

FOCUS ON LABOUR ISSUES IN THE FISHING INDUSTRY



ELIMINATING HUMAN TRAFFICKING FROM THE THAI FISHING INDUSTRY

**PERSPECTIVES OF THAI COMMERCIAL
FISHING VESSEL OWNERS**

SERIES PAPER 4

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Informed consent: The vessel owners and other respondents featured in this report have all provided fully informed consent for their stories and photos to be shared.

Front cover: Activity around a fishing vessel at port.

Back cover: Thai fishing vessels in Songkhla province, Thailand.

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Issara Institute is an independent U.S. not-for-profit corporation based in Thailand, Myanmar, and the United States tackling issues of trafficking and forced labour through data, technology, partnership, and innovation. People—including worker voice and feedback—are at the center of Issara’s data and intelligence work, and at Issara Labs we conduct a wide range of research, analytics, and technology development related to human trafficking in global supply chains—the people, the policies, the impact, and how to eliminate it.

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EXECUTIVE SUMMARY

A 2017 study of the Thai fishing sector based on interviews with Burmese and Cambodian migrant fishermen revealed widespread labour abuses in the industry. Among the fishermen sampled, 76% had been in debt bondage, 76% were paid illegally low wages and made to work excessively long hours, and 37.9% had been trafficked at least once within the previous five years¹. In order to understand the perspectives, concerns, and recommendations of Thai commercial fishing vessel owners regarding these same issues, this study interviewed 75 commercial fishing vessel owners and operators across 10 provinces who collectively employed more than 2,500 fishermen at any given time. Discussions focused on the challenges of maintaining ideal catch volumes, and recruiting and retaining fishing crew. Because vessel owners have control over and access to the operations of the Thai commercial fishing fleet, this understudied constituency is uniquely well-positioned to help identify and eliminate human trafficking and exploitation in the Thai fishing industry.

Findings from this research expand current knowledge about the various reasons why trafficking and exploitation persist in the Thai fishing industry, despite various state and corporate actions to prevent and address it. There were three key findings from the research:

KEY FINDING 1. Commercial fishing vessel owners have an inaccurate understanding of what human trafficking is, which limits their ability to identify and address it. Vessel owners express concern about human trafficking in the Thai commercial fishing industry, yet they have a limited understanding of what human trafficking is. Overall, vessel owners understand trafficking narrowly as processes of cross-border smuggling, forced labour at sea for long periods of time, and physical violence. Rarely do their concepts of trafficking include debt bondage, unlawful and protracted wage deductions, or document withholding. As a result of these incomplete understandings of human trafficking, the otherwise uniquely powerful constituency of vessel owners in the fishing industry currently may not be equipped to identify and address

these problems in their own businesses and supply chains. In the worst instances, widespread inaccuracies in understanding of trafficking can perpetuate problems. For example, even as vessel owners express a desire to see business and government rid the industry of serious labour risks, many describe practices of recruiting and retaining fishermen that are clearly indicative of debt bondage as being commonplace in the industry. In addition, the estimated working hours on fishing boats as reported by vessel owners directly conflict with that provided by fishermen. 56% of participants considered crew working hours as only when the nets were dropped or hauled in, explaining that the crew only worked 5-8 hours in total per day. All the time spent on deck mending nets and performing other duties was not considered work, despite the fact that fishermen describe constant cycles of work across long days—16 hours per day on average¹. The fact that these accounts differ so widely indicates either willful manipulation of information that is difficult to confirm through inspection, or innocent but problematic gaps in knowledge about what happens on a boat and what constitutes overwork. Either way, this misinformation and lack of transparency creates a significant opportunity for abuse of workers.

KEY FINDING 2. Commercial fishing vessel owners have strong but mixed attitudes regarding the roles and programs of the government in driving improved labour standards for the Thai fishing industry. Many see the European Union (EU) as the principle reason behind the Thai Government's efforts to reform the fisheries sector, based on the 'yellow card' formal warning issued to Thailand in 2015 due to its insufficient IUU fishing policies and enforcement strategies. Throughout the research, resentment was expressed towards the EU's perceived "demands" on the Thai fishing sector, and exasperation was expressed regarding the sentiment that the Thai Government was acquiescing too quickly to EU demands without having dialogue with the local industry and better understanding the local Thai fishing context. Yet, ongoing dialogue and stakeholder meetings between the EU, Thai

Government, and designated fishing industry representatives have and continue to take place, and the Thai Government has drafted its own legislation in response. The EU essentially communicates its sustainability and IUU standards and assessments that are required for their seafood imports from any country in the world, and Thailand and other sovereign governments respond as they wish. However, there is little understanding and awareness of this on the ground.

KEY FINDING 3. Commercial fishing vessel owners describe debt bondage and informal recruitment as a necessity for finding workers, given the absence of a legal labour channel, and diminishing financial returns due to government restrictions and ecological degradation. Vessel owners describe various political, economic, and ecological issues identified as threats to their business and the fishing industry more broadly. The three main categories of challenges articulated by vessel owners and operators include:

1. *The widespread shortage of fishermen to work on fishing vessels, and how Thai labour laws worsen the situation;*
2. *Increased government restrictions on commercial fishing practices, including fisheries management plans to tackle overfishing, vessel management systems, and inspection regimes such as Port In, Port Out (PIPO) perceived to be inefficient, unevenly applied, and fraught with opportunities for corruption; and,*

3. *Ecological shifts and environmental degradation, including extreme weather events, water pollution, and overfishing (although, interestingly, overfishing was denied as existing in Thailand at all by 57% of the sample).*

At the same time that increased regulations, diminished returns to fishing, and the labour shortage may be driving reliance on debt bondage to retain crew, however, vessel owners also shared their perception that the widespread labour shortage has enabled migrant workers to choose their employers and to bargain more effectively for payment, and that increased enforcement has effectively reduced incentives for Illegal, Unreported and Unregulated (IUU) fishing.

We conclude that when compliance with international obligations drives national legislation and policy reform, or global responsible sourcing programs drive more transparency top-down through the supply chain—but without participation and buy-in by local suppliers—there are risks of limited impact or even push back, reducing opportunities to achieve sustainable solutions for national industries and the workers within them. The main recommendation is to develop a ground-up and top-down collaboration involving businesses and government to pilot a formal recruitment channel onto 'labour-safe' vessels in the Thai fishing sector. Developing a more stable, steady, and legal flow of workers, with strengthened safeguards for the welfare of migrant fishing crew, should be a high priority for both business and government alike.



Participating vessel owners and operators in a southern Thai coastal province, with the Issara team. Photo credit: Guna Subramaniam.

METHODOLOGY

Sampling strategy. In order to garner a reliable and robust understanding of the various challenges and incentives that guide labour relationships between vessel owners, boat captains, and fishermen, findings from this research derive from a purposive sample of 75 vessel owners and operators, located in 10 provinces, who own between 351 and 380 vessels of varying type and capacity, and who employ between 2,461 and 2,653 fishermen at any given time. While the majority of participants were vessel owners (69), the smaller samples of boat captains (11) and office staff (5) comprise more limited convenience samples generated through connections with vessel owners.

Targeted participants for the interviews and focus group discussions (FGDs) included vessel owners and boat captains within the supply chains of Issara Strategic Business Partners that fish predominantly in Thai waters, as well as other vessel owners and boat captains willing to participate in the research. Overall, the sample of vessel owners represent a variety of business models, sizes, and degree of integration in the export supply chain. Of note, however, family-owned artisanal vessels and fleets were not included, nor were any of the very large vessels fishing for tuna in distant waters.

Research approaches. Data collection methods encompassed semi-structured FGDs and one-on-one, semi-structured, informal interviews with

vessel owners, office staff, and fishing vessel captains. In order to promote participation among this substantial, yet largely under-researched population in the fishing industry, participants got to choose whether to be interviewed individually or with other members of their business networks and communities. All protocols followed strict ethical guidelines to ensure the confidentiality of all participants. Saturation, the method of determining when sufficient research has been conducted to identify, understand, and reliably represent an array of viewpoints and experiences, was achieved on the driving questions of the research: namely, vessel owners' perceptions regarding trafficking, forced labour, and debt bondage; their stated practices of recruiting, hiring, and managing workers; their views regarding the socio-political and ecological challenges facing the fishing industry, and government and industry responses to these; and, the extent to which these challenges and responses hamper or enable their own capacities to address labour problems in their businesses and on their boats. Semi-structured interview protocols with vessel owners, captains, and office staff enabled the researchers to compare and triangulate findings within and across scale, as well as to identify and elicit unanticipated viewpoints that comprise additional and significant findings of the research.

SAMPLE AT-A-GLANCE

Locations and participants. Interviews and Focus Group Discussions (FGD) were conducted from May to September 2017, engaging 75 participants from 10 provinces across the South, Central, and East of Thailand, as illustrated in Figure 1. 41 participants were male and 34 were female. All vessel owners in the sample had been in the fishing business for a minimum of 10 years, with some representing as many as 40 years of experience. As a result, the perspectives conveyed in this research derive largely from extensive, long-term experience within the industry. And, as the majority of participants had taken over the vessel ownership business from their family members, most of them can draw on

decades of knowledge about the industry as shared by family members.

Fishing vessel types and crew nationalities. Figure 2 lists the commercial fishing vessel types owned by the study respondents, by province. Reflecting larger patterns in the fishing industry, the most common vessel types in the sample were either purse seine vessels or single or pair trawlers (otter board trawlers). The purse seiners in the sample together employed 1,296 fishermen across five provinces; single trawlers in the sample collectively employed 955 fishermen across five provinces. Other vessel types owned by the respondents in the sample included pair

trawlers, squid boats, pomfret gill nets, and support boats. In total, the respondents in the sample employ a total of 2,653 fishermen on their respective vessels at any given time.

The nationalities of fishing crews represented in the fleets of participant vessel owners are shown in Figure 3, and are disaggregated by vessel type. Out of the 2,653 crew employed by respondent vessel owners and operators, 2,044 were Burmese (77%); 448 were Cambodian (16.5%), 1 was Lao, and 170 were Thai (6.4%). Fishing crew are defined as the general crew who operate and mend the nets, and does not include captains, skippers, or engineers, as these personnel are rarely at risk of exploitation given that they are nearly always Thai, are citizens of Thailand, and often have long-term, negotiated contracts with their respective vessel owners.

FIGURE 1. LOCATIONS WHERE FISHING VESSEL OWNERS AND CAPTAINS WERE INTERVIEWED

May - September 2017

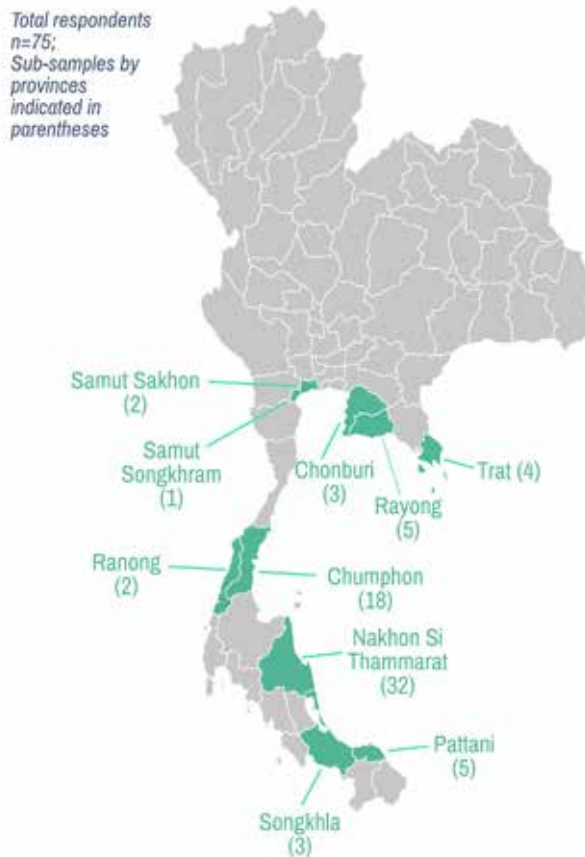
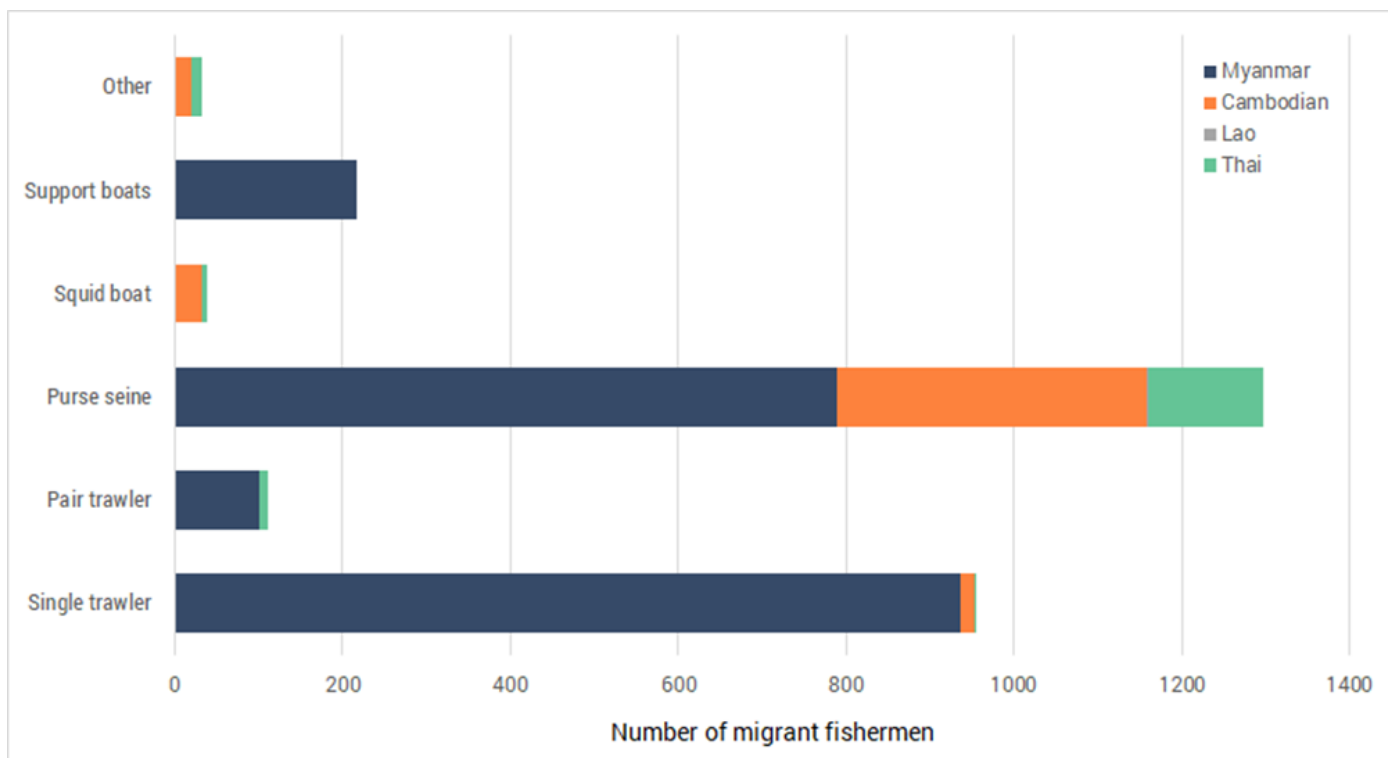


FIGURE 2. FISHING VESSEL TYPES OWNED BY RESPONDENTS, BY PROVINCE



FIGURE 3. NATIONALITY OF CREW ONBOARD VESSELS OWNED BY RESPONDENTS, BY VESSEL TYPE



I. VESSEL OWNERS' PERCEPTIONS OF 3 KEY CHALLENGES TO THE FISHING INDUSTRY

Findings from interviews and focus groups are presented in two main sections. First, findings regarding vessel owners' perceptions of key challenges to their businesses and the fishing industry are presented, and the links between these perceptions and migrant well-being are explored. Perceived challenges to the fishing industry fall under the following three categories:

- (1) the widespread shortage of fishermen available to work on fishing vessels;
- (2) increased government restrictions on fishing practices, and;
- (3) ecological shifts and degradation.

Second, findings regarding common practices of debt bondage as a means to cope with these challenges are presented. Here, vessel owners' (mis)perceptions of trafficking are revealed, and possibilities for mobilizing the cooperation of vessel owners in efforts to reduce labour exploitation and trafficking in the fishing industry are explored.

CHALLENGE 1. WIDESPREAD LABOUR SHORTAGE & "STRICT" LABOUR LAWS

Nearly universally, vessel owners identified an industry-wide labour shortage among fishermen as a significant challenge to the viability of their businesses. The labour shortage in the fishing industry has been occurring for years as a result of broader socio-demographic and economic shifts in Thailand, yet vessel owners largely attribute the shortage to recent policy interventions by the Royal Thai Government to reduce undocumented labour in Thailand and to improve working conditions for registered migrant workers.

"It is nearly impossible to find replacement crew. In the past, when the pink card process was implemented year-round, it was already hard to find new migrant crew. But now it's even harder. The government should allow an extension of the pink card system for an unlimited period."

- Two vessel owners in Trat

“We only have about only half the crew we used to have on our vessel.”

- Pair trawler captains in Chumphon

Regardless of the complex structural causes for the labour shortage, vessel owners view the shortage—and, by extension, labour laws and their implementation—as significant threats to their businesses in a number of critical ways. In addition to claiming that labour laws reduce their available fishing capacity, vessel owners argued that “strict” and “poorly implemented” labour laws in Thailand have contributed to increased costs and “unreasonable” fines for violating labour regulations in Thailand, increased costs for recruiting replacement fishermen, and increased opportunities for government corruption and extortion given what they see as uneven and hasty implementation of policy. Additionally, vessel owners described their perception of how the unique context of the labour shortage and increased regulatory oversight of businesses has also contributed to “worker empowerment,” whereby workers are asserting more power vis-à-vis vessel owners in negotiating pay and labour conditions.

Labour regulations causing a declining labour force?

Interviews with vessel owners and captains indicate their considerable anxiety regarding the Thai government’s various efforts to reduce the prevalence of undocumented labour in the country and to enforce better labour standards for migrant workers. In the wake of the

country’s most recent policy interventions (see box below), vessel owners in Chonburi and Trat expressed concern that their migrant crew were confused about the new labour laws, and that they were leaving Thailand due to fear of penalties.

“Last year there were a lot of undocumented workers. But after the government’s new legislation of 400,000 baht fine per undocumented worker, the number of undocumented workers in general has declined.”

- Vessel owner in Ranong

In addition to these accounts of the impacts of labour regulations on fishing crew, 64 of the 75 respondents insisted that undocumented workers have all left Thailand since new laws and inspection procedures have been introduced. While Issara’s hotline data do not support claims of a large-scale exodus of unregistered workers, the anxieties of vessel owners may be informed by sporadic media reports of migrant workers fleeing the country. In the wake of recent policies aiming to reduce undocumented work in Thailand, news outlets estimated that 60,000 migrant workers, mostly from Myanmar, left Thailand between June 23 and June 28, 2017, and that the number of migrant fishermen leaving Thailand has continued to rise². Another report citing Sarawut Towasakul, Vice President of the Thai Fisheries Association, estimated a shortage of 74,000 workers and noted that 30 percent of boats or 4,000 fishing vessels were docked as a result of this shortage³.

OVERVIEW OF RECENT LABOUR REGULATIONS

In 2014, the Thai Government started to issue pink cards (temporary work permits) for migrants without passports and work permits so they could work legally. Migrant fishermen were last allowed to extend their pink cards before 31 March 2017. All migrant fishermen are now being encouraged to acquire their work permits via the nationality verification and Certificate of Identity (CI) process, a step toward getting a national passport. Through nationality verification and CI, migrant fishermen will be able to be able to travel more freely than they could with pink cards, which prohibited travel of migrant workers outside of the province where they were registered to work. This process also enables the Thai Government to move toward international standards for foreign labour management.

The new Royal Ordinance Concerning the Management of Foreign Workers’ Employment (23 June 2017), the subsequent Ministry of Labour Announcement on Rule, Procedure, and Conditions for Work Permit Applications and Work Permissions (6 July 2017), and the new Royal Ordinance on

Fisheries B.E. 2560 (2017) comprise efforts by the Royal Thai Government to regularize undocumented foreign migrant workers in Thailand and improve labour conditions at The new laws contain strict new penalties, including fines from 400,000 to 800,000 Baht (US \$12,120–24,240) per worker for employers who hire undocumented workers from Myanmar, Cambodia, and Laos. Fines for employers who hire migrants without a correct work permit are steep—up to 400,000 Baht—and if they are vessel owners, the Director-General of the Marine Department can order the revocation of the vessel owner’s fishing license and withdraw captain certification of the master of the vessel, under the law on navigation in Thai waters. The Royal Ordinance also includes penalties for migrants, including registered migrants who engage in work that is different from what was originally designated in their work permit, engage in work without having a work permit, or engage in any kind of work that is otherwise prohibited, with penalties of fines between 2,000 and 100,000 Baht, imprisonment not exceeding five years, or both.

Fines and costly timelines

In addition to vessel owners’ perceptions of undocumented workers leaving Thailand *en masse*, vessel owners argue that eliminating undocumented labour from their businesses as required by law is costly and difficult to implement quickly, and that penalties applied to vessel owners for violating the labour regulations are too high. In total, half of vessel owners interviewed stated that the notice for new legislative changes was too abrupt (15 days, as opposed to the norm of 180 days) to get into immediate compliance with, particularly with workers at sea. Eight vessel owners argued that sudden changes in legislation have occurred more than once in the last few years and caused major inconveniences: just as they begin to adopt their business models to a new regulation, they are then forced to make partial or complete revisions to be compliant with yet another new regulation—efforts that require significant planning and investments.

The following quotes from vessel owners reflect these particular concerns:

“The penalties set by the government are too harsh, although we are willing to abide by the laws.”

- Vessel owner in Nakhon Si Thammarat

“The government is constantly making new laws. It is very difficult to adapt.”

-Vessel owner and captain in Songkhla

“It is a good thing the government is addressing problems in the fishing industry, but they must allow more time

for owners and employers to adjust and comply with new regulations. The time frame is too short.”

- Vessel owner in Ranong

“The government needs to ease laws to help vessels get enough labour, bring back the pink card [system], and reduce penalties on undocumented workers. [These regulations] are too harsh, as some businesses are trying to do the right thing.”

- Vessel owner in Chonburi

In addition to the difficulties in adapting to new and “ever-changing” regulations, several vessel owners indicated significant confusion and frustration on behalf of themselves, their staff, their captains and their workers in interpreting and adapting to the new policies. In an extended focus group discussion, vessel owners in Trat explained,

“[There are] too many steps and complications in processing documents to comply with the government’s new standards. Fishing is a ‘basic job’ where vessel owners, captains and crew do not have high education.”

Vessel owners went on to suggest that the government should consider extending timelines to implementation as well as making these regulations easier to interpret and adopt.

Increased time and expenses to recruit and hire new fishermen

Several vessel owners interviewed acknowledged understanding that new laws on the recruitment

and hiring of undocumented workers are intended to protect workers' rights, but they argued that formal, legal channels of recruitment require too many steps and are very expensive for business owners to implement without significant costs to their businesses.

Still, nearly all vessel owners interviewed expressed their wishes for the legal labour recruitment options from Myanmar and Cambodia to be resolved as soon as possible. While some vessel owners believe that recruitment is expensive and time consuming, it is important to note that this perception seems to be in the context of an assumption that employers should have to pay little to no costs of recruitment, rather than the global norm for ethical sourcing standards whereby the employer pays all costs of the recruitment of their employees, with employees not having to pay any recruitment-related costs.⁴ As illustrated by Issara Institute 2017 research of formal recruitment of Burmese workers into Thailand,⁵ the norm in on-shore Thai industries is that migrant workers have to pay most if not all of the official costs of recruitment, as well as a range of additional, informal fees and costs levied by brokers and middlemen agents. Thus, it is not unreasonable to expect that vessel owners might want to avoid paying labour recruitment costs that they should be paying, from an ethical recruitment perspective, as other on-shore employers are avoiding.

Increased opportunity for government corruption and mismanagement

Vessel owners and captains argued that considerable opportunity for corruption is emerging within the particular context of the labour shortage, due to the significant knowledge gaps of vessel owners, captains, and workers regarding government regulations; the challenge of adapting to new regulations rapidly at all scales of business; extensive inspection practices by local government; and, large penalties assessed for violating regulations. They argued that local officials themselves are often unaware of the regulations, and that the government itself has not yet developed the infrastructural capacity at local levels to facilitate implementation and proper enforcement of regulations. Several vessel owners pointed to a

lack of departmental personnel to help them process work applications and documents at local labour offices. For example, in Nakhon Si Thammarat, vessel owners explained that there was only one officer attending to applications for migrants on fishing vessels and all other issues within the province. In order to cope with the lack of infrastructure, workers were reported to have to travel more than 120 km to other labour offices to submit applications and process their documents. In Chumphon province, vessel owners reportedly sent 300 Burmese migrant fishers to Ranong province, in potential violation of requirements to register in the local province, to apply for their work permits because staff were not available in Chumphon to process applications. Moreover, upon arriving in Ranong, only one government staff was available to attend to all of the workers. In attempting to comply with government policy, vessel owners and their workers may sometimes be forced to violate these policies and incur significant direct and indirect costs due to infrastructure shortfalls.

Vessel owners see the Thai Government as playing a significant role in causing the labour shortage, but they also call upon the government to create solutions. Specifically, many vessel owners and captains called for revisions of the 'pink card' process of recruiting, documenting, and certifying foreign workers for a range of designated occupations in Thailand. 14 respondents suggested the Thai Government address the fishing sector's labour shortage by easing restrictions on working conditions for newly documented workers, and to extend the 'pink card' system.

"We would like the Thai government to allow a one-stop visa and work-certification service on the border. We would also like the workers to be able to renew their pink cards when and if they expire."

- Pair trawler captains in Chumphon

The problem of worker empowerment?

In addition to the many costs that vessel owners attributed to new labour policies and laws, they also explained their view of how the labour shortage and labour laws have contributed to

greater worker empowerment. On one level, they argue that the various labour regulations have directly empowered migrant workers by virtue of requirements that migrant fishing crew be provided with multilingual, written contracts signed by both the employer and employee. If the sample of vessel owners reflects broader trends, this policy appears to be successfully taking hold: while five participants from Ranong and Chonburi reported providing no contracts at all to migrant crew, and two vessels owners from Trat and Songkhla only provided contracts in Thai, 59 of the 75 respondents (79%) reported having bilingual or multilingual contracts for their migrant crew.

Vessel owners also asserted that migrants—and Burmese migrants in particular—are now more aware of their rights as migrant workers in Thailand, and are both empowered and able to choose where and for whom to work as a result of the high demand for labour. Vessel owners indicated that they are aware that migrant workers exchange information about which fishing ports are favourable and which ports to avoid, including knowledge of ‘bad’ and ‘good’ vessel owners or captains.

“Burmese workers are able to inform each other if certain ports have good or bad working conditions.”

- Vessel owners in Chumphon

Vessel owners in Nakhon Si Thammarat indicated that the labour shortage and subsequent worker empowerment has significantly changed their business planning. For instance, they report having to reserve five to ten fishermen on ‘standby’, in case their regular fishermen leave. Furthermore, they are reportedly now making arrangements with fishermen for rest days, and requesting available crew members from other vessel owners as well.

Vessel owners in Chumphon stated that because of the labour shortage, workers are becoming increasingly demanding and even try to “take advantage” of vessel owners. Specifically, they reported that workers are requesting higher wages and work documentation and work permits that are fully paid for by the employer, rather than deducted as debts from their wages. Another vessel owner in Chumphon stated that

after issuing 10,000 Baht each as advance payments to forty Burmese fishermen, five of them left without boarding her vessel. Vessel owners explained that in order for a worker to quit, fishermen normally inform the owner or captain (as per legal requirements), but some leave without informing anyone.

“...because [migrant workers] know they are in demand, some fishermen tend to only work one to two months, or on one to two fishing trips on a vessel, before leaving to work from another port.”

- 29 vessel owners in Nakhon Si Thammarat

“Because [workers] know there is a labour shortage, and they know they are in demand...workers do not sign anything unless a trusted friend translates for them...and because of the labour shortage, fishermen now demand advance payment before the vessels leave for a fishing trip.”

- Purse seine owners in Chumphon

“Workers are requesting cash advances of 20,000 to 30,000 Baht. If we do not heed their request, they threaten not to board the vessel.”

- Vessel owners in Chumphon

While some vessel owners suggested that fishermen are increasingly emboldened to take advantage of the unmet demand for workers, documented foreign workers are still tied to their employers through their work permit and crew documents, and cannot move between vessels or employers without prior authorisation and amendments to the vessel’s crew list and the worker’s work permit. Vessel owners can, and sometimes do, take advantage of workers as a result of this policy, blocking movement of workers from their vessels by not issuing the “cancellation letter” required to resign from a boat.⁶

OVERVIEW OF RECENT FISHING REGULATIONS

In response to international pressure and growing concern over IUU fishing, the Royal Ordinance on Fisheries B.E. 2558 (2015) came into force on 14 November 2015, and an amended Royal Ordinance on Fisheries (No.2) B.E. 2560 (2017) was introduced on 28 June 2017. These Ordinances are targeted to increase transparency and accountability of fishing practices at sea, and to promote more sustainable fishing in the industry. Under Section 36 of the Royal Ordinance, a commercial fishing license issued for a fishing vessel must state the amount and type of fishing gear permitted for operation in a fishing ground, permitted catch limit and permitted fishing period as stated in the Marine Fisheries Management Plan (FMP), which is set for implementation through 2019. The FMP outlines key principles and policy priorities designed to tackle overfishing and overcapacity in Thai waters. The FMP emphasizes a 'science-based approach' to fisheries management, using the size of the fishing fleet and the available fishery resources to calculate the maximum sustainable yield (MSY), a level of catch that ensures sustainability and to prevent depletion of fish species. Starting in April 2016, the issuance of the new fishing licenses was to be consistent with the maximum sustainable yield stipulated in the FMP. The new fishing license marks a transition from open-access to limited-access fisheries to highly regulated management of fishing.

To achieve maximum sustainable yield, restrictions were instated to limit the number of days fishing vessels can operate. The permitted number of fishing days differs across types of fishing vessels (trawlers, purse seiners, etc.) and across the Gulf of Thailand and the Andaman Sea. According to the Department of Fisheries, fishing permits issued to vessel owners indicate the number of days a vessel is allowed to be at sea per year. For example, for vessels fishing in the Gulf of Thailand, trawlers are allowed a maximum 220 days per year, and purse seiners allowed a maximum of 235 days per year. For vessels fishing in the Andaman coast, trawlers are allowed a maximum of 250 days per year, and purse seiners allowed a maximum of 205 days per year.

In addition to limiting the number of days per year that each vessel can fish, the Ordinance also limits and monitors the areas where vessels can fish as well. Specifically, since 2015, commercial fishing vessels above 30 gross tons (GT) are required to have a vessel monitoring system (VMS) equipment installed. The Department of Fisheries (DOF) set up the Fisheries Monitoring Operation Center (FMOC) to monitor real-time activities of commercial fishing vessels. Artisanal fishing vessels are allowed only in the Coastal Fishing Zones, while commercial fishing vessels are allowed only outside the Coastal Fishing Zone out to the maritime boundary. Demarcations of Coastal Fishing Zones differ from province to province based on oceanographic data, marine life, local gears, tradition, and local livelihood⁷.

CHALLENGE 2. INCREASED GOVERNMENT RESTRICTIONS ON FISHING PRACTICES

In recent years, government oversight of fishing operations has expanded considerably (see box below), and vessel owners perceive these increased restrictions on fishing as significant challenges to the viability of their businesses. Specifically, vessel owners expressed stress and anxiety about the reduction in the number of days they are allowed to fish, complexity and unevenness of the application of law and policy by government officials, an increase in paperwork necessary to comply with fishing regulations, and increased delays at port. Overall, these changes in the regulatory environment for the fishing sector are perceived by many vessel owners as contributing to a decline in the profitability of vessel ownership and management.

Reductions in fishing sites and days

Several vessel owners cited new limitations on the number of days allowed at sea per year and the increased restrictions on areas for fishing for each vessel as significant threats to the viability of their businesses. Purse seine vessel owners in Pattani and Samut Sakhon argued that their catch was increasingly limited by these new restrictions on fishing sites and days. The following quote by one participant illustrates their view:

“Before the restrictions, vessels could fish anywhere. Now more and more vessels compete with each other for catch. That is why we are catching less fish. The labour shortage is a problem, but it is minor compared to this... Last year, my purse seine vessel was docked for six months and my crew worked on other vessels due to fishing restrictions in the Tua Kor Gulf (the northwestern region of the Gulf of Thailand).”

- Vessel owner in Samut Sakhon

At least nine vessel owners said that their boats used to sail to open waters unrestricted before government began restricting and monitoring both the number of days and boundaries of sites

that vessels can use to fish. But since the Royal Ordinance in 2015, their fishing range has been restricted to Thai waters.

“We used to sail to Myanmar, Bangladesh, India and Malaysia. But now, we only fish around the Andaman sea, because of the restrictions and [government] monitoring.”

- Vessel owner in Ranong

In Chumphon, three vessel owners of 21 purse seiners complained that each of their vessels were only allowed at sea for 20 days or less a month because of restrictions that limit fishing to 220 days per year. In Nakhon Si Thammarat, a vessel owner and captain claimed that the new law and penalties were already ‘too harsh’, and that a fishing permit limiting 220 days a year per vessel added to more financial losses. As a result of their concerns regarding reduced days at sea, several vessel owners expressed hope that the yearly limit would be increased to 300 days of fishing.

Increased costs associated with government oversight

In order for the government to ensure that vessels adhere to the new restrictions on days and sites for fishing, vessels above 30 gross tons are required to have vessel monitoring systems (VMS) installed. Of the 75 vessel owners interviewed, 63 (or 84%) reported having VMS equipment installed on all of their boats at the time of their interviews. Vessel owners expressed that VMS equipment is expensive to install and to maintain. Their estimated purchase cost of VMS for a single unit ranged from 10,000 to 50,000 Baht (approximately US \$300-1,500). They further estimated monthly costs for maintenance and service for each vessel’s VMS equipment between 950 and 1,800 Baht (approximately US \$27-55). Other vessel owners quoted yearly VMS service and maintenance costs per vessel at costs ranging between 10,000 to 14,000 Baht a year (approximately US \$300-425). Moreover, single trawler owners in Chumphon estimated VMS equipment maintenance costs for each vessel at approximately 10,000 Baht per year.

They reported that whenever VMS equipment broke down, they had to get it fixed within 24 hours. If they were unable to repair the system, their vessels were required by law to be docked, which added to their financial losses.

Vessel owners expressed that VMS vessel monitoring significantly increased their anxiety and stress. Whenever a vessel's VMS signal is lost or is irregular, vessel owners report being contacted by Department of Fisheries (DOF) to rectify the problem within four hours or force the boat to return to port. At a focus group meeting with 29 vessel owners in Nakhon Si Thammarat, it was shared that when a vessel's VMS signal is lost or intermittent, the vessel's owner is contacted by a DOF officer. Phone SMS messages are sent to the vessel's owner, and he/she is required to reply within 2 hours. Besides contacting the vessel owners, DOF may also contact the vessel captain to seek an explanation on the VMS' signal loss. If the captain cannot fix the problem, the vessel must return to port.

Vessel owners in Chumphon also complained that the VMS signal is expected to be working all the time, even when a boat is docked at port. If the signal is lost while a vessel is docked or if a signal is weak or lost, they get contacted by a DOF officer to immediately reconnect the vessel's VMS. 32 of the 75 (43%) vessel owners said that they had been contacted by a DOF officer in the middle of the night when their vessels' VMS signal was weak or lost. Three purse seine owners in Chumphon further expressed that, because of frequent contact from DOF officers due to VMS signal loss, including at nights, they were experiencing anxiety about not being well informed about legislative requirements and penalties.

'VMS sucks because the Thai Government is not familiar with it, and the way the government is enforcing its use is not very systematic or organised. Government officials contact me whenever when the VMS signal is out. I need to ensure it gets fixed within 4 hours. If not, my vessels have to return to port.'

- Vessel owner in Nakhon Si Thammarat

A purse seine vessel owner in Samut Songkhram shared his view that although VMS causes inconveniences for vessel owners, he felt that it was practical for the government as it provides traceability of fishing vessels. However, he also asserted that VMS was not always reliable in signal connection. For example, during the monsoon season especially, there was frequent signal loss leading to being 'hassled' from MOF officers to rectify the problem.

Increased paperwork and inefficiencies in business offices

Following the Royal Ordinance on Fisheries B.E. 2558 (2015) coming into force, all vessels of 30GT and above are required to report to the local Port In/Port Out (PIPO) center when departing or returning to port, and are subject to inspection by a multidisciplinary team, including provincial officials from the Department of Fisheries (DoF), Marine Department, and Ministry of Labour (MoL).

The inspections are overseen by the Thai Maritime Enforcement Coordinating Centre (Thai-MECC). Prior to departure, the owner or master of a fishing vessel must submit documents related to vessel registration, the vessel use permit, fishing license, details on the number and list of outgoing crew onboard, evidence of authorisation, license and permit under the Royal Ordinance on Fisheries, as well as evidence related to the provision of appropriate systems for ensuring occupational safety, hygiene, and wellbeing of the crew. Vessel owners point to these procedures as sources of increased inefficiency in an already diminished industry.

Vessel owners reported feeling that the laws requiring PIPO inspections are not "practical," because the procedures to prepare various documents are "too complicated." Nearly half of the vessel owners interviewed (30) stated that they were able to process their documents at the PIPO office quite easily in the past. As a result of the recent regulations, however, they have had to purchase computers and printers, and hire extra staff to prepare the documents themselves, which has added to their operational costs. In Samut Sakhon, a vessel owner was concerned that she may need to purchase a computer and printer soon and learn associated skills, as the

handwritten documents she had been able to fill in may no longer be accepted by the PIPO office. In Pattani, vessel owners expressed concern for their own jobs, stating that ‘older’ vessel owners who do not have computer skills will not have the capacity to fulfill PIPO requirements.

In addition to the costs associated with purchasing computers, training and hiring new staff, and the time spent processing paperwork, vessel owners also cited new costs associated with increased requirements to register migrants at PIPO offices. Specifically, 33 of the 75 vessel owners shared that PIPO offices have started eye scans and facial ID tagging of migrant workers. Vessel owners expressed fears that this surveillance infrastructure would generate more expenses and potentially more documents to prepare in future. Although no costs are associated with scanning, vessel owners in Rayong and Nakhon Si Thammarat complained of costs associated with travel and meal expenses associated with bringing their fishermen for required eye and face scans at the PIPO office.

Growing delays and inefficiencies at port

In addition to the increased paperwork and costs associated with PIPO inspections, vessel owners stated that associated inspections require excessive preparation of documents and can often move slowly, which delays vessels at port both prior to departure, and prior to unloading their catch. In Rayong, vessel owners explained that inspections by PIPO required “100% accuracy,” and as such, any typing error or other kind of error could severely delay or even prevent a vessel from leaving port. Vessel owners in Nakhon Si Thammarat echoed a similar concern:

“[PIPO is] not exactly a one-stop service. Every time there is something not in the books, they have to refer to their superiors in Bangkok. [PIPO] takes time, because the boats are held up.”

In Samut Songkhram, a vessel owner noted that PIPO inspections involve long waiting times for vessels to depart. In some areas, there can be about 10 vessels waiting in line to depart or

arrive back to port. Similarly, vessel owners in Chumphon state that delays can last up to 4 hours. A vessel owner and captain in Chonburi noted that problems with inspectors themselves can cause significant delays which can affect the freshness of their catch. In response to these concerns, vessel owners stated that PIPO inspectors ought to allow vessel owners ample time to prepare their papers, and to provide training to help owners and captains learn how to comply with PIPO requirements. Participants requested better dissemination of information regarding PIPO regulatory requirements, including registration procedures for boats and workers. For example, vessel owners argued that smaller support boats for purse seiners were neglected for registration due to ignorance of the vessel owners of the need to register them.

Uneven and flawed application of policy

A 2016 study⁸ identified challenges for PIPO inspections including inadequate training for officials, confusion regarding inspection requirements and regularity, cursory checks on migrant documentation, no inspection aboard the vessel, and a lack of translators or safe, private interviews with crew. Moreover, the inspections did not provide adequate time for rigorous inspections, which could undermine the credibility of the process and the documentation created as a result. These problems are echoed by and reflected in the accounts provided by the vessel owners, office staff, and boat captains.

Corroborating these findings, vessel owners in this study explained how document inspection processes by local PIPO offices differed from place to place. For example, one vessel owner noted that the same PIPO documents accepted in Trat were not accepted in Rayong. Similarly, while a set of documents and amendments to mistakes might be accepted at one port, officials in another port might not allow any mistakes or amendments.

Vessel owners also argued that, because PIPO inspections only occur at ports, they are insufficient or somewhat flawed mechanisms for truly regulating the industry—as illustrated in the two quotes that follow:

“PIPO checks the same things all the time, which is not productive. It is not useful to check [documents] at the port. Once the vessels leave, you do not know what happens at sea. They should check vessel at sea, not the ports.”

- Vessel owner in Samut Sakhon

“The Thai government does not know how fishing vessels actually work at sea. The government needs to reconfigure how they address the problem... PIPO inspections are mostly comprised of paperwork.”

- Vessel owner in Samut Sakhon



PIPO inspections on board a returning vessel and its crew in Khanom, Nakhon Si Thammarat. Photo credits: Guna Subramaniam.

Increased opportunity for government corruption and mismanagement

With regard to growing oversight of fishing practices, vessel owners expressed concerns regarding possibilities for government corruption that mirror those regarding the state's management of recruitment and labour policies. Of all vessel owners interviewed, nearly half (34) felt that opportunities for corruption are emerging from this context of increased, yet unevenly applied regulations, varied capacities of vessel owners to comply with regulations, diminished fishing capacity, and high penalties for violating policy. In Chumphon, vessel owners voiced concerns that high penalties, which have increased fourfold compared to previous eras, create space for corruption.

Similarly, another group of vessel owners in Chumphon remarked that laws requiring the bureaucratic processing and application of

various documents for fishing vessels and migrant workers only served to earn government officials more money.

“Penalties should be decreased so that government officials may not offer the old 100,000 Baht rate [as compared to the new 400,000 Baht rate].”

Growing distrust of the Thai Government and European Union (EU)

While most vessel owners variably point to poor planning and oversight by the Thai Government for increased inefficiencies and costs resulting from new fishing regulations, this field-based study revealed widespread and growing resentment against the European Union (EU). In the eyes of most vessel owners interviewed, pressure by the EU to reform Thai fishing practices comprise the core cause of increased

regulations, and increasing costs and inefficiencies in their businesses.

In 2014, the European Parliament adopted a Resolution on the Free Trade Agreement between the EU and Thailand. The Resolution called for tariffs to be preserved on Thai seafood, partly because of widespread labour rights violations in the industry.⁹ In 2015, Thailand was issued a 'yellow card', or a formal warning that the European Community wanted Thailand to demonstrate time-bound improvements in its Illegal, Unreported and Unregulated (IUU) fishing policies and enforcement strategies.¹⁰ If Thailand fails to address these issues to meet the import standards of the EU, it faces a trade ban, which would result in a loss of over US \$600 million a year in seafood exports.

Throughout the research, participants expressed strong resentment towards the EU for being the principle reason behind the current Thai Government's efforts to reform the fisheries sector. These suspicions are not circulating as rumor alone: money is being mobilized and spent to promote anti-EU sentiments. Specifically, anti-EU stickers and t-shirts are being distributed by fishing associations and posted on business doors and boats across the country, as illustrated in the photos below.

On 21 September, 2017, vessel owners and representatives of fishing associations across the country gathered at fishing markets and ports for the media, to express their opposition to perceived "EU demands" on the Thai fishing sector.

With resentment against the EU apparently widespread and growing, some vessel owners express exasperation and even hope that Thailand will move to trade more with China, which they view as a potentially better alternative, as expressed below:

"Vessel owners in Thailand now want the EU to give Thailand a red card, because we are fed up with how Thailand is handling the situation to please the EU. If the EU boycotts, we can always sell to China and other countries in Asia."

- Vessel owners in Trat

"If the EU does not buy from Thailand, China does not care about traceability. We can always have China take over the EU."

- Vessel owner in Songkhla

In general, the sentiment among respondents regarding the EU is of growing distrust and frustration, yet they also see the Thai Government as a part of their problems. Many believe that the government has acquiesced too quickly to EU demands without understanding the local context, and many expressed the belief that EU scrutiny may be related to broader critiques of the currently unelected government. To this end, several vessel owners expressed concern that their livelihoods are being used as pawns in broader political strategies.



Anti-EU stickers, banners and t-shirts distributed by fishing associations.
Photo credits: Cuna Subramaniam.

On 21 September 2017, vessel owners and representatives of fishing associations gathered at fishing markets and ports to express their opposition to perceived "EU demands" on the Thai fishing sector.¹¹



CHALLENGE 3. ECOLOGICAL SHIFTS & ENVIRONMENTAL DEGRADATION

As research by the Environmental Justice Fund¹² indicates, ecological degradation may contribute to worsening labour standards for workers in the Thai fishing industry. This research with vessel owners corroborates and extends this theory in a number of directions, as is discussed briefly below.

Overfishing (and denial)

Thai waters are reportedly among the most overfished on the planet, where the overall catch per unit of effort (CPUE) in both the Gulf of Thailand and Andaman Seas has sharply decreased by more than 86% since 1966. Reports by the Asia-Pacific Fishery Commission and Thailand's Department of Fisheries further indicate that Thailand's CPUE is low and declining.^{13, 14}

Despite the fact that conclusions derived from the scientific evidence clearly indicate that overfishing has significantly depleted fish stocks in Thai waters, only 21 of the 75 participants agreed that overfishing was contributing to decline in fish stocks and affecting catch volumes for their vessels. While 11 of the 75 respondents (15%) did not convey a strong opinion either way, 43 of the 75 respondents (57%) firmly denied that overfishing is an issue in Thailand.

Those who agreed that Thai fish stocks were being depleted by overfishing cited evidence from their personal fishing experiences over the

years. For example, three purse seine vessel owners in Chumphon shared that, two years ago, a boat could return with an average of 1,000 kg of catch a day, but it currently takes four to five days to get 1,000 kg of catch, and sometimes the vessels return to port with only 100-500 kg of catch. Corroborating this account, a vessel owner and a boat captain in Chonburi shared that two years ago, one boat could haul in 1,000 kg of squid in a week, but nowadays might haul in only 100 kg of squid in a week. In Samut Sakhon, a purse seine vessel owner reported being able to catch 300 kg of mackerel and 10,000 kg of sardine five years ago, but now catch volumes can be as low as 30 to 50 kg of mackerel and 1,000 kg of sardine - even with expensive sonar equipment (costing 700,000 Baht / US \$21,000) to find fish.

As a result of overfishing, several vessel owners also reported that they have to send their vessels further out from port to find fish. And, given the prohibitively expensive cost of fish-finding equipment for many owners, they have to search for and hire skillful, diligent captains to be able to find the fish. Other vessel owners specifically blamed trawlers and artisanal vessels for overfished waters, explaining their view that catch volumes were declining because trawlers 'sweep everything' with narrower nets. These respondents further noted that recent regulations benefited trawlers by allowing them to fish within 7 miles from shore:

“[Trawlers and artisanal vessels] are allowed to catch within 3 miles of the shore, and they catch everything, including fish carrying eggs. And they catch all sizes of fish, small or large. Small family vessels are more destructive. These vessels use ‘cable nets’ with very small gaps. Some of these nets from Vietnam are 3 layered. These small businesses drop nets to the bottom, and drag for ten miles.”

- Purse seine vessel owners in Pattani

“[Overfishing is occurring] because the trawlers catch everything from the surface to the bottom of the sea. Although there are new regulations and standards on net specifications, the trawlers often change to use non-regulation nets. With PIPO [Port-in, Port-out] inspections, they only display the legal nets.”

- Captain and vessel owner in Chonburi

“Overfishing is one of the main problems for sure. Overfishing is the common practice here... It could damage the Thai fishing industry in the long-term... That’s why the government has had to get involved.”

- Vessel manager in Songkhla

Shifting weather and pollution

Although over half of the respondents did not see overfishing as a primary concern or a problem at all, most pointed to changing weather patterns and water pollution as factors that often negatively impact their catch volumes. For example, vessel owners in Trat attributed the decline of fish to water pollution that they believe is caused by runoff from factories.

With respect to shifting weather conditions, vessel owners in Nakhon Si Thammarat stated that the strong winds in November that can prevent their vessels from going out to sea are now frequently extending into December. Moreover, during interviews in September, owners reported severe weather conditions over the previous two months that had rendered sailing difficult and reduced their catch.

One respondent reported that two of his vessels have been docked for ‘several months’ due to both strong wind conditions and the widespread labour shortage. As weather conditions are affecting catch volumes, vessel owners are forced to ensure that their vessels maximise their permitted fishing days at sea to minimise their financial losses.

II. LABOUR ABUSE AND MISPERCEPTIONS OF FORCED LABOUR AND HUMAN TRAFFICKING

In addition to examining vessel owners' views regarding various challenges that face the Thai fishing industry, this research also aimed to comprehend the strategies that vessel owners deploy to overcome these challenges, and the impacts of these strategies on worker rights and well-being. The following findings reflect three core concerns: first, most vessel owners variously describe using practices of debt bondage to recruit and retain migrant workers in the face of the widespread labour shortage. And, many owners underestimate the work hours of their migrant fishermen, possibly, for some, in order to skirt both labour and fishing regulations. Second, however, the same vessel owners roundly disavow engaging in forced labour and human trafficking, which they generally describe as abhorrent practices. Third, the research reveals that the disconnect between owners' engagement in debt bondage and their simultaneous disavowal of forced labour and human trafficking is linked to significant misunderstandings of the fundamental definitions of debt bondage and human trafficking.

KEY ISSUE 1. PROTRACTED USE OF DEBT BONDAGE TO RECRUIT WORKERS

40 of the 75 respondents (or 53%) asserted that they do not practice debt bondage, and stated that their migrant crewmembers are able to leave anytime while back at port, including some who have left after receiving advance payments. Participants explained that the current labour shortage necessitates that they offer full payment conditions to attract and maintain their crewmembers.

However, at least 26 vessel owners (or 35% of the sample) who are responsible for employing as many as 618 migrant crew described methods of worker recruitment and retention that are commensurate with practices of debt bondage. Descriptions of payments for crew included debt deductions to recoup with money used to pay for recruitment costs, including cross-border travel expenses and pink card/work permit applications. As illustrated in Table 1, debt deductions may vary from 500 Baht per month

to a withholding of 50% of wages for many months.

Often, vessel owners would justify practices of wage withholding in relation to other expenses that they incur in order to ensure the health and well-being of their workforce. One vessel owner in Ranong explained that migrant crew did not have access to financial support, so she has to advance them cash for travel expenses, medical checks, and work permits, which they are then required to repay. She estimated that she spends about 20,000 Baht (US \$600) for each migrant crewmember she hires from across the border. Vessel owners in Chumphon also stated that they need to 'help' the workers to come to Thailand, but that it is necessary for migrants to pay off their own expenses. They estimated spending about 10,000 Baht (US \$300) per worker to travel to Thailand. *'Otherwise, [they said], the fishermen would never be able to come here to work.'* In Pattani, vessel owners estimated that to bring across 30 migrant fishermen to Thailand, it costs them about 1 million Baht (US \$30,300), at 25,000 Baht (US \$760) per fisherman (inclusive of 8,000 Baht broker fees). The remaining 250,000 Baht (US \$7,575) goes towards medical checks, work permits, passports and other documents. As noted in Table 1, these vessel owners reported paying their migrant crew 5,000 Baht per month (half of the 10,000 Baht wage); and, after deducting these debts, they are paid the remaining owed salary for the year at the end of the year. In other instances, brokers reportedly manage payments (and debts) for their Burmese or Cambodian recruits.

In cases where migrants were already working in Thailand, vessel owners, as new employers, reportedly had to pay off the remaining debts of newly recruited crewmembers as a means to recruit them. In Songkhla, a vessel owner reported paying 7,000–8,000 Baht (per worker) to a previous employer of a few Cambodian fishermen for their remaining debts owed before they could start working on her vessels. These workers were then required to take on these old debts in their new work arrangements.

TABLE 1. EXAMPLES OF VARIED PRACTICES AND RATES OF DEBT BONDAGE

LOCATION	FISHERMEN'S MONTHLY WAGE, AS REPORTED BY VESSEL OWNERS	ACTUAL PAYMENT MADE	DEBT DEDUCTION BEFORE PAYMENT
CHUMPHON 3 vessel owners 260 migrant crew	9,000 Baht per month; 15,000 Baht per month for Burmese leader	7,000—8,000 Baht per month	1,000—2,000 Baht/ month per worker.
PATTANI 5 vessel owners 35 migrant crew	10,000 Baht per month	5,000 Baht per month	50% of wages are withheld to pay back debts of recruitment. At the end of the year, for crew members still around, they are reportedly paid the remaining withheld salary. Brokers manage payment for the Burmese crew.
RAYONG 4 vessel owners 26 migrant crew	9,240 Baht per month; Net supervisor earns more	7,000—8,240 Baht per month (sometimes paid every 2 months)	1,000- 2,000 Baht deducted monthly to pay back debts.
SONGKHLA 2 vessel owners 9 migrant crew	9,000 Baht per month	Variable	Workers “decide” the amount of debt they can afford to be deducted from each payment (average was reportedly 500 Baht per month).
TRAT 1 vessel owner 132 migrant crew	11,000 Baht per month; 30,000 Baht per month for net supervisor	500 Baht per week and 4,000 Baht end of month. Total of 6,000 Baht per month.	Over half of monthly salary deducted each month to pay debts. Remaining amount to be paid at end of year.
TRAT 2 vessel owners 30 migrant crew	9,000 -10,000 Baht per month	4,000—5,000 Baht per month	Every 6 months, a deduction is made for debts before remaining payment is made to crew. Deductions are based on a “mutually agreed upon” amount with each worker.

One vessel manager in Songkhla argued that debt bondage practices are hard to avoid since it enables them to retain workers, particularly because there is no formal labour recruitment channel in the Thai fishing industry. However, some participants disagreed that debt bondage practices effectively retain workers. Indeed, 14 vessel owners claimed migrant crew would be able to quit without notice when they return to port or after collecting advance payment, with owners having to absorb any remaining debt. For example, a vessel owner in Chonburi claimed that over the past 20 years, approximately one hundred migrant workers have quit without paying back their debts. A vessel owner in Ranong used the Thai phrase *'jumping a parachute'*, to describe how some of her crew simply leave without the normal practice of informing her or the vessel captain.

KEY ISSUE 2. UNDERESTIMATION OF WORKING HOURS AT SEA

In addition to findings regarding the widespread use of debt bondage and wage withholding by vessel owners to cope with various challenges to their businesses, this research also revealed that most vessel owners and captains interviewed may be significantly underestimating the working hours of fishermen – some may be due to misunderstanding, though some may be to skirt both fishing and labour regulations (see box

below). Specifically, more than half (42) of participants considered crew “working hours” as only those times when nets were being dropped or hauled in, despite considerable evidence that fishermen are doing other work-related tasks while the nets are in the water. However, many vessel owners considered these periods ‘rest’ or ‘breaks’ for the crew, and they explained their view that their crew only worked between 5-8 hours in total per day.

When asked to describe the range of tasks that fishermen are required to undertake on their boats, vessel owners included such work as pulling in nets, and sometimes sorting and transferring catch to cold storage. However, none included ancillary and maintenance work that crew contribute to their vessels’ operation during net-down times, such as mending nets or fixing equipment. Most participants also described the vessels’ travel time to fishing sites and to port as resting periods for the crew. For example, a vessel owner in Nakhon Si Thammarat, whose trawlers stay at sea 15 days or more, stated that his trawlers dropped nets 3 times a day, between 5 to 9 hours for each net-down-time. However, he estimated his crews’ average work at only 5 hours a day. A vessel owner in Chonburi, whose squid vessels are at sea for as much as a week for each trip, also estimated that her crew only worked 5 hours a day, ‘with breaks in between’ net-down time.

THAI LABOUR STANDARDS FOR FISHERMEN

Crew working aboard fishing vessels are legally entitled to a minimum of 10 hours rest in a 24 hour period and 77 hours over a seven day period. The Labour Protection Act B.E.2541 (1998), establishes acceptable working hours, regular and overtime wages and the scope of permitted wage deductions for work more generally in Thailand. The Ministerial Regulations on Labour Protection in Sea Fishery Work introduced new requirements and prohibitions to address sector-specific gaps in the Labour Protection Act B.E.2541 (1998), including mandated rest periods, annual crew inspections, and adequate sanitation.

KEY ISSUE 3. (MIS)UNDERSTANDINGS OF LABOUR STANDARDS AND HUMAN TRAFFICKING

The extent to which vessel owners knowingly underestimate the working hours of their fishing crews, or simply mis-estimate these hours for lack of understanding day-to-day work on their vessels cannot be conclusively known. However, as most vessel owners interviewed report decades of experience in the industry, it would be expected that they understand the true extent of labour conditions of crew on their fishing vessels. At the same time, however, several quotes by different vessel owners indicate similarly significant misunderstandings of basic labour laws as well as indicators of trafficking and debt bondage. The following quote by vessel owners in Trat, for example, reflect a limited understanding of the basic legal employment system in Thailand:

“It is unfair that a [migrant worker’s] work permit is valid for two years, but vessels are allowed to catch fish only 220 days per year. Workers get paid every day, including non-working days.”

Inaccurate beliefs that workers are being paid or are supposed to be paid for every day they are registered in Thailand could explain why some vessel owners have reservations regarding the adoption of formal labour recruitment and payment schemes.

Interviews with vessel owners such as those illustrated below further demonstrate problematic if not fundamentally flawed understandings of trafficking and exploitation in their own industry:

“[The EU] wants to monitor human trafficking in Asia, but they have to understand that for vessels that stay only 10 days at sea, there is no risk of human trafficking.”

- Squid boat owners and a captain in Rayong

“But we vessel owners are not responsible for human trafficking. It is people who traffic people for a living [who are responsible].”

- Pair trawler owner in Samut Songkhram

As the quotes above illustrate, perspectives shared by vessel owners in this research indicate that they may not have a complete or correct understanding of the definitions of forced labour and human trafficking. Many vessel owners believe that trafficking is perpetrated by career criminals smuggling people across borders onto long-haul fishing boats. The most significant indicators of forced labour and human trafficking in the Thai fishing industry, such as debt bondage, excessive working hours, illegally low wages in violation of the minimum wage law, unlawful deductions in violation of the Labour Protection Act, and document retention are generally not understood by the majority of vessel owners interviewed as forced labour and human trafficking risks. Given that vessel owners comprise a relatively powerful and influential constituency in fishing supply chains, the need for awareness raising trainings and other labour protection interventions are urgently needed.

CONCLUSIONS AND IMPLICATIONS FOR HUMAN TRAFFICKING IN THE THAI FISHING INDUSTRY

Interviews and focus groups reveal that vessel owners are concerned that the profitability of fishing is being diminished as a result of ecological changes, increased regulation of fishing practices, and increased regulation of, and restrictions on, labour recruitment from other countries. And, each perceived challenge carries potential implications for worker rights and well-being. On one hand, vessel owners argue that the widespread, longstanding labour shortage and effectiveness of some recent laws in increasing worker rights and protections may be contributing to the overall empowerment of migrant fishermen. On the other hand, however, vessel owners' reported strategies to respond to increased regulations and ecological shifts have the potential to undermine workers' rights and well-being overall.

Specifically, whether related to overfishing, changing weather patterns, or water pollution, ecological changes threaten the potential viability of fishing as an industry and likely contributes to perceptions, forecasts, and experiences of diminished profitability. To this end, vessel owners experiencing lower catch volumes may seek ways to cut costs, which could impact worker well-being. Ecological changes could also change the intensity of work and vulnerabilities of workers at sea. For example, if overfishing and pollution necessitate longer periods of fishing to sustain catches, fishermen are not only required to stay at sea for longer periods of time, but may be required to sustain intensive activities for longer periods of time at sea as well. Given that vessel owners significantly underestimate, if not manipulate, daily estimates of hours worked by fishing crew at sea, intensified fishing activity may not attend raises in pay or overtime for fishing crew without significant intervention.

Similarly, the increase in government regulation of fishing practices is likely to impact migrant workers as well. On one hand, the new Royal Ordinances' steep penalties and increased inspections of boats and workers is likely to continue reducing the number of undocumented migrants working in the fishing industry. However, the process of registering

workers—a process which includes bio-marker scanning—raises concerns regarding increased surveillance of non-citizen residents within Thailand's current political and economic context. Moreover, as noted above, the overarching effect of these regulations, which vessel owners argue has been increased inefficiencies and diminished profitability of fishing, may disincentivize vessel owners from improving and prioritizing worker pay and well-being.

As noted throughout the findings, vessel owners' views and knowledge of ecological shifts, environmental degradation, fishing policy, labour laws, and even the labour shortage may be contested or inaccurate. Yet, the accuracy of these (mis)perceptions is arguably less important than the the extent of their implications for addressing human trafficking. Indeed, if vessel owners perceive problems or opportunities for their businesses, they are likely to plan and act accordingly. As a result, the risk of trafficking and labour abuse could persist despite reported increased worker empowerment and registration. Indeed, vessel owners' own accounts regarding issues of debt bondage and working hours at sea corroborate other research by Issara and others indicating that issues of labour abuse remain systemic in the industry.

All vessel owners interviewed asserted that human trafficking is 'bad,' and some expressed sympathy for the EU and foreign governments in their attempts to curb violations of worker rights. However, the perspectives revealed by vessel owners regarding trafficking, debt bondage, and working hours at sea reveal that vessel owners do not fully understand what human trafficking is or how they may themselves be implicated.

Contrary to the views of the boat owners previously described, duration of time at sea is not a direct predictor of trafficking risk. Rather, use of debt bondage—a practice that many vessel owners variably engage in—is. Yet, while more than one-third of vessel owners described engaging in practices of debt bondage in order to recruit and retain their workers, they often framed these practices with language of

'assistance' and 'help.' In other words, the extent to which vessel owners exploit fishermen yet view themselves as benevolent patrons (and perhaps may be seen similarly by fishermen themselves, to an extent) presents a key issue for both future advocacy, research, and industry strengthening.

Not only does the research reveal persistent practices of debt bondage in recruiting and retaining workers, and alarming misunderstandings of trafficking among a group that is well-positioned to address it, findings from this research also reveal significant issues with vessel owners' estimates and

understandings of work hours at sea. Specifically, the estimated working hours on fishing boats as reported by vessel owners directly conflict with those provided by fishermen through the Issara hotline and on previous research.¹⁵ The fact that these accounts differ so widely indicates either willful ignorance, manipulation of information that cannot be confirmed within the parameters of this research, or innocent, but problematic gaps in knowledge about what happens on their boats. Either way, misinformation and false perceptions create significant opportunities for abuse of workers to occur and persist.

RECOMMENDATIONS

In line with the UN Guiding Principles on Business and Human Rights (also known as the Ruggie Principles) (FN), global brands, retailers and importers, Thailand-based businesses, government, and civil society all have constructive roles to play to address and improve the working environment in the Thai fishing industry. Findings from this study of vessel owners' experiences, perspectives, strategies, and attitudes underscore a particularly urgent need to work with this unique and powerful constituency to eliminate exploitation of migrant fishermen in Thailand.

INTERNATIONAL RESPONSE

Western media, advocacy groups, consumers have applied pressure to global brands and retailers by tracing and publicizing the supply chains of businesses that source seafood from vessels with unethical working conditions, launching journalistic exposes and lawsuits. On one hand, many multinational corporations are responding to these reports by acting to spark improvements in the business and working environment within their supply chains. On the other hand, international governmental responses - the strongest of which has come from the European Union - include enforcing standards that require importers, processors, and the Thai Government to meaningfully address steps to address labour exploitation. While this research indicates that such pressure has helped to prompt Thailand's new regulations on the ground, it also indicates that these regulatory requirements and their timelines are driving up costs, frustrations, and anxieties among vessel owners. As a consequence, widespread distrust of the EU and the Thai government on behalf of vessel owners appears to be growing, and vessel owners are even increasingly selling to other markets with far less regulation (such as China).

Given the fact that working conditions of fishermen are less likely to improve if vessel owners seek less stringent buyers, global brands, retailers, and importers, as well as European and American governments are therefore encouraged to:

- ☑ ***Incentivize vessel owners to stay within European and American supply chains***, and support necessary rights-respecting behaviour change and sustainable fishery and labour practices within the industry, rather than driving the industry toward less regulated markets or "cut and run."
- ☑ ***Ensure that suppliers operate within the law***, including, at minimum, that fishermen have contracts, payslips, and timesheets recording hours and payments that are legal and regularly paid, that all workers have control over their identity documents, and that debt-bonded workers are identified and provided with remedy; and,
- ☑ ***Support and scale up on-the-ground solutions*** that will increase visibility and strengthen supply chains practices down to the vessel level.

LAW ENFORCEMENT & REGULATORY RESPONSE

In general, international pressure- and business-led supply chain responses to improve working conditions can only go so far if the regulatory environment is not conducive to reforms. Weak regulation leads to reputational risk (perceived or actual), which can impact the stability and longevity of the entire industry, including brand "Thailand" for seafood. As noted throughout this report, the Royal Thai Government has advanced in recent years a series of labour, fishing, and other regulations that vessel owners feel are being unevenly implemented on the ground, and

negatively affecting local business bottom lines without generating all the positive results they were meant to generate. Vessel owners even asserted that the new regulations, high costs associated with adopting regulations, short timelines, and large fines for failure to adapt is rife with opportunity for corruption by local regulatory officers.

To this point, it is recommended that the Royal Thai Government consider the following recommendations:

- ☑ **Assist vessel owners** in their attempts to adhere to and adapt to new regulatory procedures by allowing 180 days of adoption to new laws before they go into effect; providing clear training and explanation of new laws at the provincial and local levels to business owners and operators; introducing graduated fines over a clearly defined timeline to encourage accurate and timely adoption of regulations; and, subsidizing and/or providing competitively low prices for VMS equipment, and improving the utility of VMS in concert with regulations governing it.

- ☑ **Provide consistent and uniform training, resources, and oversight of PIPO inspectors and staff of labour-document processing offices across provinces** to ensure that local regulators are properly trained and resourced to conduct fair, efficient oversight of both fishing and labour recruitment practices, and that this is done in a uniform manner from province to province.

ON-THE-GROUND RESPONSE

This research underscores the necessity for both business and government to understand and work with powerful constituencies like vessel owners and local industry operators to ensure that their own operations are meeting local legal requirements as well as the codes of conduct required by their customers. While the team found that the majority of Thai commercial fishing vessel owners are frustrated and anxious about broader political, economic and ecological shifts, these men and women were also relatively easy to access and speak to, and glad to divulge extensive, sometimes problematic, and yet nevertheless crucial information about their experiences and attitudes. This information is critical to creating pathways to higher fishing and labour standards in the Thai commercial fishing fleet that vessel owners would feasibly support. With regard to labour, all stakeholders have to take seriously the severe labour shortage that business owners in the Thai fishing industry face. To this end, we recommend:

- ☑ **Create more ethical recruitment channels that provide the Thai fishing industry with access to manpower at the numbers and levels they require.** This will require the Royal Thai Government collaborating with the source country governments of Cambodia and Myanmar to understand the information, data, and labour conditions being demanded to ensure protection of their citizens at sea, and lifting bans and

limitations being practiced by source country governments. Two means to ensuring worker protection include:

- **Issara Inclusive Labour Monitoring (ILM)**, whereby workers have improved confidential communication channels, such as through the Issara Golden Dreams smartphone app, hotline, and other worker voice channels, to identify labour issues, get information and assistance if needed, and inform the improvements that need to be made in a workplace or industry; and, local industry operators have access to free technical assistance to make systems improvements; and,
- **ILM through worker voice communications at sea, particularly real-time connectivity of fishermen at sea.** Efforts are currently underway to develop satellite-based communications technology to enhance how captains and skippers report their catch in real-time for better traceability. These same technologies could also be adapted to provide crew with real-time communications connectivity as well, thereby allowing them to report issues or request assistance to trusted service providers if and when needed.

- ☑ ***Train and monitor local fishing associations and labour department authorities*** on how to better support local industry operators to recruit, train, manage, and retain fishermen legally and ethically, and how to monitor and respond to requests for assistance when abuses are reported, including less direct means of exploitation such as denying resignation letters.

Because vessel owners openly describe widespread practices of debt bondage and most hold inaccurate and/or incomplete understandings of trafficking, buyers committed to ethical recruitment and ethical sourcing should ensure that proper assistance and restitution is offered to fishermen who are debt-bonded or otherwise exploited in their supply chain. Global buyers are recommended to work with their supplier partners to:

- ☑ ***Ensure worker voice across all vessels in their supply chain***, since confidential worker voice channels are virtually the only way that debt bondage can be discovered and remedied.
- ☑ ***Have a clear plan, involving buyers, suppliers/vessel owners, and primary exporting processors, for identifying and***

remedying debt bondage that might currently exist on vessels in the buyer's supply chain, which ideally would link to a larger plan toward the adoption of ethical recruitment practices where the employer pays the costs of recruitment of workers, and works with recruiters to control and eliminate informal fees charged to jobseekers and migrant workers.

- ☑ ***Distribute practical information and links to service providers to migrant workers***, starting from the beginning of the migration process in source countries, to reduce the prevalence of workers entering into work already in debt bondage situations.
- ☑ ***Distribute practical information and tools to vessel owners and captains***, to reduce the prevalence of workers entering into work already in debt bondage situations. This may include updated information on the latest laws, policies, and procedures; model contracts and payslips in compliance with new laws and with buyer codes of conduct; and, guidance on and programs to adopt ethical recruitment practices.

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