

**Comments Concerning the Ranking of Thailand
by the United States Department of State in the
2023 Trafficking in Persons Report**

**Submitted by Global Labor Justice - International Labor Rights Forum (GLJ-ILRF)
on behalf of the Seafood Working Group (SWG)**

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FOREWORD

The Seafood Working Group (SWG) has submitted *Comments Concerning the Ranking of Thailand by the U.S. Department of State in the Trafficking in Persons (TIP) Report* each year since 2014. These submissions are the product of a collaborative effort between civil society organizations based in Thailand and international organizations participating in the SWG, under the leadership of Global Labor Justice - International Labor Rights Forum (GLJ-ILRF).

The TIP Report has for years been a central tool in the persistent struggle to make Thailand a safer and more equitable space for migrant workers. Year after year, the TIP Report has led to tangible progress for reform of Thailand's policies and practices that contribute to human trafficking in the seafood industry. It has now been nearly nine years since Thailand's deeply exploitative seafood industry and its endemic dependence on human trafficking first came to light. However, despite constant pressure from civil society, the media, and processes such as the TIP mechanism, abuses continue, and many of the underlying problems persist.

Like its predecessors, the SWG's 2023 Comments on Thailand aim to provide the U.S. Department of State's Office to Monitor and Combat Trafficking in Persons (TIP Office) with current information on the human trafficking and forced labor situation in Thailand from the perspective of frontline organizations supporting Southeast Asian migrant workers laboring in a range of industries, particularly commercial fishing and seafood processing. The submission presents and analyzes information under the TIP Office's tier placement criteria and makes a recommendation for Thailand's tier ranking in the forthcoming TIP Report.

In particular, the SWG's Comments on Thailand focus on the government's efforts to prevent human trafficking and forced labor, which is naturally more effective than retroactive response. Once workers end up in a situation of exploitation, effective remedy involves lengthy and expensive court proceedings, as well as rehabilitation of workers. Ensuring workers' labor rights, particularly freedom of association and collective bargaining, is the most effective method for preempting and removing the conditions in which forced labor arises in the modern economy.

In Thailand, and other countries where GLJ-ILRF works, we find that while effective criminal justice mechanisms are important, the root causes of forced labor are discriminatory legal and policy frameworks and government failure to ensure the labor rights for vulnerable categories of workers. These are arguably the most critical areas of focus for successful prevention. This year's report highlights persistent issues impeding trafficking prevention, such as the legal ban on migrant workers' right to unionize; retaliatory lawsuits brought by employers and the government against workers and their advocates; an inadequate migration management scheme; and ineffective labor inspections.

Thailand is the main destination country for migrant workers from Myanmar, Cambodia, and Laos, who work in a range of service and export-oriented industries, including seafood processing, fishing, garments, construction, hotels, and domestic work. Thailand has long

struggled to effectively manage migration and combat human trafficking and forced labor of these vulnerable workers.

Affording migrant workers their internationally recognized rights to freedom of association and collective bargaining is necessary to address the power imbalances that drive labor exploitation. Governments and corporate actors have a responsibility to respect and protect these rights and have a strong interest in doing so if they seek to finally end forced labor in the seafood and other industries in Thailand.

It is of pivotal importance that the TIP mechanism continues to apply pressure on Thai policymakers and companies to take even bolder steps to eradicate human trafficking and forced labor from global supply chains. It is necessary that Thailand takes unprecedented steps to reform its legislative framework to address the persistent root causes of abuse within the seafood and other industries, including to provide trade union rights for migrants. Without a serious shift in the way that Thailand conceptualizes the residency and labor rights of migrants, we will see the same patterns of abuse repeat themselves year after year.

It is our hope that the SWG's 2023 Comments on Thailand will provide insight into the root causes of human trafficking and forced labor in the modern economy. We look forward to a 2023 TIP Report from the U.S. Department of State that gives adequate attention to labor rights as critical to preventing human trafficking.



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EXECUTIVE SUMMARY

The Seafood Working Group (SWG) recommends that Thailand be placed on the Tier 2 Watchlist in the U.S. Department of State's 2023 Trafficking in Persons (TIP) Report. The Government of Thailand has not met the minimum standards under the Trafficking Victims Protection Act (TVPA) because Thailand has not made "serious and sustained efforts" to eliminate severe forms of trafficking in persons, as demonstrated by its failure to meet the majority of the 12 indicia of "serious and sustained efforts." Thailand also has not provided evidence of increasing efforts to combat severe forms of trafficking in persons compared to the previous reporting period.

This submission by Global Labor Justice - International Labor Rights Forum (GLJ-ILRF) on behalf of the SWG illustrates the realities of the situation of labor abuse in Thailand's seafood and other industries in order to assess the Government of Thailand's actions to address the prevalence of forced labor, a severe form of trafficking, among migrant workers during the past year. The report is based on information collected from migrant workers and a dozen civil society organizations (CSOs) and international organizations (IOs) operating in Thailand, in addition to desk research analyzing recent government, United Nations (UN), and non-governmental organization (NGO) reports. Through discussion of key trends in the body of the report and presentation of 17 cases in the Annex, the submission highlights that promotion of labor rights in line with core labor standards is critical to Thailand's anti-trafficking efforts.

The Government of Thailand has not made "serious and sustained efforts" to address severe forms of trafficking—thereby failing to meet the minimum standards under the TVPA—in the following ways:

1. **Significant portion of trafficking survivors are non-Thai nationals.** A significant portion of survivors of forced labor in Thailand are migrant workers. Approximately 2.5 million documented migrant workers from Myanmar, Cambodia, Laos, and Vietnam—and an estimated four to five million migrant workers total—currently work in Thailand. One sector predominantly staffed by migrant workers is Thailand's seafood industry, which employs roughly a quarter million migrant workers in the commercial fishing and seafood processing industries. Despite legal and policy reforms enacted by the Government of Thailand since 2014, labor abuses and forced labor persist in Thailand's seafood industry, with fish and shrimp produced in Thailand again listed on the U.S. Department of Labor's List of Goods Produced by Child Labor or Forced Labor in 2022.
2. **Unfulfilled promise on union rights for migrant workers.** After acknowledging in 2022 the critical role of union rights in the prevention of human trafficking and promising to amend the Labour Relations Act, B.E. 2518 (1975) to grant migrant workers the right to form and lead unions, the Government of Thailand did not take the promised action during the reporting period—a major failure to act in light of its attested commitment to do so. Furthermore, the government has also not strengthened measures to prevent strategic lawsuits against public participation (SLAPP suits), instead permitting SLAPP suits against a migrant worker and several human rights defenders to remain ongoing in the Thai judicial system. Thailand's anti-SLAPP provisions in the amended Criminal

Procedure Code (No. 34), B.E. 2562 (2019) and the Public Prosecution Organ and Public Prosecutors Act, B.E. 2553 (2010) have yet to be successfully used to dismiss any SLAPP suits.

3. **Failed Thailand-Myanmar migration management.** Despite evidence of continued high migration flows into Thailand—and in particular, high rates of irregular migration—in light of the continued political and economic crisis in Myanmar and the labor shortage in Thailand resulting from the COVID-19 pandemic, the Government of Thailand has not coordinated with its neighboring countries to establish a long-term, comprehensive migration management policy that promotes fair and safe migration for decent work. Instead, significant barriers to accessing Thailand’s reopened Memorandum of Understanding (MoU) recruitment channel, alongside the government’s continued reliance on short-term cabinet resolutions, has created opportunities for unlicensed brokers to exploit migrant workers using fraudulent and coercive practices, particularly deception, debt bondage, the withholding of wages, and document retention.
4. **Persistently weak survivor identification processes.** Even though the government introduced a new National Referral Mechanism (NRM) to strengthen survivor identification and protection and new Standard Operating Procedures (SOPs) for initial survivor identification of labor trafficking and Section 6/1 offenses (i.e. forced labor and services) last spring, law enforcement officers continued to be ineffective in identifying potential survivors of forced labor, especially among the migrant worker population. Out of 543 survivors of trafficking identified in 2022, 88% were Thai, while only 8% were from Myanmar, Cambodia, or Laos. Weak survivor identification stems from the continued criminalization of undocumented migrant workers who face a high risk of extortion, arrest, detention, and deportation for immigration offenses. In 2022, 60,000 migrants, including up to 45,000 migrants fleeing Myanmar, were arrested by Thai authorities. Survivor identification also remains ineffective due to substandard labor inspections of fishing vessels, seafood processing factories, and other worksites.
5. **Inadequate regulation and accountability of unlicensed brokers and investigation and prosecution complicit officials.** The proliferation of the informal brokerage networks facilitating forced labor schemes has only been made possible due to the government’s lack of regulation of the licensing of brokers and the absence of vigorous investigation and prosecution of unlicensed brokers and complicit officials.
6. **Low prosecutions of forced labor without alternative remedies for workers.** Law enforcement officials in Thailand have not vigorously investigated and prosecuted cases of forced labor under Section 6/1 of the Anti-Human Trafficking Act. In 2022, officials only charged and prosecuted 35 “general forced labor” cases and three forced labor cases under Section 6/1. In addition, only one case of forced labor in the fishing sector was prosecuted, continuing a steady downward trend in the number of forced labor cases prosecuted in fisheries over the past five years. Instead, officials by and large treated potential forced labor cases as labor disputes that should be resolved through an informal mediation process, which pressures workers to settle for significantly less than

what they are owed while favoring employers who usually face no penalties for their criminal offenses.

7. **Lack of progress in addressing trafficking in persons.** The government has not achieved appreciable progress in eliminating severe forms of trafficking in persons when compared to the assessment in the previous year in that it has not tackled the systemic issues that underlie the weakness of Thailand's prevention, protection, and prosecution efforts.

In addition, Thailand meets the criteria for Tier 2 Watchlist, as opposed to Tier 2, because the estimated number of survivors of severe forms of trafficking is very significant, especially among the migrant worker community. However, the Government of Thailand has not taken proportional concrete actions and instead has taken actions that increase migrant workers' risk of forced labor. The government has also not provided sufficient evidence of increasing efforts to combat severe forms of trafficking in persons compared to the previous year, continuing to not effectively address the underlying drivers of forced labor highlighted in the SWG's 2022 Comments on Thailand, nor to adequately adopt the majority of the TIP Office's Prioritized Recommendations from the 2022 TIP Report.

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I. INTRODUCTION

On behalf of the Seafood Working Group (SWG), Global Labor Justice - International Labor Rights Forum (GLJ-ILRF) makes the following submission to the U.S. Department of State's Office to Monitor and Combat Trafficking in Persons (TIP Office) for its 2023 Trafficking in Persons (TIP) Report on Thailand.¹ Based on our consultations with migrant workers and civil society organizations (CSOs) and international organizations (IOs) who work to realize migrant workers' rights in Thailand, we provide evidence that during this reporting period, April 1, 2022–March 31, 2023, the Government of Thailand has not met the Trafficking Victims Protection Act (TVPA) minimum standards for the elimination of trafficking, nor has it provided evidence of increased efforts to combat severe forms of trafficking in persons compared to the previous reporting period, in a context of a significant estimated number of migrant workers in situations of forced labor.

The SWG recommends that Thailand be placed on the Tier 2 Watchlist in 2023. In the previous year, Thailand was upgraded from Tier 2 Watchlist to Tier 2, against the recommendation of the SWG and despite the continued prevalence of forced labor in Thailand's seafood industry. The evidence summarized in this submission, including 17 illustrative potential cases of forced labor, demonstrates that Thailand meets the criteria for placement on the Tier 2 Watchlist in the 2023 TIP Report.

The SWG and GLJ-ILRF have significant experience and expertise regarding the problem of forced labor—a “severe form of trafficking” under the TVPA—among the migrant worker population in Thailand.² Founded in 2014, the SWG is a global coalition of more than 30 labor, human rights, and environmental organizations collaborating to develop and advocate for effective government policies and industry actions to end forced labor in the international seafood trade.³ GLJ-ILRF has submitted *Comments Concerning the Ranking of Thailand by the U.S. Department of State in the Trafficking in Persons (TIP) Report* (hereinafter called “SWG Comments on Thailand”) on behalf of the SWG since 2014. GLJ-ILRF is a merged organization that brings strategic capacity to cross-sectoral work on global value chains and labor migration corridors; holds global corporations accountable for labor rights violations in their supply chains; advances laws and policies that protect decent work and just migration; and strengthens freedom of association, new forms of bargaining, and worker organizations.⁴

This coalition is making this submission on Thailand's efforts to combat severe forms of trafficking in persons so that the TIP Office may take into account evidence of Thailand meeting the Tier 2 Watchlist criteria, especially in consideration of the migrant worker population. Migrant

¹ This submission was originally made to the TIP Office on March 13, 2023, and published on June 5, 2023. Parts of the report have been edited for clarity or updated to reflect current events between the original filing of the submission and its publication.

² Definition of “severe form of trafficking”: “the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”

³ For more information, see GLJ-ILRF, *Seafood Working Group*, https://laborrights.org/industries/seafood?qt-quicktabs_seafood=3#qt-quicktabs_seafood.

⁴ For more information, visit <https://laborrights.org/> and <https://globallaborjustice.org/>.

workers are commonly trafficked into forced labor in Thailand and face significant violations of their right to freedom of association; right against discrimination, including on the basis of nationality or migration status; and right to a safe and healthy working environment—which are among the five International Labour Organization (ILO) fundamental principles and rights at work.⁵ The SWG thus addresses the issue of forced labor as one of fundamental labor rights as laid out by the ILO, in recognition that the right to not be subjected to forced labor is deeply intertwined with the other fundamental rights. The exploitative working conditions endured by migrant workers—many of which fall under the ILO’s 11 indicators of forced labor⁶—are preventable by building the worker power of migrants and upholding the ILO fundamental labor rights.

This submission provides the TIP Office direct information from migrant workers and migrant workers’ organizations about Thailand’s efforts to combat trafficking in persons during this reporting period. It presents key trends and 17 cases showcasing indicators of forced labor—mostly from April 1, 2022–March 31, 2023, but also from before this time period where relevant.⁷ While focusing on the seafood industry, the comments also discuss key trends and cases from other industries, such as construction, manufacturing, and services. In addition to expert analysis of government, United Nations (UN), and non-governmental organization (NGO) reports, this submission provides input from 17 consultations held between December 2022–February 2023. This includes two focus group discussions with CSOs; 13 interviews with seven CSOs and six key informants from five IOs based in Thailand; and two interviews with two worker leaders in the fishing sector and two seafood processing factory workers. For confidentiality purposes, the sources have been redacted and named CSO #1–7 and IO #1–5.

A. Thailand meets the TIP standard for placement on the Tier 2 Watchlist.

The TIP Office determines tier rankings in the annual TIP Report according to public criteria. Most relevant to this submission, countries whose governments do not fully meet the TVPA’s minimum standards—including making “serious and sustained efforts” to eliminate severe forms of trafficking in persons—but are making significant efforts to bring themselves into compliance with those standards are ranked Tier 2. Governments that either fail to take proportionate actions given a significant or increasing number of cases of severe forms of trafficking or that

⁵ The ILO *Declaration on Fundamental Principles and Rights at Work* includes the freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labor; the effective abolition of child labor; the elimination of discrimination in respect of employment and occupation; and a safe and healthy working environment. ILO, *ILO Declaration on Fundamental Principles and Rights at Work* (2022), <https://www.ilo.org/declaration/lang--en/index.htm>. See also ILO, *Fundamental principles and rights at work: From commitment to action* (2012) https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_176149.pdf.

⁶ These include the abuse of vulnerability; deception; restriction of movement; isolation; physical and sexual violence; intimidation and threats; retention of identity documents; withholding of wages; debt bondage; abusive working and living conditions; and excessive overtime.

⁷ Three of the cases in the Annex were filed in March 2022, but are included in this submission, as they were not featured in the SWG’s 2022 Comments on Thailand and are relevant in illustrating the key trends from this reporting period.

fail to provide evidence of increasing efforts to combat severe forms of trafficking from the previous reporting period warrant placement on the Tier 2 Watchlist.

As the TIP Office acknowledged in 2022, in the previous reporting period, Thailand “did not meet the minimum standards in several key areas.” In particular, the 2022 TIP Report mentioned that Thailand engaged in “inconsistent and ineffective interviewing practices during labor inspections,” “officials often lacked an understanding of indicators of labor trafficking,” “Thai authorities have never reported identifying a survivor of labor trafficking as a result of fishing vessel inspections conducted at ports,” and “corruption and official complicity continued to impede anti-trafficking efforts.” In this reporting period, Thailand has continued to fall below the minimum standards, failing to meet the majority of the 12 indicia of “serious and sustained efforts” to eliminate severe forms of trafficking in persons.⁸ In particular:

1. A significant portion of the survivors of severe forms of trafficking in the country are not Thai nationals. (Indicium 8)
2. The government has not adopted key measures to prevent forced labor by granting union rights to migrant workers and strengthening anti-SLAPP measures. (Indicium 3)
3. The government’s lack of effective coordination with the Government of Myanmar in the face of high migration flows between the two countries has led to the proliferation of informal brokerage networks, which facilitate forced labor schemes that are not met with vigorous investigation and prosecution or protection of survivors. (Indicia 4 and 6)
4. Law enforcement continues to be ineffective in identifying potential survivors of forced labor due to ineffective implementation of the new National Referral Mechanism (NRM) and Standard Operating Procedures (SOPs) for initial survivor identification of labor trafficking and Section 6/1 offenses (i.e. forced labor and services), the criminalization of migrants, and a lack of robust labor inspections. (Indicium 2)
5. Government officials have not vigorously investigated, prosecuted, and convicted cases of forced labor under Section 6/1 of the Anti-Human Trafficking Act, instead preferring an informal mediation process that disadvantages workers. (Indicium 1)
6. The government has not proven to vigorously investigate, prosecute, convict, and sentence public officials who participate in or facilitate severe forms of trafficking in persons. (Indicium 7)
7. The government has not achieved appreciable progress in eliminating severe forms of trafficking when compared to the assessment in the previous year. (Indicium 11)

The Government of Thailand also specifically meets the criteria for Tier 2 Watchlist placement, as opposed to Tier 2. The TIP Office places countries on the Tier 2 Watchlist that are making “significant efforts to bring themselves into compliance with those standards,” but where either

⁸ Indicium 11 does not pertain to the issue of forced labor, which is the focus of this report. In addition, the interviewees did not discuss the topics addressed by Indicium 5, Indicium 9, or Indicium 10.

one of two criteria are met: either “the estimated number of survivors of severe forms of trafficking is very significant or is significantly increasing and the country is not taking proportional concrete actions” or “there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year.”⁹ In this reporting period, with regard to the trafficking of migrant workers into forced labor, the Government of Thailand has not taken proportional concrete actions to respond to the significant number of survivors of severe forms of trafficking among the migrant worker population, instead enacting laws and policies that increase migrant workers’ vulnerability to forced labor and not improving their anti-trafficking efforts in important ways. Furthermore, the government has not increased its efforts to combat severe forms of trafficking compared to the previous reporting period. This is demonstrated by the government’s limited efforts to address the same underlying drivers of forced labor that were highlighted in the SWG’s 2022 Comments on Thailand, as well as by the government’s failure to adopt the majority of the TIP Office’s Prioritized Recommendations outlined in the 2022 TIP Report.

B. The TIP Office should make remaining on Tier 2 conditional on implementing several priority recommendations.

In order for Thailand to remain at Tier 2 ranking, the SWG recommends that the Government of Thailand undertake the following reforms, taking concrete steps to do so by June 2023.¹⁰ A complete list of recommendations and more details about each of these priority recommendations can be found in Part IV of this submission.

1. **Freedom of association for migrant workers.** The government should fulfill its promise from 2022 to amend the Labour Relations Act, B.E. 2518 (1975) to allow all workers, including migrant workers, the right to form and lead labor unions.¹¹ The government should also ratify the ILO Conventions on the Freedom of Association and Protection of the Right to Organize, 1948 (C87) and the Right to Organize and Collective Bargaining, 1949 (C98).
2. **Long-term migration policy for decent work and regulation of unlicensed brokers.** The government should work with civil society to establish a long-term, comprehensive labor migration management policy for migrant workers from neighboring Southeast Asian countries that promotes fair and safe migration for decent work and eliminates recruitment fees and related costs, in line with international standards and in coordination with sending countries. In the meantime, the government should more strictly regulate and hold accountable unlicensed brokers, alongside investigating and

⁹ This includes, but is not limited to, “increased investigations, prosecutions, and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials.”

¹⁰ See *supra* note 1.

¹¹ Royal Thai Government, นายกฯ ขอขอบคุณทุกฝ่ายร่วมแก้ปัญหาค้ามนุษย์ กางแผนระยะต่อไป มุ่งเป้า “เที่ยวร์1” (Aug. 10, 2022),

<https://www.thaigov.go.th/news/contents/details/57848?fbclid=IwAR3qh09CXnuN-BXxSg5842br6UvbhISAsDXyxkbaCJyNvGuDIR6i3PxQZeY>.

prosecuting any complicit government officials who take advantage of the current short-term migration management policies to exploit, migrant workers.

3. **Improved rollout of the new NRM and SOPs at the local level through officer training and accountability.** The government should strengthen implementation of new policies intended to strengthen survivor identification, including the new NRM and SOPs for initial survivor identification of labor trafficking and Section 6/1 offenses, by investing in the capacity building of officers at the local level and holding them accountable. Officer training should focus on less understood indicators of forced labor, such as debt bondage, withholding of wages, and document retention.
4. **Survivor-focused and trauma-informed responses to survivors including non-punishment of survivors.** The government should follow the UN guidelines on the non-punishment of survivors of human trafficking by not arresting, detaining, and deporting potential survivors for immigration offenses,¹² among other measures to treat survivors in a survivor-focused and trauma-informed manner.
5. **Strengthened labor inspections.** The Ministry of Labour (MOL) should establish regular, rigorous labor inspections, during which inspectors should engage directly with workers in a meaningful way, particularly in high-risk workplaces dominated by migrant workers. Worker organizations and CSOs should be involved in the inspection process.

¹² Inter-Agency Coordination Group against Trafficking in Persons (ICAT), *Issue Brief: Non-Punishment of Victims of Trafficking* (August 2020), https://www.unodc.org/documents/human-trafficking/ICAT/19-10800_ICAT_Issue_Brief_8_Ebook.pdf.

II. THAILAND DOES NOT MEET THE TVPA MINIMUM STANDARDS.

Thailand does not meet the fourth criterion of the TVPA minimum standards because it is not making “serious and sustained efforts” to combat severe forms of trafficking. The government has not met at least two-thirds of the 12 indicia of “serious and sustained efforts” during this reporting period. Eight of the indicia will be discussed in detail in the seven sub-sections below.¹³

A. Thailand does not meet Indicium 8 because a significant portion of the survivors of severe forms of trafficking in the country are migrant workers, not Thai nationals.

Indicium 8 for failure to take “serious and sustained efforts” to address severe forms of trafficking is “[w]hether the percentage of victims of severe forms of trafficking in the country that are non-citizens of such countries is insignificant.”¹⁴

Migrant workers in Thailand represent a significant and growing number of people working under conditions of forced labor in Thailand, including in the seafood industry. Migrant workers are critical to Thailand’s economy. Approximately 2.5 million documented migrant workers from Myanmar, Cambodia, Laos, and Vietnam—and an estimated four to five million migrant workers total—currently work in Thailand, comprising more than 10% of Thailand’s workforce.¹⁵ According to a 2017 report by the ILO and the Organisation for Economic Co-operation and Development (OECD) based on data from the 2010 population census, documented migrant workers alone contributed about 4.3–6.6% of Thailand’s Gross Domestic Product (GDP).¹⁶ Key sectors employing migrant workers include fishing, agriculture, construction, manufacturing, domestic work, and other services.¹⁷

As has been well documented, migrant workers in Thailand face significant structural discrimination. Migrant workers do not have the right to form unions or to serve in recognized leadership positions within unions under the Labour Relations Act (1975).¹⁸ Thailand has not ratified either ILO C87 or C98, which guarantee the rights to freedom of association and

¹³ See *supra* note 8.

¹⁴ Office to Monitor and Combat Trafficking in Persons (TIP Office), *2022 Trafficking in Persons (TIP) Report* (July 2022), <https://www.state.gov/reports/2022-trafficking-in-persons-report/>.

¹⁵ As of March 2023, there are 2,494,308 documented migrant workers in Thailand, including 1,881,575 from Myanmar, 410,065 from Cambodia, 200,296 from Laos, and 2,372 from Vietnam. Thailand’s labor force totals 38.7 million. ILO, *TRIANGLE in ASEAN Quarterly Briefing Note: Thailand (January–March 2023)*, https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_735108.pdf, citing Office of Foreign Workers Administration, Department of Employment, Ministry of Labour, Thailand (March 2023).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ See Kimberly Rogovin, *Time for a Sea Change: Why union rights for migrant workers are needed to prevent forced labor in the Thai seafood industry*, ILRF (March 19, 2020), <https://laborrights.org/publications/time-sea-change-why-union-rights-migrant-workers-are-needed-prevent-forced-labor-thai>.

collective bargaining without discrimination. Migrant workers in Thailand face discrimination on the basis of their migration status as well.¹⁹

The ILO estimates that Thailand's seafood industry employs up to 600,000 workers, of whom more than 250,000 are migrants.²⁰ To break this down by sector, about 90% of Thailand's fishing workforce, or approximately 60,000 fishers, are migrants from Myanmar and Cambodia;²¹ and about two-thirds (200,000) of the 300,000 workers in seafood processing are migrants from Myanmar, Cambodia, Laos, and Vietnam.²² The seafood industry is lucrative. In 2021, Thailand exported 1.6 million tons of seafood products valued at \$5.7 billion USD.²³ In particular, Thailand is the world's largest exporter of frozen shrimp and canned tuna,²⁴ which involves both the fishing and processing sectors.

An ILO survey conducted in 2019 found that 14% of fishers and 7% of seafood processing workers surveyed were in situations of forced labor.²⁵ While this study cannot be extrapolated to the entire fishing and seafood processing sectors in Thailand because of its methodology, the statistic provides a basis for understanding the scale of the issue of forced labor among migrant workers in Thailand. With about 60,000 migrant fishers and 250,000 migrant seafood processing workers in Thailand, it is reasonable to assume that at least several thousand migrants are likely facing severe forms of trafficking in the seafood industry.²⁶ As noted by the TVPA minimum standards themselves, which pay particular attention to migration status and management, migrant workers being unable to exercise power when their rights are limited or violated can lead to situations of forced labor.

Accordingly, the U.S. Government, as well as Thai workers' rights advocates and global allies, recognize that many migrant workers in Thailand are in situations of forced labor. The U.S. Department of Labor (DOL), for example, included fish and shrimp produced in Thailand on its

¹⁹ 76% of Thais surveyed said migrant workers should not have any rights at work if in irregular status. See e.g., ILO and UN Women Regional Office for Asia and the Pacific, *Research brief: Public attitudes towards migrant workers in Thailand* (June 2021), https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms_766634.pdf.

²⁰ Ship to Shore Rights Southeast Asia Programme, "Thai seafood processing industry agrees new steps to improve working conditions" (June 16, 2022), ILO, https://www.ilo.org/asia/media-centre/news/WCMS_848205/lang--en/index.htm.

²¹ ILO, *Ship to Shore Rights: Less Is More* (2019), <https://winrock.org/wp-content/uploads/2020/05/Migration-in-thailands-fishing-sector.pdf>.

²² ILO, *Endline research findings on fishers and seafood workers in Thailand* (2020), https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_738042.pdf.

²³ Ship to Shore Rights Southeast Asia Programme, "Thai seafood processing industry agrees new steps to improve working conditions."

²⁴ International Trade Administration, "Thailand - Country Commercial Guide" (last updated July 25, 2022), <https://www.trade.gov/country-commercial-guides/thailand-agriculture>.

²⁵ ILO, *Endline research findings on fishers and seafood workers in Thailand*.

²⁶ *Id.*

2022 List of Goods Produced by Child Labor or Forced Labor.²⁷ Forced labor in the seafood industry has also featured prominently in the TIP Report on Thailand in recent years.

Discussions with CSOs and workers' rights leaders provide 17 cases illustrating forced labor conditions experienced by migrant workers this reporting period, including 12 cases pertaining to the seafood industry. *See Annex.* In these cases, the Government of Thailand did not prosecute the cases as forced labor, protect the workers, or prevent the cases from occurring in the first place. The cases feature examples of all 11 of the ILO's indicators of forced labor,²⁸ consistent with well-established records of widespread and systematic involuntary work and coercion.²⁹ This is generally through the recruiting and obtaining of migrant workers through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.³⁰

B. Thailand does not meet Indicum 3 because the government has not adopted key measures to prevent the use of forced labor in violation of international standards, including the granting of union rights to migrant workers and the end to SLAPP suits.

The Government of Thailand has not adopted adequate measures to prevent the use of forced migrant labor in the country. Indicum 3 examines “[w]hether the government of the country has adopted measures to prevent severe forms of trafficking in persons ...”³¹ The SWG's 2022 Comments on Thailand highlighted two key issues regarding the prevention of severe forms of trafficking: the lack of union rights for migrant workers in Thailand and the lack of protections for workers and their advocates from SLAPP suits filed by companies or the government. The discussion below provides updates from the reporting period on those issues.

1. The Government has not fulfilled its promise to grant union rights to migrant workers, thereby stifling migrant workers' ability to improve conditions in the workplace and speak out against labor abuses – putting them at higher risk of forced labor.

The Government of Thailand failed to amend the Labour Relations Act (1975) before the dissolution of the Thai Parliament in March 2023³² to permit migrant workers to form and lead trade unions. On August 10, 2022, Ms. Ratchada Thanadirek, Deputy Spokesperson for the Prime Minister's Office, announced that as part of its anti-trafficking plan, the Government of

²⁷ Bureau of International Labor Affairs, “List of Goods Produced by Child Labor or Forced Labor” (last accessed March 1, 2023), U.S. Department of Labor, <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

²⁸ We refer to the ILO indicators of forced labor in the case studies as a shorthand for identifying forced labor, although they may not be appropriate for use in all cases, and overlap with other violations of international labor law and standards.

²⁹ See e.g., ILO, *Endline research findings on fishers and seafood workers in Thailand*.

³⁰ Trafficking Victims Protection Act (TVPA) of 2000.

³¹ TIP Office, *2022 TIP Report*.

³² AP News, “Thailand's PM suggests he will dissolve Parliament in March” (Feb. 21, 2023), <https://apnews.com/article/politics-thailand-government-prayuth-chan-ocha-bfa4430b66dd02355c61a317e983fceb>.

Thailand would develop laws to grant migrant workers the right to establish labor unions.³³ The government’s promise was in recognition of the undeniable link between union rights and the prevention of human trafficking.³⁴ Granting workers their fundamental rights to freedom of association and collective bargaining helps address power imbalances in the workplace, allowing workers to speak out against exploitative practices and to prevent or remediate cases of forced labor.³⁵ Unsurprisingly, industries with strong trade union representation have reported lower levels of labor abuse, child labor, forced labor, and human trafficking.³⁶ However, the government has not amended the Labour Relations Act (1975)³⁷ and has not otherwise met its commitment under its anti-trafficking plan. As a result, migrant workers in sectors like fishing that rely predominantly on migrant labor are still left without legal representation through unions at work.³⁸

This continued failure to grant union rights for migrant workers follows a pattern of unfulfilled promises to reform the law and ratify the convention over the years.³⁹ Thailand has still taken no steps to ratify ILO C87 or C98, which guarantee all workers the right to organize and collectively bargain. Now, advocates will need to wait for the formation of a new government in May 2023 before they can again push for the law to be amended.⁴⁰

The Government of Thailand’s failure to act is attributed to a lack of political will to amend its labor laws to eliminate discrimination against migrant workers.⁴¹ One CSO explained that the amendment failed to pass because of opposition from lawmakers who saw the proposed amendment as a threat to Thailand’s national security or economy, as well as strong opposition from both industry and some unions representing Thai workers.⁴²

³³ Rachel Cohen, “GLJ-ILRF Calls for Thailand to Enshrine Labor Rights For Migrants in the Law” (Sept. 15, 2022), GLJ-ILRF, <https://laborrights.org/releases/glj-ilrf-calls-thailand-enshrine-labor-rights-migrants-law>. See also Royal Thai Government, นายกษ ขอบคุณทุกฝ่ายร่วมแก้ปัญหาค้ามนุษย์ ทางแผนระยะต่อไป มุ่งเป้า “เที่ยวร์”.

³⁴ See Rogovin, *Time for a Sea Change*; see also E Marks & A Olsen, ‘The Role of Trade Unions in Reducing Migrant Workers’ Vulnerability to Forced Labour and Human Trafficking in the Greater Mekong Subregion’, *Anti-Trafficking Review*, issue 5, 2015, pp. 111–128.

³⁵ See Rogovin, *Time for a Sea Change*.

³⁶ *Id.*

³⁷ AP News, “Thailand’s PM suggests he will dissolve Parliament in March” (Feb. 21, 2023), <https://apnews.com/article/politics-thailand-government-prayuth-chan-ochabfa4430b66dd02355c61a317e983fceb>.

³⁸ Interview with CSO #1 (Dec. 1, 2022).

³⁹ For example, the government announced a commitment to amend the Labor Relations Act as a foundation for the ratification of C98 in 2018, but failed to do so. GLJ-ILRF, *Comments Concerning the Ranking of Thailand by the United States Department of State in the 2020 Trafficking in Persons Report* (March 10, 2020), https://laborrights.org/sites/default/files/publications/SWG_TIP_Comments_2020_Thailand_Public_Version_1.pdf.

⁴⁰ Interview with CSO #6 (Dec. 19, 2022).

⁴¹ Interview with IO #2 (Dec. 6, 2022).

⁴² Interview with CSO #7 (Feb. 27, 2023).

Furthermore, the Government of Thailand additionally restricted workers' freedom of association and collective bargaining rights as part of its COVID-19 response, including through the reporting period. Under the Emergency Decree, which was effective from March 26, 2020 until September 30, 2022, the government repeatedly issued bans on public gatherings, even as late as August 2022, which led to the "intimidation, harassment and prosecution of... individuals solely for peacefully exercising their rights to freedom of expression, information, peaceful assembly, movement, and public participation."⁴³ More than 1,500 human rights and democracy activists were prosecuted.⁴⁴ The government also prohibited worker strikes from May 2020 until October 4, 2022,⁴⁵ even though the right to strike is accepted as customary international law. These restrictions served to further limit workers' ability to assemble and speak up for their rights.

2. The Government of Thailand continues to inadequately protect workers and their advocates who speak out against labor abuses from SLAPP suits.

In its 2022 TIP Report, the TIP Office made the following Prioritized Recommendation to the Government of Thailand: "Foster an environment conducive to survivors and advocates reporting human trafficking crimes without fear of facing spurious retributive charges pursued by employers, including by utilizing recent legal amendments to dismiss cases filed with dishonest intent or to intimidate defendants." This recommendation was referring to strategic lawsuits against public participation (SLAPP suits) that the government uses to silence critics of companies that have been shown to use forced labor or otherwise abuse workers.⁴⁶ According to the Business & Human Rights Resource Centre (BHRRC), Thailand is the most dangerous country in the world when it comes to SLAPP suits.⁴⁷ The TIP Office's recommendations align with those of the UN Special Rapporteur on the situation of human rights defenders who has highlighted the need for effective anti-SLAPP measures.⁴⁸

The Government of Thailand has not implemented the recommendation of the TIP Office in 2022 to take active measures to prevent SLAPP suits against trafficking survivors and their advocates. International human rights NGOs like Human Rights Watch and the International Commission of Jurists have identified that Thailand has not taken adequate measures to

⁴³ Amnesty International, "Thailand: Thai officials must drop all the ongoing prosecutions under the Emergency Decree" (Nov. 8, 2022), <https://www.amnesty.org/en/documents/asa39/6190/2022/en/>.

⁴⁴ Human Rights Watch, "Thailand: Rights Repressed" (Jan. 12, 2023), <https://www.hrw.org/news/2023/01/12/thailand-rights-repressed>.

⁴⁵ Tilleke & Gibbins, "Thailand Lifts Prohibition on Lockouts and Strikes" (Oct. 7, 2022), <https://www.tilleke.com/insights/thailand-lifts-prohibition-on-lockouts-and-strikes/>.

⁴⁶ Human Rights Watch, *World Report 2023: Thailand*, <https://www.hrw.org/world-report/2023/country-chapters/thailand>; Freedom United, "Field report: Drop the charges against Andy Hall now" (last accessed Jan. 13, 2023), <https://www.freedomunited.org/our-impact/drop-the-charges-against-andy-hall-now/>.

⁴⁷ Lady Nancy Zuluaga and Christen Dobson, *SLAPPED but not silenced: Defending human rights in the face of legal risks* (June 2021), Business & Human Rights Resource Centre, p. 11, https://media.business-humanrights.org/media/documents/2021_SLAPPs_Briefing_EN_v51.pdf.

⁴⁸ *Id.*

address SLAPP suits in the reporting period.⁴⁹ In December 2022, the UN Working Group on Business and Human Rights thus urged the Government of Thailand to take action to stop companies from filing SLAPP suits.⁵⁰

Thailand's anti-SLAPP legislation, which includes Articles 161/1 and 165/2 of the Criminal Procedure Code (No. 34), B.E. 2562 (2019) and Article 21 of the Public Prosecution Organ and Public Prosecutors Act, B.E. 2553 (2010), remains inadequate—the provisions have notably never been successfully used to dismiss any SLAPP suits.⁵¹

Furthermore, the Government of Thailand has not only failed to protect workers and their advocates from SLAPP suits, but has initiated SLAPP suits itself to silence human rights defenders.⁵² According to Thai Lawyers for Human Rights, from July 18, 2020 to November 30, 2022, 1,886 human rights defenders were prosecuted under the Emergency Decree implemented during the COVID-19 pandemic.⁵³ One such example is that of Ms. Thanaporn Wichan, a woman human rights defender and labor union leader.⁵⁴ Ms. Wichan had been sued by the MOL after she submitted a letter on October 29, 2021, demanding the protection of migrant workers' rights during the pandemic. On November 7, 2022, the Bangkok North Municipal Court ruled that Ms. Wichan was guilty of violating the Emergency Decree and sentenced her to one month in prison, plus a fine of 20,000 baht (\$571).⁵⁵ Ms. Wichan plans to appeal the verdict.⁵⁶

A high-profile example of SLAPP suits in Thailand this reporting period are those filed by poultry processor Thammakaset. Since 2016, Thammakaset has filed 39 criminal and civil cases against 23 defendants, including workers, human rights and labor rights defenders, and journalists.⁵⁷ Several of these cases have been ongoing during the reporting period:

⁴⁹ Human Rights Watch, *World Report 2023: Thailand*. See also International Commission of Jurists (ICJ), "Thailand: Abusive lawsuits targeting journalists (SLAPPs) must be curtailed" (March 18, 2022), <https://www.icj.org/thailand-abusive-lawsuits-targeting-journalists-slapps-must-be-curtailed/>.

⁵⁰ Office of the High Commissioner for Human Rights (OHCHR), "UN experts concerned by systematic use of SLAPP cases against human rights defenders by businesses" (Dec. 16, 2022), <https://www.ohchr.org/en/press-releases/2022/12/un-experts-concerned-systematic-use-slapp-cases-against-human-rights>.

⁵¹ ICJ, "Thailand: Abusive lawsuits targeting journalists (SLAPPs) must be curtailed."

⁵² See GLJ-ILRF, *Comments Concerning the Ranking of Thailand by the United States Department of State in the 2022 Trafficking in Persons Report* (April 7, 2022), pp. 31–32, https://laborrights.org/sites/default/files/publications/SWG%20Thailand%20TIP%20Report%202021%20Submission_SWG%20Publication_final.pdf.

⁵³ Thai Lawyers for Human Rights, "November 2022: at least 1,886 people were politically prosecuted in 1,159 cases" (Dec. 14, 2022), <https://tlhr2014.com/en/archives/51466>.

⁵⁴ GLJ-ILRF, *Comments Concerning the Ranking of Thailand by the United States Department of State in the 2022 TIP Report*.

⁵⁵ 1 USD = 35 THB.

⁵⁶ Prachatai, "The court ordered one-month's imprisonment to a labour leader on violation of the Emergency Decree, after leading migrant workers to re-demand the measures of COVID-19 remedy" (Nov. 7, 2022).

⁵⁷ FIDH, "Thailand: Thammakaset watch" (last updated March 28, 2023), <https://www.fidh.org/en/issues/human-rights-defenders/thailand-thammakaset-watch#ancre1>.

- Mr. Nan Win, one of 14 migrant workers against whom Thammakaset filed suit, and Ms. Sutharee Wannasiri, former Human Rights Specialist at Fortify Rights, were acquitted of charges on March 20, 2022—but in July 2022, Thammakaset filed a motion to appeal the appellate court’s acquittal verdict. The case is now pending before the Supreme Court.⁵⁸
- In cases against Ms. Puttanee Kangkun, Senior Human Rights Specialist with Fortify Rights; Ms. Thanaporn Saleephol, former Communications Associate at Fortify Rights; and Ms. Angkhana Neelaphajit, former member of the National Human Rights Commission of Thailand (NHRCT), the first hearing for trial took place on December 19, 2022. The examination hearings of the three defendants were held at the Bangkok South Criminal Court on March 22–23, 2023, and the next hearings for the continuation of the examination of the defendants’ witnesses are scheduled for May 23–24, 2023.⁵⁹

C. Thailand does not meet Indicia 4 and 6 because of the lack of effective coordination with the Government of Myanmar to manage migration flows between the two countries, which has led to increased usage of informal brokerage networks, who are contributing to forced labor risks in ways the Government of Thailand has not adequately addressed.

Indicium 4 considers “[w]hether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons and has entered into bilateral, multilateral or regional law enforcement cooperation and coordination arrangements with other countries.” Meanwhile, Indicium 6 considers “[w]hether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of the country respond to any such evidence in a manner consistent with the vigorous investigation and prosecution of acts of such trafficking as well as the protection of human rights of victims and the internationally recognized human right to leave any country, including one’s own, and to return to one’s own country.”⁶⁰

Even after reopening its Memorandum of Understanding (MoU) on labor migration with the Government of Myanmar, the Government of Thailand has not taken effective steps to prevent the forced labor of migrants traveling between the two countries. In particular, Thailand has not prevented brokers from engaging in deceptive practices during recruitment, which is especially important given high rates of migration from Myanmar to Thailand during this reporting period—an issue discussed in previous submissions by the SWG to the TIP Office.⁶¹

The Government of Thailand has further contributed to the problem through its short-term migrant worker amnesty programs. On July 5, 2022, the government issued a cabinet resolution

⁵⁸ *Thammakaset Co. Ltd. v Nan Win and Sutharee Wannasiri*, Supreme Court’s Petition, Black Case No. Aor 3011/2561. Red Case No. Aor 1128/2563. 27 July 2022.

⁵⁹ FIDH, “Thailand: Thammakaset watch”; see also HRW, “Thailand: Drop Charges Against Rights Defenders” (March 16, 2023), <https://www.hrw.org/news/2023/03/16/thailand-drop-charges-against-rights-defenders>.

⁶⁰ TIP Office, 2022 *TIP Report*.

⁶¹ See GLJ-ILRF, *Comments Concerning the Ranking of Thailand in the 2022 TIP Report*, pp. 22–25.

permitting 1.6 million migrant workers from Cambodia, Laos, and Myanmar whose statuses were set to expire on February 13, 2023, to work in Thailand an additional two years until February 13, 2025. The policy also permitted migrant workers without documentation from these three countries, plus Vietnam, to register between August 1–15, 2022, with the help of their employer.⁶² The government followed suit by issuing another cabinet resolution on February 13, 2023, which extended the registration deadline to May 15, 2023.⁶³ These cabinet resolutions are the latest additions to a series of short-term amnesty programs issued since 1992 that aim to regularize the status of migrant workers without documentation.⁶⁴ Recent examples of cabinet resolutions include the cabinet resolution of July 13, 2021 (which covered four groups of workers of three earlier cabinet resolutions dated November 10, 2020, August 4, 2020, and August 20, 2019); the cabinet resolution of September 28, 2021; and the cabinet resolution of December 29, 2020.⁶⁵

The requirements of both the formal MoU recruitment scheme and short-term amnesty programs have posed significant barriers for migrant workers, which helps explain the large gap between the number of documented and undocumented migrant workers in Thailand. According to the IOM, about 1–2.5 million out of the estimated 4–5 million migrant workers in Thailand hold irregular status because “[h]igh costs, long waiting times and bureaucratic red-tape discourage many from entering to work in Thailand through legal routes.”⁶⁶ Thus, irregular migration continues to be the norm in Thailand.⁶⁷ Even with the re-opening of the Myanmar-Thai border at Mae Sot and Myawaddy in January 2023, irregular migration with the help of brokers was prevalent from January through March 2023.⁶⁸ Critically, the situation has worsened during the reporting period due to the continued political and economic instability in Myanmar following the military coup in February 2021 and employers’ need to fill the labor shortage in Thailand after the COVID-19 pandemic.⁶⁹ About 2,000 migrants crossed the border into Thailand per day in 2022, compared to only 100 per day in 2020.⁷⁰

Meanwhile, there has been a noticeable rise in the number of brokers in Thailand and Myanmar in 2022, according to one CSO.⁷¹ The informal brokerage network between Myanmar and

⁶² Ministry of Labour, “Labour Minister Reports Results of Policies on Managing Foreign Workers to Support the Country’s Revival After COVID-19” (Sept. 15, 2022), <https://www.mol.go.th/en/news/labour-minister-reports-results-of-policies-on-managing-foreign-workers-to-support-the-countrys-revival-after-covid-19>.

⁶³ ILO, *TRIANGLE in ASEAN Quarterly Briefing Note: Thailand (January–March 2023)*.

⁶⁴ Pracha Vasuprasat, *Agenda for labour migration policy in Thailand: Towards long-term competitiveness* (2010), ILO Regional Office for Asia and the Pacific, https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_145130.pdf.

⁶⁵ ILO, *TRIANGLE in ASEAN Quarterly Briefing Note: Thailand (October–December 2022)*.

⁶⁶ IOM, *Migration Context: Thailand* (accessed Feb. 17, 2022), <https://thailand.iom.int/migration-context>.

⁶⁷ 1st Interview with IO #3 (Dec. 20, 2022).

⁶⁸ ILO, *TRIANGLE in ASEAN Quarterly Briefing Note: Thailand (January–March 2023)*.

⁶⁹ Chongkittavorn, “Myanmar Crisis Leads to Humanitarian Peril on Thailand’s Western Border”; see also Sreeparna Banerjee, “Need for a migration policy in Thailand” (Dec. 19, 2022), Observer Research Foundation, <https://www.orfonline.org/expert-speak/the-growing-need-for-migration-policy-in-thailand/>.

⁷⁰ Radio Free Asia, “Myanmar migrants face being exploited under Thai deportation system.”

⁷¹ Interview with CSO #2 (Dec. 2, 2022).

Thailand is operated by two groups of brokers who “work in tandem”: brokers on the Myanmar side first bring the migrants to the border of Myanmar, then local brokers on the Thai side offer services and send migrants to work, for example, on fishing vessels or in garment factories.⁷² The fishing sector particularly relies heavily on brokerage networks,⁷³ where many local brokers in Thailand play a managerial role, arranging the migrant workers’ travels, document processing, accommodations and food during the document processing period, accounting, and wage payments.⁷⁴ *See Annex, Case 10.*

Many of the brokers operate informally because of inadequate policies regulating the registration of brokers and the lack of enforcement of existing licensing requirements for recruitment agencies.⁷⁵ *See Annex, Case 7.* Consequently, brokers operate in a gray area with little to no regulations, permitting them to engage in illegal activities, including facilitating irregular migration into Thailand. This makes it difficult for law enforcement to detect trafficking offenses⁷⁶ while making it easier for some officials to condone and profit from the corruption without any accountability.⁷⁷ These brokerage networks are able to continue to operate in part due to the complicity of government officials, a problem that will be discussed under Indicum 7. *See Part II, Section F.*

Alarming, the high rate of irregular migration and proliferation of informal brokerage networks has fostered conditions of forced labor, particularly deception, debt bondage, the withholding of wages, and document retention. Yet, even though these fraudulent and coercive means are indicators of forced labor, cases showing these practices are not met by Thai law enforcement officials with the protection of survivors or the vigorous investigation and prosecution of cases. This shows that the Government of Thailand has not adopted the TIP Office’s Prioritized Recommendation to “[e]nforce regular payment of wages, requirements that employers pay recruitment fees of migrant workers, and the rights of employees to retain possession of their own identity and financial documents and contracts.”

1. The Thailand-Myanmar MoU is not preventing irregular migration that carries higher risks of forced labor.

On December 1, 2021, the MOL reopened Thailand’s MoUs with its neighboring countries, including Myanmar, which had been suspended at the start of the COVID-19 pandemic.⁷⁸ Between December 1, 2021–September 9, 2022, 11,516 applications were approved for

⁷² Kiana Duncan, “How Thailand pushes Myanmar migrants into debt slavery” (July 15, 2022), *DW*, <https://www.dw.com/en/how-thailand-pushes-myanmar-migrants-into-modern-slavery/a-62491038>; see also Interview with CSO #1 (Dec. 1, 2022).

⁷³ Interview with CSO #5 (Dec. 12, 2022).

⁷⁴ *Id.*

⁷⁵ Interview with IO #1 (Nov. 29, 2022).

⁷⁶ Interview with CSO #7 (Feb. 27, 2023).

⁷⁷ *Id.*

⁷⁸ Pattaya Mail, “First group of migrant workers under MoU to enter Thailand on Feb 1” (Jan. 27, 2022), <https://www.pattayamail.com/thailandnews/first-group-of-migrant-workers-under-mou-to-enter-thailand-on-feb-1-387705>.

315,804 migrant workers⁷⁹ to arrive in Thailand, and a total of 69,356 migrant workers traveled to Thailand.⁸⁰ The purpose of reopening the MoU and passing the short-term cabinet resolutions was to fill the country's labor shortage from the pandemic,⁸¹ which continued in 2022,⁸² affecting both Thailand's fishing and seafood processing sectors.⁸³ However, according to one CSO, the MoU has not had a major impact on the number of fishers migrating through informal channels.⁸⁴

The costly, time-consuming, and unclear procedures of the MoU recruitment channel, on top of an underlying mistrust of the Government of Myanmar among migrants from Myanmar,⁸⁵ has ultimately led many migrant workers to migrate through informal channels with the help of brokers.⁸⁶ In May 2022, Myanmar officials raised the MoU administrative fee from 150,000 to 350,000 kyat (\$77 to \$181),⁸⁷ just as Thai officials increased the fees from 3,600 baht (\$103) to between 5,390 baht (\$154) and 7,600 baht (\$217).⁸⁸ According to Migrant Working Group (MWG) representative Adisorn Kerdmongkol, "You want the chance to make money; [under the MoU] you have to wait three months and work with the government—I think it's not a choice. If you come illegally, you need a broker."⁸⁹ He thus predicted that "tens of thousands forced across the border by the coup may still opt for irregular routes" despite the resumption of the MoU system.⁹⁰ Fleeing from violence, persecution, and economic crisis, many migrants are simply "too desperate to wait" and resort to irregular migration in spite of the high risk of arrest and deportation.⁹¹ See *Part II, Section D, Sub-Section 2; Part II, Section F*. Ko Saw Maung, who handles Myanmar migrant workers' affairs, explained, "With the [MoU] system, it's very difficult for [Myanmar migrants]. It's a time when it's difficult to even get a passport to go abroad. They

⁷⁹ 213,279 from Myanmar, 69,558 from Cambodia, and 32,967 from Laos. Ministry of Labour (MOL), "Labour Minister Reports Results of Policies on Managing Foreign Workers to Support the Country's Revival After COVID-19" (Sept. 15, 2022), <https://www.mol.go.th/en/news/labour-minister-reports-results-of-policies-on-managing-foreign-workers-to-support-the-countrys-revival-after-covid-19>.

⁸⁰ 17,465 from Cambodia, 9,108 from Laos, and 42,783 from Myanmar. *Id.*

⁸¹ GLJ-ILRF, *Comments Concerning the Ranking of Thailand in the 2022 TIP Report*, pp. 22–23.

⁸² In mid-July, the Chamber of Commerce cited a need for at least half a million workers. Orathai Sriring and Satawasin Staporncharnchai, "Thailand needs 500,000 more migrant workers for recovery, Chamber of Commerce says" (July 12, 2022), *Reuters*, <https://www.reuters.com/world/asia-pacific/thailand-needs-500000-more-migrant-workers-recovery-chamber-commerce-2022-07-12/>.

⁸³ Interview with IO #1 (Nov. 29, 2022); Interview with CSO #5 (Dec. 12, 2022); and 1st Interview with IO #3 (Dec. 20, 2022).

⁸⁴ Interview with CSO #7 (Feb. 27, 2023).

⁸⁵ Interview with IO #1 (Nov. 29, 2022).

⁸⁶ 1st Interview with IO #3 (Dec. 20, 2022); Duncan, "How Thailand pushes Myanmar migrants into debt slavery"; Banerjee, "Need for a migration policy in Thailand."

⁸⁷ 1 USD = 1,930 MMK.

⁸⁸ Frontier Myanmar, "Migrants face arrest and exploitation in Thailand's shadow economy" (May 26, 2022), <https://www.frontiermyanmar.net/en/migrants-face-arrest-and-exploitation-in-thailands-shadow-economy/>.

⁸⁹ Duncan, "How Thailand pushes Myanmar migrants into debt slavery."

⁹⁰ *Id.*; see also, Burma News International, "Cross-border migrant workers heading to Thailand on the rise."

⁹¹ Frontier Myanmar, "Migrants face arrest and exploitation in Thailand's shadow economy."

can't afford to support their families, and so they have to try this way, so that's why they get arrested."⁹² In fact, many migrants who have applied through the MoU channel remain stranded in Myanmar, "unable to be properly processed and get their permits."⁹³ This is largely due to "heavy bureaucratic procedures," "extensive local corruption," and political instability in the country arising from fighting between Myanmar's military and ethnic arms organizations.⁹⁴

Employers are opting out of the financial and administrative burdens and unclear procedures of the MoU system and instead using brokerage services⁹⁵ to recruit migrants to work in Thailand on a border pass,⁹⁶ temporary work permit ("pink card"), tourist visa, or "an informal, locally issued permit."⁹⁷ These informal channels reduce employers' labor costs because the MoU process is costly,⁹⁸ and brokers, many of whom are managers or senior staff at the workplace, are often willing to help because they receive a commission for the number of workers they hire.⁹⁹ However, they increase the precarity of migrant workers and foster conditions for forced labor.

2. Short-term migrant worker amnesty programs are exacerbating workers' exposure to forced labor risks by encouraging the use of informal brokerage networks.

Approximately four-fifths of migrant workers work in Thailand under a government amnesty program.¹⁰⁰ However, according to an IO, "there is no law being used to regulate brokers' fees and which costs belong to employers or workers."¹⁰¹ While the MoU has some regulations around recruitment costs and fees, "enforcement is very poor still," and "to leave 80% of migrant workers in the hands of brokers (and employers who may shift the entire costs to them) unregulated is to leave migrant workers in the enabling ecosystem of forced labour."¹⁰²

Like its predecessors, the short-term migrant worker amnesty program announced on July 5, 2022, has posed barriers for migrant workers, thereby creating the need for brokers and opportunities for them to engage in deceptive recruitment practices. After the announcement of

⁹² NarinJara News, "Thai police arrest 30 Myanmar illegal workers in Kanchanaburi" (Feb. 26, 2023), <https://www.narinjara.com/news/detail/63fb23ce66b6f3021f33ea68>.

⁹³ Interview with CSO #2 (Dec. 2, 2022); Kavi Chongkittavorn, "Myanmar Crisis Leads to Humanitarian Peril on Thailand's Western Border" (Dec. 14, 2022), *Irrawaddy*, <https://www.irrawaddy.com/opinion/guest-column/myanmar-crisis-leads-to-humanitarian-peril-on-thailands-western-border.html>.

⁹⁴ Interview with CSO #2 (Dec. 2, 2022); Chongkittavorn, "Myanmar Crisis Leads to Humanitarian Peril on Thailand's Western Border."

⁹⁵ Interview with CSO #5 (Dec. 12, 2022).

⁹⁶ 1st Interview with IO #3 (Dec. 20, 2022). The Border Pass employment scheme is under Section 64 of the 2018 Royal Ordinance Concerning the Management of Foreign Workers' Employment. It permits nationals of neighboring countries to enter Thailand on a temporary basis or for seasonal work at a specified location.

⁹⁷ Frontier Myanmar, "Migrants face arrest and exploitation in Thailand's shadow economy."

⁹⁸ Interview with CSO #2 (Dec. 2, 2022).

⁹⁹ *Id.*

¹⁰⁰ A written communication with a SWG member on March 15 after the official submission to the TIP Office.

¹⁰¹ *Id.*

¹⁰² *Id.*

this cabinet resolution, there was a surge in informal migration from Myanmar to Thailand.¹⁰³ According to the DoE's estimates from December 2022, approximately 2.1 million migrant workers—or approximately 80% of all documented migrant workers in Thailand—were expected to qualify for and register by the February 13, 2023 deadline.¹⁰⁴

Yet, similar to the December 29, 2020 cabinet resolution,¹⁰⁵ the July 5, 2022 cabinet resolution required many migrant workers to rely on brokers to register due to the complexity and brief duration of the registration process.¹⁰⁶ Open for 15 days four times per year, the process required at least five days to complete and was described as “unnecessarily complicated and prone to corruption.”¹⁰⁷ Many migrant workers, however, faced barriers in obtaining or renewing their passport or temporary ID documents issued by their own government (a Certificate of Identity for Myanmar migrant workers), which was required to register.¹⁰⁸ Migrant workers from Myanmar could not obtain new passports between mid-January and late-February 2023 due to the suspension of issuing and renewing passports for new applicants by Myanmar authorities, and when the process was resumed, the fees for passport renewals increased.¹⁰⁹

Due to these barriers, it was predicted that an estimated 700,000 foreign workers would be unable to register, in which case their undocumented status makes them more vulnerable to exploitation.¹¹⁰ The ILO's analysis of the DOE's data from March 2023 confirms that at least half a million migrant workers were unable to comply with the registration requirements of the July 5, 2022 cabinet resolution.¹¹¹ In the end, the government realized that most migrant workers would be unable to comply with the required regularization procedures before the deadline and issued a cabinet resolution on February 7, 2023 to extend the registration deadline by about three

¹⁰³ Burma News International, “Cross-border migrant workers heading to Thailand on the rise.”

¹⁰⁴ ILO, *TRIANGLE in ASEAN Quarterly Briefing Note: Thailand (January–March 2023)*.

¹⁰⁵ According to a survey of 195 migrant workers who registered via the December 29, 2020 cabinet resolution, 93% of migrant workers could not complete the complex registration procedures by themselves and instead sought outside help from employers, brokers, and recruitment agencies. Adisorn Kerdmongkol, *Report on the Impact of the Thai Government's Migrant Worker Amnesty Program and Forced Labor Risk (2022)*, Migrant Working Group, <https://www.mahidolmigrationcenter-jointresearchunit.org/database/report-the-impact-of-teh-thai-governments-migrant-worker-amnesty-program-and-forced-labor-risk>.

¹⁰⁶ Human Rights and Development Foundation (HRDF), “An open letter Subject: An opinion and recommendations for the management of foreign workers pursuant to the cabinet resolution of 5 July 2022,” <http://hrdfoundation.org/?p=2900&lang=en>.

¹⁰⁷ Bangkok Post, “Dept stands by workers' amnesty scheme” (Dec. 20, 2022), <https://www.bangkokpost.com/thailand/general/2464259/dept-stands-by-workers-amnesty-scheme>.

¹⁰⁸ ILO, *TRIANGLE in ASEAN Quarterly Briefing Note: Thailand (January–March 2023)*.

¹⁰⁹ *Id.*

¹¹⁰ Bangkok Post, “Dept stands by workers' amnesty scheme.”

¹¹¹ “DoE data as of March 2023 shows that the number of documented migrant workers in Thailand dropped to less than 2.5 million. Included in this number are around 1.9 million under the most recent Cabinet Resolution. When compared to the peak number of migrant workers under this category (2,466,562 as of January 2023), the March number shows that more than half a million migrant workers have failed to comply with the steps required to regularize their status under the latest Cabinet Resolution.” ILO, *TRIANGLE in ASEAN Quarterly Briefing Note: Thailand (January–March 2023)*.

months.¹¹² Some workers who missed the registration period turned to local brokers who collaborate with officials to obtain official documents for a fee.¹¹³

3. Several examples of deceptive practices were documented during the reporting period.

The reliance on brokers by migrant workers and employers due to the barriers posed by the MoU recruitment scheme and the short-term amnesty programs has encouraged fraudulent and coercive practices by brokers, particularly deception, debt bondage, the withholding of wages, and document retention. Nonetheless, law enforcement officials have continued to not identify and protect survivors, nor vigorously investigate and prosecute traffickers in these cases. Regarding the challenge of irregular migration, the International Organization for Migration (IOM) explains, “The lack of effective law enforcement has...contributed to...poor working conditions, exploitation, human smuggling and trafficking, and transnational crime.”¹¹⁴

Deception includes false promises pertaining to “working conditions, wages, type of work, housing and living conditions, acquisition of regular migration status, job location or the identity of the employer.”¹¹⁵ The complexity of the short-term cabinet resolutions has created the need for brokers and opportunities for them to deceive migrants about job opportunities in Thailand,¹¹⁶ and there has reportedly been an increase in deceptive recruitment practices by brokers during this reporting period.¹¹⁷ Some migrant workers come from rural villages and have low levels of education, so they are unfamiliar with their rights or legal protections, making it easy for brokers to abuse their vulnerability and exploit them.¹¹⁸

Various kinds of deception are practiced in the recruitment of workers to Thailand. In one case, the broker persuaded migrants from Myanmar to come to work in Thailand by falsely claiming that he was a Thai government official who could help them enter the country without the risk of arrest. See *Annex, Case 10*. There have also been reports in Samut Sakhon and Phang Nga provinces of brokers not actually processing the documents after the workers pay the document fees; instead, the workers either end up receiving fraudulent documents or no documents at all.¹¹⁹ Many cases involve the false promise of a job that leaves migrant workers without any employment even months after their arrival in Thailand.¹²⁰ In such cases, the workers are often prohibited from obtaining other jobs due to their undocumented status.¹²¹ In order to obtain documents, the workers must pay thousands of baht to another broker, then wait months—

¹¹² *Id.*

¹¹³ Interview with CSO #2 (Dec. 2, 2022).

¹¹⁴ IOM, *Migration Context: Thailand*.

¹¹⁵ Special Action Programme to End Forced Labour, *ILO Indicators of Forced Labour*.

¹¹⁶ Interview with CSO #1 (Dec. 1, 2022); Interview with CSO #2 (Dec. 2, 2022).

¹¹⁷ Interview with IO #1 (Nov. 29, 2022); Interview with CSO #2 (Dec. 2, 2022).

¹¹⁸ Interview with CSO #7 (Feb. 27, 2023).

¹¹⁹ Interview with CSO #5 (Dec. 12, 2022); Interview with CSO #2 (Dec. 2, 2022).

¹²⁰ Interview with CSO #1 (Dec. 1, 2022).

¹²¹ Frontier Myanmar, “Migrants face arrest and exploitation in Thailand’s shadow economy.”

sometimes even more than one year—to receive the documents, during which they remain “highly vulnerable to arrest and extortion by police.”¹²²

Other cases of deception relate to wage theft. In some cases, the broker lied to the fishers that the documentation fee would be waived if the fisher completed their two-year contract. See *Annex, Case 6 and Case 11*. In other cases, the payment of wages is much lower than agreed upon in the employment contract. See *Annex, Case 11*. Lastly, in several cases, the employer retained the workers’ ATM cards and made cash payments while creating a false paper trail in order to create the façade that the workers were paid their full monthly wages.¹²³ See *Annex, Case 3, Case 13, Case 14, and Case 15*.

Even migrants who go through the MoU recruitment channel are deceived. See *Annex, Case 1, Case 4, Case 6, Case 7, and Case 11*. The MoU system is susceptible to fraud because many individuals who apply still depend on brokers to provide the required documents to initiate the process.¹²⁴ The pervasiveness of the problem of deception is illustrated by the fact that of the approximate 9,000 workers who traveled to Thailand under the MoU scheme in October 2022, about 500 of them did not get the jobs described in their employment contract.¹²⁵

However, as will be discussed later in this report, law enforcement officials continue to perceive such situations as “voluntary” and thus do not consider the workers as potential survivors of human trafficking. Too often, the migrant workers are arrested for violating immigration law and deported. Consequently, the potential survivors are not protected, nor are the cases formally investigated and prosecuted. See *Part II, Section D, Sub-Section 2; Part II, Section E*.

4. Several examples of coercive practices were documented during the reporting period, including debt bondage, the withholding of wages, and document retention.

Three common coercive practices often overlooked by law enforcement officials include debt bondage, the withholding of wages, and document retention. The Government of Thailand claims that the 2018 Amendment to the Royal Ordinance Concerning the Management of Foreign Workers’ Employment, B.E. 2560 (2017)¹²⁶ was “strictly enforced, with Section 49 prohibiting employers to demand debt bondage from recruitment fee [*sic*] and Section 131 prohibiting migrant workers’ documents confiscation.”¹²⁷ However, evidence below suggests the contrary, as numerous cases illustrate the major challenge migrant workers face in leaving employers who use debt manipulation and document retention to force them to stay. See *Annex, Case 1, Case 3, Case 4, Case 6, Case 7, Case 12, and Case 14*.

¹²² *Id.*

¹²³ Interview with CSO #3 (Dec. 3, 2022); Interview with IO #2 (Dec. 6, 2022).

¹²⁴ Banerjee, “Need for a migration policy in Thailand.”

¹²⁵ Burmese News International, “Myanmar migrant workers complain of bogus job promises in Thailand” (Nov. 3, 2022), <https://www.bnionline.net/en/news/myanmar-migrant-workers-complain-bogus-job-promises-thailand>.

¹²⁶ In some texts, the law translated as the “Foreigners’ Working Management Emergency Decree.”

¹²⁷ Royal Thai Government, *Country Report on Anti-Human Trafficking Efforts*, <https://thaiembdc.org/wp-content/uploads/2023/02/2022-Country-Report.pdf>.

Many migrant workers fall into debt bondage due to exorbitantly high recruitment fees. See *Annex, Case 4, Case 6, Case 12, Case 13, Case 14, and Case 15*. According to one migration expert in Thailand, up to 90% of workers in the fishing sector end up paying employers or brokers to help them obtain documentation and job placements in Thailand.¹²⁸ Brokers have lately been charging about 30,000 to 40,000 baht (\$857 to \$1,143) to help migrants travel from Thailand to Myanmar,¹²⁹ and some migrants even reported brokerage fees soaring as high as 80,000 baht (\$2,286) in May 2022.¹³⁰ To afford these exorbitant fees, workers fall into debt and make payments through wage deductions, taking months and sometimes even years to pay off the debt.¹³¹ However, much of these broker fees exceed what is permitted under national law.¹³² For example, an official at the Myanmar Overseas Employment Agencies Federation (MOEAF) revealed that brokers charge migrant workers up to 200,000 kyat (\$104) in unlawful fees for helping them “navigate the complex application process.”¹³³ In addition, while Thai law only permits wage deductions up to 10% of fishers’ monthly salaries for documentation fees, many of the fees charged are not actually documentation fees.¹³⁴ Instead, they cover other costs, such as travel and accommodation, which are fraudulently grouped together under documentation fees.¹³⁵ These excessive fees illustrate loopholes in national legislation intended to adopt the ILO’s “zero recruitment fee” principle.¹³⁶

For migrant workers already residing in Thailand, the high cost of newly obtaining or extending their work permit via the government’s amnesty programs have caused many to fall into debt. According to a 2022 MWG report, 79% of migrant workers fell into debt in order to register for the amnesty program pursuant to the December 29, 2020 cabinet resolution, with the median debt being 8,000 to 12,000 baht (\$229 to \$342).¹³⁷

The cabinet resolution of July 5, 2022, which essentially renewed the cabinet resolution of December 29, 2022, is projected to cost workers 12,000 to 18,000 baht (\$343 to \$514), which will make them more vulnerable to debt bondage.¹³⁸ Unsurprisingly, broker fees have been found to increase whenever cabinet resolutions announcing such registration opportunities.¹³⁹

¹²⁸ Duncan, “How Thailand pushes Myanmar migrants into debt slavery.”

¹²⁹ Interview with CSO #5 (Dec. 12, 2022).

¹³⁰ Assawin Pakkawan, “Illegal Migrants Say Job Brokerage Fees Are Soaring” (May 12, 2022), *The Bangkok Post*, <https://www.bangkokpost.com/thailand/general/2308866/illegal-migrants-say-job-brokerage-fees-soaring>.

¹³¹ Duncan, “How Thailand pushes Myanmar migrants into debt slavery.”

¹³² Frontier Myanmar, “Migrants face arrest and exploitation in Thailand’s shadow economy.”

¹³³ *Id.*

¹³⁴ Section 49 of the 2018 Royal Ordinance Concerning the Management of Foreign Workers’ Employment. Interview with CSO #5 (Dec. 12, 2022).

¹³⁵ Interview with CSO #5 (Dec. 12, 2022).

¹³⁶ See Section 11 of the Labour Protection In Fishing Work Act, B.E. 2562 (2019); see also Section 42 of the 2018 Royal Ordinance Concerning the Management of Foreign Workers’ Employment.

¹³⁷ Kerdmongkol, *Report on the Impact of the Thai Government’s Migrant Worker Amnesty Program and Forced Labor Risk*.

¹³⁸ HRDF, “An open letter Subject: An opinion and recommendations for the management of foreign workers pursuant to the cabinet resolution of 5 July 2022.”

¹³⁹ Interview with CSO #1 (Dec. 1, 2022).

The short-term nature of the government's migrant worker registration schemes oblige workers to pay fees to renew their documents every one-to-two years and sometimes even more often. For example, a worker leader in the fishing sector in Songkhla province received a pink card in September 2022, but it is already set to expire in February 2023.¹⁴⁰ These short-term renewal periods trap many migrant workers in Thailand in a perpetual debt cycle, where "once workers are close to repaying what is demanded, it's time to renew their documents."¹⁴¹ The worker leader in Songkhla province explained that document renewals cost about 10,500 baht (\$300) without a broker and about 12,000 baht (\$343) with a broker; however, almost all employers hire a broker to process the workers' documents.¹⁴² To cover the renewal fees, employers usually deduct about 2,000 baht (\$57) per month from workers' monthly salaries.¹⁴³ For the typical fisher who is not a worker leader, it is very difficult to afford the document fees every year when they only earn about 10,000 baht (\$286) per month.¹⁴⁴ Meanwhile, two seafood processing workers in Samut Sakhon province expressed that passport renewal fees are currently the biggest challenge they face in their job.¹⁴⁵ One of the workers cited spending around 20,000 baht (\$571) to renew her passport, work permit, pink card, and CI. One of the workers also recalled having to borrow money at a 20% interest rate in order to afford her passport renewal; as a result, her entire wages were used up.¹⁴⁶ The perpetual debt cycle is also illustrated by the story of Moe Tha Hlay, a migrant worker who has worked on ships for the past 17 years for whom "debt has been constant: paying yearly for a new visa, and biannually for a work permit through a broker the boat owner selects."¹⁴⁷

Alarming, this debt cycle has been normalized so that many workers do not see themselves as being trapped in situations of debt bondage, and Thai authorities turn a blind eye to reports of debt bondage, even though it is an indicator of forced labor.¹⁴⁸ To make matters worse, workers cannot easily change employers, because their work permits are tied to specific employers and are charged a fee for changing employers.¹⁴⁹ One CSO reported that the average fee to change employers in the fishing sector is between 15,000 to 20,000 baht (\$429 to \$571).¹⁵⁰

Many fishers have their wages withheld for one year or longer, even though the law requires monthly wage payments.¹⁵¹ See *Annex, Case 6 and Case 11*. According to the aforementioned worker leader in Songkhla province, the majority of fishers are not paid on a monthly basis, but

¹⁴⁰ Interview with two worker leaders in Songkhla province (Jan. 25, 2023).

¹⁴¹ Duncan, "How Thailand pushes Myanmar migrants into debt slavery"; Interview with IO #2 (Dec. 6, 2022).

¹⁴² Interview with two worker leaders in Songkhla province (Jan. 25, 2023).

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ Interview with two female Myanmar workers at a seafood processing factory in Samut Sakhon province (Feb. 16, 2023).

¹⁴⁶ *Id.*

¹⁴⁷ Duncan, "How Thailand pushes Myanmar migrants into debt slavery."

¹⁴⁸ *Id.*

¹⁴⁹ Interview with CSO #2 (Dec. 2, 2022); Interview with CSO #5 (Dec. 12, 2022); and Duncan, "How Thailand pushes Myanmar migrants into debt slavery."

¹⁵⁰ Interview with CSO #2 (Dec. 2, 2022).

¹⁵¹ Interview with two worker leaders in Songkhla province (Jan. 25, 2023).

instead have their wages withheld by the worker leader for about one year. This is a strategy intended to keep workers at their job.¹⁵²

Document retention is another strategy intentionally used to keep workers at their current job.¹⁵³ The majority of fishers have their identity documents (e.g. passports, work permit, Seaman book, CI, ATM card, employment contract) retained by their employer or manager.¹⁵⁴ Employers attempt to justify confiscating the migrant workers' documents by saying that the workers might lose or damage the documents or that employers need the documents for administrative purposes,¹⁵⁵ but many employers refuse to return the workers' documents even when asked. However, workers need their documents in order to work for a new employer. Another way that document retention leads to forced labor is that fishers' documents often expire while retained by their employer, and their employer leverages this to threaten the workers with arrest and deportation by authorities.¹⁵⁶ Therefore, document retention is a powerful way for employers to control their workers and force them to stay at their jobs.

As will be discussed below, cases involving debt bondage, wage withholding, and document retention continue to not be vigorously investigated and prosecuted by law enforcement officials in Thailand. See *Part II, Section E*. Instead, officials continue to treat such cases as labor disputes that should be resolved via informal mediation, in which officials simply require employers to return the retained documents or withheld wages to workers and do not press any charges.¹⁵⁷

D. Thailand does not meet Indicum 2 because law enforcement continues to be ineffective in identifying potential survivors of forced labor due to weak implementation of new policies, the continued criminalization of migrants, and the persistent weakness of labor inspections.

The Government of Thailand has not fulfilled a series of Prioritized Recommendations by the TIP Office aimed at addressing Indicum 2, which assesses “[w]hether the country protects victims of severe forms of trafficking in persons and encourages their assistance in the investigation and prosecution of such trafficking....”.¹⁵⁸ These recommendations include the following:

- “Ensure multidisciplinary teams (MDTs) are composed of officials who are trained and have sufficient experience working trafficking cases to improve the effectiveness of survivor identifications”;

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ Interview with CSO #2 (Dec. 2, 2022).

¹⁵⁵ Interview with CSO #6 (Dec. 19, 2022).

¹⁵⁶ Interview with CSO #7 (Feb. 27, 2023).

¹⁵⁷ Interview with IO #1 (Nov. 29, 2022); Interview with CSO #4 (Dec. 8, 2022).

¹⁵⁸ TIP Office, *2022 TIP Report*.

- “Increase awareness among relevant officials of less understood trafficking indicators, such as debt-based coercion, excessive overtime, confiscation of documents, and nonpayment of wages”; and
- “Ensure the use of trauma-informed procedures by government officials during interviews with potential survivors, including during labor inspections.”

The Government of Thailand is not effectively tracking the number of workers facing severe forms of trafficking in Thailand. In 2022, Thailand identified 543 survivors of trafficking, among whom 88% were Thai.¹⁵⁹ Yet as discussed above regarding Indiciam 8, given the prevalence of forced labor among migrant workers, the survivor identification figures provided by the government do not come close to reflecting the reality of the disproportionate victimization of migrant workers. The stark incongruence between these figures and the above underscores the continued weakness of survivor identification efforts by law enforcement officials in Thailand, especially in cases involving migrant workers.

There are three major issues to raise regarding protection of migrant workers who are survivors of severe forms of trafficking in Thailand. First, the Government of Thailand committed to improve survivor identification during the last reporting period, but has failed to do so due to ineffective implementation of new policies intended to strengthen survivor identification. In addition, two major drivers of the continued inefficacy of survivor identification in Thailand—both of which were discussed in the SWG’s 2022 Comments on Thailand—persisted in this reporting period as well. They are the continued treatment of migrant workers as “illegal migrants” instead of potential survivors of forced labor, and the continued lack of regular and rigorous labor inspections. These systemic and persistent problems, discussed in the sub-sections below, suggest that the government is not taking concrete actions proportional to the severity of the prevalence of forced labor among migrant workers in the country. This indicates that Thailand merits being placed on the Tier 2 Watchlist this year.

1. The government has not effectively implemented new policies intended to strengthen survivor identification, especially ensuring the central policy was implemented at the local level.

In the spring of 2022, the government made significant efforts to improve survivor identification through the introduction of the new National Reporting Mechanism (NRM), including a new survivor reflection period, and the Standard Operating Procedures (SOPs) for initial survivor identification of labor trafficking and Section 6/1 offenses. The TIP Office noted these as evidence of the Government of Thailand’s increasing efforts during the previous reporting period, writing in the 2022 TIP Report, “these efforts included ... finalizing a national referral mechanism (NRM) that authorized a 45-day reflection period, finalizing implementing guidelines for the forced labor provision of the anti-trafficking law.” Nearly a full year after its launch, however, the NRM and SOPs have not been effectively implemented.

The central government has failed to implement the NRM at local levels of government. Several organizations raised the issue of local officers’ limited capacity and budget to actually implement

¹⁵⁹ This included 477 Thai (87.8%), 8 Myanmar (1.5%), 4 Cambodian (0.7%), 33 Laotian (6.1%), and 21 survivors of “other” nationalities (3.9%).

the NRM, which was centrally planned but needs to be rolled out in more than 70 provinces.¹⁶⁰ When the NRM was first introduced, the government invited more than 1,000 CSOs and local government authorities to attend a three-hour lecture on Zoom.¹⁶¹ According to one IO, some provincial Ministry of Social Development and Human Security (MSDHS) officers admitted after attending the online training that they still did not understand how to roll out the new NRM.¹⁶² Another IO explained that the new NRM is not welcomed by labor inspectors due to a lack of training and capacity of local officers.¹⁶³ The inspectors have a new screening form, but it is very difficult to use without proper training, and there is presently not enough budget to create training for local officers. Local officers also expressed feeling overstretched with their current workload and not knowing how they will manage the new NRM. In addition, one CSO explained that in managing cases, when their staff asks the police and other law enforcement officers at the local level about the NRM, they respond by saying that they do not have the budget and do not know how to manage it.¹⁶⁴

In addition, officials are not enforcing the new NRM's provision of up to 45 days of a reflection period for potential survivors of human trafficking and forced labor. Without a reflection period, potential survivors may not be identified because they are unable to provide complete and accurate testimony due to the impacts of their trauma.¹⁶⁵ However, a CSO that works with the MDT to implement the NRM admitted that they have yet to see the reflection period implemented.¹⁶⁶ In fact, some cases are mediated in a single day, giving potential survivors no time for recovery. *See Annex, Case 4.* Even in a case involving physical violence by the employer, law enforcement officials went straight to survivor identification, which resulted in a negative conclusion of forced labor despite the presence of numerous indicators of forced labor. *See Annex, Case 8.* The reflection period was also not granted in the online scamming cases that have been widespread throughout Southeast Asia.¹⁶⁷

The SOPs for initial survivor identification of labor trafficking and Section 6/1 offenses are not being implemented either, according to organizations that work with the government to handle forced labor cases. One CSO said that they had heard about the SOPs, but had not yet seen any concrete results at the local level in terms of officials' handling of forced labor cases. Instead, the agencies continue to only work on their own mandate; for example, if a department works on wage issues, then the officers will only obtain information regarding wage payments and not take further action to help identify potential survivors of forced labor.¹⁶⁸ Meanwhile,

¹⁶⁰ Interview with CSO #4 (Dec. 8, 2022); Interview with CSO #5 (Dec. 12, 2022); Interview with IO #4 (Jan. 5, 2023); Interview with CSO #5 (Dec. 12, 2022); and Interview with IO #5 (Jan. 23, 2023).

¹⁶¹ Interview with CSO #5 (Dec. 12, 2022); Interview with IO #5 (Jan. 23, 2023).

¹⁶² Interview with IO #5 (Jan. 23, 2023).

¹⁶³ Interview with IO #4 (Jan. 5, 2023).

¹⁶⁴ Interview with CSO #3 (Dec. 6, 2022).

¹⁶⁵ Interview with CSO #4 (Dec. 8, 2022).

¹⁶⁶ *Id.*

¹⁶⁷ Interview with IO #5 (Jan. 23, 2023). *See, e.g.,* Rebecca Ratcliffe, Nhung Nguyen, and Navaon Siradapuvadol, "Sold to gangs, forced to run online scams: inside Cambodia's cybercrime crisis" (Oct. 9, 2022), *The Guardian*, <https://www.theguardian.com/world/2022/oct/10/sold-to-gangs-forced-to-run-online-scams-inside-cambodias-cybercrime-crisis>.

¹⁶⁸ Interview with CSO #2 (Dec. 2, 2022); Interview with CSO #3 (Dec. 6, 2022).

another CSO said that there are many authorities involved in implementing the laws and policies on human trafficking and forced labor, but they remain incomprehensible to local authorities, potentially due to a lack of training of local officials about the SOPs.¹⁶⁹ Deputy director of Human Rights Watch, Phil Robertson, confirms that the government has done “very little” to educate law enforcement agencies on forced labor, hindering “practical implementation of the law”.¹⁷⁰

Finally, as described in Case 17, the Government of Thailand has not effectively implemented its new policies designed to address the high risk of forced labor in Thai prisons. See *Annex, Case 17*. The government has made commitments to reform the prison labor system, but has not provided evidence of the implementation of the reforms and instead appears to be expanding its prison labor program. In addition, it is impossible for officials to identify survivors of forced labor among the prisoner population because the definition of forced labor in law has a carve-out for prison labor.

2. Government officials tend to treat survivors of deceptive recruitment as “illegal migrants” and punish them for violating immigration law instead of screening them as potential survivors of forced labor.

As discussed in Section C, many migrants are recruited to work in Thailand through deception and migrate without proper documentation. This contributes to conditions of forced labor, all the while constituting an immigration violation under Thai law. While the Thai government often correctly identifies survivors of human trafficking at the Thai border,¹⁷¹ too often Thai law enforcement officials do not identify these migrants as potential survivors because they perceive the act of crossing the border as “voluntary.”¹⁷² In their view, the workers consented to have the broker arrange for them to come work in Thailand, so they cannot be potential survivors of human trafficking.¹⁷³ Furthermore, because the workers have not started working in some cases, many officials believe that no exploitation has occurred and that survivor screening is not necessary.¹⁷⁴

Instead of recognizing deceptive recruitment as an indicator of forced labor and taking measures to assess and protect potential survivors, including providing them with food and shelter, many law enforcement officers instead perceive the migrants as violators of immigration law and immediately arrest, detain, and deport them.¹⁷⁵ In 2022, Thai authorities reported

¹⁶⁹ Interview with CSO #5 (Dec. 12, 2022).

¹⁷⁰ Sarah Newey and Nuttakarn Sumon, “Six years trapped at sea: ‘I was beaten with barbed stingray tails and scalded by boiling water’” (May 16, 2023), *The Telegraph*, <https://www.telegraph.co.uk/global-health/climate-and-people/modern-slavery-thailand-monks-fishermen-trapped-at-sea/>.

¹⁷¹ See, e.g. Assawin Pinnitwong, “Trafficked Rohingya among illegal migrants caught in Songkhla” (March 30, 2022), *The Bangkok Post*, <https://www.bangkokpost.com/thailand/general/2287498/trafficked-rohingya-among-illegal-migrants-caught-in-songkhla>.

¹⁷² Interview with CSO #1 (Dec. 1, 2022); Interview with CSO #4 (Dec. 8, 2022); and Interview with IO #5 (Jan. 23, 2023).

¹⁷³ *Id.*

¹⁷⁴ Interview with IO #1 (Nov. 29, 2022).

¹⁷⁵ *Id.*; RFA Burmese, “Migration from Myanmar to Thailand surges amid fighting, COVID concerns” (June 16, 2022), *Radio Free Asia*, <https://www.rfa.org/english/news/myanmar/migrants-thailand-06162022164845.html>; Burma News International, “Cross-border migrant workers heading to Thailand on

arresting 60,000 migrants, including up to 45,000 migrants fleeing Myanmar.¹⁷⁶ In addition, more than 1,000 Myanmar migrant workers have been arrested since the beginning of 2023.¹⁷⁷ The widespread problem of extortion, arbitrary arrest, detention, and forced return carried out by corrupt government officials will be discussed later in this report. *See Part II, Section F.*

Conditions for detained migrants in Thailand are abusive. Once detained, some migrants suffer from food shortages.¹⁷⁸ Meanwhile, the fear of being arrested and deported has led many workers to live in hiding, making it difficult for them to make ends meet and even leading some to commit suicide.¹⁷⁹ An illustration of this tendency is Case 10, in which the MDT, composed of five agencies, did not interview the workers, and all five agency representatives concluded that the migrant workers, who were survivors of deceptive recruitment, were not potential survivors of human trafficking because they had not started working yet. *See Annex, Case 10.* The workers ended up being arrested and were not permitted to stay in a shelter because they were not identified as potential survivors. Instead, they were forced to spend about two months in prison before being deported. During their imprisonment, they were not provided food by the government; instead, a CSO had to send the migrants food every day. This widespread practice violates UN guidelines on the non-punishment of survivors of human trafficking,¹⁸⁰ and it precludes the potential survivors from assisting in the investigation and prosecution of cases.¹⁸¹

Even when the government conducts screening, the government rarely identifies survivors. For example, one CSO, which provides translators for the screening process in a transit province through which migrants travel from Myanmar to Malaysia with the help of brokers, reported that most of the migrants who are arrested and screened are not identified as survivors of human trafficking or forced labor. Instead, their cases are categorized as cases of illegal smuggling, so the CSO has not seen any prosecutions relating to human trafficking or forced labor in their transit province.¹⁸²

The government also failed to identify potential survivors of forced labor in the so-called online scamming cases. There have been reports of Thai law enforcement officials not treating returning Thai nationals who were fraudulently recruited to other countries, such as Cambodia, Myanmar, or the Philippines, to work at telecom centers that ran online scams and held under

the rise" (Sept. 7, 2022), <https://www.bnionline.net/en/news/cross-border-migrant-workers-heading-thailand-rise>; Burma News International, "Myanmar migrant workers face waves of challenges in Thailand" (Dec. 17, 2022), <https://www.bnionline.net/en/news/myanmar-migrant-workers-face-waves-challenges-thailand>.

¹⁷⁶ Radio Free Asia, "Myanmar migrants face being exploited under Thai deportation system," <https://www.rfa.org/english/news/myanmar/myanmar-migrants-thailand-02052023090414.html>.

¹⁷⁷ NarinJara News, "Thai police arrest 30 Myanmar illegal workers in Kanchanaburi."

¹⁷⁸ RFA Burmese, "Migration from Myanmar to Thailand surges amid fighting, COVID concerns."

¹⁷⁹ Burma News International, "Myanmar migrant workers face waves of challenges in Thailand."

¹⁸⁰ ICAT, *Issue Brief: Non-Punishment of Victims of Trafficking*; Maria Grazia Giammarinaro, Special Rapporteur on trafficking in persons, especially women and children, "The importance of implementing the non-punishment provision: the obligation to protect survivors" (July 2020), UN Human Rights Special Procedures, <https://www.ohchr.org/en/special-procedures/sr-trafficking-in-persons/importance-implementing-non-punishment-provision-obligation-protect-survivors>.

¹⁸¹ 2nd Focus Group Discussion with CSOs (Jan. 24, 2023).

¹⁸² Interview with CSO #4 (Dec. 8, 2022).

threat of physical abuse and torture as potential survivors, but instead as criminals.¹⁸³ According to *The Guardian*, “Those who do manage to return home can face stigma and legal charges. In Thailand, the majority of people who have returned from such compounds, about 70%, have been prosecuted....”¹⁸⁴ In response, Jacob Sims, Director of International Justice Mission (IJM) Cambodia, emphasized the importance of countries developing strong survivor identification systems because there is a spectrum of scammers ranging from being criminals “under their own volition” to survivors “of confinement and extreme abuse.”¹⁸⁵

Furthermore, potential survivors of the scamming cases from countries outside of Southeast Asia, such as Kenya or Uzbekistan, who successfully escaped the scams, were dropped off at the Thai border in Mae Sot, where they got in contact with local Thai authorities but were not screened for trafficking and forced labor.¹⁸⁶ Instead, some local police have treated these cases involving foreigners by saying that they overstayed their visas and returning them to their home country. In other words, the authorities choose to categorize these potential survivors as immigration violators because the deportation process is much quicker than the survivor identification process. In addition, some officials do not view these individuals as potential survivors, but instead as criminals.

3. Thailand engages in weak labor inspections that are ineffective in identifying survivors of forced labor.

Another reason that survivor identification remains weak in Thailand is the lack of regular and effective labor inspections at worksites employing migrant workers, including fishing vessels, seafood processing plants, and other factories.

i. Port-in, Port-out (PIPO) labor inspections

PIPO labor inspections of vessels at port and at sea are poor in quality, even though they are critical for detecting and remediating labor violations aboard vessels. In 2022, PIPO officers inspected 12,810 vessels, of which only 63 vessels (0.5%) were found to have violations.¹⁸⁷ These violations primarily relate to documentation that is not in compliance with the law, such as the record of rest hours, wage payment documents, and work contracts.¹⁸⁸ In addition, PIPO, in collaboration with the Marine Department, Department of Fisheries, Royal Thai Navy, Royal Thai Police, and relevant agencies, conducted inspections of 244 vessel inspections at sea, but no vessels (0%) were found to have violations. This means that out of 13,054 inspections total, PIPO officers only found 63 violations (0.5%). However, while PIPO can refer cases showcasing indicators of forced labor to the provincial MDT for screening, the government’s report noticeably does not mention whether the detection of these violations, which involved 753

¹⁸³ Interview with IO #5 (Jan. 23, 2023).

¹⁸⁴ Ratcliffe, Nguyen, and Siradapuvadol, “Sold to gangs, forced to run online scams.”

¹⁸⁵ *Id.*

¹⁸⁶ Interview with IO #5 (Jan. 23, 2023).

¹⁸⁷ Royal Thai Government, *Country Report on Anti-Human Trafficking Efforts*, p. 75.

¹⁸⁸ 2nd Interview with IO #3 (Jan. 12, 2023).

workers on fishing vessels, led to the screening and identification of any potential survivors of forced labor.¹⁸⁹

The remarkably low rates of violations detected by PIPO indicate that the quality, not the quantity, of PIPO inspections are the problem. Yet, the government's performance targets for labor inspections in 2022 primarily focused on the number of inspections conducted, rather than on the results of the inspections or the response to violations found.¹⁹⁰ The repercussions of focusing on quantity over quality are reflected in the following five common critiques of PIPO inspections:

- (1) Inspections are perfunctory, mainly consisting of document-checking for about 15 minutes without proper interviews of workers.¹⁹¹ In checking vessel and crew documents, PIPO inspectors do not take the time to verify the credibility of documentation provided by employers through interviews with crew, even though employers are known to sometimes falsify documents.¹⁹² Consequently, important discrepancies—for example, employment contracts with different payroll details, inconsistencies between payroll transfer slips and monthly wage payment documents signed by workers, and names not matching on documents—are overlooked.¹⁹³ In addition, clear protocols to identify indicators of forced labor are not followed. Instead, inspectors report, for example, that they will “look at the fishers’ faces to see if they look happy or not,” and if they do not look happy, then they might ask the fishers some questions.¹⁹⁴ Even if inspectors choose to interview workers, they typically ask close-ended questions, such as “Are you willing to work?”, which fails to comprehend the subtle and nuanced nature of many coercive schemes.¹⁹⁵ Moreover, the focus of the interview questions is often misguided, inquiring, for example, about the number of life vests onboard rather than about the details of how a migrant fisher died.¹⁹⁶
- (2) Workers are fearful of reporting violations because they are not interviewed in a safe space and instead are required to answer questions in front of their captain, vessel owner, or broker.¹⁹⁷ It is especially challenging for fishers to speak candidly in this context because many employers instruct worker leaders to train the crew to lie in answering PIPO inspectors’ questions.¹⁹⁸ For example, according to the worker leader in Songkhla province mentioned earlier, fishers are often forced to lie that they receive

¹⁸⁹ Royal Thai Government, *Country Report on Anti-Human Trafficking Efforts*.

¹⁹⁰ 2nd Interview with IO #3 (Jan. 12, 2023).

¹⁹¹ Interview with CSO #2 (Dec. 2, 2022); Interview with CSO #3 (Dec. 6, 2022); Interview with CSO #4 (Dec. 8, 2022); 1st Interview with IO #3 (Dec. 20, 2022); and 2nd Interview with IO #3 (Jan. 12, 2023).

¹⁹² Interview with CSO #6 (Dec. 19, 2022).

¹⁹³ *Observation Report by Civil Society on Ship Inspections under Fisherman Protection* (2022).

¹⁹⁴ Interview with CSO #7 (Feb. 27, 2023).

¹⁹⁵ *Observation Report by Civil Society on Ship Inspections under Fisherman Protection* (2022); Interview with IO #1 (Nov. 29, 2022).

¹⁹⁶ Duncan, “How Thailand pushes Myanmar migrants into debt slavery.”

¹⁹⁷ 2nd Interview with IO #3 (Jan. 12, 2023); Interview with two worker leaders in Songkhla province (Jan. 25, 2023); Interview with CSO #7 (Feb. 27, 2023).

¹⁹⁸ Interview with two worker leaders in Songkhla province (Jan. 25, 2023).

monthly wages when, in actuality, their wages are withheld for one year.¹⁹⁹ Workers also face retaliation for reporting violations. In many cases, fishers are physically abused, threatened, sent back to their home country without pay, blacklisted in the industry, denied the ability to change vessels, have their documents retained, or killed on the next fishing trip.²⁰⁰ See *Annex, Case 16*.

- (3) PIPO inspectors continue to not view offenses like document confiscation and the withholding of wages as indicators of forced labor. Instead, such practices are perceived to be normal.²⁰¹ At most, officers view these practices as violations of Thailand’s labor law, not the anti-trafficking law.²⁰² Most of the time, PIPO inspectors have the employer return the documents and help settle the accounts for outstanding wages, but take no further actions. As a result, too many potential survivors of forced labor remain unidentified. See *Annex, Case 4, Case 9, and Case 13*.
- (4) Adequate language interpretation is not always provided during interviews, so workers are unable to fully convey their hardships.²⁰³ A migrant fisher interviewed by DW News said, “PIPO have [*sic*] Burmese translators, but they don’t do anything. Sometimes, on the boats, there’s not enough food to eat. Even though we talk to them, they fail to address the situation...If Burmese [people] die, they don’t care.”²⁰⁴
- (5) Workers have difficulty trusting PIPO inspectors for a variety of reasons. First, many inspectors are under the undue influence of vessel owners. Inspectors tend to have a bias in favor of the vessel owners, who typically have a lot of influence in the community,²⁰⁵ and vessel owners sometimes even intimidate PIPO inspectors.²⁰⁶ This conflict of interest is illustrated in Case 9, in which two rounds of PIPO inspections led to a negative conclusion of forced labor because the vessel owner actively intimidated the inspectors in the first interview, and the supervisor and captain attended the second interview. See *Annex, Case 9*. Second, the PIPO office does not sufficiently engage workers’ organizations or CSOs in the inspection process, which is essential to building trust with worker communities. Third, Department of Labour Protection and Welfare (DLPW) officers working in PIPO centers are frequently rotated to different locations, so they are unable to build trust with and gather information from local stakeholders, such as workers, local CSOs, and trade unions.²⁰⁷

¹⁹⁹ *Id.*

²⁰⁰ Interview with CSO #7 (Feb. 27, 2023).

²⁰¹ Interview with CSO #3 (Dec. 6, 2022); Interview with CSO #5 (Dec. 12, 2022); and 2nd Interview with IO #3 (Jan. 12, 2023).

²⁰² 1st Interview with IO #3 (Dec. 20, 2022).

²⁰³ 2nd Interview with IO #3 (Jan. 12, 2023).

²⁰⁴ Duncan, “How Thailand pushes Myanmar migrants into debt slavery.”

²⁰⁵ Interview with CSO #4 (Dec. 8, 2022).

²⁰⁶ Interview with CSO #5 (Dec. 12, 2022).

²⁰⁷ 2nd Interview with IO #3 (Jan. 12, 2023).

ii. Seafood processing factory inspections

Like PIPO inspections of fishing vessels, the quality of labor inspections of seafood processing factories by the DLPW is also poor, which prevents survivor identification in these factories. In 2022, the DLPW conducted 120 labor inspections at seafood processing factories, of which only three factories (2.5%) were found to be in violation of labor laws related to the issues of holidays, wage payment, and wage rate. Again, the government's report does not mention whether the detection of these violations, which involved 157 workers in seafood processing factories, led to the screening and identification of any potential survivors of forced labor.²⁰⁸

The low quality of inspections of the seafood processing factories explains the low number of violations found. An interview with workers at a seafood processing factory in Samut Sakhon province described how inspections occur about once or twice per year, during which the inspectors interview about 5–10 workers from each department who are selected by management. Some workers do not dare to answer the questions honestly because they are afraid that their worker leader will find out if they report anything to the inspector, and typically, management selects workers who they know will be silent.²⁰⁹ According to one CSO, the inspectors have a specific pattern of interview questions in which the workers' answers are interpreted to show that they are not potential survivors of forced labor. For example, an inspector may ask, "Did you eat?" If the worker answers, "I eat sometimes," then they are not considered a potential survivor of forced labor. Similarly, the answer "I sometimes receive income" to a question asking about wage payment may also lead the inspector to conclude that the worker is not a potential victim. As a result, only extreme cases end up qualifying as potential cases of forced labor.²¹⁰

iii. Inspections of non-seafood employers of migrant workers

Inspections of workplaces outside of the seafood industry are also irregular and reactive, which allows labor abuses to flourish. According to the government's report, the MOL conducted labor and welfare inspections of 20,292 employers and business establishments in 2022. However, there are massive loopholes in these labor inspections, as illustrated by the case of VKG Factory in Mae Sot. See *Annex, Case 15*. Called "the wild west" for workers' rights, Mae Sot has been a special economic zone since 2014, where the government has created weak labor laws for operations within the zones²¹¹ There is "weak rule of law, poor wages and working conditions, no union access, and a migrant workforce with 'little to no legal protections for

²⁰⁸ Royal Thai Government, *Country Report on Anti-Human Trafficking Efforts*.

²⁰⁹ Interview with two female Myanmar workers at a seafood processing factory in Samut Sakhon (Feb. 16, 2023).

²¹⁰ Interview with CSO #1 (Dec. 1, 2022).

²¹¹ Emily Dugan, "How big brands like Tesco are drawn to 'wild west of global supply chain'" (Dec. 19, 2022), *The Guardian*, <https://www.theguardian.com/world/2022/dec/19/how-big-brands-like-tesco-are-drawn-to-wild-west-of-global-supply-chain>.

migrant workers,”²¹² so many illegal factories operate and violate workers’ rights.²¹³ One of the plaintiffs’ lawyers, Charit Meesit, said, “It’s an open secret that Mae Sot is notorious for abusing workers.... The authorities know what’s going on but they turn a blind eye. The courts in Thailand need to step up and do more. What I have seen for a long, long time is that employers abuse the System.”²¹⁴

One of the reasons for the lack of inspections is the large number of factories compared to the number of trained labor inspectors.²¹⁵ As a result, inspectors do not have the capacity to carry out preventive inspections.²¹⁶ Instead, workers have the burden of filing a complaint to trigger an inspection, and even then, there is no guarantee that an inspection will take place.²¹⁷ Consequently, many potential survivors of forced labor remain unidentified.

E. Thailand does not meet Indicium 1 because law enforcement officials did not vigorously investigate and prosecute cases of forced labor and instead tried to quickly resolve cases through informal mediation.

Indicium 1 examines “[w]hether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons, and convicts and sentences persons responsible for such acts....”²¹⁸ Related to Indicium 1, the TIP Office made the following Prioritized Recommendations to the Government of Thailand in the 2022 TIP Report, none of which the government has adequately adopted: “Increase trafficking prosecutions and convictions, particularly for labor trafficking”; “Train officials on and ensure effective implementation of new guidelines for the implementation of Section 6/1 of the anti-trafficking law and identification of labor trafficking survivors”; and “Ensure labor violations and migrant workers’ complaints that include indicators of forced labor are investigated for trafficking crimes, including by enforcing procedures for labor officials to refer potential cases of labor trafficking to MDTs and law enforcement.”²¹⁹

1. Underenforcement of the Anti-Trafficking in Persons Act in the seafood industry

The Government of Thailand has prosecuted fewer than 50 forced labor cases under Section 6/1 of the Anti-Trafficking in Persons Act during the reporting period, representing underenforcement of the Anti-Trafficking in Persons Act. According to the government, a total of 248 human trafficking cases were initiated in 2022, of which 44 were labor trafficking cases. They include 35 “general forced labor” cases, three forced labor cases brought under Section

²¹² Emily Dugan, “Workers in Thailand who made F&F jeans for Tesco ‘trapped in effective forced labour’” (Dec. 18, 2022), *The Guardian*, <https://www.theguardian.com/business/2022/dec/18/workers-in-thailand-who-made-ff-jeans-for-tesco-trapped-in-effective-forced-labour/>

²¹³ Dugan, “Workers in Thailand who made F&F jeans for Tesco ‘trapped in effective forced labour’.”

²¹⁴ Dugan, “How big brands like Tesco are drawn to ‘wild west of global supply chain’.”

²¹⁵ Interview with CSO #6 (Dec. 19, 2022).

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ TIP Office, *2022 TIP Report*.

²¹⁹ *Id.*

6/1, one forced labor in fisheries case, three forced begging cases, one enslavement case, and one extortion case.²²⁰

During the reporting period, the government prosecuted *a single* case of severe forms of trafficking in the entire seafood industry, even though several thousands of workers in the industry are estimated to be working in situations of forced labor. *See Part II, Section A.* Alarmingly, the total number of forced labor prosecutions, 44, represents a *decline* in prosecutions since 2017. As discussed in relation to Indicium 2 above, underenforcement of Section 6/1 during the reporting period was not adequately addressed by the government's new SOPs for initial survivor identification of labor trafficking and Section 6/1 offenses. *See Part II, Section D.*

The cases presented in the Annex illustrate that the Government of Thailand is not only failing to “vigorously” prosecute forced labor as a form of severe human trafficking, but is also actively creating conditions of impunity for employers through its investigations. The 17 cases in the Annex provide examples of abuses in the seafood and other industries from this past year, in which law enforcement officials did not investigate, prosecute, or otherwise appropriately address despite evidence of indicators of forced labor. The cases illustrate patterns of systemic underenforcement that further shows that the Government of Thailand is only prosecuting a minute fraction of cases of severe forms of trafficking involving forced labor.

The case of trafficking at VKG Factory, a supplier for the UK supermarket Tesco (hereinafter the “VKG Factory case”)—which was only investigated by Thai law enforcement after workers filed a lawsuit against Tesco in the United Kingdom for forced labor—is illustrative of the Government of Thailand underenforcing law to create an environment of impunity for severe forms of trafficking. *See Annex, Case 15.* In the VKG Factory case, workers who were interviewed said that the screening interviews, which took place in an open-plan immigration building, “were rushed and felt like a tick-box exercise to clear the factory of allegations.” Ye Zaw Zo, a former worker, witnessed his answer about below-minimum wage pay being deleted from an officer’s screen, and the officers refused to make note of anything more he had to say. As a result, he called the investigation “one-sided” and “a waste of time.” Ye Zaw Zo was not alone in feeling dismissed in this way; several workers said they were cut off before they could fully answer the interview questions. Phyto Phyto Mar, another former worker who was interviewed, expressed “I feel as if they turned blind eyes to us,” and “because of this experience, I don’t have much hope.”²²¹

2. Lack of remedy for migrant workers in cases with less understood trafficking indicators

Government officials in Thailand have demonstrated an overwhelming tendency to try to quickly resolve cases involving indicators of forced labor through informal mediation between workers and management or referral to labor court, which usually does not provide an adequate remedy

²²⁰ Royal Thai Government, *Country Report on Anti-Human Trafficking Efforts*.

²²¹ Emily Dugan, “Thai police accused of ‘sham’ forced labour inquiry at former Tesco supplier” (Jan. 5, 2022), *The Guardian*, <https://www.theguardian.com/world/2023/jan/05/thai-police-accused-sham-probe-alleged-forced-labour-former-tesco-supplier>.

for either the underlying labor violations or for forced labor.²²² See *Annex, Case 1, Case 4, Case 5, Case 7, Case 8, Case 12, Case 13, and Case 14*. This is especially true for cases involving the less understood indicators of forced labor, such as debt bondage, withholding of wages, and document retention. See *Part II, Section C, Sub-Section 4*. According to three CSO, reporting potential cases of forced labor to law enforcement, including filing complaints with PIPO officers, almost always results in informal mediation.²²³ The persistence of these practices indicates that the government has not adopted the TIP Office’s Prioritized Recommendation to “Increase awareness among relevant officials of less understood trafficking indicators, such as debt-based coercion, excessive overtime, confiscation of documents, and nonpayment of wages.”

The informal mediation process puts workers at a disadvantage due to the imbalanced power dynamics between employers and workers and the high pressure to settle.²²⁴ Instead of providing a more effective redress than judicial channels,²²⁵ informal mediation causes workers to feel pressured to accept significantly less—typically 10–20% of what they are owed under labor law.²²⁶ The pressure to settle is tremendous, with workers being warned that the case will take a long time if they do not settle. Consequently, many migrant workers end up accepting a small fraction of what they are legally owed because they are afraid that they will otherwise not get paid anything at all.²²⁷ Even when cases do go to court, workers are pressured to settle throughout the entire judicial process, all the way to the issuance of the court judgment.²²⁸ As a result, most workers are denied adequate remedy.

Meanwhile, informal mediation creates impunity for employers. Even though Section 113 of the 2018 Amendment to the Royal Ordinance Concerning the Management of Foreign Workers’ Employment says that employers who confiscate employees’ personal documents may be prosecuted,²²⁹ employers are simply ordered to return confiscated documents and do not face any punishment for offenses.²³⁰ See *Annex, Case 1, Case 3, Case 12, Case 13, and Case 14*. These informal agreements also result in no filed paperwork, which leaves no record of the case.²³¹ Because the informal mediation process favors employers, this allows employers—who are typically powerful figures in their community—to influence government officials to opt for informal negotiation over criminal investigation and prosecution.²³² Furthermore, aggressive or influential employers may deny negotiation altogether.²³³ This culture of impunity helps perpetuate labor abuses and impedes migrant workers’ ability to receive adequate remedy.

²²² Interview with CSO #4 (Dec. 8, 2022).

²²³ *Id.*; Interview with CSO #3 (Dec. 6, 2022); and Interview with CSO #5 (Dec. 12, 2022).

²²⁴ Interview with CSO #3 (Dec. 6, 2022).

²²⁵ Interview with CSO #5 (Dec. 12, 2022).

²²⁶ Interview with CSO #6 (Dec. 19, 2022); Interview with CSO #7 (Feb. 27, 2023).

²²⁷ Interview with CSO #7 (Feb. 27, 2023).

²²⁸ *Id.*

²²⁹ Interview with CSO #1 (Dec. 1, 2022).

²³⁰ 2nd Interview with IO #3 (Jan. 12, 2023).

²³¹ Interview with CSO #7 (Feb. 27, 2023).

²³² Interview with CSO #5 (Dec. 12, 2022).

²³³ *Id.*

F. Thailand does not meet Indicum 7 because the government has not proven to vigorously investigate, prosecute, convict, and sentence public officials who participate in or facilitate severe forms of trafficking in persons.

The Government of Thailand has also not adequately adopted the following Prioritized Recommendation by the TIP Office: “Proactively investigate and prosecute officials allegedly complicit in facilitating trafficking and convict and punish those found guilty with adequate sentences.”²³⁴ While the government reports that it initiated cases against 35 alleged complicit officials in 2022, it has failed to meaningfully address the root of the issue: informal brokerage networks discussed earlier continue to be fueled by official corruption. *See Part II, Section C.* Two CSOs explained that it is impossible for migrants to travel from Myanmar to Thailand without bribing authorities, such as police and border patrol.²³⁵ In September 2022, one of the CSOs directly spoke with a Myanmar broker who admitted that brokers on the Myanmar side always make arrangements with local officials before smuggling migrants into Thailand, agreeing upon a specific time to cross the border at a certain checkpoint.²³⁶ The expansion of informal brokerage networks strongly suggests that official complicity in human trafficking schemes in Thailand remains prevalent and that the government’s efforts to investigate and prosecute officials are not proportionate to the problem.

Once these migrant workers are brought to Thailand, local police are known to capitalize on their vulnerability stemming from their precarious legal status by charging a “protection” fee, according to three CSOs interviewed.²³⁷ In provinces throughout Thailand,²³⁸ undocumented workers are obliged to pay several hundred baht monthly to the police in order to not be arrested and deported. In exchange, they receive an A5-sized “police cards,” which are unofficial documents valid for one month that allow migrant workers to avoid arrest or deportation.²³⁹ The practice is so severe in Samut Sakhon province that it has been described as “what the police normally do” and that “it’s almost their job.”²⁴⁰ However, even police cards cannot guarantee against random arrest on the street or at police checkpoints and, thereafter, deportation: in Mae Sot, up to 75% of arrests end up in deportation and the threat of imprisonment and torture.²⁴¹

Thai government officials have been coordinating deportations in cooperation with the Myanmar junta over the past two years.²⁴² Many migrants are willing to pay a lot of money, because they fear being sent back to Myanmar, where many face life-threatening situations, especially for

²³⁴ TIP Office, *2022 TIP Report*.

²³⁵ Interview with CSO #1 (Dec. 1, 2022); Interview with CSO #2 (Dec. 2, 2022).

²³⁶ Interview with CSO #2 (Dec. 2, 2022).

²³⁷ Interview with CSO #1 (Dec. 1, 2022); Interview with CSO #5 (Dec. 12, 2022); and Interview with CSO #6 (Dec. 19, 2022).

²³⁸ Examples include Samut Sakhon, Tak, Chumphon, Ranong, Songkhla, Patthani, Yala, Trat, Rayong, and Surat Thani provinces. Interview with CSO #1 (Dec. 1, 2022); Interview with CSO #7 (Feb. 27, 2023).

²³⁹ Interview with CSO #1 (Dec. 1, 2022).

²⁴⁰ *Id.*

²⁴¹ Radio Free Asia, “Myanmar migrants face being exploited under Thai deportation system”; Interview with CSO #7 (Feb. 27, 2023).

²⁴² *Id.*

those who have fled the country after being involved in the Civil Disobedience Movement (CDM). In fact, there are reports of high-profile detainees in Thailand paying up to 50,000 baht (\$1,429) and those taken to the border paying 500,000 kyat (\$259) to Burmese guards at the checkpoints to be released.²⁴³ Naing Aung Aung, the head of the Arakan Workers' Organization in Mae Sot, explained, "For migrant workers, the police department is like hell. They can't ask for help from them because most of the police are just asking for money." For those imprisoned, migrant workers must pay 300 baht (\$9) for each phone call and are required to pay a 10,000 baht (\$286) fee to be released.²⁴⁴ In some cases, migrants even end up imprisoned for months. See *Annex, Case 9*. In recognition of this problem, the NHRCT plans to investigate the government's treatment of Myanmar refugees after receiving evidence of extortion, arbitrary arrests, detention, and forced returns from Fortify Rights.²⁴⁵

Meanwhile, official corruption is evident in other ways. One common form of corruption is that whenever a worker files a complaint, officials almost always notify the employer of the complaint and provide information about the worker who filed the complaint. This places the employer in an even more powerful position vis-à-vis the worker, as the employer now possesses information that they can use to target the worker.²⁴⁶ This collusion between officials and employers hinders workers' ability to report abuses and obtain redress, which helps perpetuate exploitative working conditions. In addition, as discussed in Part II, Section D, law enforcement officials in Thailand have facilitated forced labor schemes by choosing not to properly screen and identify survivors of forced labor. For example, in the VKG Factory case, the worker witnessed the officer deleting his testimony about illegally low wages at the factory from the computer screen. See *Annex, Case 15*. Sometimes, the unwillingness stems from undue influence by employers, as evidenced in the case where a police officer gave the vessel owner a hug after a PIPO screening resulted in a negative finding of forced labor. See *Annex, Case 9*.

With government officials making arrangements with brokers to help facilitate irregular border-crossings of migrant workers, then extorting migrant workers without documentation in Thailand and improperly screening potential survivors in part due to the influence of employers, it becomes evident that the trend of deceptive recruitment of migrant workers is largely made possible by official corruption and complicity. However, the Government of Thailand has not demonstrated targeted efforts to crack down on these forms of official corruption, helping to perpetuate the exploitation of migrant workers.

G. Thailand does not meet Indicium 11 because the government has not achieved appreciable progress in eliminating severe forms of trafficking when compared to the assessment in the previous year.

Indicium 11 considers "[w]hether the government of the country achieves appreciable progress in eliminating severe forms of trafficking when compared to the assessment in the previous

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ *Id.*

²⁴⁶ Interview with CSO #7 (Feb. 27, 2023).

year.”²⁴⁷ As this submission has illustrated, Thailand has not made appreciable progress in eliminating human trafficking and forced labor compared to the previous year, despite an increase in the numbers of trafficking cases initiated. In 2022, the government investigated 248 cases compared to 188 cases in 2021, and identified 543 survivors compared to 424 in 2021; 35 complicit officials were prosecuted in 2022 compared to 17 in 2021. However, these prosecutions—which address only one aspect of Thailand’s response to trafficking—do not tackle the systemic issues that underlie the weakness of Thailand’s anti-trafficking efforts.

Systemic problems for which Thailand has failed to make appreciable progress include the continued denial of union rights for migrant workers; the inadequate protections of workers and advocates against SLAPP suits; the absence of a long-term comprehensive migration program that addresses high rates of irregular migration into Thailand; the continued criminalization and deportation of migrants without documentation; the lack of regular, robust labor inspections of worksites; the lack of vigorous investigation and prosecution of cases showcasing less understood indicators of forced labor; and the lack of regulation or prosecution of unlicensed brokers and complicit officials. Most of these problems were highlighted in the SWG’s 2022 Comments on Thailand, yet the Government of Thailand has made little progress in addressing them, making it impossible for them to show appreciable progress in the past year. To make appreciable progress in 2023, the Government of Thailand must adopt the Priority Recommendations listed in the Introduction of this report. *See Part I.*

²⁴⁷ TIP Office, 2022 TIP Report.

III. THAILAND MEETS THE CRITERIA FOR LISTING ON THE TIER 2 WATCHLIST AS OPPOSED TO TIER 2.

In addition to not fully meeting the TVPA minimum standards due to a lack of serious and sustained efforts to combat severe forms of trafficking, the Government of Thailand has also shown to not be taking proportional concrete actions compared to the significant number of trafficking survivors among the migrant worker population in Thailand, and it has not demonstrated increased efforts to combat severe forms of trafficking in persons from the previous reporting period. Therefore, Thailand meets the criteria specifically for placement on the Tier 2 Watchlist in 2023.

A. The estimated number of survivors of severe forms of trafficking among migrant workers is significant, yet the Government of Thailand is not taking proportional concrete actions.

Thailand warrants being placed on Tier 2 Watchlist as opposed to Tier 2 because the estimated number of survivors of severe forms of trafficking is very significant among the migrant worker population, but the government is not taking proportionate concrete actions. The discussion under Indicum 8 illustrated how migrant workers constitute a significant percentage of survivors of human trafficking and forced labor in Thailand. *See Part II, Section A.* However, the Government of Thailand has not taken proportionate actions to address the prevalence of forced labor in industries primarily driven by a migrant workforce, such as the seafood industry. To the contrary, the government has enacted laws and policies that increase migrant workers' risk of being subjected to forced labor. Examples include continuing to deny union rights to migrant workers; enact short-term migration management policies; allow migrants to be charged high recruitment fees; and not holding accountable unlicensed brokers or complicit officials. Meanwhile, law enforcement officials have also not improved their efforts, instead continuing to carry out poor quality labor inspections of worksites and not vigorously investigating and prosecuting cases involving deception, debt bondage, withholding of wages, and document retention. Consequently, the estimated number of survivors of forced labor in Thailand remain high, especially in migrant communities.

B. Thailand has not increased efforts to combat severe forms of trafficking in persons from the previous reporting period.

A Tier 2 Watchlist ranking is also appropriate because the Government of Thailand has not provided sufficient evidence of increasing efforts to combat severe forms of trafficking in persons compared to the previous year, including increased investigations, prosecutions, and convictions of trafficking crimes; increased assistance to survivors; and decreasing evidence of complicity by government officials. As discussed earlier, the increases in the number of trafficking cases initiated, the number of trafficking survivors identified, and the number of complicit officials prosecuted is negligible. *See Part II, Section G.* Instead, analysis of the government's limited efforts to address the same underlying drivers of forced labor highlighted in the SWG's 2022 Comments on Thailand indicates that the government has not truly made increasing efforts compared to the previous year. Furthermore, as discussed throughout the

report, the government has not sufficiently adopted the majority of the TIP Office's Prioritized Recommendations in the 2022 TIP Report. Out of 14 Prioritized Recommendations, we have shown that the government has not fulfilled at least 10—if not more—of the Prioritized Recommendations.²⁴⁸ Therefore, it is evident that the Government of Thailand has not increased its efforts to combat severe forms of trafficking in persons from the previous reporting period and thus warrants placement on the Tier 2 Watchlist.

²⁴⁸ The information collected did not focus on the other four recommendations, so they are outside the scope of this year's submission.

IV. THE TIP OFFICE SHOULD MAKE REMAINING AT TIER 2 CONDITIONAL ON IMPLEMENTING SEVERAL PRIORITY RECOMMENDATIONS.

To encourage Thailand to fully meet the TVPA minimum standards, the TIP Office should support the following nine recommendations to the Government of Thailand. The five priority recommendations presented in the Introduction of this report are marked with an asterisk (*).

1. ***Freedom of association and right to collective bargaining for migrant workers.** The government should ratify the ILO Conventions on Freedom of Association and Protection of the Right to Organize, 1948 (C87) and the Right to Organize and Collective Bargaining (C98), as well as amend the Labour Relations Act (1975) to allow all workers, including migrant workers, the right to form and lead labor unions.
2. **Strengthened anti-SLAPP measures.** The Ministry of Justice (MOJ) should end all ongoing arbitrary legal proceedings against human rights defenders, including those described in Part II, Section B, Sub-Section 2 of this report; decriminalize defamation under the Penal Code and Computer Crimes Act and remove disproportionate penalties for civil defamation charges; strengthen anti-SLAPP legislation so that it thwarts SLAPP suits and penalizes plaintiffs who bring SLAPP suits; and hold anti-SLAPP trainings for law enforcement officers, lawyers, and the judiciary.
3. ***Long-term labor migration management policy.** The government should effectively coordinate with its neighboring countries and establish a long-term, comprehensive labor migration management policy for migrants from neighboring Southeast Asian countries that promotes fair and safe migration for decent work. The policy should permit migrant workers to work and reside in Thailand for longer periods of time to reflect the reality of their experiences; streamline administrative requirements to make the process simpler and less time-consuming; eliminate all recruitment fees and related costs, in line with the ILO principle of zero recruitment fees for migrant workers; exclude private employment agencies from the process; and provide greater job flexibility for migrant workers by not tying work permits to specific employers. Development of this program could be led by the committee on migration policy mentioned in the 2018 Amendment to the Royal Ordinance Concerning the Management of Foreign Workers' Employment, which should involve public participation by worker organizations and civil society.
4. ***Effective rollout of the new NRM and SOPs at the local level through officer training and accountability.** The government should strengthen implementation of the new policies intended to strengthen survivor identification, including the new NRM and SOPs for initial survivor identification of labor trafficking and Section 6/1 offenses by investing in the capacity building of officers at the local level. In collaboration with the MOL and other government agencies, MSDHS should provide training sessions and workshops for local officers so that they can accurately identify all indicators of forced labor, including the less understood indicators, such as deception, debt bondage, withholding of wages, and document retention. Initial training sessions should be supplemented with follow-up training sessions to strengthen officers' capacity, and an oversight mechanism should be developed to hold officials accountable for properly

screening and protecting survivors. To increase transparency and accountability, officials screening potential survivors should be required to submit written justification in making their determination.

5. ***Survivor-focused and trauma-informed responses to survivors including non-punishment of survivors.** The government should follow UN guidelines on the non-punishment of survivors of human trafficking by not arresting, detaining, and deporting potential survivors for immigration offenses.²⁴⁹ Potential survivors should also be offered a 45-day reflection period before screening, as guaranteed in the new NRM.
6. ***Strengthened labor inspections.** The MOL should establish regular, rigorous labor inspections, particularly in high-risk workplaces dominated by migrant workers. The MOL should conduct a comprehensive review of the challenges to effective inspection and work in collaboration with MSDHS to create a protocol for other relevant agencies to join the case when there are indicators of forced labor present. Labor inspectors should engage directly with workers in a meaningful way by selecting workers to interview at random instead of allowing employers or managers to select the workers to be interviewed. They should conduct interviews in a confidential and safe space and should ask open-ended questions that comprehensively assess working conditions. Worker organizations and CSOs should be involved in the inspection process. The MOL should also adopt a proactive approach to inspections, where inspections are conducted on a regular basis, instead of only when complaints are filed. At the same time, the MOL should strengthen its complaint mechanism, for which the MOL should coordinate with frontline migrant worker organizations so that they can help monitor cases and follow up in the case of extensive delays or police refusal to accept cases. Workers who file complaints should also be guaranteed protections against retaliation.
 - a. *Inspections of fishing vessels:* PIPO should focus on improving the quality of its labor inspections of vessels at port and at sea, rather than focusing on increasing the number of inspections. PIPO officers should not limit inspections to the verification of documents, but should instead meaningfully engage with workers by conducting confidential interviews in a safe space with the help of a competent interpreter. The interviews should consist of open-ended questions that comprehensively assess the working conditions on vessels, and officers should be trained to identify all indicators of forced labor, including widely accepted industry practices, such as document retention and the withholding of wages. Inspectors found to have ignored indicators of forced labor during an inspection should be held accountable. To strengthen workers' trust of PIPO officers, PIPO should establish anti-retaliation measures to protect fishers who report violations; prohibit intimidation tactics by employers during inspections; screen any inspectors with conflicts of interest; and engage with worker

²⁴⁹ ICAT, "Issue Brief: Non-Punishment of Victims of Trafficking."

organizations and CSOs in the local community while reducing the frequency of rotations of officers.

7. **Improvements for regulation of migrant workers towards decent work.** Under the 2018 Amendment to the Royal Ordinance Concerning the Management of Foreign Workers' Employment, migrant workers should be able to change employers and not lose their immigration status or permission to work. They should be permitted to seek new employment as desired (not only under the certain conditions currently prescribed in the law) so that they do not need to remain in undesirable or even abusive jobs. In addition, the loophole permitting employers to maintain workers' documents if the employer agrees to facilitate access to the retained documents should be removed.
8. **Prosecution of forced labor cases under Section 6/1:** The government should ensure that law enforcement officials proactively investigate and prosecute potential forced labor cases under Section 6/1 by training officers to properly investigate and prosecute cases that showcase indicators of forced labor, such as debt bondage, withholding of wages, and document retention, instead of trying to quickly resolve the cases through an informal mediation process that pressures workers to settle for less than what they are legally owed. Officials who are found to have failed to properly investigate and prosecute such cases should be held accountable. In addition, in cases where survivors do not seek criminal prosecution of traffickers under Section 6/1, employers who commit offenses like document confiscation or withholding of wages should be prosecuted separately for those offenses.
9. **Regulation and accountability of unlicensed brokers and investigation and prosecution of complicit officers.** The government should more strictly regulate the licensing of recruitment agencies and hold accountable brokers operating without a license. In addition, the government should investigate and prosecute officials who participate in or facilitate the operations of informal brokerage networks engaged in severe forms of trafficking in persons.

ANNEX

This annex presents 17 cases of severe forms of trafficking from March 2022–February 2023 involving at least 224 workers submitted by the organizations interviewed for this submission.²⁵⁰ Of the 17 cases, 12 cover the seafood industry, while the remaining five cases pertain to the construction, service, and manufacturing industries. They illustrate instances of severe forms of trafficking into forced labor and the Government of Thailand’s failure to vigorously identify worker survivors and prosecute cases.

Case 1: Four female crab factory workers denied return of documents and due wages (Surat Thani province, March 2022)²⁵¹

- **Indicators of forced labor:** abuse of vulnerability, deception, retention of documents, withholding of wages, intimidation and threats, abusive living and working conditions

Four female workers in a crab factory came to work in Thailand through a recruitment agency via the MoU channel. They worked at the factory for two to three years, beginning in either August 2018 or November 2019 and working until February 2022. They paid the recruitment agency a fee of 18,000 baht (\$514) per person, which was meant to cover the cost of their passport employment contract, visa, health check, work permit, and travel. Their employer paid the recruitment agency the recruitment fee up front and then deducted 1,000 baht (\$29) from the workers’ wages every two weeks [i.e. 2,000 baht (\$57 per month)] for a period of nine months. On the first day of work, the workers’ identity documents, including their passport and work permit, were confiscated, and their employer did not provide any details about the document retention.

The migrant women worked at the factory’s crab deshelling, packaging, and R&D sections, and they were paid in cash every two weeks, at a rate of 330 baht (\$9) per day. However, besides the 2,000 baht (\$57) monthly deductions for the recruitment cost, the workers also had about 1,000 to 1,200 baht (\$29 to \$34) deducted every month to pay for social security, gloves, house maintenance, water supply, and electricity. In addition, they were required to pay 200 baht (\$6) for visa renewal every 90 days. During the COVID-19 pandemic, one of the migrant workers’ employment contracts was suddenly changed from a monthly contract with a fixed daily wage to pay remuneration upon performance of work.

On February 25, 2022, the migrant workers informed their supervisor that they wished to resign. Their supervisor told them to report their resignation to the Human Resources (HR) department where their documents were kept. On February 26, the workers informed the HR department about their decision. The HR department told them that their documents were with their supervisor, so they returned to meet their supervisor again. The supervisor was angry and scolded the workers using abusive language. The workers then returned to the HR department, which told them to return on February 28 to receive their outstanding wages for February 12–25,

²⁵⁰ This reflects the number of workers involved in cases excluding Case 17, where number of workers affected was not available.

²⁵¹ CSO#1.

2022. On February 28, the four workers went to collect their documents and wages as instructed, but the HR department did not pay their wages, nor return their identity documents, and gave no explanation for the matter.

On March 3, 2022, the migrant workers informed an NGO that their documents had been confiscated by the company, which made it impossible for them to find a new job. The NGO pushed for the survivor identification process of this case through the central government unit. In March 2022, a meeting with the representatives of the ad-hoc working group on anti-trafficking in persons was held, and the case letter was submitted to the Permanent Secretary of the MOL. The same month, the survivor identification process for the four workers was conducted, but the officials concluded that none of the workers were survivors of forced labor. The Anti-Trafficking in Persons Division under the Thai Royal Police explained that this case was neither forced labor nor human trafficking because it did not fall under the legal elements of forced labor or human trafficking. Regarding the retention of documents by the employer, the MDT simply viewed this practice as part of the work culture.

The DLPW, Surat Thani province, ordered the employer to pay pending wages, minimum wages, wages in holidays, and expenses for recruitment under the MoU system. The Surat Thani Court mediated the labor case. During the mediation process, the mediator does not notify the rights to the workers. In addition, the workers have to travel from Samut Sakhon province to the labor court in Phuket, making it more difficult for the migrant workers to exercise their rights in the justice system. The mediator encouraged the parties to settle, and in the end, the four workers settled for only about half of the compensation they had requested: 48,667 baht (\$1,390) out of 82,702 baht (\$2,363). Other offenses regarding the violation of the migrant workers' rights in this case were not prosecuted.

Case 2: Four Myanmar migrant construction workers deceived by an informal broker (Songkhla province, March 2022)²⁵²

- **Indicators of forced labor:** abuse of vulnerability, deception

On March 10, 2022, four Myanmar workers contacted an NGO to coordinate with the Employment Office to follow up on the documents that they had processed through a broker. The workers had only received the receipt of the work permit fee after making the payment a while back. They were worried that they would not receive the documents, as their work permits were set to expire on March 31, 2022.

Following the NGO's advice, the migrant workers contacted the broker, who reassured them that the documents were being processed and that he would return them to the workers himself when they were ready. The NGO then helped the workers file a complaint with the local Employment Office. The officers checked the data and found the workers' names in the system, but discovered that the name of the employer did not match. Next, they checked the list of brokers and found that this broker was unregistered. Yet, upon making this discovery, the Employment Office took no action against the broker to hold him accountable. They also did not

²⁵² CSO #4.

provide any protection to the workers or offer any advice about filing a lawsuit against an illegal or exploitative broker.

Case 3: Fisher physically abused and faced with death threats by employer unable to resign (Chumphon province, March 2022)²⁵³

- **Indicators of forced labor:** abuse of vulnerability, intimidation and threats, document retention, debt bondage, restriction of movement, physical violence, abusive living and working conditions, isolation, withholding of wages

A migrant fisher working on a vessel in Chumphon province needed help from an NGO to leave his job because his employer had threatened to beat him and throw him into the middle of the ocean. The fisher had tried to resign four times, but the employer refused to return the documents in order to force him to continue working on his vessel.

One time, the fisher asked the employer for his documents while on shore, but the employer only gave him photocopies to show to the police in order to avoid getting arrested. As a result, the worker had no freedom of movement and was afraid that he would be arrested by the police. Consequently, he had no option but to continue working in a dire environment. Moreover, the fisher was physically abused several times while working on the vessel, which could be life threatening. The purpose of the abuse was to instill fear and express the employer's dissatisfaction with the fisher's work performance. The fisher also experienced verbal abuse in the form of swearing and threats countless times. As for wages, the fisher was paid in cash and had the document renewal fee deducted from his wages every month. The fisher had no idea whether or not he had a bank book or an ATM card. The amount of the cash payment did not match the amount recorded in the bank account.

The NGO, who detected indicators of forced labor in this case, contacted officials. The MDT, however, did not provide a survivor reflection period and instead began the survivor identification process immediately. Still in a state of shock, the fisher was unable to provide concrete information, and the team concluded that this was a case of forced labor. The NGO asked the MDT to repeat the interview with workers and presented them with additional information showcasing indicators of forced labor. Nonetheless, the MDT insisted on sticking with the preliminary facts, saying the first round of interviews yielded the most accurate information because it was the "freshest" after the incident. The MDT concluded that the case was not one of forced labor.

Case 4: Cambodian fisher compelled to continue working after PIPO-led mediation (Songkhla province, April 2022)²⁵⁴

- **Indicators of forced labor:** abuse of vulnerability, identity document retention, debt bondage, withholding of wages, physical violence, abusive living and working conditions,

²⁵³ CSO #3.

²⁵⁴ CSO #4.

deception, isolation, restriction of movement

A Cambodian fisher who came to Thailand under the MoU scheme worked on a vessel for approximately five years. He was the only Cambodian national on board and worked alongside Thai workers. His employer advanced the costs of documentation fees at the start of his employment and deducted the cost from his wages. Instead of being paid monthly, as required by law,²⁵⁵ the fisher was paid in cash through an account settlement system, with the latest account cycle spanning 15 months. This 15-month payment cycle was also written in the employment contract. However, the employer left a paper trail showcasing monthly electronic transactions to give the appearance of being in accordance with the law, which requires monthly payments via bank transfers. Furthermore, the employer retained the fisher's personal documents.

In April 2022, the migrant fisher approached his employer, seeking payment of his due wages and expressed his desire to return to Cambodia. Instead, his employer asked him to work an additional three months, seeing that the workers' work permit would also expire in about three months. The employer promised to settle the account and allow the fisher to return to Cambodia right after this last trip. The fisher, however, did not want to work on the vessel anymore because he had been physically assaulted by Thai crew members onboard during his previous trip.

An NGO conducted a preliminary inquiry into this case and coordinated with the DLPW office in Songkhla province, who then suggested filing the case with the PIPO Center. PIPO received the case and conducted an inquiry with the worker and later with the employer. The employer learned from the PIPO officer that the worker had been physically assaulted while working on the vessel and proceeded to dismiss the Thai worker who had committed the assault.

A PIPO officer mediated a settlement between the employer and fisher where the fisher would continue working an additional three months until his documents expired in July 2022, after which the employer would pay the fisher's due wages, as well as settle the fisher's debt to the employer. The employer purported that the fisher still owed him about 40,000 baht (\$1,143), likely as a means to persuade the fisher to return to work. In addition, if the worker still owed money to the employer, the employer would cancel the remaining debt and give a travel allowance of 15,000 baht (\$429) for his return trip to Cambodia.

Initially, the fisher was hesitant to return to work with the employer, but the employer made a case for this by saying that he had already dismissed the Thai worker, promising that he would provide a travel allowance to return to Cambodia, and claiming that the fisher still owed him 40,000 baht (\$1,143). During the mediation, there seemed to be other issues that the worker wanted to raise, but he ended up not doing so because he did not want to complicate the case. In the end, the fisher agreed to return to work the additional three months. The PIPO officer drafted an agreement between the employer and fisher and asked both parties to sign in front of

²⁵⁵ The 2018 Amendment to the Ministerial Regulation on Labour Protection in Sea Fishing Work, B.E. 2557 (2014) requires workers to be made at least monthly through an electronic payment system.

the NGO staff and PIPO officer as witnesses. If the employer breached the agreement, PIPO would take legal action against him.

The case was settled in one day, and no investigation for human trafficking or forced labor was conducted. Instead, PIPO's swift handling of the case proved to be problematic in various ways. To begin, the mediation process led by PIPO required the employer and worker to be face-to-face, without waiting to see if the worker was ready to confront the employer. This created an environment in which the worker, who had filed a complaint against his employer, could not feel comfortable sharing the details of the complaint. As a result, the fisher seemed to be unable to raise all of the issues he faced.

Furthermore, PIPO did not investigate the various indicators of forced labor present in this case. First, the PIPO officer did not inquire into why the employer confiscated the documents of the worker. Second, the officer only inspected documentation of wage payments provided by the employer, which entailed monthly electronic transactions, and did not verify whether the money was actually received by the fisher, who was, in fact, paid in case on a 15-month cycle. Third, the PIPO officer did not inquire into the issue of debt purportedly owed by the worker to the employer. The employer failed to present any evidence supporting his statement that the fisher still owed him 40,000 baht (\$1,143) and did not provide a breakdown of the debt that explained what the debt was for, such as advanced payments to cover recruitment costs or other matters. Fourth, the PIPO officer did not probe into the details of the assault and injuries inflicted on the fisher and instead only focused on the employer's dismissal of the Thai worker.

Case 5: 26 fishers unfairly dismissed and pressured to pay fee for return of personal documents (Phang Nga province, April 2022)²⁵⁶

- **Indicators of forced labor:** abuse of vulnerability, document retention, debt bondage, deception, restriction of movement, intimidation and threats

In April 2022, 26 Myanmar fishers in Phang Nga province were fired without advance notice from their employers. They learned that their employer planned to replace them with Cambodian fishers. Some fishers' personal documents were also retained by their employers, who refused to return them unless the fishers paid around 20,000 baht (\$571).

NGO staff suggested that the migrant fishers file a complaint with PIPO against their former employer for unfair dismissal and illegal document confiscation. However, the fishers did not want to file a complaint because they did not want to have any problems with their former employer and simply wanted to get their personal documents back so that they could go work for a new employer.

On May 5, 2022, NGO staff visited the migrant fishers to follow up on the case and found that five of them had returned to work for their ex-employer, while 21 of them had started working on other fishing vessels. The new employers from these other vessels had reached an agreement

²⁵⁶ CSO #2.

with the former employer to pay for the document fees in order to get the fishers' personal documents back.

Case 6: Fisher met with fraudulent, coercive, and forceful tactics by the broker when trying to resign (Pattani province, May 2022)²⁵⁷

- **Indicators of forced labor:** abuse of vulnerability, deception, retention of documents, debt bondage, withholding of wages, physical violence, intimidation and threats

Around January 2022, a migrant fisher who worked on a fishing vessel in Pattani province tried to leave his job and change employers. He had worked on the vessel for approximately two years after first arriving in Thailand in 2019 under the MoU scheme with the help of a broker. He had agreed to work under a two-year contract with the following terms: he would be paid 9,500 baht (\$271) per month, and if he completed the two-year contract in its entirety, he could leave the job with the documentation fee waived.

During his two-year employment, the migrant fisher never had the chance to speak with his employer directly. Instead, he would have to go through the broker, who also acted as his supervisor. The broker confiscated the crew members' documents and refused to return them unless they paid the documentation fee. The broker also regularly beat the crew so that some workers were afraid of the broker and did not dare go up to him to ask for their documents back. In terms of the payment arrangement, the fisher received his wages through an account settlement system, in which he was paid in cash at the end of the account cycle, in violation of the law.²⁵⁸ The first account cycle lasted 16 months from 2019 to 2021, and the second cycle lasted 13 months from 2021 to around January 2022.

After settling the account and receiving his wages in January 2022, the migrant fisher asked to leave the job and change employers. However, the broker asked him to work for two more trips due to a current labor shortage on vessels. The fisher verbally agreed to work for about three more months. He ended up working for three months and four days and was owed 29,766 baht (\$850). Instead, he was paid 21,700 baht (\$620) and was still owed 8,066 baht (\$230).

On May 23, 2022, the migrant fisher approached the broker and asked for his due wages in the amount of 8,066 baht (\$230), plus the return of his personal documents. In response, the broker demanded a payment of 18,000 baht (\$514) for the documentation fee, to which the fisher mentioned the original promise that no documentation fee would be collected if he completed the two-year contract. Furious, the broker dragged the fisher by the head to the floor, then beat him three times and slapped him on the face once. While the migrant fisher was trying to call his brother, the broker threatened him saying, "You can report it to anyone. I am not afraid," and grabbed the fisher's phone and smashed it. Afraid of the broker, the fisher fled to Surat Thani province to meet his brother. A report was filed at the Kanchanadit Police Station in Surat Thani on July 4, 2022, and the migrant fisher's retained documents were returned to his address.

²⁵⁷ CSO #5.

²⁵⁸ See *supra* note 255.

Case 7: Cambodian fisher not permitted to resign by employer (Songkhla province, May 2022)²⁵⁹

- **Indicators of forced labor:** abuse of vulnerability, deception, debt bondage, document retention

A Cambodian fisher came to work in Thailand under the MoU recruitment scheme with the help of a broker. While in Cambodia, he was informed that the documentation fees would cost 23,000 baht (\$657). Instead, his employer, who managed the document processing related to the MoU recruitment, collected 25,000 baht (\$714) when the migrant fisher arrived in Thailand. The fisher paid off the debt by paying 3,000 baht (\$86) per month until his debt was settled. For wages, he received a salary of 12,500 baht (\$357) per month, paid in cash. In addition, the employer retained his documents. In total, the migrant fisher worked for the employer for about four years. Over the past two years, he had tried to resign once, but his employer did not allow him to leave. The worker did not dare speak up to him, so he just continued working.

During the COVID-19 pandemic, there was no work at the raft. The employer told all workers that if anyone wished to resign, they could leave once they settled their debt. After the migrant fisher had paid back his debt, he approached the employer, asking to resign and requesting the return of his documents. However, the employer said that all documents were with his daughter who lived in Bangkok. While waiting for the return of his documents, the fisher did not return to work for the employer for about two months and intended to leave for Cambodia immediately after receiving the documents. At some point, he went to work for someone else's raft. When the employer found out, he called up the raft owner, informing him that the migrant fisher was still his employee because his resignation had not yet been registered. As a result, no employer could hire the worker.

On May 6, 2022, the migrant fisher sought the help of a NGO who informed the Employment Office about his complaint. The Employment Office interviewed the fisher and also contacted the employer to schedule a meeting. On May 9, 2022, the employer informed the Employment Office that he would come to the office to notify a resignation for the worker, upon which the Employment Office also invited the worker and NGO staff to the office. However, the employer falsely listed "the worker used drugs and neglected work" as the primary reason for resignation, to which the employment officer explained that using a drug-related reason was a form of harassment because the worker would be blacklisted by law and not be allowed to work in Thailand for another three years.

The Employment Office explained to the migrant fisher that he could file a legal case against the employer, but the fisher did not want to take any actions against him. Instead, he wanted to have his documents returned, to resign, and to return to Cambodia. In the end, the employment officer persuaded the employer to soften the wording of the reason for resignation from "the worker used drugs" to "the worker has a tendency to use drugs" to help prevent the worker from getting blacklisted from working in Thailand in the future. Within one week after receiving the

²⁵⁹ CSO #4.

documents and resignation letter, the migrant fisher returned to Cambodia.

Case 8: Three crab farm workers unfairly dismissed and denied wages (Ranong province, May 2022)²⁶⁰

- **Indicators of forced labor:** abuse of vulnerability, intimidation and threats, retention of identity documents, withholding of wages, excessive overtime

A married couple was hired to work on a crab farm in June 2021. The employer's name identified on their pink cards, however, did not match their actual employer, and the type of business specified was fishing for the husband and seafood processing for the wife. The following year, in July 2022, the couple's daughter was brought to work in Thailand for the same employer under the border pass employment scheme for seasonal workers. The three workers were hired through oral agreement and did not possess written employment contracts.

The three migrant workers' jobs involved cutting crab legs, feeding crabs, and doing other work on the farm. They worked every day, including holidays, from 4:00 a.m. to 4:00 p.m.; rest hours were unclear; and there was no record of work hours. The employer provided the accommodation for the family. Wages were agreed to be 7,000 baht (\$200) per month. The employer transferred a total of 15,000 baht (\$429) in wages to the husband, deducting 6,000 baht (\$171) for the cost of a mobile phone. The employer retained the migrant workers' documents, and the workers did not dare make a request for the return of the documents.

On March 21, 2022, the employer told the three migrant workers to immediately move out from the farm. Simultaneously, the employer reported to the police that the husband had a fight and asked the police to monitor the workplace. This appears to have been a tactic by the employer to take advantage of the vulnerability of migrant workers in order not to pay them their due wages. The employer told the three workers that they still owed him a debt of 150,000 baht (\$4,286), but had no detailed records of the debt.

On May 23, 2022, the migrant workers filed a complaint to the labor inspector at the DLPW office in Ranong province. The employer's testimony clarified that the debt of 150,000 baht (\$4,286) constituted costs for food, accommodation, and gas, as well as 50,000 baht (\$1,429) for the workers' advanced wage payment. The employer reported that the husband had been drunk during the working hours. The husband admitted this, but insisted that he was still working and had never been involved in any fight. The employer did not come to meet the labor inspector for the second appointment scheduled for July 12, 2022.

The labor inspector issued an order on July 22, 2022, requesting the employer to pay the workers pending wages in the amount of 173,245 baht (\$4,950); wage payment for the advance notice due to the termination of contract in the amount of 38,745 baht (\$1,107); severance pay in the amount of 28,350 baht (\$810); and interest at the rate of 15% per annum during the default period. The inspector ignored the various indicators of forced labor and did not refer the

²⁶⁰ CSO #2.

potential forced labor case to the relevant competent authority.

The employer ended up not complying with the labor inspector's order. As a result, the migrant workers subsequently filed the case to the Labour Court Region 8. On December 15, 2022 NGO staff and a lawyer met the employer at Ranong Court to mediate the case. The employer requested that the workers come to the court for the mediation. However, due to threats made by the employer, the legal team chose not to bring the workers to court. The case could not be mediated. The court appointed for the witness investigation on February 1, 2023 at the Ranong Court. The plaintiff's witness was one NGO staff, while the employer side had seven witnesses.

Case 9: Intimidation of PIPO officers and workers during survivor identification screening (Pattani province, May 2022)²⁶¹

➤ **Indicators of forced labor:** N/A

In May 2022, a potential human trafficking case involving 28 fishers working on the same vessel in Pattani province was submitted to the central agency. The MDT would make an arrest if PIPO officers identified the case as a case of human trafficking or forced labor. At the port, there was an entourage of about 20 people, including about 15 PIPO officers, two police, and two to three NGO staff. The vessel owner arrived at the same time and began to yell as the local PIPO officer began interviewing the fisher. After the interview, there was a debrief session with the PIPO officers, during which the vessel owner started to do a video recording on his cell phone. The local PIPO officers did not feel comfortable identifying the case as one of human trafficking or forced labor and said that nothing was wrong. The police, meanwhile, could say nothing because the PIPO inspectors should be the experts. After the debrief, one of the police officers gave the vessel owner a hug, showing that they knew each other. The vessel owner then took photographs of everyone's vehicles, which made the local NGO staff concerned for their safety.

In light of the failed survivor identification, the NGO asked to interview the workers again. A second interview was conducted, but this time at a local coffee shop instead of at the port. Again, no survivor identification occurred. Later, examination of a photograph of the interview revealed that one of the five participants in the second interview was the supervisor, who was sitting between the captain and a worker who could speak Thai and interpret for the workers. As a result, the workers again could not speak freely during this second PIPO interview.

Case 10: Seven migrant workers imprisoned and deported after deceived by false job promises (Chonburi and Samut Sakhon provinces, July 2022)²⁶²

➤ **Indicators of forced labor:** abuse of vulnerability, deception, restriction of movement

In July 2022, seven Myanmar workers (3 women, 4 men) were persuaded to work in Thailand by a Myanmar broker who was the relative of one of the workers. The broker promised them a job at a poultry processing factory and said if they did not get a job, he would pay them back

²⁶¹ IO #4.

²⁶² CSO #1.

double. The wage offered was 350 baht (\$10) per day. In addition, the broker lied that he was a government official of Thailand who could help them get employment without getting arrested. Relying on these false promises, the migrant workers decided to come to work in Thailand and borrowed a loan of 2,000,000 kyat (\$1,036) from a loan shark in order to pay for travel expenses to Thailand.

The seven migrant workers were brought to Thailand in a systematic manner by an organized network of four individuals who worked together to recruit workers from Myanmar to come to work in Thailand illegally. The broker was the leader of the group, and he deceived the workers in order to collect travel expenses and recruitment fees from the workers. He ended up receiving 14 million kyat (\$7,254) from deceiving the workers. The broker was assisted by three other individuals: a Burmese woman who coordinated the work arrangements, and facilitated the migrant workers' cross-border travels; a Burmese man who arranged the workers' lodging, hiding the migrant workers, facilitated travel for the workers once they arrived in Thailand; and a Thai vehicle owner who transported the migrant workers in a van from Chonburi province to Samut Sakhon province. All three individuals worked to prevent the workers from being arrested by the police or government officials.

The migrant workers entered Thailand by riding a small boat and then entering a forest, where they were picked up in a pickup truck and driven to a van, which drove in the night until they reached a hotel. The hotel did not have a name, nor CCTV cameras, and it only housed informal migrants. In the morning, the van driver said he would look for a job for the workers and drove them to an electrical wire and battery recycling factory in Chonburi province. The employer invited the workers inside the factory, which was surrounded by high walls and filled with machinery and had a grocery store inside. This was not a chicken processing factory, as they had been promised, and the workers felt they would be trapped working inside if they worked there. The workers were also told that they would be paid based on their performance, not their daily work. The migrants refused and contacted the broker in Myanmar.

The van driver picked up the workers and drove them to Vichavej hospital in Mahachai, Samut Sakhon province. A Burmese man then asked the migrants to pay 6,000 baht (\$171) for the transportation cost, plus an additional 3,000 baht (\$86) per person for the cost of documents and accommodation. In addition, he asked for 2,500 baht (\$71) for the transportation cost to send the workers to the chicken processing factory in Ayutthaya province. He also asked each worker to pay 2,300 baht (\$66) per person for COVID-19 tests and promised to pay the workers back. Upon dropping off the migrant workers, he told them to take a photo at a photo shop and ordered them to remove their belongings because they needed to get a physical checkup and take X-ray photos. Some of the workers had 6,000 to 7,000 baht (\$171 to \$200) in cash with them, in addition to cell phones, ID cards, and documents from Myanmar. When the workers came out, they could no longer find the van. They were left stranded, and the driver had stolen their belongings.

The migrant workers sought help from a NGO. When the MDT, which was composed of five different agencies, arrived at the NGO's office, they did not screen the migrant workers for human trafficking and forced labor and did not conduct an investigation or engage in fact

finding, besides obtaining testimonials from NGO staff and workers. The MDT quickly concluded that they were not survivors of human trafficking because they had not started working yet. When the migrant workers were asked if they entered Thailand illegally, they were soon arrested by the Samut Sakhon Provincial Police, charged as illegal immigrants, and sent to the police detention center under the authority of immigration police.

The workers were detained for approximately two months during July and August 2022. MSDHS did not provide shelter for the workers since they have not been identified as survivors of forced labor or human trafficking. In addition, they were not provided food, so the NGO sent them food every day. The workers cried every day and asked why they had to be imprisoned for so long when they were survivors. The NGO urged the police to speed up the case.

In August 2022, the migrant workers filed a complaint against the perpetrators living in Thailand on a fraud charge. The employment they were ultimately offered was not the job they had originally been promised or what was written in their employment contract. This included discrepancies regarding the duration of the contract, wages, working conditions, and living expenses. Furthermore, the workers had been deceived to pay for various expenses, such as the cost of transportation, food, clothing, accommodations, document processing, COVID-19 testing, health insurance, work permit, and other expenses related to the recruitment process.

The defendants offered to pay 40,000 baht (\$1,143) in compensation to the migrant workers. The workers accepted the offer and were sent back to Myanmar at their request. As a result, a criminal case could not be pursued.

Case 11: Three fishers experienced wage theft and threats after failed negotiations regarding working conditions (Pattani province, August 2022)²⁶³

- **Indicators of forced labor:** abuse of vulnerability, deception, withholding of wages, excessive overtime, debt bondage, intimidation and threats

Three migrant workers from Myanmar of Rakhine ethnicity came to Thailand under the MoU recruitment scheme with the help of a broker and began working on a fishing vessel in Pattani province in April 2019. The broker persuaded the workers to sign a two-year employment contract, which said they would be paid 12,000 baht (\$343) in wages. In addition, the broker told them that if they completed the full contract period, the documentation fee would be waived. The workers were not given a copy of their employment contract.

To communicate with their employer, the migrant fishers had to go through the broker, who also acted as their supervisor. For the payment arrangement, the fishers received their wages through an account settlement system, in which they were paid in cash at the end of the account cycle. The first account cycle lasted 16 months from 2019–2021, and the second cycle lasted 13 months from 2021–around January 2022.

After settling the accounts, the broker asked all three fishers to continue working on the vessel

²⁶³ CSO #5.

for two to three more months due to the current labor shortage. The broker said that he would take care of the documentation and would not deduct any fees. The three migrant fishers agreed to this request and continued to work on the fishing vessel. When the number of workers onboard decreased to 16, however, the fishers asked the broker for a negotiation regarding the insufficient manpower onboard and the impact of overworking on their physical and mental health. The captain had ordered the fishers to work beyond their capacity. On August 10, 2022, the fishers raised the following demands:

1. The captain should lay down fishing nets according to the manpower.
2. The workers' wages should be increased by 50% as compensation for the extra work.
3. If (1) and (2) were not granted, the workers would stop working on the vessel.

The broker rejected the demands and dismissed the fishers. He docked the vessel temporarily and informed them that they could leave or stay. For those who decided to stay, they would have to wait until the threshold number of workers required was met before they could leave the port. No wages would be given during this waiting period. However, food and accommodation would be provided onboard.

All three fishers decided to leave the job because they would lose income if they waited and asked the broker to settle the wage account for the period of 15 February 2022 – 6 August 2022 (nearly 6 months). On August 12, 2022, the three fishers' wage accounts were settled, but they were only paid 9,500 baht (\$271), much lower than agreed to in their employment contract. One of the workers was still owed 10,370 baht (\$296); another was owed 12,070 baht (\$345); and the third was owed 6,700 baht (\$191). The broker justified these low wages by explaining that the employer had deducted the 18,000 baht (\$514) documentation fee per person. He then threatened them saying, "Don't ever think of escaping. If you do, I will let the manager hunt you down. Escape if you dare." The fishers fled to another province, where the relatives of one of the fishers' friends lived. While they were fleeing to find a safe place, the broker tried to call them and sent a text message and audio clip cursing at them. He threatened, "Don't let me catch you."

Case 12: Married couple unable to resign from restaurant job due to document retention (Songkhla province, August 2022)²⁶⁴

- **Indicators of forced labor:** abuse of vulnerability, deception, document retention, debt bondage

A married couple working in a restaurant, whose work permits were set to expire on February 13, 2023, contacted an NGO for help to coordinate with the Employment Office regarding document retention. They wished to change employment and to have their work permit and other personal documents returned. However, their employer told them that if they wanted to leave the job, they had to find substitutes first. When the workers later introduced their substitutes, the employer did not hire them, claiming that they did not possess a work permit.

²⁶⁴ CSO #4.

On August 16, 2022, the Employment Office summoned both the employer and the migrant workers to come to their office. The employer handed a statement to the officers saying that he did not intend to retain the workers' documents, but only kept them because he was afraid they would lose them. The officers had the migrant workers settle their debt to the employer in front of them, as the workers owed the employer 12,000 baht (\$343), which was the remaining balance of the 22,000 baht (\$629) advancement the employer had paid to cover documentation fees. In addition, the officers had the employer return the work permits and other personal documents to the two workers, as well as officially notify a resignation of the workers without any remaining debt.

The officers informed the migrant workers that they had 15 days to find a new employer according to the law. In addition, they reminded the employer about the requirement to notify the registrar of a foreign worker's resignation within 15 days under Section 13 of the 2018 Amendment to the Royal Ordinance Concerning the Management of Foreign Workers' Employment, as well as the prohibition against the confiscation of documents under Section 131 of the same law. However, the officers took no legal action against the employer. The presence of indicators of forced labor triggered no human trafficking or forced labor screening.

Case 13: Five laid-off fishers unable to reclaim documents or wages (Phuket province, September 2022)²⁶⁵

- **Indicators of forced labor:** abuse of vulnerability, retention of documents, withholding of wages, debt bondage

Five fishers working on a vessel in Phuket contacted an NGO for help with reclaiming their confiscated documents. Their employer retained all of the migrant fishers' documents and would distribute them before every PIPO inspection, after which the employer would recollect the documents. Even when the vessel docked, the fishers were not able to ever obtain their documents from the employer.

In August 2022, the group of fishers, along with at least 15 other fishers, had been fired without any advance notice. However, the employer refused to return to the fishers their personal documents (e.g. work permit, pink card, Seabook) until they had settled their debt from the document renewal fees. Without their documents back, the migrant fishers could not look for a new employer. In addition, the employer did not pay the fishers' wages for the previous month. Normally, the fishers were paid their wages in cash on the fourteenth day of the waxing moon of every month, with a 500 baht (\$14) wage deduction for the document renewal fee.

On August 17, NGO staff set up a meeting with labor inspectors and accompanied one of the five migrant fishers and his wife to the DLPW. The labor inspector finished the fact-finding on the same day and sent a letter to the Employment Officer regarding the issue of document confiscation. On August 25, the labor inspector summoned the migrant fisher again to obtain further information related to wage deductions. On September 1, the fisher had the issues regarding his wages and debt for the document renewal fees settled, and DLPW contacted the

²⁶⁵ CSO #3.

officials in the Employment office to investigate the document confiscation case. By November, the migrant fisher and his wife already moved to Surat Thani province to find a new job. The case was closed.

As for the other four migrant fishers, NGO staff and PIPO officials discussed a strategy to retrieve the fishers' documents from the employer. On September 30, NGO staff accompanied the four fishers to DLPW, where the labor inspectors completed the fact-finding process on the same day. On October 27, NGO staff represented the fishers at the DLPW, and the labor inspector requested a hearing with the vessel owner regarding the unfair dismissal and debt relating to document fees.

On November 1, the vessel owner returned the fishers' pink card and CI, but not their work permit, Seabook, ATM card, or bankbook. On November 23, the labor inspector again summoned the vessel owner, but the owner still refused to return the remaining document until they paid their debt.

In December, the NGO was unable to contact the labor inspector who was out of town, but later informally learned that the inspector had set up a meeting between the vessel owner and the four fishers to reach a settlement agreement. The case is ongoing.

Case 14: Fisher unable to resign due to debt and document confiscation (Ranong province, November 2022)²⁶⁶

- **Indicators of forced labor:** abuse of vulnerability, retention of documents, withholding of wages, debt bondage

On October 21, 2022, a fisher from Myanmar working on a vessel in Ranong province asked the vessel owners to quit his job. Instead, they demanded that he first pay back his debt of 46,000 baht (\$1,314) and refused to return his personal document, such as his Seabook, work permit, CI, ATM card, and bankbook.

On October 26, the migrant fisher visited the DLPW and Department of Employment (DOE) offices in Ranong province. Three DOE officers took the fisher into their van to negotiate with the vessel owners at their pier. The migrant fisher had no choice but to sign a document provided by the vessel owners, which was likely an Acknowledgement of Debt Agreement. This situation made him nervous, so he stayed with his brother in Kawthoung for a while.

On November 24, an NGO filed a complaint to DLPW regarding the issue of wage theft on behalf of the fisher. He had been underpaid about 11,400 baht (\$326). The following day, the NGO filed a notice to DOE, requesting that the vessel owners return the fishers' documents and that the owners be punished for a document confiscation in accordance with the Royal Emergency Decree of Management of Foreign Workers Act. The vessel owner returned the fisher's CI, Seabook, and work permit that day.

²⁶⁶ *Id.*

On December 7, the NGO received a call from a labor inspector from DLPW, asking permission to contact the fisher in order to obtain more information. The NGO soon learned from the migrant fisher that the labor inspector had tried to arrange for him to meet the vessel owner and pressured him to pay back his debt for the documentation fees. Upon learning this, on December 9, the NGO contacted the labor inspector and maintained that they would not negotiate settling the debt with the vessel owner. That same day, the vessel owner finally returned the fisher's ATM card and bankbook to the DOE. The case is ongoing.

Case 15: Sham investigation by Thai Police of VK Garment Factory (Tak province, December 2022)

- **Indicators of forced labor:** abuse of vulnerability, restriction of movement, physical and sexual violence, intimidation and threats, retention of identity documents, withholding of wages, debt bondage, abusive working and living conditions, excessive overtime

In August 2020, 136 workers at VK Garment (VKG) Factory were dismissed after they asked for better pay and conditions, following an audit conducted in July 2020 that revealed exploitative working conditions.²⁶⁷ Most of the workers relied on the factory for their immigration status, and their personal documents were retained by their employer, which kept them in a situation of debt bondage.²⁶⁸ In addition, factory managers intimidated and threatened the workers if they did not work overtime and meet their production targets.²⁶⁹ As a result, workers worked 99-hour weeks, and many suffered serious injuries, such as losing part of a finger or slicing open an arm, after falling asleep at their sewing tables due to exhaustion from excessive overtime. In addition, the workers received illegally low pay.²⁷⁰ They had their ATM cards confiscated and were paid in cash, so that their employer could create the semblance of paying minimum wage via bank transfer in accordance with Thai law.²⁷¹ The workers were also forced to live in abusive living conditions, namely overcrowded rooms, in which they had to sleep on concrete floors and wash with dirty pond water in a bucket.²⁷² In addition, the seven-year-old daughter of one the plaintiffs was raped in an accommodation within the factory compound while her mother was working late, after which one of the factory managers advised the mother to not call an ambulance because the hospital might contact the police.²⁷³

When the workers were given notice of the audits, VKG managers coached them to lie.²⁷⁴ Instead, in October 2020, the workers filed a case with DLPW, demanding unpaid wages made up of two years' full wages, overtime pay, holiday pay, and weekly rest day pay. However,

²⁶⁷ Dugan, "Workers in Thailand who made F&F jeans for Tesco 'trapped in effective forced labour'."

²⁶⁸ *Id.*

²⁶⁹ *Id.*

²⁷⁰ *Id.*

²⁷¹ *Id.*

²⁷² *Id.*

²⁷³ Emily Dugan, "Girl, 7, raped at Thai factory supplying clothes for Tesco while mother worked" (Dec. 19, 2022), *The Guardian*, <https://www.theguardian.com/business/2022/dec/19/girl-7-raped-at-thai-factory-supplying-clothes-for-tesco-while-mother-worked>.

²⁷⁴ Dugan, "Workers in Thailand who made F&F jeans for Tesco 'trapped in effective forced labour'."

DLPW only ordered VKG to pay the workers severance pay and notice pay. The workers then brought the case to the Thai labor court, but the court's decision, which was rendered in September 2022, agreed with DLPW: the workers were only entitled to severance pay and notice pay. The workers have not yet received any compensation, and they filed an appeal in December. The same month, the workers sued Tesco in the UK on civil charges of negligence and unjust enrichment and were represented by the law firm Leigh Day.

Less than 48 hours after *The Guardian* published its first article about the landmark lawsuit against Tesco, Thai police raided the VKG Factory. The raid was led by deputy national police chief, General Surachet “Big Joke,” and a team of senior police and labor officials. Big Joke said, “Once I learned about the incident, I immediately contacted the Department of Labour and Welfare to inspect the factory. I had a tour of the factory site, worker accommodation and interviewed workers.”²⁷⁵ However, the two-year delay of the investigation, which only occurred after significant international media attention on the abuses, casts major doubt on the good intent and efficacy of the investigation. Oliver Holland, the lead solicitor for the case, said, “While it is positive that some action is now being taken, we do not believe that an investigation conducted more than two years since our clients worked at the factory can be a thorough investigation. It is illustrative of the lack of protection that is afforded to Burmese migrant workers in Thailand, who find it almost impossible to achieve justice in Thailand.”²⁷⁶ In addition, Roisai Wongsuban, Program Adviser at the Freedom Fund, said, “I am glad to see that the Thai authorities took action to screen for forced labour and trafficking survivors. Irrespective of the case, the screening should have been conducted in 2020, when workers filed the complaint and shared details of labour violations and human rights abuse with the labour inspector.”²⁷⁷

The police and labor officials conducted interviews with 114 former workers on December 28, 2022, screening them for forced labor. That evening, a spokesperson for the DLPW announced that the officials had unanimously concluded that “no forced labour or services [were] found” and that “no survivor under other laws was found.” In response, CSOs who witnessed the interviews submitted a dossier to officials, explaining that more than 40 laws may have been violated and describing how the officials had failed to properly investigate the allegations. Holland called the investigation a “complete sham”: “The reports we have received from NGOs observing the Thai police interviews appear to show that the investigation was completely ineffective and that due process was not followed. Reports of workers having their answers to questions written down then deleted, being cut off from giving full answers, and officers refusing to take notes of their answers suggest that the investigation is purely for appearances, a complete sham with no desire to get to the truth of the conditions faced by our clients.”²⁷⁸

²⁷⁵ Jon Witman, “Tesco slavery case – Thai police raid ‘sweatshop’” (Dec. 24, 2022), *The Thaiger*, <https://thethaiger.com/news/national/tesco-slavery-case-thai-police-raid-sweatshop>.

²⁷⁶ Emily Dugan, “Thai police screen ex-workers at former Tesco supplier over sweatshop claims” (Dec. 29, 2022), *The Guardian*, <https://www.theguardian.com/business/2022/dec/29/thai-police-screen-ex-workers-at-former-tesco-supplier-sweatshop-claims>.

²⁷⁷ *Id.*

²⁷⁸ Dugan, “Thai police accused of ‘sham’ forced labour inquiry at former Tesco supplier.”

Workers who were interviewed said that the interviews, which took place in an open-plan immigration building, “were rushed and felt like a tick-box exercise to clear the factory of allegations.” Ye Zaw Zo, a former worker, witnessed his answer about below-minimum wage pay being deleted from an officer’s screen, and the officers refused to make note of anything more he had to say. As a result, he called the investigation “one-sided” and “a waste of time.” Ye Zaw Zo was not alone in feeling dismissed in this way; several workers said they were cut off before they could fully answer the interview questions. Phyo Phyo Mar, another former worker who was interviewed, expressed “I feel as if they turned blind eyes to us,” and “because of this experience, I don’t have much hope.”²⁷⁹

In this case, the Thai police investigated the garment factory for forced labor more than two years after the migrant workers first filed a complaint with DLPW in Thai courts. However, law enforcement did not investigate the case until it made international headlines after the workers filed a landmark lawsuit against the major UK company, Tesco, for forced labor conditions at its supplier. In the end, even though this case displayed nearly all of the ILO indicators of forced labor, the MDT officers unanimously concluded that there was no forced labor.

Less than one month after *The Guardian* article “Thai police accused of ‘sham’ forced labour inquiry at former Tesco supplier” was published, the police went back and interviewed 52 workers. They then brought criminal charges against VKG Factory for fraud, illegal use of workers’ bank cards, withholding of immigration documents, and forced overtime work. In contradiction to their previous statement, the police denied that their preliminary investigation had resulted in a finding of no legal violations.

Case 16: Impunity of vessel owner after PIPO investigation of brutal retaliation against fisher demanding payment of wages (Chumphon province, February 2023)²⁸⁰

- **Indicators of forced labor:** abuse of vulnerability, withholding of wages, isolation, physical violence, intimidation and threats

In February 2023, a fisher informed the vessel owner, who was also the captain, that he and the other fishers had not been paid for five months and asked for payment. The captain responded that he had already paid the fishers, as he had given the foreman the fishers’ payment. The fisher explained that he had not received any payment and that he would not go out fishing if he were not paid. The captain and the foreman beat him with a steel pipe and then stabbed him three times in the back and side. The captain put the fisher on the vessel leaving to go fishing, and the other fishers were afraid to help him. When no one was looking, the fisher called a CSO for assistance, and the CSO called PIPO and Thai authorities to investigate.

PIPO investigated the case, and the captain said that it was not his fault that the fishers had not been paid because the foreman was handling the payments, and he did not know what had happened. PIPO did not investigate further and did not interview any of the other fishers, who were afraid for their lives. PIPO did put the vessel on a watchlist and did not impose a criminal

²⁷⁹ *Id.*

²⁸⁰ CSO #7.

sanction or other kind of liability on the captain. In addition, locals reported to the CSO that—allegedly—this captain is engaged in human trafficking, has a reputation for stealing from migrant workers and beating or killing anyone who stands up to him, and has the protection of the police.

The fisher is still in the hospital recovering from his injuries and cannot walk. His leg is badly broken, his ribs are broken, and he may require screws in his spine. The fisher is afraid to have visitors or tell anyone where he is because the captain and foreman are actively looking for the person who reported the abuse to PIPO. The fisher also reported that he is not the first one to experience this kind of extreme violence. Another fisher who stood up for his rights and demanded to be paid was beaten, then taken out fishing and thrown overboard. He was reported missing, and the captain told PIPO that he accidentally fell overboard.

Case 17: Expansion of state prison labor program without evidence of reduced forced labor risk (2022–2023)

- **Indicators of forced labor:** abuse of vulnerability, restriction of movement, isolation, physical and sexual violence, intimidation and threats, withholding of wages, and abusive working and living conditions.

The SWG’s 2022 Comments on Thailand discussed serious concerns about forced labor conditions in state prisons in Thailand, where inmates produced fishing nets for private Thai companies in exploitative conditions.²⁸¹ In response to these allegations, Thailand’s Department of Corrections (DOC) issued an order in March 2022 to reform the prison labor program to meet international standards by establishing labor committees in all of Thailand’s 143 prisons. In May 2022, the DOC instructed the 25 prisons and correctional institutions with contracts for the manufacture of fishing nets to either terminate or not extend the contracts set to expire in September 2022. Some prisons announced policies to increase the remuneration rate for certain types of work.²⁸²

In response to this announcement, GLJ-ILRF and members of the SWG called on the DOC to follow through on its promises.²⁸³ They recommended that the DOC should publicly release the findings and recommendations made by the prison labor reform advisor and committees; give independent inspection bodies access to all prisons in order to encourage transparency and accountability; ensure that prisoner’s wages are in line with the Ministerial Regulation on the Calculation of Monetary Income and the Payment of Reward for Inmates (2020); and guarantee remedy for prisoners who have been exploited in the making of fishing nets in the past.²⁸⁴

²⁸¹ See GLJ-ILRF, *Comments Concerning the Ranking of Thailand in the 2022 TIP Report*, pp. 56–58.

²⁸² GLJ-ILRF and SWG, “Labor Rights Organizations Call on Thailand To Follow Through on Promise to End Forced Prison Labor” (June 28, 2022), <https://laborrights.org/releases/labor-rights-organizations-call-thailand-follow-through-promise-end-forced-prison-labor>.

²⁸³ *Id.*

²⁸⁴ *Id.*

As of writing this report, there is little evidence that any reforms have been instituted in the prisons. In a report published in March 2023, the FIDH and the Union for Civil Liberty (UCL) wrote, “it remains unclear how the [DOC] can ensure the implementation of such measures, amid an absence of independent monitoring and access to prisoners.”²⁸⁵ FIDH managed to conduct from November 18–December 27, 2022 with 15 former prisoners who were released at various times in 2022. Based on these interviews, the report describes how abuses remain rampant in Thai prisons.²⁸⁶

The Remedy Project has also raised doubts about whether the government has implemented its promised prison reforms. According to its report from April 2023, “...there has been little transparency in relation to the implementation of the Royal Thai Government’s commitments to end forced labour in prisons. NGOs report that civil society access to Thai prisons is extremely limited, and visits with inmates (even legal interviews) are conducted in the presence of guards.”²⁸⁷ As a result, “few prisoners were prepared to speak openly about prison conditions – citing a fear of reprisals.”²⁸⁸ One former prisoner interviewed who had made fishing nets for over one year in prison cited that fishing nets were still being produced in his prison at the time of his release in October 2022 and that there had been no increase in prisoners’ rates of pay.²⁸⁹ Based on the limited number of interviews they were able to conduct, the Remedy Project concluded, “It remains unclear to what extent the [DOC] will follow through on its commitments to reform the prison labour system.”²⁹⁰

Some of the former prisoners interviewed described work in prison involving private contractors, including the production of fishing nets, in addition to variety of other goods (e.g. paper bags, cigarette lighter heads, shoes, brooms, furniture, and land boundary markers), as well as construction work. Some of the former prisoners also described the work in prisons as not providing meaningful job training to help them rehabilitate and reintegrate into society—a justification given by the Government of Thailand for their prison labor programs.²⁹¹

Frequently, inmates were not equitably remunerated for their work. For example, a former prisoner at Songkhla Provincial Prison reported that prisoners making fishing nets were only paid about 100 baht (\$3) for two months of work, although the production of fishing nets ended in October 2022 in that prison. In addition, a former prisoner at Narathiwat Provincial Prison reported that prisoner do not usually know when they will be paid due to corruption of prison staff, which compels some prisoners to be forced to work for free.²⁹²

²⁸⁵ FIDH and UCL, *Thailand: Annual Prison Report* (March 2023), <https://www.fidh.org/IMG/pdf/thailandprison804a.pdf>.

²⁸⁶ *Id.*

²⁸⁷ The Remedy Project, *Putting Things Right: Remediation of forced labour under the Tariff Act 1930* (April 2023), pp. 74–79, <https://static1.squarespace.com/static/5f846df102b20606387c6274/t/644b403dccc135fba5c64c2/1682653306884/TRP+-+CBP+Report+-+Final+-+20230428.pdf>.

²⁸⁸ *Id.*

²⁸⁹ *Id.*

²⁹⁰ *Id.*

²⁹¹ *Id.*

²⁹² *Id.*

Besides little to no pay, prisoners also suffered ill-treatment as punishment by prison staff. All of the interviewed former male prisoners at four different prisons regularly witnessed use of force against prisoners by prison guards as punishment for violating prison rules. The guards would beat prisoners using bamboo canes, plastic batons, or wooden sticks, then shackle them and put in solitary confinement. Other punishments mentioned included laying on the ground in the sun or rain, jumping jacks, push-ups, and running in the prison yard.²⁹³

These recent reports of prisoners working for little to no pay and being subjected to physical violence and threats and intimidation are alarming, and the lack of transparency surrounding the government's implementation of its prison reform policy is highly concerning for several reasons. First, the interviewed former prisoners reported lack of access to a confidential and responsive complaint mechanisms in the prisons. Any existing complaints mechanisms were described as leading to nowhere and only putting the prisoner at high risk of reprisal. Meanwhile, redress by external inspection bodies, such as the NHRCT or NGOs, remains highly unlikely due to restrictions on access to prisons by independent monitors.²⁹⁴

Second, the government has already begun to expand its state prison labor program. The FIDH and UCL report explains: "Despite ongoing concerns about the lack of safeguards to prevent exploitative prison labor practices, authorities pressed ahead with plans to develop industrial zones that rely on the work of inmates." In July 2022, the Industrial Estate Authority of Thailand expected the development of a new "correctional industrial estate" in Samut Sakhon province called "Zubb Sakhon" that will be built over the next three to five years.²⁹⁵ This initiative by the MOJ and the DOC aims to produce 30,000 jobs for inmates and will "focus on the processing of seafood and agricultural products as well as the manufacturing of steel and iron, garments and textiles, fuel, smart electronics and medical equipment."²⁹⁶ The purpose of the initiative is to help fill the ongoing labor shortage in Thailand.²⁹⁷ In December 2022, another Thai company proposed to develop a second correctional industrial estate in Thailand's Northeast region.²⁹⁸

Third, the carve-out for the definition of forced under Section 6/1 of the Anti-Trafficking in Persons Act is very broad. Section 6/1 does not cover "work or services as a result of the Court judgment or work or services performed during the period of sentencing under the Court judgment." This means that forced labor imposed as a punishment for a crime is categorically not considered forced labor under Thai law.

²⁹³ *Id.*

²⁹⁴ *Id.*

²⁹⁵ Lamonphet Apisitniran, "'Correctional' estate being developed" (July 18, 2022), *The Bangkok Post*, <https://www.bangkokpost.com/business/2348093/correctional-estate-being-developed>.

²⁹⁶ *Id.*

²⁹⁷ Sarah O'Connor, "'Orange collar' workers are not the best solution to labour shortages" (Sept. 6, 2021), *Financial Times*, <https://www.ft.com/content/974a0520-bd9e-4069-Bb2e-b28f8150c4d3>.

²⁹⁸ FIDH and UCL, *Thailand: Annual Prison Report*.