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HRW.org

April 13, 2018

Gen. Prayuth Chan-ocha
Prime Minister
Government House
Phitsanulok Road, Dusit
Bangkok 10300
Thailand

Re: Reforms on Labor in the Fishing Industry

Dear Prime Minister,

We write to you about the problem of forced labor and trafficking in the Thai fishing industry.

Our 2018 report, "[Hidden Chains: Forced Labor and Rights Abuses in Thailand's Fishing Industry](#)," describes how vulnerable migrant workers from neighboring countries in Southeast Asia are recruited into fishing, prevented from changing employers, forced to work overtime, and not paid in accordance with Thai law, among other abuses. In many such situations, the exploitation of fishers constitutes forced labor under the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29), which Thailand ratified in 1969. Migrant fishers regularly do not receive the protections they are entitled to under Thai labor law. An important reason for this is that under the Labour Relations Act 1975 they are not allowed to form a labor union.

Our report makes a [series of recommendations](#) that we have discussed in detail with the Prime Minister's Office, the Ministry of Foreign Affairs, the Ministry of Labour, and other government agencies with an aim to achieve greater protection and more robust enforcement of labor rights in Thailand's fisheries sector.

You and other members of the Thai government have made many public commitments, which in your own words constitute a national agenda to reform human rights and environmental practices of the fisheries sector in line with international standards. Most recently, during an official visit to Samut Sakhon province on March 5, 2018, you said, "I came here to

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express my commitment in dealing with illegal, unreported, and unregulated (IUU) fishing **and human trafficking.” This emphasis on cleaning up the fisheries sector is crucial for the nation’s economy** because the European Union has indicated it will ban imports of fisheries products from Thailand unless it sees concrete improvement as the result of measures to tackle illegal fishing and labor issues.

In this regard, we have noted that under pressure from the EU and others, the Thai authorities have made efforts to improve the protection of labor rights in the fisheries sector. This includes the Decree on Fisheries, which imposes penalties for fishing vessels that use illegal workers; the stipulation that work contracts must have two copies drawn up, one of which must be given to the worker; the requirement for employers to pay their fishery workers monthly via bank transfer; the stipulation that withholding the identification documents of workers is a punishable offense under the Prevention and Suppression of Human Trafficking Act; the issuance of new legislation governing recruitment agencies to prohibit debt bondage and the licensing of more than 100 recruitment agencies; the revision of the existing regulation regarding the right of migrant workers to change employers; the relaxation of the pink card regulation to delink the legal status of migrant workers from their employers; the enforcement of legislation prohibiting the use of labor under the age of 18 in fishing vessels and processing plants; and the establishment of 32 Port-In Port-Out (PIPO) control centers and 19 Forward Inspection **Points in Thailand’s 22 coastal provinces for fishing vessels.**

However, despite these important measures, some announcements have been misleading. For example, the Thai government has claimed that there have been [more than 4,000 cases](#) of fishery-related crimes and labor law violations prosecuted in criminal courts over the past two years. But only a tiny fraction of these cases was related to human trafficking and labor rights violations.

Vessel monitoring systems and limiting time at sea to 30 days have led to better working conditions for some fishing crews. But despite the significant amounts of personnel and resources that have been allocated to the PIPO inspection of fishing vessels leaving and entering Thai ports, our research found that Thai government officials still consistently fail to identify cases of forced labor and other violations under the Labour Protection Act and the Ministerial Regulation Concerning Labour Protection in Sea Fishery Work.

We also found that officials focus on record-keeping instead of enforcement of labor standards, often taking information provided by vessel operators at face value, instead of relying on direct, detailed, and confidential interviews with the crews about their recruitment and conditions of their work—such as work hours, wages, and treatment on

board—in accordance with the Labor Protection Act and the Ministerial Regulation Concerning Labor Protection in Sea Fishery Work. As a result, the PIPO inspections largely end up becoming a theatrical roll-call exercise that does little more than confirm the names of fishers present on a vessel at a particular time.

On March 6, 2018, the Thai government approved a draft amendment to the Decree on the Management of Foreign Workers. The amendment prohibits employers from confiscating passports and work permits of migrant workers; allows registered migrant workers to change their jobs, the location of their employment, and their residence without prior permission from their employers; and requires brokers and employers to specify job descriptions for vacancies before bringing migrant workers into Thailand.

If these provisions are fully and effectively implemented, they could be important for the prevention of forced labor and other labor rights violations. Yet this will not happen unless inspection schemes are more effective and inspectors more vigilant. Awareness programs for fishers about these provisions in the revised decree need to be widely disseminated and easy for migrant workers to understand. For example, almost all migrant workers interviewed by Human Rights Watch said they were entirely unfamiliar with employment contracts required to be signed by both parties under the Ministerial Regulation Concerning Labour Protection in Sea Fishery Work. Most workers interviewed did not have copies of their contracts, as required by law. Many workers provided information which indicated that employers and their agents had been deceiving migrant workers into unwittingly signing contracts as part of applications for the temporary work permits known as **“pink cards.”** Additional, intensive efforts will have to be made to address entrenched, informal, on-demand recruitment chains dominated by unregulated actors such as bosuns and brokers.

The Thai government is obligated under international law to protect migrant workers against human rights abuses. However, migrant workers remain fearful of reporting abuses to Thai authorities due to a lack of effective protections. Hotlines have been established under the Ministry of Labour, the Ministry of Social Development and Human Security, and the Ministry of Interior as channels for complaints and advice for employees and employers, including cases related to labor rights violations and human trafficking. Migrant workers interviewed by Human Rights Watch said they were too fearful about possible retaliation from employers to come forward. Even reporting the alleged abuses to the National Human Rights Commission of Thailand does not give any assurance that migrant workers are protected, as we have seen in the case where an employer, Thammakaset Farm, has sued migrant workers and their advocates for criminal defamation for filing a complaint with the commission against the company. Shamefully, neither the

human rights commission nor the government has defended the workers' rights to file such a complaint without fear of legal retaliation.

Human Rights Watch understands that the Ministry of Labour is currently in the process of drafting the Prevention and Elimination of Forced Labour Act to be in compliance with the ILO Protocol to the Forced Labor Convention (P29), and the Work in Fishing Act to align **Thailand's laws with the ILO Work in Fishing Convention (C188)**. Human Rights Watch strongly urges the Thai government to ensure that both pieces of legislation fully comply with these international standards, thereby enabling Thailand to ratify P29 and C188 this year. Thailand should also immediately take action to amend articles 88 and 100 of the Labour Relations Act to eliminate discriminatory language that prevents non-Thai nationals from organizing unions or leading them. Thailand should also follow through to ratify ILO Conventions on Freedom of Association (No. 87) and the Right to Organize and Collective Bargaining (No. 98) in this calendar year.

We appreciate your attention to these issues. We would be pleased to discuss our concerns with you or members of your government.

Sincerely,

Brad Adams
Asia Director
Human Rights Watch

CC:

Gen. Prawit Wongsuwan, Deputy Prime Minister
Pol. Gen. Adul Sangsingkeo, Minister of Labour
Don Pramudwinai, Minister of Foreign Affairs
Kritsada Boonrat, Minister of Agriculture and Cooperatives
What Tingsamitr, Chairperson of the National Human Rights Commission