



Hidden Chains

Rights Abuses and Forced Labor in Thailand's Fishing Industry

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.¹
 - 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

¹ This recommendation is in line with provisions of the EU Working Time Directive (2003/88/EC).

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 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.