

# Comments Concerning the Ranking of Taiwan by the U.S. Department of State in the 2021 Trafficking in Persons Report

Submitted by Global Labor Justice-International Labor Rights Forum and Greenpeace on behalf of the Seafood Working Group  
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## Table of Contents

|   |           |
|---|-----------|
| <b>1. INTRODUCTION</b> .....  | <b>2</b>  |
| <b>1.1 METHODOLOGY</b> .....  | <b>2</b>  |
| <b>1.2 TIER RANKING RECOMMENDED</b> .....   | <b>2</b>  |
| 1.2.1 <i>Inherent risks of human trafficking in the current employment system</i> .....                                   | 3         |
| 1.2.2 <i>Evaluation of human trafficking from other U.S. government agencies</i> .....                                    | 3         |
| 1.2.3 <i>Major gaps in implementation in areas of prevention, prosecution and protection</i> .....                        | 4         |
| 1.2.4 <i>Other aspects</i> .....  | 5         |
| <b>1.3 CONTEXT: TAIWAN’S FISHING INDUSTRY</b> .....   | <b>6</b>  |
| <b>2. PREVENTION</b> .....  | <b>7</b>  |
| <b>2.1 THE TWO-TIERED EMPLOYMENT SYSTEM THAT MAKES FISHERS VULNERABLE</b> .....   | <b>7</b>  |
| <b>2.2 INSUFFICIENT GOVERNANCE OF RECRUITMENT AGENCIES CONTRIBUTING TO TRAFFICKING IN PERSONS</b> .....                   | <b>8</b>  |
| <b>2.3 RESTRICTIONS ON RIGHTS TO FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING</b> .....                               | <b>9</b>  |
| <b>3. PROTECTION</b> .....  | <b>10</b> |
| <b>3.1 FAILURE TO IDENTIFY VICTIMS</b> .....  | <b>10</b> |
| 3.1.1 <i>Insufficient labor inspection in the fishing industry</i> .....  | 11        |
| 3.1.2 <i>Ineffective government complaint mechanism</i> .....   | 11        |
| 3.1.3 <i>Challenges with immigration status protections</i> .....   | 12        |
| 3.1.4 <i>Failure to exercise judicial authority over Taiwanese-operated FoC vessels and Port State jurisdiction</i> ..... | 13        |
| <b>3.2 EXAMPLES OF FAILURE TO PROVIDE SOCIAL PROTECTION AND TO PROTECT VICTIMS</b> .....                                  | <b>14</b> |
| <b>3.3 MIGRANT WORKERS TRAPPED ON VESSELS DURING THE PANDEMIC</b> .....   | <b>15</b> |
| <b>4. PROSECUTION</b> .....   | <b>15</b> |
| <b>4.1 GAPS IN ANTI-TRAFFICKING LEGISLATION</b> .....   | <b>16</b> |
| <b>4.2 AUTHORITIES LACK OF UNDERSTANDING OF ALL FORMS OF TRAFFICKING</b> .....  | <b>17</b> |
| <b>5. RECOMMENDATIONS</b> .....   | <b>18</b> |
| <b>5.1 PRIORITIZED ASKS</b> .....   | <b>19</b> |
| <b>5.2 GENERAL GOVERNANCE OF MIGRANT FISHERS</b> .....  | <b>19</b> |
| <b>5.3 MANAGEMENT OF FLAGS OF CONVENIENCE (FOC)</b> .....   | <b>20</b> |
| <b>6. APPENDIX: CASES</b> .....   | <b>20</b> |

# 1. Introduction

This document contains the Seafood Working Group (SWG)'s comments concerning Taiwan's ranking in the United States Department of State's upcoming 2021 Trafficking in Persons (TIP) Report. Convened by Global Labor Justice-International Labor Rights Forum (GLJ-ILRF), the SWG is a global coalition of 26 labor, human rights, and environmental non-governmental organizations to hold governments and companies accountable and drive change.<sup>1</sup>

**The SWG recommends that Taiwan be downgraded to the Tier 2 ranking since it has not met the minimum standards as set forth in the U.S. Trafficking Victims Protection Act (TVPA) of 2000.<sup>2</sup>**

## 1.1 Methodology

This report focuses on issues and incidents during the TIP Report 2021 reporting period, April 1, 2020, to March 31, 2021, but provides some information from before this time period where relevant. The information in this report is based on a desk review of existing literature and conversations with civil society organizations (CSOs) and non-governmental organizations (NGOs) in Taiwan during February 2021, including Greenpeace Taiwan, Migrant Workers Concern Desk, Serve the People Association (SPA), Taiwan Association for Human Rights (TAHR), Taiwan Rerum Novarum Centre, Yilan Migrant Fishermen Union (YMFU), and Taiwan Juridical Interpreters Association. English and Chinese language sources were utilized for the literature review. The report focuses on the latest developments since April 2020. The report relies heavily on meeting minutes from government agencies, media agencies, and NGO-collected cases through frontline work.

The report analyzes the Taiwanese government's efforts and progress in addressing human trafficking and related labor rights abuse in the fishing industry. The government's efforts addressing human trafficking in other industries are outside the scope of this report.

This report was prepared by Global Labor Justice-International Labor Rights Forum (GLJ-ILRF)<sup>3</sup> and Greenpeace, with support from Humanity Research Consultancy<sup>4</sup> in report drafting. The findings and recommendations are supported by the Seafood Working Group.

## 1.2 Tier ranking recommended

Based on our analysis, we recommend a Tier ranking of "Tier 2" due to the Taiwanese government's failure to meet the minimum standards as set forth in the U.S. Trafficking Victims Protection Act (TVPA) of 2000, particularly in the following key areas: (1) Inherent risks of human trafficking in the

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<sup>1</sup> The coalition has 26 official members and more than 60 total organizations participating; see "Seafood Working Group" on the GLJ-ILRF website, [https://laborrights.org/industries/seafood?qt-quicktabs\\_seafood=3#qt-quicktabs\\_seafood](https://laborrights.org/industries/seafood?qt-quicktabs_seafood=3#qt-quicktabs_seafood)

<sup>2</sup> The Tier 2 ranking is assigned to countries whose governments do not fully meet the TVPA's minimum standards but are making significant efforts to bring themselves into compliance with those standards.

<sup>3</sup> GLJ-ILRF is a newly merged organization bringing strategic capacity to cross-sectoral work on global value chains and labor migration corridors. GLJ-ILRF holds global corporations accountable for labor rights violations in their supply chains, advances policies and laws that protect decent work and just migration. GLJ-ILRF convenes the Seafood Working Group; see "International Labor Rights Forum and Global Labor Justice are Joining Forces to Defend Worker Rights and Build Worker Power in the Global Economy," GLJ-ILRF, July 2, 2020, <https://globallaborjustice.org/international-labor-rights-forum-and-global-labor-justice-are-joining-forces-to-defend-worker-rights-and-build-worker-power-in-the-global-economy/>

<sup>4</sup> Humanity Research Consultancy is a UK-based research consultancy specialized in providing research and consultancy service to end modern slavery and human trafficking, through engaging local insights and expertise, see <https://humanity-consultancy.com/>

current employment system; (2) Evaluation of human trafficking from other U.S. government agencies; (3) Major gaps in implementation in areas of prevention, prosecution and protection; and (4) Other aspects.

### 1.2.1 Inherent risks of human trafficking in the current employment system

- a. Continuation of the two-tiered employment system for fishers that affords significantly fewer labor rights and protections to migrant workers recruited into distant water fishing compared to those in coastal and offshore fishing and all other labor sectors in the country. The disparity in wage, legal protection, and oversight makes migrant fishers highly vulnerable to forced labor, a major form of human trafficking.<sup>5</sup> (See Section 2.1)
- b. The Ministry of Labor stated that “the Taiwan Labor Standards Act is not applicable to migrant fishers working in the distant fishing industry”<sup>6</sup> because “it is inappropriate to use the abstract jurisdiction concept to regard Taiwanese fishing vessels operating in the high seas as an extension of our country’s territory.”<sup>7</sup> The statement is in direct contradiction of the UN Convention on the Law of the Sea, as the Convention clearly states that vessels are subject to the Flag States’ jurisdiction.<sup>8</sup> This demonstrates how the Taiwanese government has failed to recognize international standards, and how this failure has led to the degrading of labor rights protections and increased risk of forced labor for migrants. (See Section 2.1)
- c. Lack of definitions for forms of labor trafficking in the Human Trafficking Prevention Act, which makes prosecution difficult.<sup>9</sup> While CSOs have urged the government for many years to reform the Human Trafficking Prevention Act and have presented a draft version for reform since 2018,<sup>10</sup> the law has not been revised. (See Section 4.1)

### 1.2.2 Evaluation of human trafficking from other U.S. government agencies

- a. In 2020, Taiwan’s fishery harvests were listed on the “2020 List of Goods Produced by Child Labor or Forced Labor” published by the United States Bureau of International Labor Affairs

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<sup>5</sup> The U.S. Department of State categorizes ‘forced labor’ as a form of human trafficking. The U.S. government also uses the term ‘labor trafficking’ to refer to human trafficking involving compelled labor, as distinct from sex trafficking; see “About Human Trafficking,” U.S. Department of State, <https://www.state.gov/humantrafficking-about-human-trafficking/>. Thus, the terms ‘labor trafficking’ and ‘forced labor’ are used interchangeably in this report. Taiwan’s human trafficking law uses the terms ‘human trafficking’ and ‘labor exploitation’; those terms are used when referring to application of the law; see Human Trafficking Prevention Act (2009), <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0080177>

<sup>6</sup> Ministry of Labor (2019). Oversea Employed Seafarers are Subjected to the Regulations in the Authorization and Management of Overseas Employment of foreign Crew Members Under the Act for Distant Water Fisheries, <https://bit.ly/3czKac2>

<sup>7</sup> Ministry of Labor (2019). Oversea Employed Seafarers are Subjected to the Regulations in the Authorization and Management of Overseas Employment of foreign Crew Members Under the Act for Distant Water Fisheries, <https://bit.ly/2QP8M85>

<sup>8</sup> United Nations Convention on the Law of the Sea. 1982. Art. 92(1) (“Ships shall sail under the flag of one State only and, save in exceptional cases, expressly provided for in international treaties or in this Convention, shall be subject to its exclusive jurisdiction on the high seas”), Art. 94 (1) (“Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag”), Art. 94 (2) (“In particular every State shall: ... (b) assume jurisdiction under its internal law over each ship flying its flag and its master, officers and crew in respect of administrative, technical and social matters concerning the ship”), Art. 94 (3) (“Every State shall take such measures for ships flying its flag as are necessary to ensure safety at sea with regard, inter alia, to ... (b) the manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments”), Art. 94(5) (“In taking the measures called for in paragraphs 3 and 4 each State is required to conform to generally accepted international regulations, procedures and practices and to take any steps which may be necessary to secure their observance”).

<sup>9</sup> Taiwan’s Human Trafficking Act provides a definition for human trafficking only

<sup>10</sup> Law Bank. (2018). Legislative Yuan legislators Mrs. Lee and 21 others drafted the reform version of the Human Trafficking Prevention Act. (立法院委員李麗芬等 21 人擬具「人口販運防制法」修正草案), <https://www.lawbank.com.tw/news/NewsContent.aspx?AID=99&kw=&TY=1,19,20,21,22&sd=2017-11-21&ed=2018-11-21&total=8256&NCLID=&Isid=>

for the first time. However, Taiwanese authorities reacted passively,<sup>11</sup> saying “We disagree with the U.S. decision, which was based on offenses by one or a few vessels but will largely hurt the interests of the majority of law-abiding fishers here.”<sup>12</sup> (See Section 4.2)

- b. In 2020, U.S. Customs and Border Protection (CBP) placed Withhold Release Orders (WROs) on three Taiwanese-owned/invested fishing vessels for suspected forced labor, indicating a systemic failure of the Taiwanese government to protect migrant fishers working in its distant water fishing fleet.<sup>13</sup>

The Seafood Working Group recommends that the U.S. Department of State urge the Taiwanese government to take immediate action to end human trafficking and other egregious human rights abuse in Taiwan’s fisheries. This would build on the diplomatic pressure exerted by the findings of the U.S. Department of Labor ‘List of Goods’ to incentivize the government to initiate meaningful reform.

Civil society organizations in Taiwan find that the years of maintaining Taiwan on the Tier 1 ranking in the TIP report has made the government complacent in the fight against human trafficking. This ranking has not supported their efforts to demand the government address human trafficking effectively.

### **1.2.3 Major gaps in implementation in areas of prevention, prosecution and protection**

- a. The Control Yuan (government accountability department)<sup>14</sup> investigation in 2020 found that only 5,000 of the 9,789 fishers in the coastal-offshore fishing industry have labor insurance coverage (51.07%),<sup>15</sup> a violation of the Taiwan Labor Insurance Act. Despite clear violation of the law, the Ministry of Labor claims that “requiring the owners of fishing vessels to provide insurance to every migrant fisher is adding a further burden to vessel owners”. This shows a refusal on the part of the government to follow the law and provide adequate labor rights and protections to address the serious occupational health and safety and other risks to migrant fishers in order to protect financial interests in the industry.<sup>16</sup> (See Section 3.2)
- b. Lack of effective labor inspections in the coastal-offshore and distant water fishing industries has resulted in the government’s inability to effectively identify labor trafficking victims. Particularly in the distant water fisheries, as the Taiwan Fisheries Agency does not have the

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<sup>11</sup> Fisheries Agency. (2020). the Fisheries Agency will continue improving the labor welfare protection of the migrant fishers; strengthen international collaboration to eliminate forced labor (漁業署持續改善外籍船員權益保障 加強國際合作消除強迫勞動), <https://bit.ly/3sEaXtj>.

<sup>12</sup> VOA News. (2020). Taiwan Hopes to Reverse US Inclusion of its Catches on Forced Labor List, <https://www.voanews.com/east-asia-pacific/taiwan-hopes-reverse-us-inclusion-its-catches-forced-labor-list>.

<sup>13</sup> The three fishing vessels are: Yu Long No. 2 (March 2020), U.S. Customs and Border Protection (2020). CBP Issues Detention order on Seafood Harvested with Forced labor, <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-detention-order-seafood-harvested-forced-labor>;

Da Wang (August 2020), U.S. Customs and Border Protection (2020). CBP Issues Detention Order on Seafood Harvested with Forced Labor, <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-detention-order-seafood-harvested-forced-labor-0>;

Lien Yi Hsing No. 12 (December 2020), Sophia Yang (2021). US blacklists Taiwanese fishing vessel for migrant worker exploitation. Taiwan News, <https://www.taiwannews.com.tw/en/news/4093552>.

<sup>14</sup> The Control Yuan (CY), one of the five branches of the Government of the Republic of China (Taiwan), is an investigatory agency that monitors the other branches of government. It may be compared to the Court of Auditors of the European Union or the Government Accountability Office of the United States.

<sup>15</sup> The Control Yuan. (2020) Employers are legally compulsory to enroll migrant fishers to the labor insurance scheme, however half the fishers are not insured. Ministry of Labor is not proactively seeking for correcting the situation. Control Yuan proposes correction measures. (外籍漁工為勞工保險強制納保對象，卻有半數外籍漁工未納保，勞動部未積極尋求解決，監察院提出糾正), [https://www.cy.gov.tw/News\\_Content.aspx?n=124&s=16433](https://www.cy.gov.tw/News_Content.aspx?n=124&s=16433).

<sup>16</sup> Hsieh, Mon-Ying (2020). 50 percent of Migrant Seafarers Are Not Being Insured: The Control Yuan Proposing Corrective Measures. The Storm Media, <https://www.storm.mg/article/2498447?page=1>.

legal authority to conduct labor inspections, there are only interviews and advocacy campaigns conducted by “inspectors” and “observers”. Both “inspectors” and “observers” job descriptions do not include inspecting the working conditions but focus on environmental conservation. (See Section 3.1.1)

- c. Failure to implement human trafficking laws through rigorous prosecution of the prevalent forms of trafficking in the country, particularly forced labor, and sentencing of offenders. CSOs believe<sup>17</sup> that the Immigration Agency has limited ability to identify victims of forced labor as law enforcement officers often only follow the official “victim identifying guide,”<sup>18</sup> which presents a narrow definition of trafficking and overlooks the potential complexity of trafficking cases during investigation. (See Section 3.1)
- d. Failure to fully exercise Port State responsibility to identify and detain substandard vessels, including where fishers are in situations of serious labor abuse. In the case of the Da Wang fishing vessel, flagged in Vanuatu and owned by a Taiwanese national, the Fisheries Agency sent the alleged murder case along with the alleged forced labor cases to Taiwan Kaohsiung’s District Prosecutor’s Office in March 2020. In April, due to Covid-19, Da Wang returned to the Kaohsiung port in Taiwan. The Kaohsiung’s District Prosecutor’s Office visited the vessel to inquire about the case, however, the vessel was allowed to sail out of port a month later despite the ongoing investigation, demonstrating the mishandling of cases of a highly sensitive nature and failing to exercise Port State responsibility. (See Section 4.2 and Appendix, Case 4)
- e. Multiple sources of evidence demonstrate that key government officials in the judicial systems fail to grasp the full nature and definition of human trafficking; many only recognize human trafficking in its extreme forms involving physical violence and fail to identify and prosecute forced labor when other forms of coercion are used. They tend to treat these cases as labor disputes, not as forced labor or human trafficking. (See Section 4.2)

#### 1.2.4 Other aspects

- a. After the inauguration of the "National Human Rights Commission (NHRC)" in August 2020,<sup>19</sup> the first “national human rights investigation report” conducted under the NHRC focused on migrant fishers’ human rights.<sup>20</sup> While it is encouraging to see a newly established high-level government agency prioritize addressing human rights and human trafficking issues in the fishing sector, it also demonstrates the significance of human rights violations in the fishing industry and the scale and systemic nature of the problem. Downgrading Taiwan’s Tier ranking in the TIP Report will incentivize the government to prioritize financial and other resources to address the egregious human rights abuse of migrant fishers, including but not limited to involving higher level government agencies such as the Executive Yuan, to resolve the lack of coordination between other government agencies.
- b. In 2019, the Executive Yuan Human Trafficking Prevention and Racism Elimination Coordination Group passed a resolution to domesticate the International Labour Organization (ILO) Work in Fishing Convention 2007, No. 188 (C188) to improve migrant fishers’ situation.<sup>21</sup> However, the timeline for legislating and amending the related regulations remains unclear.

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<sup>17</sup> Conversation with the CSOs on March 30, 2021, brought up by the Serve the People Association and backed by other CSOs.

<sup>18</sup> National Immigration Agency (2021). Human trafficking Victims Identification Guide, <https://bit.ly/3dmhNx5>.

<sup>19</sup> Taiwan National Human Rights Commission. (2021). Who we are, <https://nhrc.cy.gov.tw/en/cp.aspx?n=668>.

<sup>20</sup> Taiwan National Human Rights Commission. (2021). NHRC passed the resolution: drafting the “Migrant Fishers Human Rights Report” (國家人權委員會會議決議：撰提「外籍漁工人權專案報告」), [https://nhrc.cy.gov.tw/News\\_Content.aspx?n=337&s=20028](https://nhrc.cy.gov.tw/News_Content.aspx?n=337&s=20028)

<sup>21</sup> As Taiwan is not a member of the United Nations, it cannot formally ratify ILO conventions, however it is able to domesticate the principles and requirements into national law.

The delay in amending the law sends a message that the issue is not important to the government.

- c. CSOs in Taiwan recognized government's efforts in improving and strengthening the standards to combat human trafficking, especially highlighting the new Director-General of Taiwan Fisheries Agency's willingness to communicate with CSOs and create positive change to reduce the risk of labor abuse of migrant fishermen.<sup>22</sup> However, for years, CSOs believe that the Taiwanese government has not meet the minimum standards of TVPA and they maintain the recommendation for Tier 2 ranking for the Taiwanese government.

### 1.3 Context: Taiwan's fishing industry

Taiwan ranks among the top 25 seafood producers worldwide, with an annual US\$3 billion industry. It also has one of the largest distant water fleets in the world, with more than 1,100 Taiwanese-flagged or owned vessels that fish in all five oceans. The majority of workers on Taiwanese fishing vessels are male migrant workers from Indonesia, the Philippines, and Vietnam. As of July 2020, there were 12,097 workers in coastal and offshore fisheries and 22,808 in distant water fisheries.<sup>23</sup>

Investigations have consistently revealed egregious human rights abuses in Taiwan's fishing industry, with problems ranging from dangerous working or living conditions and wage deductions to confirmed cases of forced labor, human trafficking, murder, and disappearances of migrant fishers at sea. The majority of severe cases of abuse involve workers in distant water fishing (DWF)<sup>24</sup> fleets. This is due to a legal framework for overseas employment that offers them fewer rights and protections compared to Taiwanese workers. Migrant fishers face extremely long periods of work at sea, ranging from six months to three years. Taiwan's distant water fleet, moreover, has 259 additional Flag of Convenience (FoC) vessels,<sup>25</sup> which are purposefully flagged to countries with lesser regulations to lower costs and avoid scrutiny. Finally, migrant fishers lack access to unions, service providers, and actors who are able to monitor conditions on the high seas.

According to the investigation by human rights advocates and committees of the Control Yuan, over 70 percent of migrant fishers in the coastal-offshore industry are working on vessels that are not equipped with shower facilities and, on most vessels, the living conditions of these workers are simple and crude.<sup>26</sup>

Taiwanese distant water fishing vessels are required to comply with the Act of Distant Water Fisheries,<sup>27</sup> and the workers on-board are protected by the Regulations on the Management of the Crew of Fishing Vessels.<sup>28</sup> However, there are no "labor inspections" as defined and regulated in the Labor Inspection Act on distant water fishing vessels, as the Taiwan Fisheries Agency (TFA) does not have the authority to conduct labor inspections on the DWF fleets<sup>29</sup>, but can only hire "inspectors"

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<sup>22</sup> Conversation with the CSOs on March 30, 2020.

<sup>23</sup> Taiwan Fisheries Agency (2021), <https://www.fa.gov.tw/>.

<sup>24</sup> Distant water fishing (DWF) refers to fishing activities outside a nation's 200-miles exclusive economic zone (EEZ), whether on the high seas or in another nation's EEZ. Justine Hausheer (2013). "Ask Dr. Pauly: What are distant-water fishing fleets, and how do they affect overfishing?". Oceana, <https://usa.oceana.org/blog/ask-dr-pauly-what-are-distant-water-fishing-fleets-and-how-do-they-affect-overfishing>.

<sup>25</sup> Fisheries Agency. (2019). Fisheries of the Republic of China (中華民國漁業簡介).

<sup>26</sup> The Control Yuan, Republic of China (Taiwan) (2020). Half of the seafarers in Taiwan are not insured, and the Ministry of Labor is not proactively solving this problem, [https://www.cy.gov.tw/News\\_Content.aspx?n=124&s=16433](https://www.cy.gov.tw/News_Content.aspx?n=124&s=16433).

<sup>27</sup> Act of Distant Water Fisheries. Laws and Regulations Database of the Republic of China, <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=M0050051>.

<sup>28</sup> Regulations on the Management of the Crew of Fishing Vessels. Laws and Regulations Database of the Republic of China, <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=M0050006>.

<sup>29</sup> Occupational Safety and Health Administration, Ministry of Labor. (2021) List of Labor Inspection Institutes (勞動檢查機構一覽表), <https://www.osha.gov.tw/1106/1164/1165/1169/4314/>.



and “observers” whose job description does not include inspection of the labor conditions on board.<sup>30</sup> This results in a poor identification mechanism for victims of forced labor.<sup>31</sup> Inadequate staffing and inspection protocols impede efforts to combat forced labor on Taiwan-flagged and owned fishing vessels in the highly dangerous DWF.

The FoC vessels are governed by the Act to Govern Investment in the Operation of Foreign Flag Fishing Vessels.<sup>32</sup> The TFA claims that the workers on Taiwanese vessels flying the flag of another country are not within Taiwan’s jurisdiction,<sup>33</sup> and the fishers working on FoC vessels will be treated differently to those working on distant water fishing vessels flagged to Taiwan.<sup>34</sup> However, as the FoC vessels in Taiwan’s fleet repeatedly dock in Taiwanese ports for maintenance and supply, the government could in theory exercise Port State responsibility to ensure all vessels meet international human rights and labor standards. However, based on our analysis, the Taiwanese government does not fulfill its Port State responsibility and allows substandard vessels to enter and leave Taiwanese ports without effective scrutiny and action. Due to the lack of regulation and lack of oversight, migrant fishers on FoC vessels enjoy the least labor rights compared to the coastal-offshore fisheries and distant water fisheries.

## 2. Prevention

### 2.1 The two-tiered employment system that makes fishers vulnerable

Labor abuses stem from a two-tiered employment system (Table 1) that affords significantly greater rights and protections for migrant workers recruited into coastal-offshore fishing compared with those in distant water fishing. This system makes migrants in distant water fishing highly vulnerable to forced labor and human trafficking.

The Ministry of Labor is the authority in charge of the coastal-offshore fishing industry,<sup>35</sup> and the foreign crews employed under this category are protected by the Labor Standards Act, Employment Service Act, and Occupational Safety and Health Act (often referred as ‘employed domestically’ or ‘Domestic Employment’). They share the same labor rights as Taiwanese citizens, such as the requirement for an approximately US \$843 minimum monthly wage, public insurance, and other provisions.<sup>36</sup> At the same time, the implementation of these provisions is far from satisfactory. For example, in April 2020, the Control Yuan (government accountability department)<sup>37</sup> proposed

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<sup>30</sup> See the Guidelines for TFA inspector and observer management (行政院農業委員會漁業署檢查員及觀察員管理要點), <https://www.fa.gov.tw/cht/LawsRuleOrg/content.aspx?id=37&chk=ef4abfac-958c-456b-81ee-768653c691ef&param=pn%3D1>.

<sup>31</sup> Environmental Justice Foundation. (2018). Abuse and Illegal Fishing Aboard Taiwanese Vessel Let Slip Through the Net, <https://ejfoundation.org/news-media/2018/first-hand-reports-of-grave-abuse-and-illegal-fishing-aboard-taiwanese-vessel-allowed-to-slip-through-the-net>.

<sup>32</sup> Act to Govern Investment in the Operation of Foreign Flag Fishing Vessels. Laws and Regulations Database of the Republic of China, <https://law.moi.gov.tw/ENG/LawClass/LawAll.aspx?pcode=M0050037>.

<sup>33</sup> The FOC’s jurisdiction is not claimed first by Taiwan Fisheries Agency but results from its definition by UN law of the sea. Instead, the current FoC regulation places migrant fishers in a worse position than those working on distant water fishery.

<sup>34</sup> Radio Taiwan International (2020). The Problematic FOC, <https://www.rti.org.tw/news/view/id/2077278>.

<sup>35</sup> Ministry of Labor, Taiwan. Website, <https://laws.mol.gov.tw/FLAW/FLAWDOC03.aspx?datatype=etype&N2=30825&cnt=1&now=1&Inabndn=1&recordno=1>

<sup>36</sup> Fisheries Agency. (2020). Numbers of foreign fishers employed in Taiwan’s fishing industry (我國漁船僱用外來船員數量), <https://www.fa.gov.tw/cht/Announce/content.aspx?id=720&chk=1B3C3F83-3F52-41A7-B71F-D17C47FF8647&param=>

<sup>37</sup> The Control Yuan (CY), one of the five branches of the Government of the Republic of China (Taiwan), is an investigatory agency that monitors the other branches of government. It may be compared to the Court of Auditors of the European Union or the Government Accountability Office of the United States.

corrective measures due to the finding that half of the fishers in Taiwan had not been enrolled in a compulsory labor insurance scheme.<sup>38</sup>

In contrast, the Taiwan Fisheries Agency (TFA) is the responsible authority for distant water fisheries, and the foreign migrants employed under the category are protected by the Acts for Distant Water Fisheries and Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members (often referred to as ‘employed overseas’ or ‘Overseas Employment’). The minimum certified monthly wage is USD \$450, and migrant workers under these acts are only entitled to private insurance, instead of labor insurance and national health insurance. This specific segment of the fishing industry is the only sector in Taiwan where working conditions are not regulated and overseen by the Ministry of Labor.<sup>39</sup> The limited labor rights protection and lack of oversight make migrant fishers in this sector more vulnerable to risk of forced labor.

**Table 1: Comparison of rights and legal protections for costal-offshore fisheries and distant water fishers (2020)<sup>40</sup>**

|   | <b>Costal-offshore Fisheries (12,491 migrant fishers)</b>  | <b>Distant Water Fishery (22,550 migrant fishers)</b>   |
|---|--|---|
| <b>Employment method</b>                                | Domestic employment  | Overseas employment   |
| <b>Responsible authority</b>                            | Ministry of Labor  | Fisheries Agency  |
| <b>Applicable laws</b>                                  | Employment Service Act;<br>Labor Standards Acts;<br>Occupational Safety and Health Act                       | Acts for Distant Water Fisheries;<br>Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members <sup>41</sup> |
| <b>Minimum wage</b>                                     | Approximately US \$843/month <sup>42</sup>   | US \$450/month  |
| <b>Freedom of association and collective bargaining</b> | Can form and join unions   | Practical difficulties to form or join unions (isolation at sea); no unions formed.   |
| <b>Insurance</b>  | Standard Labor Insurance;<br>Taiwan National Health Insurance  | Private accident, medical, and life insurance   |
| <b>Labor inspections</b>                                | Ministry of Labor  | None (only interviews and surveys from the Fisheries Agency)  |
| <b>Key labor rights abuses</b>                          | Recruitment fees; degrading living conditions; lack of clean drinking water; lack of onboard safety measures | Excessively long working hours; physical abuse and murders; forced labor and human trafficking  |

## 2.2 Insufficient governance of recruitment agencies contributing to trafficking in persons

CSOs have repeatedly raised concerns about misconduct of recruitment agencies and related labor abuse, including the charging of excessive recruitment fees that cause debt-bondage, document confiscation and wage withholding practices, and other issues.

<sup>38</sup> The Control Yuan. (June 2, 2020). “Control Yuan requests MOL provide labor insurance coverage for all migrant fishers,” [https://www.cy.gov.tw/EN/News\\_Content.aspx?n=252&s=17856](https://www.cy.gov.tw/EN/News_Content.aspx?n=252&s=17856)

<sup>39</sup> Article 6, Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members, Taiwan, <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=M0050061>

<sup>40</sup> Mina Chiang, Kimberly Rogovin (2020). Labor Abuse in Taiwan’s Seafood Industry & Local Advocacy for Reform, Global Labor Justice - International Labor Rights Forum, <https://laborrights.org/sites/default/files/publications/Labor-Abuse-in-Taiwan-Seafood-Industry-Local-Advocacy-for-Reform.pdf>

<sup>41</sup> Laws and Regulations Database of The Republic of China (2021). Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members. <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=M0050061>.

<sup>42</sup> The national minimum wage in Taiwan has risen steadily in recent years and is applied to both monthly and hourly wage. As of 2021, the monthly rate is NTD\$24,000, approximately US\$843. It was previously approximately US\$770.



Both the Ministry of Labor and the Fisheries Agency conduct annual ratings of recruitment agencies in order to identify those whose practices contribute to labor exploitation risk for migrant workers.<sup>43</sup> The government can suspend recruitment agencies deemed unsuitable. However, the rating system is viewed as ineffective in identifying risk. It is based mainly on paperwork, instead of in-depth interviews with the fishers and detailed investigations of working and living conditions.

### 2.3 Restrictions on rights to freedom of association and collective bargaining

Freedom of association and collective bargaining are fundamental labor rights and are central to ensuring decent working conditions and preventing forced labor.<sup>44</sup> Migrant fishers in Taiwan lack access to unions; without well-organized worker unions, migrant fishers are unable to exercise their rights to organize or bargain for better working and living conditions with their employers. In Taiwan, there is a severe shortage of worker associations for these fishers to protect their labor rights.

The constitution of Taiwan, the Labor Union Act, and the Enforcement Rules of the Labor Union Act provide the legal grounds for freedom of association. The Labor Union Act was amended in May 2011 to allow foreign workers to serve as directors or supervisors of a union, which in practice allowed them to form and lead their own unions. Since then, only three unions have been established by migrant workers – including two for fishers with about 100 members in each and one for domestic caregivers, a small number given the population of over 700,000 migrant workers in Taiwan.

The second migrant fishers' union, the Keelung Migrant Fishermen Union, was established in February 2021,<sup>45</sup> eight years after the first similar union in Taiwan was established, the Yilan Migrant Fishermen Union. Both of these unions are local associations that are unable to cover fishers' working or registered outside of Keelung and Yilan, which means 20 out of the total 22 counties and cities in Taiwan do not have a fishers' union for workers to unite and bargain for the rights that they are already entitled to.

Migrant fishers are legally allowed to form unions. However, in practice, it is difficult for such unions to be established and operate due to several reasons. Firstly, most employers are unwilling to support the forming of worker unions, and migrant fishers may face pressure or even threats from their employers of losing their jobs if they seek to organize or join a union. Secondly, the discrimination against fishers' unions is driving migrant fishers away from forming their own unions. A previous report shows that a fishers' union was excluded from the discussions on labor rights among other local unions in Taiwan.<sup>46</sup> Furthermore, in accordance with the Trade Union Act, a union must be formed by workers in the same work category who are registered in the same administrative area. As migrant workers may return to their home countries or transfer to another employer in a different city or county, it is particularly difficult for them to form the group of initial members needed to establish a union.<sup>47</sup>

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<sup>43</sup> Fisheries Agency. (2021). Approved recruitment agencies for overseas recruitment of migrant seafarers and the rating scores. (核准境外僱用非我國籍船員仲介機構名冊與評鑑成績)

<https://www.fa.gov.tw/cht/Announce/content.aspx?id=760&chk=b7e5aef5-a239-42d5-8509-ef4cc8dd0895&param=pn%3d1>

<sup>44</sup> "ILO Declaration on Fundamental Principles and Rights at Work," ILO, <https://www.ilo.org/declaration/lang-en/index.htm#:~:text=These%20categories%20are%3A%20freedom%20of,respect%20of%20employment%20and%20occupation>.

<sup>45</sup> Bo-Chun Kao, Yu-Rai Cheng (2021). The Establishment of Keelung Migrant Fishermen's Union will Protect the Fishers' Rights, <https://news.pts.org.tw/article/512342>

<sup>46</sup> Mina Chiang, Kimberly Rogovin (2020). Labor Abuse in Taiwan's Seafood Industry & Local Advocacy for Reform. Global Labor Justice - International Labor Rights Forum, <https://laborrights.org/sites/default/files/publications/Labor-Abuse-in-Taiwan-Seafood-Industry-Local-Advocacy-for-Reform.pdf>.

<sup>47</sup> Chia-Wei Liang (2021). Establishing Keelung Migrant Fishermen's Union. Events in Focus, <https://www.facebook.com/eventsinfocus/posts/1774099519433666>.

Distant water fishers have not yet attempted to form a union. In order to form a union, the group must have 30 initial members, participate in a congress and send an application form to a local labor office. This is very challenging in general for migrant workers who do not speak, read or write Mandarin Chinese, but particularly so for distant water fishers who are at sea most of the time and rarely return to Taiwanese ports. In addition, the relevant authority for distant water fishers is the Fisheries Agency, so it is unclear if the labor office would have the authority to accept their application.

The aforementioned barriers are preventing migrant fishers from exercising their internationally recognized rights to freedom of association and collective bargaining. The absence of worker unions is preventing migrant workers from addressing labor rights violations and mitigating forced labor risks in their workplaces.

### 3. Protection

#### 3.1 Failure to identify victims

Based on our analysis and observations from frontline organizations, there is a lack of coordinated, proactive effort to identify victims of trafficking and forced labor in the fishing industry. In particular, this is due to:

- a. Lack of understanding of the nature of forced labor;
- b. Lack of proactive labor inspections to identify forced labor victims, in particular, a complete absence of labor inspections covering vessels in distant water fisheries;
- c. Ineffectiveness of the government complaint mechanism; and
- d. Lack of effective action to exercise judicial authority over Taiwanese-operated FoC vessels and to exercise of Port State jurisdiction.<sup>48</sup>

Human trafficking is defined in the Human Trafficking Prevention Act (2008), however, efforts by the law enforcement sector to identify victims of human trafficking are insufficient and ineffective, especially in the fishing industry. In practice, most potential victims are identified by CSOs and NGOs when workers seek assistance, instead of by the government through labor inspections or other actions.<sup>49</sup>

CSOs have repeatedly found that the Taiwanese government, especially frontline officials, has a limited understanding of forced labor and human trafficking.<sup>50</sup> Potential trafficking cases are often treated as labor disputes, instead of as criminal offenses. According to the Human Trafficking Prevention Act, labor exploitation refers to cases in which victims are forced to work by certain means against their will.<sup>51</sup> However, in practice, law enforcement officers often fail to recognize important indicators, such as deceptive employment offers and migrant workers arriving in Taiwan in situations of debt bondage.

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<sup>48</sup> Port State jurisdiction refers to the jurisdiction that the States is entitled to exercise over foreign vessels at their ports. Oxford Public International Law, available at <https://opil.ouplaw.com/view/10.1093/law/epil/9780199231690/law-9780199231690-e2052>

<sup>49</sup> Chun-Wei, Hsu (2019). When The Carers Can't Even Take Care of Themselves. TIWA. Available at <https://www.tiwa.org.tw/%e3%80%90%e7%9c%8b%e8%a6%8b%e3%80%91%e7%84%a1%e6%b3%95%e7%85%a7%e9%a1%a7%e8%87%aa%e5%b7%b1%e7%9a%84%e7%85%a7%e9%a1%a7%e8%80%85/>

<sup>50</sup> The Garden of Hope Foundation (2018). CSO Urges Amendment of Human Trafficking Act. Available at [https://www.goh.org.tw/mobile/news\\_detail.asp?PKey=aBMXaB31aBNJaB30aBYMaB39aBTsaB35&Class1=aBXWaB32](https://www.goh.org.tw/mobile/news_detail.asp?PKey=aBMXaB31aBNJaB30aBYMaB39aBTsaB35&Class1=aBXWaB32)

<sup>51</sup> Laws and Regulations Database of The Republic of China (2021). Human Trafficking Prevention Act.

CSOs find that the Immigration Agency has a limited ability to identify victims of forced labor as the law enforcement officers often only follow the official “victim identifying guide,”<sup>52</sup> which includes a narrow definition of trafficking and overlooks the potential complexity of trafficking cases during their investigation.<sup>53</sup>

### **3.1.1 Insufficient labor inspection in the fishing industry**

Labor inspection should be one of the main tools for the government to identify forced labor. However, only the coastal-offshore fishing industry is subject to properly conducted labor inspection, while there is a severe shortage of such a tool in the distant water fishing industry. This is because the responsible authority of the coastal-offshore fishing industry is the Ministry of Labor, while the responsible authority of the distant water fishing industry is the Fisheries Agency, which does not have the legal authority to conduct labor inspections, and can only conduct interviews, based on the Labor Inspection Act.

Furthermore, even though fishers working on coastal-offshore fishing vessels are subjected to Labor Standard law, the number of labor inspections conducted on vessels is insufficient. In the past three years, the Ministry of Labor conducted only 129 labor inspections on the fishing vessels, which on average shows 43 labor inspections on fishing vessels per year. The inspection rate is distinctly low in comparison to the employment number of migrant fishers (12,097) in coastal and offshore fisheries. According to the inspection results, more than 80% of the vessels passed inspection without any illegal or inhumane activities having been identified on the boats,<sup>54</sup> which does not reflect the reality of working conditions in the sector as commented by the Control Yuan.<sup>55</sup>

There is evidence that government policy and the lack of labor inspections are fostering an environment for Taiwanese nationals to exploit foreign workers on fishing vessels outside of Taiwan’s jurisdiction. Since only interviews and not labor inspections are conducted on distant water vessels, it is easier for owners of these fishing vessels operating in international waters to avoid authorities’ surveillance. Due to this limited oversight, distant water fishers are vulnerable to and at higher risk of physical abuse, and being subjected to dangerous working conditions, labor law violations, and other human rights violations. Labor inspections would improve vessel owners’ awareness of and adherence to international human rights, labor, and environmental standards.<sup>56</sup>

### **3.1.2 Ineffective government complaint mechanism**

Accessible and effective complaint mechanisms are critical to prevent and address forced labor and provide justice for victims of abuse. However, the main mechanism available to migrant fishers is not accessible or effective and its use has even led to retaliation against migrant workers in some cases.

On July 1, 2009, the Ministry of Labor set up the 1955 consultation and protection hotline for foreign workers in Taiwan. The 1955 hotline is a 24-hour free-of-charge service operated by officers with

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<sup>52</sup> National Immigration Agency (2021). Human trafficking Victims Identification Guide, <https://www.immigration.gov.tw/media/6656/%E4%BA%BA%E5%8F%A3%E8%B2%A9%E9%81%8B%E8%A2%AB%E5%AE%B3%E4%BA%BA%E9%91%91%E5%88%A5%E5%8E%9F%E5%89%87.pdf>

<sup>53</sup> Conversation with the CSOs on the 30<sup>th</sup> of March, brought up by the Serve the People Association and backed by other CSOs.

<sup>54</sup> South East Asia Group (2020). Additional Measures Needed to Improve the Situation of Migrant Seafarers in Taiwan. [https://www.sea.com.tw/news\\_detail.php?sn=6795](https://www.sea.com.tw/news_detail.php?sn=6795)

<sup>55</sup> South East Asia Group (2020). Additional Measures Needed to Improve the Situation of Migrant Seafarers in Taiwan. [https://www.sea.com.tw/news\\_detail.php?sn=6795](https://www.sea.com.tw/news_detail.php?sn=6795)

<sup>56</sup> Focus Taiwan (2020). Greenpeace calls for Taiwan to end forced labor on fishing boats. <https://focustaiwan.tw/society/202011190016>

language skills in Indonesian, English, Vietnamese, and Thai<sup>57</sup> to assist migrant workers in Taiwan who have encountered problems at their workplace, with their employers, or with their recruitment agencies.<sup>58</sup> The services are supposed to range from providing legal consultation, counseling on working conditions and occupational hazards, receiving labor complaints and filing them into cases, and referring victims of physical harm and trafficking in persons to the local authorities.

However, most of the telephone operators working at the 1955 call center do not have a legal or social work background;<sup>59</sup> the operators are not certificated interpreters; instead, they are Southeast Asian migrants equipped with bilingual skills.<sup>60</sup> They have received training during on-boarding, but the training for identifying victims of forced labor and trafficking in persons is far from sufficient. The officers may read the relevant regulations or articles in the law to the migrant worker callers, but other than providing information, the officers may not be capable of identifying indicators of forced labor and human trafficking from the information victims provided.<sup>61</sup> In some cases, the operators may persuade migrant workers not to report problems with their working conditions as they do not personally believe that those problems are serious enough to be filed.<sup>62</sup> Workers who used the hotline expressed that they were treated as if they were calling for legal advice only, when they were actually seeking to have a case officially reported; in other cases, due to their limited ability to articulate the circumstances they are facing, workers were misunderstood by the operators who then failed to file cases.<sup>63</sup>

Due to the abovementioned reasons, CSOs report that the hotline is ineffective for migrant fishers to report cases by themselves. CSOs must assist migrant workers in order for them to successfully report a labor abuse case through a hotline.<sup>64</sup> Other barriers for migrant fishers to use the 1955 include:

- Migrant workers' lack of confidence to report issues via a phone call as they are not confident in communicating with authorities;
- Long wait times on the hotline for migrant fishers to be able to speak with a human (as opposed to listening to the machine recording); and
- Difficulty selecting the correct phone extension number to be connected to the right section.

Moreover, according to frontline CSO workers, after fishers successfully file a case through the hotline, they fear retaliation by employers and recruitment agencies. They become nervous and anxious during the waiting time of two or three days to hear back from the labor bureau, and many migrant workers decide to run away and become undocumented. If the complaint mechanism cannot be operated effectively with proper assurance that those who report into it will have some protection and will not face retaliation, the complaint mechanism may push victims into an even more vulnerable position (e.g. fleeing and becoming undocumented).

### **3.1.3 Challenges with immigration status protections**

In accordance with the government's guideline, victims of trafficking should be isolated for protection and provided with appropriate assistance to facilitate the process of victim identification. According to the law, victims are allowed to stay in Taiwan during the investigation and trials of their cases, and

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<sup>57</sup> Ministry of Labor, Republic of China (Taiwan) (2020). Notices on Work Rights of Foreign Workers in Taiwan. <https://english.mol.gov.tw/homeinfo/6458/6556/6567/>

<sup>58</sup> Shelley Huang (2009). New Help Hotline for Foreign Workers Launched by CLA. Taipei Times. Available at <https://www.taipeitimes.com/News/taiwan/archives/2009/07/02/2003447623>

<sup>59</sup> Conversation with Serve the People Association on January 11, 2021.

<sup>60</sup> Conversation with Taiwan Juridical Interpreters Association on February 23, 2021.

<sup>61</sup> Conversation with Taiwan Rerum Novarum Centre on February 22, 2021.

<sup>62</sup> Conversation with Serve the People Association on January 11, 2021.

<sup>63</sup> Conversation with Serve the People Association on January 11, 2021.

<sup>64</sup> Conversation with Taiwan Rerum Novarum Centre on February 22, 2021.

by law, they are eligible to work during this period, or to apply for a permanent residency permit for safety reasons in situations when victims may be in danger if they return to their country of origin.<sup>65</sup>

However, in practice, it is almost impossible for victims of human trafficking in the distant water fishing industry to be granted residency status, as migrant fishers rarely set foot in Taiwan throughout the course of their entire contract. Even if there is strong evidence of human trafficking, once migrant workers are sent back to their country of origin, it is almost impossible for them to continue pursuing justice without the help of NGOs, let alone be granted residency status in Taiwan.

In some cases, migrant workers suffering labor abuse will seek to change employers before their contract expires. According to the law,<sup>66</sup> migrant laborers have 60 days to seek and be transferred to a new employer; the workers can legally reside in Taiwan during these 60 days without an ongoing work contract. Under certain circumstances, such as violations of the Employment Service Act by their previous employer,<sup>67</sup> the period can be extended to 120 days.<sup>68</sup> In many cases, CSOs support migrant workers in seeking new jobs and in transferring to new employers, however it is difficult to ascertain the exact number or percentage of workers in these circumstances successfully getting new jobs.

### **3.1.4 Failure to exercise judicial authority over Taiwanese-operated FoC vessels and Port State jurisdiction**

One particularly concerning area is the government's lack of recognition for distant water fishing vessels as an extension of Taiwan's land jurisdiction. This is contrary to the international standards as set out in the UN Convention on the Law of the Sea, which considers distant water fleets to fall under the country's jurisdiction. On the Ministry of Labor's official website, the government stated that migrant fishers being recruited abroad, and working on distant water fishing vessels which do not operate in Taiwan's territorial waters, are not subject to the protection of the Labor Standard Act because "it is inappropriate to use the abstract jurisdiction concept to regard Taiwanese fishing vessels operating on the high seas as an extension of our country's territory."<sup>69</sup>

Moreover, Taiwanese invested or operated fishing vessels with foreign flags tend to experience the highest risk of human trafficking. While the Taiwanese government is unable to extend its jurisdiction to these FoC vessels,<sup>70</sup> the government does have jurisdiction over its citizens and has Port State jurisdiction. Both tools are both currently underutilized. The Executive Yuan agreed with the Port State Measures Agreement in 2016, and that same year the TFA adopted a sub-law of the "Act for DWF" which regulates the foreign fishing vessels entering into ports. However, the jurisdiction does not cover any inspection to identify human trafficking or forced labor. The Da Wang fishing vessel, which

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<sup>65</sup> Bureau of Education, Tainan City Government. Prevention of Human Trafficking – Q&A, <http://boe.tn.edu.tw/boe/wSite/public/Attachment/f1526035595677.pdf>

<sup>66</sup> Laws and Regulations Database of The Republic of China. (2021) "Directions of the Employment Transfer Regulations and Employment Qualifications for Foreigners Engaging in the Jobs Specified in Items 8 to 11, Paragraph 1, Article 46 of the Employment Services Act", <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=N0090023>

<sup>67</sup> However, the Employment Service Act applies to only coastal and offshore fishers, which does not include the distant water fishers.

<sup>68</sup> Council of Labor Affairs (2009). Employer Transfer of Foreign Labor Under special Circumstances. Available at <https://laws.mol.gov.tw/FLAW/FLAWDOC03.aspx?datatype=etype&lc1=%5Bc%5D%E5%B0%B1%E6%A5%AD%E6%9C%8D%E5%8B%99%E6%B3%95%2C57&cnt=105&recordno=16>

<sup>69</sup> Ministry of Labor (2019). Oversea Employed Seafarers are Subjected to the Regulations in the Authorization and Management of Overseas Employment of foreign Crew Members Under the Act for Distant Water Fisheries, <https://bit.ly/3u9W16x>

<sup>70</sup> Taiwan Association for Human Rights (2020). FOC - Falling out of Taiwan's Jurisdiction, and Preventing Migrant Seafarers from Returning Home During the Pandemic, <https://www.tahr.org.tw/news/2689>

the U.S. government placed a block on due to suspected forced labor,<sup>71</sup> is an example of how FoC vessels may operate under reduced regulation. The Taiwanese government failed to investigate Da Wang and prevent it from sailing again when it was docked in a Taiwanese port.<sup>72</sup>

### 3.2 Examples of failure to provide social protection and to protect victims

By December 29, 2020, the Fisheries Agency visited and investigated 102 vessels in Taiwan, including 560 fishers; 20 vessels at foreign ports, including 91 fishers; two vessels on the high seas, including three fishers.<sup>73</sup> By the end of November 2020, the Fisheries Agency ordered the payment of fines for 141 cases of misconduct, collecting a total fine of NTD 17.96 million (USD 635 thousand), including 120 cases of employment without permits and 18 cases of breach of contract.<sup>74</sup>

Migrant fishers in the coastal and offshore fishing industry are entitled to statutory labor insurance coverage, and their employers are required to contribute to their premiums so that they may claim government compensation in the event of an injury on the job, as well as the same right to medical care as nationals. However, a Control Yuan investigation in 2020 found that only 5,000 of these 9,789 fishers in the coastal-offshore fishing industry have labor insurance coverage (51.07%),<sup>75</sup> a violation of the Taiwan Labor Insurance Act and in contravention of Article 9 of the International Covenant on Economic, Social and Cultural Rights,<sup>76</sup> which recognizes “the right of everyone to social security.” The Ministry of Labor has been negligent in actively handling this case, breaching the rights of these migrant fishers. The Control Yuan’s Committee on Financial and Economic Affairs passed an investigation report in April 2020 and proposed corrective measures to the Ministry of Labor.<sup>77</sup>

Moreover, despite fishing vessel owners being in clear violation of the law, the Ministry of Labor claims that “requiring the owners of fishing vessels to provide insurance to every migrant fisher is adding a further burden to vessel owners”, which shows an appalling attitude held by some government authorities. It also highlights their inability to understand the forms of labor abuse on fishing vessels and a refusal to protect the basic rights of migrant fishers.<sup>78</sup>

CSOs believe that many potential victims of human trafficking are not investigated by authorities and are not detected by the system. In most cases, migrant workers who are being exploited, physically

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<sup>71</sup> Greenpeace (2020). U.S. Government Imposes Forced Labor Penalty on Vessel Linked to Bumble Bee’s Corporate Owner, <https://www.greenpeace.org/usa/news/u-s-government-imposes-forced-labor-penalty-on-vessel-linked-to-bumble-bees-corporate-owner/>

<sup>72</sup> Pearl Chen (2020). Cases of Labor Trafficking in 2020.

<sup>73</sup> National Immigration Agency. (2021). Executive Yuan Human Trafficking Prevention and Elimination of Racism Coordination Meeting (行政院防制人口販運及消除種族歧視協調會報) - Meeting Minutes of 30<sup>th</sup> December 2020. <https://www.immigration.gov.tw/5385/7445/7535/49052/126023/253550/>

<sup>74</sup> National Immigration Agency. (2021). Executive Yuan Human Trafficking Prevention and Elimination of Racism Coordination Meeting (行政院防制人口販運及消除種族歧視協調會報) - Meeting Minutes of 30<sup>th</sup> December 2020. <https://www.immigration.gov.tw/5385/7445/7535/49052/126023/253550/>

<sup>75</sup> The Control Yuan. (2020) Employers are legally compulsory to enroll migrant fishers to the labor insurance scheme, however half the fishers are not insured. Ministry of Labor is not proactively seeking for correcting the situation. Control Yuan proposes correction measures. (外籍漁工為勞工保險強制納保對象，卻有半數外籍漁工未納保，勞動部未積極尋求解決，監察院提出糾正). [https://www.cy.gov.tw/News\\_Content.aspx?n=124&s=16433](https://www.cy.gov.tw/News_Content.aspx?n=124&s=16433)

<sup>76</sup> Taiwan has domesticized through “Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights”, <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=I0020028>

<sup>77</sup> The Control Yuan. (2020) Employers are legally compulsory to enroll migrant fishers to the labor insurance scheme, however half the fishers are not insured. Ministry of Labor is not proactively seeking for correcting the situation. Control Yuan proposes correction measures. (外籍漁工為勞工保險強制納保對象，卻有半數外籍漁工未納保，勞動部未積極尋求解決，監察院提出糾正), [https://www.cy.gov.tw/News\\_Content.aspx?n=124&s=16433](https://www.cy.gov.tw/News_Content.aspx?n=124&s=16433)

<sup>78</sup> Hsieh, Mon-Ying (2020). 50 percent of Migrant Seafarers Are Not Being Insured: The Control Yuan Proposing Corrective Measures. The Storm Media, <https://www.storm.mg/article/2498447?page=1>



abused, or have their movement restricted can only attempt to change employers by themselves, instead of receiving assistance from authorities as victims of trafficking.

### 3.3 Migrant workers trapped on vessels during the pandemic

The government implemented a set of quarantine procedures to regulate migrant workers entering the country during Covid-19. For Taiwanese-owned FoC vessels, fishers are not permitted to leave the vessel within 14 days of its arrival at a Taiwanese port starting from March 19, 2020.<sup>79</sup> On November 20, the Entry Management of Overseas Employed Fishers was modified and updated, allowing fishers who dock in Taiwan to choose to (a) quarantine, (b) come on shore without self-isolation, or (c) return to their home countries.<sup>80</sup> After the quarantine period, these vessels can freely exit or enter the ports; however, no instruments were introduced to assist migrant fishers onboard to apply for visas to enter Taiwan. Without being able to enter Taiwan, these fishers are unable to return to their countries. Many migrant fishers were stuck on vessels at ports for almost a month in Taiwan during the Covid-19 pandemic.<sup>81</sup>

In particular, 140 migrant fishers who docked in June 2020 were unable to come on land in Taiwan.<sup>82</sup> Those who wished to continue working were allowed to stay on board or to move to work on other vessels. However, those who wished to stop working and attempted to enter Taiwan to fly back to their home countries faced problems, such as being confined in place onshore by brokers and charged with illegal entry.<sup>83</sup>

In December 2020, the Taiwanese government indefinitely suspended the entry of Indonesian migrant workers to Taiwan, saying that Indonesia has been unable to improve the accuracy of its COVID-19 test results.<sup>84</sup>

## 4. Prosecution

This section will discuss how gaps in anti-trafficking legislation and a lack of understanding by authorities of forms of human trafficking have led to inadequate prosecution of human trafficking.

In 2020, the Taiwanese government investigated 159 cases of human trafficking, among which 29 were “labor exploitation” and 130 were “sex trafficking”. Notably, out of the 159 cases, 135 were investigated by the National Police Agency, 14 were investigated by the Immigration Agency, eight were investigated by the Ministry of Justice Investigation Bureau, and only two were investigated by the Coast Guard Administration.<sup>85</sup>

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<sup>79</sup> Council of Agriculture, Executive Yuan (2020). Strengthening entry management of overseas employed fishermen in response to Covid-19. Available at [https://www.coa.gov.tw/theme\\_data.php?theme=news&sub\\_theme=agri&id=8073](https://www.coa.gov.tw/theme_data.php?theme=news&sub_theme=agri&id=8073)

<sup>80</sup> Fishery Agencies (2020). Modification of overseas employed fishermen entering Taiwan under Covid-19 restriction. Available at <https://www.fa.gov.tw/cht/Announce/content.aspx?id=785&chk=6893a940-1e14-4e7c-b110-10f45c02fa88&param=pn%3D1>

<sup>81</sup> Greenpeace (2020). The Outlaw FOC, <https://www.greenpeace.org/taiwan/press/17412/%E6%B3%95%E5%A4%96%E4%B9%8B%E8%88%B9%E6%AC%8A%E5%AE%9C%E8%88%B9-%E7%96%AB%E6%83%85%E6%9C%9F%E9%96%93%E5%A4%A7%E9%96%8B%E6%BC%8F%E6%B4%9E/>

<sup>82</sup> Syrena Lin (2020). The Migrant Fishermen Union on the Frontlines Against Covid-19 and Bosses. The News Lens, <https://international.thenewslens.com/article/136920>

<sup>83</sup> Mina Chiang, Kimberly Rogovin (2020). Labor Abuse in Taiwan’s Seafood Industry & Local Advocacy for Reform.

<sup>84</sup> Focus Taiwan. (2020). CORONAVIRUS/Taiwan to indefinitely suspend entry of Indonesian migrant workers. <https://focustaiwan.tw/society/202012160027>

<sup>85</sup> National Immigration Agency. (2021) Statistics. <https://www.immigration.gov.tw/5385/7344/7350/8940/?alias=settledown&sdate=202004&edate=202102>

## 4.1 Gaps in anti-trafficking legislation

According to Article 2 of the Human Trafficking Prevention Act (2009), the act of “human trafficking” is defined as:

- “(1) To recruit, trade, take into bondage, transport, deliver, receive, harbor, hide, broker, or accommodate a local or foreign person, by force, threat, intimidation, confinement, monitoring, drugs, hypnosis, fraud, purposeful concealment of important information, illegal debt bondage, withholding important documents, making use of the victim’s inability, ignorance or helplessness, or by other means against his/her will, for the intention of subjecting him/her to sexual transactions, labor to which pay is not commensurate with the work duty, organ harvesting; or to use the above-mentioned means to impose sexual transactions, labor to which pay is not commensurate with the work duty, or organ harvesting on the victims. (2) To recruit, trade, take into bondage, transport, deliver, receive, harbor, hide, broker, to sex transactions, labor to which pay is not commensurate with the work duty, or organ harvesting, or to subject people under 18 years of age to sexual transactions, labor to which pay is not commensurate with the work duty, or organ harvesting.*
- 2. Offenses of human trafficking: Referring to acts of human trafficking conducted in violation of this Act, the Criminal Code, Labor Standard Law, or Child and Youth Sexual Exploitation Prevention Act, or other related laws.*
- 3. Improper debt bondage: Referring to the use of unclear contracts or unreasonable payments of a debt to place people under bondage, subjecting them to sexual transactions, labor exploitation, or organ harvesting in order to fulfill or guarantee the payment of their debts.”*

With regards to non-sexual forms of human trafficking, the law mentions “labor to which pay is not commensurate with the work duty” and uses the term “labor exploitation” but does not provide a definition as is recommendation under international law.<sup>86</sup>

The provision, “to which pay is not commensurate with the work duty”, which is included in Articles 2 and 32 of the law, is vague and creates challenges identifying and prosecuting labor exploitation cases. If force, threat, intimidation or other coercive means are used to compel someone to work, the extent to which ‘the pay is commensurate with the work duty’ becomes irrelevant. In practice, this could permit employers to exploit migrant workers through extremely long working hours, after providing the minimum monthly wage.<sup>87</sup>

CSOs submitted a civil society version of a revised Human Trafficking Prevention Act to the parliament in 2017,<sup>88</sup> however as of 2021, the Human Trafficking Prevention Act is yet to be reformed.

Other Articles in the Criminal Code have provided tools for cases of human trafficking and modern slavery to be prosecuted, including:

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<sup>86</sup> The ILO uses the term “forced labor”, which is defined 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”; see ILO Forced Labour Convention, 1930 (No. 29),

[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C029](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029)

<sup>87</sup> There was a case of migrant worker being forced to work excessively with 15 hours a day without rest for the entire year, but the court ruled that there is no violation of “pay is not commensurate with the work duty” as the worker was paid minimum monthly wage (despite around half were deducted by the manning agency), and thus was not a victim of human trafficking. See:

[https://www.goh.org.tw/mobile/news\\_detail.asp?PKey=aBMXaB31aBNJaB30aBYMaB39aBTsaB35&Class1=aBXWaB32](https://www.goh.org.tw/mobile/news_detail.asp?PKey=aBMXaB31aBNJaB30aBYMaB39aBTsaB35&Class1=aBXWaB32)

<sup>88</sup> The Garden of Hope Foundation (2018). CSO Urges Amendment of Human Trafficking Act. Available at

[https://www.goh.org.tw/mobile/news\\_detail.asp?PKey=aBMXaB31aBNJaB30aBYMaB39aBTsaB35&Class1=aBXWaB32](https://www.goh.org.tw/mobile/news_detail.asp?PKey=aBMXaB31aBNJaB30aBYMaB39aBTsaB35&Class1=aBXWaB32)

*Criminal Code of the Republic of China - Article 296*

*A person who enslaves another or places another in a position as not free as a slave shall be sentenced to imprisonment for not less than one year but not more than seven years. An attempt to commit an offense specified in the preceding paragraph is punishable.*

*Criminal Code of the Republic of China - Article 305*

*A person who threatens to cause injury to the life, body, freedom, reputation, or property of another and thereby endangers his safety shall be sentenced to imprisonment for not more than two years, short-term imprisonment, or a fine of not more than nine thousand dollars.*

However, in practice, the laws are not fully utilized to prosecute cases. Instead, CSOs observe that many cases are downplayed and treated as “labor disputes”.

On January 27, 2021, the Fisheries Agency announced a modification to the Regulations on the Management and Approval of Foreign Flag Fishing Vessels Entering into Ports of the Republic of China to strengthen fishery administration, border controls, and labor rights protection. According to Article 7<sup>89</sup> in the amended draft, fishing vessels whose operator has been accused of being involved in forced labor and trafficking in persons will not be allowed to enter Taiwanese ports.<sup>90</sup>

## **4.2 Authorities lack of understanding of all forms of trafficking**

According to CSOs and our analysis, government officials do not understand the nature of all forms of trafficking, particularly forced labor. In practice, the law enforcement authorities tend to separate the crime into individual offenses (e.g. document forgery, labor dispute, etc.) instead of investigating and identifying the forms of involuntariness and coercion that the crime of labor exploitation entails.<sup>91</sup>

Government authorities also have an insufficient understanding of trafficking in persons and forced labor, especially in the fishing industry. Recently, Taiwan’s fishery harvests were listed on the “2020 List of Goods Produced by Child Labor or Forced Labor” published by the United States Bureau of International Labor Affairs for the very first time.<sup>92</sup> However, Taiwan’s Fisheries Agency Deep-sea division, maintained a passive attitude with the listing, saying “We disagree with the U.S. decision, which was based on offenses by one or a few vessels but will largely hurt the interests of the majority of law-abiding fishers here.”<sup>93</sup> This is despite many local and international NGOs supporting the decision of the U.S.<sup>94</sup>

CSO workers have expressed their views that “The frontline law enforcement officials only care if victims are being physically abused or restrained, but do not take into account indicators such as

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<sup>89</sup> Amendments of “Regulations on the Management and Approval of Foreign Flag Fishing Vessels Entering into Ports of the Republic of China” available at <https://bit.ly/3b2YkAp>

<sup>90</sup> Central News Agency (2021). The Fisheries Department's enhanced management of stopgap vessels is punishable by up to \$2.5 million for violations of epidemic prevention, <https://newtalk.tw/news/view/2021-01-29/530813>

<sup>91</sup> The Garden of Hope Foundation. (n.d.) Press release: Urgent! Justice is not served for the victims; civil society urges the revision of human trafficking should not be delayed anymore. (【新聞稿】催促！被害人司法正義未得伸張 民團疾呼人口販運修法勿再延宕！)

[https://www.goh.org.tw/mobile/news\\_detail.asp?PKKey=aBIWaB31aBJJaB30aBTLaB39aBORaB35&Class1=aBTVaB32](https://www.goh.org.tw/mobile/news_detail.asp?PKKey=aBIWaB31aBJJaB30aBTLaB39aBORaB35&Class1=aBTVaB32)

<sup>92</sup> Bureau of International Labor Affairs (2020) 2020 List of Goods Produced by Child Labor or Forced Labor. 19. Available at [https://www.dol.gov/sites/dolgov/files/ILAB/child\\_labor\\_reports/tda2019/2020\\_TVPRAListOnline\\_Final.pdf](https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2019/2020_TVPRAListOnline_Final.pdf)

<sup>93</sup> VOA News. (2020). Taiwan Hopes to Reverse US Inclusion of its Catches on Forced Labor List.

<https://www.voanews.com/east-asia-pacific/taiwan-hopes-reverse-us-inclusion-its-catches-forced-labor-list>

<sup>94</sup> Quartly, J. (2020). ‘Taiwan all at sea on illegal fishing practices’, *Taiwan News*, <https://www.taiwannews.com.tw/en/news/4032558>

deduction of salary and document confiscation.” CSO workers suggest that strengthening the training of frontline law enforcement officials is essential.<sup>95</sup>

Taiwan’s strategic plan in combating trafficking calls for “*prosecutor’s offices and judicial police units to have dedicated staff to work on the investigation and prosecution of human trafficking cases.*”<sup>96</sup> The authorities are also making efforts to train officers and workers at law enforcement sectors to understand the nature of labor exploitation as a kind of human trafficking.

Based on the information submitted by Greenpeace East Asia on the Da Wang fishing vessel case, the Fisheries Agency sent the alleged murder case along with the alleged forced labor cases to Taiwan Kaohsiung’s District Prosecutor’s Office in March 2020. In April, due to Covid-19, Da Wang returned to the Kaohsiung port, Taiwan. The Kaohsiung’s District Prosecutor’s Office visited the vessel to inquire about the case, and the vessel was free to sail out of port a month later. Greenpeace East Asia called the Fisheries Agency to inquire why the owner of Da Wang was not held accountable, and why the captain was not detained. The Fisheries Agency replied that: “*The vessel owner was not the one giving the order to hit the deceased Indonesian fisher and thus should not be held accountable.*”

In an ongoing case that began in 2015, an Indonesian fisher named Supriyanto had been physically abused resulting in his death on a Taiwanese distant water fishing vessel. According to the autopsy report, Supriyanto died of septic shock, which was caused by the half-palm-sized wound on his knees and feet. He had also suffered from severe malnutrition before he died, and there were wounds on his ears, arms, back, knees, and heels. He appeared in three videos taken by other fishers on the same vessel, claiming that he had been brutally abused by the Taiwanese captain, before his death.<sup>97</sup> It was obvious that Supriyanto was a victim of extreme violations of human rights, and his death was caused by the abuse of the captain; however, the Puntung District Prosecutors Office closed the case on November 10, 2015, and found the captain not guilty as he had “*no motivation to abuse his workers.*”<sup>98</sup> The case was restarted in 2018, and the investigation is still ongoing.

These two cases strongly indicate that judges are not appropriately knowledgeable and sensitized to human trafficking cases and, in particular, have little knowledge or understanding about the nature of distant water fishing work.

## 5. Recommendations

The Seafood Working Group asks the U.S. Department of State TIP Office to support the following recommendations to the Taiwan government and include the recommendations in the 2021 TIP Report. The recommendations were developed by the Coalition for the Protection of Human Rights of Migrant Fishers in Taiwan and are supported by civil society organizations worldwide.<sup>99</sup>

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<sup>95</sup> National Immigration Agency. (2021). Executive Yuan Human Trafficking Prevention and Elimination of Racism Coordination Meeting (行政院防制人口販運及消除種族歧視協調會報) - Meeting Minutes of 30<sup>th</sup> December 2020, p. 8, <https://link.edgepilot.com/s/95a7fc08/MfwxD-GMTUyakRJhO0Fgig?u=https://www.immigration.gov.tw/5385/7445/7535/49052/126023/>

<sup>96</sup> Ministry of the Interior National Immigration Agency Republic of China (Taiwan) (2020). Measures Against Trafficking In Persons, <https://www.immigration.gov.tw/5475/5478/6928/6934/197824/>

<sup>97</sup> Jiang, Yi-Ting (2018). Maritime Justice Needs to be Served - the Case of the Death of the Indonesian Fisherman is Not Over Yet. Mirror Media, <https://www.mirrormedia.mg/story/20200905pol005/>

<sup>98</sup> Jiang, Yi-Ting (2018). Distance Away From the Truth - Reopening the Case of the Death of the Indonesian Fisherman. The Reporter, <https://www.twreporter.org/a/indonesia-fishermen-death-witness>

<sup>99</sup> “Global Civil Society Asks to the Taiwanese Government Regarding Reforms to End Forced Labor in its Distant Water Fisheries,” 2020, Greenpeace, <https://www.greenpeace.org/static/planet4-taiwan-stateless/6167f6ac-demands-from-the-taiwan-coalition.pdf>

## 5.1 Prioritized Asks

Urge the government of Taiwan to:

- Abolish the overseas employment scheme for migrant fishers, apply the Labor Standards Act to all fishers, including migrant fishers in the DWF fleet, and ensure all migrant fishers are governed by the Ministry of Labor and thus afforded the same rights and protections as Taiwanese fishers. During the transition period, the current "Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members" must be fully respected. Wages must be paid in full, and there must be no illegal deductions. In addition, insurance compensation must be paid fully and swiftly to family members of victims. The government must be fully in charge of governing migrant fishers; and Taiwan's fisheries associations must not be involved in any part of governance.
- Establish a clear timeline for swift and full domestication and implementation of the ILO Work in Fishing Convention (C188).
- Increase the frequency and reliability of port inspections (both fishery and labor) for all vessels, especially DWF vessels.
- Increase transparency in the fishery sector by requiring disclosure of vessel position (i.e. publishing VMS or AIS, and punishing vessels for turning either off), 100% observer coverage (independent human or effective electronic catch monitoring such as camera and remote sensor), and ensuring the safety of all observers on all fishing vessels.

## 5.2 General governance of migrant fishers

Urge the government of Taiwan to:

- Sanction Taiwanese manning agencies if their foreign counterparts violate relevant Taiwanese regulations. The government should prioritize the development of preventative measures for common human rights violations such as physical violence, restriction of freedom, excessive working hours, and withholding of wages.
- Involve concerned civil society members, particularly migrant fisher unions, in the annual review of manning agencies approved to recruit migrant fishers.
- The government should protect and ensure all fishers can enjoy the core labor standards on freedom from forced labor, freedom from child labor, freedom from discrimination at work, freedom to form and join a union, and freedom to bargain collectively. Therefore, the government should adopt and implement the eight ILO fundamental Conventions.
- Adopt and implement the ILO Migrant Worker Conventions.
- Adopt and implement the International Maritime Organization Cape Town Agreement.
- Handle human trafficking and forced labor cases, promptly, once reported; strictly enforce relevant regulations; and increase prosecution and conviction rates. To reach that goal, governments should build up the capacity of relevant officials to identify human trafficking and forced labor, and establish a cross-agency joint task force for effective investigation.
- Establish a timely and effective grievance mechanism for migrant fishers, particularly for urgent cases at sea. The Fisheries Agency should continue working on the pilot project to install WiFi on fishing vessels and work with industry stakeholders to establish a timeline for installing WiFi on all fishing vessels while prioritizing high-risk fishing vessels. Ensure easy and regular access to WiFi and the at-sea grievance mechanism can be accessed by all fishers without fear of interference, persecution, and retaliation.
- The government should maintain open and continuous communication with concerned civil society organizations that work with migrant fishers so their voices are heard.
- End transshipment at sea unless strict conditions to prevent IUU fishing and human rights violations arising from it are implemented. The transferring of fishers between fishing vessels via transshipment at sea must be strictly prohibited.

- Adopt and implement a regulation on maximum time at sea that limits vessels to three months so the government can conduct labor inspections. Ensure all crews have paid shore leave and unfettered access to port services for a minimum of 10 days.

### 5.3 Management of Flags of Convenience (FOC)

Urge the government of Taiwan to:

- Abolish the practice of flags of convenience.
- During the transition period, the government should:
  - Modify the “Act to Govern Investment in the Operation of Foreign Flag Fishing Vessels” to include labor condition requirements, enhance the transparency of FOC vessels, and be clear about the conditions when the permit to operate FOC vessels can be revoked.
  - Review, while domesticating ILO C188, the current regulation on FOC vessels to ensure it is consistent with C188.
  - Review the effectiveness and appropriateness of the Council of Agriculture and the Fisheries Agency as the government agencies responsible for the management of FOC vessels and protection of migrant fishers.
  - Enhance the capability of the Ministry of Interior, Coast Guard Administration, Prosecutor’s office, and other relevant authorities to identify and handle cases of forced labor and human trafficking.

## 6. Appendix: Cases

| Date Reported | Location                   | Case Summary  |
|---------------|----------------------------|---|
| 11/21/2020    | Zhuo-Shui river (offshore) | <p><b>Case 1. Seafarers trapped on stranded ship for more than a year</b></p> <ul style="list-style-type: none"> <li>● On December 6, 2019, a cargo vessel “Midas” (米達斯)<sup>100</sup> operated by a Taiwanese company Sing Da Sheng grounded in shallow water at Zhuo-Shui river. The vessel owner then assigned another ship “Chang Feng” to come to the rescue.</li> <li>● The Chang Feng ship was stranded in the shallow water as well. The 17 seafarers on these two ships were then asked by the vessel owner to stay in the stranded ship to “guard the cargos.”</li> <li>● For more than a year, the seafarers have repeatedly told the captain that there is not enough drinking water and food; seafarers were forced to eat canned food and jam and even had to hunt food by themselves from the shallow water.</li> <li>● Seafarers were denied medical care and have not received their salary since March 2020 (for more than 6 months).</li> <li>● With the help of the Apostle of the Sea, the seven Burmese seafarers on Cheng Feng and six seafarers on Midas escaped the ship and legally entered Taiwan in November 2020. Seafarers said: “Finally we are out of the hell.” However, there are still four Burmese and Chinese seafarers</li> </ul> |

<sup>100</sup> The Apple Daily (2020). Seafarers Stuck on Stranded Vessel Owned by Owner Owing Salary of More Than 1 Million TWD, <https://tw.appledaily.com/local/20201120/4Q7AKWN7YRE6VLUBSOGBSIARWY/>



|            |         |  |
|------------|---------|--|
|            |         | <p>remaining on Midas.</p> <ul style="list-style-type: none"> <li>● The Coast Guard Administration has requested the vessel owners to allow the seafarers to leave the vessel but was refused by the vessel owners.</li> <li>● Based on our analysis, the authorities have failed to identify and protect victims of human trafficking and severe human rights abuse in a timely manner and failed to prosecute the vessel owner.</li> </ul>   |
| 12/04/2020 | Yilan   | <p><b>Case 2. Enforced disappearance of migrant workers</b></p> <ul style="list-style-type: none"> <li>● In order to expand the supply of migrant labor in the black market<sup>101</sup> in Taiwan, a recruitment Agent, Huang, intentionally reported several migrant workers legally working in Taiwan “missing”, and then forced them to work for seafood shops.<sup>102</sup></li> <li>● He had further taken advantage of the employers who were applying for hiring migrant workers. He made false reports on the number of workers these employers were applying for, and referred the extra workers entering Taiwan to work for other fishing vessels.</li> <li>● Agent Huang had forced at least 15 workers to become illegal workers in Taiwan and being “undocumented” or “illegal” makes it easier for them to be controlled and exploited by unscrupulous recruitment agencies or employers.</li> <li>● Three suspects were prosecuted for Human Trafficking Prevention Act as they have “recruited foreign person, by threat and fraud, for the intention of subjecting them to labor to which pay is not commensurate with the work duty”.<sup>103</sup></li> <li>● The applications of employing foreign workers submitted by either the recruitment agencies or any employers should be carefully considered by the government to prevent workers from being potentially being exploited or trafficked. The incomplete inspection or consideration may directly put the migrant workers at risk of forced labor or trafficking.</li> </ul> |
| 06/20/2020 | Unknown | <p><b>Case 3. Insured migrant worker without health insurance card</b></p> <ul style="list-style-type: none"> <li>● An Indonesian migrant fisher suffered from severe toothache but was unable to access medical assistance. His employer did not take him to the dentist, and when he approached his recruitment agency to seek help, he realized that there was no translation service available at his agency. Without the knowledge of Mandarin, he was unable to communicate with the agency at all.<sup>104</sup></li> <li>● He was finally taken to the local public health center, where officials soon found out that this worker did not possess a Health Insurance Card. Without the card, he would have to pay for a high amount of medical</li> </ul>   |

<sup>101</sup> The black labor market in Taiwan holds a number of migrant workers, either being undocumented or hold a valid working permit, who work illegally for several possible reasons. The workers without a legal status in Taiwan are particularly vulnerable under the risk of trafficking as they can only work illegally, and they are not protected or subjected to any legal working contracts.

<sup>102</sup> Jen-Son Hu (2020). Forced Disappearance - Migrant Workers being Exploited by Recruitment Agencies. The China Times, <https://www.chinatimes.com/realtimenews/20201204004579-260402?chdtv>

<sup>103</sup> Article 2, Human Trafficking Prevention Act. Laws and Regulations Database of The Republic of China, <https://law.moi.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0080177>

<sup>104</sup> Rerum Novarum Centre (2020). Predicament of Migrant Workers in Taiwan, <https://www.new-thing.org/news/789>

|            |                |   |
|------------|----------------|---|
|            |                | <p>expenses.</p> <ul style="list-style-type: none"> <li>• The worker was insured, and the premium had been deducted from his paycheck each month, but even the recruitment agency which was responsible for his case did not know why this worker had not received his Health Insurance Card. This type of administrative problem could be a red flag for labor exploitation, in which the worker’s rights may be ignored by his/her employer and recruitment agency. This case demonstrates the Taiwanese authorities’ inability to manage migrant worker issues and a failure to compel employers to provide adequate social protection, which increases risks of worsening labor abuse and exploitation.</li> </ul>  |
| 08/21/2020 | Kaohsiung Port | <p><b>Case 4. U.S. blocking fishing harvests by Da Wang (大旺) for suspected forced labor</b></p> <ul style="list-style-type: none"> <li>• According to Western and Central Pacific Fisheries Commission (WCPFC), Da Wang is a Taiwanese-owned vessel but registered under Vanuatu. In August 2020, the U.S. Customs and Border Protection (CBP) issued a Withhold Release Order (WRO) on seafood harvested by Da Wang based on information that reasonably indicates the use of forced labor,<sup>105</sup> including physical violence, debt bondage, withholding of wages, and abusive living and working conditions.<sup>106</sup></li> <li>• CBP suspended shipments from Da Wang, a fishing vessel with a Taiwanese owner, at all ports in the U.S.<sup>107</sup></li> <li>• The workers on Da Wang were subjected to human rights violations including receiving low or even no pay, physical abuses, and other inhuman treatment.</li> <li>• A Filipino fisher working on Da Wang suffered from an eye injury from being hit against the wall by a big wave but was rejected for the request for rest and medical treatment.</li> </ul> <p><b>Two additional cases with strong indicators of forced labor on the Da Wang vessel</b></p> <p><b>Case 4.1.</b> A Filipino fisher (coded as Mr. X), who also worked on Da Wang during the same period of time where the aforementioned Indonesian fisher died, boarded the vessel in June 2019. Mr. X told Greenpeace East Asia that he suffered from an eye injury from being hit against the wall by a big wave. However, the captain rejected his request for rest and medicine, and instead, the fisher was demanded to keep working. The next day, the fisher suffered from a stroke which led to half of his body paralyzed. Mr. X claimed that the captain still refused to send him to the hospital until some other fishers united to threaten to strike. Regarding the living and working conditions on board, the fisher said that they were not given enough food on board, often treated with verbal and physical violence from the captain, and that the working hours could be up to 16 hours consecutively.</p> |

<sup>105</sup> Ben Fox (2020). US halts imports linked to Taiwan-based fishing vessel. AP News, <https://apnews.com/article/0cb7aa0b2980d741ecc72e755e0ea852>

<sup>106</sup> CBP’s decision is partly triggered by Greenpeace Southeast Asia’s 2019 Seabound report, which documented the death of an Indonesian fisher in 2019 that was allegedly caused by the Taiwanese management level.

<sup>107</sup> Greenpeace (2020). U.S. Government Blocks Seafood Imports from Taiwan-Flagged Fishing Vessel For Suspected Forced Labour, <https://www.greenpeace.org/usa/news/u-s-government-blocks-seafood-imports-from-taiwanese-flagged-fishing-vessel-for-suspected-forced-labor/>

|            |                                 |   |
|------------|---------------------------------|---|
|            |                                 | <p>ILO forced labor indicators represented in this case include abuse of vulnerability, excessive overtime, physical and sexual violence, and abusive working and living conditions.</p> <p><b>Case 4.2.</b> Another Filipino fisher (coded as Mr. V), who also worked on Da Wang during the same period of time where the aforementioned Indonesian fisher died, boarded the vessel in April 2019. Mr. V told Greenpeace East Asia that he witnessed physical violence and verbal obscenity from the Taiwanese management level against crew members. He also reported being charged with 1,000 USD as a guarantee deposit. Mr. V also complained that he sometimes needed to work 28 hours consecutively, yet he was not provided with enough food, and that the fishers were not allowed to wear protective gears. Mr. V. also said that his passport was confiscated. When the vessel came back to Taiwan, Mr. V had difficulty breathing. The manning agency sent him to the hospital yet after the fisher was discharged from the hospital, the manning agency locked Mr. V in a dormitory and warned him not to report to the police.</p> <p>ILO indicators of forced labor represented in this case include physical and verbal violence, threat and intimidation, detention of identity documents, debt bondage, and abusive living and working conditions.</p>  |
| 04/12/2020 | Pingtung/<br>South<br>China Sea | <p><b>Case 5. Indonesian fishers forced into drug trafficking</b></p> <ul style="list-style-type: none"> <li>• The following case demonstrates how the government not only fails to identify potential victims of human trafficking, but also criminalizes them. On April 12, 2020, the Pingtung County Brigade Coast Guard Administration unveiled the biggest drug trade in Taiwan to date, on fishing vessel <i>Ma, Sheng-Cai No. 86</i>, from which they seized 395 kilograms of heroin and 645 kilograms of amphetamines. Eight suspects, including two Indonesian fishers, were arrested and sentenced to prison.<sup>108</sup></li> <li>• Awangdarmawan and Sugito, the two Indonesian defendants working on <i>Man Sheng-Cai No. 86</i>, were asked to carry suspicious items from other vessels into a secret cabin on their vessels.<sup>109</sup> In the testimonies, the fishers described that they were afraid to ask about the items they were asked to carry, despite their suspicion of the unusual activities. They had learned to follow the instruction of the captain, or else risk not receiving their salaries as fishers.</li> <li>• While the main suspect, the drug baron, was sentenced to 20 years in prison, Awangdarmawan and Sugito were both sentenced to 15 years imprisonment for undertaking illegal activities despite having been forced to do so. Other members of the drug trafficking organization, who had organized the trade and assisted in transportation and communication, were sentenced to 8, 9, or 10 years in prison, and their penalties were less</li> </ul> |

<sup>108</sup> Li, Li-Fa. (2021). The Largest Case in Taiwan's Drug Smuggling History – the Drug Baron, Huang, Da-Zhang, being Sentenced to 20 Years in Prison. Liberty Times, <https://news.ltn.com.tw/news/society/paper/1430660>

<sup>109</sup> Taiwan Pingtung District Court, Criminal Judgement No. 14 in 2020. 9.

|         |                |  |
|---------|----------------|--|
|         |                | <p>than the ones received by Awangdarmawan and Sugito.<sup>110</sup> While the case is still under investigation, CSOs believe there it is possible that Awangdarmawan and Sugito were victims of human trafficking of labor exploitation. Rather than being criminals, they were forced to perform the activities due to being in the vulnerable situation (language barrier, educational background, employment status, debt bondage) and under coercion. The legal case has not taken into consideration the vulnerability of the fishers and has not explored the possibility that they may be victims instead of perpetrators. This demonstrates a lack of a sufficient victim identification mechanism.</p>  |
| 06/2020 | Kaohsiung Port | <p><b>Case 6. Chin Chun No. 12 (金春 12 號) Fishermen facing forced labor on a FoC vessel</b></p> <ul style="list-style-type: none"> <li>• Similar to the Da Wang fishing vessel, Chin-Chun No.12 is another FoC owned by a Taiwanese national that is involved in migrant labor exploitation.</li> <li>• Migrant fishermen were forced to continuously work for 20 to 28 hours with only ten minutes for a meal break. These fishermen were also threatened not to go to the police to report the physical abuses happening on the vessel by the recruitment agencies.<sup>111</sup></li> <li>• TFA had charged the suspects with violating the Human Trafficking Prevention Act on the Chin Chun No. 12 vessel, however, the vessel was allowed to leave the port after a short stay in Taiwan during the Covid-19 pandemic.<sup>112</sup> CSOs view this as a lack of implementation of the Port State responsibility.</li> <li>• The other two Filipino fishers on the Chin Chun No. 12 were confined at Taiwan Taoyuan International Airport for 20 days when they tried to return to the Philippines after disembarking from the ship.<sup>113</sup></li> </ul> |

<sup>110</sup> The Drug Baron Dealing Drugs at the Golden Triangle being Sentenced to 20 Years of Imprisonment. Apply Daily, <https://tw.appledaily.com/local/20210208/YUHDP2T15NHQLKEQR5EHYB6SKY/>

<sup>111</sup> Greenpeace (2020). The Outlaw FOC, <https://www.greenpeace.org/taiwan/press/17412/%E6%B3%95%E5%A4%96%E4%B9%8B%E8%88%B9%E6%AC%8A%E5%AE%9C%E8%88%B9-%E7%96%AB%E6%83%85%E6%9C%9F%E9%96%93%E5%A4%A7%E9%96%8B%E6%BC%8F%E6%B4%9E/>

<sup>112</sup> The Control Yuan (2020) Frequent Cases of Violence and Exploitation Happening on FOCs. Committees from the Control Yuan Initiating Investigation, [https://www.cy.gov.tw/News\\_Content.aspx?n=125&s=18251](https://www.cy.gov.tw/News_Content.aspx?n=125&s=18251)

<sup>113</sup> Taipei Times. (2020), <https://www.taipeitimes.com/News/taiwan/archives/2020/06/03/2003737539>