGOs, and representatives of migrant workers that meets several times per year to provide advice on government efforts to protect migrant workers while ensuring that employers can recruit sufficient numbers of migrant fishers.

- Ensure that fishers are fully aware of the terms and conditions in their written contracts by adopting rules or procedures as follows:
 - Require DOE officers to orally explain, with the assistance of government-employed interpreters, all provisions of fishers' contracts before fishers sign their application for a work permit.
 - Ensure that signatures by fishers, employers, and witnesses (who are not DOE officers) are done in person at the DOE, after the DOE briefing.
 - Develop and distribute pamphlets and posters in migrant workers' languages explaining the provisions of fishers' contracts and Thai labor laws and regulations regarding the rights and entitlements of fishers, including hours, wages, and conditions of work. Ensure the materials are distributed widely in migrant fisher communities and displayed at all ports, private fishing piers, and public fishing piers managed by the state enterprise Fish Marketing Organization.
 - Conduct public programs with migrant communities and NGOs on the key provisions of the standard fishers' contract and the basic rights of fishers.
- Introduce randomized screenings of migrant workers in the fishing sector applying for or renewing documents at DOE offices. Conduct screenings using a sector-specific set of indicators of trafficking and forced labor, and compliance with recruitment processes. Ensure such screenings are conducted in a private, secure setting by an official with the help of a trained government-employed interpreter.
- Distribute to every migrant worker informational materials in migrant workers' languages detailing the worker's rights and entitlements, as well as minimum conditions and standards of work, provided for under key Thai labor laws whenever migrants apply for worker identification of any sort.

To the Department of Labour Protection and Welfare

- Revise ministerial regulations issued under the Labour Relations Act to eliminate any form of discrimination based on nationality.
- Develop procedures and policies to better regulate employment practices and working conditions for migrant workers in the fishing industry, implement improved procedures and publicly report on progress, and vigorously investigate all alleged violations of labor laws and regulations.

- Work with civil society groups and the ILO and other technical agencies to develop and provide trainings to frontline DLPW inspectors on investigating employment practices and working conditions in the fishing industry. Identify noncompliance with labor standards, focusing on written employment contracts, working hours and days, sequencing of rest periods, payment systems, debt, and retention of identity documents.
- Increase the role of DLPW inspectors in actively screening potential victims of forced labor. Ensure that inspectors are appropriately trained to screen for instances of forced labor consistently, based on a standardized set of indicators developed by DLPW with technical support from the ILO and other agencies.
- Provide DLPW inspectors in every province with trained interpreters. DLPW inspectors and interpreters should liaise closely with NGOs and migrant worker organizations.
- Expand efforts to inform migrant workers of alternative complaint channels, such as hotlines set up by NGOs. Encourage the participation of NGOs, labor unions, and migrant worker associations in alerting DLPW of labor rights violations and evaluating and improving labor inspection procedures and processes.
- Develop new methods and analytical tools, such as monitoring through remote sensing technologies, to assess working hours on fishing vessels and assist inspectors in identifying skippers and boat owners who may be failing to comply with rest hour regulations. Incorporate such information in targeting vessels for at-sea inspections.

To the Command Center for Combatting Illegal Fishing

- Introduce systematic screenings for forced labor under the Port-in, Port-out (PIPO) framework by competent officials from relevant agencies who have been trained to screen consistently, using a standardized set of indicators of forced labor. Ensure such screenings are conducted in a private, secure setting by a competent official with the assistance of a trained government-employed interpreter.
- Provide adequate training and resources for multidisciplinary teams, including labor inspectors, working at PIPOs and conducting at-sea inspections, to detect cases of forced labor and debt bondage and act to protect workers.
- Develop and issue protocols for ensuring the protection of workers who may be victims of human trafficking or forced labor during inspections at sea.

- Increase the availability of trained government-employed interpreters at all PIPO control center sites and within multidisciplinary teams.

To the European Union and Member States

- Urge the Thai government to pass a law to criminalize forced labor as a stand-alone offense, in compliance with ILO standards.
- Urge the Thai government to amend sections 88 and 101 of the Labour Relations Act to end discrimination against non-Thai nationals that prevents them from establishing or registering a labor union, or being able to be elected or appointed to a union committee or subcommittee.
- Urge the Thai government to ratify ILO conventions on Freedom of Association (No. 87), the Right to Organise and Collective Bargaining (No. 98), and Work in Fishing (No. 188), as well as the Protocol of 2014 to the Forced Labor Convention, 1930 (No. 29).
- Call on Thailand to further reform the 2014 Ministerial Regulation and effectively implement its provisions through more aggressive enforcement during PIPO and maritime inspections.
- Publicly state that as a matter of policy, the EU views IUU fishing practices and use of human trafficking and forced labor among fishers to be closely linked, and that Thailand's current "yellow card" status cannot be upgraded without substantive progress in the abovementioned areas of legal reform and law enforcement.
- Urge the Thai government to adopt migrant worker policies that do not treat migrant workers as a national security threat, and to recognize that mutually beneficial arrangements between employers and migrant workers are best achieved through the rule of law and holding accountable abusive employers, brokers, and corrupt officials.

To the Government of the United States

- Urge the Thai government to pass a law to criminalize forced labor as a stand-alone offense, in compliance with ILO standards.
- Strictly enforce the revised Tariff Act of 1930 to investigate and block importation of Thai goods produced with trafficked or forced labor. Inform the government and Thai employer associations that the US Immigration and Customs Enforcement

(ICE) agency will make inspections of Thai seafood and associated product supply chains a priority until human trafficking and forced labor are eliminated in the sector.

- Urge the Thai government to work with migrant associations in developing counter-trafficking measures.
- Call on the Thai government to investigate and appropriately prosecute government officials, including police and military personnel, for criminal offenses related to forced labor or trafficking in the fishing sector.

To the Governments of Burma, Cambodia, and Laos

- Investigate and appropriately prosecute those responsible for and participating in human trafficking networks in their countries, including by collaborating with brokers in Thailand who use deceptive practices to supply men and boys to Thai fishing fleets.
- Assist the Thai government in prosecuting human traffickers, and employ safe migration and other strategies to reduce the vulnerability to trafficking of different categories of migrant workers.
- Pass regulations to eliminate high recruitment fees charged by officially registered manpower companies sending migrant workers to Thailand via government-to-government MOU channels. Take appropriate action against manpower companies through company deregistration and prosecution of company directors when they have charged excessive fees that lead to migrant workers entering debt bondage in Thailand.
- Direct embassies in Bangkok to establish hotlines and provide assistance and support to nationals subjected to trafficking, forced labor, and other labor rights abuses.
- Urge the Thai government to take action to eliminate human trafficking and forced labor on Thai fishing boats, and to prosecute vessel owners and corrupt officials committing offenses against migrant fishers.

To the Association of Southeast Asian Nations (ASEAN) and Member States

- Use the ASEAN Convention Against Trafficking in Persons to work with the Thai government to identify and intervene to stop forced labor and trafficking on fishing vessels, and prosecute vessel owners and others involved in trafficking crimes.

To International Buyers, Importers, Distributors, and Retailers of Thai Foods

- Require that Thai suppliers employing migrant workers pay the full costs of recruitment and do not seek reimbursement for those costs from workers.
- Require Thai suppliers to proactively and demonstrably support migrant workers' rights to freedom of association as a condition of doing business. Where migrant workers seek to engage in collective bargaining, ensure that the company in question bargains in good faith with all workers in the workplace.
- Engage substantively with local and international civil society organizations that are working on migrant rights issues in Thailand to monitor and expose human rights abuses in supply chains, and support interventions by NGOs and migrant workers to protect migrant workers' rights.
- Pressure employers and the Thai government to ensure workers' access to speedy and fair complaint channels that provide effective remedies for human rights and labor grievances.
- Publicly support actions by NGOs, labor unions, and migrant worker groups to demand respect for their rights, and act to protect these organizations from retaliation, especially through legal harassment, by companies, employers, brokers, or criminal actors.

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Appendix I: Indicators of Forced Labor in the Thai Fishing Industry

Unfree recruitment: Dual indicators of involuntariness and penalty
Recruiter employs coercive practices (e.g., forcible confinement, drugs, alcohol) to gain physical control over the worker during the recruitment process. ⁴⁰²
Unfree recruitment: Strong indicators of involuntariness
Workers are sold by an employer, representative of an employer, or third-party intermediary.
Oral descriptions at the point of recruitment misrepresent the nature of the work.
The cost of recruitment is borne by the worker and the worker is in debt to the employer, representative of the employer, or a third-party intermediary who has provided a loan or advance to the worker in order to finance recruitment fees.
Workers are fraudulently or grossly overcharged fees for transportation, health checks, work documentation, or other goods or services related to their recruitment.
Unfree recruitment: Medium indicators of involuntariness
Workers are issued with fraudulent identity or travel documents and their employment is linked to these documents.
Oral descriptions at the point of recruitment misrepresent the job location, earnings, terms of employment, regular migration status, housing or working conditions, and/or living costs.
Key terms and conditions of employment are not provided to workers prior to their employment in understandable writing in their own language via a copy of a written employment contract as required by law.
Workers are uninformed or misinformed about key terms of their employment and have not been given a verbal explanation of the terms of their employment so that they are able to understand the written employment contract.
Multiple third-party intermediaries are involved in the recruitment process.
Unfree recruitment: Strong indicators of penalty
Identity or travel documents are confiscated by the employer, a representative of the employer, or a third-party intermediary during the recruitment process.
Workers are subject to physical abuse or threat of physical abuse in order to control or coerce them during the recruitment process.
Workers are threatened with denunciation to or discovery by the authorities during the recruitment process.
Workers are subject to punishment (e.g., denial of food) or threat of punishment in order to control or coerce them during the recruitment process.

⁴⁰² The ILO notes that some indicators of involuntariness necessarily involve a degree of coercion and therefore automatically imply the presence of penalty (or menace of penalty). See International Labour Organization, *Hard to See, Harder to Count: Survey Guidelines to Estimate Forced Labour of Adults and Children* (Geneva: ILO, 2012), p. 8.

Work and life under duress: Dual indicators of involuntariness and penalty
Workers work excessive hours for earnings less than or equal to the minimum wage. ⁴⁰³
Work and life under duress: Strong indicators of involuntariness
The employer, a representative of the employer (e.g., security guards) or a third-party intermediary control workers by placing unreasonable restrictions on their freedom of movement outside of the workplace, accommodation, or locality.
Wage deductions are made for items or services other than those stipulated by law (e.g., food aboard the vessel) and/or are used to compel workers.
The worker faces degrading living conditions aboard the fishing boat, including a lack of access to adequate clean water, sanitation, and medicine or medical supplies.
Workers are forced to work on call, day and night.
Workers have to systematically work beyond the legal limits (e.g., working hours, overtime, holidays).
Workers are denied sick leave.
Work and life under duress: Medium indicators of involuntariness
Employers, representatives of employers or third-party intermediaries actively facilitate or force workers to misuse and/or become dependent on stimulants (e.g., amphetamines).
The employer, a representative of the employer or a third-party intermediary deny workers access to records detailing exchanges of advances, partial wage payments, loans, applied interest, expenses, debt repayments, and/or payments for goods or services that have been conducted between the two parties.
The employer, a representative of the employer or a third-party intermediary inflate a worker's debt (e.g., excessive interest rates, especially on loans or advances; unreasonable terms and conditions of repayment; manipulation of accounts or records; gross overcharging for goods or services).
Workers are forced to engage in illicit or illegal activities (e.g., IUU fishing).
Work and life under duress: Strong indicators of penalty
Migrant workers have been told that they will be arrested, deported, or reported to authorities if they fail to comply with orders from their employer, their representative, or a third-party intermediary.
Geographic, social, cultural, or linguistic isolation are present that trap migrant workers at the place of work or within the immediate locality.
Workers are controlled by the employer, a representative of the employer, or a third-party intermediary through appeals to religion, witchcraft, or magic.
Workers are accompanied when outside of the workplace or accommodation or subjected to constant surveillance by the employer, a representative of the employer, or third-party intermediaries (e.g., broker or informant to broker).
Workers are forcibly confined in between periods of work in a location which is secured, locked, or guarded.

⁴⁰³ The ILO notes that a worker who is obliged to work overtime beyond the limits set by national legislation in order to retain their job or earn the minimum wage is considered a victim of forced labor under the Forced Labour Convention. See International Labour Organization, "General Survey concerning the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105)," *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 1B), 96th ILC Session, 2007, pp. 71-72.

Workers have been subjected to forms of physical violence (e.g., beatings, torture) as punishment for noncompliance.
Workers have witnessed physical violence, including torture and murder, being used against other workers as punishment for noncompliance.
The employers, a representative of the employer, or a third-party intermediary use the threat of punishment (e.g., separation from kin through transfer to another boat; imposition of even worse working conditions) to force workers to comply.
Workers are denied access to sufficient food (amount and nutritious value), drinking water, or rest.
Impossibility of leaving employment: Strong indicators of involuntariness
Workers must pay off debts owed to the employer, a representative of the employer, or a third-party intermediary before they can leave or change employment.
Workers cannot leave employment unless they pay a fee significantly greater than that required by official pricing.
Workers believe that they cannot change employers until after a specified period of time has passed.
Impossibility of leaving employment: Medium indicators of involuntariness
Migrant worker's work permit is tied to a single location.
Impossibility of leaving employment: Strong indicators of penalty
Outstanding salary payments due to workers are not paid or are paid significantly later than the period of time stipulated at the start of the period of employment and/or in the worker's contract.
The employer pays earnings, or a proportion of earnings, to a third-party intermediary.
Pay, or a significant proportion of pay, is contingent on the worker not leaving employment before working a minimum or set period of time and/or wages are withheld in instances of early contract termination.
Workers are not in control of their own savings or feel they must deposit their savings with the employer, a representative of the employer, or a third-party intermediary and workers do not have unrestricted access to their savings.
Employer, representative of employer, or third-party intermediary is in control of a worker's identification card and/or travel documents and workers are unable to access these items on demand or feel that they cannot leave the job without risking their loss.
Workers have been subjected to physical violence (e.g., beatings, torture) as a form of punishment for attempting to leave the workplace or employment.
Workers have witnessed physical violence, including torture and murder, being used against other workers as punishment for attempting to leave the workplace or employment.

Appendix II: Indicators of Forced Labor Identified Only among Designated Victims of Trafficking

Unfree recruitment: Medium indicators of involuntariness
Workers are issued with fraudulent identity or travel documents and their employment is linked to these documents.
Unfree recruitment: Strong indicators of penalty
Identity or travel documents are confiscated by the employer, a representative of the employer, or a third-party intermediary during the recruitment process.
Workers are subject to physical abuse or threat of physical abuse in order to control or coerce them during the recruitment process.
Workers are threatened with denunciation to or discovery by the authorities during the recruitment process.
Workers are subject to punishment (e.g., denial of food) or threat of punishment in order to control or coerce them during the recruitment process.
Work and life under duress: Strong indicators of involuntariness
The worker faces degrading living conditions aboard the fishing boat, including a lack of access to adequate clean water, sanitation, and medicine or medical supplies.
Work and life under duress: Medium indicators of involuntariness
Workers are forced to engage in illicit or illegal activities (e.g., IUU fishing).
Work and life under duress: Strong indicators of penalty
Workers are controlled by the employer, a representative of the employer, or a third-party intermediary through appeals to religion, witchcraft or magic.
Workers are accompanied when outside of the workplace or accommodation or subjected to constant surveillance by the employer, a representative of the employer, or third-party intermediaries (e.g., broker or informant to broker).
Workers are forcibly confined in between periods of work in a location which is secured, locked or guarded.
Workers have witnessed physical violence, including torture and murder, being used against other workers as punishment for noncompliance.
Impossibility of leaving employment: Strong indicators of penalty
Workers are not in control of their own savings or feel they must deposit their savings with the employer, a representative of the employer, or a third-party intermediary and workers do not have unrestricted access to such savings.
Workers have been subjected to physical violence (e.g., beatings, torture) as a form of punishment for attempting to leave the workplace or employment.

Appendix III: Profiles of Victims of Forced Labor Identified among Current Workers in the Thai Fishing Industry

Profile A
The cost of recruitment is borne by the worker and the worker is in debt to the employer, representative of the employer, or a third-party intermediary who has provided a loan or advance to the worker in order to pay recruitment costs.
A broker loaned 18,000 baht to the worker and the worker is in debt to the boatswain for this amount.
Key terms and conditions of employment are not provided to workers prior to their employment in understandable writing in their own language via a copy of a written employment contract as required by law.
The worker does not believe they have signed a dual-language document or an employment contract. The worker only signed documents during their pink card application.
Workers are uninformed or misinformed about key terms of their employment and have not been given a verbal explanation of the terms of their employment so that they can understand the written employment contract.
After working two months, the worker does not know their salary, how much debt they are in or how long they will have to work to pay it off. The worker has not been given a verbal explanation of the terms of their employment nor their entitlements under labor laws as outlined in the employment contract.
Multiple third-party intermediaries are involved in the recruitment process.
The worker relied on a broker to take them from their home village to a border area and were then introduced to another broker, by phone, who arranged for all of their transport in various stages across the border into Thailand and south to the fishing port.
Workers have to systematically work beyond the legal limits (e.g., working hours, overtime, holidays).
He works 18 hours per day for each day of a trip lasting 8 to 15 days.
Workers work excessive hours in order to receive the minimum wage.
He works 18 hours per day for each day of a trip lasting 8 to 15 days and is paid a monthly salary equivalent of 9,000 baht, receiving 500 to 1,000 baht each time the vessel comes into port with the remainder of his earnings being paid in a lump sum following the completion of 10 months of work.
Workers must pay off debts owed to the employer, a representative of the employer, or a third-party intermediary before they can leave or change employment.
The worker is servicing 18,000 baht worth of debt to a broker through work aboard the fishing vessel. They do not know how much debt they are in nor how long they will have to work to pay it off.
Workers cannot leave employment unless they pay a fee significantly greater than that required by official pricing.
The worker has been told that it will cost them 3,000 baht to change jobs, a fee which would be paid to his current employer.
Migrant worker's work permit is tied to a single location.
The worker holds a laminated copy of their pink card and has completed a pink card application.
The employer pays earnings, or a proportion of earnings, to a third-party intermediary.

The boatswain will pay a portion of the worker’s salary directly to a broker in order to service debts arising from recruitment fees.
Pay, or a significant proportion of pay, is contingent on the worker not leaving employment before working a minimum or set period of time and/or wages are withheld in instances of early contract termination.
The worker is paid under a lump sum system where the majority of their salary will be paid after 10 months.

Profile B
Key terms and conditions of employment are not provided to workers prior to their employment in understandable writing in their own language via a copy of a written employment contract as required by law.
The worker thinks that he probably has signed an employment contract, that he did this while applying for his pink card and that the contract is with his owner. He has never read the document and does not have a copy.
Workers are uninformed or misinformed about key terms of their employment and have not been given a verbal explanation of the terms of their employment so that they are able to understand the written employment contract.
The worker has not been given a verbal explanation of the terms of their employment nor their entitlements under labor laws as outlined in the employment contract.
Wage deductions are made for items or services other than those stipulated by law (e.g., food aboard the vessel) and/or are used to compel workers.
The worker’s pay is deducted if he is at sea but too ill to work and must take time off to rest.
Workers are denied sick leave.
The worker is told to work when they are too sick and denied paid sick leave.
The employer, a representative of the employer, or a third-party intermediary deny workers access to records detailing exchanges of advances, partial wage payments, loans, applied interest, expenses, debt repayments, and/or payments for goods or services that have been conducted between the two parties.
The worker’s employer keeps records on his loans, payments (he get paid three times per month and then one lump sum after 24 months) and also rent, as the worker’s accommodation is owned by the employer. The worker is not able to see these records.
Migrant worker’s work permit is tied to a single location.
The worker holds a laminated copy of their pink card and has completed a pink card application.
Pay, or a significant proportion of pay, is contingent on the worker not leaving employment before working a minimum or set period of time and/or wages are withheld in instances of early contract termination.
The worker is paid under a lump sum system where the majority of their salary will be paid after 24 months and the worker believes they would lose earnings held by the employer if they left employment.
Employer, representative of employer, or third-party intermediary is in control of worker’s identification card and/or travel documents and workers are unable to access these items on demand or feel that they cannot leave the job without risking their loss.
The worker believes that they cannot leave employment without losing their pink card.

Profile C

Oral descriptions at the point of recruitment misrepresent the job location, earnings, terms of employment, regular migration status, housing or working conditions, and/or living costs.
The worker was told by the employer he would earn 9,000 baht per month but he is only earning between 6,000 and 7,500 baht per month, with the remainder pledged as a lump sum payment to be paid upon the completion of 12 months of work.
Key terms and conditions of employment are not provided to workers prior to their employment in understandable writing in their own language via a copy of a written employment contract as required by law.
The worker does not believe they have signed a dual-language document or an employment contract. The worker only signed documents during their pink card application.
Workers are uninformed or misinformed about key terms of their employment and have not been given a verbal explanation of the terms of their employment so that they are able to understand the written employment contract.
The worker has not been given a verbal explanation of the terms of their employment nor their entitlements under labor laws as outlined in the employment contract.
Workers have to systematically work beyond the legal limits (e.g., working hours, overtime, holidays).
He works up to 17 hours for 27 days each month.
Workers work excessive hours for earnings less than or equal to the minimum wage.
He works up to 17 hours per day for 27 days each month and is paid a monthly salary equivalent of 9,000 baht, receiving 100 or 200 baht every 3 to 5 days and then a single cash payment which all together equal between 6,000 and 7,500 baht each month, with the remainder of his earnings being paid in a lump sum following the completion of 12 months of work.
The employer, a representative of the employer, or a third-party intermediary deny workers access to records detailing exchanges of advances, partial wage payments, loans, applied interest, expenses, debt repayments, and/or payments for goods or services that have been conducted between the two parties.
Unknown deductions are made from the worker's earnings.
Workers must pay off debts owed to the employer, a representative of the employer, or a third-party intermediary before they can leave or change employment.
The worker has been told by the employer that they must pay the sum of all advances on earnings received to date in order to change employment.
Migrant worker's work permit is tied to a single location.
The worker holds a laminated copy of their pink card and has completed a pink card application.
Pay, or a significant proportion of pay, is contingent on the worker not leaving employment before working a minimum or set period of time and/or wages are withheld in instances of early contract termination.
The worker is paid under a lump sum system where the majority of their salary will be paid after 12 months.
Employer, representative of employer, or third-party intermediary is in control of worker's identification card and/or travel documents and workers are unable to access these items on demand or feel that they cannot leave the job without risking their loss.
The employer is in possession of the worker's pink card and will not give it to the worker upon request.

Appendix IV: Sample Fishing Industry Employment Contract (Bor Mor. 1)

แบบ ปม.๑
Form PorMor.1

สัญญาจ้างในงานประมงทะเล Sea Fishery Work Employment Contract

contract

เขียนที่.....
Written at

สัญญาฉบับนี้ทำขึ้นเมื่อวันที่.....เดือน.....พ.ศ.....
This contract is made on date month year

ระหว่าง
between

(ให้ระบุชื่อนิติบุคคลหรือบุคคล
(Please specify name of employer or

ธรรมดาซึ่งเป็นนายจ้าง) ที่อยู่ปัจจุบัน.....
legal entity acting as employer) Current address

ซึ่งต่อไปในสัญญานี้เรียกว่า “นายจ้าง” ฝ่ายหนึ่งกับ
hereinafter referred to as “Employer” ,and

นาย/นาง/นางสาว.....
Mr./Mrs./Miss

หมายเลขประจำตัวประชาชน (กรณีคนต่างด้าว ให้ระบุหมายเลขของเอกสารหลักฐานที่ใช้แสดงตนของลูกจ้าง ได้แก่
Identification Number (For alien, please specify No. of employee identification documents such as passport, passport
หนังสือเดินทาง เอกสารใช้แทนหนังสือเดินทาง ใบสำคัญถิ่นที่อยู่ ใบสำคัญประจำตัวคนต่างด้าว หรือบัตรประจำตัว
substitute document, certificate of domicile, certificate of alien registration or identity card issued for non-Thai nationals)

คนซึ่งไม่มีสัญชาติไทย) ออกให้ ณ
Issued at.

.....วันออกบัตร.....วันหมดอายุ.....
Date of Issue Date of Expiry

สัญชาติ.....อายุ.....ปี หมายเลขใบอนุญาตทำงาน (ถ้ามี).....
Nationality Age Years Work Permit No. (if any)

ปัจจุบันอยู่บ้านเลขที่.....หมู่ที่.....ถนน.....ตำบล/แขวง.....
Currently residing at house No. Village No. Road Sub-district/Khwaeng

อำเภอ/เขต.....จังหวัด.....รหัสไปรษณีย์.....
District/Khet Province Postal code

โทรศัพท์.....โดยมีภูมิลำเนาตามทะเบียนบ้าน(กรณีคนต่างด้าวให้ระบุตามใบสำคัญถิ่นที่อยู่
Tel. Domicile as regulated in a house registration document (For alien, specify as regulated in certificate of

ในต่างประเทศ) อยู่บ้านเลขที่.....หมู่ที่.....ถนน.....ตำบล/แขวง.....
residence in native country) House No. Village No. Road Sub-district/Khwaeng

อำเภอ/เขต.....จังหวัด.....รหัสไปรษณีย์.....
District/Khet Province Postal Code

ประเทศ.....โทรศัพท์.....ซึ่งต่อไปในสัญญานี้เรียกว่า “ลูกจ้าง”
Country Tel hereinafter referred to as “Employee”.

นายจ้างได้ตกลงกับลูกจ้าง ดังต่อไปนี้

Employer and employee agree according to the following statements:

ข้อ ๑ นายจ้างตกลงว่าจ้างลูกจ้างให้ทำงานในตำแหน่ง.....

1. Employer agrees to employ employee to work in the position of

ในเรือประมงชื่อ..... ทะเบียนเรือเลขที่.....
in fishing boat named..... boat registration No.

โดยมี..... ปัจจุบันอยู่บ้านเลขที่..... หมู่ที่..... ถนน.....
having..... Currently residing at house No..... Village No..... Road

ตำบล/แขวง..... อำเภอ/เขต..... จังหวัด..... รหัสไปรษณีย์.....
Sub-district/Khwaeng..... District/Khet..... Province..... Postal code

ประเทศ..... โทรศัพท์..... เป็นเจ้าของเรือทำประมงอยู่ที่(แหล่งประมง)
Country..... Tel..... Employer is the owner of fishing boat in (fishing area)

..... โดยให้ลูกจ้างเริ่มทำงานตั้งแต่วันที่.....
..... and allows employee to start working from the

ถึงวันที่..... (กรณีสัญญาจ้างมีกำหนดระยะเวลาให้ระบุวันสิ้นสุดสัญญาด้วย)
to..... (In case the employment contract is fixed-term contract, please specify the termination date)

ข้อ ๒ นายจ้างตกลงจ่ายค่าตอบแทนให้แก่ลูกจ้าง ดังนี้

2. Employer agrees to pay remuneration to employee as follows:

๒.๑ ค่าจ้างจ่ายให้วัน/เดือนละ..... บาท.....
2.1 Wage payment on daily/monthly basis at..... Baht

..... (ให้กำหนดรายละเอียด เงื่อนไข และวิธีการจ่าย)
..... (Please specify details, conditions and payment method).

.....

๒.๒ ส่วนแบ่งตามมูลค่าของสัตว์น้ำที่จับได้จ่ายให้.....
2.2 Remuneration based on value of harvested aquatic animals.....

..... (ระบุจำนวนเงินหรือเปอร์เซ็นต์)
..... (Specify amount of money or percent)

ที่แบ่งจ่ายโดยกำหนดรายละเอียด เงื่อนไข และวิธีการจ่าย)
of the remuneration concerned and also determine details, conditions and payment method).

๒.๓ เงินอื่นๆ (ถ้ามี).....
2.3 Other monies (If any).....

.....

(ให้กำหนดรายละเอียด เงื่อนไข และวิธีการจ่าย)
(Please specify details, conditions and payment method).

ทั้งนี้ ค่าจ้างที่ลูกจ้างจะได้รับ เมื่อรวมแล้วต้องไม่น้อยกว่าอัตราค่าจ้างขั้นต่ำตามประกาศ

คณะกรรมการค่าจ้างซึ่งใช้บังคับในขณะนั้น

on Minimum Wage Range applicable at that time.

ข้อ ๓ นายจ้างต้องจัดเวลาพักให้ลูกจ้างมีเวลาพักไม่น้อยกว่า ๑๐ ชั่วโมง ในระยะเวลาการทำงาน ๒๔ ชั่วโมง และไม่น้อยกว่า ๗๗ ชั่วโมง ในระยะเวลาการทำงาน ๗ วัน

and not less than 77 hours in any 7-day period

ข้อ ๔ นายจ้างเป็นผู้จัดสวัสดิการ ดังนี้

4. Employer shall provide the following welfares:

๔.๑ จัดให้มีอาหารและน้ำดื่มที่สะอาดถูกสุขลักษณะ ห้องส้วม เวชภัณฑ์ และยาเพื่อ

ใช้ปฐมพยาบาลเบื้องต้น ในจำนวนที่เพียงพอเพื่อให้เหมาะสมกับการทำงานและระยะเวลาการใช้ชีวิตบนเรือ

for working and living on fishing boats.

๔.๒ สวัสดิการอื่นๆ (ถ้ามี) ให้ระบุ.....
4.2 Other welfares (if any), please specify.....

.....

ข้อ ๕ นายจ้างมีหน้าที่จัดเครื่องมือหรืออุปกรณ์เพื่อความปลอดภัยในการทำงานบนเรือซึ่งมี
5. Employer shall provide tools or equipment to ensure working safety on fishing boats under the standards required
มาตรฐานตามที่กฎหมายกำหนด รวมทั้งให้ความรู้แก่ลูกจ้างเกี่ยวกับสภาพการทำงาน การใช้เครื่องมือหรืออุปกรณ์
by the laws and provide knowledge about working condition and instruction on using the tools or equipment to employee
ดังกล่าวก่อนการทำงาน
prior to work.

ข้อ ๖ ลูกจ้างต้องปฏิบัติหน้าที่ของตนให้สุ่งไปโดยถูกต้องและสุจริต ไม่จงใจขัดคำสั่ง
6. Employee shall completely perform his/her duties with accuracy and integrity and shall not intentionally disobey
ของนายจ้างอันชอบด้วยกฎหมาย หรือละทิ้งหน้าที่ หรือกระทำการอื่นใดให้นายจ้างได้รับความเสียหาย
rightful orders of employer or abandon duties or do any other acts causing damage to employer.

ข้อ ๗ ลูกจ้างมีสิทธิติดต่อเจ้าหน้าที่ของรัฐ/ศูนย์ประสานแรงงานประมง/ครอบครัว
7. Employee has the right to contact government officials/the Labour Coordination Centre for Sea Fishery Worker/family
โดยนายจ้างต้องจัดให้ลูกจ้างเข้าถึงหรือจัดหาอุปกรณ์การสื่อสาร
and employer shall provide communication access for employee or provide communication devices to employee

ข้อ ๘ เงื่อนไขอื่นที่มีได้ระบุในสัญญานี้ ให้นายจ้างและลูกจ้างปฏิบัติตามกฎกระทรวงคุ้มครอง
8. In relation to other conditions not specified in this contract the employer and employee shall comply with the
แรงงานในงานประมงทะเล พ.ศ. ๒๕๕๗ เว้นแต่กรณีที่นายจ้างปฏิบัติต่อลูกจ้างสูงกว่ามาตรฐานที่กำหนดไว้ใน
Ministerial regulation concerning Labour Protection in Sea Fishery Work B.E. 2557, except employer treats employee more favourable than the
กฎกระทรวงฉบับดังกล่าว ก็ให้เป็นไปตามนั้น
standards prescribed in such ministerial regulation.

สัญญาฉบับนี้ทำขึ้นเป็นภาษาไทยจำนวนสองฉบับมีข้อความถูกต้องตรงกัน เก็บไว้ที่นายจ้าง
This contract is made in Thai in duplicate with identical texts, employer and employee holding each copy.

หนึ่งฉบับและลูกจ้างหนึ่งฉบับ ซึ่งคู่สัญญาทั้งสองฝ่ายได้อ่านและเข้าใจข้อความของสัญญานี้ดีโดยตลอดแล้ว
Both parties have thoroughly read and understood the contents of this contract and hereby affix signature in the presence

จึงลงลายมือชื่อไว้เป็นสำคัญต่อหน้าพยาน
of witnesses.

ลงชื่อ.....นายจ้าง
Signature Employer

(.....)

ลงชื่อ.....ลูกจ้าง
Signature Employee

(.....)

ลงชื่อ.....พยาน
Signature Witness

(.....)

ลงชื่อ.....พยาน
Signature Witness

(.....)



HIDDEN CHAINS

Rights Abuses and Forced Labor in Thailand's Fishing Industry

Starting in 2014, widespread investigative reporting on the Thai fishing industry revealed systematic trafficking of migrant fishers, primarily from Burma and Cambodia, into conditions of shocking brutality. International condemnation followed, prompting the Thai government to enact reforms. Yet several years on, the government's highly publicized efforts have not curtailed forced labor or other abuses that migrant workers face at the hands of boat owners, skippers, and brokers.

Hidden Chains documents the failed regulatory response and ongoing practices that leave migrant fishers highly vulnerable to abuse. Based on interviews with 248 current and former fishers—including at least 95 victims of trafficking—and industry and government officials, the report details the weak implementation of recent government initiatives that has perpetuated a culture of abuse and impunity. New inspection systems and registration processes have enabled the concealment of exploitation and rights violations behind a veneer of compliance. Fishers continue to be trapped in desperate situations without access to protection or remedy.

Human Rights Watch calls on the Thai government to enact stand-alone legislation to prohibit all forms of forced labor, which should ensure protections for victims and accountability for perpetrators of abuse. The government should amend laws and regulations to protect migrants' labor rights, including permitting migrant workers to establish unions. Governments, including European Union member states and the United States, should maintain pressure on Thailand to make substantive progress toward eliminating forced labor and trafficking.

(above) Fishing boats docked in Rayong, Thailand, November 2016.

(front cover) Fishers clean and prepare nets at a port in Phuket, Thailand, March 2016.

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