



# Thailand Hotspot

## 2016 Annual Report

## THAILAND HOTSPOT OVERVIEW

### Program goal and objectives:

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#### Goal:

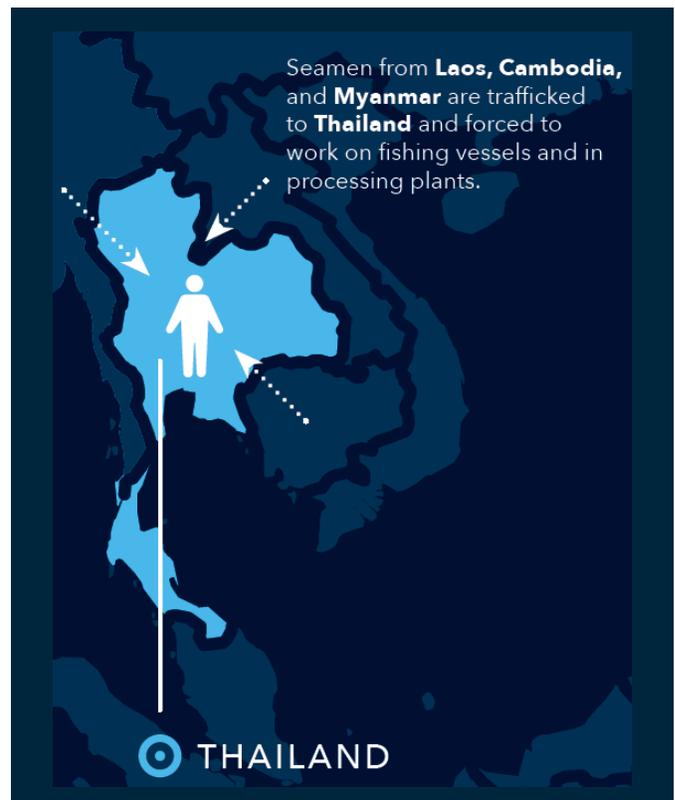
To reduce the prevalence of forced labour among migrant workers in the Thai seafood industry.

#### Objectives:

1. Incentivise and support the private sector to improve transparency and adopt ethical labour practices.
2. Strengthen civil society organisations to monitor the situation on the ground and to empower migrant workers.
3. Increase pressure on the Thai government to reform the regulatory framework, uphold migrant rights and challenge the impunity of traffickers.

### SLAVERY IN THE FISHING INDUSTRY

- Thailand is the world's third largest seafood exporter, reaping over \$7 billion in revenues a year.
- Over 200,000 migrants working on Thai fishing vessels are vulnerable to exploitation.
- Migrant workers are subject to human trafficking, forced labour and debt bondage aboard fishing vessels and in seafood processing plants.



## 1. OPERATING CONTEXT



In 2016, Thailand made significant changes to its legal and policy framework for combatting human trafficking, building on initial improvements begun in 2015. In June, it was rewarded with an upgrade to the Tier 2 Watch List on the U.S. State Department's Trafficking in Persons (TIP) Report. However, many observers have criticised the upgrade as "premature" because forced labour is still a major concern across the seafood industry.<sup>1</sup>

Thailand is known for having strict laws but lax enforcement, and the new anti-trafficking and fisheries regulations are a case in point. Lack of coordination between government agencies, absence of legal clarity on what constitutes forced labour, vested interest in maintaining the status quo and corruption have prevented the reforms from having meaningful impact on the ground.

The new laws specify heavy fines for vessels or factories employing illegal migrant labour. Yet only administrative sanctions have been applied so far, such as the deregistration or detention of vessels and the imposition of temporary fishing bans. And only a small number of factories have been closed for employing illegal migrant labour.

The government developed a Port-In-Port-Out (PIPO) vessel inspection and monitoring system that lies at the heart of its efforts to reduce forced labour. The PIPO system requires large vessels to return to port after a maximum of 30 days at sea. PIPO inspectors are expected to check fishing gear, catch and crew lists. In addition, electronic databases for vessel registration and fishing licenses are being developed and integrated for use with the compulsory GPS-based Vessel Monitoring System (VMS) for boats over 30 tons. But these legislative changes did not convince the European Commission that enough had been done to combat illegal, unreported and unregulated (IUU) fishing and forced labour, so the commission extended Thailand's Yellow Card in April 2016.

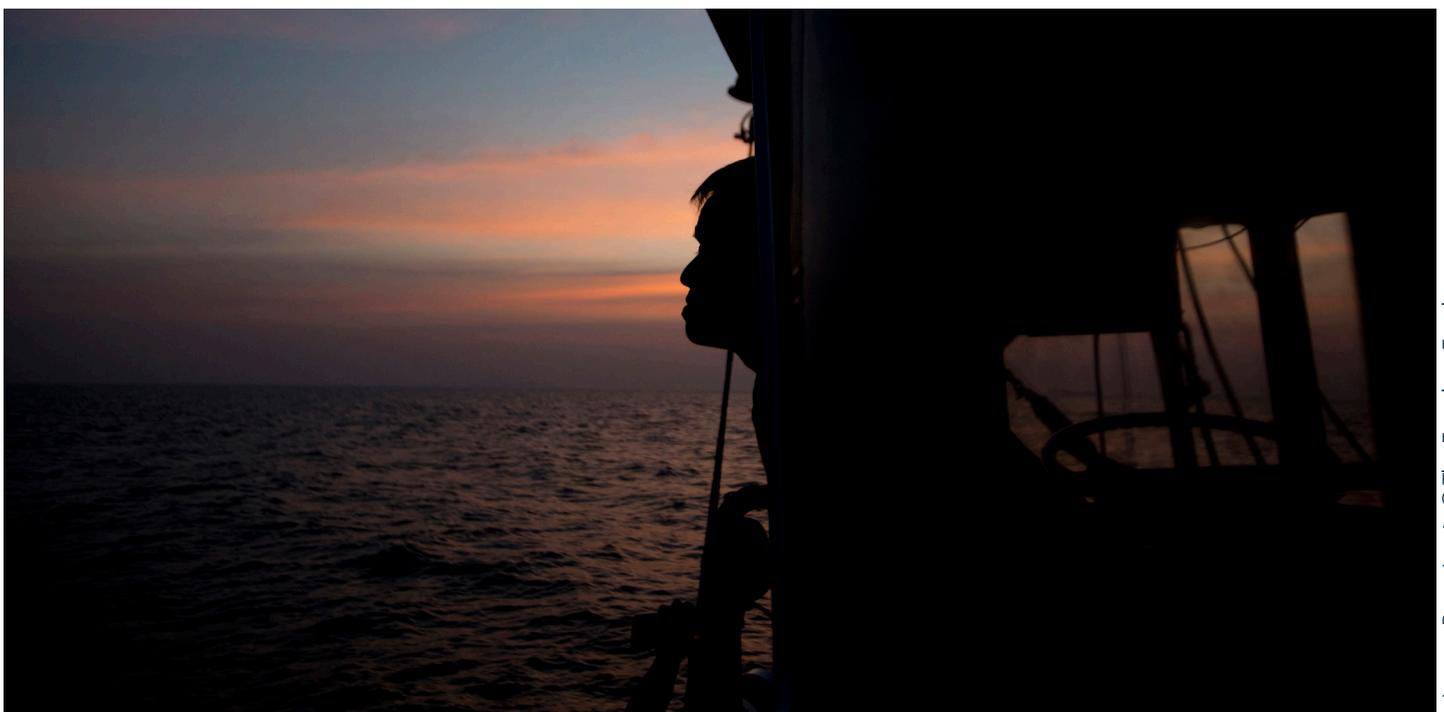
<sup>1</sup> <http://www.bangkokpost.com/news/security/1024141/thailand-gets-upgraded-in-us-tip-report>; <http://www.state.gov/documents/organization/258882.pdf>; <https://www.theguardian.com/global-development/2015/dec/14/shrimp-sold-by-global-supermarkets-is-peeled-by-slave-labourers-in-thailand>

Government policy on migrant workers has been nudged in a more positive direction. Between November 2015 and August 2016, the government registered nearly 200,000 previously undocumented migrant workers in the seafood industry. The Ministry of Labour also revised its rules to allow migrant workers to change employers. However, major gaps remain in the Labour Relations Act, which continues to prevent migrant workers from leading trade unions and bargaining collectively.

The Prime Minister announced on 14 September that migrant workers at sea would be issued Seamen Books similar to those held by Thai seamen. The Seaman Book system keeps seamen's biographical information on file with the government. In September, the government also issued bans on the transshipment of seamen and catch outside of Thai waters. In addition, steps are being taken to increase the number of labour inspectors and translators to enhance inspections at PIPO centres and seafood processing factories.

In 2016, a new criminal court division was established to handle trafficking in person cases, and the Trafficking in Persons Procedure Act was enacted to improve the judicial process for trafficking cases. However, case referral to the Anti-Trafficking Court remains challenging, and no seafood industry trafficking case has yet been tried by the court.

In addition to Thailand's new regulations coming up short, another worrying development emerged in 2016 where human rights defenders have been prosecuted using criminal defamations laws, including against one of the hotspot partner staff.



## 2. HEADLINE RESULTS



### 6,182 beneficiaries provided with legal and social services

In 2016, the six hotspot partners provided services to 6,182 new individuals ranging from support of individual and collective labour disputes to advice on immigration regulations and minimum wage payments. Many of these workers face issues that may not reach the threshold of forced labour but which, if left unattended, could escalate into more extreme forms of exploitation. Addressing these issues constitutes a key part of combatting the root causes of forced labour in seafood.

### 326 survivors provided with legal and social services

Some of these individuals received support from the authorities, but others received services from the hotspot partners as they would not have qualified for public assistance due to the government's narrow definition of trafficking and the inability of authorities to adequately identify victims. This is especially the case for workers sheltered in the south by Stella Maris, those returning from Benjina and the Ambon islands in Indonesia and supported by the Labour Rights Promotion Network Foundation (LPN), or those supported by the Foundation for Education and Development (FED) along the Myanmar border.

### 251 media stories generated

This high level of media attention ensures that the issue of forced labour and trafficking in the seafood industry remains at the forefront of public attention. The Thai government and private sector players are sensitive to their reputation, and public exposure of abuse has led to many of the reforms we are currently seeing.

### **3. ADDRESSING SYSTEMIC DRIVERS OF SLAVERY**

#### **Increasing migrant workers' collective bargaining power**

Thailand has not yet ratified ILO Conventions 87 and 98 on collective bargaining and freedom of association, respectively. The Labour Relations Act of 1975 contains provisions prohibiting non-Thai nationals from forming a union or being elected union leaders. In addition to being discriminatory, these provisions represent a significant challenge to migrant worker rights and contributes directly to their vulnerability to exploitation.

Hotspot partners have developed alternative approaches to overcome these restrictions and strengthen migrant workers' collective voice.

The Migrant Workers Rights Network (MWRN), for example, reaches out to workers in their communities, factories and other seafood processing facilities across the port towns of Samut Sakhon and Songkhla to promote rights awareness and recruitment. In 2016, around 1,000 workers became new fee-paying members of MWRN and sought compensation for unpaid wages, injury or unfair dismissal either by themselves or with support from MWRN. They were also able to activate ten welfare committees across ten factories by ensuring that committee members are elected by workers and include migrant workers' representatives, rather than appointed by employers. In the absence of trade unions, welfare committees, which are compulsory by law for workplaces with more than 50 employees, can be a useful platform for collective action.

A partnership with the State Enterprise Workers Relations Confederation has enabled MWRN to gain more expertise in conducting social dialogue and improved its mobilisation and outreach techniques, especially in the south where, in addition to factory workers, MWRN is also reaching out to workers on boats. Training provided by the Solidarity Center has also contributed to strengthening hotspot partners' approach to collective action.

MAP Foundation has identified the training of community leaders and volunteers as one of their most effective and sustainable ways of responding to labour or other rights violations. Migrant workers are increasingly able to respond to cases and refer them to relevant agencies. Leaders and volunteers are able to seek advice and support from each other to more efficiently respond to emerging cases. They are supported in doing so by advice from MAP along with para-legal trainings and regular rights discussion forums. Similarly, FED has trained and continues to support 24 leaders who operate as a link to migrant worker communities.

LPN and Stella Maris also organise fishing boat workers and seafood processing factory workers. They work with migrant community-based groups to train migrant leaders to become advocates and first responders to help abused migrants lodge complaints with LPN. The strategy is to help migrant groups and CBOs become self-help groups and form parts of a migrant vigilance network. By the end of 2016, Stella Maris had established 21 migrant worker groups on fishing boats and in fishing communities, as well as around seafood processing hubs in Songkhla. LPN also works with the management of five seafood processing factories to educate migrant workers on their rights and supports eight migrant CBOs in Samut Sakhon.

### Ending impunity

Thailand's legal framework does not provide sufficient protection and redress to victims of trafficking and forced labour. The legal definitions of these crimes are both narrow and unclear. This, combined with endemic corruption, has restricted access to justice for trafficking survivors in the seafood industry. 2016 has been a critical year in seeking to change this.

HDRF has been collaborating with a number of other hotspot partners to push forward three strategic litigation cases before the courts. One is known as the Kantang case and the two others as the Ranong cases (involving two different boats); they respectively involve 15 Myanmar workers and 15 Cambodian workers, including one child, who were trafficked onto boats for forced labour.

In October 2015, government officials, police and civil society organisations combined forces to rescue 15 fishing workers from Myanmar who had called for help through the Issara hotline. Following initial investigations from the authorities, 10 individuals were arrested including the president of the Kantang Fishing Association and Managing Partner of the Boonlap Fishery Limited Partnership, brother to the Mayor of Kantang municipality and chairman of a committee overseeing the Kantang police administration. All these individuals were charged under the Anti-Trafficking in Persons Act (2008).

HDRF provided legal representation for the victims to obtain compensation for forced labour. The case is strategically important as it seeks to have the court accept debt as a constitutive element of forced labour, thereby filling a gap in the 2008 Act.

In January 2016, in the Cambodian case in the Ranong provincial court, police and security agencies raided three fishing boats and inspected the living conditions of Cambodian migrant workers on board. The boats had just returned after 13 months fishing in Indonesian waters. Fifteen men were identified in two of the boats as victims of trafficking. According to the workers, they were lured by a broker in Cambodia with promises of work in fish processing factories, but instead were confined and sold to work on the fishing boats. They alleged that they were forced to work 22 hours a day continuously for 13 months with only two meals a day, without appropriate payment. A Thai fishing boat captain and a fish market owner were indicted in May 2016 for human trafficking for forced labour, deprivation of freedom of movement, withholding their passports and threat of violence.

HRDF represented the 15 men, who could not testify in person as they had already returned to Cambodia. The court refused an extension to the proceeding schedule to allow for family members to testify, and in late February 2017, the case was dismissed. The reasons given for rejecting the case were rather unsatisfactory: the court did not believe it was humanely possible for the survivors to have been put under such gruelling treatment and have survived it. This underscores the need to apply pressure on the government and courts, through multiple levers, and ensure legal advocates like HRDF are properly resourced.



Image: Brent Lewin © The Freedom Fund

### Improving response to victims' needs

In Songkhla, Stella Maris co-convened a meeting that led to the establishment of Operational Guidelines for the Prosecution of Human Trafficking Offences. Organised with the Provincial Operational Center on Suppression and Prevention of Human Trafficking (POCHT), the meeting brought together all relevant agencies, including the Ministry of Social Development and Human Security, police, border patrol, immigration and marine police. The operational guidelines go beyond prosecution to clarify the respective responsibilities of the members of the multidisciplinary team in identifying and protecting victims of trafficking. It reaffirms the primary responsibility of the POCHT to coordinate various agencies and ensure the presence of the multidisciplinary team (MDT) in the screening of individuals. This is an important commitment as victim identification remains a problematic issue in Thailand, and a fair and accurate assessment will often be dependent on the presence of organisations like Stella Maris.

Stella Maris is regularly called to help with the assessment of trafficking cases and emergency provision of services. They might receive tips or be called upon by relevant authorities, and play a critical role in guaranteeing that cases are fairly assessed and that workers receive appropriate care and assistance.



## 4. INCENTIVISING THE PRIVATE SECTOR & KEEPING THE GOVERNMENT ACCOUNTABLE

### Monitoring government and private sector progress

The Freedom Fund and Humanity United commissioned a comprehensive assessment of the various initiatives by government and the private sector to address illegal fishing and human rights abuses in the Thai fishing industry. The report drew on a combination of desk and field research conducted in late 2015 and early 2016, including interviews with government, business and civil society, and on-site observations in eight Thai ports.

The report concluded that implementation has been inconsistent, both in ports and at sea. Inspection systems are underfunded, plagued by corruption and constrained by inadequate vessel monitoring capabilities. More importantly, inspectors have failed to identify victims of forced labour, as they lack the resources and incentives to check crews and interview workers.

Complementing the government response, the private sector has also been active, most notably through the establishment of the Seafood Task Force. It has achieved progress in some areas, but there are questions about its longevity, its voluntary compliance structure and the degree to which it is meaningfully involving NGOs and worker representatives.

The report, which was well received and described as a useful 'objective assessment' of progress, concluded that whilst the recent flurry of government and private sector initiatives is welcome and encouraging, it is vital that reform efforts are realistic, properly funded and monitored, and embedded for the long term in industry practice.

## Influencing private sector platforms to better tackle slavery in seafood supply chains

With Freedom Fund support, Verité joined the Seafood Task Force, an industry-led group created following the Guardian's 2014 exposure of forced labour in the Thai seafood sector. Verité is acting as a leading advisor on the establishment of Codes of Conduct for vessels, ports and labour providers within the seafood supply chain, on auditable standards, monitoring and impact evaluation methodology and governance across a number of sub-groups of the Task Force.

Fishwise continued its engagement with the members of the Conservation Alliance for Seafood Solutions, which represents 80% of the North American retail and food service industry, and provided advice and guidance on implementation of the new version of the Common Vision for Sustainable Seafood which now includes labour standards in addition to environmental ones.

Issara Institute continued to provide critical support to migrant workers through its nationwide anti-trafficking helpline for workers, operating in four languages. Data gathered from the hotline feeds into other data collection and outreach, which Issara uses to help businesses improve their practices in factories, farms and ports across Thailand. The Institute works with a number of global brands - including Mars, Nestle, Sainsbury's and Tesco - and their suppliers to address labour abuses in their supply chains.

## Keeping international pressure on the Thai government

The contributions of several of the Freedom Fund's partners were critical in maintaining international pressure on the Thai government to further its reforms and improve implementation.

Namely, the International Labor Rights Forum (ILRF) coordinated a seafood coalition of nearly 40 human rights, environmental and labour organisations from across the globe that made several joint submissions to the U.S. Department of State and European Commission, sharing its analysis of progress made and gaps remaining to inform decisions on the Yellow Card and TIP Tier ranking. Various representatives of the group also met in person with the European Commission in advance of its decision to extend the Yellow Card. The Environmental Justice Foundation and Human Rights Watch also continued to closely engage various high-ranking officials and other relevant departments, identifying gaps and shortcomings and advising them on required changes and improvements.

## 5. ENHANCING CIVIL SOCIETY CAPACITY

### Building and strengthening a community of practice

Service provisions for trafficking survivors are lacking throughout Thailand, perhaps most acutely in the south of the country where fewer CSOs are active and government services are limited. This is why the Raks Thai Foundation has supported the development of a more organised and coordinated network of service providers in the south. Through a series of consultations, RTF involved over 100 individuals from over 30 organisations, including government agencies. Smaller regional consultations were held in Ranong, Surat Thani and Songkhla covering roles and responsibilities of respective agencies, and referral mechanisms. Improving referral systems will support hotspot partners' work, freeing up some of their capacity and keeping public agencies more accountable.

In addition, a survey was conducted among the hotspot partnership to map out services provided across the provinces where partners operate. The results were useful in identifying gaps and overlaps and have helped inform partners about where they could support each other more efficiently.

The research findings, along with other strategic issues, continue to be discussed during community of practice meetings that bring together all partners, advisers and researchers to the hotspot.

### Improving CSO capacity to provide legal assistance and advice to survivors

The Social Responsibility Law Office (SR Law), a Thai legal firm, was brought in to strengthen partners' capacity to provide legal assistance and protection to survivors. As they are often the first people to come in contact with victims, their influence in determining whether an individual is a victim of trafficking is often significant. Labour trafficking offenses are among the most complicated offenses to deal with, and the U.S. State Department's TIP Report noted that Thailand has not yet developed an effective human trafficking victim screening process.

SR Law led a series of consultations with partners with a view to developing a handbook on access to justice for victims of trafficking. The handbook was then further discussed during a series of consultations with individuals with expertise in human trafficking, including government officials. All partners were trained on the handbook's content, and SR Law will continue to offer mentorship and guidance throughout 2017 to all partners on trafficking cases they handle.



Image: Brent Lewin © The Freedom Fund

## 6. LEARNING

### Seeking compensation for labour rights violations requires significant investment, but it is essential

This year, hotspot partners provided support to 5,800 individuals to access compensation and redress in cases of non-payment of wages, work accidents and abusive dismissal. They have assisted workers in their direct negotiations with employers, and in some cases have filed formal legal complaints with courts. A sharp increase in the number of individuals seeking assistance with their cases was noted across the hotspot. This is a positive indication that workers are starting to find channels to claim their rights, but it also poses capacity challenges for hotspot partners. They are therefore working to build the capacity of community leaders and worker representatives to respond to these cases.

Although cases regarding workplace complaints are regularly referred to the Labour Protection and Welfare Office (LPWO), they are not always addressed with the level of due diligence needed. In one case involving a Golden Prize factory, more than 400 workers marched to the LPWO to demand action. Further negotiations, supported by a Freedom Fund partner, led to a satisfactory resolution of the case in March.

Case work is a central component of hotspot partners' work, and one that is starting to pay dividends. For example, one hotspot partner managed to secure over 60 million Baht (\$1.75m) over the year; another regularly manages to secure compensation of 100,000 Baht (\$2,900) for groups of 20 workers at a time. Workers supported by MAP have negotiated an increase of their daily wage from 150 to 200 Baht (\$4.37 to 5.82), a sum which nonetheless remains under the daily minimum wage (which is often hard to access for migrant workers). Over time, the growing number of these small victories should operate as a deterrent for rights offenders.

## 7. LOOKING AHEAD

### Mental health

Hotspot partners provide vital support to survivors of trafficking and forced labour, whose recovery needs are many and complex. In particular, their mental health needs are often severe. Yet it is one of the greatest gaps in the global response to slavery. In Thailand, very few services are available for partners to refer individuals to, and hotspot partners often have responsibility for delivering those most vital services. With this in mind, we commissioned a study aimed at providing an overview of interventions and a map of individuals and organisations with experience dealing with the mental health needs of forced labour victims.

The study found that the lack of knowledge, expertise and skills in mental health interventions appropriate for survivors of trafficking and forced labour posed unique challenges. As a consequence, priority will be given to training hotspot partners' staff in several areas identified by the study. In addition, collaboration will be sought with academic institutions, excellence centres under the Department of Mental Health, public health institutions and NGOs, with a view to creating a support network and ultimately, better services for survivors.

### Shelter services

Raks Thai Foundation has started mapping the services offered by shelters across Thailand. We will be using the research findings to consider new approaches to service provision and victim support.

### Advocacy coalition

Thai CSOs providing services and support to exploited migrant workers hold a deep knowledge and understanding of the causes and solutions to these situations. Yet they have limited capacity to consolidate that knowledge and evidence into advocacy to influence government and private sector entities that can enact real reform. One of the objectives of this coming year will be to develop a strong, locally owned advocacy coalition to push for the protection of migrant workers' rights, especially in the seafood industry.

## 8. CASE STUDY



Image: Josh Stride © Humanity United

### Lin's story

For ten years Lin worked as a fisherman without ever receiving a salary. When he lost his fingers in an accident aboard a fishing vessel while working in Indonesia, he received no compensation or help from his employer. He contacted LPN, one of the Freedom Fund's partners, who helped him file a claim for his compensation. Initially, his employer agreed to give Lin only 50,000 baht (\$1,400), but with help from LPN, he was finally awarded 320,000 baht (\$9,200).

Following his ordeal, Lin decided to work with LPN as a volunteer because he didn't want anybody else to ever have to face a situation like the one he went through. In his experience as a fisherman, he constantly saw migrant workers being detained, abused and prevented from contacting their families. He now volunteers as a translator, and assists migrants who have been unlawfully detained. He also teaches new migrants about adapting to life in Thailand. He has been able to help many migrant workers in his position at LPN, which makes him proud to be a volunteer.



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