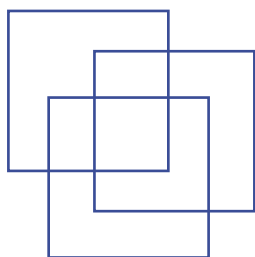


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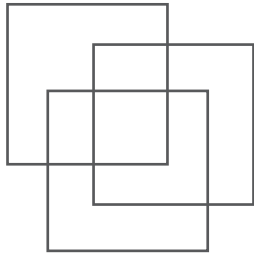
## Employment practices and working conditions in Thailand's fishing sector

ILO Tripartite Action to Protect the Rights of Migrant Workers within and from the Greater Mekong Subregion  
(GMS TRIANGLE project)

Asian Research Center for Migration, Institute of Asian Studies, Chulalongkorn University



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Fishing has long provided an essential livelihood for those living along Thailand's fertile coastlines. Over the past half century, the rapid industrialization of the fishing sector, and the Thai economy more broadly, has fundamentally changed the character of fishing work. However, the central importance of the sea to both the economic and social life of the nation remains. Every day, thousands of vessels ply the rich waters of the Gulf of Thailand, the Andaman Sea and beyond.

Globally, trade in fish products continues to reach record highs, and developing countries now contribute over half of the value of total exports. Within this expanding world market, Thailand has emerged as a major supplier, with the value of its fish exports reaching over US\$7 billion in recent years.

However, there are concerns regarding the sustainability of the fishing sector in Thailand. As one of the most heavily fished regions in the world, depletion of fisheries resources poses a grave threat to the industry. Over-exploitation of fish stocks has contributed to a decline in the catch for the Thai fleet, while at the same time, the cost of operating a fishing vessel has risen.

These challenges to the sustainability and business models of the fishing sector have developed alongside dramatic changes to the composition of the sector's workforce. Shortages of Thai workers willing to work on fishing vessels, emerging simultaneously with expanding structural differences in population demographics and economic development between Thailand and its neighbouring countries, have transformed fishing crews to predominantly consist of migrant workers from Cambodia and Myanmar. Regulating the employment of these migrants aboard Thailand's fishing fleet has proven complex for authorities.

These factors have all contributed to the vulnerability of fishers, and there have been several reports of abuse and exploitation on board Thai fishing vessels in recent years. Cases of forced labour and trafficking reported in the media and through other channels have given rise to increasing pressure from the international community and buyers in major markets to strengthen regulation of the sector. However, the scale of the problem has been hard to assess due to the challenges of conducting research in this area, including the nature of fishing work and, in some cases, the clandestine means used to exploit fishers.

To increase the knowledge base on this important issue, the ILO's Tripartite Action to Protect the Rights of Migrant Workers within and from the Greater Mekong Subregion (the GMS TRIANGLE project) partnered with the Asian Research Center for Migration at Chulalongkorn University's Institute of Asian Studies to conduct a large-scale survey of employment practices and working conditions within the commercial fishing sector in four major port areas of Thailand. Carried out in close consultation with the Ministry of Labour, the Department of Fisheries, the National Fisheries Association of Thailand, the Thailand Overseas Fishing Association, and other relevant government and civil society stakeholders, the study benefitted greatly from strong support provided by the ILO's tripartite constituents.

Although more information is still needed on the employment and working conditions for fishers in Thailand, particularly on long-haul fishing vessels, the results of this study provide important indications of the way in which fishers are recruited, their conditions of work, and existence of patterns of exploitation and abuse. This increased understanding of the situation of workers employed in the fishing sector will help to formulate evidence-based

policy responses for reducing their vulnerability. The ILO continues to support such efforts through activities with government, employer and worker representatives in the industry, and is committed to improving employment and working conditions for fishers as well as preventing and eliminating all unacceptable forms of work. As senior policy makers in the Royal Thai Government have publicly stated, we must reinforce national and international cooperation in addressing these critical areas. It is important and must continue.



Maurizio Bussi  
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### Introduction

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The commercial fishing industry plays an important role in Thailand's social and economic development. Benefitting from a long and fertile coastal area stretching 2,700 km, Thailand's fishing sector experienced remarkable growth over the course of the last four decades due to the deployment of new fishing gear and technologies, expansion into new fishing grounds, improvements to fishing vessels, and development of facilities and infrastructure (Panjarat, 2008). In 1999, Thailand became the world's leading exporter of edible fisheries products (FAO, 2009). The total value of fish exports is ranked third globally after only China and Norway, constituting a US\$7 billion industry (FAO, 2012b, p. 71).

However, there are limitations in the regulation of the industry, because of a dated legislative framework, unclear and inadequate delineation of territorial jurisdictions, and insufficient resources and capacities for authorities to effectively carry out their mandates. As a result, the industry has over-exploited marine resources and has been implicated in widespread exploitation and abuse of workers, including forced labour and human trafficking.

Since the late 1980s, the industry has seen dramatic changes in the structure of employment and working conditions. The Thai workforce has been less attracted to work in the fishing sector due to a major natural disaster in 1989, declining profits (due to a sharp decrease in the Catch Per Unit of Effort (CPUE), as well as rising fuel costs) (Panjarat, 2008) and rising education levels. This gap in the labour market emerged simultaneously with expanding structural differences in population demographics and economic development between Thailand and its neighbours, transforming the fishing industry's labour force from exclusively Thai crews to primarily irregular migrant workers from Myanmar and Cambodia.

Even with its heavy reliance on undocumented migrant workers, Thailand's fishing industry has been unable to satisfy its demand for fishers. In 2008, the Federation of Thai Industries estimated a shortage of 10,000 workers in the fishing and fish processing industries (Mirror Foundation, 2011). In 2012, the National Fisheries Association of Thailand (NFAT) estimated that 50,000 fishers were required to address the shortages in the sector. With large profits to be made from seafood export markets and sizeable investments in vessels and equipment, boat owners do not want their boats sitting idly in port. Despite the reduced growth of the industry over the last decade due to smaller catch sizes and higher fuel prices, the demand for labour remains high. Meanwhile, there is an insufficient supply of workers willing to accept work on fishing boats because of the pay and working conditions. The shortage is a key factor leading to deceptive and coercive labour practices, and even forced labour and human trafficking within the sector.

The frequent reports of fishers being exploited in recruitment and employment has led to increased pressure from the international community, retailers and consumer groups to strengthen regulation of the sector. However, the true scale of the problem was unknown. Because of the challenges in conducting research in the fishing sector, most of the information collected has been from a small sample and qualitative in nature. Additional empirical data was required to obtain a broader understanding of recruitment and employment practices in the industry, and to put forward recommendations to address some of the vulnerabilities of fishers – in the areas of migration, recruitment and labour protection policies and practices.

To address this gap, the International Labour Organization (ILO) commissioned the Asian Research Center for Migration (ARCM) to conduct a large-scale quantitative survey of employment practices and working conditions within the commercial fishing sector in four coastal provinces of Thailand. The survey has been carried out in consultation with the Ministry of Labour, the Department of Fisheries, the NFAT, the Thailand Overseas Fishing Association (TOFA), and other relevant government departments and civil society organizations. The survey was conducted among

a stratified sample of almost 600 fishers employed on Thai boats fishing in national and international waters. The results were supplemented and triangulated with qualitative and quantitative data collected from key informant interviews, focus group discussions, and secondary sources.

Although the study was conducted among a substantial sample of fishers in Thailand, the results cannot be considered fully representative given their still relatively small size compared to the sector as a whole and the non-probability sampling methodology applied. In addition, as the sample was collected through interviewing fishers onshore, it does not fully capture the experience of fishers trapped in exploitive working conditions at sea where they are thought to be more prevalent. However, as the largest survey conducted on this subject to date, it does provide a number of valuable insights into the situation of fishers and the industry more broadly, from which the Royal Thai Government, employers' and workers' representatives can draw from in order to strengthen laws, policies and practices.

## Profile of fishers

---

Of the fishers surveyed, the vast majority were migrants. Cambodians made up the majority of respondents in Rayong and Songkhla provinces, and Myanmar migrants were the bulk of respondents in Ranong and Samut Sakhon provinces.

Government figures show that only a fraction of fishers have work permits or have entered the regularization process. Among the sample, only one of the migrant fishers reported having a work permit, and two-thirds had no documentation whatsoever or had obtained a local document which had no legal standing. The remainder reported having entered the regularization process.

Over 80 per cent of the respondents were short-haul fishers (at sea for less than one month), as long-haul fishers (at sea for more than one month) obviously spend less time on shore. Nearly two-thirds (63.7 per cent) of the short-haul fishers worked on purse seine net boats, and nearly half of the long-haul fishers worked on single or twin-trawlers.

For 87.8 per cent of the respondents, fishing was the first industry that they had worked in. The majority of fishers in the sample group (63.1 per cent) have at least one year of experience working in the industry, but over two-thirds of all fishers have been working for their current employer for less than a year.

## Recruitment of fishers

---

Approximately one-third of the migrant fishers surveyed were recruited into the industry by brokers who charged for their transfer and placement with employers. Although the majority of fishers voluntarily enter these arrangements with brokers, they frequently find themselves in situations where they are unable to leave as a result of a debt incurred. Nearly a quarter of those who used a broker were having their wages deducted to pay this fee, and many of those who reported to have paid their broker up front had in fact secured a loan either from their employer, broker or family.

The survey examined whether fishers entered the sector voluntarily. While most of those surveyed did enter voluntarily, 5.4 per cent stated that they were deceived or coerced to enter this work against their will. This problem was especially pronounced among long-haul fishers, with nearly one in six of the long-haul fishers surveyed (16 per cent) stating that they did not willingly decide to work on a fishing vessel.

Of the 32 respondents who did not make the decision to work in fishing, 17 workers stated that they were "deceived or forced to work by the agents from the country of origin"; nine workers stated that they were "deceived or forced to work by the agents from Thailand" and six workers stated that they were "forced by relatives or family".

## Employment practices and working conditions for fishers

---

The conditions in which the surveyed fishers were working were found to be in violation of Thai labour legislation and regulations, and not in line with international standards established in the ILO Work in Fishing Convention, 2007 (No. 188). The vast majority of the respondents were migrants in an irregular situation, which certainly contributed to their willingness to accept poorer conditions, and added to their vulnerability to exploitation.

The Ministerial Regulation No. 10 on Sea Fisheries Work (1998) requires employers to keep a list of crew, their tasks on board and the terms of their remuneration. Upon receiving payment, the fishers should sign this document as evidence. Nearly 94 per cent of fishers surveyed had not signed a contract with their employer before beginning work. Instead, verbal agreements were made, which leave little recourse for legal accountability in disputes over pay and working conditions.

The nature of fishing requires long working hours, and Ministerial Regulation No. 10 on Sea Fisheries Work does not place limits on working hours or require set periods of rest. Nearly 28 per cent of respondents stated that they worked 17–24 hours per day and approximately 41 per cent said that they did not have set working hours. Nearly three-fourths (73.7 per cent) felt they had enough time to rest; and 26.3 per cent said they did not have adequate rest. However, the excessive hours reported (which often include the time it takes to travel to the fishing grounds) can lead to fatigue which increases the risk of accidents. ILO Convention No. 188 requires that “fishers are given regular periods of rest of sufficient length to ensure safety and health” (ILO, 2007, p. 12).

Payment methods within the sample were found to be roughly equally split between those who received a share of the catch as remuneration and those who received a monthly salary in addition to a share of the catch. Compensation varied broadly, with the average salary reported by fishers approximately 6,480 Thai baht (THB) per month. Based on anecdotal accounts, the average salary among migrant fishers (THB5,883) is on par with the earnings of migrant workers in other sectors of the Thai labour market. Although fishers are not covered by the minimum wage provision, for comparison, the minimum wage in the four provinces during the study period was between THB246 and THB300 per day.

Over 42 per cent of the fishers surveyed were subjected to deductions from their wages for various reasons. Approximately 40 per cent of those subjected to deductions were not aware of why they were being made. The lack of a written employment contract, means that such deductions are frequently handled in an opaque manner. In addition, there have been cases reported through other sources of workers not being paid a wage at all, and instead of seeking compensation for work carried out, preferring to leave the employer to either find alternative employment or return home.

Ministerial Regulation No. 10 prohibits children under 16 to work in fishing, although those aged 15 can work with a guardian or with the permission of their guardian. The survey found 33 children under the age of 18 working on Thai fishing vessels, of which seven were under the age of 15. Limitations on the efficacy of labour inspections have hampered progress in addressing child labour in the fishing sector. Furthermore, there has been no assessment to determine the type of work on board a fishing vessel which should not be carried out by workers under 18 years of age, according to the Minimum Age Convention, 1973 (No. 138) and the ILO Worst Forms of Child Labour Convention, 1995 (No. 182), which have been ratified by Thailand in 2004 and 2001 respectively.

On workplace health and safety, 21 per cent of sample respondents had experienced an on-the-job accident requiring medical attention at a clinic or hospital; and 72 per cent of respondents were able to confirm that there was first aid equipment available on the boat. ILO Convention No. 188 requires that all fishing boats carry medical equipment and have at least one person on board trained in first aid.

The provision of social welfare benefits to the surveyed fishers was mostly at the discretion of boat owners because of the prevalence of irregular migrant workers and gaps in the legal framework. As a result, 78 per cent of fishers were not receiving benefits, and even among Thai fishers, a full two-thirds were not receiving benefits.

## **Deceptive and coercive labour practices in the fishing sector**

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Forced labour is work for which the person has not entered of his or her own free will and that is exacted under the threat of penalty. The ILO has identified a number of indicators of forced labour, which include several practices that are reportedly common within the Thai fishing sector. These include: labouring under conditions of restricted freedom of movement; retention of identity documents; threat of denunciation to the authorities; physical or psychological violence; debt bondage; illegal wage deductions; or, non-payment of wages.

While individual cases would need greater investigation before determining whether the situations meet the criteria in the ILO Forced Labour Convention, 1930 (No.29), ratified by Thailand in 1969, the study found that approximately 16.9 per cent of the fishers surveyed identified themselves as being unable to leave their work for threat of penalty. The situation of these respondents can be split into two groups: those who could not leave the work because of a financial penalty (12 per cent), and those who could not leave for other reasons, including the threat of violence or threat of denunciation to the authorities (4.9 per cent). This threat of violence is very real: within the survey sample, over ten per cent of fishers reported that they had been severely beaten on board, though not necessarily by the current employer.

In order to determine the extent to which the respondents who indicated a “financial penalty” were suffering severe labour exploitation, additional analysis was carried out on their working conditions. For the 12 per cent of respondents that indicated they could not leave because of a financial penalty, certain working conditions were not dissimilar from the group that did not identify themselves as victims of coercive labour practices. Working conditions for the 4.9 per cent that could not leave for other reasons were found to be much worse and consistent with severe labour exploitation.

The majority of the respondents who reported working in the sector against their will were from Myanmar, few were Cambodian and none were Thai. Conditions of forced labour were more prevalent on long-haul fishing boats compared with short-haul boats, with nearly 25 per cent of long-haul fishers surveyed subject to deceptive or coercive labour practices. These long-haul fishers trapped in forced labour situations were more likely to have been employed through deceptive recruitment practices, whereas short-haul fishers were more likely to be forced to work by the threat of financial repercussions. Physical inability to escape means that forced labour practices on board deep-sea ships, which remain at sea for months or years at a time, are more overt and of increased severity.

## **Labour protection for fishers**

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The study findings indicate the inadequate protection available to fishers, and in particular to migrant fishers. Only 5.2 per cent of fishers surveyed filed a grievance of any sort, and most directly engaged with their employer or approached non-government organisations (NGOs), rather than complain to government authorities. As irregular migrant workers, the barriers to accessing justice through labour authorities are self-evident, leaving few channels for legal redress.

When asked why they did not complain, 61.7 per cent of the fishers said that they had not experienced any serious rights violation – which, given the findings on working conditions, suggests a limited understanding among fishers about what their labour rights are. An additional 21.3 per cent did not complain for other reasons: they feared retribution for raising complaints, were sceptical about the authorities' ability to respond, or were unaware of how to make a complaint.



A majority of the fishers interviewed – nearly 51 per cent – were interested in organizing in a labour union. There are no reports of any unions existing in the Thai fishing sector, and even if there were, the restrictions in the law would make it difficult for them to truly represent the interests of the largely migrant workforce.<sup>1</sup>

In general, labour protection for migrant fishers was found to be inaccessible and inadequately understood by fishers themselves. While a legal framework for these protections has been established in Thailand under the Labour Protection Act and Ministerial Regulation No. 10, mainly because of the predominance of irregular migrants in the industry, even these limited labour rights are often out of reach for many fishers.

Interviews with officials, employers and civil society groups indicated that challenges in improving protection for fishers lie in the limited coordination and cooperation among government agencies; shortages of personnel, resources and capacity to carry out their responsibilities; and the high number of irregular migrants in commercial fisheries, which adds to their vulnerability. To overcome such challenges, there have been efforts to revise Ministerial Regulation No. 10 on Sea Fisheries Work; to establish Labour Coordination Centers for the Fishing Sector to eliminate the role of brokers, increase the proportion of migrant fishers with regular status, deliver training and receive complaints; and build the capacity of labour inspectors, fishing vessel owners and captains, and the fisher themselves.

## Recommendations

Taking into account the fundamental rights at work to be found in international labour conventions ratified by Thailand, most notably Conventions No. 29 (forced labour), No. 100 (equal remuneration), No. 105 (forced labour), No. 111 (discrimination), No. 138 (minimum age) and No. 183 (worst forms of child labour), as well as recent initiatives aimed at accelerating the ratification of Convention No. 87 (freedom of association) and No. 98 (right to organize and bargain collectively), it is recommended that the Thai Government draw on the standards in the ILO Convention on Work in Fishing, 2007 (No. 188) in its review of Ministerial Regulation No. 10 on Sea Fisheries Work and broader efforts to improve employment practices and working conditions for fishers. The process of strengthening policy and implementation of standards in the sector should also include consultation with a broad range of government departments, employers' and workers' organizations and civil society organizations to ensure greater support and compliance for the reforms enacted.

Priority areas of concern regarding recruitment practices and employment conditions within the fishing sector include:

1. Setting and enforcing standards around the maintenance of crew lists, clarity of payment systems (including regularity of pay), and minimum rest hours.
2. Establishing clear requirements for the document that outlines fishers' name, duties and pay; and that each fisher must be provided with a written work agreement.
3. Developing model work agreements that can be provided to fishers in their native languages.
4. Developing guidelines for conducting effective and regular labour inspection, both while on shore and while at sea.
5. Assessing the type of work on board a fishing vessel which is likely to jeopardize the health, safety or morals of young persons.

<sup>1</sup> Thai labour laws specifically prohibit migrants from forming their own unions although they are allowed to join Thai unions as long as they do not take leadership roles.

6. Engaging industry associations in the development of policy and legislation, in the regulation of recruitment and employment practices, and in the delivery of training and provision of information.
7. Drafting new legislation to regulate the recruitment of inbound migrant workers.
8. Exploring options for migrant registration that take into account the high mobility within the sector, as well as allowing more migrant fishers to change employers without losing their legal status.
9. Improving the design of fishing boats to allow for more modern fishing gear, to reduce the number of crew required, and to address concerns related to occupational safety and health (OSH), accommodation and sanitation.
10. Promoting OSH training and improving the reporting of accidents on board to strengthen protections for fishers.
11. Making complaints mechanisms more available to fishers, including irregular migrants.
12. Allowing space for fishers to form associations that represent their interests and can negotiate with employers.
13. Cooperating with countries of origin to improve access to safe migration information and legal migration channels.
14. Cooperating with countries in whose waters Thai vessels are fishing, in the ASEAN region and beyond, including the sharing of information on vessels and crews, the inspection of vessels, and the rescue and return of trafficked and stranded fishers.
15. Advocating for and monitoring of stricter regulatory standards to prevent and eliminate forced labour and other unacceptable forms of work in supply chains by buyers sourcing their seafood products from Thailand.

## Acronyms and Abbreviations

<b>ARCM</b>	Asian Research Center for Migration
<b>CEACR</b>	Committee of Experts on the Application of Conventions and Recommendations
<b>COI</b>	Certificate of Identity
<b>CPUE</b>	Catch Per Unit of Effort
<b>DOE</b>	Department of Employment
<b>DLPW</b>	Department of Labour Protection and Welfare
<b>EEZ</b>	Exclusive Economic Zone
<b>EU</b>	European Union
<b>FAO</b>	Food and Agriculture Organization of the United Nations
<b>FAR</b>	Foundation for AIDS Rights
<b>GMS</b>	Greater Mekong Subregion
<b>ILO</b>	International Labour Organization
<b>IOM</b>	International Organization for Migration
<b>IUU</b>	Illegal, Unreported, Unregulated
<b>LPN</b>	Labour Rights Promotion Network Foundation
<b>MOU</b>	Memorandum of Understanding
<b>NFAT</b>	National Fisheries Association of Thailand
<b>NGO</b>	Non-Governmental Organization
<b>OSH</b>	Occupational Safety and Health
<b>PrEA</b>	Private Employment Agency
<b>SAP-FL</b>	ILO Special Action Programme to Combat Forced Labour
<b>SEAFDEC</b>	Southeast Asian Fisheries Development Center
<b>TRIANGLE</b>	ILO Tripartite Action to Protect Migrant Workers from Labour Exploitation
<b>TOFA</b>	Thailand Overseas Fishing Association
<b>UNCLOS</b>	United Nations Law of the Sea Convention
<b>UNIAP</b>	United Nations Inter-Agency Project on Human Trafficking
<b>WVF</b>	World Vision Foundation



This chapter introduces the study, provides the objectives of the research and the details of the research methodology. In addition, some of the key terms used throughout the study are defined.

### 1.1 Background

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Over the past four decades, Thailand has established itself as one of the top fish producing nations in the world. In the 1970s and 1980s there was a rapid modernization and industrialization of the fleet. More recently, there has been a significant decline in the catch due to overfishing, and an increase in the costs of operating a fishing vessel because of higher fuel prices. As a result of these and other factors, the sector has seen dramatic changes in the workforce and working conditions. A number of reports have emerged in recent years indicating grueling and exploitative working conditions for fishers.

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) adopted an observation in 2012 on the application of the ILO Forced Labour Convention, 1930 (No. 29) in Thailand, highlighting the vulnerability of migrant workers, and in particular fishers, to forced labour and trafficking. The observation referred to several reports, from the United Nations Special Rapporteur on the human rights of migrants, presented at the 17th Session of the UN Human Rights Council on 17 May 2011, and a study by the International Organization for Migration (IOM) on the trafficking of fishermen in Thailand. In addition, a number of reports in the media, by civil society organizations, and the U.S. Trafficking in Persons Report have drawn attention to the situation of workers in Thailand's fishing industry.

The IOM report found that fishers in Thailand are often expected to work 18–20 hours per day, seven days per week. The living quarters are cramped and there are shortages of drinking water. Those who do not live up to the expectations of the captain may receive physical abuse, denial of necessary medical care, and even maiming or death in some cases (Robertson, 2011). It is common, even in less clear-cut situations of exploitation, for migrant fishers to perceive themselves as being unable to walk away from a particular job due to accrued debts, fear of abuse from the captain, and/or the fact that they are at sea far from the shore (Solidarity Center, 2009). The Mirror Foundation, a local Thai NGO, found that trafficking and forced labour of Thai nationals is also occurring, with internal migrant workers coerced or deceived into working on fishing boats for months and even years (Mirror Foundation, 2011).

While the scale of these problems is thought to be significant and has led to pressure from the civil society and the international community to strengthen the regulation of the sector, the majority of the research conducted on working conditions has been qualitative in nature. Additional empirical research was required to obtain a deeper understanding of how both Thai and migrant fishers are recruited into the industry, the working conditions they experience at sea, and the support services available to them.

### 1.2 Objectives of the research

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With the objective of providing a stronger evidence base for labour policies and legislation and for developing measures to improve implementation and enforcement, the International Labour Organization (ILO) commissioned the Asian Research Center for Migration (ARCM) to conduct a large-scale quantitative survey of working conditions and employment practices within the commercial fishing sector in four coastal provinces of Thailand. Carried out in cooperation with representatives from various government departments, industry bodies and civil society organizations, the survey documented a stratified sample of almost 600 fishers employed on Thai commercial fishing boats in domestic and international waters. The results were supplemented and triangulated with qualitative and quantitative data collected from key informant interviews, focus group discussions, and secondary sources.

The specific objectives of the survey were to strengthen the knowledge base on conditions in Thailand's commercial fishing sector, in order to better inform policy and practical responses. This was to be achieved through the following means:

1. Quantitative study of the recruitment, employment, and working conditions of fishers;
2. In-depth interviews with fishers, industry actors, authorities from various departments, NGOs, etc.;
3. Review of previous studies and existing information; and
4. Preparation of 'text boxes' on specific themes and case studies to provide additional context to the situation of fishers.

## 1.3 Methodology

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This study on employment and working conditions in Thailand's commercial fishing sector involved a combination of quantitative and qualitative approaches. For quantitative data collection, the researchers designed a questionnaire for fishers and then held consultative meetings before collecting data to acquire suggestions from the International Labour Organization (ILO), the Department of Employment and the Department of Labour Protection and Welfare at the Ministry of Labour, the Department of Fisheries at the Ministry of Agriculture and Agricultural Cooperatives, the Marine Department at the Ministry of Transport, the National Fisheries Association of Thailand (NFAT), the Thai Overseas Fisheries Association (TOFA), the Samut Sakhon Provincial Labour Protection and Welfare Office, and other non-governmental organizations (NGOs) such as the Labour Rights Promotion Network Foundation (LPN) and the Mirror Foundation.

The researchers subsequently amended the questionnaire and conducted a pre-test in Samut Sakhon Province using 30 copies of the questionnaire to determine whether there were any questions interviewees were unable to answer or found unclear. The questionnaire was then finalized. For the qualitative research approach, the researchers designed the questions for key informant interviews with officers from relevant agencies.

After the survey was completed, the quantitative data was analyzed using the SPSS programme for cross tabulation of variables. Qualitative data obtained from key informant interviews was analyzed through the observer impression interpretive technique. A synthesis of the data was made for triangulation and further clarification of quantitative data.

The research team also reviewed case studies and research conducted by the National Fisheries Association of Thailand (NFAT), the International Organization for Migration (IOM), the United Nations Inter-Agency Project on Human Trafficking (UNIAP), Johns Hopkins University, the Mirror Foundation, LPN and the Solidarity Center.

While the sample covered 596 fishers, it cannot be said to be representative of the fishing industry as a whole. The ILO and partners set a number of criteria on the sample, including requirements on the fishers' nationality, the province in which they worked, and the length of time they spent at sea. Moreover, for practical reasons the sample population was interviewed on shore, often at the pier, whereas it is thought that those fishers in the most exploitative situations are often kept out at sea.

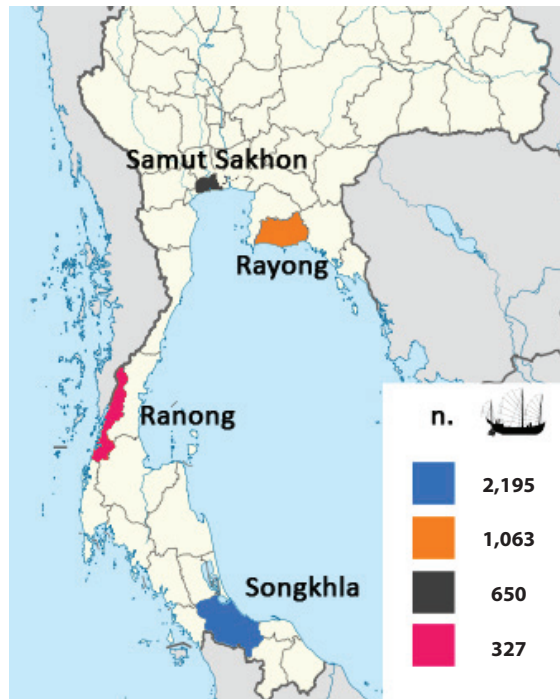
The research was conducted in accordance with the Chulalongkorn University Ethical Guidelines for Research on Vulnerable Groups, and the research approach and results were reviewed by ILO staff. Individual research subjects were informed of the researchers' affiliations, as well as the objectives of the research project, and were asked to give consent for their participation.

### 1.3.1 Areas of study

For the data collection process of this research, researchers conducted field studies in four provinces: Samut Sakhon; Rayong; Ranong; and Songkhla.

The research team chose Songkhla and Rayong for the study because of the high number of registered fishing vessels in each province (2,195 and 1,063 respectively in 2010) and for their geographical spread, which influences the nationality of workers on those fishing vessels. Several provinces have more registered fishing vessels than Ranong and Samut Sakhon (Table 1.1), but the two provinces have a high proportion of migrant workers. The site selections were determined based on consultations with the ILO, NFAT and TOFA.

**Figure 1.1 Fishing boats registered in study provinces**



Source: Department of Fisheries (2010)

As there is no set time for fishers to be on shore, and because many can be out at sea for months at a time, researchers employed a strategy of flexibility when collecting data in the field. Data was collected at fish markets, in deep-sea ports, on fishing boats, at fishery workers' communities, and along piers where fishing boats were docked.

**Table 1.1 Number of fishing boats registered by province 2009–2010**

Province	2009	2010
<b>Total</b>	<b>16 891</b>	<b>15 381</b>
Bangkok metropolis	80	121
Chachoengsao	95	142
Chanthaburi	238	231
Chonburi	548	517
Chumphon	1 253	1 310
Krabi	416	430
Nakhon Si Thammarat	830	802
Narathiwat	804	104
Pattani	1 262	832
Phangnga	566	604
Phetchaburi	531	520
Phuket	846	285
Prachuap Khiri Khan	1 060	1 235
Ranong	218	327
Rayong	704	1 063
Samut Prakan	624	672
Samut Sakhon	591	650
Samut Songkhram	722	815
Satun	388	729
Songkhla	2 313	2 195
Surat Thani	317	519
Trang	1343	347
Trat	1 108	874
Other provinces	34	57

Source: Department of Fisheries (2010)

### 1.3.2 Population and sample size

The total population of fishers is unknown as there is no comprehensive registration system. There are figures for workers registered with the Marine Department and those registered for work permits, but many migrants do not go through these registration processes. In 1995, a research study estimated that there were approximately 150,000 fishers and 54,000 fishing boats (Boonchuwong and Dechboon, 2000, p.29, cited in Martin, 2003, p.41). Nevertheless, the total number of the workers had declined by 2001 to 130,000 workers. In 2012, ARCM estimated that only 100,000 remained in the occupation. In May 2012, NFAT conducted a survey from among its members, which led to an estimate of 142,845 fishers employed on 9,523 boats owned by 5,560 boat owners. This figure reflects both registered and unregistered migrant workers employed in the sector, providing a working estimate of the base population, although it is understood to be founded upon imperfect data. For example, not all vessel owners are registered with the fisheries associations.

The sample group is composed of fishers of the three nationalities that predominate within the sector: Thai, Myanmar and Cambodian. These individuals were selected by stratified, multi-stage accidental sampling. The procedure of defining the sample group is as follows:

**Step 1** Discussions were held with experts from the ILO and representatives from TOFA and NFAT to estimate the number of fishers in various provinces, which led to the selection of the study provinces of Ranong, Songkhla, Rayong, and Samut Sakhon as already described.



**Step 2** Statistical methods were applied to the number of legally registered fishers in each province to estimate the number of unregistered fishers in the sample areas. This estimation drew from estimates of unregistered workers provided by NGOs who work closely with workers in each province. The resulting estimates were used to determine the proportion of workers that should be surveyed in each province.

**Step 3** The researchers determined the appropriate total sample size for conducting the research by using the methodology of Taro Yamane (1973, p. 886), which prescribes a sample of 400–625 persons for a population of 100,000 individuals. Combined with the proportions determined in Step 2, the researchers determined the number of fishers to survey in each province, as shown in Table 1.2 below.

**Table 1.2 Estimation of the population of fishers used to determine the sample size**

Population	Thailand	Rayong	Samut Sakhon	Ranong	Songkhla
Estimation of fishers*	100 000	NA	NA	NA	NA
Registered migrant fishers in 2011**	41 128	3 371	3 960	1 487	1 576
Estimation of unregistered migrant fishers***	NA	30 000	3 000-3 500	4 000-6 000	7 000
The size of sample groups for the 4 provinces of the research****	596	187	175	132	102

\*Source: Boonchuwong and Dechboon, 2000, page 29, and ARCM estimation

\*\*Source: Department of Employment and the Ranong, Samut Sakhon, Rayong, and Songkhla provincial employment offices

\*\*\*Source: Derived from information provided by the Foundation of AIDS Rights (FAR), World Vision, and LPN

\*\*\*\*The margin of error for the study is approximately 4 per cent

**Step 4** From the sample of 596 individuals in four provinces, the research team conducted the selection to include three nationalities of fishing boat workers (Thai, Myanmar and Cambodian). The workers were sampled in proportion to size of the total population by nationality in the occupation (Table 1.3).

**Table 1.3 Sample size by nationality and province (n=596)**

Province	Thai	Cambodian	Myanmar	Total
Ranong	0	0	132	132
Songkhla	5	67	30	102
Rayong	8	173	6	187
Samut Sakhon	36	1	138	175
Total	49	241	306	596

**Step 5** Because this study needed to include workers from both short-haul (at sea for less than a month) and long-haul (at sea for over one month) fishing boats, the research team chose the sample from both types of workers. This resulted in 490 short-haul and 106 long-haul fishing boat workers (Table 1.4).

**Table 1.4 Sample size by nationality and length of time at sea (n=596)**

Length of time at sea	Thai	Cambodian	Myanmar	Total
Short haul (at sea for less than one month per trip)	31	206	253	490
Long haul (at sea for over one month per trip)	18	35	53	106
Total	49	241	306	596

### 1.3.3 Data collection process

Two methodologies were used for data collection: Researcher administered survey of fishers; and key informant interviews with the staff of government agencies, fisheries associations and NGOs. The details are as follows:

**Researcher administered survey:** The researchers used standardised questionnaires meant to elicit details about the following:

- Part 1 - Basic information on fishing industry workers;
- Part 2 - The recruitment process;
- Part 3 - Employment and working conditions on the fishing boats;
- Part 4 - Complaint channels and legal protections.

Because many fishers, particularly those on long-haul fishing boats, would be away at sea for extended periods of time and often do not have regular schedules for being ashore, it increased the difficulty of locating migrant fishers to survey. To alleviate this difficulty, the researchers were assisted by agencies and organizations in each province that had connections to the local fishing industry.

The researchers interviewed migrant workers from Myanmar and Cambodia through interpreters arranged by local NGOs. Prior to conducting any interviews in the field, the interpreters received training to ensure that they understood the content contained in the survey questionnaire.

**Key informant interviews:** The researchers designed questions for agencies and organizations relevant to the fishing industry in the four targeted provinces as follows:

- State officials - Interview questions addressed topics such as relevant laws; opinions on the policies and performance of their agencies; recommendations for improving and solving problems of recruitment, welfare, and protection; limitations and obstacles faced by state officials in implementing government policy; the role of state officials; and solutions to the problem of deception and exploitation by brokers.
- Fisheries association officers - Interview questions addressed such topics as opinions and perspectives on the work conducted by the national and provincial fisheries associations; recommendations for improving and solving problems of recruitment, welfare, and protection; limitations and obstacles faced by the associations; the role of the associations; and solutions for dealing with existing cooperation problems between the public and the private sectors.
- NGO officers - Interview questions addressed such topics as opinions and perspectives of the work conducted by each NGO; recommendations for improving and solving problems of recruitment, welfare, and protection; the limitations and obstacles faced by NGO officers in performing their work; the role of state agencies; and the solutions to dealing with the existing problems with the cooperation with the state agencies, the National Fisheries Association and employers in the fishing sector.

### 1.3.4 The period of data collection

Surveys and interviews for the study were carried out from May to September 2012.

### 1.3.5 Limitations of the study

1. Fishers tend to work under specific weather conditions and during periods of time dictated by the type of vessel upon which they work or by the preferred fishing methods of owners or boat captains. Thus, there is no specific period during which fishers are to be found ashore. Consequently, the researchers were not able to stick to a predetermined, regular schedule for data collection, as such a schedule was unable to take such variables as the weather into account. For example, the researchers had to go to the field on evenings with a full moon to collect data, when many vessels would not be at sea. Therefore, the schedule for data collection in each province varied according to local conditions.
2. Because many fishers are unregistered migrant workers, it was difficult for the researchers to approach these workers. The researchers had to rely heavily upon cooperation with officers of the fisheries associations and NGOs to assist with the data collection.
3. The majority of fishers interviewed work on short-haul fishing boats. It proved difficult to interview those on long-haul fishing boats and those who work outside Thai waters, as their schedules for returning to shore are uncertain and less frequent. Their fishing periods can last many months or even years. Moreover, when these boats do reach shore, officials will not necessarily be notified, as these boats are not always members of Thailand Overseas Fishing Association (TOFA) or NFAT. A strong case has been made that those at sea for long period are more likely to be in exploitative working conditions because of their limited interaction with others, and limited opportunities to complain or escape. The situation of these fishers is incompletely captured by the study.
4. The sample collected, despite being the largest quantitative study on the subject to date, is still too small to lead to representative conclusions as could be derived from a national survey. The case studies included are likewise not intended for extrapolation of the conditions for fishers throughout the sector, but rather highlight some of the worst case scenarios. The research results do, however, give important indications about the existence of deceptive and coercive recruitment practices, poor working conditions, unfair employment practices, and forced and child labour. They also provide detailed information about the process, conditions and consequences for workers in these situations, which could help to direct further research on this subject and formulate evidence-based policy responses.

## 1.4 Definition of key terms for the purpose of the study

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- **Fisher** means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers (ILO Convention No. 188, Article 1 on Definitions and Scope).
- **Crew:**
  - o **Boat captain/skipper:** the fisher having command of a fishing vessel (ILO Convention No. 188, Article 1 on Definitions and Scope). The skipper provides instructions on the route, estimates of the catch, and management of the boat workers and crew.
  - o **Chief of crew (chiew):** This person oversees the crew and crew supervisors as directed by the captain. This person is often a migrant and an experienced fisher, who can communicate with the crew, assist in the recruitment of fishers and sometimes issue payment to crew on behalf of the captain.

- o **Steersman:** This person has responsibility for controlling the direction of the boat as directed by the captain.
- o **Mechanic:** This person is responsible for maintaining and repairing motors, equipment, or machinery. This includes preparation of tools or parts not directly related to fishing operations.
- o **Cook:** The chef prepares the meals on the boat and procures the necessary foodstuffs.
- o **Deckhand:** A person who does the basic tasks on the boat, e.g., drawing fishing nets, sorting fish, repairing fishing nets.
- o **Senior crew:** For the purposes of this report, the term "senior crew" refers to all of the aforementioned members of the crew except for the general crew members. This refers therefore to positions aboard ship that involve management (e.g., the captain) or the possession of special skills (e.g., the mechanic).
- **Migrant worker** refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national (Article 2 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)).
- **Tor Ror 38/1:** A special civil registration form giving migrants permission to stay temporarily in Thailand, administered by the Department of Provincial Administration, Ministry of Interior.
- **Work permit holder:** A foreigner who has been granted a permit to work legally in Thailand (Alien Employment Act B.E. 2551 (2008)).
- **Forced labour** is work for which the person has not entered of his or her own free will and that is exacted under the threat of penalty. This threat of penalty, or coercion, may occur during recruitment and result in the individual being forced to accept a job. Or, it can occur once the person is working as a means of forcing a worker to perform tasks that were not initially agreed upon.
- **Trafficking:** Under Thai law, trafficking in persons is defined as procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harbouring, or receiving any person, by means of the threat or use of force, abduction, fraud, deception, abuse of power, or of the giving money or benefits to achieve the consent of a person having control over another person in allowing the offender to exploit the person under his control, for the purpose of exploitation.
- **Debt bondage:** When one is working to pay off a debt, but the value of a worker's services as reasonably assessed is not applied towards the liquidation of the debt, or the length and nature of those services are not respectively limited and defined. From an ILO perspective, the fundamental principle on forced labour prohibits a person to exclusively tie in the service performance of another person through a variety of methods, including through debt.
- **Child labour:** Children under the age of 15 years in employment.
- **Young workers:** Children aged 15 to 17 years in employment.
- **Light work** is work that can be assigned to youths 12–14 years old and which must not exceed 14 hours per week (or a limit specified by law in the country). Light work includes work that poses no health or development risk to the youth and does not interfere with the youth's education or vocational training. If the work becomes heavy or exceeds the hours per week limit, then the work is considered a violation of child labour law. Light work details are specified in the Minimum Age Convention, 1979 (No. 138), Article 7.
- **Benefits** means either direct benefits in the form of care or indirect benefits consisting of a reimbursement of the expenses borne by the person concerned (ILO Social Security (Minimum Standards) Convention, 1952 (No. 102)). Benefits may include child and family benefits, sickness and health-care benefits, maternity benefits, disability benefits, old-age benefits, survivors' benefits, unemployment benefits and employment

guarantees, and employment injury benefits as well as any other social benefits in cash or kind (ILO Social Protection Floors Recommendation, 2012 (No. 202)).

- **Short-haul fishing** refers to fishing operations that do not last more than one month per trip, and usually stay in Thai waters. These operations are sometimes referred to as coastal fishing, although those vessels at sea for up to one month are not necessarily in coastal areas.<sup>2</sup>
- **Long-haul fishing** refers to fishing operations that last for more than one month per trip, and may include fishing outside Thai territorial waters. These operations are sometimes referred to as deep-sea fishing.<sup>3</sup>
- **Purse-seiners** are vessels that only operate during the night. The skipper uses a sounder/sonar to search for schools of fish. When the fish are found, the vessel encircles them with the net which is closed from underneath the fish and hauled on board. Fish are stored in the fish hold and covered with ice. In general, the skipper will set the net 3-4 times per night.
- **Trawlers** are fishing boats that operate during the day and at night. The trawl net is lowered into water and hauled for 4-6 hours and then is pulled back onboard, after which the fish are sorted. The net is repeatedly lowered into water. Commercial fish such as squid and cuttlefish, threadfin bream, big-eye, and lizard fish are selected and sorted. More than 50 per cent of the catch is trash fish (NFAT, 2012). Specially designed devices such as grids can also be used to select the size or species of the catch.
- **Squid-fishing boat** refers to a fishing vessel that uses square or circular nets placed in the water to trap the catch (e.g., squid or jellyfish), which are attracted by various methods, such as lighting or non-mechanical lures. These boats are officially considered lift-net boats (Department of Fisheries, Ministry of Agriculture and Agricultural Cooperatives).
- **Tour boats** refers to boats that transport food, supplies and fuel from the mainland to fishing boats at sea, and also remove the catch from the fishing boat for transport to market. The crew size is small, and these boats can purchase fish from other boats at sea.
- **Fishing gear** means machinery, instruments, accessories, component parts, arms, stakes, or vessels which are used in fishing operation (Fisheries Act B.E. 2490 (1947)).
- **Fishmeal** is protein-rich meal derived from processing whole fish (usually small pelagic fish, and by-catch) as well as residues and by-products from fish processing plants (fish offal). It is mainly used as agriculture feeds for poultry, pigs and aquaculture feeds for carnivorous aquatic species (FAO Fisheries Glossary).

<sup>2</sup> This definition was developed for purpose of this survey, as the length of time at sea, rather than the type of fishing vessel was identified as a key criterion in the vulnerability of fishers. This definition was agreed upon at a multi-stakeholder consultation to design the research methodology and questionnaire for this study in March 2012.

<sup>3</sup> Ibid.

## Chapter 2 – Situation Analysis of Thailand’s Fishing Sector

This chapter provides an overview of how the Thai fishing sector has developed over the years, and how the workforce has changed. The reports of labour rights violations, forced labour and trafficking in fishing is addressed, and an overview is provided of the legal and institutional framework that has been established to regulate the industry and ensure the protection of fishers.

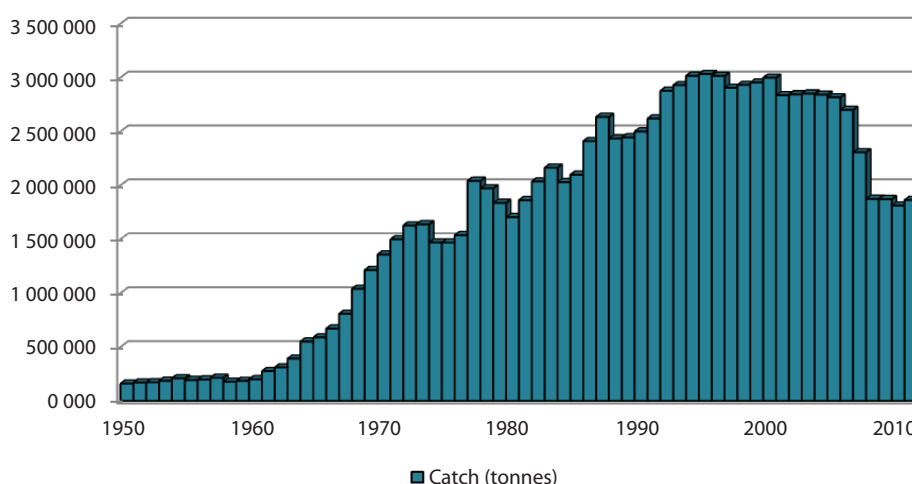
### 2.1 Modernization of the fishing sector

The economic dynamism of Thailand’s fishing sector has not been the result of a consistent trend of expanding productivity or sustainable management of the industry. Rather, the history of commercial marine fisheries has followed a volatile boom-and-bust cycle as, one by one, fishing stocks were exploited in an often uncontrolled and unregulated manner (Morgan and Staples, 2006).

The expansion of marine production in Thailand is a relatively recent development. Prior to the early 1960s, Thailand’s marine fisheries were concentrated in nearby coastal areas and fishers primarily utilized traditional equipment, such as bamboo traps, a state which had remained largely unchanged for centuries (Panayotou and Jetanavancii, 1987). Thailand was still a net importing country for fish and its fleet remained oriented towards small-scale and subsistence fishing. With the introduction of trawl fishing via the Philippines under a joint Thai-German Government initiative, the industry changed dramatically. The trawl fishery of Thailand grew from just over 2,600 registered vessels in 1969 to over 11,000 in 1982 (Panayotou and Jetanavancii, 1987). The new approach was so successful that demersal stocks in the Gulf of Thailand were soon under strain, forcing expansion of the fleet’s fishing activities to other areas in the region and development of industrialized purse seine fishing. However, as with trawl fishing, purse seining was essentially unregulated, and by the 1970s, the small pelagic fish species being targeted had either been overexploited or had suffered significant price declines as a result of oversupply (Morgan and Staples, 2006).

During the 1970s, maximum exploitation of both demersal and pelagic fish appeared to have been reached in the Gulf of Thailand and the Andaman Sea (Federal Research Division, 1987). Then, in the latter part of the decade, tuna fishing emerged as a profitable fishery and soon followed this now-familiar pattern of expansion, over-fishing, and decline (Morgan and Staples, 2006). An increase in the shrimp catch also became a notable trend during this period, with shrimp exports becoming a major source of foreign exchange earnings for Thailand (Federal Research Division, 1987). Overall, the various segments of the marine fishing industry had become the economic backbone of many Thai coastal cities.

**Figure 2.1 Thailand global capture production**



Source: FAO (2013)

According to a World Fish Center expert, "The Thai fishing industry has gone through a textbook example of rapid modernization and industrialization of the fleet in the 1970s and 1980s, which led to overfishing" (Janofsky, 2012). Thailand's fishery exploitation capabilities, by the 1980s already comparable to those of a high-income country, far exceeded the resource management capabilities of the Thai Government. As a corollary, due to their technological sophistication, financial strength, and mobility, large-scale fishing operations became virtually immune to government regulation and management (Panayotou and Jetanavancii, 1987). While the use of certain kinds of fishing gear within 3 kilometres of the coast was banned, there appeared to be no restriction on trawl net mesh size, and this resulted in undersized commercial food fish being caught and dumped in with trash fish in the production of fishmeal (Federal Research Division, 1987). Inappropriate and incoherent policies were contributing to an accelerating decline in Thailand's fishery resources.

At the same time, other countries in the region began declaring national Exclusive Economic Zones (EEZs) under the UN Law of the Sea Convention (UNCLOS), which had a profound impact on the activities of the Thai fishing fleet within the region. Much of what had previously been considered international waters now fell under the jurisdictions of other countries in the region. But Thai fishing vessels often entered these EEZ without permission to fish, leading to numerous arrests of Thai trawlers in Viet Nam, Myanmar, the Philippines, Indonesia, and Malaysia. However, these arrests acted as no real deterrent because they represented only a tiny proportion of the Thai fleet, which responded to the increased regulation of fishing areas by investing in faster vessels, detection equipment, and weapons so as to avoid arrest. In addition, violent clashes between Thai trawlers and fishing vessels from Myanmar, Viet Nam, Indonesia, and other countries began occurring as a result of these illegal activities (Morgan and Staples, 2006).

In response, Thailand started entering into joint venture arrangements with countries within the region during the late 1990s to allow its fleet to fish legally in their EEZs. However, illegal, unreported, and unregulated (IUU) fishing in foreign waters has remained common. Such practices have been incentivized by the inability of Thai authorities to control the number of vessels fishing in their own territorial waters, which encourages Thai vessels to seek higher catches outside of their sovereign fishing grounds. IUU fishing and associated activities thus continue to pose a grave threat to national, regional, and international efforts to ensure the long-term sustainability of fisheries (FAO, 2012b).

With problems further exacerbated by damage caused by the 2004 tsunami, dramatic increases in fuel prices, and substantial declines in the fisheries resources of the Gulf of Thailand and Andaman Sea, the industry has reached a crossroads for sustaining the economic health of the sector. For the first time, Thailand faces the daunting challenge of managing its existing marine fisheries for long-term sustainability, rather than circumventing the issue by transferring its fleet to other available resources.

## 2.2 Geography, typology and scale of the fishing sector

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### 2.2.1 Geography of Thailand's fisheries

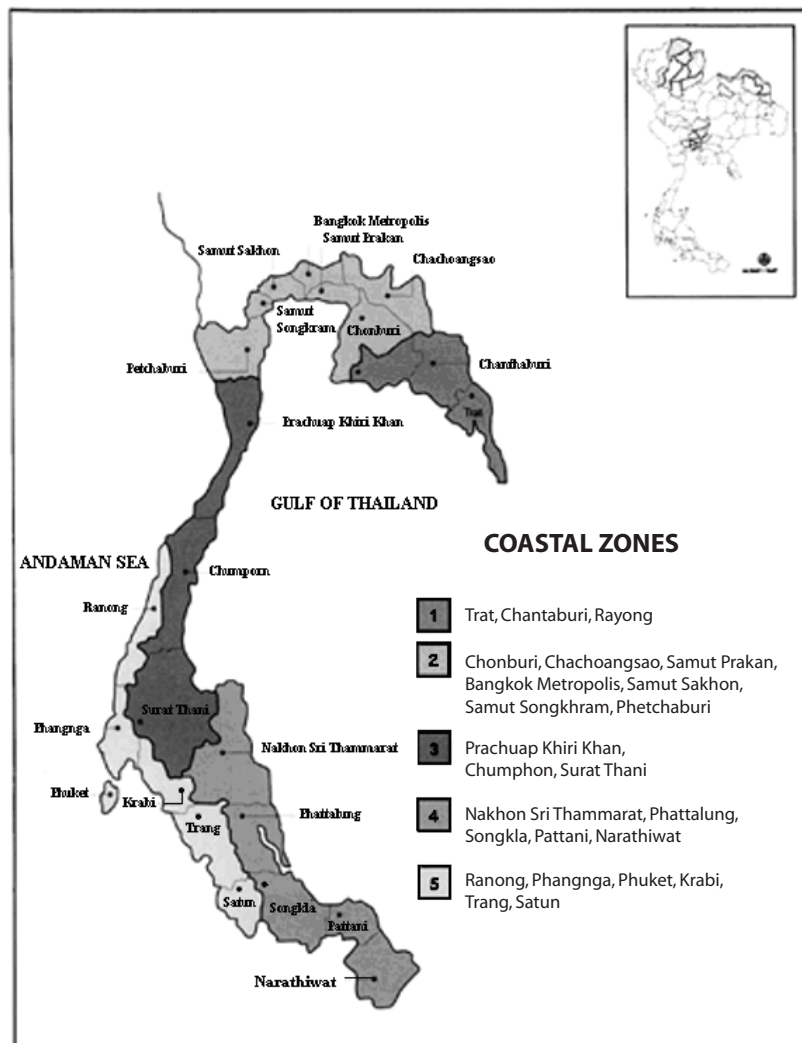
There are 23 coastal provinces surrounding the two main fishing areas of the Thai fleet: the Gulf of Thailand and the Andaman Sea. These are divided into five coastal fisheries administrative zones for purposes of fisheries resource management. These coastal zones provide fishing access to Thailand's EEZ, which covers a total area of 420,280 square kilometres, including overlapping territorial waters with Cambodia, Viet Nam, and Malaysia (Panjarat, 2008, p. 3).

It is estimated that 60 per cent of the Thai fleet's total marine catch comes from waters inside this EEZ, with 41 per cent sourced from the Gulf of Thailand and 19 per cent from the Andaman Sea. The remainder is caught in international waters outside of Thailand's fishing waters (FAO, 2009, p. 2). The sizeable catch obtained from international fishing grounds is explained both by the scale and sophistication of Thailand's fishing fleet, as well as intense competition and overexploitation of resources within its sovereign fishing waters. While arrests for fishing in violation of the EEZs of other coastal states have been on the decrease since 1996 because of stricter enforcement by States and joint fishing venture agreements, many Thai fishing vessels continue to transgress into the EEZs of other states in pursuit of larger catches. The situation is further complicated because of the above mentioned overlap with the

EEZs of its maritime neighbors, creating legitimate confusion among fishers as to where the borders of the EEZs have been delimited (Panjarat, 2008).

The largest ports in Thailand in terms of both quantity and value of catch are Songkhla, Pattani, Samut Sakhon, Nakorn Si Thammarat, and Trat (FAO, 2009, p. 2). However, there is considerable movement of ships between ports. Under the Fisheries Act, B.E. 2490 (1947), Thailand's fishing waters are managed as an open access resource, meaning that fishing boats are permitted to harvest and bring fish to port not only in the province in which their boat or gear is registered but throughout the EEZ. As a result, there is regular transfer of boats from one fishing area to another, as well as from the Gulf of Thailand to the Andaman Sea, particularly during periods of closure in the Gulf (Panjarat, 2008). These occur between February and May each year during egg-laying season in specific fishing areas.

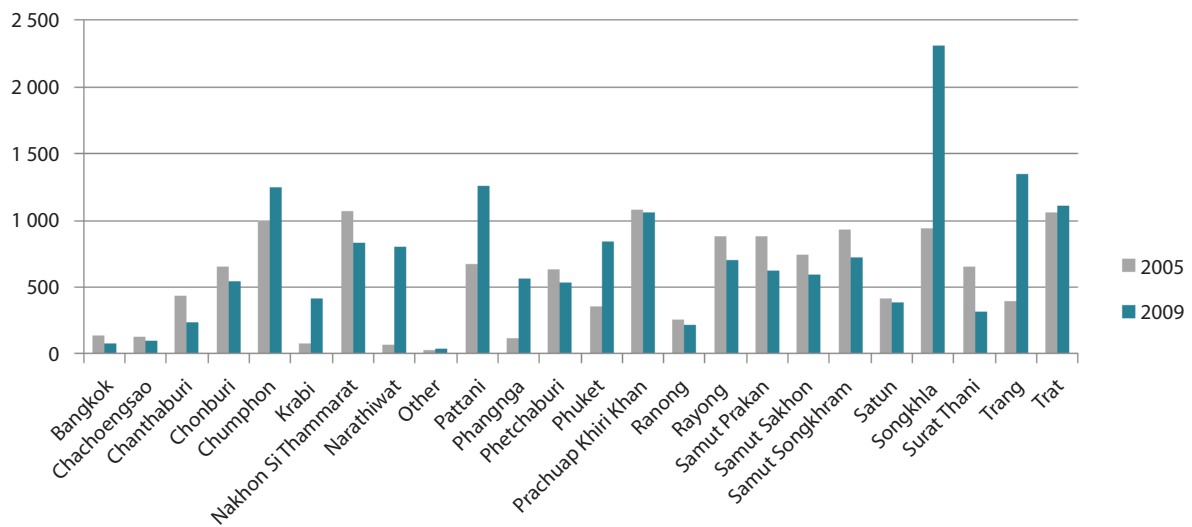
**Figure 2.2 Map of coastal areas in Thailand**



Source: Panjarat (2008)

Thailand's long-haul fishing fleet also faces few practical restrictions in their fishing movements within international waters. Technological advances in fishing vessel design, combined with the signing of international treaties that allow foreign fishing boats to find safe harbor in international ports, permit Thai fishing boats to stay out at sea for months. A common operational structure for large commercial fishing firms is to use multiple vessels for long-haul fishing enterprises, with supply boats picking up harvested fish and restocking fishing boats with fuel and supplies, further reducing the need for vessels to return to port (Mirror Foundation, 2011).



**Figure 2.3 Fishing vessel registrations by province in 2005 and 2009**


Source: Marine Department (2010)

Because fishing boats are not tied to a particular port or province, it is very difficult to obtain accurate statistical data and stock assessments to support effective management and regulation of Thailand's fisheries. For fishing in both domestic and international waters, Thai fishing boats are required to obtain a registration permit from the Marine Department, which provides a tool for monitoring their movements into and out of port. In addition, the Immigration Department is responsible for checking that fishing crews headed for international waters have proper documentation, including passports and seaman's books. In practice, however, systematic registration and inspection do not take place (Mirror Foundation, 2011). Sources within the Royal Thai Marine Police have estimated there are approximately 50,000 fishing boats fishing out of Thai ports, however, only about 20,000 completed the Marine Department's registration process (Robertson, 2011, p. 14).

## 2.2.2 Scale and typology of fishing sector enterprises

The Thai fleet operating in marine capture fisheries can be categorized into two main classifications: small-scale and commercial fishing operations. Commercial vessels are equipped with inboard engines, are over five gross tonnes, typically utilize modern and efficient gear and have the capability to remain at sea for long-periods without returning to port. The fishing gear they deploy are generally medium and large-size trawls, purse seines, encircling gillnets, and large drift nets. Small-scale fishing operations use vessels that are less than five gross tonnes in size, are non-powered or have outboard or inboard engines, use simple and traditional fishing gear, and fish near shore. These small-scale operators constitute the majority of the Thai fleet and survive at near subsistence level. The typical fishing gear they utilize are small trawls, gillnets, push nets, lift nets, set bag nets, traps, hook-and-line and other stationary gears (FAO, 2009, p. 2).

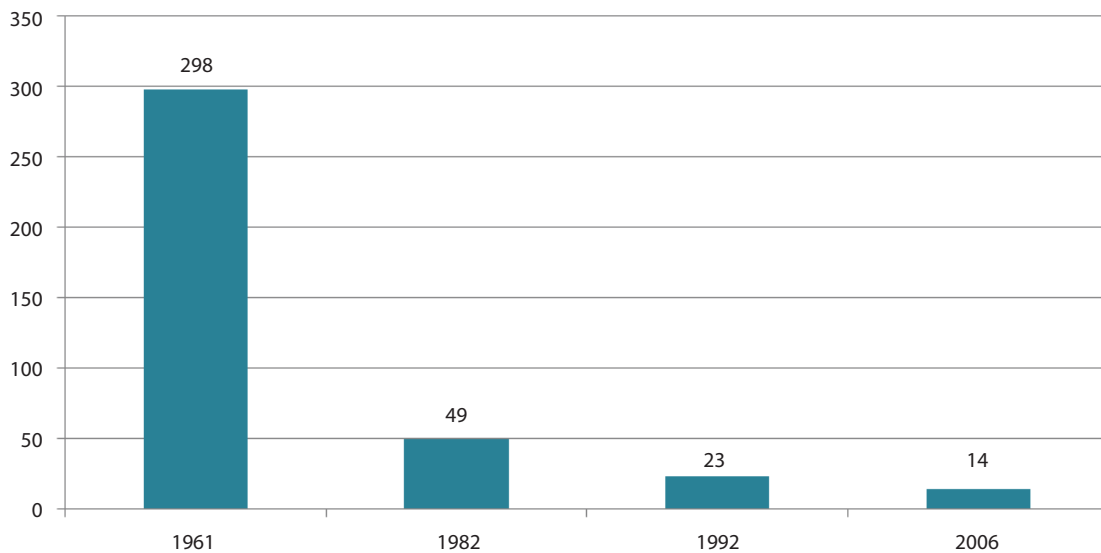
As stated above, reliable data on the number of boats in both categories is currently limited. A census conducted in 2000 found a total of 58,119 fishing boats, of which approximately 80 per cent were small-scale (FAO, 2009, p. 2). A more recent estimate by Science and Technology Minister Plodprasop Suraswadi of the rate of Thai fishers engaged in small-scale fishing operations placed the figure at over 90 per cent (Janofsky, 2012). Conversely, the productive output for the fishing sector is dominated by commercial fishing vessels, which bring in approximately 90 per cent of the total catch. (FAO, 2009, p. 2)

As the result of a limited entry policy designed to protect fisheries resources, the total number of registered Thai trawlers in operation stands at 3,619, but it is acknowledged among authorities at the Department of Fisheries that a large number of unregistered vessels are fishing in Thai and international waters. With Thailand under

pressure from the European Union (EU) and other key export markets to increase its efforts to combat IUU fishing, the Department of Fisheries recently proposed to increase the number of registered trawlers allowed to fish in Thai waters by 2,017 vessels. "Those trawlers to be licensed are already fishing in Thai waters," said Surachit Intarachit, Deputy Director-General of the Department of Fisheries. "Despite illegal fishing, the Department has no manpower to arrest them at sea. The best method is to register them and to equip them with a vessel monitoring system to monitor their operations" (Sukpanich, 2012).

The plan remains contentious with many small-scale fishers unconvinced by the rationale that increasing the registration of trawlers will solve the underlying problems of environmentally destructive and illegal fishing that threaten the sustainability of the industry. There are fears that the plan to permit more trawlers would only continue the declining trend in catch rates that has had an impact on the livelihoods of an estimated 300,000 small-scale fishers. Based upon studies conducted in the upper Gulf of Thailand, catch rates have dropped from 298 kilograms (kg) per hour in 1961, to 49 kg in 1982, to 23 kg in 1992, and most recently to 14 kg in 2006 (Sukpanich, 2012).

**Figure 2.4 Catch rate in the upper Gulf of Thailand (kg/hour)**



Source: Sukpanich (2012)

## 2.3 Economic importance of the fishing sector

The global trade in fish and fish products achieved a new record in 2010 with a value of US\$111.8 billion, an increase of 12 per cent from the previous year and up 86 per cent since 2000 (FAO, 2012b, p. 71).

Within this booming global industry, developing countries – most notably China, Thailand, and Viet Nam – confirmed their central importance as suppliers to world markets by providing more than 50 per cent of all fishery exports in value terms in 2010 (FAO, 2012b, p. 70). The total value of Thailand's fish exports rank third globally, with a US\$7.13 billion annual value in 2010 (FAO, 2012b, p. 71).

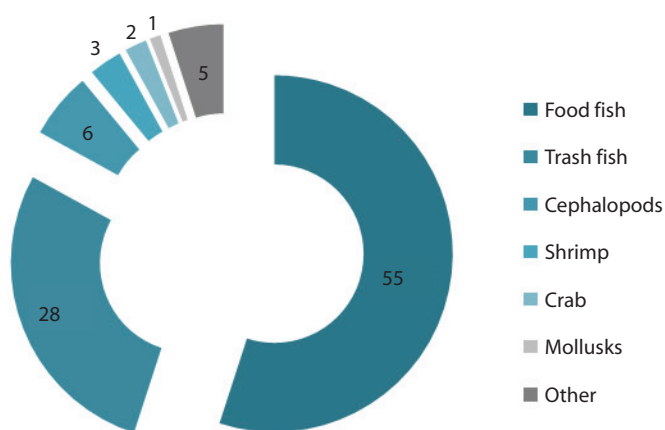
Contributing approximately 1.2 per cent of annual GDP, employing an estimated 2 million workers in fisheries-related enterprises or supporting industries, and providing an important source of animal protein for its people (FAO, 2009, p. 8), the fishing industry provides Thailand with lucrative opportunities for trade and investment, gainful employment, and helps ensure the food security of its people.

Total production within the Thai fishing sector reached 2 million tonnes in 1977 and has remained above that level since 1982, with approximately 3.1 million tonnes produced in 2010 (FAO, 2012a). Nevertheless, since the middle of the last decade, total production has been in decline, with major increases in aquaculture production partly mitigating significant drops in marine capture productivity. There has been a discernible structural shift within the

industry towards greater reliance on aquaculture, particularly for the production of shrimp for export. Thailand now ranks sixth in the world for aquaculture production, exporting nearly 1.3 million tonnes of farmed fish in 2010 (FAO, 2012b, p. 28). The increasing export value of fish and fishery products has contributed to billions of dollars in trade surpluses accrued by Thailand in recent years.

In terms of fish commodities, Thailand is one of the world's largest exporters of shrimp, canned tuna, squid, and cuttlefish. Shrimp products and canned tuna, respectively, contribute 36 per cent and 27 per cent of the total value of Thailand's fish exports (FAO, 2009, p. 8). The volume of the catch brought in by the commercial fishing sector is broken down into food fish (for human consumption) (55 per cent), trash fish (28 per cent), cephalopods (6 per cent), shrimp (3 per cent), crab (2 per cent), mollusks (1 per cent), and others (5 per cent) (FAO, 2009, p. 2).

**Figure 2.5 Breakdown of commercial catch (%)**



Source: FAO (2009)

In addition to exporting its own fisheries production, Thailand has also established itself as a key processing country for seafood products made from imported raw materials. These processed seafood products make up a growing share of the country's fisheries exports (FAO, 2012b, p. 70). Thailand has become the top importer of fresh, chilled, and frozen tuna in the world, amounting to 700,000–800,000 tonnes annually (FAO, 2009, p. 8).

Despite the ongoing diversification of its economy, Thailand retains a large agricultural sector which employs 42 per cent of the Thai labour force, including those in fisheries related work (World Bank, 2012). The fisheries sector contributes about 9.9 per cent to the total agricultural GDP of the country (FAO, 2009, p. 9). Accurate data on employment specifically within the fishing sector remains limited. Labour force surveys conducted by the National Statistical Office showed 415,300 Thai workers employed in the fishing industry, as of June 2012. However, these figures have fluctuated broadly over the last 5 years, ranging between 387,200 and 504,800 fishers employed (National Statistical Office, 2012a), which calls into question their reliability. Moreover, they do not accurately account for the high number of migrants employed within the sector. As mentioned above, the FAO has estimated that 2 million workers are employed in the fishing sector and its supporting industries, with 40 per cent working either as fishers or in aquaculture and 60 per cent employed in associated industries such as cold storage, fish processing, and shipbuilding (FAO, 2009, p. 2). This would appear to be a more comprehensive assessment of employment within the industry, although still somewhat lacking in terms of solid empirical evidence.

Although the fishing industry continues to play an important part in the Thai economy, the sector is facing a declining trend in terms of returns on investment. Thai fish exports grew at an annual rate of 5 per cent between 1998 and 2008, compared with the 6.9 per cent annual growth that the global industry experienced during that period (FAO, 2012b, p. 71). The annual catch for the Thai fishing industry has been in decline since the early 2000s, with approximately 3 million tonnes of fish caught in 2000 and just 1.8 million tonnes caught in 2010 (FAO, 2012a).

As a result, Thailand's long-haul boats have been forced to expand their territorial range, traveling as far as eastern Indonesia and East Africa in search of a profitable catch.

Attempts to cut labour costs have led to employment of migrant workers, in some cases using deceptive and coercive labour practices. This is partially due to economic pressures within global supply chains. According to a comprehensive ILO study of the global situation on forced labour, it is clear that competitive pressures can have an adverse impact on conditions of employment and, at their extreme, can lead to forced labour (ILO, 2005). With pressures on seafood suppliers to reduce expenses by every means available, a race to the bottom on labour costs has been created for the Thai seafood industry. When coupled with the increased vulnerability of undocumented migrant workers to forced labour, an enabling environment for such abuses to become systematic now exists.

There is speculation that fishing and fish processing jobs may start to disappear as the industry restructures to adjust to the reduced catch. About two-thirds of the cost of deep-sea fishing comes from fuel expenses. Since many Thai boats are having to fish farther from Thailand to make a profit, rising fuel costs may make this type of fishing less competitive in the future. However, because of labour force trends, migrants are likely to remain the core of the labour force both on fishing boats and in the fish processing industry (Martin, 2007).

## 2.4 Legal framework for fisheries management and the protection of workers

### 2.4.1 Fisheries management legislation

The key pieces of legislation for management of Thailand's fisheries sector are the Fisheries Act, B.E. 2490 (1947), the Act Governing the Right to Fish in Thai Waters, B.E. 2482 (1939), and the Thai Vessel Act, B.E. 2481 (1938). Their application to regulating the industry can be summarized briefly as follows:

**The Fisheries Act, B.E. 2490 (1947)**, is the principal piece of legislation for management of Thailand's fisheries. It has been amended twice (in 1953 and 1985) to update its relevance for regulating industry. The Department of Fisheries, the institution mandated with enforcement of the Act, as well as many other stakeholder organizations accepts that the Fisheries Act is dated and contains many loopholes. The Food and Agriculture Organization of the United Nations (FAO) has suggested that rewriting the law would be preferable to the current piecemeal amendment approach. Established in 1947, the Act was conceived largely before the development of Thailand's modern marine fishing industry, and is principally concerned with inland fisheries and the levying of taxes on fishing activities (Panjarat, 2008).

A key failing of the existing legislation is that it designates responsibility for licensing fishing gear to the Department of Fisheries while mandating the Marine Department to carry out boat registration and licensing. This has led to incoherencies and gaps in regulating fishing operations. Although Section 56 of the Act does permit authorities to board and inspect fishing boats, it does not grant permission to carry out inspections related to the crew members. Instead, its regulations focus on controlling the types of fishing gear that can be deployed and prevention of fishing for certain species in prohibited areas (Robertson, 2011).

**The Act Governing the Right to Fish in Thai Waters, B.E. 2482 (1939)**, defines Thailand's territorial waters, which were initially established as extending 12 miles off-shore from the Thai coast. After the proclamation of a Thai EEZ in 1981, the nation's territorial waters were extended to 200 miles off-shore. According to the Act, only Thai nationals are allowed to fish in the nation's territorial waters. Fishing rights can also be extended to accommodate limited partnerships in which at least 70 per cent of the capital is owned by Thai partners. The Act also prohibits fishing in Thai waters by foreign vessels or Thai vessels whose crews include foreigners, unless otherwise agreed to by Thailand and their country of origin (FAO, 2009).

Section 9 permits government authorities to board and inspect fishing vessels in order to find violations of the Act. However, it is openly understood that there are tens of thousands of Myanmar and Cambodian fishers on Thai vessels fishing in Thai territorial waters. The vast majority are undocumented, which would violate the Act. The

sanction applied to violators of the Act is a relatively minor fine of THB2,000, or imprisonment for one year, or both, and it is open to the interpretation of field-level authorities how this law interacts with other legislation regulating the employment of migrant workers in Thailand (Robertson, 2011).

**The Thai Vessel Act, B.E. 2481 (1938)**, requires that the owner of a vessel with an engine or a weight of six gross tonnes or more is required to register their vessel with the Marine Department. To qualify for registration the boat owner must be a Thai national or part of a limited partnership or company in which at least 70 per cent of the capital is owned by Thai nationals (FAO, 2009).

The Thai Vessel Act does not specifically refer to registration of fishing vessels, but instead applies to all types of vessels operating in Thai waters. As a result, efforts to regulate fishing boat numbers require cooperation between the Department of Fisheries and the Marine Department. It has been suggested that a more effective system for regulating Thailand's fisheries would involve fishing boats being registered and licensed separately from other boats, so that an integrated framework for monitoring vessels, gear, and personnel could be established. At present however, no such harmonization effort has been enacted (Panjarat, 2008).

## 2.4.2 Labour protection legislation

With regard to protection of workers employed within the fishing sector, there are three main pieces of legislation that should be considered. These are the Labour Protection Act, B.E. 2541 (1998), the Recruitment and Job-Seekers Protection Act, B.E. 2528 (1985), and the Anti-Trafficking in Persons Act, B.E. 2551 (2008). Their function in regulating the commercial fishing sector is reviewed below:

**The Labour Protection Act, B.E. 2541 (1998)**, regulates employment practices by providing a legal basis for minimum wages, maximum work hours, and occupational health and safety. The Act establishes the authority of officials from the Department of Labour Protection and Welfare to conduct inspections and enforce sanctions against violators of the law. In principle, all workers employed within Thailand are covered by the labour protections of the Act, including both documented and undocumented migrant workers, but an exemption to the Act has been made for workers employed in the fishing sector (Huguet, Chamrathirong, and Richter, 2011).

**Ministerial Regulation No. 10**, issued by the Ministry of Labour in 1998, states that the following sections of the Labour Protection Act apply to sea fishery work: sections 7-21 (General Provisions), 100-107 (Occupational Safety, Health and Environment), 123-125 (Complaints); 134 and 135 (Employee Welfare Fund); 139-142 (Labour Inspectors); and 143 (Delivery of Notices). A further exclusion to the Act's provisions is made for fishing boats with fewer than 20 employees (except the Clauses 7 and 8 on payment of wages) and boats that fish outside of Thailand's territorial waters continuously for a year or more, a segment of the Thai fleet where a proportionally larger amount of exploitative labour practices are believed to occur.

The Ministerial Regulation does include a number of important protection measures; however, these are very rarely applied or enforced. The Regulation states that the fishers' tasks and remuneration should be clearly outlined in a document kept by the employer and subject to inspection. Wage payment should be documented and signed by the worker as evidence of receipt. Workers are entitled to 30 days of sick leave and 30 days of paid holiday a year. Ministerial Regulation No. 10 permits, under certain conditions, the employment of children aged 15, provided their guardian works on the same boat or provides written consent. Employers should keep a record of employees and submit a copy to the authorities within 30 days from the employee's starting date; and when there is a change to the record, the employer should amend the form and submit it within 60 days. A copy of all of these documents should be kept at the employer's place of business and should be made available to a labour inspector or relevant authorities.

**The Recruitment and Job-Seekers Protection Act, B.E. 2528 (1985)**, provides protections for migrant workers during the recruitment process by regulating the recruitment practices of private employment agencies (PrEAs) and by providing legal protections to job seekers. However, this Act was drafted before large-scale migration into Thailand, and focuses on the process of sending Thai workers abroad. As a result, there are no specific provisions related to the

protection of migrants in recruitment, no procedures for regulating brokers and sub-contracting agencies providing recruitment services to such clients, and no clear institutional mandate to provide such protections to inbound migrant workers (Harkins, Laodumrongchai, Sangnaet, and Makcharoen, 2013). The gaps in the Act are extremely relevant as many of the challenges faced by fishers stem from the means through which they were recruited.

**The Anti-Trafficking in Persons Act, B.E. 2551 (2008)**, criminally prohibits all forms of trafficking and specifies the enforcement of strict penal sanctions against offenders. Following the language of the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children (2000),<sup>4</sup> it defines trafficking as the act of “procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harbouring, or receiving any person by means of the threat or use of force, abduction, fraud, deception, abuse of power, or of the giving money or benefits to achieve the consent of a person having control over another person in allowing the offender to exploit the person under his control” for the purpose of “exploitation” (The Anti-Trafficking in Persons Act, B.E. 2551, 2008). The law broadened Thailand’s previous legal definition of trafficking in persons to include labour exploitation and trafficking offenses committed against male victims.

So far, the efforts by government authorities to enforce the new anti-trafficking law have produced mixed results. There have been a relatively small number of successful prosecutions of offenders to date and those prosecuted are not considered by anti-trafficking organizations to be among the worst offenders. Corruption remains among law enforcement officers, creating an environment of impunity, particularly around the trafficking of low-skilled migrant workers. In other cases, the long process of investigation and prosecution, as well as a lack of sufficient support from law enforcement officials, discourages victims from pursuing charges against traffickers (Mirror Foundation, 2011). In addition, capacity constraints continue to pose a major obstacle to effective identification of victims and prosecution of offenders, as described in detail within section 2.7.3 of this report.

### 2.4.3 International standards on work in fishing

The international standards for work in fishing were updated in 2007 with the adoption of the Work in Fishing Convention, 2007 (No. 188), and the Recommendation Concerning Work in the Fishing Sector, 2007 (No. 199). The Convention and Recommendation apply to all fishers and fishing vessels engaged in commercial fishing activities, and only subsistence and recreational fishing are explicitly excluded (ILO, 2007). The purpose of Convention No. 188 is to establish a global labour standard that is relevant to all fishers, regardless of the scale of the fishing operation, and that is flexible enough to be enacted by governments around the world at all stages of development. It ensures that fishers have decent conditions of work on board fishing vessels by establishing a set of minimum requirements to be observed. Some of the key provisions included are the following:

- Establishes the responsibilities of fishing vessel owners and skippers for the safety of fishers on board and for the safety of their vessels (Article 8).
- Sets a minimum age of 16 for work on board fishing boats and requires special protection for young fishers (Article 9).
- Requires fishers to undergo periodic examinations of their medical fitness for work on fishing vessels (Articles 10-12).
- Requires that fishing vessels are sufficiently and efficiently crewed, are under the control of a competent skipper, and that the fishers on board are provided sufficient rest periods (Articles 13-14).
- Requires fishing vessels to have a crew list and fishers to have the protection of a signed work agreement setting out the terms of the work they will perform (Articles 15-20, and Annex II).
- Entitles fishers to be repatriated when their agreements expire – and for other reasons. Prohibits making fishers pay to obtain their jobs. Prohibits the blacklisting of fishers (Articles 21-22).

<sup>4</sup> This protocol is supplementary to the UN Convention against Transnational Organized Crime, and is often referred to as the Palermo Protocol.

- Addresses how fishers are paid and requires that they shall have the means to send money home to their families at no cost (Article 23-24).
- Sets standards for living accommodation and food on board fishing vessels (Articles 25-28, and Annex III).
- Establishes requirements for occupational safety and health, as well as a basic level of medical care on fishing vessels; (Articles 31-33).
- Ensures that fishers benefit from social security protection no less favourable than that provided to other workers in the country.
- Provides protection in cases of their work-related sickness, injury, or death (Articles 34-39).
- Establishes flag and port state enforcement requirements concerning living and working conditions on board fishing vessels, including labour inspection of vessels (ILO, 2007).

Thailand has not ratified the Convention or announced an intention to do so. Ratification would require considerable changes to the Labour Protection Act and Ministerial Regulation No. 10 to be consistent with Convention No. 188, as well as increases in the rigor and scope of regulation for the fishing sector. Some notable differences include the minimum age of workers on long-haul fishing boats or working at night, standards on rest hours, the medical examinations and training required prior to employment, standards for accommodation and food, and occupational safety and health standards.

## 2.5 Institutional framework for fisheries management and the protection of workers

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There are many examples of active cooperation between government agencies and private sector organizations to oversee the operations of the Thai fishing fleet and provide protection and assistance to workers. However, the division of responsibilities and jurisdictions is still not entirely clear in practice. In addition, protocols for many necessary tasks are not fully outlined in the relevant laws, and several of the organizations involved face capacity and resource limitations. As a consequence, there are limits to the effectiveness of the regulation applied and the assistance provided, which leaves considerable scope for exploitative labour practices to occur.

### 2.5.1 Government agencies responsible for regulation of the Thai fishing sector and the protection of fishers' rights

The following provides a summary of the responsibilities of the key agencies involved in overseeing conditions in the sector. This is supplemented with information from in-depth interviews with the provincial authorities in Ranong, Rayong, Samut Sakhon and Songkhla.

#### Department of Employment:

Relevant duties:

- Registering, permitting, and monitoring of all migrant workers in Thailand, including those in the fishing sector;
- Issuance of work permits, renewal of work permits, permission to change employment, and monitoring and inspecting worksites for undocumented workers;
- Accepting and investigating recruitment related complaints.

Limitations:

- Responsibility for checking work permit documentation is delegated to Marine Police and the Navy for inspections at sea.

- Some ambiguity as to whether department is required to accept and investigate complaints from inbound migrant workers. In practical terms, migrants are often unable to register complaints.

The Provincial Employment Office has the responsibility for control and authorization of labour, including registering foreign workers, providing assistance in finding employment, and overseeing the work environment of the migrants. The Office conducts outreach among employers' associations, migrant workers, NGOs and the Department of fisheries to encourage the registration of fishers (through issuing Tor Ror 38/1 forms). There is a Center for Nationality Verification in Ranong under the MOU between Thailand and Myanmar. Once citizenship is verified, the Myanmar migrant can receive a work permit (*Source: Interview with the Ranong Employment Office, 3 May 2012*).

### **Department of Labour Protection and Welfare**

Relevant duties:

- Ensuring that workers (including fishers) receive labour protections in accordance with the Labour Protection Act, Ministerial Regulation No. 10, and other applicable laws.
- Charged with fully investigating labour protection violations on specific fishing vessels within 30 days of receiving a complaint.

Limitations:

- Do not directly participate in inspection of fishing vessels at sea, instead providing support to Marine Police and the Navy to check that working conditions and employment practices on board are lawful.
- For various reasons, only a small number of migrant workers register complaints, and even fewer complaints come from irregular migrants.
- Some significant gaps in the legal framework for labour protections on board fishing vessels leave many fishers vulnerable.

The Labour Protection and Welfare Office takes responsibility for receiving complaints and mediating a resolution. Most of the complaints these offices receive are related to wages or compensation as per share of the catch (*Source: Interview with staff of the Ranong Provincial Office of Labour Protection and Welfare, 3 May 2012*).

### **Department of Fisheries**

Relevant duties:

- Licensing and regulation of the use of fishing equipment to ensure that they are in compliance with the standards outlined in the Fisheries Act, B.E. 2490 (1947). This includes enforcing regulations on the types of gear, fishing methods, and fishing areas that are permitted.

Limitations:

- The Fisheries Act is outdated and enforcement remains inadequate.
- General focus of the department is on the expansion of marine capture production rather than protection of resources. Consequently, many fishing vessels operate in an unlawful manner, as they face few penalties.

### **Marine Department**

Relevant duties:

- Main agency responsible for overseeing registration and monitoring of vessels, seafarers, and non-fishing-related equipment.
- Enforcing the Act on Navigation in Thai Waters, B.E. 2456 (1913, amended 1992 and 1997) and the Thai Vessel Act, B.E. 2481, as well as other relevant laws and regulations.



Bureaus:

#### Ship Standards Bureau

- Sets standards and monitors compliance for boats and equipment operated in Thai waters.
- Issues certificates to demonstrate conformity with applicable Thai and international laws.

#### Seafarer's Standards Bureau

- Certifies seamen's training courses.
- Issues seamen's books, which license work on marine vessels.
- Monitors employment of seamen through the use of seafarer lists.
- Mediates disputes between ship owners and seafarers.

#### Ship Registration Bureau

- Conducts annual inspections of vessels in order to issue boat registration certificates. The inspection checks the condition of the boat and the equipment used on board.
- Issues and monitors boat licenses for skippers, which are the boating equivalent of a driver's license.

Limitations:

- Boats leaving port are required to submit crew lists to the Marine Department, but the lists are sometimes inaccurate and follow-up is limited due to resource constraints.
- Many boat owners do not register their boats. In Pattani, for example, estimates of unregistered vessels are as high as 50–70 per cent of all boats (Robertson, 2011).
- Does not conduct inspections to check seamen's documents while vessels are at sea. Such inspections are handled by Marine Police and the Navy.
- Inspections are often not thorough and many boat owners circumvent laws through the use of forged seamen's books or by hiding undocumented workers during inspections.
- Regular inspections are not conducted for short-haul fishing vessels, even though they also frequently have migrant crews.

#### Immigration Bureau

Relevant duties:

- Enforcing the Alien Employment Act, B.E. 2551 (2008), the Immigration Act, B.E. 2522 (1979), the Anti-Trafficking in Persons Act, B.E. 2551 (2008) and other applicable immigration laws and regulations.
- Such enforcement includes the detaining of unregistered migrant workers, including fishers.



*Immigration officers check and renew temporary work permits for fishers in Ranong Province*

Limitations:

- In general, the bureau does not inspect or stamp the documents of migrants leaving or entering Thai ports due to resource limitations.
- Inspections are in some cases very perfunctory so as to avoid creating conflict with influential boat owners.

The Immigration Office has the responsibility to control and oversee international entry and exit at border areas, and to arrest and deport foreign migrant workers who enter Thailand illegally. The Immigration officers conduct inspections of all types of worksites, and inform migrants and employers of the ways to become legal workers. They also provide information about human trafficking. An example of the collaboration among agencies in Ranong occurs during worksite inspections which comprise teams of staff from the Provincial Welfare and Provincial Employment offices. Fishing boat crew are processed at the dock, and the eligible persons are issued ID cards. This process is unique to Ranong Province under a directive from the Governor. This directive is, in part, an attempt to combat trafficking. (Source: Interview with Ranong Immigration, 3 May 2012).

**Ministry of Public Health**

Relevant duties:

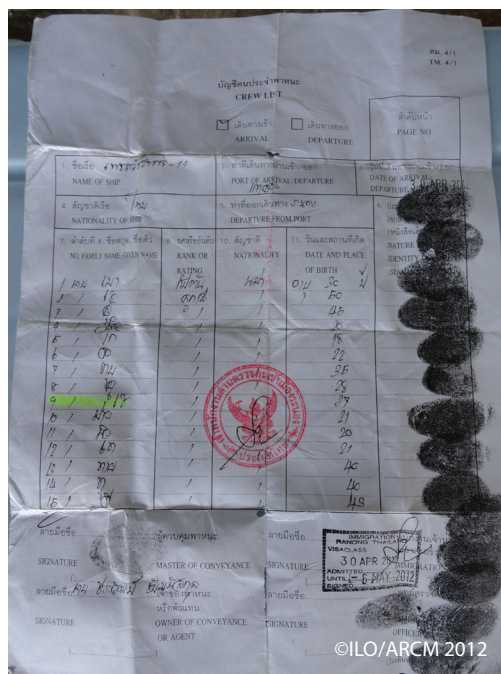
- Involved in the issuing and renewal of work permits for migrant workers through the conducting of compulsory medical examinations.
- Issuing health insurance cards to workers under Thailand's compulsory health insurance scheme, which allows workers to use services at public hospitals and health centers.
- Providing health promotion services to fisheries workers by organizing trainings for boat owners and boat captains on nutrition, sanitation, and hygiene.

Limitations:

- While medical checks are required for regular migrants, the proportion of regular migrants in the fishing sector is low.
- There is limited understanding among employers and workers on the Occupational Safety, Health and Environment Act B.E. 2554 (2011) and how it applies to the fishing sector.

**Port Authority**

Vessels traveling in Thai territorial waters are subject to inspections according to the Navigation in Thai Waters Act, B.E. 2456 (1913). The authorities inspect the vessel to see if it is properly registered, and whether the crew and boat workers have proper ID cards. If the documentation is not all in order, then the authorities facilitate the completion of documentation to rectify this. But these Port Authority officials do not look into labour issues. If a boat worker files a complaint, the Port Authority links them with the relevant staff (e.g., in the wages and benefits office), and coordinates with staff of the Office of Labour Protection and Welfare. Concerning illegal migrants, the authorities will refer the cases to the Immigration Police. The Provincial Fisheries Office inspects the fishing boat to see if it is the improper type of boat or is unregistered (Source: Interview with the Ranong Branch Office of the Regional Port Authority, 4 May 2012).



Sample document issued by Immigration in Ranong province that allows work in fisheries on a temporary basis

## Royal Thai Marine Police

Relevant duties:

- Have jurisdiction over criminal violations occurring in coastal areas within 12 km from shore.
- Conducting boat inspections to monitor and interdict a broad range of illegal activities, with drug trafficking a particular focus.

Limitations:

- An insufficient budget is allocated for regular boat inspections, so these are typically conducted based on specific complaints or intelligence received about criminal activity.



*Marine Police inspection of a fishing vessel at sea*

- When potential human trafficking cases are identified, they must be referred to other authorities for investigation and prosecution, which may have a limiting effect on follow-through.
- Inspections are in some cases very perfunctory so as to avoid creating conflict with influential boat owners.

The Marine Police inspect fishing boats under three provisions of the law including the Anti-Trafficking Law (2008), Migrant Labour Law (2008), and the Immigration Law (1979). The Marine Police can inspect boats without the need for a court order. The Marine Police also share information about different boats among multiple offices in Samut Sakhon, Samut Songkram, and Petchburi. However, due to budget limitations, the Marine Police cannot conduct inspections very often (*Source: Interview with Marine Police in Samut Sakhon, 22 May 2012*). The Department of Employment has allocated some budget to the Navy and Marine Police for use in conducting fishing boat inspections.

## Royal Thai Navy

Relevant duties:

- Patrolling Thai territorial waters beyond the 12 km jurisdictional delineation as part of its mission to safeguard the national security of Thailand.
- Conducting boat inspections to monitor and interdict a broad range of illegal activities.
- The Navy and Marine Police are responsible for enforcing the same laws in their respective jurisdictions.

Limitations:

- An insufficient budget is allocated for regular boat inspections, so these are typically conducted based on specific complaints or intelligence received about criminal activity.
- Lack of rigour in inspections of working conditions on board fishing vessels.

The Royal Thai Navy has the mandate to protect the borders of Thai territorial waters, and protect marine resources within 12 nautical miles off the coast. Other branches of the Navy are located at Sattahip, Songkhla, Pattani and Naratiwat. The Phuket Provincial branch of the Navy oversees Ranong, Krabi, Phang Nga and Satun. The Navy is involved in enforcing 37 laws such as the Port Authority legislation, the Anti-Human Trafficking Law, security and labour laws, etc. In the event of a violation of migrant labour rights, the Excise Department and Marine Police work together with Navy to hold the employer accountable. The Navy only has the responsibility to detain and investigate the violation. Other agencies need to process the case through to resolution (Source: Navy Region 2, Songkhla, 10 May 2012).

### Ministry of Social Development and Human Security

The Office of Social Development and Human Security has the role of protecting against and preventing human trafficking, and for providing assistance to victims of trafficking, both for Thais and foreigners. In Ranong, there is a collaborative project involving the Provincial Welfare Office to prevent human trafficking through publicizing information about rights and trafficking among the employers of factories and fishing boats. Most of the problem cases in Ranong relate to deception in the recruitment of crew. When they are found, a multi-disciplinary team provides assistance and repatriation support. If a case goes to court, there will be coordination with the police and, when upon conclusion the plaintiff will be repatriated. There are other groups providing assistance to fishers including the Welfare Fund for Victims in Difficult Circumstances, but this Fund is only available to Thai fishers. (Source: Interview with the Ranong Office of Social Development and Human Security, 4 May 2012).

**Table 2.1 Licenses and required documents for fishing vessels and fishers**

Documents and licenses for fishers	Licenses for fishing vessels
<p><u>Ministry of Public Health</u></p> <ul style="list-style-type: none"> <li>• Health certificate</li> </ul> <p><u>Department of Employment</u></p> <ul style="list-style-type: none"> <li>• Work permit for migrant workers</li> </ul> <p><u>Marine Department</u></p> <ul style="list-style-type: none"> <li>• Seamen's book</li> <li>• License for skipper</li> <li>• Helmsman and engineer certificates</li> </ul> <p><u>Immigration Bureau</u></p> <ul style="list-style-type: none"> <li>• Temporary passport and visa</li> </ul>	<p><u>Marine Department</u></p> <ul style="list-style-type: none"> <li>• Vessel license</li> <li>• Ship registration certificate</li> </ul> <p><u>Department of Fisheries</u></p> <ul style="list-style-type: none"> <li>• License for fishing equipment</li> </ul>

### 2.5.2 Industry associations

The National Fisheries Association of Thailand (NFAT) and the Thai Overseas Fisheries Association (TOFA) are the two largest private sector associations for fishing boat owners in Thailand.

NFAT was established on 4 March 1964 (B.E. 2507) and later registered as the Association in November, the same year. NFAT has members in 22 provinces along the coast of Thailand. There are five types of membership: (1) a national level/regional level, for example, Thailand Overseas Fisheries Association (TOFA) and Thai Frozen Food Association (TFFA); (2) provincial fisheries associations; (3) district/sub-district level associations; (4) cooperatives; and (5) fisheries groups. Among the 50 associations, there are 6,000 individual vessel owners with over 10,000 registered boats.

NFAT's objectives are to cooperate with the Royal Thai Government in the promotion of the fishing sector, and support

good cooperation amongst member associations across the country. NFAT develops, disseminates and exchanges information relevant to the industry, and cooperates with the government and other partners to improve conditions for fishers. For example, the associations assist with informing employers and migrants of their responsibilities to register the migrant workers employed on their vessels.

Since 2011, NFAT has cooperated with the ILO on a number of activities to improve employment and working conditions in the fishing sector. These include advice on the establishment of labour coordination centers for the fishing sector, the development of an NFAT Code of Conduct, and occupational safety and health training materials. NFAT and TOFA have also actively participated consultations organized by the Department of Labour Protection and Welfare and the ILO on the revision of Ministerial Regulation No. 10 and the development of Good Labour Practice Guidelines for the Fishing Sector. All of these initiatives have drawn on the principles of Convention No. 188. These initiatives are explained in more detail in Chapter 7.

NFAT have also conducted research among NFAT members about conditions in the sector. The key findings of the NFAT research are presented in Annex 2.

### 2.5.3 Non-governmental organizations

There are also a number of civil society groups working with migrant workers, and fishers in particular. Their activities include legal aid, awareness raising, education and health care for migrant fishers.

The Foundation for AIDS Rights (FAR) office in Rayong has been working with the migrant community for over ten years, primarily in the area of health care. They have good relations with workers and their employers. FAR recently expanded its assistance program to include worker rights and welfare, including fishing boat workers. FAR conducts training among boat workers about their rights or on OSH issues (*Source: FAR, Rayong, 3 June 2012*).

The Labour Rights Promotion Foundation (LPN) has an office in Samut Sakhon and provides assistance to labourers; often supporting migrants to access government complaints mechanisms. LPN assists victims of trafficking and provides transportation for children of migrant workers to attend school. LPN is well-known to the migrant workers due to its many years of work in the province (*Source: LPN, Samut Sakhon, 24 May 2012*).

The World Vision Foundation (WVF) office in Ranong collaborates with various government departments to provide health care support to both Thai and foreign migrants. If they receive a report of unfair wage practices or trafficking, WVF will inform the relevant government agency and provide translation services (*Source: Interview with WVF, Ranong, 3 May 2012*).

## 2.6 Transition from a Thai to a migrant labour force in the fishing sector

### 2.6.1 Entry and regulation of migrant workers

By the early 1990s, Thailand had made the transition from net sender of workers abroad to net receiver of foreign labour. This growth has resulted from the differences of population demographics and economic development. Neighbouring countries have experienced high birth rates and a growing working age population coupled with – until recently – slowly expanding levels of economic development. Thailand has seen sustained high levels of economic growth, the workforce has become better-educated, and the working age population will soon start to shrink. The migration flows in the region have been further facilitated by such practical considerations as the close proximity between countries, long and porous borders with improved transportation links, cultural similarities and existing diasporas.

The migration flows can be characterized as based on a rising demand for low-skilled and unskilled migrant workers, an increasingly integrated regional labour market, an increasing proportion of female migrants, and the commercialization of the recruitment industry. In Thailand, migrant workers are particularly concentrated within the agriculture, fishing, manufacturing, domestic work and construction industries.

The Thai Government's policies for regulating the employment of migrant workers were enacted largely without a long-term plan for managing the increasing volume of migration flows from neighboring countries. A series of migrant worker registration efforts began in 1992 which allowed for temporary labour migration of nationals from Myanmar, Cambodia, and the Lao People's Democratic Republic. In the first stages, from 1992 to 1996, there were neither sectors designated for migrant employment nor quotas as to how many migrants could register for work. In what could be described as the second stage of policy development, from 1997 to 2000, the policies became more specific about which industries could employ migrant workers, in which areas of Thailand, and in what numbers. However, this period started just before the Asian financial crisis, when the Thai economy was desperately in need of additional labour resources, and there were strong financial incentives for employers to hire migrant workers outside of the restrictions of the registration policy. The period from 2001 to 2006 was defined by the broad amnesties declared by the Thaksin Government, which could be viewed as *laissez-faire*, allowing private industry to employ as many migrant workers as needed, with limited regulatory mechanisms in place (S. Chantavanich, Vungsiriphisal, and Laodumrongchai, 2007).

Beginning in 2006, Thailand established an additional process that requires registered migrant workers from Myanmar, Cambodia, and the Lao People's Democratic Republic to have their nationality verified so that they could receive a temporary passport from their country of origin. After obtaining this document with the assistance of their Thai employer, they are eligible to apply for a visa and work permit in Thailand. However, the process has been beset by operational difficulties, and significantly captured by brokers, often requiring migrants to pay a service fee well over the actual costs to complete the procedures involved.

The legislative framework for regulating the employment of migrant workers has also been recently amended. Now falling under the provisions of the Alien Employment Act, B.E. 2551 (2008), the employment of low-skilled migrant workers is based upon the three guiding principles of protecting national security, ensuring employment opportunities for Thai nationals, and establishing a level of labour migration that will support the growth and development of Thailand (Huguet et al., 2011).

Despite this ongoing policy development for management of migration, the policy framework for regular employment of migrant workers within the fishing sector remains notably deficient in terms of coverage and provision of labour protections for workers. The vast majority of migrant fishers on Thai fishing boats remain undocumented and vulnerable to labour exploitation. NGOs and international organizations have continued to voice concerns that the processes for regular labour migration to Thailand and the legalization of irregular migrants in Thailand, typically requiring payment of both official fees and additional amounts charged by unregulated recruitment agents and brokers, have contributed to increased vulnerability to human trafficking and forced labour through debt bondage (US Department of State, 2012).

### **2.6.2 The changing face of the fishing sector**

A cabinet decision by the Royal Thai Government in 1993 granted official permission for migrants to work in the Thai fishing industry in 22 coastal provinces (UN Thematic Working Group on Migration in Thailand, 2008, p.96). This policy shift coincided with a major decline in internal migrants from the Northeastern region of Thailand willing to work on fishing boats.

In 1989, the most powerful storm to affect the Gulf of Thailand in more than 35 years struck, catching many of the ships in the region off-guard (Vongvisessomjai, 2009). Typhoon Gay sank over 200 fishing boats and caused at least 458 deaths. The impact on the fishing sector was felt almost immediately, with fearful Thai fishers leaving for safer employment in other industries, leaving fishing boat owners in desperate need of labour resources (Robertson, 2011, p. 7). Prior to Typhoon Gay, work on fishing boats was such a common rite of passage that a popular song called "Sea-Going Trawler" (Tang-Ke) memorialized the Northeastern workers who migrated for fishing boat work (Mirror Foundation, 2011, p. 10).

The typhoon incident also coincided with Thailand's economic transformation into one of the "tiger economies" of emerging Asia. This rapid economic expansion created a greater range of employment options for low-skilled

workers, particularly in construction and export-oriented manufacturing, sparking a significant shift of the Thai labour force from the fisheries sector.

Employers within the fishing sector soon discovered that migrant workers could be utilized to fill the emerging labour shortages. Drawn to Thailand in large numbers by wages several times greater than those available in their home countries, migrants could nevertheless be paid less than Thai workers, worked harder, and typically did not demand any additional health or social security benefits.

Authorities from the Department of Fisheries are aware of the ongoing labour shortages faced by the industry, as well as the subsequent employment of migrant fishers. The Marine Fisheries Management Master Plan states:

*“Chronic shortage of fishing hands has plagued Thai commercial fisheries for quite some time. Although wages under the catch-sharing system used to serve as a good incentive, the actual pay has in recent years been less competitive.... The fact that fishing hands work in less secure conditions (being far away from home with higher risks and comparatively less pay) has turned away most of the Thai workforce. At present, commercial fishing vessels are largely manned by foreign crews.” (Department of Fisheries, 2008, p. 15).*

In 2011, there were 41,128 migrant workers from Myanmar, Cambodia, and the Lao People's Democratic Republic registered for work on fishing boats, a population constituting approximately 3.3 per cent of the total stock of registered migrants engaged in low-skilled employment in Thailand (Department of Employment, 2012).

However, these figures reflect only a segment of the total number of migrants working in the fishing industry due to the high prevalence of undocumented workers within the sector. The actual number, demographics, and working conditions of those employed within the fishing sector remains largely unknown due to the offshore nature of the work, the modus operandi of the industry, and the ineffectiveness of migrant worker registration policies. In May 2012, an NFAT survey (summarized in Annex 2) estimated that there were a total of 142,845 fishers among its membership.

It is acknowledged by labour authorities that the majority of migrant fishers on Thai fishing boats are undocumented workers who entered Thailand in violation of the Immigration Act, B.E. 2522 (1979), and who have not registered in significant numbers under the Department of Employment's (DOE) periodic migrant worker registration windows. According to fishers interviewed, their failure to register is largely the result of being out at sea during registration periods. Moreover, many boat owners are reluctant to pay the costs of registration and obtaining a work permit because of high turnover of crew members.

Fishers will often change employers if they can earn more or can find better working conditions, or if they want to work with their friends and acquaintances. The frequent movement between vessels is the reason why employers feel the need to withhold pay and limit the freedom of the fishers. It is also part of the reason why employers are reluctant to pay the costs to regularize the irregular migrant fishers. A work permit ties a worker to one employer, and therefore a regular migrant fisher will become irregular when they change employers, unless they have the permission of the employer and the authorities.

Migrant fishers who do manage to register and obtain the correct work permits frequently do so through a labour broker. While some brokers legitimately try to assist migrants with the process, there is a high prevalence of overcharging and usury, and no recourse for seeking justice in the event that exploitation and fraud occur. Even for migrants who successfully register under the DOE, agents or boat captains will often seize and hold their passports and work permits, preventing them from leaving situations in which their rights are abused. If forced to go into debt with a broker over registration fees, workers may find themselves in situations of debt bondage, and will have to work without remuneration until the debt is paid (Sakaew and Tangprapakoon, 2009).

Due to the expense, complexity, and short timeframe of the official registration process, many fishers and their dependents instead use informal registration schemes run by provincial authorities. Under these schemes, local ID cards are issued in exchange for a monthly payment. Possession of these cards protects the holders from arrest by local police in the port areas of provinces such as Rayong, Pattani, and Ranong. These schemes function without

the approval of the National Fisheries Association of Thailand (NFAT), and the ID cards are not recognized outside of the provinces in which they are issued or by national-level authorities (Robertson, 2011). While the overall level of participation in such schemes is unclear – as is their legal basis in Thai law – it appears that many migrant workers in the fishing industry find them to be a more attractive, affordable, and simpler option than official registration.

While the migrant workers who have filled this labour market gap in Thailand do not necessarily freely choose to pursue employment within the fishing sector, a combination of factors continues to encourage their engagement within the industry. These include simply accepting the first job they are offered by brokers or recruitment agents because of a lack of labour market information, the sanctuary from arrest for irregular migration provided by work on fishing boats, the opportunity to save greater amounts of money due to long periods of time spent at sea, and the numerous forms of coercion and deception used by brokers and employers to get migrants to work on fishing vessels (Solidarity Center, 2009).

Despite the large presence of undocumented migrant workers, Thailand's fishing industry is still experiencing a labour shortage. The Federation of Thai Industries estimated in 2008 that there was a need for a further 10,000 workers in the fishing and fish processing industries (Mirror Foundation, 2011). In 2012, NFAT estimated that 50,000 fishers were required to address the shortage in the sector. With large profits to be made from seafood export markets, and sizeable investments required for vessels and equipment, few boat owners want to see their boats sitting idly in port.

The use of foreign migrant workers rather than Thai workers to fill the labour demands of the fishing sector is unlikely to reverse itself in the short to medium-term without a major interruption in the supply of foreign workers in Thailand. Most Thai fishers who currently work within the industry do not wish to see their children pursue fishing as an occupation because it is considered difficult and dangerous work, with an unsteady income, and a low social status (Panjarat, 2008).

### **Box 1** **No escape from poverty**

Mr Somchai (an alias) was born in Battambang, Cambodia in 1986. He comes from a poor family. When his mother passed away, he went to live with his grandmother. Mr Somchai wanted to find a job and sought advice from his friend who contacted an agent who could help him to find work in Thailand. The agent persuaded Mr Somchai to work on a fishing boat, and told him that he could earn a good income. In order to pay the agent's commission fee of THB3,000, Mr Somchai's grandmother had to put up her house as collateral.

Mr Somchai entered Thailand through Poipet to Rong Kluea Market in Aranyaprathet district, Sa Kaeo province. They travelled by pickup truck and took care to avoid immigration and police checkpoints.

Mr Somchai worked on board a boat in the gulf of Samut Prakarn province. While the agent had informed him that he would be paid approximately THB4,500 per month, he had to work for approximately three months without being paid. The employer claimed that the agent sold Mr Somchai for the price of THB20,000, and that he had to work to pay off the debt.

Mr Somchai had to work all the time and did not have enough rest. When was ill, he had to treat himself as there was no medical care provided. There were times when Mr Somchai was physically and verbally abused. When the boat stopped at Chumphon province, he escaped by catching the train to Bangkok. There he wandered the streets begging for money. He was approached by a kind foreigner who came to talk to him and reported his case to the Prachabodi Call Center (1300). Afterwards, the Prachabodi Call Center arranged for him to be placed in the Pathum Thani Provincial Protection and Occupational Development Center for Men.



Mr Somchai has received protection and assistance from Department of Social Development and Welfare and has been supported by the Pathum Thani Provincial Protection and Occupational Development Center for Men. Mr Somchai received THB15,000 in financial assistance from the fund for human trafficking, including THB3,000 for a living allowance and THB12,000 as unemployment allowance (THB200 per day for 60 days)

*Source: The Pathumthani Provincial Protection and Occupational Development Centre for Men (September 2012).*

## 2.7 Forced labour and human trafficking within the fishing sector

Despite reduced growth of the industry over the last decade because of smaller catch sizes and higher fuel prices, the demand for labour has remained high. Meanwhile, the often difficult and dangerous working conditions, low remuneration, and length of time at sea, have discouraged potential workers from accepting work on fishing boats. This has created inefficiencies in the labour market and has led to the expansion of forced labour practices and human trafficking within the sector.

Trafficking and exploitation of migrants in the commercial fishing industry is widely acknowledged to be a major human rights concern within Thailand. Despite increased legislative efforts in the form of the Anti-Trafficking in Persons Act passed in 2008 and the establishment of shelter facilities by the Ministry of Social Development and Human Security for male victims of trafficking, recent news reports by the BBC and PBS have highlighted the severe and largely uninterrupted exploitation occurring in the fishing sector (Leithead, 2011; Service and Palmstrom, 2012). Although not as vulnerable as foreign migrants, Thai men who migrate internally for work are also being trafficked into labour exploitation on Thai fishing boats (US Department of State, 2010). Thailand has ratified the ILO conventions on forced labour and in 2012 the ILO Committee of Experts made an observation on the application of these conventions that raised specific concerns about the vulnerability of migrant workers in the Thai fishing industry.

### 2.7.1 Prevalence of forced labour and human trafficking in the fishing sector

Given the nature of work on fishing boats and the clandestine manner in which such crimes are perpetrated, it is difficult to accurately assess the true extent of forced labour and human trafficking that occurs in the fishing industry. However, the results of empirical research conducted show that such abuses are not exceptional.

A qualitative study by the Solidarity Center found within its sampling a high prevalence of such indicators of labour exploitation as excessive working hours, deceptive and unfair payment practices, and physical abuse. The stories recorded during the study of migrant workers being deceived or coerced revealed that human trafficking for purposes of labour exploitation is regularly being used to help meet the labour demands of the Thai fishing industry, particularly for long-haul boats bound for Indonesian waters (Solidarity Center, 2009).

A quantitative survey to identify the prevalence of human trafficking and forced labour among Myanmar migrants working in the seafood processing sector in Samut Sakhon was carried out by LPN and the Johns Hopkins School of Public Health in 2010. The survey results revealed that 33.6 per cent of these migrants had been trafficked and that 57.3 per cent had been subjected to forced labour (LPN and Johns Hopkins School of Public Health, 2011, p. 53).

The involvement of agents or brokers is a key element in the placing of migrants into exploitative situations, with such workers frequently being subjected to forms of debt bondage (Solidarity Center, 2009). The anecdotal estimates of LPN placed 80–90 per cent of Myanmar migrant workers in Samut Sakhon Province as being employed in debt bondage situations (UNIAP, 2007, p. 3).

A study by the Mirror Foundation also revealed that the problems of human trafficking and forced labour in the fishing sector are not limited to foreign workers. Their study identified 83 cases of Thai nationals who were coerced or deceived into working on fishing boats for months or years at a time (Mirror Foundation, 2011, p. 40).

Overall, there are strong indications from previous research that the cases of forced labour and human trafficking uncovered within the fishing sector are simply the tip of the iceberg in terms of the real prevalence of such abuses. As discussed further within section 2.7.3, major capacity gaps exist in victim identification activities by authorities, which currently limit the amount of empirical evidence available.

## 2.7.2 Patterns of forced labour and human trafficking in the fishing sector

Previous studies and cases have shown that it is predominantly Myanmar and Cambodian men who are trafficked into forced labour on Thai fishing boats that travel throughout South-East Asia and beyond. Trafficked fishers have been repatriated from countries as far away as Malaysia, Indonesia, Viet Nam, and Timor-Leste (US Department of State, 2012, p. 338).

Although some trafficking victims are literally kidnapped, most choose to migrate voluntarily and become trafficked during their journey (Feingold, 2005). Interviews conducted during a recent IOM study revealed a common pattern among the stories of trafficking victims in the industry:

1. A broker offering work in Thailand in the construction, manufacturing or agricultural sector approaches young men within their community. The pay offered is between THB3,000 to THB8,000 per month.
2. The recruited workers don't have sufficient funds to pay for their journey to the jobsite in Thailand, so they agree to pay the broker's fees from their wages after they begin work.
3. The broker provides transportation to a border crossing point into Thailand. There, the broker either continues with the recruited workers into Thailand or hands them over to another broker on the Thai side of the border.
4. The workers are then passed to another broker in a coastal province who sells them to a boat owner or boat captain.
5. Typically, the victims have no idea where they are or what has happened until they are handed over to the traffickers in the port area, who place them on a ship (Robertson, 2011).

As demonstrated by the narrative above, the role of brokers or agents in these incidents has been found to be a significant facilitating factor in cases of trafficking and forced labour in the fishing sector. Recruitment via such middlemen is attractive to migrants because it makes the journey easier, and in some cases, because the middleman may even be a trusted member of the victim's community or socio-cultural group. These agents and brokers frequently have established relationships with authorities, which enables them to transport undocumented migrants across the border without difficulty. These agents may also work in tandem with a Thai broker or agent on the other side to facilitate the border crossing. The migrants are often told that they will be able to pay back the expenses involved with the journey within a few months of working in Thailand, and the brokers will often arrange the job placement themselves (Solidarity Center, 2009). However, the fees charged for transportation, which typically will be quoted to migrants in the THB9,000–19,000 range, do not reflect the total amount of debt accrued during the process. Upon arrival in the port area, migrants often discover that they have actually been sold to a fishing vessel, and that their debt is now significantly greater than the amount quoted by their broker. As the broker has made all of the arrangements for their travel and job placement, the victim must work off the debt for the services provided even when the destination is forced labour on a fishing vessel (UNIAP, 2007).

In some cases, both Thais and migrants are drugged and robbed, and then convinced to work at the fishing pier. However, when they get there they are deceived to work on board a fishing boat, after which they are unable to contact anyone and have no chance of returning ashore. These migrant workers often receive assistance from other workers on the boat (Interview at the Marine Police Songkhla Provincial Office, Marine Division 7, 10 May 2012).

For migrants from Myanmar, victims are most commonly trafficked from Kawthaung in Tanintharyi region of Myanmar to Ranong within Thailand. From there, the victims are placed onto fishing boats operating out of Mahachai, Songkhla, Pattani, Surat Thani, or Trang. Another frequently used route for trafficking is to bring victims from Myawaddy in Kayin state to Mae Sot in Tak Province, from where they are taken to Samut Sakhon, Samut Prakan, Chonburi, or

Songkhla. A less utilized but increasingly common route for traffickers is to take victims through the border crossing at Three Pagodas Pass into Sangkhlaburi, and then deliver them to Samut Sakhon (Robertson, 2011).

For Cambodian migrants, the most heavily used route is to cross at Poipet into Aranyaprathet, from where they are then taken to Pak Nam district in Samut Prakan, Rayong, or Chonburi. Additionally, victims are trafficked from Battambang to Chantaburi and from Koh Kong to Trat, often with a similar destination of Samut Prakan, Rayong or Chonburi. Transfer of these victims between boats operating out of ports on Thailand's eastern seaboard (such as Trat and Rayong) to boats fishing out of Pattani into Malaysian and Indonesian waters is also occurring in response to seasonal weather patterns (Robertson, 2011).

Thai victims are frequently recently arrived internal migrants who are approached by a broker offering work in transportation centres or public areas used by vagrants in Bangkok. Whatever job they are offered initially, they are then coerced or deceived into accepting work on fishing boats or in a seafood processing factory (Mirror Foundation, 2011). The recruited workers are then usually delivered to traffickers operating in Mahachai who forcibly detain them before their sale to a fishing boat. In another scenario, Thai victims are sometimes befriended by traffickers in port areas who deliver them to locations where they are detained before sale. An example of this occurs at karaoke bars in Mahachai and Songkhla, where the victim is encouraged to enjoy food, drink, and/or sexual services and then handed a massive bar bill at the end of the night. In order to pay the bill, the victim is forced to accept work on a fishing vessel (Robertson, 2011).

Brokers and agents working with migrant workers have also come to play a broader role in the recruitment process for the industry beyond providing recruitment and cross-border transportation services from their countries of origin. As they are better able to gain the trust of migrant workers, brokers of the migrants' own nationality also operate locally in areas such as Samut Sakhon in order to recruit them for work on fishing vessels. In some cases, the brokers work as sub-contractors for specific employers. These sorts of relationships introduce a high level of ambiguity of responsibilities into the recruitment process, reducing the accountability of both brokers and employers and exposing migrants to greater risks of exploitation. In addition, these networks often work in collaboration with government officials, which effectively prevents workers from seeking legal remedies for abuses if their rights are violated (UNIAP, 2007).

The majority of migrant workers recruited to fill these jobs are employed as undocumented workers, and therefore receive virtually no labour protection in the Thai legal system. When on land, many of these fishers make use of informal protection schemes run by local authorities, which provide limited safety from arrest. However, these schemes have no legal basis under Thai immigration or labour laws, and thus do not provide any enforceable protections or mechanisms to seek remedy in cases of abuse (Robertson, 2011).

Several studies have found that, in particular, long-haul Thai fishing boats operating in international waters (such as Malaysia and Indonesia) are associated with a higher incidence of trafficking when compared to those fishing in the Gulf of Thailand. As these boats fish far offshore for long periods of time, it is often impossible for fishers to leave exploitative working situations. In addition, there is a higher risk of being cheated out of wages, as remuneration is received less frequently on such boats (Robertson, 2011). A Mirror Foundation study reported similar findings among trafficked Thai workers. Nearly 100 per cent of the Thai men identified as trafficking victims on fishing boats had been placed on long-haul boats fishing in international waters (Mirror Foundation, 2011). However, while the majority of research studies have found a higher prevalence of trafficking and exploitation on long-haul boats, there have also been cases identified involving coastal fishing boats (Solidarity Center, 2009).

### **2.7.3 Law enforcement response to forced labour and human trafficking in the fishing sector**

Combating trafficking for purposes of labour exploitation on fishing boats in Thailand represents an enormous challenge for Thai authorities, and one that has only recently been addressed within the national legal framework. Prior to the enactment of the Anti-Trafficking in Persons Act in 2008, males who were trafficked into forced labour on fishing boats were not officially recognized as victims of a crime. Only female victims of sexual exploitation were considered to be victims of trafficking under Thai law.

With the recognition of trafficking for purposes of labour exploitation as a crime under the provisions of the new trafficking legislation, there has also been a shift in the ministerial mandates related to implementation and enforcement of the law. As a result, the Ministry of Labour has been required to supplement the expertise of the Ministry of Social Development and Human Security in its role as the main policy implementing agency. Training curriculums and standard operating procedures for prevention and suppression of trafficking and for assistance and protection for trafficking victims have been developed in order to improve inter-agency cooperation (Mirror Foundation, 2011). However, these efforts have yet to have a significant practical impact on strengthening law enforcement efforts.

The implementation of policies for prevention and suppression of forced labour and trafficking in the fishing sector remain insufficient. The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) adopted an observation in 2012 on the application of Convention No.29 in Thailand, highlighting the vulnerability of migrant workers, and in particular fishers, to forced labour and trafficking.

*“The Committee therefore once again requests the Government to take effective measures to protect migrant workers, particularly those in the fishing industry, with a view to the complete elimination of the exaction of forced labour from this category of workers. It also once again requests the Government to take the necessary measures to further strengthen its law enforcement mechanisms, including measures to enforce anti-trafficking laws against those who target migrant fishermen ...”*

In a press statement following her visit to Thailand, the UN Special Rapporteur on trafficking in persons stated that weak enforcement of laws against trafficking, inadequate efforts to address trafficking of men, widespread corruption among law enforcement officials, and failure to identify victims and provide them with protection services were continuing problems with the country's anti-trafficking efforts (Ezeilo, 2011).

Significant gaps remain in coordination and implementation of anti-trafficking legislation for the industry. According to IOM's recent study:

*“The role of government entities in the fishing sector is not well coordinated, reducing the effectiveness of the already under-resourced civil service agencies tasked with oversight. The legal framework defining the roles and rules applying to public agents is outdated given the recent changes and growth of the sector, and many gaps currently exist. While a number of agencies have the right to board and inspect fishing vessels, the majority, do not exercise this authority... While systems for the registration and regulation of boats, equipment and fishermen exist on paper, they are often not implemented and generally lack any meaningful impact on preventing labour exploitation and trafficking in the fishing industry” (Robertson, 2011, p. 13).*

A major obstacle to improving interdiction of trafficking and forced labour for the fishing sector is the manner in which laws are enforced in port communities. In some cases, officials have even been found to be directly involved in “facilitating or undertaking human trafficking themselves” (Martin, 2003, p. 36). With the assistance of both Thai and foreign brokers and agents, networks for the recruitment and employment of fishers are now well-established in port areas. These networks are being utilized as the means for placing workers into exploitative situations, and are supported by both employers and, in a number of identified cases, law enforcement officials. The direct involvement and/or facilitation of law enforcement officials in these crimes is a significant problem that has remained inadequately addressed. Although authorities reportedly investigated several cases of complicity by law enforcement officials during 2011-2012, no prosecutions or convictions were carried through (US Department of State, 2012).

A major implication of this complicity is that rather than seeking out protection for abuses or filing complaints to the proper authorities, many migrant fishers will choose to keep quiet out of fear of blacklisting, arrest or deportation (Solidarity Center, 2009). The ILO CEACR observation on Convention No.29 noted that the Government figures during 2005 – 2006, 15 complaints concerning workers on board Thai fishing vessels were submitted to the Department of Labour Protection and Welfare (DLPW), two of which were categorized as forced labour cases.

Capacity constraints of authorities have also limited the effectiveness of law enforcement against trafficking and forced labour. The Royal Thai Police initiated investigations into 83 trafficking-related cases in 2011; 67 for sex trafficking and 16 for labour exploitation. Of these cases, three involved human trafficking on fishing boats. The cases investigated were identified by an Immigration Bureau raid and through self-reporting of victim complaints. This is indicative of poor victim identification by authorities within the fishing sector, with inspection of fishing vessels consistently failing to locate such cases. Pre-departure inspections of fishing boats by the Marine Police conducted during 2011 failed to identify any cases of forced labour or human trafficking. Similarly, although the Royal Thai Navy reported completing over 1,000 inspections of fishing boats outside of Thailand's coastal waters, not a single case of trafficking or forced labour was found (US Department of State, 2012).

Prosecution of cases through formal criminal proceedings is also lacking. A total of 67 trafficking-related cases were prosecuted, with the majority of those charged being Thai nationals, and 12 trafficking-related convictions were obtained. Of this total, two of the convictions were for sex trafficking offenses and insufficient information was made available to determine the nature of the remainder of the convictions. In many cases, authorities utilized informal channels for resolution of cases involving labour exploitation of migrants rather than pursuing criminal prosecutions (US Department of State, 2012).

Due to the prevalence of exploitative employment of migrant workers in the fishing industry, the availability of legal assistance is a critical concern that remains inadequately addressed. Although some NGOs have attempted to assist in this area, more cooperation is needed from government officials to aid in the investigation and prosecution of violations.

#### **2.7.4 International pressure to address forced labour and human trafficking in the fishing sector**

A series of high profile investigative journalism pieces from popular media outlets, reports by civil society organizations and international organizations, and tightening restrictions against IUU fishing within the international community have brought significant pressure on Thai authorities to strengthen regulation of the industry. Market-based restrictions against the sale of seafood produced through IUU fishing, including under conditions of forced labour, are already being enforced by the key EU market. Under threat of an outright ban, the Department of Fisheries in 2009 started certifying seafood products for export to Europe as being produced by non-IUU fishing. The requirements to receive the certification allowed the EU to trace the origins of seafood products, including catch certificates of trawlers, boarding ports, and processing venues (Sukpanich, 2012).

Laws specifically prohibiting the importation of goods produced by forced labour are also already in place in the United States, another major market for Thai seafood products. The legal framework for this prohibition is the Smoot-Hawley Tariff Act (1930), whose definition of forced labour mirrors the language of the Forced Labour Convention No. 29, (1930) (Human Rights Center, 2004). It therefore includes "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily" (Convention No. 29).

There has also been increased international cooperation among fishing and seafood-importing countries to improve global fisheries management and prevent IUU fishing. In September 2011, the EU and the United States reached a bilateral agreement to combat IUU fishing. As leading markets in the global fish trade, the agreement commits the two signatories to work together to adopt effective tools to combat IUU fishing (FAO, 2012b). In addition, in November 2009, the FAO Conference approved the Agreement on Port State Measures to Prevent, Deter, and Eliminate IUU Fishing. So far, 23 FAO Member Nations have signed the Agreement and 13 members indicated that they had domestic processes underway to ratify, accept, or approve the Agreement (FAO, 2012b).

However, the strongest pressure for change within the industry may come from international distribution companies who currently source their seafood products from Thai factories. There are already indications that consumers are increasingly putting pressure on such large distribution companies, demanding that they cut their ties to suppliers

with links to forced labour and human trafficking. A recent petition demanding United States retail giant Walmart adopt higher standards for purchasing its seafood products collected almost 100,000 signatures. There is some evidence that Walmart sourced some products from Phatthana Seafood, a company that was recently at the centre of controversy because of a strike by migrant workers protesting unfair and abusive labour practices at their factory in Songkhla Province (Janofsky, 2012).

## **Box 2**

### **Cambodian trafficked fishers repatriated from Indonesia**

The following information is based on the experiences of two groups of trafficked Cambodian fishers: one group of four men from the same village in Battambang province and a second group of seven men from the same province in Cambodia. Three of the four men in the first group were repatriated at the same time and through the same channel. All seven men in the second group escaped from their fishing vessel at the same time and were repatriated one week apart but through the same channel.

#### **Recruitment**

The second group learned of an unspecified job opportunity in Thailand through a friend and eventually travelled on their own to Banteay Meanchey province in Cambodia in search of work across the border. At the border, the men met a broker who offered them jobs as construction workers in Thailand and introduced them to another man who led them across the border on foot. After arriving in Thailand, the men were transported three more times to various locations before arriving at Mahachai port in Samut Sakhon province. The men were told the boat they were boarding would be used to transport cement to the construction site where they would be working but in fact, they had been sold for THB25,000 per person and would end up spending over two years working on the fishing vessel under extreme conditions.

#### **Escape and Repatriation**

Both groups reported enduring increasingly severe physical abuse and verbal threats which impelled them to try and escape from their fishing vessel while it was docked at Ambon in eastern Indonesia. Both groups sought assistance through hotline numbers – the first group through the UNIAP hotline which was shown on a MTV-EXIT documentary on human trafficking, and the second through the LSCW hotline which family members had advised them to call.

Both groups required the assistance of civil society organizations and the Cambodian Embassy in Jakarta to escape from their fishing vessel. The first group was rescued through joint cooperation between UNIAP and the IOM offices in Jakarta and Ambon, while the second group escaped on their own with the assistance of LSCW and the Cambodian Embassy.

Both groups stayed at the Ambon Immigration Detention Center (IDC) prior to repatriation. While the first group was safely hidden at the IDC, the second group was brought back to their fishing vessel to work. It was only after the fishing vessel captain refused to pay the fishers their wages that the immigration authorities returned the men to the IDC.

The Cambodian Embassy and IOM staff cooperated in interviewing the two groups and facilitating their repatriation. The first group stayed at the IDC for over one month before they were repatriated with the support of UNIAP and IOM. The second group stayed at the IDC for two to four months before they were repatriated with the assistance of IOM, UNIAP, LSCW, Indonesian authorities, and the Cambodian Embassy.

*Source: Case Summaries: Cambodian men trafficked onto Thai fishing boats and escaping in Ambon, Indonesia, LSCW and UNIAP, 23 January 2012; adapted by Andy Shen, ILO Consultant.*

## Chapter 3 – Profile of the Fishers in the Survey

This chapter presents a profile of the fishers surveyed, in terms of their nationality, age, education level, language proficiency, legal status, type of fishing vessel and length of time at sea; providing some additional context through which to interpret the findings on the recruitment, employment and working conditions.

There are two populations that will be considered in the tables and discussion below depending on the issue being addressed. Some tables will concern themselves with the total sample (n=596), which includes Thai nationals as well as migrant workers. However a number of issues, such as legal status or Thai-language proficiency, are concerns specifically related to foreign migrants. Therefore, some of the data sets below deal only with the Cambodian and Myanmar migrants in the sample population (n=547). The tables that deal only with migrants will reflect this in their titles.

### 3.1 Nationality of fishers in sample provinces

The fishers that make up the sample group for this study were working in four provinces – Ranong, Songkhla, Rayong, and Samut Sakhon – all of which are areas where the fishing industry has a strong presence. As demonstrated in Table 3.1, the vast majority of fishers interviewed were migrant workers from either Myanmar or Cambodia, with only a small number of workers being Thai nationals. While the survey cannot be said to be representative of the Thai fishing sector as a whole, the preponderance of migrant workers in the sample population demonstrates the extent to which the Thai fishing industry relies on foreign migrant labour, with Thai workers making up less than 5 per cent of the workers surveyed in three of the sample provinces. Table 3.1 shows the number of fishers by nationality surveyed in each of the four sample provinces.



*Fishing boat workers waiting to be interviewed at the dock, Songkhla, 10 May 2012, ARCM*

**Table 3.1 Nationality of fishers in sample by province (n=596)**

Nationality	Ranong		Songkhla		Rayong		Samut Sakhon		Total	
	%	N	%	N	%	N	%	N	%	N
Thai	0.0	0	4.9	5	4.3	8	20.6	36	8.2	49
Cambodian	0.0	0	65.7	67	92.5	173	0.6	1	40.4	241
Myanmar	100	132	29.4	30	3.2	6	78.9	138	51.3	306
Total	100	132	100	102	100	187	100	175	<b>100</b>	<b>596</b>

The overwhelming preponderance of migrant workers from Myanmar in Ranong Province – 100 per cent of all fishers surveyed there – can be attributed to the province sharing land, sea, and river borders with Myanmar. The area around Kawthuang, Myanmar, in particular is a staging point for migrant workers to cross the border into Thailand. According to 5 May 2012 interviews held by the researchers with officials from the Ranong Provincial Employment Office, monitoring and controlling the movements of Myanmar migrant workers is rather difficult, as there is a large flow of migrant labourers across the border and there are organized networks that lead these migrants into other areas of Thailand.

In Songkhla Province, the sample group is comprised of a combination of Thai, Cambodian, and Myanmar nationals

working in the fishing sector. In-depth interviews with Provincial Marine Police suggest that a number of Thai fishers have come from Northeastern Thailand, and a number of them were deceived into the work, some after having been drugged and robbed (Interview at the Marine Police Songkhla Provincial Office, Marine Division 7, 10 May 2012).

In Rayong Province, Cambodian workers made up the vast majority of the respondents, and they are the biggest group of both regular and irregular migrant fishers in the province. Based on the information provided by one non-governmental organization, although the standard of the work in the fishing industry may not be in line with the law, the work does satisfy both the migrant workers and their employers. Some migrants returned to Cambodia and brought back village members or relatives to work on the same boat (the Foundation for AIDS Rights (FAR), 3 June 2012).

In Samut Sakhon Province, the majority of fishers are from Myanmar. There are a small number of Thai workers working in this area. A number of Myanmar migrant workers have gone through the nationality verification process at the centre of *Baan-ur-ar-thorn* (low-cost housing project) in Samut Sakhon Province, as they have to legally register to be sure to avoid being arrested by the authorities (the Samut Sakhon Provincial Fisheries Association Office, 24 May 2012).

### 3.2 Legal status of migrant fishers

Based on the information given by the fishers interviewed, only a small number of Myanmar and Cambodian workers in the sample group have the legal right to live and work in Thailand. Section 2.6.1 provides an overview of the challenges faced by the migrants and the immigration authorities in the registration of fishers. Only one Myanmar worker reported to have a work permit, and 52 of the migrant fishers interviewed (9.5 per cent) hold a temporary travel document (meaning that they have passed the nationality verification process, but do not yet have a work permit). This group included 49 Myanmar workers and three Cambodian workers. (See Chart 3.1 and Table 3.2)

**Table 3.2 Legal status of migrant workers by nationality (n=547)**

Legal status/documents	Cambodian		Myanmar		Total	
	%	N	%	N	%	N
Work permit	0.0	0	0.3	1	0.2	1
Temporary passport/COI	1.2	3	16.0	49	9.5	52
Tor-ror 38/1	36.9	89	14.1	43	24.1	132
Immigration temporary pass	0.0	0	18.6	57	10.4	57
Seaman's book	0.4	1	0.3	1	0.4	2
No documents	61.4	148	50.7	155	55.3	303
Total	100	241	100	306	100	547

More than half (55.3 per cent) of fishers had no documents whatsoever. Nearly one quarter (24.1 per cent) of migrant workers in the sample group reported to have a Tor-Ror 38/1 form, issued by the Ministry of Interior. This form indicates that they had entered the process for regularization, but have not completed it. A further 9.5 per cent of respondents had completed the next step in the regularization process: nationality verification; after which workers can be issued a temporary passport or certificate of identity (COI) by their home government. Once they have completed nationality verification, they can apply for a work permit.

A further 10.4 per cent of migrant workers have been issued a "Pass for Myanmar National Seamen" (Immigration Temporary Pass in Table 3.2) by the Immigration Bureau in Ranong Province. This temporary pass was initiated under an order from the Ranong Provincial Governor, however, marine office officials said in an interview that these passes are not recognized by other relevant agencies involved with maritime labour management.

*"The large number of positions for fishermen and in fishing boats in Ranong Province creates a demand in recruiting workers to fill the gap. Sometimes, officials from the Department of Employment would issue a document for employment, while officials from the Provincial Employment Office and the Immigration*



*Bureau offices would issue a Pass for Myanmar National Seamen. But this pass has not been legally certified; it is only issued based on the verbal order of the Provincial Governor. Later, during the boat inspection, it is found that these workers only have this pass, but not the Seaman's book. In the end, we had to arrest them.”*  
 (Interview at the Ranong Provincial Marine Office, 4 May 2012)

### 3.2.1 Reasons for not entering the regularization process

As Table 3.2 above demonstrates, at least 90 per cent of migrant fishers surveyed by researchers are either working in Thailand illegally or with an unclear legal status, and the majority of migrant fishers interviewed (55.3 per cent) have no documentation whatsoever. The respondents identified a number of reasons why they had not registered with the Thai authorities (the Ministry of Interior and the Ministry of Labour) to acquire legal working status (Table 3.3).

For 16.8 per cent of the migrant fishers, their employers either did not register them or did not allow them to register. Registration requires the employer to submit paperwork to indicate that the migrant has a job in a sector in which they are entitled to work. Another 15.2 per cent of migrants surveyed stated that they attempted to register with the State but were unable to do so before the registration deadline. This latter reason was given by significantly more Cambodian migrants (n=54, 22.4 per cent) than Myanmar migrants (n=29, 9.6 per cent). The fact that fishers could not register during the window (usually one month) because they spend weeks and months at sea was verified in a number of interviews (Source: Interview with the Employment Office of Ranong, 3 May 2012).

Of particular note is that 44.6 per cent (n=244) of the migrants surveyed say they have already registered. This figure of 44.6 per cent highlights problems with the migrant registration process in Thailand, including the limited access to on-shore registration among Myanmar and Cambodian fishers. More than 40 per cent identified various obstacles to registration and only 5.3 per cent of migrant fishers claimed to have been unaware of the need to register indicating a general awareness that registration is a legal requirement. This seems to indicate that the respondents are aware of the registration process, but many of them believe they have complied with Thai law when they in fact have not completed the regularization process.

**Table 3.3 Reason given by migrant fishers for not registering by nationality (n=547)**

Why did you not register during the registration in 2010 or 2011?	Cambodian		Myanmar		Total	
	%	N	%	N	%	N
Did not know about registration period	7.1	17	3.9	12	5.3	29
Employer did not allow/support registration	20.3	49	14.1	43	16.8	92
Attempted to register but missed the period	22.4	54	9.5	29	15.2	83
Registration process is too complicated/time consuming	6.2	15	4.9	15	5.5	30
Just arrived in Thailand	0.8	2	7.2	22	2.9	16
No money to register	2.5	6	3.3	10	4.3	24
Ignored the registration	0.4	1	1.3	4	0.9	5
On a trip	0.4	1	0.3	1	0.4	2
Busy	0.4	1	2.9	9	1.8	10
Childhood (less than 15 years old)	0.8	2	3.3	10	2.2	12
Already registered previously	38.6	93	49.3	151	44.6	244
Total	100	241	100	306	100	547

Some employers reported to have tried to comply with the laws related to recruiting migrant workers, whether this includes facilitating the processing of work permits, and looking after the welfare of the crew. They have argued that labour disputes are often caused by the worker or the broker:

*“... in my case, in the past, I prepared applications for passports for my employees at a cost of THB8,500 per person and submitted these through a Myanmar agent. But the agent took the money and did not follow through. Some fishers disappeared once they received their worker ID. Some asked to borrow money from me and never returned...”*

(Interview with an informal fishermen's group, 4 June 2012)

### 3.3 Length of time at sea

The type of work performed by fishers in the Thai fishing industry can be roughly broken down into coastal/short-haul fishing and deep sea/long-haul fishing. For the purposes of this study, short-haul fishing indicates fishing trips of less than one month, and long-haul fishing indicates a fishing trip of more than one month.<sup>5</sup> Table 3.4 breaks things down further to demonstrate the different lengths that fishers might find themselves at sea and the breakdowns of the crews by nationality on those vessels.

**Table 3.4 Fishers' length of time at sea by nationality (n=596)**

For how long were you last out at sea?	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
Less than 2 weeks	42.9	21	73.9	178	37.3	114	52.5	313
2 weeks - 1 month	20.4	10	11.6	28	45.4	139	29.7	177
1 month - 3 months	2.0	1	12.0	29	8.2	25	9.2	55
3 months - 5 months	0.0	0	1.7	4	7.2	22	4.4	26
5 months - 6 months	2.0	1	0.4	1	1.0	3	0.8	5
Over 6 months	32.7	16	0.4	1	1.0	3	3.4	20
Total	100	49	100	241	100	306	100	596

### 3.4 Age of respondents

As Table 3.5 below shows, over half of all the fishers surveyed (51.2 per cent) fell between the ages of 18-28 years old, which strongly points to the physical nature of the work being performed and the consequent need for fishers in their physical primes, and also the age range of the population migrating into Thailand in general. Indeed, only 15.1 per cent of fishers surveyed were over the age of 40. Migrant workers formed a sizeable majority in all age groups with the exception of those 51 years of age and older, of which nine of 17 total workers were Thai nationals. However, this can be accounted for in part because ten of the workers in this age group held senior crew positions on their respective vessels (two were heads of boat crew, four were captains, two were skippers, one was a mechanic and one a cook). All of these semi-skilled or senior positions were held by Thai nationals save one (the cook was from Myanmar), suggesting a lack of advancement opportunities for migrant workers in the sector.

Of particular note in the sample population is the presence of seven fishers (two from Cambodia and five from Myanmar) that were below the age of 15, comprising just over 1 per cent of the total number of respondents. Under both Thai law and Convention No. 188, this constitutes child labour. There were also 26 fishers surveyed that were 15 to 17 years of age, which represents a grey area with regard to child labour because some work in fishing can be considered hazardous for children, including night work. Under Thai law, 15-year-olds are permitted to work on board fishing vessels if their guardian is working on the same vessel, or their guardian provides written consent. This group of children aged below 15 were living with their families on shore, but were not working with



*Interviews with young workers repairing fishing nets at the dock, Rayong, 5 June 2012, ARCM*

<sup>5</sup> The definitions for 'long-haul' and 'short-haul' were developed for the purpose of this survey, as the length of time at sea was identified as a key criterion in the vulnerability of fishers. This definition was agreed upon at a multi-stakeholder consultation to design the research methodology and questionnaire for this study in March 2012.

their fathers on the fishing boats. Convention No. 188 (which Thailand has not ratified) stipulates a minimum age of 16; however, the Convention does present circumstances wherein a 15-year-old may be permitted to work as an off-shore fisher.

**Table 3.5 Age group by nationality (n=596)**

Age?	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
Over 50 years old	18.4	9	0.8	2	2.0	6	2.9	17
40-50 years old	36.7	18	8.7	21	11.1	34	12.2	73
29-39 years old	30.6	15	24.1	58	31.0	95	28.2	168
18-28 years old	12.2	6	62.7	151	48.4	148	51.2	305
15-17 years old	2.0	1	2.9	7	5.9	18	4.4	26
Less than 15 years old	0.0	0	0.8	2	1.6	5	1.1	7
Total	100	49	100	241	100	306	100	596

### 3.4.1 Children and young workers

Under the Ministry of Labour's Ministerial Regulation No. 10 (1998), persons under the age of 16 years can only work on fishing boats if they are accompanied by a parent or guardian, or with the written consent of a parent or guardian. In this study of 596 fishing boat workers, 26 children aged 15-17 and seven children under 15 were found. The majority of them are from Myanmar (18 young workers and 5 children). Young workers are working without their parents and fishing boat crew seemed to be unaware of any restrictions on the use of young workers and children. This finding is consistent with the data from interviews with agency staff in Samut Sakhon who said that child labour is a big challenge and framed the problem of trafficking of boat workers as not so much about physical threats or harm, but more in terms of the use of child labour (Source: Employment Office of Samut Sakhon, May 2012).



*Interviews with young workers at the fishing boat dock  
in Ranong, 6 May 2012, ARCM*

### 3.5 Educational background and Thai language proficiency

The majority of fishers surveyed in this study had little in the way of formal education, as demonstrated in Table 3.6. Over 58 per cent of fishers interviewed had at most five years of formal schooling, and the figures suggest that only a small proportion completed secondary school. These figures demonstrate the reliance of the Thai fishing industry on low-educated labour, and the principally physical nature of much of the work being done.

**Table 3.6 Education completed by nationality (n=596)**

Education completed (years)	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
Did not attend school	0.0	0	7.5	18	7.5	23	6.9	41
1-5 years	46.9	23	45.6	110	57.5	176	51.8	309
6-10 years	46.9	23	42.7	103	32.7	100	37.9	226
11-15 years	6.1	4	3.7	9	2.0	3.0	3.0	18
Total	100	49	100	241	100	106	100	596

Among the migrant workers within the sample population, Thai language proficiency was shown to be rather poor. Over half of migrant fishers interviewed (53.7 per cent) did not speak any Thai at all. Migrants who self-identified as having “fair” or “fluent” mastery of the Thai language amounted to only 8.1 per cent of all migrant fishers interviewed by researchers. Neither Cambodian nor Myanmar migrant workers in the industry appear to have an advantage in speaking Thai, with both nationalities demonstrating similar percentages at each ability level (Table 3.7).

**Table 3.7 Proficiency in the Thai language among migrants by nationality (n=547)**

Thai proficiency	Cambodian		Myanmar		Total	
	%	N	%	N	%	N
None	53.9	130	53.6	164	53.7	294
A little	35.3	85	39.2	120	37.5	205
Fairly well	7.9	19	6.2	19	6.9	38
Fluent	2.9	7	1.0	3	1.8	10
Total	100	241	100	306	100	547

Table 3.8 shows the Thai-language ability of the migrant fishers surveyed for this study with regard to the length of time the worker has lived in Thailand. As one might expect, proficiency in the Thai language among migrant fishers appears to increase over time, but it is notable that very few migrant fishers, regardless of the time spent in Thailand, have strong Thai language skills. This is likely because of the limited interaction between the migrant fishers and Thai nationals, either at work or in their community; and as such, there is little opportunity or need to learn Thai. This lack of Thai language ability could possibly lead to complications with negotiating working conditions with employers and also leave migrants unable to properly communicate grievances or concerns with superiors at work or with officials.

**Table 3.8 Proficiency in the Thai language among migrants by number of years resident in Thailand (n=547)**

Thai proficiency	< 3 years		3-10 years		> 10 years		Total	
	%	N	%	N	%	N	%	N
None	77.9	197	36.4	86	19.0	11	53.7	294
A little	19.4	49	51.3	121	60.3	35	37.5	205
Fairly well	2.8	7	11.0	26	8.6	5	6.9	38
Fluent	0.0	0	1.3	3	12.1	7	1.8	10
Total	100	253	100	236	100	58	100	547

### 3.6 Roles on board and work experience

The data in Table 3.9 gives a breakdown of the sample group by the position they hold within the boat crew and the years of experience they have in the fishing sector. The vast majority of the fishers surveyed for this study were deckhands (n=493, 82.7 per cent), with the remaining 103 respondents (17.3 per cent) holding senior crew positions.

**Table 3.9 Crew position by nationality (n=596)**

Position	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
General crew member	46.9	23	90.9	219	82.0	251	82.7	493
Chief of crew	14.3	7	4.1	10	7.8	24	6.9	41
Captain	14.3	7	0	0	1.0	3	1.7	10
Mechanic	18.4	9	1.2	3	4.9	15	4.5	27
Steersman	4.1	2	2.9	7	2.0	6	2.5	15
Cook	2.0	1	0.8	2	2.3	7	1.7	10
Total	100	49	100	241	100	306	100	596

As Tables 3.10 and 3.11 show, very few survey respondents have worked in the industry for more than ten years (n=64, or 10.7 per cent), which points to the reliance on workers in their physical prime, as well as movement out of the sector for other reasons, including the tough working conditions. Not surprisingly, senior crew make up a much larger proportion of fishers that have worked in the industry for more than ten years (57 per cent) than they do of fishers with less than 10 years of experience (just 12.4 per cent).

Job mobility in the fishing sector is very high. The majority of fishers in the sample group (63.1 per cent) have at least one year of experience working in the industry, but over two-thirds of all fishers have been working for their current employer for less than a year. Just over one-third of the respondents have been working in fishing for less than a year, and nearly another third (32 per cent) have worked for one to five years.

**Table 3.10 Total work experience in Thailand and work experience under current employer by length of time at sea (n=596)**

Period of work experience	Short-haul		Long-haul		Total	
	%	N	%	N	%	N
Under 1 year	37.8	185	33.0	35	36.9	220
1-5 years	31.2	153	35.8	38	32.0	191
6-10 years	20.8	102	15.1	16	19.8	118
11-15 years	3.3	16	8.5	9	4.2	25
16-20 years	3.7	18	3.8	4	3.7	22
21-25 years	0.8	4	0.9	1	0.8	5
26-30 years	1.0	5	1.9	2	1.2	7
Over 30 years	1.4	7	0.9	1	1.3	8
Total	100	490	100	106	100	596

Period of work for current employer	Short-haul		Long-haul		Total	
	%	N	%	N	%	N
Under 1 year	6.73	330	67.9	72	67.4	402
1-5 years	23.7	116	24.5	26	23.8	142
6-10 years	6.5	32	3.8	4	6.0	36
11-15 years	0.4	2	2.8	3	0.8	5
16-20 years	1.6	8	0.9	1	1.5	9
21-25 years	0	0	0	0	0	0
26-30 years	0.4	2	0	0	0.3	2
Over 30 years	0	0	0	0	0	0
Total	100	490	100	106	100	596

**Table 3.11 Work experience by position (n=596)**

Period of work experience	Deckhand		Chief of crew		Captain		Mechanic		Steersman		Chef		Total	
	%	N	%	N	%	N	%	N	%	N	%	N	%	N
Under 1 year	42.4	209	7.3	3	0.0	0	7.4	2	26.7	4	10.0	1	36.7	219
1 - 5 years	34.9	172	14.6	6	20.0	2	25.9	7	13.3	2	20.0	2	32.0	191
6 - 10 years	17.2	85	36.6	15	30.0	3	33.3	9	33.3	5	50.0	5	20.5	122
11 - 15 years	2.4	12	17.1	7	0.0	0	3.7	1	20.0	3	10.0	1	4.0	24
16-20 years	1.8	9	14.6	6	0.0	0	14.8	4	6.7	1	10.0	1	3.5	21
21-25 years	0.6	3	2.4	1	0.0	0	3.7	1	0.0	0	0.0	0	0.8	5
26-30 years	0.2	1	0.0	0	40.0	4	7.4	2	0.0	0	0.0	0	1.2	7
Over 30 years	0.4	2	7.3	3	10.0	1	3.7	1	0.0	0	0.0	0	1.2	7
Total	100	493	100	41	100	1	100	27	100	15	100	10	100	596

### 3.7 Types of fishing vessels and crew size



*Purse seine boat returning to Samut Sakhon, 18 September 2012, ILO*

The survey found that the sample population of fishers worked on eight different types of fishing vessels, as shown in Table 3.12 below. Over 60 per cent of fishers were found to be employed on vessels that utilized purse seine nets (which many fishers call “black seiners”). It should be noted that purse seine fishing boats tend to have much larger crew sizes than other fishing vessels (Table 3.14). Therefore it seems certain that fishers are more likely to work on a purse seine vessel than any other type of ship, but it does not necessarily follow that purse seiners are the most common vessel in the fleet.

Among the survey respondents, the long-haul fishers were more likely to work upon trawling ships. Only 16.9 per cent of short-haul fishers work aboard trawling vessels, whereas 50 per cent of long-haul fishers engage in trawling. The trawling vessels tend to have significantly smaller crews than purse seine vessels (Table 3.14)

Two vessel types were found to be in use among short-haul fishers, but did not see much or any use among long-hauls fishers. Squid-fishing vessels were one such type, which apparently are used in deep sea fisheries, but appear to be more commonly used as short-haul, coastal vessels. Some short-haul fishers worked upon ‘Day Anchovy Seine’ fishing boats, also known as Kratak boats. These vessels appear to only be used in coastal fisheries.

**Table 3.12 Type of fishing vessel by length of time at sea (n=596)**

Type of fishing vessel	Short-haul		Long-haul		Total	
	%	N	%	N	%	N
Single trawl boat	11.6	57	30.2	32	14.9	89
Twin trawl boat	5.3	26	19.8	21	7.9	47
Purse seine boat	63.7	312	46.2	49	60.6	361
Floating seine boat	1.6	8	0.9	1	1.5	9
Tour boat	3.1	15	0.0	0	2.5	15
Squid-fishing boat	6.9	34	2.8	3	6.2	37
Kratak fishing boat	7.6	37	0.0	0	6.2	37
Other	0.2	1	0.0	0	0.2	1
Total	100	490	100	106	100	596

According to the respondents, the number of workers on any particular boat range from two to 54. Table 3.13 shows the distribution of crew sizes across the Thai fishing fleet. A solid majority of vessels (74.7 per cent) have crews of between 14 to 40 persons.

Crews on long-haul vessels tend to be smaller than those on short-haul vessels, as a majority of long-haul vessels (60.3 per cent) have no more than 26 fishers aboard, whereas the majority of short-haul vessels (55.9 per cent) have at least 27 fishers aboard. Long-haul fishing boats have smaller crews because of the smaller number of crew required to operate a trawler; whereas the purse seine boats require a large crew to drop and lift the nets several times each night.

It should be noted here that Ministerial Regulation No. 10 on Sea Fisheries Work does not apply to vessels with fewer than 20 workers (except the clauses on wages), or vessels that operate outside of Thai waters for more than one year.

**Table 3.13 Crew size by length of time at sea (n=596)**

Crew size	Short-haul		Long-haul		Total	
	%	N	%	N	%	N
2–13 people	19.2	94	22.6	24	19.8	118
14–26 people	24.9	122	37.7	40	27.2	162
27–40 people	50.2	246	34.9	37	47.5	283
41–54 people	5.7	28	4.7	5	5.5	33
Total	100	490	100	106	100	596

The fishers surveyed were asked to state what type of fishing vessel they were employed upon. Table 3.14 gives a breakdown of their answers by crew size, showing the number of fishers that tended to be employed on each type of vessel.

**Table 3.14 Crew size by type of fishing vessel (n=596)**

Type of fishing vessel	2-13 persons		14–26 persons		27-40 persons		41–54 persons		Total	
	%	N	%	N	%	N	%	N	%	N
Single trawl boat	40.7	48	14.2	23	5.3	15	9.1	3	14.9	89
Twin trawl boat	28.0	33	6.8	11	1.1	3	0	0	7.9	47
Seine boat	10.2	12	37.7	61	91.9	260	84.8	28	60.6	361
Floating seine boat	4.2	5	1.9	3	0	0	3.0	1	1.5	9
Tour boat	1.7	2	8.0	13	0	0	0	0	2.5	15
Squid-fishing boat	9.3	11	13.0	21	1.4	4	3.0	1	6.2	37
Kratak fishing boat	5.1	6	18.5	30	0.4	1	0	0	6.2	37
Other	0.8	1	0	0	0	0	0	0	0.2	1
Total	100	118	100	162	100	283	100	33	100	596

Purse seine vessels far and away tend to have the largest crew sizes, accounting for 91.1 per cent of all fishing vessels with crews of 27 people or greater. Trawling vessels account for a strong majority (68.7 per cent) of ships with crews of 13 or fewer workers, and also make up a plurality (41.1 per cent) of all ships with crews of fewer than 27 people. From the data in Table 3.14, it could be said that most vessel types used in the Thai fishing industry tend to have crews no larger than 26 people, however nearly half of all fishers surveyed (48.3 per cent) work on large purse seine fishing vessels with crews of at least 27 people.

The large number of crew on board the purse seiners is cause for concern, particularly because the size of the resting area on these boats (known as the hood area) is not large enough to adequately accommodate 40 workers. These large crew sizes aboard purse seine vessels reflects the heavy reliance of the Thai fishing industry on labour intensive means of fishing, rather than using labour-saving technology. This tendency could be because the use of such technology requires a large initial investment, or it could be because of the familiarity with more traditional ways of fishing has led to a lack of interest in more modern methods.

### 3.8 Accommodation

Nearly half of all fishers surveyed (47.1 per cent) lived on the boat on which they work and do not have a domicile on land. Many migrant fishers who are not in Thailand with their families prefer to live on boats to save on accommodation costs. Nearly as many (43.6 per cent) rent an apartment or room on shore and an additional 6.7 per cent either live in their family home or are staying with a relative. A very small number – just 1.3 per cent – own a home of their own, and all eight of these individuals are Thai nationals<sup>6</sup> (Table 3.15).

**Table 3.15 Type of residence by nationality (n=596)**

Type of residence	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
Fishing boat	34.7	17	79.7	192	23.5	72	47.1	281
Rent room	30.6	15	15.4	37	68.0	208	43.6	260
Live with parents/family	12.2	6	5.0	12	7.2	22	6.7	40
Live with employer	6.1	3	0.0	0	1.3	4	1.2	7
Own house	16.3	8	0.0	0	0	0	1.3	8
Total	100	49	100	241	100	306	100	596

According to the survey results, Cambodian respondents were particularly likely to live on the fishing boat, with 79.7 per cent of all Cambodian fishers stating that this is their living arrangement. As for Myanmar workers, those surveyed stated that they were more likely to rent space in an apartment, with 68 per cent opting to do so. Short-haul fishers from Myanmar were more likely to live with their families. Thai fishers had a wider distribution of accommodation types.

<sup>6</sup> The Land Code of Thailand generally prohibits the ownership of land by foreigners.



This chapter looks at the motivation for working in the fishing sector and the process and means by which workers are recruited. There are two areas of particular focus within this chapter: (1) the decision to work in the fishing industry; and (2) the role of brokers and recruitment agents in the recruitment process, as well as the costs involved.

### 4.1 Conditions attracting workers to the fishing sector

The workers surveyed were asked whether their employment in the fishing industry represented the first type of employment they had ever held or whether they had previously worked in another sector. Fishing was overwhelmingly the first industry that the sample group's members had been employed in, with 526 individuals – that is, 87.8 per cent of those surveyed – stating that their first foray into the workforce was in the fishing industry. Consequently, few fishers appear to have a basis for comparison between working as a fisher and engaging in other forms of employment.

**Table 4.1 Fishing work was first employment by nationality (n=596)**

First industry of employment	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
Fishing work was first employment	75.5	37	94.6	228	85.3	261	88.3	526
Other sector was first employment	24.5	12	5.4	13	14.7	45	11.7	70
Total	100	49	100	241	100	306	100	596

As Table 4.2 shows, the top reason given for working in the fishing industry, by a wide margin, was the wages. Nearly three times more people cited wages (48 per cent) than the next most commonly provided reason (working conditions, 17 per cent). These findings were quite consistent across the three nationalities, and among long- and short-haul fishers. Wages and conditions, discussed in Chapter 5, are not particularly good in comparison with other sectors in Thailand, but wages are higher than what is available in countries of origin. It could also be that brokers fuel a perception that work in fishing offers a desirable amount of remuneration and decent working conditions. Interestingly, 13.8 per cent of the respondents noted that they had no other employment opportunities – which is probably less likely to do with a tight labour market, and more likely a result of their education and skills levels, or because of their irregular status – with migrants' documents less likely to be checked while out at sea.

**Table 4.2 Primary motivation for working as a fisher by length of time at sea (n=596)**

Primary motivation for work in fishing	Short-haul		Long-haul		Total	
	%	N	%	N	%	N
Wages	49.2	241	42.5	45	48.0	286
Working conditions	17.6	86	17.0	18	17.4	104
Friends or relatives working in the sector	11.2	55	5.7	6	10.2	61
No other employment opportunities	12.9	63	17.9	19	13.8	82
I did not intend to work in fishing	5.9	29	17.0	18	7.9	47
Like to do this job	2.2	11	0	0	1.8	11
It is necessary to do this job	0.2	1	0	0	0.2	1
I have the appropriate skills for this job	0.8	4	0	0	0.7	4
Total	100	490	100	106	100	596

**Table 4.3 Primary motivation for working as a fisher by nationality (n=596)**

Primary motivation for work in fishing	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
Wages	42.9	21	56.4	136	42.2	129	48.0	286
Working conditions	16.3	8	14.5	35	19.9	61	17.4	104
Friends or relatives working in the sector	14.3	7	15.8	38	5.2	16	10.2	61
No other employment opportunities	14.3	7	10.0	24	16.7	51	13.8	82
I did not intend to work in fishing	2.0	1	2.9	7	12.7	39	7.9	47
Like to do this job	2.0	1	0.4	1	2.9	9	1.8	11
It is necessary to do this job	0	0	0	0	0.3	1	0.2	1
I have the appropriate skills for this job	8.2	4	0	0	0	0	0.7	4
Total	100	49	100	241	100	306	100	596

## 4.2 The various recruitment methods

There are three principal methods through which fishers are recruited:

1. Brokers in the countries of origin and Thailand play a role in coordinating with the employers to find migrants work, and charge the workers a fee. The brokers may collect the payment in advance or let workers work first and deduct the money from their wages until the full amount is paid.
2. Employers coordinate with brokers to recruit new workers for which the employers bear the cost of recruitment.
3. Workers come to find work by themselves or are persuaded by friends or acquaintances who have worked in the fishing industry and have contacts in the industry.

## 4.3 Voluntary versus involuntary entry into the Thai fishing sector

While 94.6 per cent of the sample group claimed that they made the decision by themselves to enter the fishing industry, 5.4 per cent stated that they were deceived or coerced to enter this work against their will (Table 4.4). A greater proportion, 7.9 per cent, indicated that they entered the industry against their will when asked about their primary motivation for working in fishing (Table 4.4).

The problem of involuntary entry into the fishing sector labour force is particularly pronounced among long-haul fishers. Nearly one in six long-haul fishers surveyed (16 per cent) stated that they did not willingly decide to work on a fishing vessel. By comparison, 3.1 per cent of short-haul fishers claimed to have been forced into their work, still a number worthy of concern (Table 4.4).

**Table 4.4 Decision to work in fishing by length of time at sea (n=596)**

How did you decide to work in fishing?	Short-haul		Long-haul		Total	
	%	N	%	N	%	N
I made the decision by myself	96.9	475	84.0	89	94.6	564
I was deceived/coerced	3.1	15	16.0	17	5.4	32
Total	100	490	100	106	100	596

Of the 32 individuals who reported to be have been deceived or coerced into working in the fishing sector, 30 were from Myanmar, one was from Cambodia (forced by parents) and one was from Thailand (tricked/forced by broker). The problem was so extensive among Myanmar fishers that nearly 10 per cent of all Myanmar fishers surveyed claimed to have been involuntarily placed into employment upon a fishing vessel (Table 4.5).

**Table 4.5 Decision to work in fishing by nationality (n=596)**

How did you decide to work in fishing?	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
I made the decision by myself	98.0	48	99.6	240	90.2	276	94.6	564
I was deceived/coerced	2.0	1	0.4	1	9.8	30	5.4	32
Total	100	49	100	241	100	306	100	596

The issue of deceptive and coercive labour practices is discussed in more detail in Chapter 6. Additional analysis is made on 22 of the 32 workers who did not make their own decision to work in the industry (ten of the 32 respondents were now willing to work in the fishing industry) as well as the 79 workers who came willingly but were now unwilling to work in fishing.

### Box 3 Forced to work at sea and on land

Mr Poonsap [an alias] was born in Savannaket province, Lao People's Democratic Republic in 1984. He travelled to Thailand with his parents in 1994 through Nong Khai province and to a rubber plantation in Chum Porn province. In 2008, Mr Poonsap travelled to Bangkok to look for work and found a job at a petrol station.

After he had worked there for a week, he went for a walk and was approached by a stranger who offered him work as a fisher. He was told that the income was good and he would get to return to shore every 15 days. Mr Poonsap took a great interest in the offer and accepted this job.

Shortly afterwards, the stranger took Mr Poonsap to a two-storey house in Bangkae District, Bangkok, where there were a group of 16 men, and another man guarding the house. He stayed at the house for about six days, and during this time Mr Poonsap and the other 16 men were brought documents to sign indicating that they were "willing be part of the boat crew" and were "willing to stay at their own will". Mr Poonsap and the other 16 men were then taken by two pick-up trucks to the estuary in Samut Sakhon province.

Upon arrival at the jetty, a woman provided Mr Poonsap and the 16 others with details regarding the payment. Later that afternoon, they were sent on a tour boat, which transfers supplies and brings back the catch from deep-sea fishing vessels. They were on the tour boat for eight days and eight nights before being transferred to a deep-sea fishing boat.

Mr Poonsap refused to embark the boat as he had just discovered that he would have to work for two years before returning to shore. Mr Poonsap was assaulted by the captain. He was kicked, hit and beaten by the tail of a stingray until he was severely injured. In the end, he had to get on the boat, which fished in Malaysian waters. Everyone had to work hard and only had two-hour breaks. There was no set routine for meals and the portions were small. If the captain was not satisfied with their work, they were not allowed to eat.

Mr Poonsap worked for around two months before the boat docked to sell the catch and to extend the permit to fish in Malaysian waters. He was transferred to another boat where he worked for a month, and was subsequently transferred to a third boat where he worked for two months. On all three boats, Mr Poonsap was threatened and physically abused several times by the captains. He was hit on the head, which affected his memory.

One day, the ship docked at Tanjung in Malaysia. Mr Poonsap and two other fishers escaped the boat and hid in the forest for two days before separating. Mr Poonsap worked as a labourer at Tanjung Port for around six days and once he was paid he took a passenger boat to another city.

He met a Malaysian stranger who persuaded him to work at a palm oil plantation. He worked there for four months without receiving any payment, and so he fled. He was captured and was put into a car to be brought back to the plantation. While he was in the car, he was stabbed several times in his right arm and his left leg. Once they reached the plantation, a group of workers took him in to heal his wounds. He stayed at the plantation for a month before he fled again.

This time, he sought help from the Malaysian police; but due to not having the right documentation, he was charged on the grounds of illegal entry and was sentenced by the Malaysian court. On 14 December 2009, Mr Poonsap received assistance from the Thai Government under the umbrella of the Cooperation Development Project between Thailand and Malaysia, and was subsequently sent to the Songkhla Provincial Protection and Occupational Development Centre for Men.

*Source: The Songkhla Provincial Protection and Occupational Development Centre for Men (September 2012)*

## 4.4 The recruitment process

The fishers surveyed were asked about how they came to take up employment in the Thai fishing industry. Brokers and social networks play a central role in the recruitment of fishers. Among respondents who entered the sector voluntarily, just over a quarter (26.4 per cent) of this group were recruited by brokers in their home village, and 13.1 per cent came with a friend in their village (Table 4.6). Of the 32 respondents who did not make their own decision to work in fishing, 17 workers stated that they were “deceived or forced to work by the agents from the country of origin”; nine workers stated that they were “deceived or forced to work by the agents from Thailand” and six workers (aged 12, 15, 17, 18, 19 and 25 years old) stated that they were “forced by relatives or family”.

**Table 4.6 Recruitment among fishers who voluntarily entered the industry by length of time at sea (n=564)**

How did you get recruited into work in fishing?	Short-haul		Long-haul		Total	
	%	N	%	N	%	N
Broker in my home village	26.1	124	28.1	25	26.4	149
Friend in home community	13.9	66	9.0	8	13.1	74
Broker in Thailand	3.8	18	0	0	3.2	18
Friend in Thailand	4.4	21	5.6	5	4.6	26
Came here by myself to find work	37.3	177	38.2	34	37.4	211
Came with family/employer/crew	12.4	59	10.1	9	12.1	68
No answer	2.1	10	9.0	8	3.2	18
Total	100	475	100	89	100	564

**Table 4.7 Recruitment among fishers who voluntarily entered the industry by nationality (n=564)**

How did you get recruited into work in fishing?	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
Broker in my home village	0	0	34.6	83	23.9	66	26.4	149
Friend in home community	0	0	20.8	50	8.7	24	13.1	74
Broker in Thailand	2.1	1	2.1	5	4.3	12	3.2	18
Friend in Thailand	10.4	5	0.4	1	7.2	20	4.6	26
Came here by myself to find work	43.8	21	29.6	71	43.1	119	37.4	211
Came with family/employer/crew	16.7	8	12.1	29	11.2	31	12.1	68
No answer	27.1	13	0.4	1	1.4	4	3.2	18
Total	100	48	100	240	100	276	100	564

**Table 4.8 Recruitment among fishers who involuntarily entered the industry by length of time at sea (n=32)**

How did you get recruited into work in fishing?	Short-haul		Long-haul		Total	
	%	N	%	N	%	N
I was tricked/forced by a broker in my home village	40.0	6	64.7	11	53.1	17
I was tricked/forced by a broker in Thailand	26.7	4	29.4	5	28.1	9
I was forced by parents or family members	33.3	5	5.9	1	18.8	6
Total	100	15	100	17	100	32

## 4.5 Costs of recruitment

Brokers serve as intermediaries between employers and potential employees by finding suitable workers to fill vacancies on board fishing vessels. Brokers receive a commission for this service. These fees vary from THB2,000 to 20,000. Table 4.9 below gives a breakdown of how these broker fees were paid.

**Table 4.9 Broker payment methods by length of time at sea (n=167)**

How did you pay the broker?	Short-haul		Long-haul		Total	
	%	N	%	N	%	N
I paid the broker upfront	71.8	102	76.0	19	72.5	121
My monthly wages will be deducted to pay debt	23.9	34	24.0	6	24.0	40
I will not receive any wages until my debt is paid	0.7	1	0	0	0.6	1
Not sure	3.5	5	0	0	3.0	5
Total	100	142	100	25	100	167

As Table 4.9 shows, a sizeable majority of those fishers who used a broker paid upfront for the broker's services. But of concern is the number of workers who were having some or all of their salary withheld from them to pay off the broker fees; a situation that is not necessarily debt bondage, but could be if the terms of repayment are not defined or exceedingly difficult to meet. A quarter of the respondents that utilized a broker were in this position of having some or all of their salary withheld. In addition, the 3 per cent of workers who answered "Not sure" had all just started as fishers and were not sure whether all or part of their salary would be withheld to pay the fee.

While many respondents who utilized recruitment agents reported paying these brokers upfront, the survey data suggests that 69 respondents were only able to make these payments by securing a loan. This sharply demonstrates the poverty of the communities from which fishers appear to be recruited. Table 4.10 below summarizes the sources of those loans among those that secured a loan to pay their broker.

**Table 4.10 Source of funds among fishers who secured a loan to pay broker fees by nationality (n=69)**

Who loaned the money to you?	Cambodian		Myanmar		Total	
	%	N	%	N	%	N
Recruiter/broker	10.8	4	21.9	7	15.9	11
Family	27.0	10	21.9	7	24.6	17
Informal lender	5.4	2	18.8	6	1.6	8
Employer	48.6	18	31.3	10	40.6	28
Friend	5.4	2	3.1	1	4.3	3
Pawn shop	2.7	1	3.1	1	2.9	2
Total	100	37	100	32	100	69

Note: No Thai fishers in the sample payed broker fees

Among those fishers who did take out a loan to pay a broker, 40.6 per cent were given a loan by their employer, and a further 15.9 per cent from the broker themselves. These kinds of arrangements have the potential to be exploitative and possibly lead to a debt bondage situation. Such situations in which workers are tied to an employer are explored further in Chapter 6.

## Chapter 5 – Employment Practices and Working Conditions

This chapter looks at employment practices in fishing and the working conditions of the 596 fishers surveyed. This section of the survey drew on many of the aspects of work for which standards are set in Convention No. 188 on Work in Fishing, for example, on fishers' work agreements, the number of rest hours, accommodation, method of payment, etc. In addition, given the specific context in Thailand, additional questions were added on the wage rate, deductions, remittances, and coercive labour practices.

Analysis is made against the relevant Thai legislation and international standards. In examining these conditions, it is important to keep in mind the nature of work in fishing is very different to other forms of land-based work; for example, in terms of the working hours, wage payment systems, and living conditions.

### 5.1 Signing of a labour agreement

A work agreement ensures that both the fisher and the employer are in agreement about the worker's rights and responsibilities, and fully understand the terms and conditions under which the fisher is engaged. The work agreement can be used to prevent or settle disputes about wages, living and working conditions, etc.

Ministerial Regulation No. 10 states that an employer shall maintain a document regarding remuneration rates and the payment of wages. The document should be kept at the employer's place of business and be available for inspection by a labour inspector. The document shall contain at least the following particulars: (1) the name and surname of each employee; (2) their position and duties; and (3) the rate and amount of wages, holiday pay and other benefits that have been agreed to. This document should be signed by fishers as evidence of payment.

Almost none of the respondents (93.8 per cent) had a signed labour agreement with their employer. The employment agreement in these instances was verbal. The lack of a written contract was more likely among deckhands than senior crew (94.9 per cent versus 88.3 per cent) (Table 5.1). In all, only 3.9 per cent of respondents stated that they had signed a written contract.

Thai fishers were no more likely to have a written contract than migrant fishers, even among those holding senior crew positions. Also, there were no distinct differences between short-haul and long-haul boat workers with regard to possession or lack of a signed labour contract. This finding is consistent with data collected from interviews with government officials who affirmed that almost none of the fishers signed contracts (*Source: Interview, Employment Office, Samut Sakhon, 5 June 2012*).

**Table 5.1 Signed a labour contract by position (n=596)**

Have you signed a labour contract?	Deckhands		Senior crew		Total	
	%	N	%	N	%	N
Signed a contract	2.6	13	9.7	10	3.9	23
Did not sign a contract	94.9	468	88.3	91	93.8	559
Don't know	2.5	12	2.0	2	2.3	14
Total	100	493	100	103	100	596

### 5.2 Working hours and rest periods

#### 5.2.1 Working hours

The Labour Protection Act sets out limits on working hours, but this clause does not apply to work in fishing due to the nature of the work.

Table 5.2 presents data comparing the work hours with the duration of time at sea. Short-haul fishers and long-haul fishers mostly have indefinite work hours (41.1 per cent) or work 17–24 hours per day (25.8 per cent). A greater percentage of short-haul fishers surveyed work less than 8 hours a day compared to the long-haul crews.

These working hours include the 'on-call' hours in which the boat is traveling to and from the fishing area, or the time in between casting and pulling up the nets. When workers are not fishing, they may be engaged in other activities such as fixing nets, sorting or unloading fish.

**Table 5.2 Typical working hours, including on-call per day, by length of time at sea (n=596)**

Working hours per day	Short-haul		Long-haul		Total	
	%	N	%	N	%	N
Less than 5 hours	10.8	53	4.7	5	9.7	58
5-8 hours	8.2	40	5.7	6	7.7	46
9-16 hours	15.7	77	15.1	16	15.6	93
17-24 hours	25.3	124	28.3	30	25.8	154
Indefinite period of time	40.0	196	46.2	49	41.1	245
Total	100	490	100	106	100	596

Thai respondents were far more likely than migrants to report shorter hours (less than 8 hours). That said, 24.5 per cent of the Thai sample reported working 17-24 hours; comparable to the 25.9 per cent of migrants. However, the migrants surveyed were much more likely than Thais to have indefinite working hours, 42.4 per cent and 26.5 per cent respectively. The documents or legal status of the migrant worker did not have a significant effect on working hours.

### 5.2.2 Periods of rest

The Thai Ministerial Regulation does not set out rest hours for fishers. Convention No. 188 states that workers on board vessels fishing for more than three days should have minimum hours of rest of no less than 10 hours in any 24 hour period, and 77 hours in any seven day period. The Convention does allow for some flexibility on rest hours in cases where fishing operations must continue, but the rest time must be compensated, as regular periods of rest of sufficient length are crucial to the workers' safety and health.

Among short-haul fishers, 38.4 per cent have a typical rest time of less than five hours per day while 35.1 per cent have indefinite periods of rest. As for long-haul fishers, 28.3 per cent rest less than five hours per day and 46.2 per cent have indefinite periods of rest. So among the sample population, nearly three-fourths of all fishers either rest for less than five hours each day or for indeterminate periods of time (Table 5.3).

Of those migrants who worked as labourers, 38.5 per cent reported less than five hours of rest per day. In contrast, 27.2 per cent of those in higher positions such as crew supervisors, mechanics and captains, reported less than five hours of rest per day.

**Table 5.3 Typical rest while on board by length of time at sea (n=596)**

Amount of rest in a 24 hour period	Short-haul		Long-haul		Total	
	%	N	%	N	%	N
Less than 5 hours	38.4	188	28.3	30	36.6	218
5-8 hours	13.3	65	10.4	11	12.8	76
9-16 hours	12.9	63	12.3	13	12.8	76
17-24 hour	0.4	2	2.8	3	0.8	5
Indefinite period of time	35.1	172	46.2	49	37.1	221
Total	100	490	100	106	100	596



### 5.2.3 Sufficiency of rest while at sea

Despite the fact that 41.1 per cent of the sample reported indefinite hours of work and nearly half reported less than 8 hours of rest per day, nearly three-fourths (73.6 per cent) of respondents felt they had enough time to rest; and 26.4 per cent said they did not have adequate rest (Table 5.4).

**Table 5.4 Typical rest while on board by sufficiency (n=596)**

Amount of rest in a 24 hour period	Sufficient		Insufficient		Total	
	%	N	%	N	%	N
Less than 5 hours	94.9	207	5.1	11	100	218
5-8 hours	98.7	75	1.3	1	100	76
9-16 hours	0.0	0	100.0	76	100	76
17-24 hours	100.0	5	0.0	0	100	5
Indefinite period of time	68.8	152	31.2	69	100	221
Total	73.6	439	26.4	157	100	596

While nearly every fisher who had less than eight hours rest each said their rest period was adequate, every single fisher who received 9–16 hours rest each day felt that their rest was inadequate. A possible explanation for this is that the fishers who indicated that they did not receive adequate rest were mostly on purse seine net fishing vessels, which are very labour intensive.

Long-haul fishers were more likely to report insufficient rest (39.6 per cent) compared to short-haul fishers (23.5 per cent). When examining responses by senior crew and labourers, about three-fourths (74.4 per cent) of labourers felt they had enough rest time, whereas 69.9 per cent of senior crew felt this way.

## 5.3 Pay, savings and remittances

### 5.3.1 Amount of pay

Fishers are usually paid at least a portion of their income according to the catch. While the minimum wage does not apply to the fishing sector, it does serve as a gauge for a decent wage for low-skilled work in Thailand. A national minimum wage of THB300 was introduced on 1 January 2013, prior to which the minimum wage was determined on a province by province basis. For the four provinces in which fishers were surveyed the daily minimum wages during the study period were the following: Ranong, THB258; Rayong, THB264; Samut Sakhon, THB300; and Songkhla, THB246 (Announcement by the Minimum Wage Commission, Document #6, 2011).

The mean wage of respondents was THB6,483, with a higher mean for Myanmar fishers than Cambodian fishers: THB6,152 and THB5,543 respectively (Thai fishers received a mean wage of more than double those amounts at THB13,171). Nearly half the sample group (47.7 per cent) received a monthly salary of less than THB5,000. This salary range is less than half the average monthly salary for Thais in 2010 (THB12,509 (National Statistical Office, 2012b)). Another 43.3 per cent received THB5,001–10,000 per month. Very few received THB10,001–20,000 per month (4.9 per cent), and only 1 per cent received over THB20,000 per month (Table 5.5).

As shown in Chapter 4, the primary reason for fishers to enter the sector was wages; however, this appears to be because of the wage differential in relation to the country of origin rather than in relation to other sectors of the Thai economy. That said, it is not uncommon for migrant workers in other sectors, and particularly irregular migrant workers, to receive less than the minimum wage.

Only 10 per cent of Thai respondents received less than THB5,000, while 51 per cent of migrants fell into this category.

**Table 5.5 Wages received per month by nationality (n=596)**

Wages per month (THB)	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
Less than 5 000	10.2	5	56.4	136	46.7	143	47.7	284
5 001–10 000	55.1	27	39.0	94	44.8	137	43.3	258
10 001–20 000	22.5	11	1.3	3	4.9	15	4.8	29
Over 20 000	10.2	5	0.0	0	0.3	1	1.0	6
No answer	2.0	1	3.3	8	3.3	10	3.2	19
Total	100	49	100	241	100	306	100	596

$\bar{x}$  of wage = THB6,483

### 5.3.2 Conditions of payment

Fishers receive compensation calculated according to: (1) a proportion of the sale of the catch (41.3 per cent); (2) a basic wage plus a proportion of the catch (38.9 per cent); or (3) a basic wage only (10.4 per cent).

Employers use a 'share of catch' to motivate the workers while at sea, and also provide a modest salary to retain workers; for example, when the boat is docked during conservation periods or when fishing conditions are not optimal. By nationality, more Myanmar and Thai workers are paid mostly by a combination of salary and a share of the catch (57.2 per cent and 49 per cent respectively), whereas Cambodian migrants are more likely to be paid by a share of the catch only (58.9 per cent) (Table 5.6).

**Table 5.6 Means of determining wages by nationality (n=596)**

How are your wages determined?	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
Share of catch	46.9	23	58.9	142	26.5	81	41.3	246
Basic wage plus share of catch	49.0	24	36.9	89	57.2	175	48.3	288
Basic wage	4.1	2	4.2	10	16.3	50	10.4	62
Total	100	49	100	241	100	306	100	596

### 5.3.3 Frequency of wage payment

Ministerial Regulation No. 10 states that wages should be paid on at least a monthly basis, unless it is in the interests of the fisher. Nearly two-thirds of respondents (63.4 per cent) received their payments monthly, while 12.9 per cent received quarterly payments, and 12.2 per cent received payment at the end of each voyage (Table 5.7). Slightly more of the long-haul fishers surveyed were receiving monthly payments – as their employers would transfer payment to the fisher's account or their family member's account on shore. A long-haul fisher is also far more likely to be paid at the end of each boat voyage than a short-haul fisher at sea for one month or less. Thai workers were far more likely to receive payment on a monthly basis (81.6 per cent) than the migrants surveyed (61.8 per cent). There was very little difference in the regularity of pay among senior crew members and labourers.

**Table 5.7 Frequency of payment by length of time at sea (n=596)**

How often do you get paid?	Short-haul		Long-haul		Total	
	%	N	%	N	%	N
Every month	62.3	305	68.9	73	63.4	378
Every two months	2.2	11	2.8	3	2.3	14
Every three months	14.9	73	3.8	4	12.9	77
Every six months	4.1	20	1.9	2	3.7	22
Every two days receive THB100	4.1	20	0.9	1	3.5	21
Before going to sea	1.4	7	3.8	4	1.8	11
At the end of each voyage	11.0	54	17.9	19	12.2	73
Total	100	490	100	106	<b>100</b>	<b>596</b>

Nearly 15 per cent of the short-haul fishers surveyed are paid quarterly. The reason given by employers for paying short-haul fishers at intervals longer than one month is that they fear that fishers will leave the boat after being paid. By offering payment every two, three or six months, they can retain crew members for multiple voyages. This mostly concerns the fishing boats in Thai territorial waters which are out at sea for periods of weeks at a time and rely on 30 to 40 fishers per boat. Thus, it is very important for the boat owners to retain a regular number of crew members. Employers also retain workers by withholding a certain percentage of their earnings for up to one or two years. If the worker leaves before that period, then that balance of payment is withheld (*Source: FAR, Rayong, 3 June 2012*).

In terms of pay disputes, representatives of local agencies said the problem they hear about most from employers was workers reneging on work agreements after receiving an advance. This can prove to be a considerable hardship for the larger boats that must recruit 40 to 50 workers and pay advances. Some crew disappear after receiving the advance, while others jump ship when the boats dock at intermediate ports to unload fish. At that point, the boat may not be able to head back out to sea due to lack of crew (*Interview with Marine Police of Samut Sakhon, 22 May 2012; Interview with Fisheries Association, Songkhla, 11 May 2012*).

### 5.3.4 Deductions from pay and amount deducted

Fully 42 per cent of the sample group reported that a portion of their pay was deducted by their employer for various costs, including: (1) debt incurred or repayment of wage advances (15.4 per cent); (2) food and drinking water (5.4 per cent); (3) worker card fees (1.7 per cent); (4) leave days (0.8 per cent); and (5) accommodation (0.5 per cent). Fully 18.3 per cent did not know what the deductions were for (Table 5.8).

The debt incurred by fishers is presumably from employers paying the broker fees. It is worth noting that Convention No. 188 indicates that workers should not have to pay to secure employment. Ministerial Regulation No. 10 states that employers should provide fishers with a record of pay. However, many fishers are having money taken from their pay for reasons that are unclear to them and/or in amounts that they are uncertain of. Such uncertainty suggests the possibility of particularly exploitative payment practices on the part of some employers. But it also makes the scale of the problem difficult to assess because of the paucity of information that fishers are able to provide on the matter. In addition, the Ministerial Regulation states that fishers should have up to 30 days paid leave – though a small number of respondents were having their pay deducted for taking leave.

Workers on short-haul boats were more likely to have deductions taken from their pay than workers on long-haul boats (43.9 per cent versus 34.0 per cent). Workers on short-haul boats were also slightly less likely to know why deductions were being taken from their pay (Table 5.8).

Of the 251 respondents who had their pay deducted, 210 or 83.7 per cent did not know how much was being deducted from their pay.

**Table 5.8 Deductions from pay by length of time at sea (n=596)**

Deductions from pay	Short-haul		Long-haul		Total	
	%	N	%	N	%	N
Food and drinking water	5.7	28	3.8	4	5.4	32
Debt incurred / wage advance	15.5	76	15.1	16	15.4	92
Accommodation	0.6	3	0.0	0	0.5	3
Registration fee	2.1	10	0.0	0	1.7	10
Leave days	1.1	5	0.0	0	0.8	5
Deduction, but don't know details	18.9	93	15.1	16	18.3	109
No deductions	56.1	275	66.0	70	57.9	345
Total	100	490	100	106	100	596

### 5.3.5 Savings

A significant proportion of the respondents did not have any savings (59.9 per cent), which was also true for the senior crew (51.5 per cent). This could be because a considerable proportion of fishers (36.9 per cent) (Table 3.10) had worked in fishing for less than a year, and may still have been paying back brokerage fees. However, a limitation of the study is that this question did not specify whether fishers should report savings before or after sending remittances home (see next section). While only 3.9 per cent of the overall sample had savings over THB7,500, the proportion in this category was higher among Thai respondents (24.5 per cent) and senior crew (13.6 per cent) (Table 5.9).

**Table 5.9 Monthly savings by position (n=596)**

Monthly savings (THB)	Deckhands		Senior crew		Total	
	%	N	%	N	%	N
Less than 1 500	15.8	78	8.7	9	14.6	87
1 500–2 500	7.5	37	3.9	4	6.9	41
2 501–3 500	6.1	30	9.7	10	6.7	40
3 501–4 500	2.8	14	3.9	4	3.0	18
4 501–5 500	3.2	16	5.8	6	3.7	22
5 501–6 500	0.6	3	1.9	2	0.8	5
6 501–7 500	0.4	2	1.0	1	0.5	3
More than 7 500	1.8	9	13.6	14	3.9	23
No savings	61.7	304	51.5	53	59.9	357
Total	100	493	100	103	100	596

### 5.3.6 Remittances sent home

Over half the sample (52.3 per cent) remitted funds to their home community, with the Cambodians surveyed most likely to remit (60.6 per cent), compared to Myanmar migrants (47.7 per cent) and Thais (40.8 per cent). Migrants with no documents whatsoever were less likely to remit than those migrants that had some type of documentation.

Of those who sent remittances (n=312), 63.1 per cent sent money through a broker, 13.1 per cent used a bank, and 14.7 relied on friends or family. Thai fishers were most likely to use a bank, and hardly used brokers or acquaintances. Just over 80 per cent of the respondents who sent remittances (n=312) sent up to THB5,000 each month (Table 5.10).

**Table 5.10 Amount of remittances by nationality (n=596)**

Remitted amount (THB)	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
500–2 000	0.0	0	22.8	55	9.8	30	14.3	85
2 001–5 000	16.3	8	28.2	68	29.4	90	27.9	166
5 001–10 000	14.3	7	7.5	18	7.2	22	7.9	47
Over 10 000	10.2	5	2.1	5	1.3	4	2.3	14
Do not send	59.2	29	39.4	95	52.3	160	47.7	284
Total	100	49	100	241	100	306	100	596

## 5.4 Safety, health and welfare

### 5.4.1 Social protection

The law does not guarantee social protection benefits for fishers, and any benefits are determined by individual employers. Over three-fourths (78 per cent) of fishers surveyed did not receive standard benefits. Of the workers who did receive benefits from their employers, these mostly came in the form of medical care. Only 14 of the respondents had health insurance cards, and two had special compensation or accident insurance.

The irregular status of many of the migrant respondents is one reason why these workers are not covered, but two-thirds of Thai workers also did not receive benefits. Those receiving benefits (109 cases) were either Thai or registered migrants. Senior crew members were more likely to receive benefits (43.7 per cent) than labourers (17.4 per cent), and more short-haul fishers received benefits.

Local officials felt there could be improvements in the protection and welfare for fishers. If the benefits of the work improve, then demand for the jobs should increase (*Source: Interview, Employment Office of Ranong, 3 May 2012*). Also, even though the law stipulates that all legal migrant labourers should be enrolled in the national social security programme, many employers were not willing to enroll their crew because both the employer and worker had to make co-payments into the system. (*Source: Interview, Employment Office, Songkhla, 3 May 2012*).



*Thai crew supervisor who lost his arm  
in a winch, Samut Sakhon.  
18 September 2012, ILO*

### 5.4.2 Occupational safety and health on board

Work in fishing can be hazardous, with various factors contributing to accidents and fatalities on board (see box 4). This study found that nearly all of the fishers surveyed (91.9 per cent) indicated that they were aware of the risks associated with fishing; specifically the areas on the boat where accidents could occur. There was no difference for this variable between deckhands and senior crew, and only a slightly greater proportion of short-haul fishers (92.7 per cent) were aware of the safety risks than their long-haul counterparts (88.7 per cent).

Approximately one in five fishers in the sample group (20.6 per cent) had had an accident while working that was serious enough to require clinic or hospital care – though not necessarily with their current employer. Senior crew reported a higher incidence of serious accidents than labourers, perhaps because they tend to have worked in fishing for a longer period of time: 35 per cent versus 17.6 per cent (Table 5.11). More long-haul than short-haul fishers had experienced accidents requiring professional treatment (26.4 per cent versus 19.4 per cent).

**Table 5.11 Injured on the job by position (n=596)**

Have you ever been injured on the job?	Deckhands		Senior crew		Total	
	%	N	%	N	%	N
Injured	17.6	87	35.0	36	20.6	123
Never injured	82.4	406	65.0	67	79.4	473
Total	100	493	100	103	100	596

Interviews with staff of the Songkhla Office for Labour Protection and Welfare revealed that there were serious concerns about the safety of the fishing boat workers. The agency coordinates with ship owners and captains to make sure they inform their workers of the hazards involved, but it is not known how these employers actually train their crews (Source: Interview with the Office of Labour Protection and Welfare of Songkhla, 10 May 2012).

The Songkhla Office of Labour Protection and Welfare proposed the following suggestions to reduce risk of injury: safety guards for winches, regularly inspection of winches for functionality; improved electrical systems; and requiring tight-fitting work clothes that will not catch in machinery or lines. The office also suggested that there be explicit laws related to safety (Source: Interview with the Office of Labour Protection and Welfare of Songkhla, 10 May 2012).

#### **Box 4 Occupational safety and health in the Thai fishing sector**

A fishing boat is an unstable platform in perpetual motion, making what is already a high risk occupation even more unsafe. When the weather is particularly rough, the motion may be extreme and unpredictable. Decks are slippery and covered with nets and gear. There are no fixed working hours, the working rhythm being determined by the sea and the catch, which may lead to fatigue and increase the likelihood of accidents (Nixon, p.1).

As such, globally, fishing ranks as one of the four most dangerous sectors of work, along with agriculture, construction and mining. Fatality and accident rates in fishing are much higher than for many industrial workers. The ILO's safety and health department estimates that fishing has a worldwide fatality rate of 80 per 100,000 workers, or approximately 24,000 deaths per year, with 24 million non-fatal accidents in the sector (ILO 1999, p.17). The scale of occupational diseases has not been estimated.

Specific data on the number of fatalities, injuries and ill health in the Thai fishing industry is lacking as there is a lack of a proper system of accident and ill health reporting. Reporting on injuries and ill health is largely anecdotal as no records are kept. However, a report by the Southeast Asian Fisheries Development Center (SEAFDEC) on safety at sea in Thai fisheries stated that, "Lack of competence of the boat crew and the poor working conditions, long period of working hours may have contributed to more than 40 per cent of fishing boats in Thailand meeting accidents at sea which is considerably high" (Chokesanguan, Ananpongsuk, and Wanchana, 2009, p. 35). The study also stated that, "Case study respondents confirmed that in general, owners of fishing boats in Thailand do not pay considerable attention on safety issues and the quality of life of the crew working onboard" (Chokesanguan et al., 2009, p. 35).

Another overview of safety in the Thai fishing industry observed that, "The principal factors affecting sea safety (in Thailand) were seen to include lack of appropriate safety equipment on all vessels; trawler designs that carry a lot of top hamper which are at risk during typhoons or cyclones; and the declining economic viability of small-scale fishing enterprises associated with a declining resource base leading to higher levels of risk taking" (Bay of Bengal Programme, p.7).

### Hazards and Risks in Fishing

The hazards found in different types of fishing operations are very similar, but the levels of risk arising from specific dangers may vary between types of vessels. For example, compared to coastal fishing boats, deep sea trawlers use heavier duty machinery, more electricity, have more confined spaces, and are at sea for much longer periods and so on. All of the following risks can be exacerbated if the workers are fatigued, poorly trained, under the influence of alcohol, working with low visibility or stressed.

Following a series of consultations with vessel owners and skippers in several provinces in Thailand, the main hazard faced on board fishing vessels relate to the machinery, particularly the winches used to pull in the nets. These winches are not guarded and rarely have automatic stop buttons located within reach. As such, fishers can trap their fingers, hands, arms in the coiling ropes and cables.

The other main risk is drowning as a result of falling or being swept overboard, vessels sinking or capsizing, diving and swimming. Vessels are rarely equipped with lifebuoys or sufficient numbers of life jackets, though the skippers do have makeshift flotation devices. Workers can also be injured by cuts and abrasions: from trips and falls; in using knives (to repair nets) and cables; contact with fittings projecting from the structure; and from contact with fish and the catch. Some fishers suffer from repetitive strain from heavy or awkward lifting, and there have been reports of asphyxiation from working in confined spaces where fish are stored.

#### ILO Convention No. 188

Article 8 of ILO Convention No. 188 states that the skipper has the responsibility for the safety of the fishers on board, including to ensure the prevention of fatigue and the provision of OSH training. The fishing vessel owner must ensure the skipper is provided the necessary resources and facilities to comply with these obligations; and the fishers must comply with the skipper's orders and the OSH measures.

Convention No. 188 further states that laws should require medical equipment and supplies carried on board with instructions in a language understood by the fishers, that there is one person on board trained in first aid. The law should also allow fishers the right to obtain medical attention on shore in a timely manner. Article 31 calls on states to adopt measures on the prevention of occupational accidents, occupational diseases and work-related risks on board fishing vessels, including risk evaluation and management, and the training and on-board instruction of fishers.

*Source: The above draws from the draft of the Safety and Health Training Manual for the Commercial Fishing Industry in Thailand, under development by the National Fisheries Association of Thailand and the Ministry of Labour, with support from the ILO GMS TRIANGLE project and ILO consultants: Peter Hurst, Sara Arphorn and Sudthida Krungkrai Wong.*

### 5.4.3 First aid

Convention No. 188 stipulates the availability of first aid kits on fishing vessels. Nearly three-fourths (73.2 per cent) of the sample group affirmed that the boats they worked on had first aid kits, with no differences between long-haul and short-haul vessels. But this finding suggests that more than one-quarter of fishing vessels do not have first aid kits on board, despite the profession being dangerous enough to send one out of five fishers to a clinic or hospital as the result of a work-related injury. As the first-aid kits are usually kept in the captain's cabin, it is possible that they would not know whether the boat had a first aid kit. But given the potential of accidents and their distance from shore, it could be argued that they should be made aware as part of occupational safety and health training.

### 5.4.4 Food and drinking water

Convention No. 188 stipulates that employers must provide fishers with rest areas, nutritional food, and water of sufficient quantity and quality while at sea. As Table 5.12 shows, 88.8 per cent of the sample group reported receiving adequate food and drinking water, but conversely over 10 per cent of fishers surveyed stated that they were not being provided adequate rations. The adequacy of food and drinking water distribution is roughly equal on both short- and long-haul boats. The adequacy of food and water rations was better among senior crew than among deckhands, but only by a difference of 3 per cent, suggesting relatively equal distribution of water and foodstuffs regardless of position. By nationality, more Cambodian and Thai fishers reported adequate food and drinking water than Myanmar fishers (95, 93.9, and 83 per cent respectively).

**Table 5.12 Adequacy of food and drinking water provided on board by position (n=596)**

Was the food and drinking water adequate?	Deckhand		Senior crew		Total	
	%	N	%	N	%	N
Adequate	88.2	435	91.3	94	88.8	529
Not adequate	11.8	58	8.7	9	11.2	67
Total	100	493	100	103	100	596

## 5.5 Violence on board and the sale and transfer of fishers

### 5.5.1 Threatened with violence

Of the sample group, 17.3 per cent of fishers had been threatened either by their employer, the captain, a supervisor, or another co-worker (Table 5.13). This group requires special consideration because of the potential for harm. All nationalities reported cases of having received threats, with Myanmar fishers reporting the highest prevalence (nearly 20 per cent had been threatened) and Thais reporting the lowest (just over 10 per cent). More long-haul fishers had been threatened than their counterparts on short-haul fishing vessels (24.5 per cent versus 15.7 per cent) (Table 5.13).

**Table 5.13 Threatened with violence while you worked on board by length of time at sea (n=596)**

Have you been threatened while on board?	Short-haul		Long-haul		Total	
	%	N	%	N	%	N
Threatened with violence	15.7	77	24.5	26	17.3	103
Not threatened	84.3	413	75.5	80	82.7	493
Total	100	490	100	106	100	596

### 5.5.2 Severely beaten on board

Of the total sample, 10.1 per cent had been severely beaten by a co-worker while on the job (not necessarily the current job), with the proportions being similar for deckhands and senior crew. By nationality, Myanmar fishers were nearly twice more likely to have been severely beaten (16.3 per cent) than Thai fishers. Cambodians were much less likely to be beaten than Myanmar and Thai fishers, with 2.5 per cent of Cambodian survey respondents stating that they had been victims of such violence (Table 5.14).

The data on the whole shows that there is a considerable amount of violence within the fishing fleet. As is the case with many other metrics, long-haul fishers fare worse than short-haul fishers, with severe beatings being nearly twice as common on long-haul vessels (17 per cent versus 8.6 per cent). This is likely to be because of the long periods working in a confined space.



ILO Convention No. 188 holds the skipper responsible for preventing such violence from occurring: "The skipper has the responsibility for the safety of the fishers on board and the safe operation of the vessel." However, skippers and crew supervisors are sometimes the perpetrators of violence against crew as a means of subjugation.

**Table 5.14 Severely beaten while on board by nationality (n=596)**

Have you been severely beaten?	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
Severely beaten	8.2	4	2.5	6	16.3	50	10.1	60
Not severely beaten	91.8	45	97.5	235	83.7	256	89.9	536
Total	100	49	100	241	100	306	100	596

### 5.5.3 Sold or transferred

Twenty-four respondents (4 per cent of the sample) had at one point been sold or transferred to another boat against their will while at sea (not necessarily in their current job). Buying or selling persons is illegal according to Article 6 of the Anti-Trafficking in Persons Act, B.E. 2551 (2008) and the international definition of trafficking found in the supplementary protocol to the UN Convention to Combat Transnational Organized Crime. The data in Table 5.15 suggests that the practice may be more common on long-haul fishing ships, but the difference in proportions is quite small. Of the 24 fishers that had been sold or transferred against their will, three were Thais, three Cambodians, and 18 from Myanmar. This shows that the problem is not limited to foreign migrants, but certainly appears to happen predominantly to Myanmar fishers.

The Marine Police of Songkhla believe that deep-sea fishing boats found it easier to traffic their workers, because of the longer periods of time spent out of sight. They said that enforcement at sea needs to be heightened and must be comprehensive over all waters, since, if the law is only enforced strictly in one area, then the boats will simply engage in these practices in areas with lighter enforcement (*Source: Interview with Marine Police of Songkhla, 6 May 2012*).

**Table 5.15 Sold or transferred to another boat at sea against will by length of time at sea (n=596)**

Have you been sold or transferred to another boat against your will?	Short-haul		Long-haul		Total	
	%	N	%	N	%	N
Sold or transferred	3.7	18	5.7	6	4.0	24
Not sold or transferred	96.3	472	94.3	100	96.0	572
Total	100	490	100	106	100	596

The Marine Police of Songkhla observed that the coercive trading of crew among boats was rare because word would spread rapidly among the fishers about which boats and employers to avoid. The practice of trading crew for a fee between boats does happen when one boat is short of crew, but this is done with advance knowledge (*Source: Marine Police of Songkhla, May 2012*).

### 5.5.4 Attempts to abandon the fishing boat

Overall, 11.1 per cent of the sample group had at one point attempted to flee a fishing vessel, though not necessarily with the current employer. Nearly twice the proportion of long-haul fishers had tried to flee a vessel compared with their short-haul counterparts (17 per cent versus 9.8 per cent) (Table 5.16). Among those that had attempted to flee their ship, the reasons they gave included: home-sickness (56 per cent); difficulty of the work (13.6 per cent); the tedium of the work (10.6 per cent); and having been sold or forced into the work in another boat (9.1 per cent), among others.

**Table 5.16 Tried to escape from a fishing boat by length of time at sea (n=596)**

Have you tried to escape from a fishing boat?	Short-haul		Long-haul		Total	
	%	N	%	N	%	N
Tried to escape	9.8	48	17.0	18	11.1	69
Have not tried to escape	90.2	442	83.0	88	88.9	530
Total	100	490	100	106	100	596

Among the respondents that had freely decided to enter the fishing boat work force, the vast majority (90.4 per cent) did not attempt to jump ship. By contrast, among those who did not freely decide to become fishing boat workers (n=32), 37.5 per cent tried to flee the boat. The fact that over 60 per cent did not try to flee despite having been placed on a boat against their will suggests the powerful hold owners have over these workers. In some cases, the Thai Navy has had to rescue workers who have jumped overboard; when the boat owners were questioned they said the worker had jumped in order to avoid paying off debts or the advanced payment they had received (Source: Royal Thai Navy, Region 2, Songkhla, May 2012).

Information from the Provincial Fisheries Association in Rayong suggests that one of the main reasons that workers do not want to work on the fishing boats is the arduousness of the work. However, they will take on the work because the pay is good if the employer is kind to them. They contend that if wages for land-based jobs become more competitive, then interest in working on board a fishing boat will decline (Source: Interview with Fisheries Association of Rayong, 6 June 2012).

### Box 5

#### A Mon worker, a Mon broker and a Mon captain

Mr Sompong [an alias] is from Mon State in Myanmar. He was born in 1979. The first time Mr Sompong migrated to Thailand, he worked in a rubber plantation in Pang-nga province for four years. He returned to his hometown for around three years before coming back to Thailand, at a corn field in Mae Sot. He had been working for eight days when he was approached by a broker, also of Mon ethnicity, who persuaded him to work in a fish canning factory in Bangkok. The broker claimed that he would earn THB6,000 per month. Using his savings, Mr Sompong paid the agent approximately Myanmar Kyat (MYK) 20,000 or around THB7,000 up front, with the knowledge that an additional THB2,000 would be deducted from his monthly pay until the whole amount of THB15,000 was paid off.

The broker took Mr Sompong in a van along with other migrant workers to Chonburi province. Mr Sompong and another migrant were selected by another broker and then detained in a room. When he asked why he had to be detained, he was beaten. He did not dare ask any questions. Even though he had his mobile phone with him, he did not know who to call and ask for help.

Mr Sompong was then put in a fishing boat. The captain of the boat was also of the Mon ethnic group, so Mr Sompong could entirely understand him. There were ten crew on board, including eight workers, the captain and the captain's assistant. There were two children aged between 13-14 years old working on the boat with him. The boat was set to go to sea for 20 days and then return to shore for 20 days, but there was no chance to get off the boat.

Mr Sompong spotted that there were guards onshore, but was not sure whether they were armed or not. A few people who attempted to escape were caught, were brutally beaten and had to work to pay off additional THB5,000 of debts. He was never abused while working on the boat. However, he witnessed a couple of crew members were sold to another boat as he heard and understood the conversation in Mon language.

Mr Sompong had to work continuously from 4.00 a.m. to 8.00 p.m. The work depended on the captain's orders. The period for rest was uncertain; and if the boat had to be fixed, the workers would get no rest. He was informed by the captain that he would be paid every three months. This gave him some aspiration that he would earn some money, as a return for his hardship and effort that he put into the work. He worked with the hope that one day he would be able to send some money home.

Food and drinking water was scarce. Every 20 days, eight workers would get two whole chickens, 1-2 kilograms of pork and uncooked rice. Rice was the only food that was sufficient to share among the workers. They even had to boil the ice that was used to freeze fish so that they would have enough water to drink.

On one occasion Mr Sompong tangled his little finger and he had to use a knife to cut off part of his finger. There was no medical treatment or even first-aid box available. He had to endure the pain and the wound was treated not long after he was rescued from the boat.

Mr Sompong had worked for ten months and ten days before he was rescued. He never received any payment. He is now afraid of working on a fishing boat but still wishes to come and work in Thailand again in the future. Mr Sompong wishes to be a legal migrant worker, but the cost is rather expensive. He may have to sell his house in order to come and work legally in Thailand. He would like a group or a union for migrants to be established so that he could seek advice or request assistance from the group or the union.

*Source: Interview the victim at the Phatum Thani Provincial Protection and Occupational Development Center for Men (September 2012)*

## 5.6 The reality of work aboard fishing vessels compared to information given to fishers prior to recruitment

This section looks at the information respondents received before taking a job on a fishing boat in comparison with the actual situation found while on the job. The following seven variables will be addressed below: (1) living conditions; (2) pay; (3) working hours; (4) nature of the work performed; (5) rest; (6) paid leave; and (7) welfare and benefits. Respondents could select from a range of answers: (1) Much worse than promised; (2) Worse; (3) Same as promised/expected; (4) Somewhat better; (5) Much better; or (6) No information received prior to recruitment. Figure 5.1 below gives a breakdown of the answers given for each of the seven variables.



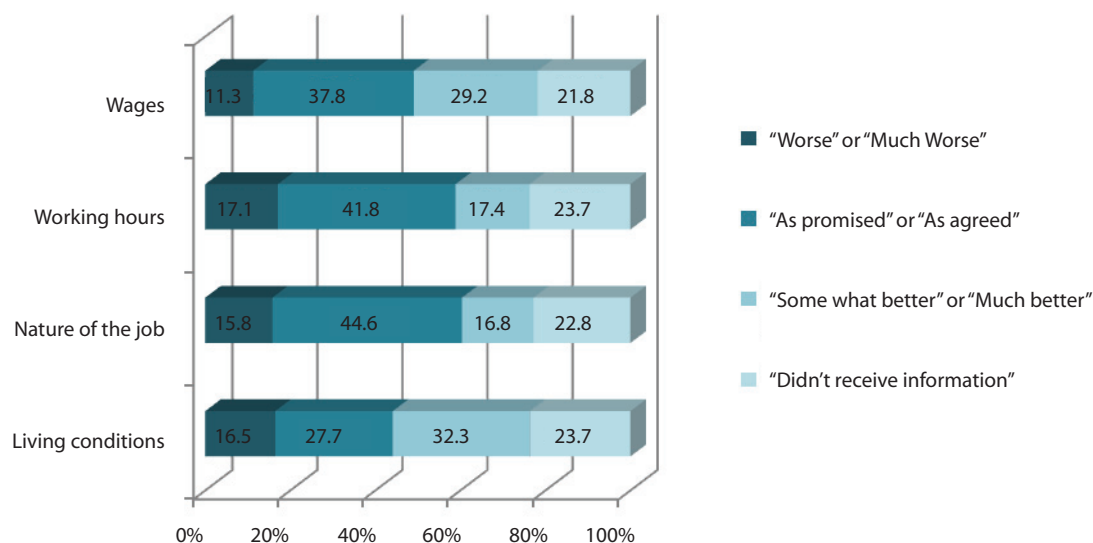
*Captain's quarters, Samut Sakorn, 18 May 2012, ARCM*



*Workers' quarters, Samut Sakorn, 18 May 2012, ARCM*



**Figure 5.1 Summary of fishers' experience compared with information provided prior to recruitment**



For the four variables in Figure 5.1 – wages, working hours, nature of the job and living conditions – the majority of fishers surveyed – about six out of ten – found the reality of what they experienced to be the same as what they had been promised or better. Approximately two in ten of those surveyed did not receive any information on these conditions prior to working on board. Roughly 15 per cent of fishers found that conditions were “worse” or “much worse” than expected with regard to these variables.

Similar patterns also arose for these variables when comparing the experiences of short-haul and long-haul fishers. On the whole, short-haul fishers were more likely to receive accurate information prior to signing on to a fishing vessel than long-haul fishers. Short-haul fishers were typically about 10 per cent more likely to find the reality of the situation on board to be as promised. Conversely, long-haul fishers were roughly 10 per cent more likely to not receive any information beforehand at all. And while roughly equal proportions of short-haul and long-haul fishers found the real situation to be worse than promised, long-haul fishers were about twice as likely to find the reality to be “much worse”.

These patterns, however, do not fully apply to the other variables of paid leave and welfare/benefits. For both of these variables fishers were much less likely to receive any information prior to recruitment: no information was received by 56.7 per cent of fishers with regard to paid leave and by 62.6 per cent of fishers with regard to social welfare benefits. This can be explained by the fact that these rights are rarely extended to fishers, even though Ministerial Regulation No. 10 provides fishers with the right to 30 days paid leave per year.

There were other consistent patterns that applied to all seven of the variables. Labourers were always much more likely to not receive any information than senior crew, and senior crew generally were more likely to find the conditions of their employment being as promised. This suggests that the experience accrued by the more skilled hands on the boat put them in a better position to ask relevant questions of potential employers and to assess the veracity of the employer's responses.

Thai nationals also were significantly more likely than migrants to find that their employment situation was as promised, and were much more likely than migrants to receive information beforehand about these terms and conditions of work. Being able to communicate with the captain and being able to be more discerning in their choice of employment, they are in a far better position to ask questions and to ensure conditions are in line with their expectations.

As noted, most of the migrants entered Thailand through irregular channels, many depending on brokers. It is clearly in the interests of these brokers to misrepresent the actual conditions in the fishing sector in order to recruit a higher number of migrants. Representatives of the Fisheries Association in Samut Sakhon similarly observed that some brokers gave inaccurate information to the migrants, i.e., more favorable information than would actually be the case, in order to lure them into the work (*Source: Interview with Fisheries Association of Samut Sakhon, 24 May 2012*).

## 5.7 Future plans

Just over half (52.7 per cent) of the fishers surveyed intend to continue to work with their current employer; and a further 9.2 per cent want to continue working in fishing, but with a different employer. One-fourth (24.7 per cent) intend to seek new work in another industry in Thailand; and 6.9 per cent plan to return to their home country either temporarily or permanently (Table 5.17).

In Samut Sakhon, nearly half (48.6 per cent) of the sample intended to find a job in another sector in Thailand. The majority of the sample in the southern provinces of Ranong and Songkhla were more likely to continue working with their current employer (70.5 per cent and 72.5 per cent respectively) compared to those in Rayong and Samut Sakhon (48.1 per cent and 32.6 per cent respectively).

Long-haul fishers were more likely to want to change employers or return home than their short-haul counterparts, which is likely a reflection of the conditions aboard long-haul vessels not being as expected or conditions being poorer than those on short-haul vessels.

Many more Myanmar fishers than Cambodian or Thai want to quit fishing and seek other work elsewhere in Thailand (32.4, 17.8 and 10.2 per cent respectively), and Cambodians are far more likely to be returning home. Thai respondents were more likely to stay in fishing, but more than a quarter want to change employers (Table 5.17).

**Table 5.17 Future plans by nationality (n=596)**

Do you plan to continue working in the fishing sector?	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
Yes, with the same employer	53.1	26	53.9	130	51.6	158	52.7	314
Yes, but with a different employer	26.5	13	8.7	21	6.9	21	9.2	55
No, find different job in Thailand	10.2	5	17.8	43	32.4	99	24.7	147
No, plan to return home	0.0	0	11.6	28	4.2	13	6.9	41
Don't know	10.2	5	7.9	19	4.9	15	6.5	39
Total	100	49	100	241	100	306	100	596

When comparing the future work intentions of fishers with the income they are earning, it is clear that those respondents who are making more money want to stay with their current employer, or at least continue on in the industry. Understandably, those who have worked for 10 to 20 years on a fishing boat want to continue with their employer. However, those who worked for lesser durations have roughly similar proportions who want to stay on, switch employers, or switch careers.

## Chapter 6 – Deceptive and Coercive Labour Practices

This chapter looks to determine the scope of deceptive and coercive labour practices, and the extent of forced labour, within the sample group. It also aims to explore the profile of workers in forced labour. Thailand has ratified the ILO conventions on forced labour, and the questions that were included in the questionnaire to determine the cases of forced labour within the sample draw from those proposed in the ILO survey guidelines to estimate forced labour of adults (*Hard to See, Harder to Count: Survey guidelines to estimate forced labour of adults and children, 2012*).

However, it should be noted that not all of the questions within the guidelines were included, making the number of forced labour cases determined within the sample a conservative estimate. An important example is that forced labour of children was not analysed using the ILO framework developed specifically for measuring such situations for children—requiring an assessment of their parents' consent—meaning that the cases of forced labour identified among child fishers should be considered the minimum.

### Box 6 ILO indicators of forced labour

These indicators of forced labour represent the most common signs or “clues” that point to the possible existence of a forced labour case. The indicators are intended to help “front-line” criminal law enforcement officials, labour inspectors, trade union officers, NGO workers and others to identify persons who are possibly trapped in a forced labour situation, and who may require urgent assistance.

These indicators are derived from theoretical and practical experience of the ILO's Special Action Programme to Combat Forced Labour (SAP-FL). They are based upon the definition of forced labour specified in the ILO Forced Labour Convention, 1930 (No. 29) as: “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.

The indicators are:

- Abuse of vulnerability
- Deception
- Restriction of movement
- Isolation
- Physical and sexual violence
- Intimidation and threats
- Retention of identity documents
- Withholding of wages
- Debt bondage
- Abusive working and living conditions
- Excessive overtime

The presence of a single indicator in a given situation may in some cases imply the existence of forced labour. However, in other cases it is necessary to look for several indicators which, taken together, point to a forced labour case. Overall, the set of eleven indicators covers the main possible elements of a forced labour situation, and hence provides the basis to assess whether or not an individual worker is a victim of this crime.

For collecting data on forced labour, ILO SAP-FL have also developed survey guidelines to estimate forced labour of adults and children.

*Source: ILO Special Action Programme to Combat Forced Labour (SAP-FL)*

## 6.1 Gauging the extent of forced labour

Forced labour of adults is defined as work for which a person has not offered him or herself voluntarily (concept of “involuntariness”) and which is performed under the menace of any penalty (concept of “coercion”) applied by an employer or a third party to the worker. The coercion may take place during the recruitment process, in forcing the person to accept the job; or once the person is working, in forcing the person to do tasks which were not part of what was agreed at the time of recruitment or to prevent the person from leaving the job (*Source: Hard to See, Harder to Count: Survey guidelines to estimate forced labour of adults and children, 2012*).

The guidelines for estimating forced labour examine three different stages of the employment process: unfree recruitment, work and life under duress, and impossibility of leaving.

In applying these guidelines to the context of the commercial fishing sector, a combined assessment of forced labour was conducted based on the indicators for ‘unfree recruitment’ and ‘impossibility of leaving’. The decision to exclude ‘work and life under duress’ from the analysis was made in order to be responsive to the sectoral specificities in fishing work that would have produced a non-contextualized result if not considered. For example, although one of the criteria for determining ‘duress’ is working hours, neither the ILO Convention on Work in Fishing or the Thai Ministerial Regulation on Sea Fisheries Work sets such standards (though the Convention sets standards on rest hours for boats at sea for three days or more). A significant proportion of the survey respondents (41.1 per cent) work undefined hours, and many of those who reported working long hours stated that they had sufficient rest, making this indicator for duress difficult to apply systematically for the sector.<sup>7</sup>

In addition, because the methodology was applied to a dataset where the individual perception of the level of involuntariness and menace of penalty could be assessed, those cases displaying objective indicators of forced labour but who stated that they were working willingly and had not considered leaving were also excluded.

Some of the key questions asked in determining cases of forced labour included:

- (1) Are you working in the fishing sector against your will? (Table 6.1);
- (2) If not willingly, why are you working in the fishing sector? (Table 6.2 and Table 6.3); and
- (3) If you’ve ever tried to leave your employer, what type of obstacles or threats made you unable to leave? (Table 6.4).

<sup>7</sup> In a recent ILO report based on a consultation held in September 2012, it was concluded that an important measure for combatting forced labour of fishers is to adjust the indicators developed by the Special Action Programme to Combat Forced Labour (SAP-FL) to the particularities and challenges of assessing its extent, location and characteristics in the fishing sector (*Source: Caught at Sea: Forced Labour and Trafficking in Fisheries, 2013*).

**Table 6.1 Willingness to work in fishing (n=596)**

Are you working in the fishing sector against your will?	I decided by myself to enter fishing		I was deceived/coerced into fishing		Total	
	%	N	%	N	%	N
Working against my will	14.0	79	68.8	22	16.9	101
Working willingly	86.0	485	31.2	10	83.1	495
Total	100	564	100	32	100	596

Of the total sample of 596 respondents, 101 fishers indicated that they are working against their will (Table 6.1) and cannot leave for a variety of reasons. Some workers came to work in fishing voluntarily and now find themselves unable to leave, and others entered against their will but are now willing to work in the sector.

The ILO Guidelines suggest that the ten cases of fishers who were deceived or coerced during recruitment but now state that they are working willingly should be included in the estimate of forced labour in the study. At the same time, the Guidelines indicate that “the family’s need for a supplementary income are not recognized as indicative of forced recruitment”, and therefore four of these ten cases could possibly be excluded as they reported being forced by their parents to work in fishing. Not enough information was obtained about these four to determine whether their parents were acting under their own volition in doing so or were themselves caught in conditions of forced labour. Additionally, as the question referred to the initial decision to enter fishing work, it is not possible to use it as an indicator for forced labour presently because the unfree recruitment may not have occurred with the current employer. In summary, the ten cases of fishers could be described as forced labour based upon their indications of deceptive or coercive recruitment; however, they were not assessed as such (see below) because a number of them indicated being forced into fishing by their parents, the incidents of unfree recruitment into the sector may have taken place long ago and their subjective assessment of their current situation as working voluntarily was given precedence.

About 25 per cent of long-haul fishers surveyed reported that they are not working willingly, compared to about 15 per cent of short-haul fishers. All of the Thai fishers (n=49) were working willingly, but 9 per cent of the Cambodian fishers and 26 per cent of Myanmar fishers were working against their will. Only Myanmar migrant workers reported being sold by brokers to boat owners or being forced to work to pay debts.

**Table 6.2 Reason for working in fishing by length of time at sea (n=596)**

If not willingly, why are you working in the fishing sector?	Short-haul		Long-haul		Total	
	%	N	%	N	%	N
Working willingly	84.7	415	75.5	80	83.1	495
Forced to work	8.6	42	3.8	4	7.7	46
Sold by broker to the boat owner	0.8	4	6.6	7	1.8	11
Must work to pay debts	2.7	13	1.9	2	2.5	15
Deceived about the nature of work	3.3	16	12.3	13	4.9	29
Total	100	490	100	106	100	596



**Table 6.3 Reason for working in fishing by nationality (n=596)**

If not willingly, why are you working in the fishing sector?	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
Working willingly	100	49	90.9	219	74.2	227	83.1	495
Forced to work	0	0	4.1	10	11.8	36	7.7	46
Sold by broker to the boat owner	0	0	0	0	3.6	11	1.8	11
Must work to pay debts	0	0	0	0	4.9	15	2.5	15
Deceived about the nature of work	0	0	5.0	12	5.6	17	4.9	29
Total	100	49	100	241	100	306	100	596

**Table 6.4 Menace of penalty for leaving the work by nationality (n=596)**

What obstacles or threats make you unable to leave?	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
Threat to inform authorities	0.0	0	0.0	0	1.6	5	0.8	5
Withholding of documents	0.0	0	0.0	0	0.3	1	0.2	1
Violence or threat of violence	0.0	0	0.8	2	5.2	16	3.0	18
Withholding assets (cash or other)	0.0	0	0.0	0	1.0	3	0.5	3
Threat against family members	0.0	0	0.0	0	0.3	1	0.2	1
Financial penalty	0.0	0	8.3	20	17.0	52	12.1	72
Other forms of punishment	0.0	0	0.0	0	0.3	1	0.2	1
Never tried to leave	100	49	90.9	219	74.2	227	83.1	495
Total	100	49	100	241	100	306	100	596

## 6.2 Additional analysis of forced labour in the sample

The 101 respondents (16.9 per cent) who were working against their will reported that they were unable to leave their jobs because of the menace of a penalty (Table 6.4). These are the criteria that define forced labour in the ILO Forced Labour Convention, 1930 (No. 29), which has been ratified by Thailand. However, it is worth conducting additional analysis to examine the distinctions within this group.

A financial penalty was the primary reason given by the sample for why they felt they could not leave the job (n=72, or 71 per cent of those who felt themselves unable to leave). This financial penalty consists of not being fully remunerated for work already performed, with the amount due varying from case to case.

Withholding of wages to prevent workers from leaving is an indicator of forced labour. However, all over the world, fishers are often paid a share of the catch, meaning that there can be some delays in receipt of wages. Therefore, it is important to clarify that it is intentional withholding of workers' pay to limit their mobility that is considered to be indicative of a forced labour situation. For 12 per cent of respondents, this financial penalty was too great a threat to their wellbeing to consider leaving and was therefore a constraint imposed upon their freedom.

The second most commonly offered reason for why they felt they could not leave the job is the fear of physical violence (n=18), which can be assumed to be a very real possibility given the number of fishers in the sample that have been severely beaten aboard a fishing vessel (Table 5.14).

In order to better understand the situations of the 101 fishers determined to be in situations of forced labour, additional analysis was carried out on the ways in which they were recruited and their working conditions. The overall sample was divided into three categories:

- (1) The **“Forced labour with non-financial penalty”** category includes the 29 respondents who could not quit for the following reasons: threat of denunciation to the authorities (n=5); threat of physical violence (n=18); threats against family members (n=1); withholding of assets (n=3); withholding of documents (n=1); and other forms of punishment (n=1).
- (2) The **“Forced labour with financial penalty”** category includes the 72 respondents who could not quit because of a financial penalty (n=72).
- (3) The **“Not forced labour”** category included those who entered the sector willingly and/or are not looking to leave the sector (n=495).

### 6.3 Forced labour and entry into the fishing sector

Of those in the “forced labour with non-financial penalty” category (n=29), 12 were tricked or forced into the fishing sector by a broker in their home village, six were deceived or forced by a broker in Thailand, ten came to work voluntarily, and one person was forced by their parents. Of those in the “forced labour with financial penalty” group (n=72), two people were tricked or forced into fishing by a broker in their home village, and one was forced by their parents. The remainder (n=69) came to work in the sector willingly.

Of those who responded that they are working willingly (n=495), six people were initially tricked or coerced into the fishing sector by brokers (three in their home villages and three in Thailand), and four were forced by their parents (three of these respondents were under 18, Table 6.5).

**Table 6.5 Forced labour by entry into fishing sector and age (n=596)**

Did you make your own decision to work in fishing?		Category	under 18	18 or over
No, I was tricked/forced by a broker in my home village	Not forced labour		0	3
	Forced labour with non-financial penalty		1	11
	Forced labour with financial penalty		0	2
	<b>Total</b>		<b>1</b>	<b>16</b>
No, I was tricked/forced by a broker in Thailand	Not forced labour		0	3
	Forced labour with non-financial penalty		0	6
	Forced labour with financial penalty		0	0
	<b>Total</b>		<b>0</b>	<b>9</b>
No, I was forced by my parents	Not forced labour		3	1
	Forced labour with non-financial penalty		0	1
	Forced labour with financial penalty		0	1
	<b>Total</b>		<b>3</b>	<b>3</b>
Yes	Not forced labour		22	463
	Forced labour with non-financial penalty		0	10
	Forced labour with financial penalty		7	62
	<b>Total</b>		<b>29</b>	<b>535</b>

Of the 33 respondents in the sample group under the age of 18, seven felt they could not leave the job due to a financial penalty. The one child in the “forced labour with non-financial penalty” category was deceived or forced by a broker in his home village. He is 14 years old, tried to escape once because he felt homesick and cannot leave because of the threat of physical violence. Three children indicated they had been forced to work in fishing by their parents, but did not self-identify as being in a forced labour situation. Further assessment is required to determine forced labour under the ILO guidelines, but it would appear that the 12-year-old Cambodian child working in Rayong who reported working 20 hours in a typical day is in an extremely exploitative situation.

## 6.4 Forced labour and nationality

None of the Thai workers in the sample group reported being unable to leave their work. Almost all of the respondents in the “forced labour with non-financial penalty” category are from Myanmar. The particular vulnerability of Myanmar migrants is due in part to the way in which these workers are recruited. An additional factor lies in the provinces in which these Myanmar fishers were surveyed: workers in Samut Sakhon, where 79 per cent of the sample were from Myanmar, were more likely to have suffered a severe rights violation than workers in Rayong, where 93 per cent of the sample is Cambodian.

**Table 6.6 Forced labour by nationality (n=596)**

Type of labour	Thai	Cambodian	Myanmar
Forced labour with non-financial penalty	0	2	27
Forced labour with financial penalty	0	20	52
Not forced labour	49	219	227
<b>Total</b>	<b>49</b>	<b>241</b>	<b>306</b>

Fishers in the “forced labour with non-financial penalty” category were the most likely to have no documents at all (76 per cent), compared to the proportion among the ‘not forced labour’ (55 per cent, not including Thai workers) and “forced labour with financial penalty” (47 per cent) categories. When asked why they did not register with the Thai authorities, “employer did not allow to register” was the top response among the “forced labour with non-financial penalty” category (n=7) and the “forced labour with financial penalty” group (n=12).

Of the seven fishers in the “forced labour with non-financial penalty” group that had some form of documents, only one had them taken by his employer. Of those in the “not forced labour” category, 14 per cent reported that their “employer demanded to hold on to them.”

Withholding of documents is considered to be an indicator of forced labour. Given that none of the workers in the “not forced labour” category wished to leave, it is not possible to confirm whether the retention of their documents actually represented a constraint on their freedom of movement. However, while these workers may not currently consider the withholding of their documents to be a problem, it could be an issue in the future should they decide to leave their employer.

**Table 6.7 Forced labour by legal status (n=596)**

Type of labour	Thai nationality	Tor Ror 38/1	Work permit	Seamen's book	Temporary passport/ COI	Immigration temporary pass	No documents
Forced labour with non-financial penalty	0	4	0	0	3	0	22
Forced labour with financial penalty	0	14	0	1	13	10	34
Not forced labour	49	114	1	1	36	47	247
<b>Total</b>	<b>49</b>	<b>132</b>	<b>1</b>	<b>2</b>	<b>52</b>	<b>57</b>	<b>303</b>

## 6.5 Forced labour and type of fishing

The respondents who had been at sea for more than a month (i.e. long-haul fishers) were more likely to be in forced labour than short-haul fishers. Forced labour situations accounted for 24.5 per cent of all long-haul fishers, but just 15.3 per cent of short-haul fishers.

It should be noted, however, that respondents in the “forced labour with financial penalty” category on its own actually made up a slightly larger percentage of short-haul fishers (12.2 per cent) than they did of long-haul fishers (11.3 per cent).

**Table 6.8 Forced labour by length of time at sea (n=596)**

Type of labour	Under 2 weeks	2 weeks - 1 month	1-3 months	4 - 5 months	5 - 6 months	Over 6 months	Total
Forced labour with non-financial penalty	11	4	1	12	1	0	29
Forced labour with financial penalty	45	15	11	1	0	0	72
Not forced labour	257	158	43	13	4	20	495
<b>Total</b>	<b>313</b>	<b>177</b>	<b>55</b>	<b>26</b>	<b>5</b>	<b>20</b>	<b>596</b>

The respondents working on twin trawl boats and purse seine boats were the most likely to report being in a forced labour situation. However, this is likely to have less to do with the type of vessel than (a) the fact that the majority of respondents work on purse seine boats, and (b) the fact that trawlers spend longer periods of time at sea.

Out of a total of 47 respondents working on twin trawl boats, 30 per cent (n=14) were in the “forced labour with non-financial penalty” category and two individuals were in the “forced labour with financial penalty” category. Of the 361 fishers working on seine boats, 11 (3 per cent) were in the “forced labour with non-financial penalty” category and 54 (15 per cent) in the “forced labour with financial penalty” category.

## 6.6 Forced labour and working hours

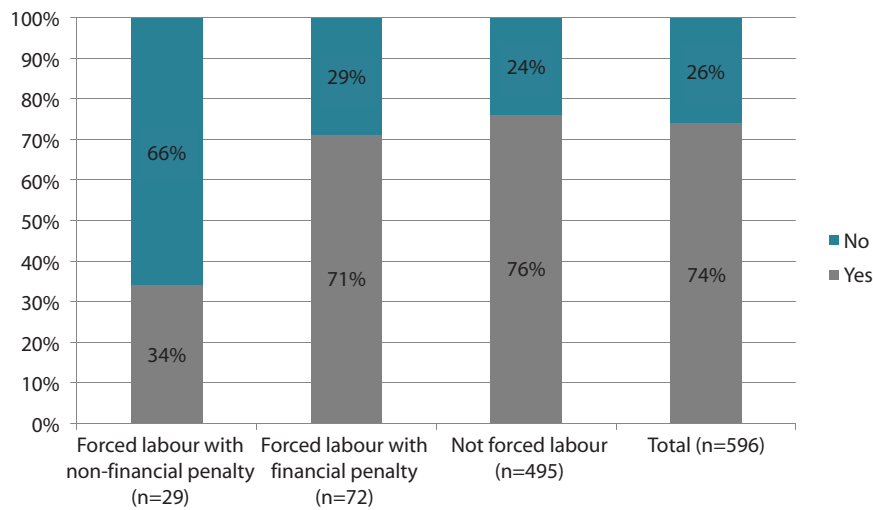
Average working hours were significantly longer among the “forced labour with non-financial penalty” group. There was little difference between the working hours of the “forced labour with financial penalty” group and the “not forced labour” group. The base of 351 in Table 6.9 indicates the number of respondents that were able to specify the average number of working hours.

**Table 6.9 Forced labour by average working hours (n=351)**

Type of labour	Mean working hours	N	%
Forced labour with non-financial penalty	18.33	18	5.1
Forced labour with financial penalty	13.33	39	11.1
Not forced labour	13.11	294	83.8
<b>Total</b>	<b>13.40</b>	<b>351</b>	<b>100</b>

Respondents in the “forced labour with non-financial penalty” category were also far more likely to report having insufficient hours of rest. There was a slight difference among workers in the “forced labour with financial penalty” group and the “not forced labour” group in terms of the likelihood of reporting insufficient rest hours.

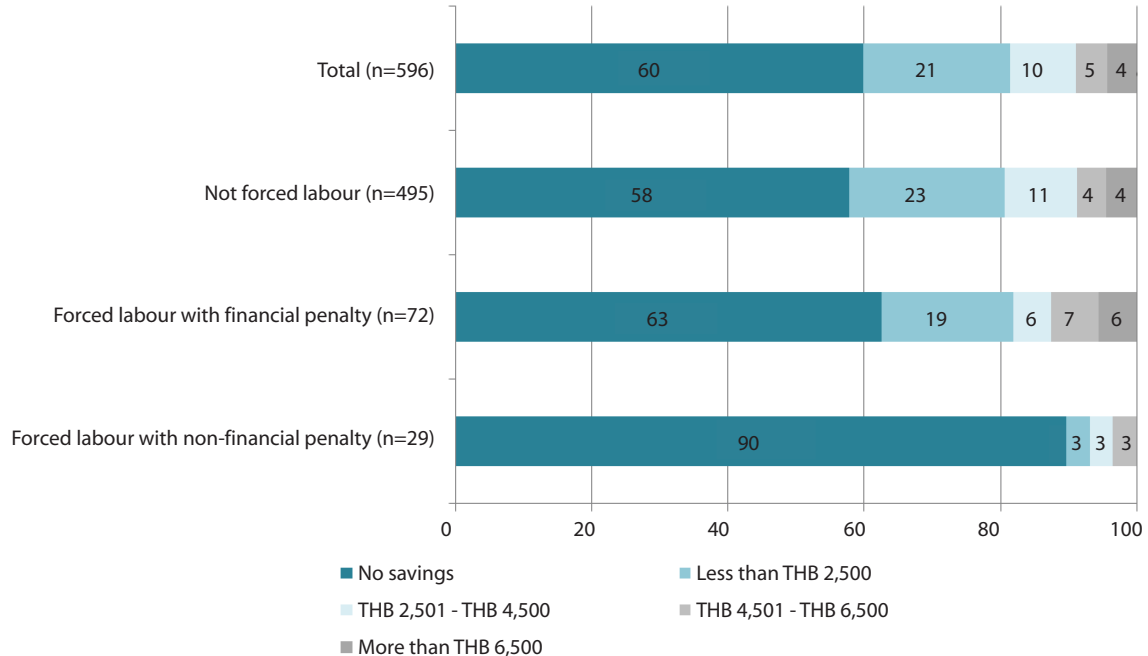
**Figure 6.1 Forced labour by “sufficient rest”**



## 6.7 Forced labour, savings and remittances

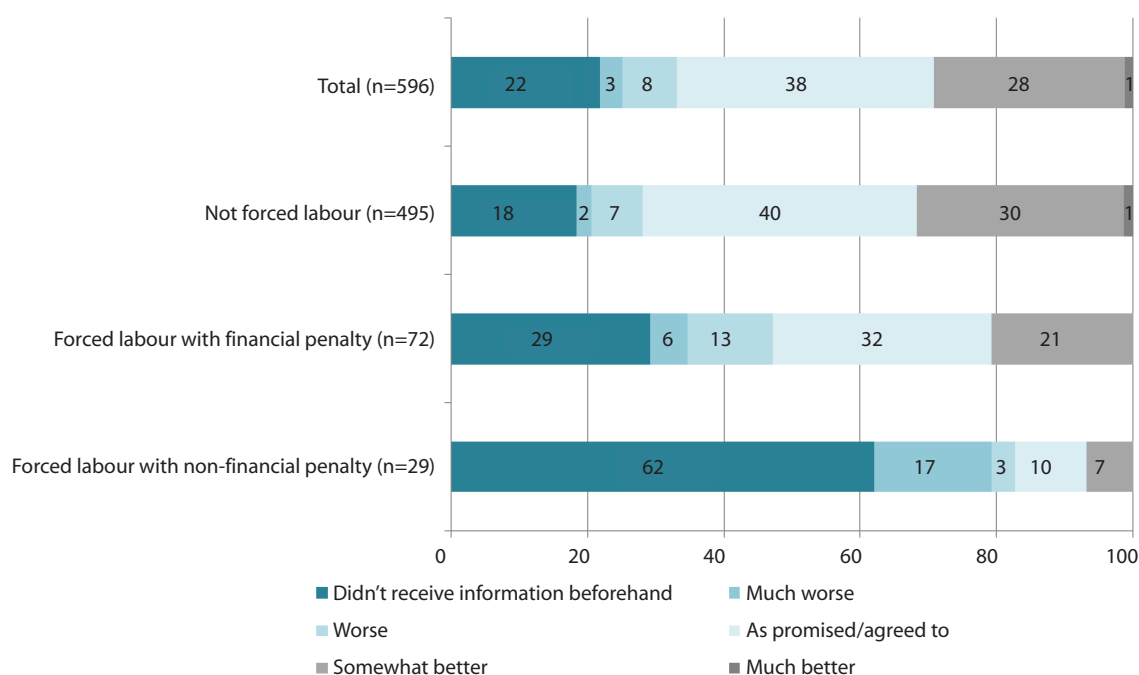
Almost all (90 per cent) of those in the “forced labour with non-financial penalty” category had no savings, compared to 63 per cent of those in the “forced labour with financial penalty” category and 58 per cent in the “not forced labour” category.

**Figure 6.2 Forced labour by amount of savings (%)**



Respondents in the “forced labour with non-financial penalty” category were far less likely to send remittances back home at 24 per cent (n=7). Among respondents in the “forced labour with financial penalty” and the “not forced labour” categories, an equal proportion sent remittances home (54 per cent).

**Figure 6.3 Forced labour by wage expectations (%)**



The majority of workers in the “forced labour with non-financial penalty” category did not receive information on pay prior to recruitment (n=18), but those that did were far more likely than the overall sample to report wages being “much worse” (n=5) or “worse” (n=1) than promised or agreed. In all, “forced labour with non-financial penalty” respondents were three times as likely as “not forced labour” respondents to have not received any wage information prior to employment.

Respondents in the “forced labour with financial penalty” group were also considerably more likely than “not forced labour” respondents to not be given any information concerning wages, and twice as likely to claim that those wages were “worse” or “much worse” than promised.

It should be noted that there were a considerable number of respondents within the “Not forced labour” category who reported wages that were “worse” or “much worse” than the information received prior to recruitment, even if that number of respondents represents a smaller percentage than what is found in the other categories.

## 6.8 Forced labour and complaints

The vast majority (95 per cent) of the overall sample did not lodge any complaints of rights violations. Those in the “forced labour with non-financial penalty” group were most likely to complain (n=6), with two complaining to their employer and four to an NGO. The majority (62 per cent) of respondents did not file a complaint because they “have not encountered any serious rights violation”. The “not forced labour” group were most likely to respond in this way (66 per cent), followed by the “forced labour with financial penalty” group (56 per cent) and then the “forced labour with non-financial penalty” group (3 per cent, or n=1).

These figures indicate that more people wanted to complain but did not. Table 6.10 details some of the reasons given by respondents in the various categories for why they may not have made a complaint. These reasons will be discussed in greater detail in Chapter 7.

**Table 6.10 Forced labour by reason for not complaining (%) (n=596)**

Type of labour	No serious rights violations	Avoid causing trouble	Complaint won't change anything	Unaware of who to/ where to complain	Don't know	Made a complaint	Total
Not forced labour (n=495)	65.9	13.9	1.6	4.2	9.9	4.4	100
Forced labour with non-financial penalty (n=29)	3.4	27.6	6.9	13.8	27.6	20.7	100
Forced labour with financial penalty (n=72)	56.9	9.7	0.0	11.1	18.1	4.2	100
Total (n=596)	61.7	14.1	1.7	5.5	11.7	5.2	100

## 6.9 Conclusions on forced labour in the sample

A significant proportion (16.9 per cent) of the sample reported working against their will with the menace of a penalty preventing them from leaving. However, it could be argued that some of those in the “not forced labour” group were also working in exploitative conditions, including 25 of the 33 fishers under the age of 18 in the sample.<sup>8</sup> In addition, there were 10 fishers who were recruited into the sector through deception or coercion but stated that they are now working willingly.

Many of the respondents who said that they are working willingly also reported experiences that indicate a forced labour situation at some point during their employment in the fishing industry (though not necessarily in their current job). For example, 60 respondents were severely beaten while on board a fishing vessel, 66 respondents tried to escape from a fishing boat, and 24 respondents were sold or transferred to another boat against their will.

Additional analysis was carried out among the respondents that indicated being in a forced labour situation, according to the penalty that was restricting their freedom, to determine the differences in their circumstances. The working conditions of those in the “forced labour with non-financial penalty” category (n=29) are consistent with them being in an extremely exploitative situation. These fishers were unlikely to have any savings and were far less likely to send remittances home. Their working hours were longer and they were less likely to report having sufficient time to rest. They were unlikely to have any form of legal documents or written employment contract (although those circumstances apply to most workers in the sector). Almost all were migrants from Myanmar and none were of Thai nationality. They were more likely to be at sea for longer periods of time.

Conversely, the respondents in the “forced labour with financial penalty” category appeared to have working conditions that were not dissimilar from those in the “not forced labour” category in several respects, including their willingness to work in the sector, work and rest hours, remittances and savings, assessment of wages received, and filing of complaints.

In conclusion, it is clear that among the fishers who stated that they could not leave their employer due to the menace of a penalty, there is a substantial difference in the way in which they were recruited and their working conditions. A financial penalty is certainly considered a coercive practice that limits the mobility of fishers; however, the other penalties encountered seem to be indicative of more exploitative working conditions.

<sup>8</sup> Of the 25 fishers under 18 years old, five were children under 15, constituting illegal child labour under Clause 4 of Ministerial Regulation No. 10. The other 20 fishers were between the ages of 15-17 and are considered to be “young workers” by Thai authorities (fishers are legally allowed to work at age 15 under certain circumstances).

### Box 7

#### Cambodian fisher repatriated from Mauritius

Mr Theary (an alias), age 28, from Oddar Meanchey province in Cambodia, went to Thailand in April 2010 with approximately 25 women and 15 men from various provinces in Cambodia, all in search of job opportunities. Mr Theary departed for Thailand voluntarily. He was not aware of the type of work he would be doing, and only knew that there was a job opportunity for him in Thailand. Neither he nor the other migrant workers obtained travel documents to enter Thailand and no one paid any money to cross the border.

After crossing the border, Mr Theary and the others in his group traveled to Samut Prakan province where he met a Cambodian worker who informed him about a job working on a Thai fishing vessel. Mr Theary worked for seven days fixing the nets, before going out to sea. The vessel, which flew a Thai flag at the port and no flag at sea, departed from Thailand in April 2010 and did not return to land again until August 2012 when the vessel was seized by the Mauritian authorities and brought to shore.

There were a total of 27 fishers on the fishing vessel: 23 Cambodians and four Thais. Mr Theary worked from 8 to 24 hours each day, depending on the tasks assigned to him, and did not have any days off. He and his fellow fishers worked longer hours when their fishing nets were damaged by coral and had to be fixed. The fishers worked even when they were sick or injured as the skipper did not permit them to take time off to rest.

Every three months the fishers would transfer the fish from their fishing vessel onto a larger fishing vessel at sea. Mr Theary reported that some of the workers on the larger fishing vessels did speak Thai.

Mr Theary and his fellow fishers were provided fish and rice, twice a day, and permitted 20 minutes for each meal. Although the food was generally enough, there was a lack of clean drinking water for the workers. One small barrel of water was provided for five to ten workers and it was not sufficient to keep the men hydrated.

The fishers demanded pay from the skipper occasionally but they were not persistent in doing so because of their precarious position at sea. It was not until approximately one year and five months into his work that Mr Theary was informed by the skipper that he and the other workers would be paid THB4,000 per month for their work. The skipper also promised the fishers that they would be given a bonus of THB2,000 once the fishing vessel returned to Thailand.

While many fishers asked the skipper for permission to leave the fishing vessel, and according to Mr Theary, "everyone wanted to leave," the skipper never agreed and none of the men attempted to escape because they were at sea and thought that no other fishing vessel would give them refuge even if they did try to escape. The skipper also threatened to withhold all of the fishers' pay if they tried to leave the fishing vessel.

In August 2012, Mauritian authorities seized the fishing vessel and brought it to Mauritius. After seven months in Mauritius, during which the men stayed but did not work on the fishing vessel, Mr Theary and his fellow fishers were repatriated with the assistance of IOM. The first group of men arrived in Phnom Penh on 9 April 2013 and the second group arrived the day after. To date, Mr Theary has not received any compensation for the approximately two years and six months he worked on the Thai fishing vessel.

*Source: Interview with repatriated fisher in Phnom Penh, conducted and documented by Andy Shen, ILO consultant, 11 April 2013.*



## Chapter 7 – Complaint Mechanisms and Protection for Fishers

This chapter examines the respondents' access to and use of complaints channels and other support services, and their perceptions of the level of protection available to them. The chapter also includes a summary of the various initiatives launched by the Government, industry and NGOs to enhance protection for fishers, and particularly migrant fishers.

### 7.1 Access to complaints channels

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The Ministry of Labour has provincial offices that receive complaints from both Thai and non-Thai workers. This office is located in the Inspection and Labour Protection Division of the Department of Labour Protection and Welfare. The office receives and conducts analysis of complaints by workers; investigates infractions; monitors the incidence of criminal operations that attempt to exploit the labour force (including illegal employment agents); inspects applicants for work permits; and identifies illegal aliens working in Thailand. The Department of Labour Protection and Welfare also runs a hotline service for people to report violations.

The Labour Protection Act, B.E. 2541 (1998) provides legal protection for all workers in Thailand regardless of their nationality and regardless of their legal status. While irregular migrant workers are entitled to protection in theory, the reality is that undocumented workers are unlikely to seek government or legal help when they have a legitimate grievance for fear of arrest and deportation. Even legally registered migrants and Thai nationals are sometimes reluctant to appeal to the government or police when they have a grievance. There are many cases of criminal violations of the rights of migrants that do not get prosecuted.

There is a low incidence of migrant labourers filing grievances. Many do not know about the process or cannot access the government departments. Migrants tend to submit grievances to NGOs which have offices in locations that are home to large numbers of migrant workers, such as Samut Sakhon, Mae Sot (Tak), Mae Sai (Chiang Rai), and Ranong. These NGOs can help a migrant to lodge a complaint, and support them in seeking compensation or resolving a dispute. These NGOs also provide assistance in healthcare, education, training, and general advocacy for migrants' rights.

### 7.2. Recipients of complaints

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From the survey data, 94.8 per cent of fishers have never filed a grievance related to violation of their rights. Of the 5.2 per cent that did (n=31), most complained to their employer or with an NGO; few had lodged the complaint with a government office, the Fisheries Association or a labour union. Of the eight complaints made by long-haul fishers, seven were to NGOs, whereas short-haul fishers were more likely to complain directly to their employers. It could be that the workers that are at sea for longer periods of time feel that their problems cannot be resolved through negotiation with the employer and require attention from a third party.

By nationality, Myanmar fishers were more likely to file a complaint with an NGO; and the Cambodians surveyed usually sought redress with the employer. There were only three complaints made by Thai fishers, which makes it difficult to assess who they would be most inclined to approach. It is perhaps notable, however, that even though Thai fishers accounted for just three of the 31 individuals that registered complaints, they accounted for the majority of complaints to the Thai authorities. This can be seen as a measure of the reluctance of migrants to try and seek justice through government channels.

A noteworthy finding from the Ranong Fisheries Association is that, while they welcome grievances from fishing boat crew, most of the complaints they receive come from employers who say their employees have abandoned ship after receiving payment (*Source: Interview with Ranong Fisheries Association on 4 May 2012*). In Samut Sakhon, the provincial office for Labour Protection and Welfare said most of the complaints they receive come from Thais

who were at sea for a long period of time and called their relatives to help them get back to shore (Source: *Interview with Samut Sakhon Labour Protection and Welfare Office, 22 May 2012*).

When workers sought assistance from NGOs, many were seeking compensation for treatment of work-related injuries that their employer or boat captain did not take responsibility for. Also, processing grievances through the government channels was more time-consuming than going to an NGO. Because NGOs could help to fill in the complaint form – which is in Thai – or could contact the employer faster than officials (Source: *Interview with LPN, Samut Sakhon, 24 May 2012*).

Some fishers prefer not to complain but rather to 'vote with their feet' and inform their network to avoid working on a certain vessel. There is an informal network of fishers in Rayong that discusses pay levels on different boats. If the network learns of any payment malpractices, they will boycott that boat (though there have been no instances of this action yet) (Source: *Interview with FAR in Rayong, 3 June 2012*).

### 7.3 Reasons for not filing a complaint

The predominant reason why the fishers surveyed did not report grievances is that they did not feel they had suffered a serious rights violation (61.7 per cent). A number of fishers said they did not want to make trouble (14.1 per cent). Some of the in-depth interviews revealed that some fishers felt that complaining might lead to reprisals from their employer. A smaller proportion of the sample said they did not know where to go to file a grievance (5.5 per cent) or that they did not feel that complaining would solve anything (1.7 per cent) (Table 7.1). Interestingly, 11.7 per cent of the sample said they did not know why they did not file a grievance. This implies that they had complaints but it did not occur to them to take action, or they felt they must endure the hardship.

The pattern of lodging complaints or not is generally the same for short-haul and long-haul fishers, with the exception that a considerable number of short-haul fishers said they did not know why they did not file a grievance. Also, a greater proportion of long-haul fishers said they did not know where to complain, compared with their short-haul counterparts, which is perhaps a result of spending less time ashore (Table 7.1).

**Table 7.1 Reason for not complaining by length of time at sea (n=596)**

Why did you not complain?	Short-haul		Long-haul		Total	
	%	N	%	N	%	N
I've not encountered any serious rights violation	60.8	298	66.0	70	61.7	368
Don't want to cause trouble	14.3	70	13.2	14	14.1	84
Don't believe complaining can change anything	1.4	7	2.8	3	1.7	10
Don't know who or where to complain	4.9	24	8.5	9	5.5	33
Don't know	13.9	68	1.9	2	11.7	70
I did complain	4.7	23	7.5	8	5.2	31
Total	100	490	100	106	100	596

The proportion of respondents that did not complain because they had not encountered a serious rights violation was higher among Cambodians and Thais than for Myanmar fishers (Table 7.2). By province, the respondents in Rayong were far more likely than fishers in Samut Sakhon to respond this way, at 77.5 per cent and 48.5 per cent respectively (Table 7.3). Myanmar fishers were more likely to not file a complaint because they didn't want to cause trouble (Table 7.2), as were respondents in Ranong province (Table 7.3).

**Table 7.2 Reasons for not complaining by nationality (n=596)**

Why did you not complain?	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
I've not encountered any serious rights violation	69.4	34	73.4	177	51.3	157	61.7	368
Don't want to cause trouble	14.3	7	8.3	20	18.6	57	14.1	84
Don't believe complaining can change anything	0.0	0	0.8	2	2.6	8	1.7	10
Don't know who or where to complain	10.2	5	3.3	8	6.5	20	5.5	33
Don't know	0.0	0	9.1	22	15.7	48	11.7	70
I did complain	6.1	3	5.0	12	5.2	16	5.2	31
Total	100	49	100	241	100	306	100	596

**Table 7.3 Reasons for not complaining by province (n=596)**

Why did you not complain?	Ranong		Songkhla		Rayong		Samut Sakhon		Total	
	%	N	%	N	%	N	%	N	%	N
I've not encountered any serious rights violation	62.1	82	54.9	56	77.5	145	48.6	85	61.7	368
Don't want to cause trouble	20.5	27	12.7	13	9.1	17	15.4	27	14.1	84
Don't believe complaining can change anything	0.8	1	6.9	7	0.5	1	0.6	1	1.7	10
Don't know who or where to complain	3.8	5	2.9	3	3.7	7	10.3	18	5.5	33
Don't know	9.1	12	19.6	20	2.7	5	18.9	33	11.7	70
I did complain	3.8	5	2.9	3	6.4	12	6.3	11	5.2	31
Total	100	132	100	102	100	187	100	175	100	596

Some of the qualitative data point to other obstacles for fishers who wish to file grievances. Certain government officers feel that fishers who are coerced or trafficked into the work do not dare file a grievance with the government as they do not have work permits and fear being arrested or deported. They may also fear retribution from their employer (*Source: Interview with the Office for Social Development and Human Security in Ranong, 4 May 2012*). Another obstacle is petty corruption among local government officials, especially those with legal enforcement powers. Some boat owners said they had to pay graft to be able to hire undocumented workers without harassment. In turn, the employer deducts the graft payment from the salaries of the workers. This atmosphere of corruption leads migrant labourers to mistrust the systems for filing a grievance or seeking assistance. This is a major impediment to improving the working conditions of migrant fishers (*Source: Interview with NGOs in Rayong, 3 June 2012*).

## 7.4 Methods of resolving disputes in the workplace

In addition to determining the support services that fishers have used, the survey also aimed to better understand labour relations, and the support services that fishers consider to be useful. Fishers were asked how they would resolve the problem of a conflict at work. The options for diffusing the situation included direct negotiation with the employer; negotiation through an intermediary such as an NGO, labour union, government official or relative; appeal to the embassy of one's home country, etc. Passive methods of conflict resolution, such as avoiding the adversary and walking away from the conflict, were other responses given.

Of the sample, 37.9 per cent said they would handle conflict through direct negotiation with the employer, plus an additional 3.5 per cent and 1.8 per cent who would turn to the crew supervisor and captain respectively. Slightly more respondents would reach out to NGOs (8.4 per cent) than the authorities (6.9 per cent). One-third were unsure what method they would use to resolve the situation (Table 7.4).

Thai respondents were more likely than migrants to turn to their employer or the local authorities, and were far less likely to be unsure of how to resolve the situation. Cambodians were more likely to turn to their employer (46.5 per cent) compared to Myanmar respondents (28.1 per cent) (Table 7.4). This pattern of behavior is similar for workers on short-haul and long-haul vessels.

**Table 7.4 Preferred method to resolve conflicts at work by nationality (n=596)**

How do you resolve conflicts at work?	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
Direct negotiation with employer	57.1	28	46.5	112	28.1	86	37.9	226
Head of crew	0	0	2.9	7	4.6	14	3.5	21
Captain	0	0	2.1	5	2	6	1.8	11
NGO	4.1	2	7.1	17	10.1	31	8.4	50
Trade union	0	0	0	0	0.7	2	0.3	2
Local authorities	14.3	7	2.9	7	8.8	27	6.9	41
Fisheries association	2	1	0	0	0	0	0.2	1
Embassy	0	0	0.4	1	0	0	0.2	1
By myself	4.1	2	0	0	3.9	12	2.3	14
Friends/family	2	1	3.2	8	0.3	1	1.7	10
Other	4	2	1.2	3	6.3	19	3.7	23
Don't know	12.2	6	33.6	81	35.3	108	32.7	195
Total	100	49	100	241	100	306	100	596

## 7.5 Interest in becoming a member of a labour union and assistance received

This study found that over half (50.5 per cent) of the surveyed fishers were interested in joining a trade union. Only 2.9 per cent of the sample said they had received information or assistance from a union. While trade unions and NGOs are helping to form migrant associations, there is no formally registered union that is organizing fishers in Thailand – and this was the case even in times when the industry was dominated by Thai nationals. A union would be able to represent the fishers in negotiations with employers and help ensure their labour rights, and could participate in discussions with government and employers on relevant policy measures.

Workers in all four sample provinces expressed interest in union membership, particularly in Ranong (73.5 per cent), and less so in Samut Sakhon (36.6 per cent) (Table 7.5). Short-haul fishers demonstrated greater enthusiasm for union membership than their long-haul counterparts. By nationality, 52.3 per cent of Cambodian and 50.3 per cent of Myanmar fishers were interested in union membership, compared to 42.9 per cent of the Thai respondents.

**Table 7.5 Interest in joining a trade union or migrant workers' association by province (n=596)**

Do you want to join a union or association?	Ranong		Songkhla		Rayong		Samut Sakhon		Total	
	%	N	%	N	%	N	%	N	%	N
Want to join	73.5	97	52.0	53	46.5	87	36.6	64	50.5	301
Don't want to join	9.8	13	14.7	15	46.0	86	41.1	72	31.2	186
Don't know	16.7	22	33.3	34	7.5	14	22.3	39	18.3	109
Total	100	132	100	102	100	187	100	175	100	596

## 7.6 Fishers' perception of legal protection

The survey showed that 40.9 per cent of the sample group felt they did not have adequate legal protection, and an additional 35.4 per cent were unsure; leaving less than a quarter of recipients (23.7 per cent) expressing the belief that they had adequate legal protection. This perception was not limited to just migrants, and Thai respondents were actually even more likely than foreign workers to feel that they had inadequate legal protections (Table 7.6). A greater proportion of long-haul fishers did not feel they had adequate legal protections compared to their counterparts on the short-haul fishing vessels (56.6 per cent versus 39.6 per cent).

The respondents were asked to compare the legal protection for migrant fishers who have regular and irregular status. Of this sample, 55 per cent believed that regular migrant workers would have more legal protection in Thailand than irregular migrant workers; only 13.6 per cent felt that there would be no difference; and one-fifth felt there would be slightly more legal protection for legal workers.

**Table 7.6 Fishers' perception of protection by nationality (n=596)**

Do fishers have adequate protection?	Thai		Cambodian		Myanmar		Total	
	%	N	%	N	%	N	%	N
Adequate	24.5	12	22.8	55	24.2	74	23.7	141
Not adequate	53.1	26	41.1	99	38.9	119	40.9	244
Don't know	22.4	11	36.1	87	36.9	113	35.4	211
Total	100	49	100	241	100	306	100	596

## 7.7 Challenges in extending protection to fishers

Though fishers who have grievances can approach the authorities to lodge complaints and receive legal protection, there are a number of obstacles that have been identified in the course of this study (*Source: Interviews with relevant agencies in Ranong, Songkla, and Samut Sakhon from June to September, 2012*).

### 7.7.1 Coordination and cooperation among agencies

There are a number of cases of limited coordination and sharing of information, for example, between the Office of Labour Protection and Welfare and the Fisheries Office, which has responsibility for boat registration. This made it difficult for the Labour Office to know where the boats were so that fishers (Thai and non-Thai) could be reached in the event of a complaint. Also, workers often did not know the name of their employer or home port of boat registration, and this impeded the process of responding to a complaint (*Source: Interview with Office of Labour Protection and Welfare in Ranong on 3 May 2012*).

Another example of limited cooperation among agencies was observed in Ranong, where the Immigration Office has issued an informal ID card for Myanmar labourers (referred to in Chapter 3 as a Pass for Myanmar National Seaman), which is not the equivalent of a formal Seaman's Book. When the Port Authority then inspects the workers, they cannot accept this informal ID card as proof of legal employment. The employers and the Ranong Fisheries Association have not been proactive in trying to solve this problem (*Source: Interview with Regional Port Authority, Ranong, 4 May 2012*).

### 7.7.2 Capacity and resources in provincial offices

There is a shortage of personnel at the relevant government offices. Thus, the inspection of fishing boats is inadequate. Part of the issue is that staff from the Office for Labour Protection and Welfare have to be present at all inspections, which puts a strain on that one office and hinders the actions of other agencies (*Source: Interview with the Office for Labour Protection and Welfare, Rayong, 6 June 2012*). In addition, the office does not have the boats or budget to conduct inspections at sea. This prevents the authorities from seeing the actual working conditions of many fishers (*Source: Interview with the Office for Labour Protection and Welfare in Samut Sakhon, 22 May 2012; and interview with the Office for Labour Protection and Welfare in Rayong, 6 June 2012*).

It should be noted that the Labour Office in Samut Sakhon has hired staff who speak Burmese and Khmer, and made an effort to make their office more accessible to migrants. However, the language barrier remains a major constraint on migrants' access to justice. This leads to misunderstandings and lack of knowledge about the procedures and places to file complaints (*Source: Interview with the Office of Labour Protection and Welfare in Ranong, 3 May 2012; and Interview with the Office for Social Development and Human Security in Ranong, 4 May 2012*).

### 7.7.3 Irregular status of migrant fishers

The complexity and lengthy time it takes to process a work permit application leads to problems in the implementation of the law. Employers are required to make a series of payments and obtain approvals from several government agencies. Costs include the registration fee, physical exam fee, bio-data preparation fee, social insurance, etc. (*Source: Interview with the Employment Office in Songkhla, 11 May 2012*).

Others have argued that the time window for registration was too short given the long periods of time the boats are at sea, and this forces the boat owners to hire irregular migrants (*Source: Interview with the Fisheries Association in Samut Sakhon, 24 May 2012*). In addition, the period of time for renewing worker registration of 90 days is too short for migrants who are at sea for months at a time; thus, some have their permits expire and become irregular (*Source: Interview with the Fisheries Association, Ranong, 4 May 2012*).

Regardless of the complexity, many of the owners are not enthusiastic about helping foreign crew to cover the costs to obtain work permits because of the high job mobility. In Samut Sakhon, a common complaint from boat owners or captains is that boat crew secure an advance payment of THB7,000 – 8,000 per person to sign up for a fishing assignment, but then some fail to appear on the day of the launch. More may jump ship after delivering the catch at intermediate ports such as those in Prachuap Khiri Khan province. In some instances, the defections are so pervasive that the boat can no longer go out to sea due to a lack of crew (*Source: Interview with Marine Police, Samut Sakorn, 22 May 2012*). In Ranong, some boat owners give money to hired crew so they can buy necessities before going to sea. Some workers take the money and do not return (*Source: Interview with Fisheries Association, Ranong, 4 May 2012*).

## 7.8 Recent efforts to improve conditions in the commercial fishing sector

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Several departments within the Thai Government and industry associations have proposed or introduced measures to improve conditions in the sector. Some of these interventions are outlined below:

### Revision of Ministerial Regulation No. 10 on Sea Fisheries Work

A number of multi-stakeholder consultations have been held to provide inputs on a revision of the Ministerial Regulation on Sea Fisheries Work. These meetings had active participation from several departments of the Royal Thai Government, including the Department of Labour Protection and Welfare, the Department of Fisheries and the Marine Department; in addition to industry associations and civil society organizations. In response to a request from the Thai Government, the ILO provided technical comments on the draft Ministerial Regulation, drawing from

ILO Convention No. 188 and Recommendation No. 199, and other international labour standards and good practices. In the initial revision, the clauses exempting vessels with fewer than 20 employees or fishing outside Thai waters for more than a year were removed from the Regulation.

### **Establishment of Labour Coordination Centres for the Fishing Sector**

The Royal Thai Government has approved the establishment of Labour Coordination Centres for the fishing sector in seven provinces: Samut Sakhon, Chumporn, Ranong, Rayong, Songkhla, Satul, and Trat (the centres will have regional functions, serving fishers and vessel owners from neighbouring provinces). These centres aim to remove the role of brokers; increase the proportion of migrant fishers with regular status; address labour shortages in the sector; and provide fishers with information, training and support services. A Cabinet Resolution on 9 October 2012 states that the seven centres will be established, and committees will be formed to oversee the centre operations (led by the Ministry of Labour) and to monitor the overall implementation (led by the Sub-Committee on Trafficking in the Fishing Sector). It has been proposed that the National Fisheries Association of Thailand (NFAT) will run these centres, and will put forward a set of operating procedures for review and approval by the Government.

In establishing the Labour Coordination Centres, it will be important to bear in mind the main provisions of Convention No. 188 concerning privately operated agencies for recruitment and placement of fishers. These agencies require laws, regulations or other measures: (a) to prohibit the use of mechanisms or lists by recruitment and placement services to prevent or deter employment of fishers; (b) ensure that none of the costs of recruitment and placement are borne by fishers; and (c) establish the operating requirements for private recruitment and placement agencies and the violations for which their licencing may be suspended or revoked.

### **Enhancement of Labour Inspection**

From January to December 2012, the Navy conducted 446 trips to patrol the Thai seas and conduct labour inspections. No cases of human trafficking were identified. In addition, since January 2012, the Marine Department also conducted sea patrols with 30 boats and increased the frequency to twice a month with two to five days spent on each trip. Six boats were identified as violating the Navigation in Thai Waters Act, B.E. 2456. Boat licenses as well as captain and crew certificates were also inspected.

In 2013, the Department of Labour Protection and Welfare of the Ministry of Labour established a multi-sectoral unit to inspect vessels while at sea. The team will be organized under the DLPW, and will include a labour inspector from DLPW and officers of the Marine Police, Royal Thai Navy, Department of Special Investigations and the Department of Fisheries. The budget for operations will be requested from the Human Trafficking Fund. The unit will cover five pilot provinces: Rayong, Chonburi, Songkhla, Nakhon Srithammarat and Trang. The creation of this team was inspired by an experience sharing with Brazil on their special mobile inspection units.

### **Development of Good Labour Practice Guidelines**

Guidelines on Good Labour Practices (GLP) in Thailand's fishing sector have been drafted through consultation with government, industry and social partners. The Guidelines are based on Thai legislation, Thai labour standards, International labour standards and other principles determined through a series of meetings. The GLP Guidelines serve as the basis for an information and training campaign targeting fishing vessel owners, skippers and crew supervisors. The materials and training will be provided through provincial authorities and fisheries associations, as well as the labour coordination centres for the fishing sector that have been established to recruit and train fishers. The Guidelines respond to the specific nature of work in fishing, and the limited awareness among some fishing vessel operators of the relevant laws and how to apply them. They cover areas of the fundamental principles and rights at work, as well as providing practical guidance on fisher's work agreements, pay, working hours, occupational safety and health, etc.

## **Development of a Code of Conduct**

The NFAT has developed a 'Code of Conduct for Thai Fisheries Operators/Enterprises'. The Code of Conduct aims to ensure greater protection for fishers through the application of relevant Thai laws and international standards, and thus promote the productivity and sustainability of the Thai fishing sector. The application of the Code of Conduct is entirely voluntary; however, NFAT is examining how to reward and punish members according to their compliance with its principles.

## **Improving Occupational Safety and Health**

NFAT, the Department of Labour Protection and Welfare, and the OSH Bureau are working together to improve occupational safety and health conditions on Thai fishing vessels. At present, there is a lack of OSH training materials for the fishing sector, and limited awareness of how the Occupational Safety, Health and Environment Act should be applied to fishing vessels. With ILO assistance, OSH training tools have been drafted based in part on an OSH survey carried out on fishing boats and in fishing communities in four provinces - Samut Sakhon, Trat, Rayong and Nakhon Si Thammarat. Vessel owners, skippers and crew members fed into this process.



This chapter forms some conclusions based on the findings of the study and puts forward a number of recommendations for consideration by the government, social partners and civil society groups. These recommendations draw primarily on the research findings, as well as additional sources that contribute to a broader understanding of conditions in the fishing sector and the various ongoing efforts to enhance protection for fishers.

### 8.1 Conclusions

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The rapid growth of the Thai fishing sector over the past decades has come to an end, with higher fuel costs and a significant decrease in the Catch Per Unit of Effort (CPUE) due to overfishing. This has led to dramatic changes in the structure of employment and working conditions within the sector. Fewer people, both Thai and migrants, are willing to work on board because of the working conditions and as such, unscrupulous brokers and employers will often provide misleading information, withhold payment, threaten violence and use other means to recruit and employ fishers. It can therefore be said that this labour shortage – estimated to be as high as 50,000 workers – is both a cause and an effect of the abusive labour practices that are seen in the fishing sector.

This survey represents the largest known survey on working conditions in Thailand's fishing sector. While the findings cannot be said to be representative of the sector as a whole, they provide an improved understanding of the situation faced by workers on long-haul and short-haul fishing vessels. The findings indicate low compliance with Thai immigration and labour laws, and reveal significant gaps when measured against the relevant international standards on work in fishing. In addition, a considerable proportion of the fishers surveyed were found to be in exploitative situations, either employed through deceptive and coercive labour practices, working long hours for little pay, or working under age.

It should also be noted that a significant proportion of the sample did not appear to be in an exploitative situation. Nearly 62 per cent of respondents reported not having faced a serious rights violation, and over half of the sample intended to continue working with their current employer. Most employers state that they would not have a crew if they treated them badly, as workers regularly change boats and advise other fishers to avoid certain skippers. That said, the changing of boats is a lot easier when working in coastal fishing, rather than deep-sea fishing.

The following conclusions are divided into sections on: migration policy and recruitment practices; employment practices and working conditions; deceptive and coercive labour practices; and labour protection mechanisms.

#### 8.1.1 Migration policy and recruitment practices

Because of demographic changes and rising education levels among the Thai population, the fishing industry will continue to be reliant on migrant workers for long into the future. At present, the vast majority of these migrants have irregular status, which has enabled a deterioration of working conditions, as they have limited access to complaints mechanisms and may be threatened with deportation. At the same time, fishers do see some appeal in not having to enter into costly and complex processes to obtain legal status, as they are not subject to regular inspection by the immigration authorities.

The way in which workers are recruited has a strong effect on their working conditions. Respondents recruited by brokers often take an advance for the brokerage fee which is then deducted from their wages. Of those respondents that first entered the sector against their will, just over half were recruited through brokers in their home villages, and the remainder were recruited by brokers in Thailand, or by their relatives. Of the respondents who reported being in a forced labour situation, most were tricked or forced into fishing by brokers, and just under a third entered the sector willingly.

The survey found that over half of the sample did not have any form of documentation and only one respondent had a work permit. The remainder that indicated they had entered the regularization process, or had a document from the local authorities which has a questionable legal basis.

The registration and nationality verification programme has been quite ineffective in regularizing fishers, for several reasons. Firstly, the window for registering and completing the process is quite short, especially for workers who are at sea for longer periods of time. But even fishers who are sea for a month or less (82 per cent of the survey sample) do not register. This is because there is a lot of mobility between employers, which invalidates the work permit; therefore, employers are reluctant to pay the costs of regularization. Thirdly, there are cases where local authorities have issued alternative passes, which are cheaper and faster to obtain, and are more flexible. Fourthly, the deterrent of deportation is seemingly not a major concern among the fishers or the employers.

### **8.1.2 Employment practices and working conditions**

The findings revealed that working conditions within the fishing sector in Thailand remain largely unregulated and not up to the standards set out in the Labour Protection Act and Ministerial Regulation No. 10 on Sea Fisheries Work. Furthermore, the research revealed a prevalence of deceptive and coercive labour practices, especially among the migrant fishers surveyed. While Thailand has not ratified ILO Convention No. 188 on Work in Fishing, the standards that have been agreed upon by tripartite constituents at the global level does serve as a useful reference point against which to analyze these findings.

Almost all (94 per cent) of the respondents did not have a written contract. Instead, the terms of employment are reportedly agreed verbally, which leaves little recourse for holding the employer accountable in cases of a dispute. Given the means of payment, often based on a proportion of the catch and often subject to various deductions (the details of which the workers are largely unaware), there is substantial scope for dispute.

The Ministerial Regulation prohibits children aged under 16 from working in the sector, although children aged 15 are allowed to work with, or with the permission of their guardians. This is consistent with Convention No. 188, which stipulates that, "the minimum age for work on board a fishing vessel shall be 16 years," except in special circumstances. Seven children under 15 were surveyed, and it also important to remember that 26 of the respondents aged 15-17 should not be engaged in work that harms their health and safety – in line with ILO Convention 182 on the Worst Forms of Child Labour, which has been ratified by Thailand.

Because of the nature of the work, the Ministerial Regulation does not stipulate any maximum working hours or minimum wage. Usually a proportion, if not all, of the fisher's wage is paid according to the catch sold, and therefore workers are incentivized to work long hours. Just over a quarter of the respondents stated that they worked 17-24 hours per day, and 37 per cent reported less than four hours of rest per day. This includes the time it takes to travel to and from the fishing area, and the time in which the nets are in the water. For many, the hours are irregular and dependent on the number of times that the nets are cast. To illustrate the indeterminable number of working hours, three quarters of the fishers surveyed said that they had sufficient rest.

ILO Convention No. 188 does not limit working hours but does state that workers on board vessels fishing for more than three days should have minimum hours of rest of no less than 10 hours in any 24 hour period, and 77 hours in any seven day period. Taking into account the nature of fishing vessel operations, the Convention does allow for some flexibility in scheduling; however, the aim is to provide workers with sufficient rest to ensure safety and health on board. The survey found that 21 per cent of respondents had experienced an accident at work that required them to receive medical attention at a clinic or hospital.

Among the sample, wages were reported as the principal motivation for working in the fishing sector. However, wages are paid on an irregular basis, and are relatively low given the long working hours. Nearly half of the sample, 47.7 per cent, received less than THB5,000 per month. In comparison, the daily minimum wage in Thailand (which does not apply to fishing) is THB300, as of January 2013. In order to pay back the recruitment fee and for various other costs, 42 per cent reported that a portion of their pay was deducted by their employers. The majority, six out

of ten, indicated that they could not save any of their income and only half could send remittances home. Many of the concerns surrounding the amount and the regularity of pay, as well as greater transparency on deductions, would be addressed if the Ministerial Regulation requirement to sign written agreements and to pay on at least a monthly basis (unless it is in the interests of the fisher) was enforced.

### **8.1.3 Deceptive and coercive labour practices**

Many of the labour practices experienced by fishers surveyed are consistent with the indicators of forced labour. A considerable proportion of respondents – 16.9 per cent – reported working in fishing against their will and felt the menace of penalty for leaving their employer. Among these, the penalty was a financial penalty for 12 per cent of respondents, and for another 4.9 per cent the penalty was the threat of violence, the threat of denunciation to the authorities, and others. Additional analysis of the working conditions of these groups – the 12 per cent, the 4.9 per cent and the remaining 83 per cent (that did not self-identify as being unable to leave their employer) – was conducted, and it was determined that certain working conditions for the 12 per cent were not dissimilar to the 83 per cent; whereas the conditions for the 4.9 per cent were considerably worse.

Of the 16.9 per cent of fishers that reported working against their will and being unable to leave, all were migrants. This reveals the particular vulnerability of migrants, due to their tenuous legal status in Thailand and inadequate access to complaints mechanisms. The majority of respondents who were deceived or coerced to work in the sector were from Myanmar. Fishers from Cambodia are not exempt from these problems, and there have been many reported incidents of Cambodians being trafficked on Thai deep-sea fishing vessels, with many repatriations taking place from Indonesia and Mauritius in recent years. While the Thai workers surveyed did not identify as being in a forced labour situation, they also worked long hours, did not have contracts, did not receive welfare benefits and had suffered from violence on board.

A large proportion of the migrant fishers employed in Thailand are recruited into the industry by brokers who charge fees for the services they provide. These include the fees for smuggling migrants across the border or through Thailand, and placing them with employers. Although the majority of fishers enter into these types of arrangements with brokers voluntarily, they frequently find themselves in situations of debt bondage if the fee charged or method of paying back a loan is not well-defined. The involvement of brokers in the migration or recruitment process remains a key risk factor in being subjected to conditions of forced labour in the fishing sector.

Exploitative conditions were more prevalent on deep-sea fishing boats compared with coastal fishing boats, with nearly 25 per cent of the long-haul fishers surveyed working against their will. Among this group, fishers that reported being trapped in situations of forced labour on deep-sea vessels had been employed through deceptive recruitment practices, whereas coastal fishers in such situations were more likely to be forced to work through the threat of financial repercussions. Physical inability to escape from such situations on deep-sea vessels that remain at sea for months or years at a time means that forced labour practices on board deep-sea vessels are more overt and of increased severity.

It appears that the presence of a financial penalty for leaving the employer is by itself not a sufficient condition to determine the extent of the exploitative working conditions. That said, it can certainly be considered a coercive practice that limits the mobility of fishers. The second most common reason why fishers felt they could not leave their employer was the threat of violence. The survey showed that this threat is very real, with over 10 per cent of fishers reported that they had been severely beaten while on board. Skippers and crew supervisors are sometimes the perpetrators of violence against crew as a means of subjugation.

### **8.1.4 Labour protection mechanisms**

The study findings revealed that there is currently inadequate access to justice for migrant fishers. There is limited understanding among fishers about what their labour rights are or how to proceed with asserting them when necessary. This lack of knowledge was also found to be reinforced by fears of retribution by vessel owners and skippers for creating problems and skepticism about the efficacy of the response from authorities to complaints.

For irregular migrant workers, the barriers to accessing justice through labour authorities are even greater, leaving them vulnerable to exploitation with little means for legal redress.

The vast majority (94.8 per cent) of the fishers surveyed had never lodged complaints about their working conditions. Those who did, complained to their employer directly or to an NGO, and were very unlikely to seek assistance from a government official. Most of the respondents (61.7 per cent) did not complain because they had not encountered any serious rights violations in the workplace, but 21.3 per cent respondents did not complain because they did not want to cause trouble, a lack of confidence that complaining would do any good, or not knowing where or how to file a grievance.

There are no active unions or associations of fishers, though the majority of fishers surveyed are interested in becoming members of a labour union. Even when the industry employed predominantly Thai workers there was no tradition of organizing. Thai law does not allow migrant workers to form their own unions or take up leadership positions in existing unions – which hampers the ability of fishers to organize to represent their interests and negotiate with employers. Given the significant proportion of fishers who are migrants, it is unlikely that any Thai-run union can truly represent their interests.

Less than 24 per cent of fishers stated that they felt they had adequate protections in the sector. An even larger group simply did not know if they had adequate protections or not. Although a legal framework for these protections has been established under the Labour Protection Act and Ministerial Regulation No. 10, these labour rights are currently out of reach for many fishers. This is partially due to the reliance on irregular migrants, who are not in a position to complain. At the same time, there is little inspection of conditions on board, and little regulation of the measures required under Ministerial Regulation No. 10 and other relevant labour protection, OSH and immigration legislation.

In line with the labour and fishery laws of Thailand, various government agencies are responsible for the regulation of the industry and the protection of fishers. Qualitative data from in-depth interviews indicated that there has been limited coordination among agencies to date. However, there are a number of new initiatives that are bringing agencies together, both in setting policies and in piloting operations at central and provincial levels. On the private sector side, the fisheries associations still have a limited role in supervising boat owners.

## 8.2 Recommendations

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Improving employment practices and working conditions in the fishing sector requires a broad range of interventions, including in the areas of labour migration management, recruitment practices and labour protection. It requires an effort on the part of various government departments and representative worker and employer groups. The following recommendations should be considered.

### 8.2.1 Recommendations for the Thai Government

1. In consultation with industry, the Government should draw on the standards in ILO Convention No.188 to analyse policy gaps during its review of Ministerial Regulation No. 10. There is a particular need to set and enforce new standards around the maintenance of crew lists, clarity of payment systems (including regularity of pay, e.g. at least a determined basic wage<sup>9</sup> on a monthly basis), and minimum rest hours. All fishers on board long-haul fishing vessels should be given a means of transmitting all or part of their payments received to their families at no cost. The Ministerial Regulation should also more clearly state the requirements for the document that outlines the fishers' name, duties and pay; and establish that each fisher must be provided with a written work agreement.
2. With reference made to the particulars set forth in Annex II of Convention No. 188, a model work agreement should be developed and provided to fishers in their native languages.

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<sup>9</sup> The term 'basic wage' has been defined for seafarers in the ILO Recommendation on Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No.187) and determined through the Subcommittee on Wages of Seafarers of the Joint Maritime Commission. Although these do not apply to fishers, they can provide some guidance in setting a basic wage in terms of definition and process that can be considered by the government and social partners in Thailand.

3. Establish guidelines on conducting labour inspection, both while on shore and while at sea. The guidelines should be designed by the Department and Labour Protection and Welfare, and implemented together with the Marine Police, Royal Thai Navy and other relevant departments. The ILO Guidelines for Port State Control Officers should be reviewed in the determining the scope of inspections. Regular on shore inspections should include a review of work agreements, pay slips, crew lists or the KhorRor(1) form, and the documents of young workers, conditions of accommodation, OSH, etc. Deep-sea fishing vessels that are at sea for a certain period should be regularly inspected prior to departure and on return to port, and include interviews with the crew, and a review of the crew list.
4. As part of the proposed plans for establishing Labour Coordination Centres for the Fishing Sector, the Government should consider allowing fishers to register as fishing sector workers, rather than with an individual employer. This would allow for mobility within the sector – between boats and provinces – without losing legal status, thus meeting the needs of the Government, employers and the workers.
5. The Government should review the issuance of temporary immigration passes by certain provincial authorities. There could be lessons that could be learned in order to make regular migration into the fishing sector and regularization programmes more effective. Alternatively, this type of documentation could be adjusted to satisfy the needs of the National Security Council and the Department of Employment.
6. There is a need to draft new legislation to regulate the recruitment of inbound migrant workers. Brokers and sub-contractors in Thailand play a key role in the migration process, but operate with limited oversight. Moreover, the brokers that facilitate the registration and regularization process are also unregulated, and are allowed to charge excessive fees. This restricts the number of migrants and employers who are willing to enter the regularization windows.
7. Complaints mechanisms should be made more available to fishers, including irregular migrants. An awareness raising and public information campaign should be carried out to disseminate materials on fishers' rights and how they can lodge complaints, either with the local authorities or NGOs. In addition, the capacity of local authorities to respond to fishers' complaints should be enhanced, for example, training on the laws and mandates of different departments, hiring interpreters, establishing offices near the piers and conducting outreach to employers and workers, etc.

### **8.2.2 Recommendations for cooperation between the Thai Government and social partners**

1. The Thai Government, industry actors and organizations representing workers' interests should undertake an assessment to determine the type of work on board a fishing vessel that is likely to jeopardize the health, safety or morals of young persons, and therefore should not be carried out by workers under 18 years of age, and ensure compliance with the commitments under to the Minimum Age Convention, 1973 (No. 138). In this exercise, guidance may be provided by the FAO-ILO Good Practice For Addressing Child Labour In Fisheries And Aquaculture: Policy And Practice.
2. The industry associations and the Department of Fisheries should cooperate on improving the design of fishing boats to allow for more modern fishing gear to reduce the number of crew required on board, and to address concerns related to OSH, accommodation and sanitation.
3. The Thai Government should provide more detailed guidance to employers, workers' organizations and local authorities on how the Occupational Safety, Health and Environment Act, B.E. 2554 (2011), applies to the fishing sector. These parties must also cooperate to promote OSH training, including risk assessments, through the local authorities and industry association, and improve the reporting of accidents on board to strengthen protections for fishers.

4. The Government should more closely engage industry associations and trade unions in the development of policy and legislation, in the regulation of recruitment and employment practices, and in the delivery of training and provision of information. As a regular dialogue partner of the Government, the National Fisheries Association of Thailand and the Thai Overseas Fisheries Association will be able to attract more local associations and vessel owners, and increase their influence. Dedicated efforts should be made to ensure the full engagement and active participation of trade unions in policy and legislative action.
5. Government and employers should allow space for fishers to form associations that represent their interests and can negotiate with employers. The Government should proceed with plans to ratify the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98), and extend these rights to migrant fishers.

### **8.2.3 Recommendations for cooperation between the Thai Government and the governments of countries of origin and countries in which Thai vessels are fishing**

1. Cooperation should be enhanced with countries of origin to improve access to safe migration information and legal migration channels. In particular, areas with a history of sending workers into fishing should be targeted with specific information on the specific laws and practices related to recruitment and employment in the fishing sector. If additional countries are being considered as sources of fishers, it is important to consider the differences in language, culture and fishing practices – which all could hamper the relationship between skippers and crew.
2. Greater cooperation is required with countries in whose waters Thai vessels are fishing, in the ASEAN region and beyond. This should include, for example, the sharing of information on vessel registrations and crew lists, guidelines surrounding the inspection of vessels by port and flag state control officers, and procedures for the rescue and return of trafficked and stranded fishers.

### **8.2.4 Recommendations for buyers of Thai seafood products**

1. Buyers sourcing their seafood products from Thailand should continue to advocate for and develop means for monitoring of stricter regulatory standards to prevent and eliminate forced labour and other unacceptable forms of work from occurring within supply chains.

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## Annex 1 - Questionnaire

### Introduction before interview

My name is ..... I am an interviewer for a study on working conditions in Thailand's commercial fishing sector conducted by ARCM with support from the ILO. The findings of this study will lead to recommendations on improving the recruitment process and working conditions for fishers in Thailand, and will benefit you and other fishers in the future.

Your answers will be kept confidential. We will not ask your name but would like to request your cooperation for a 30 minute interview.

You can choose not to answer any questions or to stop the interview. The information provided by your answers is important. Therefore, please share your honest experiences with us. If you consent, may I start the interview now?

No. of interviewee.....

Location of interview.....

Name of interviewer.....

Date of interview ...../...../.....

### Eligible respondents:

- A. Currently working on a Thai commercial fishing vessel
- B. Employee status (not an employer or self-employed)

### Note:

The questionnaire used during field research was written in the Thai language and was administered through the assistance of interpreters. Although a back translation was carried out, minor differences in phrasing may still exist between the translation below and the original questionnaire.

### Section 1: General information of respondents

#### 1.1 Gender?

- 1.  Male
- 2.  Female

#### 1.2 Age? ..... Year of birth.....

#### 1.3 Nationality/Ethnicity?

- 1.  Thai
- 2.  Cambodian
- 3.  Myanmar (please specify ethnic group) e.g. Burman, Mon, Karen, Shan, etc.....
- 4. Other, specify .....

#### 1.4 What is your marital status?

- 1.  Single
- 2.  Married
- 3.  Divorced
- 4.  Widowed

1.5 What legal documents do you have? (Choose all that apply)

- |   |  |
|---|--|
| 1. <input type="checkbox"/> <i>Tor Ror</i> 38/1 | 2. <input type="checkbox"/> Work Permit                                |
| 3. <input type="checkbox"/> Seamen's Book       | 4. <input type="checkbox"/> Temporary Passport/Certificate of Identity |
| 5. <input type="checkbox"/> No documents        | 6. <input type="checkbox"/> Other, specify.....                        |

1.6 If you are not registered, why didn't you enter the registration process in 2010 or 2011?

1.  I did not know about the registration period
2.  My employer didn't allow/support it
3.  I attempted to register but missed the registration period
4.  The process is too complicated and time consuming
5.  I already registered previously
6.  Other, specify .....

1.7 Where are your identity documents?

- |   |   |
|---|---|
| 1. <input type="checkbox"/> I keep them with me               | 2. <input type="checkbox"/> I asked my employer to keep them for me |
| 3. <input type="checkbox"/> My employer demanded to hold them | 4. <input type="checkbox"/> I don't have any                        |

1.8 Do you know how to read and write in your native language?

- |                                 |                                |
|---------------------------------|--------------------------------|
| 1. <input type="checkbox"/> Yes | 2. <input type="checkbox"/> No |
|---------------------------------|--------------------------------|

1.9 How much formal education have you completed?

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Did not attend school | 2. <input type="checkbox"/> ..... Years of school |
|---|---|

1.10 How well do you speak Thai?

- |   |                                      |
|---|--------------------------------------|
| 1. <input type="checkbox"/> None at all | 2. <input type="checkbox"/> A little |
| 3. <input type="checkbox"/> Fairly well | 4. <input type="checkbox"/> Fluently |

1.11 For how long were you last out at sea?

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Less than 2 weeks | 2. <input type="checkbox"/> 2 weeks-1 month      |
| 3. <input type="checkbox"/> 1-3 months        | 4. <input type="checkbox"/> 3-5 months           |
| 5. <input type="checkbox"/> 5-6 months        | 6. <input type="checkbox"/> More than six months |
- (please specify the duration.....)

1.12 What type of fishing vessel were you working on?

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Single trawl | 2. <input type="checkbox"/> Twin trawl           |
| 3. <input type="checkbox"/> Purse seine  | 4. <input type="checkbox"/> Floating Seine       |
| 5. <input type="checkbox"/> Tour boat    | 6. <input type="checkbox"/> Other, specify ..... |

1.13 Was fishing working your first job?

- |                                 |   |
|---------------------------------|---|
| 1. <input type="checkbox"/> Yes | 2. <input type="checkbox"/> No (Please specify previous<br>sector of work.....) |
|---------------------------------|---|

- 1.14 How long have you worked as a fisher? .....
- 1.15 How long have you worked for your current employer? .....
- 1.16 What year did you first enter Thailand? .....
- 1.17 What is your position on the fishing boat?
- |  |   |
|--|---|
| 1. <input type="checkbox"/> Deckhand             | 2. <input type="checkbox"/> Chief of Crew |
| 3. <input type="checkbox"/> Captain/Skipper      | 4. <input type="checkbox"/> Mechanic      |
| 5. <input type="checkbox"/> Steersman            | 6. <input type="checkbox"/> Cook          |
| 7. <input type="checkbox"/> Other, specify ..... |   |
- 1.18 How many crew members work on your fishing boat? .....
- 1.19 How much are your monthly wages? (including all forms of remuneration) ..... THB
- 1.20 How are your wages determined?
- |  |  |
|--|--|
| 1. <input type="checkbox"/> Share of the catch | 2. <input type="checkbox"/> Basic wage plus a share of the catch |
| 3. <input type="checkbox"/> Basic wage         | 4. <input type="checkbox"/> Other, specify .....                 |
- 1.21 What type of accommodation do you have on shore?
- |  |   |
|--|---|
| 1. <input type="checkbox"/> I live on the fishing boat | 2. <input type="checkbox"/> I rent a room           |
| 3. <input type="checkbox"/> I live with parents/family | 4. <input type="checkbox"/> I live with my employer |
| 5. <input type="checkbox"/> I own a house              |   |
- 1.22 What was your primary motivation to work in fishing?
- |  |   |
|--|---|
| 1. <input type="checkbox"/> Wages                                      | 2. <input type="checkbox"/> Working conditions                |
| 3. <input type="checkbox"/> Friends or relatives working in the sector | 4. <input type="checkbox"/> No other employment opportunities |
| 5. <input type="checkbox"/> I did not intend to work in fishing        |   |
| 6. <input type="checkbox"/> Other, specify .....                       |   |
- 1.23 Do you send remittances back home?
- |  |                                |
|--|--------------------------------|
| 1. <input type="checkbox"/> Yes, THB ..... / month | 2. <input type="checkbox"/> No |
|--|--------------------------------|
- 1.24 How do you send remittances?
- |  |   |
|--|---|
| 1. <input type="checkbox"/> Bank                 | 2. <input type="checkbox"/> Broker                |
| 3. <input type="checkbox"/> Friends or family    | 4. <input type="checkbox"/> Employer's assistance |
| 5. <input type="checkbox"/> Other, specify ..... |   |

## Section 2: Recruitment Process

2.1 Did you make your own decision to work in fishing?

- |                                 |  |
|---------------------------------|--|
| 1. <input type="checkbox"/> Yes | 2. <input type="checkbox"/> No (Skip to 2.3) |
|---------------------------------|--|

2.2 If yes, how did you get recruited into work in fishing?

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Broker in my home community      | 2. <input type="checkbox"/> Friend in home community                 |
| 3. <input type="checkbox"/> Broker in Thailand               | 4. <input type="checkbox"/> Friend in Thailand                       |
| 5. <input type="checkbox"/> Came here by myself to find work | 6. <input type="checkbox"/> Came with family/ employer/ head of crew |
| 7. <input type="checkbox"/> No answer                        |  |

2.3 If no, how did you end up working in fishing?

1.  I was tricked/forced by a broker in my home village
2.  I was tricked/forced by a broker in Thailand
3.  I was forced by parents or family members
4.  Other, specify .....

2.4 If you came to Thailand with a broker, how did you pay the broker? (Skip to 2.6, if no broker involves)

1.  I paid the fee up front. THB .....
2.  My wages will be deducted for a certain number of months until the debt is paid
3.  I will not receive any wages for a certain number of months until the debt is paid
4.  My employer paid in full without deducting my wages THB .....
5.  Not sure

2.5 If you paid up front, did you borrow money to pay for the recruitment fees?

- |                                 |  |
|---------------------------------|--|
| 1. <input type="checkbox"/> Yes | 2. <input type="checkbox"/> No (Skip to 2.7) |
|---------------------------------|--|

2.6 If you borrowed money, who loaned the money to you?

- |  |                                      |
|--|--------------------------------------|
| 1. <input type="checkbox"/> Recruiter/Broker     | 2. <input type="checkbox"/> Family   |
| 3. <input type="checkbox"/> Informal Lender      | 4. <input type="checkbox"/> Employer |
| 5. <input type="checkbox"/> Other, specify ..... |                                      |

2.7 How many friends migrated for work in Thailand with you? ..... persons

2.8 Did your recruiter/broker tell you that you would be working on a fishing boat?

- |                                 |                                |
|---------------------------------|--------------------------------|
| 1. <input type="checkbox"/> Yes | 2. <input type="checkbox"/> No |
|---------------------------------|--------------------------------|

2.9 Are you working in the fishing sector against your will? ...

- |                                 |   |
|---------------------------------|---|
| 1. <input type="checkbox"/> Yes | 2. <input type="checkbox"/> No (skip to 2.11) |
|---------------------------------|---|

2.10 If not willingly, why are you working in fishing?

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Forced to work                                | 2. <input type="checkbox"/> Sold by a broker to the boat owner    |
| 3. <input type="checkbox"/> Must work to pay off a debt (advance or loan) | 4. <input type="checkbox"/> Deceived about the nature of the work |

2.11 If you've ever tried to leave your employer, what type of obstacles or threats made you unable to leave?

1.  Threat of denunciation to authorities
2.  Withholding of identity papers or travel documents
3.  Physical violence or threat of violence
4.  Withholding of assets (cash or other)
5.  Threat against family members
6.  Financial penalty  
(e.g. wage withholding, deduction of wage)
7.  Other forms of punishment
8.  Never tried to leave

### Section 3: Condition of work

3.1 How many hours do you typically work on board the fishing boat per day, including being on-call?

..... Hours

3.2 In 24 hours, how many continuous hours of rest can you typically have while on board?

..... Hours

3.3 Do you have sufficient rest while on board?

1.  Yes
2.  No

3.4 Have you been provided with any social welfare benefits by your employer e.g accident insurance?

1.  Yes, please specify.....
2.  No

3.5 Was the food and water provided on board adequate?

1.  Yes
2.  No

3.6 Have you signed a labour contract?

1.  Yes
2.  No
3.  Don't know

3.7 How often do you get paid?

1.  Every month
2.  Every two months
3.  Every three months
4.  Every six months
5.  Before going to sea
6.  At the end of each voyage
7.  Other, please specify .....

3.8 What deductions are made from your salary? (how much / per day)

1.  Food and drinking water .....
2.  Debt incurred/wage advance prior to working  
.....
3.  Accommodation .....
4.  Registration fee .....
5.  No deductions
6.  Deduction, but don't know details
6.  Other, specify .....

3.9 After paying your various expenses, how much are you able to save each month?

- |  |  |
|--|--|
| 1. <input type="checkbox"/> less than ฿1,500 | 2. <input type="checkbox"/> ฿1,500-2,500     |
| 3. <input type="checkbox"/> ฿2,501-3,500     | 4. <input type="checkbox"/> ฿3,501-4,500     |
| 5. <input type="checkbox"/> ฿4,501-5,500     | 6. <input type="checkbox"/> ฿5,501-6,500     |
| 7. <input type="checkbox"/> ฿6,501-7,500     | 8. <input type="checkbox"/> more than ฿7,500 |
| 9. <input type="checkbox"/> No savings       |  |

Can you compare the job you found on arrival with the information you received beforehand?

		Didn't receive information beforehand	Much worse	Worse	As promised/ agreed	Somewhat better	Much better
3.10	Living conditions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.11	Wages	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.12	Working hours	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.13	Nature of the job	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.14	Rest hours	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.15	Holidays (paid)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.16	Welfare and benefits	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

NOTE THAT THE REMAINING QUESTIONS REFER NOT ONLY TO YOUR CURRENT EMPLOYER BUT TO YOUR OVERALL EXPERIENCE WHILE WORKING IN FISHING

3.17 Are you aware of the risk points for accidents while working on board a fishing boat?

- |                                 |                                |
|---------------------------------|--------------------------------|
| 1. <input type="checkbox"/> Yes | 2. <input type="checkbox"/> No |
|---------------------------------|--------------------------------|

3.18 Have you had any accidents at work that required you to visit a clinic/hospital?

- |                                 |                                |
|---------------------------------|--------------------------------|
| 1. <input type="checkbox"/> Yes | 2. <input type="checkbox"/> No |
|---------------------------------|--------------------------------|

3.19 Does the boat you are working on have a first aid kit?

- |                                 |                                |
|---------------------------------|--------------------------------|
| 1. <input type="checkbox"/> Yes | 2. <input type="checkbox"/> No |
|---------------------------------|--------------------------------|

3.20 Have you tried to escape from a fishing boat?

- |   |                                |
|---|--------------------------------|
| 1. <input type="checkbox"/> Yes If yes, why ..... | 2. <input type="checkbox"/> No |
|---|--------------------------------|

3.21 Have you been threatened with violence while on board?

- |                                 |                                |
|---------------------------------|--------------------------------|
| 1. <input type="checkbox"/> Yes | 2. <input type="checkbox"/> No |
|---------------------------------|--------------------------------|

3.22 Have you seen another crew member being threatened with violence?

- |                                 |                                |
|---------------------------------|--------------------------------|
| 1. <input type="checkbox"/> Yes | 2. <input type="checkbox"/> No |
|---------------------------------|--------------------------------|

3.23 Have you been severely beaten while on board?

- |                                 |                                |
|---------------------------------|--------------------------------|
| 1. <input type="checkbox"/> Yes | 2. <input type="checkbox"/> No |
|---------------------------------|--------------------------------|

3.24 Have you seen another crew member being beaten?

- |                                 |                                |
|---------------------------------|--------------------------------|
| 1. <input type="checkbox"/> Yes | 2. <input type="checkbox"/> No |
|---------------------------------|--------------------------------|

3.25 Have you been sold or transferred to another boat at sea against your will?

1.  Yes 2.  No

3.26 Have you seen another crew member being sold or transferred to another boat at sea against their will?

1.  Yes 2.  No

3.27 Has your employer ever used children below 16 years old as workers on your fishing boat?

1.  Yes 2.  No

## Section 4: Access to complaint mechanism and legal protection

4.1 Do you feel that the rights of fishers are adequately protected?

1.  Yes 2.  No  
3.  Don't know

4.2 What is your main source of information regarding your rights at work? (Please select all answers that apply)

1.  Other fishers 2.  NGOs  
3.  Trade unions 4.  Migrant associations  
5.  Local authorities in destination 6.  Employers  
7.  Fisheries association 8.  Media  
9.  Don't know

4.3 Have you complained about a rights violation?

1.  Yes 2.  No (Skip to 4.5)

4.4 If yes, who did you complain to?

1.  My employer 2.  A fisheries association  
3.  Government Authorities 4.  My recruiter  
5.  A trade union 6.  An NGO  
7.  My embassy 8.  Other, specify .....

4.5 If not, why not?

1.  I've not encountered any serious rights violation  
2.  Don't want to cause trouble  
3.  Don't believe complaining can change anything  
4.  Don't know who or where to complain  
5.  Don't know

4.6 Do you belong to any trade union, migrant association or group, which provides you with information, support services, etc.?

1.  Yes (specify) ..... 2.  No



4.7 Do you want to join a trade union or migrant workers' association?

1.  Yes  
2.  No  
3.  Don't know

4.8 How do you resolve conflicts at work?

1.  Direct negotiation with the employer  
2.  NGO  
3.  Trade union  
4.  Local authorities  
5.  Fisheries association  
6.  Embassy  
7.  Other .....  
8.  Don't know

4.9 Do you think that regular migrants are better protected than irregular migrants?

1.  Yes, absolutely  
2.  Yes, slightly more protected  
3.  No, there's not much difference  
4.  Don't know

4.10 Are you planning to continue working in the fishing sector?

1.  Yes, with the same employer  
2.  Yes, but with a different employer  
3.  No, I plan to find a different job in Thailand  
4.  No, I plan to return home  
(temporarily/permanently)  
5.  Don't know

## Annex 2 – Key Findings of a Survey of members of the National Fisheries Association of Thailand

The National Fisheries Association of Thailand (NFAT) has developed and been consulted on a number of initiatives to improve the recruitment process and working conditions for fishers in Thailand. There is an acknowledgement in the industry that the significant labour shortage may contribute to abusive recruitment and employment practices, and even human trafficking. With the support of the ILO GMS TRIANGLE project, NFAT has drafted a Code of Conduct, and participated in the development of Good Labour Practice Guidelines and occupational safety and health training tools. In addition, the Government has mandated NFAT to draft procedures for the operation of seven labour coordination centres for the fishing sector. NFAT envision these centres as a means to address the labour shortages in the sector and ensure a more stable labour force by reducing the influence of brokers and improving overall conditions in the sector.

In order to ensure that these tools and processes are appropriate and can be applied effectively, the ILO commissioned NFAT to conduct research among the provincial associations and its membership on recruitment and working conditions in the fishing sector. The study was conducted in March 2012. A total of 303 survey questionnaires were returned from 27 provincial fisheries associations who are regular members of NFAT.

### Profile of Respondents

Nearly all of the respondents were vessel owners (92.6 per cent), with the remainder being skippers (7.4 per cent) or both vessel owners and skippers (4.2 per cent). Over half of the respondents (56.4 per cent) owned one fishing vessel, and 17.5 per cent owned two fishing vessels. Most of the respondents (94.6 per cent) owned or skippered one type of vessel. Table 1 provides a breakdown of the fishing gear employed – with some respondents operating more than one type of vessel.

**Table 1 Fishing gear owned/operated by respondent**

Type of fishing gear	%
Purse seine	23.8
Trawl	47.3
Falling net	12.4
Push net	5.4
Dredge	8.7
Others	9.1

Almost all of the respondents (91.8 per cent) were fishing in Thai waters, with 61.8 per cent in the Gulf of Thailand and 32.5 per cent in the Andaman Sea. The remaining 8.2 per cent fished within the Exclusive Economic Zones of other countries, including Cambodia, Myanmar, Malaysia, Indonesia, Iran, and Yemen.

### Profile of Fishers

Most of the respondents employed workers of different nationalities (52.2 per cent from two countries, and 14 per cent from more than two countries); and a third of the respondents (33.7 per cent) employed workers of one nationality. Nearly half of the respondents (47.5 per cent) recruited Thais; and 27.3 per cent and 25.3 per cent recruited Myanmar and Cambodia fishers respectively.

Within the sample, 21.5 per cent of respondents stated that all of their migrant employees were registered; 56.5 per cent revealed that some of their workers were registered; and 22 per cent had no registered migrant workers. The vast majority of respondents (78 per cent) at some point had registered their workers, but they lost their legal status due to changing employers.

## Recruitment Process

The most common methods used to recruit fishers were introductions by current employees (58.1 per cent), direct applications (49.7 per cent) and broker services (43.6 per cent).

The expenses paid to recruit fishers varied substantially, with the largest group (45.2 per cent) paying less than THB1,000 (US\$34) per worker. This cost covered travel expenses or expenses paid directly to chievs (crew supervisors) or other crew members for the introduction of new workers. For 35.5 per cent of respondents, the cost paid to brokers for soliciting or procuring workers was more than THB5,000 (US\$170) per person, and sometimes exceeded THB50,000 (US\$1,700) per person. Some of these higher fee amounts included travel expenses and the commission charged by brokers for bringing the workers from their countries of origin.

**Table 2 Recruitment costs paid by respondents**

Expenses paid (THB/Person)	%
< 1 000	45.2
1 001 – 5 000	19.3
5 001 – 10 000	22.6
10 001 – 15 000	3.2
> 15 000	9.7

The majority of respondents (56.4 per cent) covered these costs, while 36 per cent charged it back to their workers and 12.9 per cent shared the costs. When workers were responsible for these expenses, 86.1 per cent of respondents required fishers to gradually pay it off with 10-30 per cent of their share of the catch and 11.1 per cent required the full amount to be paid to them before the fishers started work. In instances where workers were charged a large amount for recruitment, 5.6 per cent of vessel owners claimed their share of the catch for almost a year.

In cases where the recruitment fees were shared between vessel owners and fishers, 82 per cent of respondents required fishers to gradually pay off the costs by claiming 5-10 per cent of their share of the catch, 9 per cent of respondents required fishers to pay the full amount prior to commencing work and 9 per cent of respondents claimed the fishers' share of the catch for almost a year.

## Remuneration of Fishers

The majority of respondents (79.9 per cent) revealed that they employed workers without having any contract, whereas 16.6 per cent made a verbal commitment. Only 3.5 per cent issued a written agreement or contract.

In terms of remuneration (Table 3), the study revealed that fishing operators could afford to pay their workers an average of THB269 a day or THB6,639 per month. The majority (80.1 per cent) could afford to pay a monthly wage of between THB4001-8000 per month. Half of the respondents stated that they could pay daily wages of between THB251-300. It is important to note that remuneration can vary significantly based on the conditions of work, the fishing gear, the fishing grounds, etc.

**Table 3 Views of operators regarding remuneration**

Able to pay wages of ...?	%
<i>MONTHLY BASIS (THB)</i>	
<4,001	4.3
4,001 – 6,000	45.0
6,001 – 8,000	35.1
8,001 – 10,000	15.1
> 10,000	0.5
<i>DAILY BASIS</i>	
150 – 250	38.2
251 – 300	50.0
> 300	11.8

Respondents either paid their fishers a basic monthly wage (38.3 per cent), a share of the catch (22.6 per cent), or a combination of both (46.1 per cent). For those that paid according to the catch, the majority of respondents (83 per cent) indicated that each of their crew members received 1-10 per cent of the profits. In some cases, the crew would receive 20-40 per cent of the profits, which was normally divided among them according to their positions. Where workers were paid only a share of the catch, a third of the respondents (32.8 per cent) guaranteed their workers a minimum income. The share of catch is usually calculated after deducting the operating costs (77.3 per cent) rather than before (21.6 per cent). The regularity of payment varied from one area to another, and in some cases it took up to one year or more for the benefits to be shared.

The study revealed that 82.9 per cent of the respondents paid their workers directly, 11.3 per cent used the chievs to pay their workers, 9.6 per cent made the payments through skippers and 1.7 per cent used other means.

When fishing operations were halted for vessel repairs or for seasonal/conservation periods, 40.8 per cent of respondents temporarily stopped employing their workers, 36.3 per cent continued to employ their workers at the same rate and 22.9 per cent continued to employ workers at a reduced rate of 20-60 per cent of their usual wages.

### **Safety and Health on Board**

Only 43.8 per cent required workers to have a health examination before engaging in fishing work – a prerequisite for migrants to obtain permission to work in Thailand. In case a worker gets sick while at sea, the decision to return to shore depends on the skipper's judgement. For serious illness, 65.2 per cent of respondents would return to shore immediately and 29 per cent would transfer the sick worker to another fishing vessel heading back to shore.

In the event that a fisher needed to be treated in a hospital or clinic, the study showed that 91.7 per cent of the respondents would bear the expense, and 5.5 per cent reported that these costs were the responsibility of workers. The expenses were also sometimes divided between vessel owners and fishers (4.8 per cent). If workers needed a period of convalescence, 63.1 per cent of the respondents continued to pay them on the condition that this break not exceed one month. The survey revealed that 91.7 per cent of the respondents had never insured their vessels and 92.7 per cent had no life insurance for the fishers they employed.

The study found that 92.3 per cent of respondents kept a first aid kit on board. In terms of safety and personal protective equipment, more than 90 per cent of the respondents provided gloves and rubber boots to their workers. Smaller numbers of respondents had flotation rings, (55.6 per cent) life jackets (33.7 per cent) and fire extinguishers, helmets and goggles (6.8 per cent).

## Problems Associated with Recruitment of Migrants and Employment of Fishers

In terms of the impact of migrant workers on society (Table 4), the vast majority of respondents did not feel that migrants were competing with locals for jobs, or threatening local culture. More felt that migrants were contributing to crime, the drug trade and supporting the expansion of “entertainment venues”.

**Table 4 Views of operators regarding the recruitment of migrant workers**

Problems caused by recruitment of migrants	Severity (percentage)		
	None	Low	High
Competition in employment with local people	54.3	36.1	9.6
Cultural infiltration	47.1	46.1	6.8
Crime and stealing	21.6	53.6	24.5
Distribution of narcotic drugs	20.6	53.9	25.5
Conflict among workers/with local people	41.0	52.7	6.3
Involvement with sexual exploitation or sex trade	42.2	50.9	6.9
Gather at entertainment venues (i.e. Karaoke, pool halls, etc.)	29.2	39.8	31.0
Spread of infectious disease	28.5	55.5	16.0
Congestion in the community	34.6	41.8	23.6

The main problems identified in the employment of fishers were deceptive brokers, unfair wages and serious violence on board fishing vessels (Table 5).

**Table 5 Views of operators regarding problems of workers in the fishing sector**

Problems with employment of fishers	Severity (percentage)		
	None	Low	High
Deception of brokers	39.6	42.7	17.7
Cheating of wage and compensation	44.4	39.1	16.5
Assault/murder	37.8	51.6	10.6
Sexual harassment	51.4	47.2	1.4
Working under the age of 18 years	35.7	60.1	4.2
Trade of workers among fishing vessels	58.2	37.9	3.9





## **Employment practices and working conditions in Thailand's fishing sector**

Reports in the news and through other sources have documented gruelling and exploitative conditions in Thailand's fishing sector, including forced labour and other unacceptable forms of work. However, the true scale of the problem has remained largely unknown due to the isolated nature of work on fishing vessels and the limited quantitative evidence available. To help fill this knowledge gap, the International Labour Organization partnered with the Asian Research Center for Migration to conduct a survey of employment practices and working conditions within the commercial fishing sector in four provinces of Thailand. The study obtained detailed information on the situations of nearly 600 fishers employed on Thai vessels fishing in both national and international waters. As the largest survey conducted on this subject to date, it provides valuable data and analysis from which government, employer and worker representatives can draw upon to improve policies and practices in the industry.

The **Tripartite Action to Protect the Rights of Migrant Workers within and from the Greater Mekong Subregion (GMS TRIANGLE project)** is a five-year project that aims to strengthen the formulation and implementation of recruitment and labour protection policies and practices in the Greater Mekong Subregion, to ensure safer migration resulting in decent work. The project is operational in six countries: Cambodia, Lao PDR, Malaysia, Myanmar, Thailand and Vietnam. In each country, tripartite constituents (government, workers' and employers' organisations) are engaged in each of the GMS TRIANGLE project objectives - strengthening policy and legislation, building capacity of stakeholders and providing services to migrant workers. These goals are interdependent, with policy advocacy and capacity building activities driven by the voices, needs and experiences of workers, employers and service providers.

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