

**HUMAN RIGHTS WATCH**

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**HRW.org**

Mr Karmenu Vella  
Commissioner for Environment, Maritime Affairs and Fisheries

Ms Cecilia Malmström  
Commissioner for Trade

Ms Marianne Thyssen  
Commissioner for Employment, Social Affairs, Skills and Labour Mobility

Ms Federica Mogherini  
High Representative of the Union for Foreign Affairs and Security Policy / Vice-President of the  
Commission

European Commission  
Rue de la Loi / Wetstraat 200  
1049 Brussels

Brussels, July 5, 2018

**Re: Serious Deficiencies in Labor Rights Reform in Thailand's Fishing Industry**

Dear Commissioners Vella, Malmström and Thyssen,  
Dear High Representative Mogherini,

Human Rights Watch is writing to you because we remain very concerned about Thailand's failure to adequately address labor and human rights violations suffered by migrant workers aboard Thai fishing vessels. While we understand that the first bilateral labor rights consultation has recently been concluded between the European Commission's Directorate-General for Employment and the Thai Ministry of Labor on May 16-17, 2018 in Brussels, we urge you to immediately raise the following matters with the Thai government and insist on additional reforms of Thailand's still weak laws and policies and lax practices in implementation, which permit abuses of migrant workers' rights to continue with near impunity.

We have noted that under pressure from the EU and others, the Thai authorities have made some efforts to improve the protection of labor rights in the fisheries sector. To date, this has primarily revolved around changes required by the Ministerial Regulation concerning Labor Protection in Sea Fishery Work, B.E. 2557 (2014), and subsequent amendments to related regulations, such as: requiring a written work contract, and stipulating that fishers be give a copy; requiring employers to pay their fishery workers monthly via bank transfer; the stipulation that withholding the identification documents of workers is now a punishable offense; requiring recruitment agencies to prohibit debt bondage (but still allowing deduction for certain costs, not to exceed 10 percent of the worker's monthly wages); the enforcement of legislation prohibiting the use of labor under the age of 18 in fishing vessels and processing plants; and the potential for better enforcement posed by the establishment of 32 Port-In Port-Out control centers and 19 Forward Inspection Points in Thailand's 22 coastal provinces for fishing vessels.

However, it is disconcerting to learn that even recent improvements in protecting the rights of migrant fishers are being undermined by continued fishing industry actions designed to thwart rather than comply with reforms. For example, recent research by Human Rights Watch in Songkhla and Ranong found that fishing boat owners and captains are seizing and holding ATM cards and bank books issued in connection with bank accounts opened by fishers to comply with government requirements that employers pay them by bank transfer. In one case, fishers reported that when their employer took them to the bank to open their accounts, all of them were required to use the same pin-code for their ATM card, and then the cards were taken by the employer. Such actions contribute to fishers' lack of freedom of movement and ability to change employers.

Human Rights Watch has also learned that there has been a significant increase in the number of foreign flagged fishing vessels landing in Ranong. The real origin and ownership of these vessels requires closer examination since their foreign flagged status means it is possible for them to evade inspection by the PIPOs.

Despite repeated public and private promises by the Thai government over the past year about reform, to date there has been very little improvement in respecting the rights of the largely Burmese and Cambodian migrant workers on Thai fishing vessels or improving the conditions under which they work. Significant numbers of these workers continue to toil under conditions of forced labor, unable to leave abusive employers except under very restrictive conditions and prohibited by law from organizing a union to represent themselves.

You may be aware that in January at the European Parliament, Human Rights Watch released a comprehensive report, *Hidden Chains: Rights Abuses and Forced Labor in Thailand's Fishing*

*Industry.*<sup>1</sup> Human Rights Watch called for legislation prohibiting use of forced labor as a stand-alone offense; reforms to end to restrictions on migrant workers' freedom of movement; policy changes to formally delink the legal status of migrant workers from their employer; and improvements in complaint processes and monitoring to ensure fishers are able to change employers without obstruction by employers, labor brokers, or government officials. To date, the Thai government has implemented almost none of the report's major recommendations.

Human Rights Watch also urged that Thailand amend the Labor Relations Act of 1975 to eliminate blatantly discriminatory language in articles 88 and 101 of the legislation that prohibits workers without Thai nationality from formally establishing a labor union or being a member of the committee of a labor union from which the union's leadership is selected. Without the ability to organize and lead a union, migrant fishers have few avenues to press for their rights to be respected, since they are extremely vulnerable to retaliation by boat captains, officers, and fleet owners. The Thai government has failed to offer a reasoned argument for its inaction except to note that employers are against allowing migrant workers to organize and alluding to vague concerns without evidence articulated by elements in the police and army that allowing migrants to have rights could threaten Thai national security. When pushed on this question, the Thai government has maintained that registered migrant workers can become rank and file members of a union, but this is wholly insufficient to protect them in the fishing industry, where there are no unions and the few Thais on board boats are the captain and officers.

Human Rights Watch also urged the Thai government to ratify International Labour Organization (ILO) Conventions No. 87 (Freedom of Association) and No. 98 (Right to Organize and Collectively Bargain). However, there has been no real progress on moving to ratify either of those core ILO conventions. While Thailand has now finally ratified the ILO Protocol of 2014 on ILO Convention No. 29 (Forced Labor), there is still much to do before it can ratify the ILO Convention No. 188 (Work in Fishing). To date, progress has been slow, and the Thai government's own deadlines have been repeatedly missed.

Regarding conditions of work, our research found widespread non-compliance on fishing boats with key provisions of the Labor Protection Act and the Ministerial Regulation Concerning Labor Protection in Sea Fishery Work of 2014. We found that fishers worked overtime hours well beyond those set out in law, which the captain allows fishers 10 hours of rest in a 24-hour period, and no less than 77 hours of rest in any 7-day period. Boat owners and captains violated legal requirements to pay wages at least monthly, and we found many instances of fishers being paid

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<sup>1</sup> For link to the report: <https://www.hrw.org/report/2018/01/23/hidden-chains/rights-abuses-and-forced-labor-thailands-fishing-industry>. An accompanying video can be viewed here: <https://www.hrw.org/report/2018/01/23/hidden-chains/rights-abuses-and-forced-labor-thailands-fishing-industry>.

sub-minimum wages when they were paid once every six months, or in some cases, once a year. Our research also found systematic failures regarding required written contracts, including not educating fishers about them when they signed the contract, and failing to provide the fishers copies of the written contracts. Human Rights Watch also uncovered that migrant workers' documents continued to be seized and held by captain and fleet owners in violation of the law, often connected to debts owed to the employer or labor brokers working in tandem with the captain, officers, or fleet owner. Numerous instances of threats, intimidation and physical violence by captains, officers and fleet owners against fishers continued to be reported.

The combined effect of these actions restricts the movement of fishers, makes it very difficult for them to change employers – even in cases of abuse – and increases their vulnerability to forced labor. Human Rights Watch analyzed the information we gathered using a framework adapted from an ILO methodology for estimating forced labor and found forced labor arose from unfree recruitment, work and life under duress on the fishing vessels, and the impossibility of leaving an employer. The Thai government has yet to seriously address these problems.<sup>2</sup>

We also found that labor inspections both at Port-In/Port-Out (PIPO) checkpoints was perfunctory and primarily consisted of a document check. Private interviewing of workers to ascertain possible problems and abuses on board appears to be almost unheard of in these PIPO inspections. Similarly, inspections at sea often failed to follow basic procedures necessary to protect workers when providing information about possible violations they might have suffered on board.

Taken together, Thailand's reforms show a poor record in improving respect for human rights and improving labor conditions on Thai fishing vessels. Thailand's progress on labor issues has lagged far behind its work on addressing illegal, unreported and unregulated (IUU) fishing aspects of the operation of Thai fishing fleets.

Human Rights Watch recommends that the EU as a matter of priority insists and verifies significant progress on the following with the Thai government before lifting the current yellow-card sanction on Thailand connected to IUU fishing:

1. Revise articles 88 and 101 of the Labor Relations Act of 1975 to remove discriminatory language based on national origin, and permit registered migrant workers to organize, register and lead labor unions to defend their rights and interests.
2. Enact a stand-alone law that outlaws forced labor and imposes strict penalties on violators, while ensuring that law is in line with international labor rights standards set out by relevant ILO Conventions.

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<sup>2</sup> For a more detailed analysis, see Human Rights Watch, *Hidden Chains*, pp. 94-100.

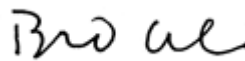
3. Ratify without delay ILO Conventions Nos. 87, 98, 188, and effectively implement the recently ratified ILO Protocol of 2014 to Convention No. 29.
4. Systematically enforce requirements that fishers work no overtime beyond what is provided by law; receive pay on a monthly basis through electronic bank transfer that can be scrutinized; receive no less than the minimum wage set out in law; receive copies of written contracts they are required to sign by law; be able to hold the original of their migrant worker identification at all times; and have the ability to change employers without obstacles or penalty.
5. Significantly improve inspection procedures at PIPs and on-board fishing vessels to ensure that victims of human trafficking and forced labor are identified and assisted to leave those situations.
6. Appropriately prosecute fishing boat captains, officers and fleet owners who commit physical abuse against fishers.

We thank you for your attention to this important matter. Please don't hesitate to contact us via Shayna Bauchner at [bauchns@hrw.org](mailto:bauchns@hrw.org), for any further information you may need.

Sincerely yours,



Lotte Leicht  
EU Director  
Human Rights Watch



Brad Adams  
Executive Director, Asia Division  
Human Rights Watch

CC:

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