

**Comments Concerning the Ranking of Taiwan by  
the United States Department of State in the 2024  
Trafficking in Persons Report**

**Submitted by Global Labor Justice and Greenpeace USA  
on behalf of the Seafood Working Group**

**Endorsed by: The Taiwan Association for Human Rights,  
Serve the People Association, and Greenpeace Taiwan**

## FOREWORD

This year marks the tenth anniversary of the founding of the Seafood Working Group (SWG), a global coalition of more than 30 labor, human rights, and environmental organizations convened by Global Labor Justice (GLJ) to advocate for effective government policies and industry actions to end forced labor and illegal, unreported, and unregulated (IUU) fishing in the international seafood trade. Since 2021, the SWG has prepared *Comments Concerning the Ranking of Taiwan by the U.S. Department of State in the Trafficking in Persons (TIP) Report*. The purpose of the submission is to expose the government's inadequate efforts to prevent and address forced labor in its seafood industry, particularly in its distant water fishing fleet. Taiwan's seafood industry has increasingly come under international scrutiny since 2015, including being highlighted in numerous advocacy reports and identified by several U.S. government agencies for the high risk of forced labor. Moreover, direct testimony from migrant fishers over the past year through the Wi-Fi NOW for Fishers' Rights at Sea campaign led by the migrant fishers' union, the Indonesian Seafarers' Gathering Forum (FOSPI), has confirmed ongoing widespread abuses on Taiwanese vessels. Yet, Taiwan has continued to receive a Tier 1 ranking in the TIP Report for 13 consecutive years.

Forced labor persists in Taiwan's seafood industry because the government's anti-trafficking efforts have yet to address the underlying power imbalances that drive labor exploitation. Successfully eradicating forced labor in Taiwan's fisheries sector — as well as other migrant-dominated sectors — requires respect for migrant workers' fundamental labor rights, in particular the rights to freedom of association and collective bargaining. Migrant workers constitute the majority of workers in Taiwan's commercial fishing industry, and it is only when they can freely associate and collectively advocate for improved conditions in their workplace, without the fear of retaliation, that the risk of forced labor will be meaningfully reduced in Taiwan.

A labor rights approach to anti-trafficking is especially critical now as the Biden Administration's *Memorandum on Advancing Worker Empowerment, Rights, and High Labor Standards Globally* mandates a whole-of-government approach to empower workers. This approach is the key means to preventing abuse and eliminating unfair labor practices, including forced labor. Media reporting and documentation by migrant fishers and advocacy groups in recent months have revealed that much of the seafood that ends up on Americans' plates remains tainted by labor abuses, despite the ubiquity of voluntary social responsibility initiatives throughout the seafood sector. It is thus evident that a comprehensive government-led approach to combating forced labor is needed to ensure ethical seafood supply chains and prevent the forced labor of fishers. The SWG, therefore, looks forward to a 2024 TIP Report that encourages Taiwan to adopt high labor standards that empower workers and address the root causes of forced labor.



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## EXECUTIVE SUMMARY

On behalf of the Seafood Working Group (SWG), Global Labor Justice and Greenpeace USA, with the endorsement of the Taiwan Association for Human Rights, Serve the People Association, and Greenpeace Taiwan, make the following submission to the U.S. Department of State's Office to Monitor and Combat Trafficking in Persons for its 2024 Trafficking in Persons Report on Taiwan.

The authors submit this year's *Comments Concerning the Ranking of Taiwan by the United States Department of State in the Trafficking in Persons Report* to demonstrate the continued inefficacy of the Taiwanese government's efforts to address forced labor among the migrant worker population in Taiwan's fishing industry — a form of trafficking in persons under the Trafficking Victims Protection Act of 2000, as amended (TVPA).<sup>1</sup> The government's efforts remain largely unsuccessful to date because its anti-trafficking approach has failed to uphold migrant workers' fundamental labor rights, particularly the freedom of association and right to collective bargaining, which are essential to addressing the root causes of forced labor and preventing future abuses. Rather than being the outcome of a few bad actors, forced labor is a widespread problem in Taiwan's fishing industry fueled by structural drivers that require a systemic solution — one that prioritizes respect for migrant fishers' fundamental labor rights as a means to empower fishers and prevent and remedy forced labor.

**Based on the evidence in this submission, the SWG recommends that the U.S. Department of State downgrade Taiwan to Tier 2 in 2024.** Policy analysis, interviews with experts, and field investigations, including a survey and interviews with migrant fishers, have shown that during the reporting period, April 1, 2023–March 31, 2024, Taiwan did not fully comply with the TVPA minimum standards, having not made “serious and sustained efforts” to eliminate severe forms of trafficking in persons, particularly in the seafood industry, even though it remains high-risk for forced labor. Organized under the “3Ps” — Prevention, Protection, and Prosecution — these Comments provide evidence of the following during the reporting period:

- ❖ **Prevention:** First, the Taiwanese government continued to impede migrant fishers' ability to exercise their freedom of association, which is essential to addressing and preventing forced labor in the industry. The government failed to resolve the issue of employer interference with a migrant fishers' union in a timely and credible manner, and coordination by government officials with employers further impeded the resolution process. The government also failed to enact protections against retaliation for migrant fishers' union activity and intimidated union members for speaking out about conditions on Taiwanese vessels. Further, the government refused to mandate Wi-Fi access on distant water fishing (DWF) vessels, thereby forcing migrant crew to work in total isolation in a de facto “no union zone,” where they are unable to contact their unions and report abuses for months at a time. Second, the government did not revise its laws and policies to end structural discrimination against migrant fishers in DWF that makes them

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<sup>1</sup> Office to Monitor and Combat Trafficking in Persons (TIP Office), *2023 Trafficking in Persons Report* (June 2023), U.S. Department of State, <https://www.state.gov/reports/2023-trafficking-in-persons-report/>.

highly vulnerable to forced labor by maintaining its unlawful, discriminatory two-tiered employment system, as well as failing to reach a bilateral labor agreement with Indonesia, a predominant sending country, to ensure equal protections for migrant workers in DWF as for other workers. Third, despite amending the Action Plan for Fisheries and Human Rights during the reporting period, the government did not enact or implement laws in accordance with international labor standards to effectively prevent forced labor, thereby allowing all 11 ILO indicators of forced labor to pervade Taiwan's fishing industry. Fourth, the government continued to not effectively regulate key stakeholders in Taiwan's seafood industry, including recruitment agencies, Flag of Convenience (FOC) vessels, and actors higher up in the seafood supply chain, perpetuating governance gaps that keep migrant fishers at high risk of forced labor.

- ❖ **Protection:** The Taiwanese government continued to take inadequate steps to identify survivors of forced labor due to persistently weak labor inspections of DWF vessels during the reporting period, stemming from a lack of legal authority by Fisheries Agency inspectors and inadequate training of officers. The government also continued to not provide survivors of forced labor with access to an effective grievance mechanism or remedy in accordance with the United Nations Guiding Principles on Business and Human Rights.
  
- ❖ **Prosecution:** The Taiwanese government's informal mediation of cases with forced labor indicators in DWF continued to discourage prosecution of cases during the reporting period. Likewise, the lack of transparency and accountability regarding FOC vessels hindered prosecution efforts.

In light of these shortcomings in the government's efforts, the SWG recommends that Taiwan adopt the following laws and policies:

- 1) Respect migrant workers' rights to freedom of association and collective bargaining;
- 2) End structural discrimination against migrant fishers;
- 3) Amend the Action Plan for Fisheries and Human Rights and enact and implement laws and policies to meet international labor standards;
- 4) Close governance gaps through effective regulation of recruitment agencies, FOC vessels, and industry players higher up in the seafood supply chain;
- 5) Strengthen labor inspections of DWF vessels;
- 6) Guarantee migrant fishers' access to an effective grievance mechanism and remedy; and
- 7) Ensure survivors of forced labor have access to justice through fair and timely dispute resolution processes.

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## 1. INTRODUCTION

### 1.1 About the Authors and Endorsers

**Global Labor Justice (GLJ)** is a merged organization that 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. GLJ convenes the Seafood Working Group (SWG), a global coalition of labor, human rights, and environmental organizations collaborating to end forced labor and illegal, unreported, and unregulated (IUU) fishing in the international seafood trade.

**Greenpeace USA** is part of a global network of independent campaigning organizations that use peaceful protest and creative communication to expose global environmental problems and promote solutions that are essential to a green and peaceful future. Greenpeace USA is committed to transforming the country's unjust social, environmental, and economic systems from the ground up to address the climate crisis, advance racial justice, and build an economy that puts people first.

**Taiwan Association for Human Rights (TAHR)** is the oldest human rights association in Taiwan and is devoted to strengthening human rights standards and protection mechanisms, addressing domestic and global issues through collaboration with international human rights organizations. TAHR focuses on a range of human rights issues, including the rights of migrant workers and refugees.

**Serve the People Association (SPA)** is an independent non-governmental organization committed to improving the working environment for Filipino, Indonesian, Vietnamese and other migrant workers in Taiwan. SPA's work involves rescuing migrant workers from situations of human trafficking and other abuse, and providing safe temporary housing in two shelters as well as legal consultation, medical assistance, emergency resettlement, assistance in obtaining legal wages and compensation, and other services.

### 1.2 Approach

Like previous *Comments Concerning the Ranking of Taiwan by the United States Department of State in the Trafficking in Persons* (hereinafter "SWG Comments on Taiwan"), this year's Comments takes a labor rights approach to analyzing the issue of forced labor in Taiwan's commercial fishing industry.<sup>2</sup> Freedom of association is the antidote to forced labor because it redresses power imbalances between workers and their employers by allowing workers to use

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<sup>2</sup> See, e.g., Eliza Marks and Anna Olsen, *The Role of Trade Unions in Reducing Migrant Workers' Vulnerability to Forced Labour and Human Trafficking in the Greater Mekong Subregion* (2015), *Anti-Trafficking Review*, Issue 5, p. 111–128, <https://www.antitraffickingreview.org/index.php/atrjournal/article/view/84/141>.

their collective power to report labor abuses and advocate for decent work.<sup>3</sup> It creates the conditions for social dialogue with employers — the internationally recognized platform to resolve workplace issues and improve working conditions before they amount to forced labor — and, therefore, is an enabling right that can allow workers to win remedies for labor rights violations and help ensure justice for survivors. This means that with the right to freedom of association, workers are empowered to defend their other fundamental labor rights, in particular, the right to work in a safe and healthy workplace free of forced labor and discrimination.<sup>4</sup>

The respect of migrant workers' right to freedom of association is fundamental to any government's anti-trafficking efforts, but as these Comments will show, the Taiwanese government has not adopted a comprehensive approach aimed at empowering workers in its efforts to eliminate forced labor in its fishing industry. The SWG thus urges the TIP Office to recognize the importance of advancing worker empowerment and organizing as a means to reduce the risk of forced labor in Taiwan, in line with the Biden Administration's *Memorandum on Advancing Worker Empowerment, Rights, and High Labor Standards Globally*.<sup>5</sup> Furthermore, renewed attention to the risk of forced labor and IUU fishing in global seafood supply chains by governments, international brands and retailers, and consumers around the world in light of increased reporting by the media and advocacy groups, as well as migrant fishers' testimonies, provides a vital opportunity for the U.S. Department of State to encourage Taiwan to strengthen its efforts to eliminate forced labor and other forms of exploitation from its seafood industry.<sup>6</sup>

### **1.3 Methodology**

The 2024 SWG Comments on Taiwan present key trends based on primary and secondary research, demonstrating the Taiwanese government's inadequate efforts under the Prevention, Protection, and Prosecution prongs to eliminate forced labor in Taiwan's seafood industry during the reporting period, April 1, 2023–March 31, 2024. The Comments highlight 25 cases drawn from the primary research, which illustrate the trends identified.

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<sup>3</sup> 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*, International Labor Rights Forum (Mar. 2020), <https://laborrights.org/publications/time-sea-change-why-union-rights-migrant-workers-are-needed-prevent-forced-labor-thai>.

<sup>4</sup> International Labour Organization (ILO), *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up* (2022), [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/normativeinstrument/wcms\\_716594.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/normativeinstrument/wcms_716594.pdf).

<sup>5</sup> The White House, "Memorandum on Advancing Worker Empowerment, Rights, and High Labor Standards Globally" (Nov. 16, 2023), <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/11/16/memorandum-on-advancing-worker-empowerment-rights-and-high-labor-standards-globally/>.

<sup>6</sup> See, e.g., Michael Sainato, "'A fishing accident blinded me but I was forced to keep working': abuses faced by workers who catch our fish" (Mar. 13, 2024), *The Guardian*, <https://www.theguardian.com/business/2024/mar/13/fishing-industry-worker-abuse#:~:text=The%20campaign%20is%20demanding%20mandatory.any%20abuses%20in%20real%20time>; The Outlaw Ocean Project, *A Lawless Frontier: The High Seas are a Realm in Dire Need of Investigative Journalism*, <https://www.theoutlawocean.com/>.



Besides the analysis of online news articles and government, United Nations (UN), and civil society organization (CSO) reports, the Comments provide information from experts about the reality of the government’s anti-trafficking efforts on the ground. The information is drawn from interviews and written communications with representatives of six CSOs and an academic, conducted by GLJ and the Humanity Research Consultancy (HRC) between January–April 2024. For confidentiality purposes, the names of the CSO representatives have been redacted and named CSO #1–6. The Comments are further grounded in field research. This includes data collected from a survey of 102 migrant fishers working in Taiwan’s DWF fleet conducted by GLJ, the Indonesian Seafarers’ Gathering Forum (FOSPI), and Stella Maris Kaohsiung in November–December 2023 (hereinafter “2023 Migrant Fishers’ Wage Survey”). This also includes migrant fisher interviews conducted by GLJ from November 2023–April 2024. During a visit to Donggang, Taiwan, in November 2023, GLJ interviewed more than a dozen migrant fishers to document two ongoing cases of wage withholding affecting 38 fishers on board two Taiwanese longline fishing vessels. In February 2024, GLJ interviewed 42 migrant fishers working on 27 Taiwanese longliners who had temporarily returned to port. The interviews, which took place in Donggang and Kaohsiung, Taiwan, concerned the conditions on the vessel for the fishers’ current employment contract or, in cases where fishers were between contracts, conditions on the vessel of their most recent employment. In March and April 2024, GLJ interviewed migrant crew to document the case of *Longbow No. 7* (see Case 21).

#### **1.4 Background: The Prevalence of Forced Labor in Taiwan’s Fishing Industry**

Taiwan boasts a lucrative fishing industry that remains at high-risk of forced labor. According to Taiwan’s Fisheries Agency (FA), the average annual production in DWF in recent years has been NT\$ 44.6 billion (\$1.44 billion USD)<sup>7</sup> and NT\$ 14.6 billion (\$470.97 million USD) in coastal and offshore fishing.<sup>8</sup> Taiwan’s DWF fleet, which consists of approximately 1,100 vessels, is the second largest in the world, after China’s.<sup>9</sup> The industry relies predominantly on a migrant workforce from Indonesia, the Philippines, and other Southeast Asian countries, hiring about 20,800 migrants to work in DWF and 12,300 migrants to work in coastal and offshore fishing.<sup>10</sup>

These migrant fishers — and especially those working in DWF — are at high-risk of forced labor. In August 2023, the U.S. National Oceanic and Atmospheric Administration (NOAA)

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<sup>7</sup> \$1 USD = 31 TWD. Exchange Rates, “US Dollar (USD) To Taiwan Dollar (TWD) Exchange Rate History for 2023” (last accessed Mar. 19, 2024), <https://www.exchange-rates.org/exchange-rate-history/usd-twd-2023>.

<sup>8</sup> Fisheries Agency, Ministry of Agriculture, *Overview of the Fisheries* (last accessed Mar. 19, 2024), [https://en.fa.gov.tw/view.php?theme=web\\_structure&id=110](https://en.fa.gov.tw/view.php?theme=web_structure&id=110).

<sup>9</sup> Food and Agriculture Organization (FAO), *Mapping distant-water fisheries access arrangements* (2022), FAO Fisheries and Aquaculture Circular No. 1252, Rome, p. 24, <https://doi.org/10.4060/cc2545en>.

<sup>10</sup> Focus Taiwan, “Taiwan fisheries sector embraces long-term move away from Chinese fishers” (March 18, 2024), <https://focustaiwan.tw/society/202403180018>.

identified Taiwan, along with China, for having forced labor in its fleet.<sup>11</sup> In addition, Taiwanese seafood is included in the U.S. Department of Labor’s latest List of Goods Produced with Child Labor or Forced Labor,<sup>12</sup> and as of March 2024, three Taiwanese-flagged or -owned vessels remain subject to Withhold Release Orders (WROs).<sup>13</sup>

To curb the high risk of forced labor in its commercial fishing industry, the Taiwanese government passed the Action Plan for Fisheries and Human Rights (hereinafter “Action Plan”) in May 2020 and amended it in July 2023, during the reporting period.<sup>14</sup> Nonetheless, this submission will show that these amendments are wholly inadequate and do not address the underlying structural issues noted in both the SWG’s previous submissions and in the U.S. Department of State’s 2023 TIP Report on Taiwan. Further to this point, interviews with migrant fishers and CSOs confirm that forced labor remains a systemic problem in Taiwan’s fleet, exposing the failure of the government to enact and enforce Prevention, Protection, and Prosecution policies to meaningfully reduce the risk of forced labor in its fishing industry. This includes a failure to adopt the Prioritized Recommendations put forth by the U.S. Department of State in the 2023 TIP Report.

## 2. PREVENTION

As will be illustrated in this section, instead of being the outcome of a few bad actors, forced labor is a structural problem in Taiwan’s fishing industry that requires a systemic solution — one that prioritizes respect for migrant workers’ fundamental labor rights as a means to empower workers and prevent forced labor. The Taiwanese government has not adopted such preventative measures during the reporting period and instead has fueled the underlying drivers of labor exploitation by impeding migrant fishers’ ability to exercise their freedom of association, including facilitating employer union intimidation; perpetuating structural discrimination against migrant workers in DWF; failing to enact or implement laws to meet international standards; and continuing to not regulate all actors in Taiwan’s seafood industry.

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<sup>11</sup> National Oceanic and Atmospheric Administration (NOAA), *2023 Report to Congress: Improving International Fisheries Management* (Aug. 2023), <https://www.fisheries.noaa.gov/s3/2023-08/2023RTC-ImprovingIFManagement.pdf>.

<sup>12</sup> Taipei Times, “Taiwanese seafood again on US forced labor list” (Oct. 3, 2022), <https://www.taipeitimes.com/News/taiwan/archives/2022/10/03/2003786349>.

<sup>13</sup> These include the *Yu Long No. 2*, the *Da Wang*, and the *Lien Yi Hsing No. 12*. U.S. Customs and Border Protection (CBP), *Withhold Release Orders and Findings List* (last accessed Mar. 19, 2024), <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>.

<sup>14</sup> Fisheries Agency (FA), *Action Plan for Fisheries and Human Rights* (amended July 2023), [https://www.fa.gov.tw/view.php?theme=Rights\\_for\\_Foreign\\_Crews&subtheme=&id=27](https://www.fa.gov.tw/view.php?theme=Rights_for_Foreign_Crews&subtheme=&id=27).

## **2.1 The government continued to impede migrant fishers' ability to exercise their freedom of association, which is essential to preventing forced labor in the industry.**

Migrant workers in Taiwan are legally permitted to form and lead unions.<sup>15</sup> In practice, however, migrant workers in the DWF industry face significant barriers to exercising their freedom of association, a principle enshrined in the International Labour Organization (ILO) Constitution, the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up, and the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). These impediments to freedom of association can be seen in the experiences of migrant fisher union members, in addition to migrant fishers surveyed and interviewed during the reporting period.

*2.1.1 The government failed to resolve the issue of employer interference with a migrant fisher union's independence in a timely and credible manner, and coordination by government officials with employers further impeded the resolution process.*

*[This section has been redacted.]*

*2.1.2 The government failed to enact protections against retaliation for migrant fishers' union activity and intimidated union members for speaking out about conditions on Taiwanese vessels.*

*[This section has been redacted.]*

*2.1.3 The government refused to mandate Wi-Fi access on vessels, thereby forcing migrant crew to work in a de facto "no union zone," where migrant crew are unable to contact their unions and report abuses in real time.*

According to the ILO Committee on Freedom of Association, the freedom of association includes union access to all workplaces, including workplaces that are more challenging to reach due to hazardous conditions or geographical isolation, such as DWF vessels.<sup>16</sup> Denial of access to Wi-Fi on board vessels subjects migrant crew to total isolation at sea, creating a "no union" zone where workers are at high risk of forced labor.<sup>17</sup> The ILO explains, "Fishers are at much higher risk of labour abuses when they are forced to live and work onboard vessels without mandatory access to free and secure Wi-Fi, which is necessary for them to be able to engage in private, two-way communication with their families, trade unions or worker

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<sup>15</sup> Ministry of Labor, *Labor Union Act* (2022), <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=N0020001>.

<sup>16</sup> Johanna Lee and Sahiba Gill, *Briefing Paper No. 3: Wi-Fi for Fishers' Fundamental Labor Rights* (Nov. 2023), GLJ, p. 11–12, <https://laborrights.org/sites/default/files/publications/Wi-Fi%20Briefing%20Paper%20Number%203.pdf>.

<sup>17</sup> *Id.* at 10.

organizations, government agencies, or other advocates and report abuses while at sea.”<sup>18</sup> The risk of forced labor becomes even higher as fishers stay at sea for longer periods of time without access to communication, a situation which is happening with increasing frequency as fish stocks decline and encourage vessel operators to practice transshipment.<sup>19</sup>

During this report period, Taiwan maintained its regulation permitting vessels to stay at sea for 10 consecutive months without visiting a port<sup>20</sup> — much longer than the three or six-month limit recommended by advocacy organizations or the ILO.<sup>21</sup> This regulation was originally enacted in fulfillment of the Action Plan adopted in May 2022.<sup>22</sup> The government amended the Action Plan in July 2023, but notably did not use the opportunity to reduce the duration of fishing trips to be in line with the policy recommended by environmental and labor rights experts.

The necessity of fishers’ access to Wi-Fi on board vessels for their ability to report abuses and have access to remedy while at sea is why FOSPI, together with GLJ, TAHR, SPA, HRC, and Stella Maris Kaohsiung, has been spearheading the Wi-Fi NOW for Fishers’ Rights at Sea campaign since February 2023.<sup>23</sup> The campaign calls on the Taiwanese government to mandate access to Wi-Fi for all fishers on board its DWF vessels, in accordance with the following five criteria: (1) mandatory Wi-Fi with penalties for non-compliance; (2) commitment to fishers’ fundamental labor rights; (3) guidelines on reasonable access to Wi-Fi; (4) co-design and co-enforcement of a vessel-level conflict resolution process; and (5) improved labor enforcement through interagency action.

The ready availability and relative affordability of satellite Wi-Fi technology means that it is currently feasible for migrant fishers on board DWF vessels to stay in contact with their unions while at sea and to have the ability to report labor abuses in real time, instead of waiting for

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<sup>18</sup> ILO, *Towards freedom at sea: Handbook for the detection of forced labour in commercial fishing* (Dec. 2023), p. 21, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_907250.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_907250.pdf).

<sup>19</sup> Environmental Justice Foundation, *The Weakest Link: How at-sea trans-shipment fuels illegal fishing and human rights abuses in global fisheries* (Jan. 2023), p. 4, <https://ejfoundation.org/resources/downloads/Weakest-Link-Transshipment-report-Jan-2023.pdf>.

<sup>20</sup> See Ministry of Agriculture (MOA), *Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members* (2022), Article 28, <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=M0050061>.

<sup>21</sup> See, e.g., Greenpeace, *Greenpeace Sustainability, Labour & Human Rights, and Chain of Custody Asks for Retailers, Brand Owners and Seafood Companies* (Feb. 2020), p. 8, [https://www.greenpeace.org/usa/wp-content/uploads/2020/03/Final\\_GP-seafood-market-ask\\_Feb-2020.pdf](https://www.greenpeace.org/usa/wp-content/uploads/2020/03/Final_GP-seafood-market-ask_Feb-2020.pdf); Environmental Justice Foundation (EJF) and Advocates for Public Interest Law (APIL), *Korea’s Migrant Fishers Plan fails to end human rights abuses at sea* (2023), p. 10, [https://ejfoundation.org/resources/downloads/ENG-HR-briefing\\_final\\_31May2023.pdf](https://ejfoundation.org/resources/downloads/ENG-HR-briefing_final_31May2023.pdf); ILO, *Towards freedom at sea*, p. 21.

<sup>22</sup> See FA, *Action Plan for Fisheries and Human Rights* (May 2022), [https://www.fa.gov.tw/view.php?theme=Rights\\_for\\_Foreign\\_Crews&subtheme=&id=27](https://www.fa.gov.tw/view.php?theme=Rights_for_Foreign_Crews&subtheme=&id=27).

<sup>23</sup> See GLJ, *Wi-Fi NOW for Fishers’ Rights*, <https://globallaborjustice.org/wifinowforfishersrights/>; *Wi-Fi NOW for Fishers’ Rights at Sea*, Facebook, <https://www.facebook.com/WiFiNowForFishersRights/>.

months until they arrive at port.<sup>24</sup> However, the vast majority of migrant crew working in Taiwan's DWF fleet are denied access to Wi-Fi, even when the vessels are equipped with Wi-Fi that is used by the captain and senior crew.<sup>25</sup> None of the fishers interviewed by GLJ in February 2024, for instance, reported having access to Wi-Fi while at sea.

After more than one year of ongoing engagement with the Wi-Fi NOW for Fishers' Rights at Sea campaign, the Taiwanese government continued to refuse to mandate Wi-Fi access for migrant crew on DWF vessels.<sup>26</sup> Instead, the government merely committed to "encouraging vessel operators to install Wi-Fi or establish an internet-sharing mechanism for foreign crew members onboard 300 vessels" by 2025 in its amended Action Plan.<sup>27</sup> This Wi-Fi subsidy program is flawed in many ways. First, the program is entirely voluntary and only aims to cover about one-quarter of Taiwan's DWF fleet, ignoring the reality that all fishers have the right to communication at sea, not just those working on vessels that opt into the program. Second, the current guidelines only require fishers to have five minutes of Wi-Fi access per week. This is hardly enough time to report a complaint onboard in addition to other essential tasks.<sup>28</sup> It also means that, depending on the timing of incidents that occur on board, fishers may need to wait one week to report emergencies, even if they are life-threatening. Third, the program fundamentally ignores the reality that Wi-Fi equipment installed on vessels alone is insufficient to guarantee fishers' rights, as captains may easily turn off the Wi-Fi or change the password whenever they wish to bar fishers from contacting the outside world (see Case 9). Instead, to be effective, the government must regulate Wi-Fi in accordance with the five criteria listed above.

In the amended Action Plan, the government also committed to encouraging vessel owners to provide satellite phones to migrant crew onboard 200 vessels by 2025.<sup>29</sup> However, satellite phones are an inadequate substitute for Wi-Fi because their limited functions hinder fishers from fully exercising their union rights. Typically limited to audio calls and Short Message Service (SMS), satellite phones will restrict fishers from engaging in a wide range of activities essential to exercising the freedom of association and preventing labor abuses.<sup>30</sup>

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<sup>24</sup> Johanna Lee, Sahiba Gill, Sharlene Chen, and Mina Chiang, *Briefing Paper No. 2: Wi-Fi: Available at Sea — But Not for Fishers* (Nov. 2023), GLJ, <https://laborrights.org/sites/default/files/publications/Wi-Fi%20Briefing%20Paper%20No.%202.pdf>; see also Lee and Gill, *Briefing Paper No. 3*, p. 15–17.

<sup>25</sup> *Id.* at 7.

<sup>26</sup> The Wi-Fi NOW for Fishers' Rights at Sea campaign has met with the Fisheries Agency, the Ministry of Labor, the Council of Agriculture, the Ministry of Foreign Affairs, the Ministry of Digital Affairs, several legislators, and Premier Chen Chien-jen, among others. See, e.g., GLJ, "Fishers Hold Historic First Meeting With Taiwan's Premier Chen Chien-jen As Part Of 'WI-FI NOW FOR FISHERS' RIGHTS' Campaign" (Sept. 4, 2023), <https://laborrights.org/releases/fishers-hold-historic-first-meeting-taiwans-premier-chen-chien-jen-part-%E2%80%9Cwi-fi-now-fishers%E2%80%99>.

<sup>27</sup> FA, *Action Plan for Fisheries and Human Rights* (2023), p. 32.

<sup>28</sup> Lee, Gill, Chen, and Chiang, *Briefing Paper No. 2*, p. 13–14.

<sup>29</sup> See FA, *Action Plan for Fisheries and Human Rights* (2023), p. 32.

<sup>30</sup> For a list of activities, see Lee, Gill, Chen, and Chiang, *Briefing Paper No. 2*, p. 13–14.

## **2.2 The government failed to revise its laws and policies to end structural discrimination against migrant workers in DWF.**

*2.2.1 The government continued to discriminate against migrant fishers in DWF by maintaining its unlawful two-tiered employment system.*

An issue discussed in previous SWG Comments on Taiwan, migrant workers in Taiwan's DWF industry continued to face structural discrimination in Taiwan during the reporting period.<sup>31</sup> Taiwanese government agencies continued to arbitrarily distinguish migrant workers recruited to work in DWF from both Taiwanese workers in DWF and migrant workers recruited to work in coastal and offshore fishing by claiming that they work in "overseas employment."<sup>32</sup> This distinction discriminates against migrant fishers in DWF by excluding them from core labor laws intended to protect workers from exploitation.<sup>33</sup> This discriminatory employment scheme is not justified under international or Taiwanese law.

### **2.2.1.1 The government's discriminatory categorization of migrant fishers in DWF as being employed overseas increases their vulnerability to forced labor.**

During the reporting period, the Ministry of Labor (MOL) and the FA continued to divide their jurisdiction over workers in Taiwan's fishing industry, with the MOL assigned to oversee Taiwanese fishers in DWF and migrant fishers in coastal or offshore fishing, and the FA — a government agency that lacks the requisite expertise or authority on labor issues — assigned to oversee migrant fishers in DWF, who they consider to work in "overseas employment."<sup>34</sup> Because of this division of authority, migrant workers in DWF are excluded from the labor protections in legislation administered by the MOL, such as the Labor Standards Act (LSA), the Employment Services Act, and the Labor Inspection Act.<sup>35</sup> Instead, they are governed by the Regulations on the Authorization and Management of Overseas Employment of Foreign Crew

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<sup>31</sup> See Seafood Working Group (SWG), *Comments Concerning the Ranking of Taiwan by the United States Department of State in the 2023 Trafficking in Persons Report* (June 2023), p. 15, [https://laborrights.org/sites/default/files/publications/2023%20SWG%20TIP%20Report%20Submission%20on%20Taiwan\\_0.pdf](https://laborrights.org/sites/default/files/publications/2023%20SWG%20TIP%20Report%20Submission%20on%20Taiwan_0.pdf); see also SWG, *Comments Concerning the Ranking of Taiwan by the United States Department of State in the 2022 Trafficking in Persons Report* (Apr. 2022), p. 18, [https://laborrights.org/sites/default/files/publications/SWG%20Taiwan%20TIP%20Report%202022%20Submission\\_Final\\_April-7-2022.pdf](https://laborrights.org/sites/default/files/publications/SWG%20Taiwan%20TIP%20Report%202022%20Submission_Final_April-7-2022.pdf).

<sup>32</sup> Huan-Sheng Tseng, Hsin-Hua Tsai, and Po-Hsing Tseng, *The Labour Rights Protection of Migrant Fishing Workers in Taiwan: Case Study of Nan-Fang-Ao Fishing Harbor, Fishes*, Vol. 8, No. 2 (2023), <https://doi.org/10.3390/fishes8020073>; Kuo-Wei Yen and Li-Chuan Liu Huang, *A review of migrant labour rights protection in DWF in Taiwan: From laissez-faire to regulation and challenges behind*, *Marine Policy*, Volume 134, 2021, <https://doi.org/10.1016/j.marpol.2021.104805>.

<sup>33</sup> See The Five Corridors Project, *Exploring Regulatory and Enforcement Mechanisms and their relationship with Fair Recruitment: Key Recommendations* (July 2021), p.30–34, [https://fivecorridorsproject.org/uploads/PDFs/5corridors\\_Key\\_recommendations.pdf](https://fivecorridorsproject.org/uploads/PDFs/5corridors_Key_recommendations.pdf).

<sup>34</sup> FA, *Action Plan for Fisheries and Human Rights* (2023), p. 6–7.

<sup>35</sup> Tseng, et al., *The Labour Rights Protection of Migrant Fishing Workers in Taiwan*; Yen and Liu Huang, *A review of migrant labour rights protection in DWF in Taiwan*.

Members (hereinafter “the Regulations”),<sup>36</sup> which is administered by the FA, and are excluded from labor protections relating to minimum wages, limits on working hours, and insurance and labor inspection policies that are afforded to workers under the MOL’s jurisdiction.<sup>37</sup> Exclusion from such protections helps keep the cost of hiring these fishers low.<sup>38</sup>

For example, during the reporting period, migrant workers in DWF were granted a minimum wage of \$550 USD per month — less than two-thirds the national minimum wage under the LSA [NT\$27,470 (US\$882)] and less than the minimum wage that Taiwanese workers enjoyed more than a decade ago in 2013.<sup>39</sup> According to the ILO, “Payment of less than the minimum wage required by law” constitutes “Work with substandard or no wages,” which signals risk of forced labor.<sup>40</sup> This double standard on the minimum wage violates the general principle of “equal pay for work of equal value” in international law — a principle set out in the Preamble of the ILO Constitution and in ILO standards concerning equality and non-discrimination, as well as Article 25 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.<sup>41</sup> The 2023 Migrant Fishers’ Wage Survey revealed that low wages have trapped many migrant fishers in poverty and, in some cases, debt bondage, as fishers strove to pay recruitment-related debt and the cost of personal expenses on board vessels while sending money home to support their families.<sup>42</sup> Their precarious financial situation resulting from structural discrimination by the Taiwanese government left these workers highly vulnerable to labor exploitation, including forced labor. In addition, because DWF vessels continued to not be covered by the Labor Inspection Act (2020), which gives the MOL the legal authority to inspect workplaces and impose penalties for labor violations found, migrant fishers on board DWF vessels remained at high risk of forced labor in spite of inspections conducted by the FA during the reporting period.<sup>43</sup> This issue will be discussed further in Section 3.1.

This two-tiered employment system that systematically discriminates against migrant workers in DWF served to further marginalize a community that is already vulnerable to labor abuses due

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<sup>36</sup> MOA, *Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members*.

<sup>37</sup> Mina Chiang and Kimberly Rogovin, *Labor Abuse in Taiwan’s Seafood Industry* (Dec. 2020), GLJ, p. 12–13, <https://laborrights.org/sites/default/files/publications/Labor-Abuse-in-Taiwan-Seafood-Industry-Local-Advocacy-for-Reform.pdf>.

<sup>38</sup> Tseng, et al., *The Labour Rights Protection of Migrant Fishing Workers in Taiwan*.

<sup>39</sup> Department of Information Services, Executive Yuan, “Raising the minimum wage” (Jan. 10, 2024), <https://english.ey.gov.tw/News3/9E5540D592A5FECD/f881af5d-fe9b-4477-8b8d-60b2d19c5b97>; <https://www.macrotrends.net/countries/WLD/world/inflation-rate-cpi#:~:text=World%20inflation%20rate%20for%202022,a%200.23%25%20decline%20from%202018>.

<sup>40</sup> ILO, *Towards freedom at sea*, p. 9.

<sup>41</sup> Silos Amo-Agyei, *The migrant pay gap: Understanding wage differences between migrants and nationals*, ILO, p. xv, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---migrant/documents/publication/wcms\\_763803.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_763803.pdf).

<sup>42</sup> GLJ, FOSPI, and Stella Maris, *Survey of migrant fishers’ wages in Taiwan’s DWF industry* (Nov.–Dec. 2023).

<sup>43</sup> Ministry of Labor (MOL), *Labor Inspection Act* (2020), <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=N0070001#:~:text=The%20Act%20is%20enacted%20to,stabliity%20and%20to%20develop%20economy>.

to various reasons, such as language barriers and unstable immigration status.<sup>44</sup> However, the Taiwanese government maintained the discriminatory system, preserving a cheap source of labor for the DWF industry.

### 2.2.1.2 The categorization of “overseas employment” is not legally justified and is an erroneous application of both international and Taiwanese law.

In its Action Plan, the government attempted to justify the distinction between migrant workers in DWF and other fishers in the following way: “As the DWF vessels operate overseas, either on the high seas or in the exclusive economic zone of other nations, for a long period, the vessel operators mainly employ foreign crew members when the vessel stops at a foreign port. In principle, upon the termination of the contract, foreign crew members are sent directly to their home countries or where they were employed.”<sup>45</sup> In reality, however, even in the most extreme cases where a migrant fisher is hired outside of Taiwan and boards the vessel at a foreign port, fishes in faraway oceans, and returns directly to their home country without visiting a Taiwanese port, the migrant fisher is still hired to work on a vessel owned and operated by a Taiwanese national vessel and is hired by a Taiwanese recruitment agency, who is charged with responsibilities such as signing the fishers’ employment contract, paying the fisher’s wages, administering the repatriation or deportation of the fisher, and providing compensation. Meanwhile, in less extreme cases, some migrant fishers in DWF regularly dock at a Taiwanese port and spend a few days up to a few weeks at a time onshore; however, even these fishers are considered to be employed overseas by Taiwanese government agencies.

The government’s arbitrary categorization of migrant workers in DWF as being employed overseas and therefore excluded from Taiwan’s labor laws is not legally justified. According to the United Nations Convention on the Law of the Seas (UNCLOS), the jurisdiction of vessels are determined by the flag of the vessel, and the duty of flag states is to “assume jurisdiction under its internal law over each ship flying its flag and its master, officers and crew in respect of administrative, technical and social matters concerning the ship” and to “take such measures for ships flying its flag as are necessary to ensure safety at sea with regard, inter alia, to...the recruitment of ships, labour conditions and the training of crews, taking into account the applicable international instruments.”<sup>46</sup> This means that Taiwanese law, including its national labor laws, applies to all crew — including migrant crew — on board Taiwanese-flagged vessels, regardless of whether the vessel is fishing in Taiwanese waters, other countries’ exclusive economic zones (EEZs), or the high seas. In other words, working on a vessel flagged to Taiwan is akin to working on Taiwanese soil.

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<sup>44</sup> Department of Homeland Security, “What is Forced Labor?”, Blue Campaign, <https://www.dhs.gov/blue-campaign/forced-labor>.

<sup>45</sup> FA, *Action Plan for Fisheries and Human Rights* (2023), p. 8. See also Tseng, et al., *The Labour Rights Protection of Migrant Fishing Workers in Taiwan*; Yen and Liu Huang, *A review of migrant labour rights protection in DWF in Taiwan*.

<sup>46</sup> United Nations Convention on the Law of the Seas, Article 91 and 94, [https://www.un.org/depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf).



The exclusion of migrant fishers in DWF from the LSA and other MOL-administered laws is also an erroneous application of Taiwanese law. According to Dr. Yu-Fan Chiu, Associate Professor at the School of Law, National Yang Ming Chiao Tung University, there is no legal justification for the MOL to use the category of “overseas employment” as a reason to argue that the LSA does not apply to migrant fishers on DWF vessels.<sup>47</sup> The LSA applies to all employment relationships in Taiwan, unless the MOL has issued a proclamation that excludes specific industries.<sup>48</sup> Article 3 states:

*The Act shall be applicable to the following business (or industries): 1. Agriculture, forestry, fishery and animal husbandry...The Act shall apply to all forms of employee-employer relationships. However, this principle shall not apply, if the application of the Act would genuinely cause undue hardship to the business entities involved due to the factors relating to the types of management, the administration system and the characteristic of work involved and if it belongs to the business (or industries) or worker designated and publicly announced by the Central Competent Authority.*

Dr. Chiu explained that the Central Competent Authority is the MOL, and the MOL has not excluded DWF from the application of the LSA.<sup>49</sup>

The Ministry of Agriculture (MOA) enacted the Regulations following the passage of the Act for Distant Water Fisheries in 2016, which was an effort to address the problem of IUU fishing following the EU’s issuance of a yellow card against Taiwan in 2015.<sup>50</sup> Article 26 of the Act for Distant Water Fisheries states,

*Any distant water fisheries operator intending to hire abroad any foreign crew member shall obtain permission from the competent authority...Regulations on the qualification of the foreign crew member, conditions for permission, required documents, rights and interests of the distant water fisheries operator and the foreign crew member, contents of contracts..., and other requirements as referred to in the preceding two paragraphs shall be prescribed by the competent authority.*

This provision opened up the way for the Taiwanese government to distinguish between “domestic employment” and “overseas employment” for fishers working on Taiwanese-flagged offshore fishing vessels, and led the MOA to decide to separately govern migrant fishers recruited to work in DWF.<sup>51</sup> However, there was no reason why the MOA considered itself the

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<sup>47</sup> GLJ, E-mail interview with Dr. Yu-Fan Chiu (Apr. 2, 2024).

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> MOA, *Act for Distant Water Fisheries* (2016), <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=M0050051>.

<sup>51</sup> GLJ, E-mail interview with Dr. Yu-Fan Chiu (Apr. 2, 2024).

competent authority that could enact separate regulations, in violation of the LSA.<sup>52</sup> According to Dr. Chiu, the LSA is a law passed by Taiwan’s Parliament in 1984 and has mandatory effect.<sup>53</sup> In contrast, the Regulations are only an administrative rule adopted by the MOA, and administrative rules cannot contravene the law.<sup>54</sup> This means that the Regulations cannot set standards lower than those of the LSA.<sup>55</sup>

During the reporting period, the MOL and the FA persisted in erroneously applying both international and Taiwanese law in relegating migrant workers in DWF to a second-class category of workers who are excluded from Taiwan’s basic labor laws. In the amended Action Plan, the government acknowledged that this structural discrimination puts migrant fishers in DWF at much higher risk of exploitation by employers and recruitment agents: “Given the fact that the Labor Standards Act does not apply to foreign crew members employed overseas, they are consequently less protected in terms of their labor rights and are prone to maladies.”<sup>56</sup> Nonetheless, the Action Plan did not include any proposals to abolish the two-tiered employment scheme and extend coverage of the LSA to include migrant fishers in DWF. This inaction signals the government’s failure to meaningfully attempt to prevent forced labor among the migrant workforce in its DWF industry.

*2.2.2 The government failed to reach a bilateral labor agreement with Indonesia that establishes labor protections for migrant workers recruited to work in Taiwan’s DWF industry — a population historically excluded from previous agreements — thereby perpetuating a high risk of forced labor stemming from a coercive recruitment scheme.*

Governments may reach bilateral labor agreements (BLAs) to regulate recruitment within a labor migration corridor and effectively mitigate the risk of forced labor of the migrant workforce.<sup>57</sup> Yet, the Taiwanese government did not demonstrate meaningful efforts during the reporting period to protect migrant workers recruited to work in Taiwan via BLAs — also referred to as Memoranda of Understanding (MOUs) in Taiwan — with sending countries. On March 8, 2024, the Migrant Empowerment Network (MENT), a network of 19 labor activist groups in Taiwan, gathered to protest “the long-term behavior of the Ministry of Labor that has deliberately used MOUs to avoid being reviewed by the public,” which has been “achieved by being opaque, unspecific, and hiding details of the exploitation of migrant workers in subsequent negotiations,” resulting in a “vicious cycle” of exploitation of migrant workers.<sup>58</sup> With regards to the Indonesian-Taiwanese labor migration corridor specifically, the Taiwanese government has remained open to establishing a BLA that protects the labor rights of migrant workers in DWF, but failed to sign

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<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> FA, *Action Plan for Fisheries and Human Rights* (2023), p. 8.

<sup>57</sup> ILO, *General principles and operational guidelines for fair recruitment & Definition of recruitment fees and related costs* (2019), p. 18, [https://www.ilo.org/global/topics/fair-recruitment/WCMS\\_536755](https://www.ilo.org/global/topics/fair-recruitment/WCMS_536755); see also The Five Corridors Project, *Exploring Regulatory and Enforcement Mechanisms*, p. 55–59.

<sup>58</sup> Jono Thomson, “Taiwan’s migrant labor process under fire” (Mar. 8, 2024), *Taiwan News*, <https://www.taiwannews.com.tw/en/news/5110242>.

one in the reporting period, all the while continuing to recruit and employ nearly 14,000 Indonesians to work on Taiwanese DWF vessels.<sup>59</sup>

In 2018, the Taiwanese and Indonesian MOLs had signed a BLA that covered the recruitment, placement, and protection of Indonesian migrant workers, but excluded migrant fishers in DWF because, as discussed in Section 2.2.1, it is the government's position that they fall outside the scope of the MOL's jurisdiction. In March 2024, a delegation of five Indonesian unions visited Taiwan to demand that the new BLA on migrant fishers' rights being negotiated between Taiwan and Indonesia protect the fundamental labor rights of migrant fishers in DWF. The unions made eight demands concerning: (1) fundamental labor rights and decent work; (2) freedom of association and anti-retaliation; (3) Wi-Fi and access to communication; (4) collective bargaining agreements; (5) grievance handling; (6) fair wages; (7) employer pays recruitment; and (8) a union role in migration governance through a tripartite working group. However, the Taiwanese government failed to reach an agreement with the Indonesian government during the reporting period, in part due to the MOL's lack of jurisdiction over the labor rights of migrant fishers in DWF, leaving these workers highly vulnerable to abuses in the recruitment process and during their employment on Taiwanese vessels.<sup>60</sup>

Due to the continued absence of a BLA that protects the fundamental labor rights of Indonesian migrant fishers hired to work in Taiwan's DWF fleet during the reporting period, these fishers were forced to work under a coercive recruitment scheme that acts as a systemic driver of forced labor in Taiwan's fishing industry. The recruitment system continued to operate as a "tied visa" scheme, where migrant workers' visas were tied to a specific employer in Taiwan.<sup>61</sup> This makes their visas conditional on continuing to work on the same vessel, no matter how exploitative the conditions, and does not give the ability to easily transfer employers, even if they are seeking to leave an abusive workplace. Instead, to work on a different vessel, a fisher typically has to terminate his contract, return to his home country, and then go through the recruitment process all over again, including repaying recruitment fees — unless his recruitment agent makes an exception and shows leniency by permitting him to stay in Taiwan and transfer vessels. This scheme contravenes Principle 12 of the ILO *General principles and operational guidelines for fair recruitment*, which states, "Workers should be free to terminate their employment and, in the case of migrant workers, to return to their country. Migrant workers should not require the employer's or recruiter's permission to change employer."<sup>62</sup>

Migrant fishers' dependence on their employer for their legal status continues to allow employers to swiftly terminate and deport workers — in law, only for just cause, but in practice,

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<sup>59</sup> Focus Taiwan, "Taiwan fisheries sector embraces long-term move away from Chinese fishers."

<sup>60</sup> Focus Taiwan, "EXCLUSIVE/Meeting over MOU on migrant fishers' rights ends in stalemate" (Mar. 1, 2024), <https://focustaiwan.tw/society/20240301001>; Taipei Times, "Taiwan-Indonesia fisher labor rights MOU talks stall" (Mar. 3, 2024), <https://www.taipeitimes.com/News/taiwan/archives/2024/03/03/2003814385>.

<sup>61</sup> Lee and Gill, *Briefing Paper No. 3*, p. 9. For a discussion of tied visa schemes, see The Five Corridors Project, *Exploring Regulatory and Enforcement Mechanisms*, p. 24–29.

<sup>62</sup> ILO, *General principles and operational guidelines for fair recruitment*, p. 14.

for any reason, including fishers' complaints about conditions on board vessels.<sup>63</sup> According to Dr. Chiu, migrant fishers sign fixed two-year contracts in Taiwan that include valid reasons for early termination of the contract by the employer.<sup>64</sup> The law also prevents immediate deportation of the migrant fisher upon termination, as Article 68 of the Regulations on the Permission and Administration of the Employment of Foreign Workers requires an employer who has terminated a migrant worker's contract for being unjustifiably absent from his work and uncontactable for at least three days to notify the local competent authority before the migrant worker's departure so it can investigate and determine the worker's real intent.<sup>65</sup> If the migrant fisher believes that the employer's behavior was illegal, he may file an appeal and should not immediately be deported, as the issue should be settled by the competent authority.<sup>66</sup>

In reality, however, termination at the will of the employer and immediate deportation of migrant fishers remained commonplace during the reporting period. A prevailing practice has been for employers to deceive fishers into signing a document that attested the termination was voluntary.<sup>67</sup> Upon termination, the Taiwanese recruitment agency deports the fisher as soon as possible so that they do not have to worry that he will run away or report the case to the FA.<sup>68</sup> Afterwards, the recruitment agency typically submits a report to the FA to notify them of the deportation.<sup>69</sup> The constant threat of termination, deportation, and blacklisting by employers has led to the abuse of migrant fishers' vulnerability during the reporting period — an indicator of forced labor discussed further in Section 2.3.4.

The absence of a BLA regulating the recruitment process during the reporting period also helped perpetuate the practice of charging workers recruitment-related fees, in contravention of international standards (see Section 2.3.5). The recruitment scheme was set up to require migrant fishers to pay steep fees to obtain a work visa, causing them to begin their jobs on Taiwanese DWF vessels in debt — a debt that typically takes months to be paid off through monthly wage deductions. This debt led to various indicators of forced labor, such as abuse of vulnerability, deception, and debt bondage, to be discussed further in Sections 2.3.4 and 2.3.5.

Besides the abuse of vulnerability, deception, and debt bondage, migrant workers also commonly experienced other indicators of forced labor as a result of the lack of an effective BLA guaranteeing labor protections for migrant workers in DWF. The prevalence of all 11 indicators in Taiwan's DWF fleet are detailed in the following section.

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<sup>63</sup> SWG, *Comments Concerning the Ranking of Taiwan in the 2023 TIP Report*, p. 12.

<sup>64</sup> Examples include "His/her original employer or the one who was intended to be taken care of by the employed foreign worker has deceased or emigrated"; "The vessel he/she works on has been seized, has sunk, or has been under repair so as to compel the discontinuation of the work"; or "A foreign worker's whereabouts become untraceable at an employer's location." GLJ, Email interview with Dr. Yu-Fan Chiu (Apr. 7, 2024).

<sup>65</sup> MOL, Regulations on the Permission and Administration of the Employment of Foreign Workers (2023), <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=N0090027>.

<sup>66</sup> GLJ, Email interview with Dr. Yu-Fan Chiu (Apr. 7, 2024).

<sup>67</sup> GLJ, Written communication with CSO #6 (Apr. 3, 2024).

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

**2.3 Despite amending the Action Plan for Fisheries and Human Rights, the government failed to enact or implement laws in accordance with international labor standards to effectively prevent forced labor, thereby allowing all 11 ILO indicators of forced labor to permeate Taiwan’s fishing industry.**

The Taiwanese government did not demonstrate meaningful efforts to enact and implement laws to meet international standards, in particular the ILO Work in Fishing Convention, 2007 (No. 188) (“C188”), which Taiwan committed to domesticating in its Action Plan,<sup>70</sup> and the ILO *General principles and operational guidelines for fair recruitment*. During the reporting period, the government amended the Action Plan, but did not use this opportunity to enact new regulations or strengthen enforcement of existing regulations to prevent common indicators of forced labor.<sup>71</sup> Consequently, evidence of all 11 ILO indicators, as described by the ILO’s latest handbook on detecting forced labor in the commercial fishing industry, remained prevalent in Taiwan’s DWF fleet.<sup>72</sup> Interviews of migrant fishers conducted by GLJ in November 2023 and February 2024 confirmed the prevalence and systemic nature of forced labor indicators in Taiwan’s fleet.

*2.3.1 Restriction of Movement*

According to the ILO, “Fishers kept on distant-water trips for months or even years are effectively prevented from leaving their vessel,” indicating restriction of fishers’ movement.<sup>73</sup> As discussed in Section 2.1.3, the Taiwanese government maintained its regulation permitting DWF vessels to stay at sea for up to 10 consecutive months without visiting a port,<sup>74</sup> even though “[i]n most contexts, 3 months between port stops can be considered a warning sign of forced labour and 6 months or more between port stops a strong warning sign.”<sup>75</sup> This is because in general, fishers are unable to leave the vessel while in the middle of the ocean, and during the reporting period, were not usually immediately taken to port even in the case of emergencies, such as severe injuries (see Case 16 and Case 24). Moreover, when fishers visit foreign fishing ports, they are often barred from disembarking the vessel and entering the port, which requires crew to possess an entry permit.<sup>76</sup> Taiwan’s tied visa system also restricted fishers to staying on their vessel (see Section 2.2.2). Fishers who found themselves working on a vessel with exploitative conditions were unable to request to transfer vessels. Instead, they would have to break their employment contract, return to their home country, and, if they sought to be hired on a different vessel, go through the recruitment process and repay recruitment fees again, perpetuating a cycle of debt bondage.

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<sup>70</sup> See FA, *Action Plan for Fisheries and Human Rights* (2022).

<sup>71</sup> FA, *Action Plan for Fisheries and Human Rights* (2023).

<sup>72</sup> ILO, *Towards freedom at sea*, p. 10.

<sup>73</sup> *Id.*

<sup>74</sup> MOA, *Regulations on the Overseas Employment of Foreign Crew Members*, Article 28.

<sup>75</sup> ILO, *Towards freedom at sea*, p. 21.

<sup>76</sup> Lee and Gill, *Briefing Paper No. 3*, p. 6.

### 2.3.2 Isolation

According to the ILO, isolation in commercial fishing occurs when “fishers have their cell phone confiscated, are denied access to satellite communications or satellite WiFi at sea, or are only allowed access to employer-controlled and monitored means of communication, in turn preventing them from seeking help, organizing or reporting grievances.”<sup>77</sup> Article 71 of Annex III of C188 requires that “All fishers on board shall be given reasonable access to communication facilities,” yet migrant fishers in Taiwan’s distant water fleet generally did not have access to Wi-Fi or satellite phone on board vessels during the reporting period.<sup>78</sup> Even when these communication facilities were available on board, they were reserved for the captain or officers, while migrant fishers were denied access. For example, none of the fishers interviewed by GLJ reported having access to Wi-Fi on board the vessels (see Section 2.1.3). Two fishers on the same vessel reported that Wi-Fi was available on their vessel, but that only the captain was granted access.<sup>79</sup> Two other fishers employed on the same vessel also explained that although there was a satellite phone on board, it was reserved for the captain, and fishers were denied access, even in cases of emergency.<sup>80</sup> While most fishers expressed that they had never asked to use the satellite phone or did not dare, one fisher reported asking the captain one time to use the phone to call his family, which the captain refused (**Case 3**).<sup>81</sup>

### 2.3.3. Retention of Identity Documents

According to the ILO, document retention occurs when “vessel owner, skipper or recruitment agency holds passports, visas or work permits ‘for safe-keeping’ and fishers are (or feel) trapped.”<sup>82</sup> Principle 11 of the ILO *General principles and operational guidelines for fair recruitment* states, “Freedom of workers to move within a country or to leave a country should be respected. Workers’ identity documents and contracts should not be confiscated, destroyed or retained.”<sup>83</sup> In May 2023, the Taiwanese government amended the Employment Services Act, which excludes migrant workers in DWF, to ban the retention of workers’ identity documents by employers in 2023; however, it did not enact a parallel amendment in the Regulations.<sup>84</sup> As a result, the retention of documents remained a common practice in the fishing industry during the reporting period, allowing employers and recruitment agencies to control fishers’ movement and prevent them from leaving the vessel, thereby binding them to stay with their current employer out of fear of losing their documents. For example, nearly all the fishers interviewed by GLJ reported only having a copy of their passport, while their actual passport was retained by either their captain or recruitment agency, and only being given their

<sup>77</sup> ILO, *Towards freedom at sea*, p. 10.

<sup>78</sup> Lee, Gill, Chen, and Chiang, *Briefing Paper No. 2*, p. 7; see also Lee and Gill, *Briefing Paper No. 3*, p. 15–17.

<sup>79</sup> GLJ, Interview with two fishers in Donggang, Taiwan (Feb. 2, 2024).

<sup>80</sup> GLJ, Interview with two fishers in Donggang, Taiwan (Feb. 1, 2024).

<sup>81</sup> GLJ, Interview with a fisher in Donggang, Taiwan (Feb. 3, 2024).

<sup>82</sup> ILO, *Towards freedom at sea*, p. 11.

<sup>83</sup> ILO, *General principles and operational guidelines for fair recruitment*, p. 14.

<sup>84</sup> MOL, *Employment Service Act* (2023), Article 54, <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=N0090001>.

passport at the airport immediately before their flight back to Indonesia. One fisher mentioned that he once asked his captain for his passport back because he needed it to buy a telephone card, but the captain refused (**Case 4**).

### 2.3.4 Abuse of Vulnerability and Intimidation and Threats

According to the ILO, abuse of vulnerability occurs when “vulnerable fishers with limited alternatives (e.g. migrant fishers...) [are] forced to work in intolerable conditions” and when “migrant fishers, whose work visas are controlled by vessel owners, [are] threatened with deportation if [they] refuse abusive orders.”<sup>85</sup> Intimidation and threats include when “Migrant fishers are threatened with deportation as means of coercion and control,” among other threats.<sup>86</sup>

As discussed in Section 2.2.2, Taiwan has a tied visa regime that violates Principle 12 of the ILO *General principles and operational guidelines for fair recruitment* by making migrant fishers dependent on their employers for their employment and legal status. Refusal to work under exploitative conditions will likely result in termination and deportation and possibly even blacklisting, so migrant fishers are compelled to obey their captains without complaint. In some cases, fishers faced regular explicit threats of deportation. For example, one fisher interviewed by GLJ in February 2024 shared that his captain constantly threatened to send crew members home, and the captain even had a strained relationship with the recruitment agency because he frequently terminated and deported fishers.<sup>87</sup>

The chilling effect of the threat of employer retaliation on fishers’ ability to speak out against abuses, advocate for their rights, and even ask for basic medical or health and safety equipment can be seen in GLJ’s interviews with fishers. For example, one migrant fisher shared that he had never expressed complaints about conditions on board due to a fear of retaliation, including the termination of his contract. Another interviewee said that fishers only reported problems collectively because of a fear that the captain will send home a fisher he doesn’t like. This had happened to several of his friends who had complained. A third migrant fisher shared that those who express complaints while on board the vessels are usually deported immediately once the vessel arrives at port, so that by the time the FA conducts inspections of vessels at port, the fishers interviewed raise no complaints.

As a result, many migrant fishers have endured working for hostile captains. For example, one fisher said that his captain, who was notorious for having a bad temper, would not only yell at the fishers, but would hurl any object he could get ahold of, including dangerous objects such as a fishing hook or stick, at crew members (**Case 5**).<sup>88</sup> Migrant crew have also been forced to endure other abusive conditions, described in the sections below.

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<sup>85</sup> ILO, *Towards freedom at sea*, p. 10.

<sup>86</sup> *Id.* at 11.

<sup>87</sup> GLJ interview with a fisher in Donggang, Taiwan (Feb. 3, 2024).

<sup>88</sup> GLJ interview with a fisher in Donggang, Taiwan (Feb. 2, 2024).

### 2.3.5 Deception and Debt Bondage

According to the ILO, examples of deception include when “fishers incur significant debt due to recruitment fees and related costs” or when “employment terms promised by employers or recruitment agencies are not recorded or honoured.”<sup>89</sup> Meanwhile, signs of debt bondage include when “debts to recruitment agencies, owners, skippers or crew supervisors are used...to prevent fishers leaving” and “advances on wages; debt linked to charging fishers money for food they consume on board and other opaque costs are used by employer to keep the fisher in the job.”<sup>90</sup>

International standards prohibit charging migrant workers fees in the recruitment process. Article 22(b) of C188 states, “Each Member shall, by means of laws, regulations or other measures...require that no fees or other charges for recruitment or placement of fishers be borne directly or indirectly, in whole or in part, by the fisher.” Principle 7 of the ILO *General principles and operational guidelines for fair recruitment* also states, “No recruitment fees or related costs should be charged to, or otherwise borne by, workers or jobseekers,”<sup>91</sup> and calls on governments to take measures to eliminate the charging of recruitment fees and related costs to workers and jobseekers.<sup>92</sup> Accordingly, the TIP Office recommended in the 2023 TIP Report that the Taiwanese government “amend relevant policies and legislative loopholes to eliminate the imposition of all recruitment, registration, and service fees and deposits on workers, and coordinate with sending countries to monitor and harmonize contract provisions and facilitate direct hiring.”<sup>93</sup>

Nevertheless, the Taiwanese government did not amend the Action Plan to ban recruitment fees during the reporting period. Instead, the amended Action Plan still states that the Taiwanese government will “formulate a guidance on charge items for recruitment agents through consultation with the countries of origin of foreign crew members, where relevant charges such as recruitment fee, training fee, certification fee and airfare, etc., and the total amount of allowable charges will be specified.”<sup>94</sup> Accordingly, Article 13 of the Regulations continues to require the employment contract signed between the recruitment agent and the migrant fisher to include “the fees and amount.”

Thus, despite its proclaimed commitment to fulfilling C188 standards, Taiwan’s amended Action Plan normalized and perpetuated the practice of recruitment fees, one of the key drivers of deception, debt bondage, and the withholding of wages, as migrant fishers incurred significant recruitment-related debt due to the excessive fees charged by both local and foreign-based

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<sup>89</sup> ILO, *Towards freedom at sea*, p. 8.

<sup>90</sup> *Id.* at 11.

<sup>91</sup> ILO, *General principles and operational guidelines for fair recruitment*, p. 13.

<sup>92</sup> *Id.*

<sup>93</sup> TIP Office, *2023 Trafficking in Persons Report: Taiwan*, <https://www.state.gov/reports/2023-trafficking-in-persons-report/taiwan/#:~:text=Authorities%20separately%20reported%20137%20victims.victims%20provided%20services%20in%202021.>

<sup>94</sup> FA, *Action Plan for Fisheries and Human Rights* (2023), p. 37.



recruitment agencies. As a result, nearly all migrant fishers started off their jobs in debt. According to the 2023 Migrant Fishers' Wage Survey, fishers reported being charged an average of \$817 USD in recruitment fees — the equivalent of 1.5 months of salary.<sup>95</sup> In order to pay back hundreds of dollars of recruitment-related debt, migrant fishers typically had their wages deducted over a span of several months. Many fishers also incurred additional debt from borrowing money from their employer for food, cigarettes, and other items on board, which were deducted from their wages or a promised bonus. For example, one fisher interviewed by GLJ explained that he was charged NT\$11,000 (\$355 USD) for food and NT\$30,000 (\$857 USD) for cigarettes (**Case 6**).<sup>96</sup> However, he did not realize that he was being charged for the cigarettes until the costs were deducted from his bonus. As a result, he ended up only receiving NT\$3,000 (\$97 USD) in bonuses.

Due to their debt, migrant fishers who found themselves working in abusive conditions were coerced into staying in their jobs. In some instances, where migrant fishers were forcibly terminated before they finished paying off their debt, they were compelled to reenter the recruitment process and work on another Taiwanese vessel — in some cases, even being recharged recruitment fees. For example, a fisher interviewed by GLJ who had been forced to work excessive overtime and endure abusive working and living conditions desperately wanted to leave the fishing industry and return to his family in Indonesia (**Case 7**). When his contract was terminated early, however, he felt compelled to stay and sign a two-year employment contract with another Taiwanese fishing vessel because he still owed his recruitment agency \$200 USD. In his case, he was still more fortunate than most others in that he was not deported and recharged recruitment fees.

Migrant fishers recruited to work in Taiwan's DWF industry also experienced deception with regards to the wages they were promised in their origin country versus the wages they received once they arrived in Taiwan. For example, six fishers interviewed by GLJ who worked on the same vessel were each promised a monthly salary of \$600 USD in Indonesia, but upon arrival in Taiwan, their employment contracts only listed \$550 USD (**Case 8**).<sup>97</sup> One of the fishers said that he was too afraid to not sign the contract because the recruitment agent was angry, saying, "We paid for you to get here," and pressured him into signing. Moreover, the fisher knew that if he did not sign the contract, then he would be deported and owe his travel costs to the recruitment agency. According to a CSO, deception in wage payment was also common in that fishers would not be directly paid their full wages by their employers, but instead would be paid portions of their salary by their employer and recruitment agency.<sup>98</sup> The total sum would often be less than the wages promised because the recruitment agent would refuse to pay the full sum owed to the fisher.<sup>99</sup>

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<sup>95</sup> GLJ, FOSPI, and Stella Maris, Survey of migrant fishers' wages in Taiwan's DWF industry (Nov.–Dec. 2023).

<sup>96</sup> GLJ, Interview with a fisher in Donggang, Taiwan (Feb. 2, 2024).

<sup>97</sup> GLJ, Interview with six fishers in Donggang, Taiwan (Feb. 2, 2024).

<sup>98</sup> Humanity Research Consultancy (HRC), Interview with CSO #3 (Jan. 10, 2024).

<sup>99</sup> *Id.*

### 2.3.6 Withholding of Wages

According to the ILO, the withholding of wages occurs when “fishers’ full monthly payment is postponed for several months, or paid in full only at the end of the contract,” as well as when “fishers must pay ‘guarantee money’ which they forfeit if they fail to complete their contract.”<sup>100</sup> The Taiwanese government attempted to reform regulations on wage payment in its Action Plan, but such reforms proved to be ineffective in preventing fishers from having their wages withheld during the reporting period.<sup>101</sup> Instead of being paid monthly, many migrant fishers have to wait for months until they arrive at port to receive their wages, typically in cash. While some fishers were regularly paid every two to three months, there were also cases of fishers not being paid for the entire duration of their contract. Meanwhile, some migrant fishers agreed to have their wages either be partially or fully transferred to their bank account or their family’s bank account. However, without access to Wi-Fi on board vessels, it was impossible for fishers who were at sea for extended periods of time to verify whether or not they were actually receiving monthly payments. These challenges are illustrated by two cases documented by GLJ in November 2023.<sup>102</sup>

The first case involved 20 crew members on a Taiwanese-flagged vessel who had their wages withheld during their nine-month fishing trip from February–October 2023 (**Case 9**). After the first month at sea, the Wi-Fi password was leaked, allowing the migrant fishers to contact their families and learn that their salaries had not been transferred as promised. The fishers raised this issue with the captain who immediately changed the Wi-Fi password. The migrant crew ended up not being paid for the entire duration of the trip, and instead, the captain promised that they would be paid once the vessel docked in Taiwan. On October 10, 2023, the vessel docked in Taiwan, and the vessel owner sold the fish. Regardless, the fishers were still not paid and were instead promised payment after the sale of the vessel. Similarly, 18 crew members on a second Taiwanese-flagged vessel were not paid during their 10-month fishing trip from January–October 2023 and at least for another several weeks after arriving at port (**Case 10**). However, because they did not have access to Wi-Fi while at sea, they did not learn that their salaries were being withheld during the entire fishing trip. The fishers only ended up being paid in November 2023 after direct advocacy by the Wi-Fi NOW for Fishers’ Rights at Sea campaign to the FA, who informally settled the case — an issue discussed in Section 4.1.

Another common wage withholding practice was the charging of “guarantee money.” According to advocates interviewed, it has been common practice for distant water fishers, as well as coastal and offshore fishers, to be charged a security deposit — usually between \$800–\$1,200 USD — to the recruitment agency, which is supposed to be refunded after the completion of the two-year contract.<sup>103</sup> However, in some cases, fishers are often precluded from completing two years of work; for example, fishers may be terminated early because the fishing vessel needs to

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<sup>100</sup> ILO, *Towards freedom at sea*, p. 11.

<sup>101</sup> See FA, *Action Plan for Fisheries and Human Rights*, p. 17.

<sup>102</sup> GLJ, Interview with fishers from two vessels in Donggang, Taiwan (Nov. 12, 2023).

<sup>103</sup> HRC, Interview with CSO #1 and CSO #2 (Jan. 5, 2024); HRC, Interview with CSO #5 (Feb. 20, 2024).

be repaired or because there is insufficient number of crew. In other cases, fishers complete their contract but still do not receive a return of their guarantee money. As a result, many fishers do not receive their guarantee money back. According to CSOs, pay stubs from March 2024 confirmed that this practice continued during the reporting period.<sup>104</sup>

### 2.3.7 Excessive Overtime

According to the ILO, examples of excessive overtime are “chronic lack of rest hours and days off” and “severely inadequate crew size for vessel type/gear.”<sup>105</sup> Article 14 of C188 and Article 6 of the Regulations require fishers to get 10 hours of rest per 24 hours and 77 hours of rest in any seven-day period; Article 6 additionally requires that at least six of the 10 hours be uninterrupted hours of rest. However, the Taiwanese government did not enforce its existing regulations during the reporting period, instead permitting the work hours of migrant fishers on DWF vessels to exceed legal limits. For example, fishers interviewed by GLJ in February 2024 reported working 14–20-hour work days and getting two to six hours of sleep per night — far below the standards set by C188. In part, this was due to the inherently laborious nature of longline fishing; it was also the result of insufficient number of crew on some vessels. For example, one fisher, who reported usually getting three hours of sleep per night, explained that a CT-4 vessel requires about 9–10 crew members in order for the crew to be able to take shifts and get adequate rest.<sup>106</sup> On his vessel, however, there were only six crew, and it was solely up to his captain’s discretion whether or not to hire additional crew (**Case 11**). Too little rest can lead to injury, illness, and even death, yet many fishers also reported not being able to take rest during illness or injury.<sup>107</sup> Several fishers described being required to work when they were feeling ill, so long as they were not bedridden. In one case, a fisher stated that he was forced to continue working right after suffering a back and chest injury from falling down the stairs (**Case 12**). At the time of the interview, he still suffered pain from the injury although several months had passed.

### 2.3.8 Abusive Working and Living Conditions

According to the ILO, examples of abusive working conditions include “Working without adequate personal protective equipment (PPE)”; “Work in extreme weather conditions”; “Lack of access to unexpired and appropriate medications for minor injuries/illnesses”; “Denial of medical treatment in case of injury”; and “Denial of the right to return to shore for medical treatment in the event of serious illness/ injury.”<sup>108</sup> Examples of abusive living conditions include “Insufficient or unsafe food and water on vessels”; “Malnutrition (including cases of beriberi)”; and “Inadequate or intolerable sanitary facilities.”<sup>109</sup> C188 requires basic health and safety standards on board vessels. For example, Article 32 requires PPE provision; Article 38 requires access to

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<sup>104</sup> Written communication by CSO #1 and CSO #4 (Mar. 9, 2024).

<sup>105</sup> ILO, *Towards freedom at sea*, p. 9.

<sup>106</sup> GLJ, Interview with a fisher in Donggang, Taiwan (Feb. 4, 2024).

<sup>107</sup> ILO, *Towards freedom at sea*, p. 29

<sup>108</sup> *Id.* at 8.

<sup>109</sup> *Id.* at 9.

medical care and compensation in the event of injury; Article 27 requires adequate nutritious food; and Annex III describes the requirements of accommodations, such as provision of toilets, showers, and adequate cold fresh water and hot fresh water for bathing.

The Taiwanese government expressed its intent to make policy changes to improve health and safety on board vessels, but did not actually make them during the reporting period. For example, Appendix 4 of the Action Plan, titled “Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members,” lists a series of policies under “Existing Regulations” that are aimed at ensuring safe and healthy working conditions on board vessels.<sup>110</sup> However, this is misleading, as the Regulations have not actually been amended to include most of these provisions to align with the Action Plan. Examples include, “Respect the crew members’ personality and habits, and ensure the crew members’ personal safety and labor rights”; “Operators shall not require crew members to conduct any work that will endanger their safety and mental health”; and “Provide crew members with personal protective equipment essential for fishing operations without charge.” Without adequate legal protections in place or adequate enforcement of existing protections, abusive working and living conditions remained pervasive in Taiwan’s DWF fleet during the reporting period. Such abusive conditions persisted in large part due to a lack of access to communication facilities on board vessels, which barred fishers from reporting health and safety violations while at sea, in addition to the threat of employer retaliation, which had a strong chilling effect on fishers’ speech even after arrival at port.

Hazardous work conditions on board vessels were thus widespread during the reporting period. For example, several fishers interviewed by GLJ reported inadequate PPE, such as the lack of life jackets, freezer suits, or replacements for broken or damaged PPE. Consequently, some fishers reported buying their own PPE to bring on board. One fisher explained that he works in the freezer on the vessel, but was not given a freezer suit and instead wears his own regular jacket (**Case 13**). Before the fishing trip, he had to procure and bring all of his own clothes by himself because the captain does not provide any warm clothing. He also purchased and brought all other PPE in advance because he was once berated by his captain for requesting a new glove to replace his broken one.

Numerous fishers also reported being forced to work during storms when there was strong wind, heavy rain, and huge waves. Several fishers interviewed by GLJ described this as being the hardest part of their job, and none said that they could ask their captain not to work during such dangerous conditions. According to one fisher, eight fishers in Donggang, Taiwan, died from falling overboard in 2023.<sup>111</sup> A death of an Indonesian fisher on the Taiwanese vessel, *Ta Chin Man No. 16*, was also reported in January 2024 (**Case 14**).<sup>112</sup>

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<sup>110</sup> FA, *Action Plan for Fisheries and Human Rights*, p. 70–74.

<sup>111</sup> GLJ, Interview with a fisher in Donggang, Taiwan (Feb. 3, 2024).

<sup>112</sup> Keoni Everington, “Indonesian fisherman dies after falling overboard off Taiwan’s Penghu” (Jan. 30, 2024), Taiwan News, <https://www.taiwannews.com.tw/en/news/5087508>.

Lack of access to medicine or medical treatment was also a common phenomenon during the reporting period. Several fishers mentioned that they needed to bring their own medicine on board. For example, a fisher explained that after his hand was pierced by a fishing hook, the captain ordered him to “heal himself” and did not provide him with any supplies to clean or bandage the wound (**Case 15**). Instead, another crew member offered him disinfectant and antibiotics. Fishers also reported being denied access to timely medical care, even in the case of serious injuries. For example, one fisher’s hand was bitten by a shark, and he could see through his flesh to the bone (**Case 16**).<sup>113</sup> He requested his captain to return to port, but the captain refused because they only had one month left of the fishing trip and ordered him to endure the pain by taking painkillers and antibiotics. By the time the vessel returned to port and the fisher could go to the hospital, his wound was infected. He now has a permanent large scar. Even at port, fishers are not guaranteed access to medical care. For the fisher previously mentioned who suffered a chest and back injury (see Case 12), he informed his recruitment agent of his injury once at port; however, the agent did not send him to the hospital, so he had to go by himself and was never compensated for his hospital fees.

One CSO interviewed also highlighted that fishers lack access to mental health resources on board vessels.<sup>114</sup> As a result, there were reported cases of fishers committing suicide by hanging themselves or jumping into the sea.<sup>115</sup> For example, in August 2023, a Filipino fisher was found dead from hanging himself on the deck of a squid jigger in Kaohsiung.<sup>116</sup> Such tragedies could be prevented by allowing fishers to access Wi-Fi on board vessels and to be able to communicate with their families and friends, as well as access mental health counseling services while at sea.

Many of the fishers also described abusive living conditions, including inadequate food and malnutrition. One fisher explained that by the fifth month of the trip, the vessel began to run out of food, and the fishers resorted to eating the fish bait (**Case 17**). Two fishers working on the same vessel also reported cases of beriberi on their vessel (**Case 18**). In addition, sanitary facilities were substandard. Virtually all fishers reported not having a private shower facility on board the vessel. Instead, it was common practice for them to take sea water showers on the open deck, using the same hose used to clean fish. Afterwards, the fishers would do a final rinse with fresh water. In the previously mentioned case of the fisher who was trapped in debt bondage (see Case 7), the fisher endured the degrading conditions of not having access to a toilet on the vessel. As a result, the fishers would have to urinate off the side of the deck, holding on to something when the waves rocked the boat. In addition, the fishers would sometimes defecate in a makeshift hole at the front of the deck, which lacked any privacy.

### 2.3.9 Physical and Sexual Violence

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<sup>113</sup> GLJ, Interview with a fisher in Donggang, Taiwan (Feb. 2, 2024).

<sup>114</sup> HRC, Interview with CSO #1 (Jan. 5, 2024).

<sup>115</sup> *Id.*

<sup>116</sup> Lin Baoguang, “Kaohsiung offshore fishing boat was shocked to see a Filipino fisherman commit suicide in his hometown: he just finished a phone call with his family” (Aug. 23, 2023), UDN, <https://udn.com/news/story/7320/7388568>.

According to the ILO, physical and sexual violence is when fishers “are subjected to actual physical or sexual violence, to compel workers to accept work tasks that they would otherwise refuse or to compel workers to stay in jobs they would otherwise leave.”<sup>117</sup> While not as common as the other indicators of forced labor, physical violence was an indicator of forced labor suffered by some migrant crew during the reporting period. For example, in March 2024, a fisher filed a complaint to the FA, explaining that every shift, there would be a target of his captain’s abuse (**Case 19**).<sup>118</sup> For example, the captain pulled his hair while he was asleep and then ordered him to get down, punched him using his fist, and hit him using a floating buoy. The captain would also punish the fishers for accidentally releasing fish by not allowing them to sleep until after their next shift.

## **2.4 The government continued to not effectively regulate key stakeholders in Taiwan’s seafood industry, thereby perpetuating major governance gaps that keep migrant fishers at high-risk of forced labor.**

### *2.4.1 The government refused to adopt CSO recommendations to more effectively regulate recruitment agencies during the reporting period.*

The Taiwanese government failed to adequately regulate recruitment agencies during the reporting period, putting migrant workers recruited to work in Taiwan’s fishing industry at risk. Although claiming to strengthen the management of recruitment agents through the Action Plan, the government did not strengthen the recruitment agency evaluation process, which remains perfunctory.<sup>119</sup> In the 2023 TIP Report, the TIP Office recommended that the Taiwanese government “Formally incorporate civil society input – including fisher representatives, experts, and practitioners – into the labor broker evaluation process.”<sup>120</sup> While the FA nominally added three CSO representatives to its evaluation committee in 2022, the FA continued to refuse the CSO representatives’ key recommendation, namely, the ability for the evaluators to contact the migrant fishers to verify the information presented by the recruitment agencies.<sup>121</sup> The evaluators are expected to grade recruitment agencies after visiting their office and reviewing documents furnished by the agencies, such as fishers’ employment contracts and insurance records. Based on the paperwork provided by the recruitment agency alone, without the ability to speak with workers directly, the recruitment process appears to be without issues.<sup>122</sup> Consequently, the evaluators have seldom assigned a low grade to a broker.<sup>123</sup> In reality, as demonstrated in Section 2.3, many recruitment agencies engage in exploitative practices, such as the retention of documents and the withholding of wages. In February 2024, one of the CSO

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<sup>117</sup> *Id.* at 10.

<sup>118</sup> Screenshot of fisher’s email to [1955@chainsea.id.tw](mailto:1955@chainsea.id.tw) (Mar. 6, 2024).

<sup>119</sup> FA, *Action Plan for Fisheries and Human Rights*, p. 35.

<sup>120</sup> TIP Office, *2023 Trafficking in Persons Report: Taiwan*.

<sup>121</sup> GLJ, Interview with CSO #2 (Mar. 14, 2024).

<sup>122</sup> *Id.*

<sup>123</sup> *Id.*

representatives once again requested the FA to permit the evaluators to contact workers directly, but the FA merely deflected the question, saying this would be too difficult.<sup>124</sup>

The Taiwanese government's inept regulation of recruitment agencies is illustrated by the following case (**Case 20**). According to a CSO, a recruitment agent named You Shengqi was convicted for the crime of labor exploitation under the Human Trafficking Prevention Act.<sup>125</sup> The case involved the forced labor of eight Filipino fishers working on coastal fishing vessels. Because the agent was a repeat offender, the Taipei court sentenced him to five months in prison. However, he paid the bail and ended up not being jailed — an alarmingly inadequate penalty for the crime of forced labor. Afterwards, the convicted trafficker proceeded to close his recruitment agency and open another. As of March 2024, he appears to be operating at least three recruitment agencies in Taipei and Yilan.<sup>126</sup> Such lax regulation of recruitment agencies in Taiwan continued to put migrant workers recruited to work in Taiwan's fishing industry at high risk of forced labor during the reporting period.

#### *2.4.2 The government failed to regulate Taiwanese-owned FOC vessels, which pose an especially high risk of forced labor.*

As of April 9, 2024, the FA listed 200 FOC vessels in Taiwan's fleet.<sup>127</sup> However, the actual number of FOC vessels in Taiwan's fleet is believed to be at least three times higher.<sup>128</sup> FOC vessels are known to present a higher risk of forced labor, as vessel owners purposefully choose flags of "countries with lesser regulations to lower costs and avoid scrutiny," allowing them "to bypass laws that protect the wages and working conditions of the crews."<sup>129</sup> Despite knowing this, the government continued to not adequately regulate Taiwanese-owned FOC vessels during the reporting period<sup>130</sup> — an issue critiqued in previous SWG Comments on Taiwan.<sup>131</sup> Such lack of oversight has contributed to the opaqueness of FOC vessels and prevented holding perpetrators of forced labor accountable. The impediment to the prosecution of FOC vessels is further discussed in Section 4.2.

Taiwan's Act to Govern Investment in the Operation of Foreign Flag Fishing Vessels purportedly regulates Taiwanese owners of FOC vessels, but the Act's purpose is limited to "conserving

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<sup>124</sup> *Id.*

<sup>125</sup> *Id.* See Taiwan Yilan District Court Documents Submission Form (Sept. 3, 2018), Original judgment, Case number: Yi Zi No. 253, 107, Cause of action: Violation of the Human Trafficking Prevention Act, Defendant: You Shengqi.

<sup>126</sup> Written communication by CSO #4 (Mar. 16, 2024).

<sup>127</sup> FA, "FOC fishing vessel list\_Updated as of April 9, 2024," *List of Ministry of Agriculture licenses for Chinese people to invest and operate fishing vessels of non-Chinese nationality*, [https://www.fa.gov.tw/list.php?theme=LOCALBTC\\_subtheme=](https://www.fa.gov.tw/list.php?theme=LOCALBTC_subtheme=).

<sup>128</sup> Chiang and Rogovin, *Labor Abuse in Taiwan's Seafood Industry*, p. 8.

<sup>129</sup> Chiang and Rogovin, *Labor Abuse in Taiwan's Seafood Industry*, p. 5; Taipei Times, "FOC boat rights violations must end: Control Yuan" (May 11, 2021), <https://www.taipeitimes.com/News/taiwan/archives/2021/05/11/2003757207>.

<sup>130</sup> Chiang and Rogovin, *Labor Abuse in Taiwan's Seafood Industry*, p. 19.

<sup>131</sup> SWG, *Comments Concerning the Ranking of Taiwan in the 2022 TIP Report*, p. 21; SWG, *Comments Concerning the Ranking of Taiwan in the 2023 TIP Report*, p. 9.

marine fisheries resources” and does not mention labor standards for the crew.<sup>132</sup> In addition, the government has largely abdicated responsibility for regulating Taiwanese-owned FOC vessels by arguing that the vessels fall under the jurisdiction of the flag state, which is responsible for ensuring that Taiwanese-owned FOC vessels meet international standards and for receiving and remedying complaints. The Taiwanese government thus only agrees to conduct inspections of FOC vessels if they enter Taiwanese ports, where Taiwan may exercise coastal state jurisdiction.<sup>133</sup> However, Article 91 of the UNCLOS requires a “genuine link” between the state and the vessel for the state to exercise flag state jurisdiction, and in the case of FOC vessels, a genuine link does not exist. Moreover, precedent shows that the Taiwan government has the authority to pass a law and create a legal basis to impose regulations on Taiwanese-owned FOC vessel owners — an authority that the government exercised in 2008 when it passed the Act to Govern Investment in the Operation of Foreign Flag Fishing Vessels and outlawed “fish laundering” for the first time.<sup>134</sup> Besides, Taiwan already has extraterritorial jurisdiction over its nationals who commit crimes, including forced labor, so it has the authority to regulate the operators and investors of these vessels.<sup>135</sup>

However, during the reporting period, the Taiwanese government did not use its authority to strengthen regulations of its nationals who operate FOC vessels. First, the government failed to ensure that the FOC vessel list published on its website is comprehensive, and such opacity of the ownership of FOC vessels has allowed Taiwanese vessel owners/operators to escape prosecution (see Case 25).<sup>136</sup> Second, the government did not amend the Act to Govern Investment in the Operation of Foreign Flag Fishing Vessels to expand the scope to include labor issues. Third, the government did not engage in significant collaboration efforts with foreign authorities in coastal states, who may exercise coastal state jurisdiction, to conduct labor inspections of Taiwanese-owned FOC vessels in foreign ports.

The lack of adequate regulation of Taiwanese-owned FOC vessels resulted in egregious abuses of migrant fishers by Taiwanese nationals during the reporting period. This is exemplified by the case of the *Longbow No. 7*, which was Vanuatu-flagged even though the migrant crew had been promised in their employment contracts that the vessel would operate under Taiwan’s flag (**Case 21**).<sup>137</sup> On December 31, 2023, an Indonesian fisher named Sikry

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<sup>132</sup> MOA, *Act to Govern Investment in the Operation of Foreign Flag Fishing Vessels* (2016), <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=M0050037>.

<sup>133</sup> *Id.*

<sup>134</sup> Chao-Chin Huang, Shui-Kai Chang, and Shiahn-Wern Shyue, *Sustain or phase out: Transformation of Taiwan’s management scheme on distant water tuna longline fisheries*, *Marine Policy* 123 (2021), p. 5, <https://gima.nsysu.edu.tw/var/file/265/1265/img/1169/112922060.pdf>.

<sup>135</sup> See Ministry of the Interior, *Human Trafficking Prevention Act* (2023), Article 44, <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0080177>.

<sup>136</sup> See, e.g., TMT, “Vessel Details - KIKI - Currently Listed,” *Combined IUU Vessel List*, <https://iuu-vessels.org/Vessel/GetVessel/53477886-c71b-45f0-9585-850dfa03c73e>. “Company structure and vessel operational analysis also suggests this vessel was a Taiwan FOC vessel but was not on the list of Taiwan FOC vessels.”

<sup>137</sup> GLJ, Interview with migrant crew on board the *Longbow No. 7* (Mar. 26, 2024); GLJ, Interview with migrant crew on board the *Longbow No. 7* (April 16, 2024). See also Jono Thomson, “Taiwan called to investigate migrant worker’s death on fishing boat” (Apr. 10, 2024), *Taiwan News*,



Elmadem Subu died from apparent illness on board the *Longbow No. 7* while sailing in Fiji. Approximately 11 of Sikry's fellow crew members, approximately half the crew onboard, began to strike after the captain refused to return Sikry's body to port. His body remained on the vessel until March 4, 2024 — more than two months after his death — and only arrived in Indonesia on March 18. The Taiwanese vessel owner sent a letter dated January 1, 2024, demanding that the crew continue to work and threatening financial penalties and blacklisting if they did not obey. Upon arrival at port, the fishers were terminated by their employer and sent back to Indonesia. As of April 2024, the crew who were terminated had not been paid any of their salary for the 10-month fishing trip.

#### *2.4.3 The amended Action Plan continued to not regulate actors higher up in the seafood supply chain.*

The amended Action Plan continued to not regulate other key stakeholders in Taiwan's fishing industry. Narrow in scope, the amended Action Plan continued to only focus on fishing vessel owners/operators and local recruitment agencies and did not address other critical stakeholders in Taiwan's seafood industry, such as Taiwanese vessel suppliers, seafood traders, and canning companies. These industry players, however, are key actors in Taiwan's seafood supply chain and play a dominant role in shaping the working conditions of Taiwan's fishing industry. The government has only continued to take a relatively soft approach to "encourage" or "incentivise" the industry to perform better during the reporting period, while refraining from enacting regulations. Without making commitments to more stringently regulate these industry players in its Action Plan, such as requiring human rights due diligence in accordance with the United Nations Guiding Principles on Business and Human Rights (UNGPs), the Taiwanese government will remain ineffective in preventing forced labor in its fishing industry.

### **3. PROTECTION**

The 2023 TIP Report recommended that the Taiwanese government "continue to strengthen efforts to screen for trafficking among vulnerable populations, including...foreign workers falling out of visa status within Taiwan after fleeing abusive working conditions and/or surrendering to immigration authorities, and refer them to protective services." However, in the reporting period, the government failed to take necessary measures to identify and provide adequate remedy for survivors in its fishing industry, including strengthening labor inspections of its DWF fleet and providing fishers an effective grievance mechanism in accordance with international standards.

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<https://www.taiwannews.com.tw/news/5182612>; see also Ponsius Ekong, "ABK asal Kupang NTT Meninggal di Fiji, Kemenhub Fasilitasi Pemulangan Jenazah" (Mar. 20, 2024), <https://maluku.inews.id/berita/abk-asal-kupang-ntt-meninggal-di-fiji-kemenhub-fasilitasi-pemulangan-jenazah>.

### **3.1 The government continued to poorly identify survivors of forced labor due to weak labor inspections that lack enforceability and inadequate officer training.**

As described in both the 2022 and 2023 SWG Comments on Taiwan, the Taiwanese government continued to not effectively identify survivors of forced labor during the reporting period due to weak labor inspections of fishing vessels.<sup>138</sup> On account of Taiwan’s two-tiered employment system, labor inspections of DWF vessels conducted by the FA lack enforceability. As discussed in Section 2.2.1.1, unlike the MOL, the FA does not have the legal authority to carry out labor inspections.<sup>139</sup> This means that if an employer refuses to have an inspection conducted of his vessel, then the FA does not have the authority to enforce the law. In contrast, if an employer under the jurisdiction of the MOL refuses to have a labor inspection conducted, then the employer may be penalized under the law.<sup>140</sup> This also means that if an employer agrees to an inspection and violations are found, the FA does not have the authority to impose any penalties on the vessel owner. Therefore, even though the FA increased the number of labor inspectors since 2022, its lack of legal authority to inspect DWF vessels rendered the inspections largely ineffectual during the reporting period.

The FA’s inspection regime of DWF vessels remained weak because the inspections were too infrequent, with inspections only conducted when the vessels come to port after being at sea for months.<sup>141</sup> The lack of Wi-Fi on board vessels made it impossible for labor inspectors to interview fishers at sea. Meanwhile, the FA did not invest in conducting at-sea inspections. Instead, the government only committed to investing in at-sea monitoring by encouraging the installation of CCTV on board 1,000 vessels by 2025 in its 2022 Action Plan. However, CCTV is insufficient to ensure fishers’ rights at sea and potentially even puts fishers at risk of retaliation, especially when the footage is controlled by employers and remains inaccessible to workers. Surveillance on board vessels may thus instill fear among migrant fishers who may perceive CCTV as a legal means for employers to monitor them while the Taiwanese government remains reluctant to protect them.

The inutility of CCTV in protecting fishers’ rights can be seen in the previously mentioned case involving physical violence inflicted by the captain against the migrant crew (see Case 19). Having not received a response from the FA after filing a complaint via the FA’s 1955 Counseling and Protection Hotline for Foreign Workers (hereinafter “1955 hotline”), the migrant fishers ended up confronting the vessel owner and hit him after he denied that he had ever mistreated them. In response, the Taiwanese vessel owner, captain, and the Taiwan Tuna Longline Association asked the FA to sue the Indonesian fishers, whom the captain falsely claimed were fishers from another vessel, rather than his former crew members whom he had

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<sup>138</sup> SWG, *Comments Concerning the Ranking of Taiwan in the 2022 TIP Report*, p. 10–11; SWG, *Comments Concerning the Ranking of Taiwan in the 2023 TIP Report*, p. 8–9.

<sup>139</sup> SWG, *Comments Concerning the Ranking of Taiwan in the 2022 TIP Report*, p. 8; SWG, *Comments Concerning the Ranking of Taiwan in the 2023 TIP Report*, p. 8.

<sup>140</sup> GLJ, Interview with CSO #4 (Mar. 14, 2024).

<sup>141</sup> *Id.*

subjected to physical violence and intimidation.<sup>142</sup> The captain also claimed that the fishers were inebriated at the time of the assault and hit him after he asked them to be quiet. However, the crew was unable to access the CCTV footage to corroborate their story, as it is only available to the FA upon request to the employer.

In the amended Action Plan, the Taiwanese government continued to focus on increasing the number of inspections without a plan to ensure high-quality inspections that are conducted by adequately trained labor inspectors in a survivor-centered and trauma-informed manner who have the authority to take effective action on any findings. The quality of the inspections remained poor during the reporting period because the government failed to invest in training labor inspectors and hiring skilled translators. One CSO described the FA's labor inspectors as unprofessional and even lacking licenses.<sup>143</sup> The CSO lamented that many of the inspectors are office workers who do not have any knowledge or expertise on how to conduct labor inspections, but simply passed an exam and were hired.<sup>144</sup> Yet, the FA did not issue proper guidance for conducting inspections, akin to the protocols issued by the ILO, to help train inspectors.<sup>145</sup> As a result, inspections of DWF vessels have continued to not be conducted in a way to ensure that fishers feel safe enough to answer questions candidly without the fear of retaliation.<sup>146</sup> For example, inspectors have continued to conduct pre-notified onsite labor inspections in public spaces, where employers or recruitment agents might be present, putting fishers at risk of retaliation. Meanwhile, translators have been observed to provide brief, incomplete translations of the fishers' statements, with translations sometimes found to be misleading or outright erroneous.<sup>147</sup>

Furthermore, even where fishers have reported labor abuses to FA inspectors during interviews, the FA has taken inadequate action to screen and identify survivors of forced labor and to provide remedy for survivors. The crew from Case 19, for example, first reported their captain's physical abuse to a FA inspector during an interview conducted in September 2023. However, no action was taken to address the issue by the FA, leading the crew to contact the 1955 hotline in March 2024.

### **3.2 The government continued to not provide survivors of forced labor with access to an effective grievance mechanism and remedy in accordance with the UN Guiding Principles on Business and Human Rights.**

Article 27 of the UNGPs stipulate that "States should provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms, as part of a comprehensive

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<sup>142</sup> Focus Taiwan, "Taiwan captain vows to sue Indonesian fishers after assault" (Mar. 17, 2024), <https://focustaiwan.tw/society/202403170008>.

<sup>143</sup> HRC, Interview with CSO #5 (Feb. 20, 2024).

<sup>144</sup> See also SWG, *Comments Concerning the Ranking of Taiwan in the 2023 TIP Report*, p. 10–11.

<sup>145</sup> See "Tool 5. Protocols for fisher interviews" in ILO, *Towards freedom at sea*, p. 36–38.

<sup>146</sup> GLJ, Interview with CSO #4 (Mar. 14, 2024).

<sup>147</sup> *Id.*

State-based system for the remedy of business-related human rights abuse.”<sup>148</sup> Article 31 explains that to be effective, the grievance mechanism must be legitimate, accessible, predictable, equitable, transparent, rights compatible, a source of continuous learning, and based on engagement and dialogue.<sup>149</sup> In respect of Article 6(1) of the Regulations, which requires distant water fisheries operators to “make filing complaints to the concerned authorities accessible for foreign crew members,” the Taiwanese government offers the 1955 hotline. However, the grievance mechanism proved to be inaccessible, illegitimate, and unpredictable and intransparent during the reporting period.

To begin, the 1955 hotline was largely inaccessible. None of the fishers interviewed by GLJ in February 2024 mentioned the hotline as a resource that they could turn to if they needed help. One fisher possessed a small “know your rights” card titled, “Amendment to Rights and Interests Card for Overseas Employment of Foreign Crew Members,” which was given by the FA and included the hotline number.<sup>150</sup> Nonetheless, the fisher did not view the hotline as a working grievance mechanism that he could use to file a complaint. Notably, the ability to use the hotline was challenging considering that migrant fishers did not have access to Wi-Fi on board vessels and could not call the hotline for the months they were at sea. The government has acknowledged this challenge in its Action Plan, stating, “Communication is limited when DWF vessels are out at sea. In addition, the accessibility of the 1955-Hotline for crew members is also affected when fishing vessels call at foreign ports.”<sup>151</sup>

In addition, the 1955 hotline proved to be illegitimate, where legitimacy is defined as “enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes,” according to Article 31 of the UNGPs.<sup>152</sup> Where fishers reported grievances to the FA, the cases were not handled competently and did not guarantee workers remedy or protection from retaliation. For example, CSOs reported that for cases regarding the illegal practice of “guarantee money” (see Section 2.3.6), the FA neglected its duties and only passively managed these cases.<sup>153</sup> The agency did not take measures to ensure remedy for the affected workers or to penalize culpable recruitment agencies. Meanwhile, the FA also did not adopt measures to protect from retaliation fishers who report complaints to the hotline. The issue of retaliation can also be seen in the case of five fishers working on a coastal fishing vessel registered in Penghu County who called the hotline for help after suffering frequent physical abuse by their captain (**Case 23**).<sup>154</sup> In response, the

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<sup>148</sup> United Nations Office of the High Commissioner for Human Rights (OHCHR), *Guiding Principles on Business and Human Rights*, p. 30, [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf).

<sup>149</sup> *Id.* at 33–34.

<sup>150</sup> GLJ, Interview of a fisher in Donggang, Taiwan (Feb. 1, 2024).

<sup>151</sup> FA, *Action Plan for Fisheries and Human Rights* (2023), p. 13.

<sup>152</sup> OHCHR, *Guiding Principles on Business and Human Rights*, p. 33.

<sup>153</sup> HRC, Interview with CSO #1 and CSO #2 (Jan. 5, 2024).

<sup>154</sup> HRC, Interview with CSO #5 (Feb. 20, 2024); Civil Media Taiwan, “【新聞稿】勞動部缺席年度人口販運會議！強迫勞動問題誰來解？”(Sept. 6, 2023), 公民行動影音紀錄資料庫, <https://www.civilmedia.tw/archives/120955>.

government permitted the recruitment agency to join forces with the employer and file a lawsuit against the fishers on the employer's behalf, seeking damages for the fishers' strike. Instead of receiving protection from the government after using the 1955 hotline, the fishers ended up being retaliated against and were ordered by the court to each pay NT\$86,676 (\$2,796 USD).

Even cases reported to the FA by migrant fishers or advocates outside the 1955 hotline likewise resulted in no remedy for workers, as well as retaliation, during the reporting period. The absence of remedy can be seen in cases of workplace accidents reported to the FA. For example, one fisher became blind in one eye after a fishing hook pierced his eye at sea in early July 2021 and his captain refused to head back to port for another month (**Case 24**).<sup>155</sup> The return trip to port took another 15 days, so the fisher could only go to the hospital on August 31, 2021. Once at the hospital, the doctors only treated the fisher for infection and did not conduct any procedures to try to save the fisher's eyesight. When the fisher refused to work on another vessel without receiving medical care, the recruitment agent deported him on September 9, 2021, without providing any compensation for his injury. Once the fisher returned home, his wife had to take out \$5,000 USD in loans in order to afford the hospital fees.

Advocates shared details of this forced labor case, which involved abuse of vulnerability, restriction of movement, and abusive living and working conditions, among other indicators of forced labor, with the FA in November 2023. However, in January 2024, the FA sent a formal letter declining to provide any remedy for the fisher because the fisher had not submitted a claim application to the insurance company within the insurance validity period, and his hospitalization period in Indonesia fell outside the validity period of the insurance contract, which had expired on September 6, 2021. This meant that the FA expected (1) the fisher, who was suffering a severe eye injury and had been held captive at sea for about 45 days, to be able to file his insurance claim within the 7-day window between his arrival at port and the insurance expiry date, and (2) the fisher's hospitalization in Indonesia to occur even before he was even sent back to Indonesia. Due to these unreasonable and even impossible expectations by the FA, the fisher, a survivor of forced labor, remains without any remedy, as of April 2024.

Besides not receiving remedy, migrant fishers also faced retaliation in cases directly reported to the FA outside of the 1955 hotline. FOSPI members who filed cases to the FA through Stella Maris did not receive any government protections and ended up being terminated and deported. As a result, FOSPI stopped forwarding cases to the FA in September 2023.

Meanwhile, the FA's grievance mechanism also proved to be unpredictable and nontransparent during the reporting period. The FA has not established a publicly accessible system to track cases, requiring fishers and their advocates to contact the FA and follow up on each case. The FA also does not publish statistics regarding filed grievances, making it difficult to hold the FA accountable for low rates of remedy provided to workers.

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<sup>155</sup> Sainato, "A fishing accident blinded me but I was forced to keep working'."

## 4. PROSECUTION

The 2023 TIP Report recommended Taiwan “Increase efforts to prosecute and convict traffickers under the anti-trafficking law, and seek adequate penalties for convicted traffickers, which should include significant prison terms.” However, during the reporting period, the government only initiated the prosecution of a single case in the fishing sector under the Human Trafficking Prevention Act — and only upon the urging of FOSPI and its campaign partners.<sup>156</sup> The extremely low rate of prosecution in comparison to the pervasiveness of forced labor cases in Taiwan’s fishing industry is the result of various government actions, detailed below, which have hindered cases of forced labor on fishing vessels from being prosecuted.

### **4.1 The government’s informal mediation of cases with forced labor indicators continued to discourage prosecution of cases.**

According to a CSO, the FA continued to promote informal mediation and settlement of cases involving indicators of forced labor instead of bringing forced labor cases under the Human Trafficking Prevention Act.<sup>157</sup> These practices are inappropriate in dealing with serious labor violations such as forced labor and have permitted perpetrators of forced labor to avoid prosecution. Taiwan’s MOL administers both a formal and an informal process of mediating and settling of cases. The formal process involves a certified mediator or committee of mediators who invite both the worker and employer or broker and then propose a solution; if both sides agree, then the solution is binding. However, more typically, the MOL carries out an informal mediation, where they will invite the worker, employer, and broker and will employ a translator to ask the worker what happened. Besides the questions directed to the worker, the rest of the meeting is not translated for the worker. In comparison, the FA usually carries out an even more informal mediation process that lacks any of the above procedures and often results in only partial remedy for workers — for example, only partial return of unpaid wages. After the informal mediation and settlement, the FA deems workers ineligible to be screened for human trafficking or forced labor and to undergo prosecution proceedings.<sup>158</sup>

According to the CSO, this posture by the Taiwanese government has discouraged CSOs from trying to bring cases under the Human Trafficking Prevention Act, as they would face rebuke from Taiwanese government officials, such as the police, immigration officials, or the Coast Guard.<sup>159</sup> As a result, the practice of informal mediation and settlement of cases involving

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<sup>156</sup> The case involved the forced labor of two fishers who were initially recruited to work on *FV Jinn Man Shyang No. 12*. However, they were assigned to the *FV Yu Fa Yi No. 8* in February 2024, and then illegally transferred to the *FV Jin Maan Shyang No. 12*, while on the high seas. The fishers suffered numerous indicators of forced labor, including abuse of vulnerability, deception, and the withholding of wages. After arriving in port in May 2023, one of the fishers was deported back to Indonesia. The other fisher remained in Taiwan and reported the abuses to an FA inspector in June 2023. The employer and recruitment agent of the two fishers were charged with violating the Human Trafficking Prevention Act in August 2023.

<sup>157</sup> GLJ, Interview with CSO #4 (Mar. 14, 2024).

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

indicators of forced labor has allowed employers to avoid liability and has impeded survivors' access to judicial justice during the reporting period. The two cases involving the withholding of wages of dozens of migrant fishers on two vessels from November 2023 (see Case 9 and Case 10) illustrates this problematic trend. After migrant fishers and advocates reported the case to the FA in a meeting, the FA proceeded to settle the case by loaning the FA's own money to pay the crew's back wages, rather than holding the employer accountable and requiring the employer to pay. The fishers were not being screened for forced labor, and the employer avoided prosecution.

#### **4.2 Lack of transparency and accountability regarding FOC vessels hindered prosecution efforts.**

The TIP Office recommended in its 2023 TIP Report for Taiwan to “increase inspections and, where appropriate, prosecute the senior crew and owners of Taiwan-owned and -flagged as well as Taiwan-owned, foreign-flagged fishing vessels suspected of forced labor in the DWF, including vessels stopping in special foreign docking zones.” As discussed in Section 2.4.2, the Taiwanese government failed to adequately regulate Taiwanese-owned FOC vessels during the reporting period, allowing Taiwanese nationals of FOC vessels to operate without transparency and escape any accountability for labor abuses. The following case illustrates how the lack of regulation of Taiwanese-owned FOC vessels by the government has hindered prosecution of Taiwanese perpetrators of forced labor.

On March 30, 2023, migrant rights' advocate, Lennon Wong, published a blog post discussing the likely links between Taiwan and two Namibian-flagged longline vessels, *MV Shang Fu* and *Nata 2*, which had subjected 60 crew members to forced labor (**Case 25**).<sup>160</sup> Numerous signs indicated that the vessels were likely Taiwanese FOC vessels: (1) the migrant fishers were falsely promised that they would work in Taiwan when they were recruited; (2) one of the three employers of the crew was a Taiwanese company; (3) the company that owns the vessels was owned by an individual with a Chinese name; and (4) there are many Taiwanese vessels with the name *Shang Fu*. Nonetheless, no definitive evidence could link the Namibian-flagged vessels to Taiwan. Although the FA was aware of this case, it did not use its resources to uncover further details of the situation. As a result, the vessel owner, who may have been a Taiwanese national, escaped investigation and possible prosecution in Taiwan.

## **5. RECOMMENDATIONS**

To encourage Taiwan to fully meet the TVPA minimum standards, the TIP Office should support the following recommendations to the Taiwanese government:

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<sup>160</sup> Lennon Wong, “Human Trafficking Case on two Fishing Vessels in Namibia, is Taiwan part of it?” (March 30, 2023), 四十不惑乎?, <https://ydwong.wordpress.com/2023/03/30/1-4/>.

- 1) **Respect migrant workers' rights to freedom of association and collective bargaining.** The government should ensure migrant workers' internationally-recognized rights to freedom of association and collective bargaining are respected in accordance with the ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the ILO Right to Organize and Collective Bargaining Convention, 1949 (No. 98) by doing the following:
  - a) Taking proactive measures to guarantee non-interference with independent worker organizations by employers or government officials.
  - b) Enacting protections against all forms of retaliation for organizing and union activity, including intimidation and threats, physical violence, termination, deportation, and blacklisting.
  - c) Mandating free access to Wi-Fi for all crew on board all Taiwanese DWF vessels to facilitate their freedom of association, in line with the following criteria: (1) mandatory Wi-Fi with penalties for non-compliance; (2) commitment to fishers' fundamental labor rights; (3) guidelines on reasonable access to Wi-Fi; (4) co-design and co-enforcement of a vessel-level conflict resolution process; and (5) improved labor enforcement through interagency action.
- 2) **End structural discrimination against migrant fishers.**
  - a) The government should abolish the discriminatory two-tiered employment scheme and ensure that migrant fishers in DWF are overseen by the Ministry of Labor and are covered by the Labor Standards Act and other labor laws.
  - b) The government should reach a bilateral labor agreement with the Indonesian government that includes key protections for migrant fishers recruited to work in Taiwan's DWF industry, including the set of eight demands proposed by the delegation of Indonesian unions: (1) fundamental labor rights and decent work; (2) freedom of association and anti-retaliation; (3) Wi-Fi and access to communication; (4) collective bargaining agreements; (5) grievance handling; (6) fair wages; (7) employer pays recruitment; and (8) a union role in migration governance through a tripartite working group.
- 3) **Amend the Action Plan for Fisheries and Human Rights and enact and implement laws and policies to meet international labor standards.**
  - a) The government should amend the Action Plan for Fisheries and Human Rights and revise its domestic laws and policies, as well as strengthen the enforcement of existing regulations, to fulfill international labor standards, in particular the ILO Work in Fishing Convention, 2007 (No. 188) and the ILO *General principles and operational guidelines for fair recruitment*.
  - b) In particular, the government should further limit the permitted duration of DWF trips; guarantee fishers' access to communication at sea; prohibit the retention of identity documents and the charging of recruitment fees and related costs by employers or recruitment agencies; ensure monthly payment of fishers' full wages; improve and enforce working and living conditions to ensure crew health and safety; and grant fishers' the ability to change employers without the need to obtain permission, return to their home country, or undergo the recruitment process again.



- 4) **Close governance gaps through effective regulation of recruitment agencies, Flag of Convenience (FOC) vessels, and industry players higher up in the seafood supply chain.**
  - a) The government should strengthen regulation of recruitment agencies by requiring worker interviews as part of the evaluation process and imposing penalties for recruitment agents that commit labor rights violations, including fines, revocation of licenses, and criminal charges.
  - b) The government should enact and enforce regulations to increase the transparency and accountability of FOC vessels.
  - c) The government should adopt a supply chain accountability approach and regulate industry players higher up in the seafood supply chain by requiring mandatory human rights due diligence in accordance with the United Nations Guiding Principles on Business and Human Rights (UNGPs).
- 5) **Strengthen labor inspections of DWF vessels.**
  - a) The government should ensure that inspections of DWF vessels, including both Taiwanese-flagged vessels and Taiwanese-owned FOC vessels, fall under the legal authority of the Ministry of Labor.
  - b) The government should increase the number of inspections of vessels, including at-sea labor inspections.
  - c) The government should provide labor inspectors with adequate training to conduct interviews in a trauma-informed manner and to competently identify cases of forced labor. The government should use the *ILO Towards freedom at sea: Handbook for the detection of forced labour in commercial fishing* as a guide in developing labor inspection standards and training inspectors.
- 6) **Guarantee migrant fishers' access to an effective grievance mechanism and remedy.**
  - a) The government should ensure that all migrant fishers have access to an effective grievance mechanism in accordance with the UNGPs both at sea and at port, including the ability to safely report labor rights violations without the risk of retaliation and to receive adequate remedy in a timely manner.
- 7) **Ensure survivors of forced labor have access to justice through fair and timely dispute resolution processes.**
  - a) The government should ensure that all cases involving indicators of forced labor are properly handled in a fair and formal process appropriate to the seriousness of the alleged violations, including provision of professional translation services for migrant workers, and guarantee that any settlements resulting from mediation procedures do not bar workers from participating in prosecution under the Human Trafficking Prevention Act.
  - b) The government should strengthen government oversight of FOC vessels and ensure that perpetrators of forced labor on Taiwanese-owned FOC vessels do not escape liability.