



BUILDING A RIGHTS CULTURE

How workers can lead sustainable change in
Thailand's seafood processing sector



The logo for the International Labor Rights Forum (ILRF) consists of the letters "ILRF" in a bold, white, sans-serif font, centered within a solid black rectangular background.

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INTERNATIONAL LABOR RIGHTS FORUM (ILRF)

The International Labor Rights Forum is a human rights organization dedicated to achieving dignity and justice for workers worldwide.

MIGRANT WORKERS RIGHTS NETWORK (MWRN)

The Migrant Workers Rights Network is a membership based organisation for migrant workers from Myanmar residing and working mainly in Thailand.

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Cover photo: Workers at a port in Samut Sakhon, Thailand.



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Workers load seafood at a port in Samut Sakhon, Thailand.



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Part I. Introduction

Egregious labor rights abuses, including forced labor and human trafficking, have been documented across Thailand's seafood sector in dozens of reports over more than a decade. Recently, unprecedented international attention on Thailand's seafood industry, particularly the plight of migrant workers who make up the majority of the workforce, has prompted a flurry of action from governments, exporters and Western brands that sell Thai seafood.

Despite the growing number of government and industry initiatives, migrant workers in Thailand remain as vulnerable to abuse as ever. New corporate supply chain monitoring programs are applying a failed CSR model that lacks genuine worker feedback and representation. Meanwhile, Thai labor law continues to prohibit migrant workers from organizing trade unions and thus seeking to bargain collectively with employers for better wages and working conditions.¹ So even as global brands invest more resources into improving their monitoring initiatives, they are unlikely to achieve significant change to conditions on the ground, as the failures of the same model applied in other sectors have demonstrated. As long as workers do not have the power to hold employers and the global corporations that ultimately dictate prices accountable, these human rights abuses will continue.²

This report highlights current worker-driven efforts to improve working conditions in Thailand's seafood export industry. It presents case studies from one grassroots organization, the Migrant Workers Rights Network (MWRN) that, despite the limitations on unionization, is organizing migrant workers to negotiate for better conditions in their own workplaces and changing factories from the inside. These case studies demonstrate how worker-driven solutions have effectively resolved some of the most common abuses faced by migrant workers in Thailand. They

should be used as a guide by industry and government leaders looking for long-term solutions to the human trafficking problem in Thailand.

After a brief overview of the problems migrant workers face, the report will explain how MWRN is working to overcome challenges and making demonstrable progress in changing conditions within the seafood industry. Through this presentation of MWRN's work, we illustrate the positive outcomes achieved when workers are able to negotiate better working conditions and terms of employment. The successes of MWRN, which is migrant-led and migrant-organized, highlights the capacity of migrant workers to improve their own conditions and workplaces when given the chance.

By negotiating directly with employers and holding them accountable for illegal labor practices, MWRN has successfully intervened on behalf of tens of thousands of migrant workers in hundreds of cases. MWRN has secured more than 10 million baht (about \$281,000) as compensation for unpaid wages to migrant workers, mostly in the seafood sector. It has also managed to improve industry standards in a number of key respects through continual pressure on employers to improve their practices. Through case studies and worker interviews, the report documents MWRN's successes in resolving instances of abusive working conditions in the seafood sector, focusing on four that are common industry practice:

- A. High recruitment fees;
- B. Document confiscation;
- C. Non-payment and late payment of wages; and
- D. Dismissal of workers

The report also documents some of the limitations MWRN faces in the current Thai context, which systematically denies migrant workers their rights.

There are 3-4 million migrant workers in Thailand.³ Most come from neighboring Myanmar, though there are sizable populations of migrants from Cambodia and Laos as well.⁴ These workers are the drivers of Thailand's booming export economy, filling a labor shortage in industries many Thais will not work in, including manufacturing, construction and seafood harvesting and processing. Abuses are not isolated to the seafood sector, but can be found in most areas in which migrant workers make up a large proportion of the working force. In seafood harvesting and processing, migrant workers make up about 90 percent of the workforce.⁵

Discrimination against migrant workers is systematic and legalized. Hence, eradicating abuses requires that the Thai government acts in several key areas including: ending official corruption and impunity for public officials involved in abuse of migrant workers⁶; protecting migrant workers rights to organize and collectively bargain⁷; increasing oversight over private employment agencies and brokers⁸; and enacting and enforcing judicial reforms to stop the torture of migrant workers accused of crimes⁹ and ensuring human rights defenders and journalists can conduct their work without fear of retaliation.¹⁰

Companies also have an ability and a responsibility to do much more to address the human rights in their own seafood supply chains, as established in the UN Guiding Principles for Business and Human Rights and OECD Guidelines on Multinational Enterprises. This report provides recommendations for companies buying from Thailand to fulfill their human rights due diligence responsibilities, including sourcing policies and their implementation with suppliers to support long-lasting change that ensures respect for workers' rights in seafood supply chains.



Migrant worker accomodations at open air seafood market in Samut Sakhon, Thailand.

Migrant workers walk outside a furniture factory located in Samut Sakhon, Thailand.





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Part II: Background

Migrant workers in Thailand

Migrant workers, according to the U.S. Department of State's 2014 Trafficking in Persons (TIP) report, are one of the country's most vulnerable populations to human trafficking. In 2011, Johns Hopkins University found that 33.6% of the approximately 400,000 Burmese migrant workers in the shrimp processing industry in Samut Sakhon province – or 134,400 migrant workers just in this single province – had worked as forced laborers in a shrimp factory at some point in the past five years.

Thai law leaves them dependent on employers and labor brokers to enter and remain in the country legally, making them vulnerable to debt bondage and various other forms of exploitation. For starters, despite recent regulatory changes, which apply only to the seafood sector, that allow for more free movement between employers, migrant workers generally must register with a specific employer for the right to work, and remaining in the country legally depends on staying with that employer, regardless of working conditions. Changing employers is complicated and expensive, allowing employers to charge workers fees if they want to leave to find different employment.

Recruitment of migrant workers generally is a serious problem in the seafood sector. The Thai Government has made some welcome tweaks to the current system, including reducing the official cost of worker registration from 1,800 baht (\$50) to 900 baht (\$25), and reducing the time migrant workers must spend in the country of origin before renewing work documents from four years to one month. However, the current system, governed by the Recruitment and Job Seekers Protection Act of 1985, still allows employers to shift the cost of recruitment to workers, — a violation of international norms — and functions via a network of poorly regulated labor brokers. An assessment by the International Labour Organization (ILO) found that Thailand lacks any effective

grievance mechanism for inbound migrant workers to report recruiter abuse.¹¹ The report also found that “limitations contained within the provisions of the Act and inadequate enforcement have allowed for frequent offences and infractions to take place.” They also found that in the rare case of a complaint being filed, only minor penalties were imposed, and despite widespread recruitment abuses only six recruiters lost their licenses from 2004 to 2010.

Even migrant workers who find employment in Thailand through official government channels (Government-to-Government Memorandums of Understanding (MOUs)) must use labor recruiters to access the process. A 2015 report from the European NGOs Finnwatch and Swedwatch and a 2016 report from the U.S. NGO Verite both found that MOU workers still had to pay exorbitant recruitment fees that left them in situations of debt bondage.¹² Although Thailand and the sending countries are only supposed to use licensed recruiters to complete the MOU process, “the system is plagued by sub-agents, corruption and the monitoring or regulation of recruiters is near non-existent. Recruiters charge high fees for their services and may even collect bribe money for authorities from migrant workers.”¹³ Verite's research indicates that corrupt or improper payments minimally amount to the equivalent of \$65-\$530 per worker deployed and the payments cover, among others, the illegal “kickbacks” given by Burmese agents to their Thai counterparts to secure demand letters or job orders for workers.¹⁴ NGO researchers documented licensed recruitment agencies on both sides of the border charging many times the legal amount for registration, Thai employers allowing illegally high wage deductions to pay off the resulting worker debt, and, in some cases, employers or recruiters confiscating identification documents.¹⁵ The high costs of recruitment which, under the MOU process, should be borne by the

employer are in reality collected from workers by their Thai employers' appointed agents in Myanmar.¹⁶

Once migrant workers arrive, the Thai Labor Relations Act prohibits them from forming or serving in the leadership of trade unions, which limits their right to freely associate and collectively bargain and makes it difficult for workers to act collectively to improve conditions. Migrant workers may join unions formed by Thai nationals, but there are too few unions for them to join, in part because there are not enough Thai workers employed in the sectors where migrant labor is concentrated. The global union confederation IndustriALL has filed a complaint against the Thai Government to the ILO Committee on Freedom of Association, seeking to address this issue, which has serious consequences for migrant workers:

“Without the right to organize and form unions, bargain collectively, and take collective action to protect themselves, migrant workers are especially vulnerable to poverty and wage theft, poor health and safety standards, dangerous working conditions, exploitation, extortion by police, and trafficking for forced labour in some of Thailand's biggest export industries. Since migrant workers perform much of the labour-intensive work in Thailand's shrimp and commercial fishing industries, the Labour Relations Act 1975 has in effect barred unionization in these industries.”¹⁷

In addition to these legal impediments, abuses of migrant workers by Thai officials, and migrant workers' perceptions of the Thai government, deny effective access to legal remedy in practice. In focus group interviews of migrant workers ILRF conducted in June 2015, workers consistently expressed that one of the most difficult issues they dealt with was regular shake-downs by police, common for both documented and undocumented workers. There

is a common perception among migrant workers, supported by evidence from media reports and NGO investigations, that Thai officials are financially linked to business interests involved in exploitative practices and are therefore unlikely to assist them. Thus, workers are fearful of going to police or other Thai officials if their rights are violated, and often do not know where to turn for help.

For Thailand to really bring its problems with human trafficking under control, it is going to have to make legal changes to regulate labor recruitment to end worker-paid recruitment fees, hold officials accountable for corruption or complicity in abuse of migrant workers and ensure migrant workers are able to freely associate, form their own representative organizations, and engage in social dialogue with employers and officials. In the meantime, however, Thai companies could take significant steps to improve the way they hire and retain workers and establish legitimate worker-based grievance mechanisms within their facilities.

It is these kinds of changes the Migrant Workers Rights Network (MWRN) aims to bring about in Thailand's manufacturing and processing sectors, including seafood processing, and more recently with fishers in Samut Sakhon and Songkhla provinces. It organizes workers, holds companies legally accountable for illegal working conditions and negotiates resolutions with employers. Though it is not permitted to be a union under Thai law, the Migrant Workers Rights Network (MWRN) is a representative organization in which members democratically elect leaders to represent their interests. MWRN has successfully intervened on behalf of migrant workers with both employers and the Thai government to ensure workers' legal rights are protected, and seeks to enhance social dialogue between workers and seafood industry leaders and employers.

Migrant workers take Thai language class at MWRN office in Samut Sakhon, Thailand.





Migrant Workers Rights Network (MWRN) was founded in March 29th 2009 by a group of migrant workers.
MWRN's Library was opened for the migrant workers in May 1st 2010 (International Labour' Day).





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Part III. Worker-led efforts to protect their rights

MWRN was founded March 29th, 2009, by a group of migrant workers from Myanmar in Thailand to improve the quality of life for migrant workers through community empowerment and increased access to justice. The group began in Samut Sakhon, a region south of Bangkok on the Gulf of Thailand that is both an important port and hub of seafood processing for export. It has a large migrant population, many of whom work in the seafood industry. MWRN has also opened an office in another region with a heavy concentration of migrant workers in the seafood sector in the south of the country, called Songkhla Province. They also have a third office in Yangon, Myanmar, where they train migrant workers before they depart for Thailand and disseminate safe migration information. In addition to the seafood processing and marine capture fisheries sectors, MWRN represents workers in food canning and processing, heavy industry and rubber glove manufacturing, as just a few of the sectors in which the organization is active.

MWRN cooperates with key union allies in Thailand, the State Enterprise Workers Relations Confederation of Thailand (SERC) and Thai Labour Solidarity Committee (TLSC), to solve the challenges of migrant workers and encourage better policy on migrant labor issues. It makes efforts to broaden its collaboration with international organizations (such as the ILO and International Organization for Migration), international NGOs, Thai NGOs, as well as the governments of Thailand and Myanmar.

To achieve its goals, MWRN operates around six main areas of work:

1. **Legal assistance:** Migrant workers who have had their rights violated contact MWRN for assistance. MWRN either negotiates directly on behalf of workers to solve disputes, or files cases

with the Ministry of Labour or other relevant authorities.

2. **Education:** Training and learning programs are critical to MWRN's strategy to engage and support the migrant community and as a way to increase membership and activism.

Many migrant workers first engage with MWRN to take advantage of these services, but then become activists engaged in other areas of work. MWRN provides three types of education services:

- Since 2010, MWRN has operated a community resource center and library for migrant workers out of its main office in Samut Sakhon. More recently, it has launched a computer training course, Thai/English language training courses and vocational training course that combined serve more than 130 migrant workers.
- MWRN opened a school for migrant children in Samut Sakhon in 2013 to address issues of child labor and trafficking among the migrant community. A variety of obstacles prevent children of migrant workers from attending Thai schools, including language barriers, transportation problems and cultural factors. In some communities, as many of 50 percent of children are left alone or with neighbors while their parents work. The MWRN school currently serves its maximum capacity of 350 students, with seven teachers and seven vehicles to transport students to and from school.
- MWRN also provides worker trainings on Thai labor law, in factories when employers permit, and out of its office in Yangon in pre



Students take their lunch break at the MWRN school in Samut Sakhon, Thailand.

departure workshops for workers preparing to immigrate to Thailand. MWRN also widely distributes pamphlets detailing the rights migrant workers should expect.

3. **Organizing:** MWRN has grown from 9 members at its founding to more than 4,000 today. It is particularly working to increase its number of paid members. Member dues are a small but growing source of self-sustaining revenue. MWRN focuses on key export factories across Thailand to develop organizing awareness among migrant workers and conducts organizing trainings.
4. **Advocacy:** MWRN meets with government officials from both Thailand and Myanmar to

advocate for better labor policies in Myanmar and legal reforms to benefit migrant workers in Thailand. Immigration policies are an area of particular concern in discussions with both countries because migrant workers are made vulnerable by inconsistent, expensive and unpredictable registration and documentation practices.

5. **Research and Documentation of Violations:** MWRN investigates labor rights abuses among migrant workers in Thai factories, documents working conditions for use by NGOs and workers and engages business and industry actors in Thailand and overseas to press for solutions to the problems found. MWRN research differs

from most inquiries conducted by auditing firms because it happens off-site, without management's knowledge, anonymously, and with investigators who typically are, or were, workers in similar factories. These factors, combined with MWRN's well-known and respected reputation among migrant worker communities, means workers feel more comfortable speaking truthfully. By comparison, workers have reported to MWRN in the course of its own investigations that third-party audits initiated by industry actors are often manipulated and workers do not feel free to report genuine working conditions.¹⁸

In instances when this research led companies to change policies and practices, it was usually through a combination of international pressure downward and calls from workers upwards. It typically starts with an MWRN-led investigation at a Thai export factory, sometimes done jointly with a Western NGO, that uncovers illegal or unethical practices.¹⁹ NGO allies in the United States (including ILRF), Europe and Australia determine if those products are sold in their markets and write letters to customers of the offending supplier, asking for them to intervene and encourage the supplier to negotiate with MWRN. Meanwhile, MWRN engages industry associations and government officials in Thailand to set up joint negotiations with the employer to resolve problems.

6. **Business engagement:** MWRN is increasingly developing networks and strengthened relationships with key seafood industry leaders including the Thai Tuna Industry Association (TTIA) and the Thai Frozen Foods Association (TFFA) to represent workers, advocate for enhanced migrant worker rights and establish enhanced social dialogue. MWRN is now

working closely with Thai Union and Chotiwat Manufacturing Company Ltd, two of the main tuna exporters, to educate migrant workers on their rights and create a space for them to express grievances. MWRN continues to engage more strongly with overseas purchasers of products from Thailand seeking to understand worker conditions.

Since late 2015, MWRN has expanded its organizing work from just Burmese workers to include Cambodian migrants as well, particularly in Songkhla Province.

MWRN combines its use of the above strategies to secure demonstrable improvements in conditions for migrant workers, particularly in Thailand's seafood export sector. MWRN has successfully intervened on behalf of tens of thousands of migrant workers in hundreds of migrant abuse cases. In excess of 10 million baht (about \$281,000) has already been gained by MWRN as compensation to migrant workers, mostly in the seafood sector. MWRN has through continual pressure managed to improve industry standards in a number of key respects. This report documents some of MWRN's most significant victories, focusing on its impact on the seafood processing industry in Thailand.

A. Recruitment Fees

When MWRN started, very high recruitment fees were widespread within the seafood processing industry. Workers were expected to pay a fee on top of the amount required for work permits and registration to receive placement in a position. Usually this fee went to a labor broker, but sometimes was gathered by the employer as well, with some corrupt human resource departments in leading companies profiting handsomely. Many companies in the seafood sector

also utilized subcontractors or agents to manage migrant workers.

MWRN has worked with leading seafood companies including Thai Union, Charoen Pokpand, Unicord and Chotiwat, just to name a few, to remove recruitment fees and subcontractors from involvement in migrant worker recruitment and affairs, saving workers millions of baht in unnecessary fees and shortening labour supply chains. Where major factories still utilize subcontractors or agents, some portion of the costs are increasingly covered by the companies themselves. As with most industry changes, the shift in recruitment fees began with repeated investigations that uncovered widespread debt bondage in seafood export factories attributable to the way in which

workers were recruited. The ease with which a common industry practice can lead to debt bondage has caused some Thai exporters, including those listed above, to restructure their hiring practices to minimize that risk.

Though recruitment fees are not as prevalent as they once were, they are still too common in the sector, and there are still many costs migrant workers must pay to get or keep a job in Thailand, in addition to the costs of physically relocating. These include costs relating to having a legal passport, work permit and visa, as well as travel costs to return to home countries and come back to Thailand after permits expire. MWRN works closely with companies to reduce or remove these additional fees from workers.

MWRN president Sein Htay (black shirt, center) and former president Aung Kyaw (blue shirt, right) meet with workers at the MWRN office in Samut Sakhon, Thailand.



Case Study: Unicord Factory #2

Ko Zaw Tun has a typical story of how he began working at Unicord factory #2. He came to Thailand from 2008 from Myawaddy, Myanmar. A labor broker brought him to a furniture factory, which had paid the broker 10,000 baht (\$280) for a worker. The broker had essentially sold him, and Ko Zaw Tun had to work until his debt was clear before he could find a different employer. He applied to work at Unicord factory #2, and paid 5,500 baht (\$155) to a broker to change jobs. He started working with Unicord in June 2009.

He and other migrant workers worked directly under the broker as subcontractors. The broker deducted 30 baht (about \$1) from every 1000 (\$28) baht they earned in income. Subcontracted workers had differently colored ID cards than those who were hired directly by Unicord and received different benefits for completing the same work. In addition to the problems with subcontracting, the workers complained that the factory was not big enough for all 2,000 workers it employed, who were divided evenly between a day shift and a night shift. Workers lacked sanitary restroom facilities or places to eat at breaks.

MWRN documented these problems in research it conducted with Unicord workers, and used that information to demand changes from the factory. As a result, more than 300 migrant worker subcontractors were hired directly by the factory, saving them the broker fees. Unicord agreed to end its subcontracting practices, and now employs all workers directly. The factory also built an additional dining room and installed more toilets.

Several workers from the factory contacted MWRN again in 2015 with new concerns. Their visa and work permits had expired and according to Thai

law four years after they had arrived through formal channels. Workers who come to Thailand under a Memorandum of Understanding (MOU) between Thailand and Myanmar have two-year visas than can be renewed once in-country, but then require workers to return home. The Unicord workers had to return to Myanmar, contract with an agency there to secure entirely new documents, and then come back to Thailand again. This puts regular entry workers at a disadvantage to irregular workers, who can go through a different registration process that allows them to stay in Thailand for at least 6 years.

Even though they were already experienced workers who had gone through an expensive process to come to Thailand, the workers were faced with having to start again as a new workers, and the payments were exorbitantly expensive. MWRN held discussions with the Unicord management team to revise this process for MOU workers and provide greater support to not only reduce the cost, but retain skilled workers. The management however failed to take into account the concerns of MWRN and continued to charge these workers excessive fees once their initial stay period in Thailand had expired.

Case Study: Golden Prize

Unfortunately, not all cases are successful and there is still no legal recourse when a seafood processing factory refuses to negotiate a solution. Such is the case with Golden Prize, a case MWRN continues to pursue.

MWRN investigated working conditions of an estimated 1,700 workers (male 700, female 1,000) at Golden Prize over the summer of 2015 and found a number of illegal practices including: the human resources department had overcharged workers 6,000 baht (about \$170) for registration documents

workers never received and illegally deducted that amount from workers' paychecks; workers were forced to work more than 17 hours a day with only one 30-minute break and were paid only 450 baht (\$12.63) per day, significantly less than required in overtime wages; overcharging workers for terrible living conditions that had poor water supply and lacked functioning toilets; and deductions for health insurance employees were not able to use despite multiple incidents of workplace injuries.

On October 15, MWRN facilitated negotiations with Golden Prize, the Thai Tuna Industry Association (TTIA) and the Labour Protection Office to address concerns. The negotiations were successful in ensuring Golden Prize would improve conditions to comply with existing law, but the company would not agree to pay compensation for the inflated work permit documents or unpaid wages. When the negotiations failed, more than 1,000 workers began a protest outside the factory. MWRN responded, trying to ease tensions on the streets between workers and police, army, government officials and company representatives.

MWRN continued to organize negotiations between Labour Protection officers, Golden Prize and industry officials throughout 2015. In the meantime, MWRN also submitted a complaint to the Thai Royal Army Chief over allegations that soldiers were stationed in the factory to intimidate workers, and 1,400 workers submitted complaints to TTIA and Labour Protection officers about the illegal labor practices. At one negotiation, Golden Prize offered to pay just 10,000 baht (\$280) per person in total compensation, but the workers rejected such a low amount to compensate for the years of wage theft.

At the time of this writing, the issue remains unresolved and Golden Prize has refused further

negotiations and not followed through on previous promises to MWRN. When TTIA sent a letter to Golden Prize asking the company to take steps to resolve the situation or risk losing its membership, Golden Prize withdrew voluntarily and switched to a different association, the Thai Food Processors Association rather than compensate the workers. MWRN has accused Golden Prize of criminal contempt in lying to labor officials and sent evidence to the relevant officials. Unfortunately, without formal union recognition that is the extent of what MWRN can do to influence Golden Prize, Without reform of the Labor Relations Act, migrant workers will continue to face challenges in representation and protection of their rights and interests that only migrant-led unions can overcome.²⁰

B. Document Confiscation

About 90% of the workforce in the Thai seafood sector is made up by migrant workers²¹, who often lack official documentation when they migrate to Thailand. Though industry and government are undertaking steps to ensure workers are registered with legal working papers, access to identification is still a problem for many of the most vulnerable workers in the seafood sector.

The ILO has identified this practice as an indicator of forced labor because it is a sign of coercion. In all cases, the ILO has determined workers must have access at all times to their documents, and there should be no constraints on the ability of the worker to leave the factory or place of employment.

Employers that confiscate workers' documents compound migrant workers' vulnerability. In the worst of these cases, document confiscation has been paired with high debts from recruitment fees to trap workers in debt bondage.

Case Study: Thai Union Manufacturing/Unicord

In January 2013, a Finnish human rights organization called Finnwatch published a report, with research support from MWRN, about conditions at Thai Union Manufacturing and one of two factories in the seafood processing region of Samut Sakhon owned by Unicord Public Company. Both factories employ large numbers of migrant workers to clean, process and package seafood products for export.

The Finnwatch report documented a number of issues at the two factories. Among them, workers reported that their work permits were confiscated at both factories, and workers at Thai Union did not have access to their passports. Workers also paid high recruitment fees, a situation that puts workers at danger of becoming trapped in debt bondage.

After the report was released, Finnwatch contacted customers of both Thai Union and Unicord to alert

“Because MWRN negotiated with the management team, we don’t have to pay such high costs to extend our working documents. These benefits are applied to every Myanmar migrant worker in the TUM factory. In the future we want to strengthen MWRN and to increase our networks in other provinces. At the same time, I want to suggest to the Thai government and employers that they should charge an accurate price for registration documents, don’t use labor brokers to hire workers, and please take action on the corrupt police officers who try to profit from migrant workers.”

- Ko Win Sein, worker at Thai Union Manufacturing

them to the issue and enlist their help in pressuring for needed changes. On the ground, the MWRN team negotiated with management to resolve the situation. A follow-up assessment by Finnwatch and MWRN released in May 2015 found workers in both factories to be in possession of all identification documents.

Case Study: Kasemchai Farm Group (KCF)

Kasemchai Farm Group is a seafood exporter engaged in both aquaculture and seafood processing. On December 7, 2015, 140 workers protested at a KCF processing factory in Nakhon Pathom Province regarding alleged rights abuses. Officials and workers requested urgent assistance from MWRN to help resolve the situation.

The workers all arrived through the official MOU process, but still alleged conditions of debt bondage. KCF charged 10,000 baht (\$280) in broker fees and confiscated workers’ passports. Some workers were brought to Thailand but given no work, while others worked overtime and were not paid the legally mandated minimum for overtime. Workers also complained of poor and inadequate accommodation, as well as costly and inadequate food/water supplies.

On December 8, the Employment Department Director General Arak Prommanee attended negotiations at the MWRN office to seek a solution and positive progress was evident after the negotiations together with MWRN, local officials, factory management and workers. Workers were paid for time they were not given work, compensated for overtime not paid before (total compensation 84,000 baht (about \$2,360)), passports were returned and the 10,000 broker fee for each worker was waived (total 1,400,000 baht (about \$39,280) waived).

C. Non-payment and late payment of wages

Employers are routinely paying migrant workers less than they are owed in the Thai seafood sector. In Thailand, most workers are entitled to a 300 baht (about \$8) per day minimum wage. All factory workers are entitled to this amount on days they work, and the typical work week is six days a week. If work slows down and workers are not called in for a day on which they were expected to work, they are still supposed to receive 75% of their daily wages according to Thai law. MWRN is assisting workers to seek unpaid wages and to prevent wage theft.

This issue became particularly salient for MWRN in 2013, when the onset of Early Mortality Syndrome (EMS) ravaged the Thai shrimp industry. EMS is caused by a highly virulent bacteria that attacks the livers of infected shrimp, releasing poisonous toxins and resulting in quick death. Within days, entire ponds can be completely wiped out. Thailand lost 40 percent of its stock to EMS in 2013.²² Factories had difficulty getting access to raw materials, experienced work slowdowns and had difficulty filling orders. Workers were laid off and many factories heavily dependent on shrimp, without diversified products to fall back on, closed entirely.

Case study: Crystal Frozen Foods (CFF)

This factory employed more than 500 workers, roughly 300 Burmese workers and 200 Thai workers. They worked 8 a.m. to 5 p.m., and earned the legal minimum wage of 300 baht per day. Around December 2014, orders slowed and production decreased. Though the workers were hired as full time, they began to be sent home after only 4 or 5 hours of work, and then paid an hourly rate, in violation of Thai labor law, which states that workers hired at full time must make a minimum of 300 baht a day. There were 82 workers

“MWRN is not only talking. They really take action on labor rights issues and work for workers to realize their full labor rights.”

- U Kyaw Ngwe, worker at Crystal Frozen Foods

who stopped receiving their full wages and came to MWRN to request assistance. MWRN assisted the workers in submitting a claim to the Department of Labour Protection and Welfare (DLPW). In January 2015, the factory dismissed more than 100 workers without compensation, and again the workers came to MWRN to seek help in appealing to DLPW to get the severance payment they were due under Thai law. In the end, the Department ruled in favor of the workers and ordered CFF to pay 1 million baht in damages, or 10,000 baht per worker (\$280).

In addition to the financial compensation, MWRN used the engagement opportunity to help the remaining workers at CFF understand about basic labor rights. The workers in the factory benefitted because they became aware of and start asking for full recognition of their rights, including social security and paid maternal leave, an important benefit for the female workers who are going to give birth.

Case study: Patana Frozen Foods (PTN)

PTN factory employs approximately 1,000 Burmese migrant workers and more than 20 Thai workers. Workers receive their wages via bank transfer and they withdraw cash from ATMs located on the factory grounds. In early 2015, the ATMs started releasing the funds later than the date mentioned on workers' pay slips. For instance, a pay slip may report that a worker received her salary on the 7th of the month, but she was not able to actually withdraw the funds until the 20th of the month. Workers were having

trouble paying for rent or covering other regular expenses, and had to borrow money, often at high interest rates, to cover their costs. The workers also did not have a written contract to stipulate the terms of employment.

In April 2015, workers organized their own demonstration about the late payments and asked MWRN to help them resolve the situation. MWRN invited an officer from DLPW to participate in a meeting between worker representatives, MWRN and the employer to negotiate and ensure workers received their wages on a regular, timely manner, as indicated on their pay slips. This meeting resolved the late payment issue, and all workers signed a contract between themselves and the employer to outline terms and conditions of work.

For this successful case, MWRN did not have to file a complaint with DLPW, but the department

played a helpful role as a witness that helped facilitate tripartite negotiations that ultimately left the workers more protected than they had been. MWRN's successful intervention also sparked an interest among PTN workers in applying for MWRN membership. More than 20 PTN workers have now engaged as active members who regularly participate in MWRN activities.

Case study: Marine Gold (MRG)

Workers at MRG had not had problems with their wages until 2013, when EMS disease hit. The factory wasn't able to produce as many shrimp, and decreased the number of working days a week from 6 to 5. The factory did not provide the workers their wages for the sixth day as required under Thai law. Thus, workers came to the MWRN office to seek assistance. The MWRN international advisor emailed the MRG owner, who had told him that workers signed

Marine Gold Workers gather at MWRN's office to strategize how to resolve worker concerns at the factory.



an agreement waiving their right to the 75 percent of wages. In reality, a supervisor and the human resources department had collected signatures from some workers waiving their rights, but most of them turned out to be fake. MWRN contacted the MRG owner again and explained that he was in violation of Thai labor law. The owner responded by inviting MWRN into his factory to talk about labor rights with workers.

MWRN did go to the factory, but it also convened an off-site meeting of workers to discuss what they wanted to do. Workers were afraid of job losses if they demanded the full amount owed them, but wanted to ensure they received something and that the employer could not continue paying lower wages indefinitely. MWRN then brokered a discussion with the employer, who agreed to pay workers for the day not worked, so workers would get more than they had been getting, but at less than the full 75 percent rate for a fixed period of 4 months, to get the factory through the crisis. After the initial period, the employer agreed to pay the full 75 percent until the factory could operate at the normal 6 days a week again.

In addition, the workers requested that the factory agree to reform the Worker Welfare Committee to be more responsive to worker needs. These committees are required in Thai factories by law to meet regularly with management to convey worker needs. In practice, however, workers are usually appointed by management and do not generally speak on behalf of workers. MRG workers elected two Thai and five Burmese worker representatives to the committee. Workers have brought issues to the committee, which has brought them to the attention of the management team, but so far have been unable to achieve measurable results due to negative employer attitude towards social dialogue. Lack of worker voice remains a serious concern in Thailand, and this

example makes it clear Worker Welfare Committees alone are not going to be able to solve the problem.

D. Dismissal of workers

Migrant workers, like all workers in Thailand, are entitled to notice and compensation under the Labour Protection Act 1998 should they be dismissed from work through no fault of their own. Migrant workers in particular face unique challenges because, as mentioned in detail in the introduction, without an employer legally registered migrant workers can quickly become irregular and at risk of arrest and deportation, given their right to remain in Thailand is linked to their legal employment.

Case study: Charoen Pokpand Foods (CPF)

U San Win Aung had worked at CPF factory for one year when CPF closed its shrimp operations due to EMS disease. As a result, he and other workers were dismissed from the factory. Most CPF workers had been hired by subcontractors. When CPF decided to dismiss employees, neither CPF nor the subcontractors wanted to pay compensation for the workers at the factory who were not direct employees of CPF. The factory thus dismissed the workers without the compensation to which they were legally entitled. It simply posted a notice outside the factory with a list of workers who were to be dismissed.

The workers informed MWRN, which contacted CPF management to negotiate. Finally, CPF agreed to compensate all dismissed workers, including those who were working as subcontractors after news of the breach of labour protection law became more public and information was sent to CPF buyers. CPF responded positively within days of additional pressure being applied by MWRN.

The negotiations led to nearly 1,300 workers splitting 6 million baht (\$168,615) in compensation —1,170 workers hired by subcontractors and 100 direct employees of CPF—when CPF eventually decided to

close down shrimp production in Mahachai and laid off all the workers. CPF paid the compensation to not only Burmese workers. More than 100 of the workers were Thai and also received the compensation.



A fishing vessel pulls into port in Samut Sakhon, Thailand.





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Part IV. Industry and government responses to worker rights violations

Though labor rights violations have been reported in Thailand since at least 2008²³, it is only within the last couple years that the Thai government and industry have taken significant steps to make significant changes to oversight and operation of Thailand's seafood trade. This is likely due to a series of damning media reports released throughout 2014 and 2015 that documented widespread, egregious labor rights abuses in Thailand's seafood sector:

- In June 2014, *The Guardian* documented that Thailand's shrimp aquaculture industry uses fishmeal made from fish caught by forced laborers on Thai fishing vessels. This shrimp was found in the supply chains of major U.S. European retailers including Walmart, Tesco, Carrefour, Costco and Morrisons.²⁴
- In March 2015, *The Associated Press* documented how workers trafficked from Myanmar onto Thai fishing vessels ended up trapped in Indonesia and how the fish that resulted from that trade wound up on the shelves of major retailers – Walmart, Kroger, Albertsons and Safeway – and in products as varied as cat food, calamari, imitation crab or sushi.²⁵
- Reports began leaking out of Thailand in May 2015 about mass graves uncovered at trafficking camps on the Thai/Malaysia border that trapped thousands of mostly Rohingya Muslims fleeing state-sponsored violence in Myanmar. Throughout the summer, stories emerged in numerous media about more bodies discovered, as well as trafficking victims being forced to pay bribes and sold onto fishing vessels and palm oil plantations, or uncovered in mass graves,²⁶ as well as the Thai government's complicity

in this massive human trafficking network.²⁷ (*Reuters* originally documented these camps and Thai government involvement in a 2013 Pulitzer-prize winning series of reports about ethnic crimes against Rohingya Muslims.)²⁸

- In July 2015, *The New York Times* released the first in its *Outlaw Ocean* series that investigated how lack of legal oversight and common industry practices allow forced labor, murder of fishing crew and other violent crimes to flourish on the open ocean.²⁹
- As 2015 came to a close, The Associated Press released another shocking report on shrimp peeling in Thailand that told the stories of workers trapped for years without pay, peeling ready-to-eat shrimp for Western consumers. Victims “rescued” by Thai police were either imprisoned or sent back to work at other facilities, while it took months of pressure from the reporters for any charges to be brought against managers of the facility.³⁰

The International Response:

The news coverage, combined with steady international advocacy by human rights NGOs and trade unions, has led to a significant international response:

- In 2014, the U.S. Department of State downgraded Thailand to Tier 3 in its annual Trafficking in Persons report, the lowest possible ranking. Treatment of migrant workers and human trafficking in the seafood sector were both listed as reasons for the downgrade.³¹ Thailand remained on Tier 3 in the 2015 report.

- In April 2015 the European Commission issued Thailand a “yellow card” for failing to sufficiently prevent illegal, unregulated and unreported (IUU) fishing in its fleet. The yellow card requires tighter oversight of imports of Thai seafood into the EU, and gave Thailand a six-month period in which to tighten controls over its fishing fleet or risk a downgrade to a “red card.” The red card designation would ban Thai seafood imports into the EU.³²
- Consumers in California filed class action lawsuits against Costco and Nestle in August 2015 and against Mars a month later alleging the companies did not adequately warn consumers about the risk of forced labor in their seafood products. One outcome that the plaintiffs seek in the suit is a “forced labor” disclosure label to be displayed on products likely to be made with forced labor.³³
- U.S. Senators Richard Blumenthal and Edward Markey cited the New York Times Outlaw Oceans series as a reason for passage of a law requiring companies to disclose their efforts to combat forced labor and human trafficking in their supply chains.³⁴
- In December 2015, U.S. Representative Emmanuel Cleaver, II, sent a letter to the Department of Labor and Food and Drug Administration calling for an investigation into how shrimp from Thailand imported into the United States is produced given the risk of forced labor.³⁵ The same month, U.S. Representative Chris Smith called for a boycott of seafood products from Thailand.³⁶

Thai government, major Thai seafood exporters and global brands alike have all promised changes to how they operate that will end forced labor in the seafood industry.

The Thai Government Response:

The Thai government has focused primarily on oversight and inspections of fisheries. It has established 22 centers throughout coastal regions that will inspect vessels upon departure from and return to port to verify fishing licenses, crew manifests and catch logs whilst vessels over 30 gross tons will be required to install Vessel Monitoring Systems (VMS) that will allow them to be tracked by satellite. Oversight of vessels has been paired with targeted efforts to register workers in the seafood sector and, according to Thai government figures, 86 percent of all migrant workers are now legally registered, one of the first times in recent history that the majority of workers were documented.³⁷

The Thai government has also promised increased inspections of Thai-flagged vessels at sea and prosecutions of human traffickers, including of Thai officials found to be involved in trafficking schemes. At the time of this writing however, the difficulty of fulfilling these promises is becoming evident as the most prominent case involving government officials suffers serious setbacks. The primary investigator was forced to seek asylum in Australia, claiming threats against his life. Rather than provide protection to allow the investigation to continue, Thai officials are currently considering charging him with criminal defamation (a commonly used tactic in Thailand to silence those who speak out about human trafficking).³⁸ In addition, many of the 500 witnesses in the case have had their lives threatened, but only 12 have received any police protection, leading human rights groups to question if testimony in the case is

Fearing possible bans and consumer backlash, the

As part of its response to the problem, Thailand has opened provisional employment offices, like this one in Samut Sakhon, Thailand, to help register migrant workers in the seafood industry.



already hopelessly compromised.³⁹

Industry Response:

Industry efforts, meanwhile, have primarily focused on increasing traceability and oversight of supply chains. After *The Associated Press* published its December 2015 report on slavery in shrimp peeling facilities, Thai Union, Thailand's largest seafood exporter and one of the largest seafood companies in the world, responded by pledging to bring all shrimp pre-processing in house. The Thai Frozen Food Association, of which Thai Union is a member,

followed suit by directing all its members to end outsourcing of shrimp processing. This policy was supposed to take effect on January 1, 2016, but concerns have been expressed about possible negative impacts on workers.⁴⁰ The Global Aquaculture Alliance has also said it would no longer allow shrimp processing facilities that outsource pre-processing to be certified with its Best Aquaculture Practices (BAP) certification.

Western brands that purchase Thai seafood have also led their own efforts to increase traceability and transparency. Costco led the formation of the



Shrimp Sustainable Supply Chain Task Force, a group of influential Western retailers, Thai exporters and NGOs trying to develop systems to track and audit flow of Thai seafood product chains.⁴¹ Nestlé hired the auditing organization Verité to conduct an assessment of its supply chain, and based on the findings and Verité's recommendations, developed an action plan to rectify problems in its Thai seafood supply chain.⁴² Walmart and nine other retailers, mostly based out of the United Kingdom, have joined a public-private partnership called Project Issara that uses data collected from a multi-lingual migrant worker hotline to help brands identify risks within their supply chains and provide legal and support services to migrant workers.⁴³

The Response Workers Need:

Given the scope of the problem in the Thai seafood sector, these traceability and enforcement

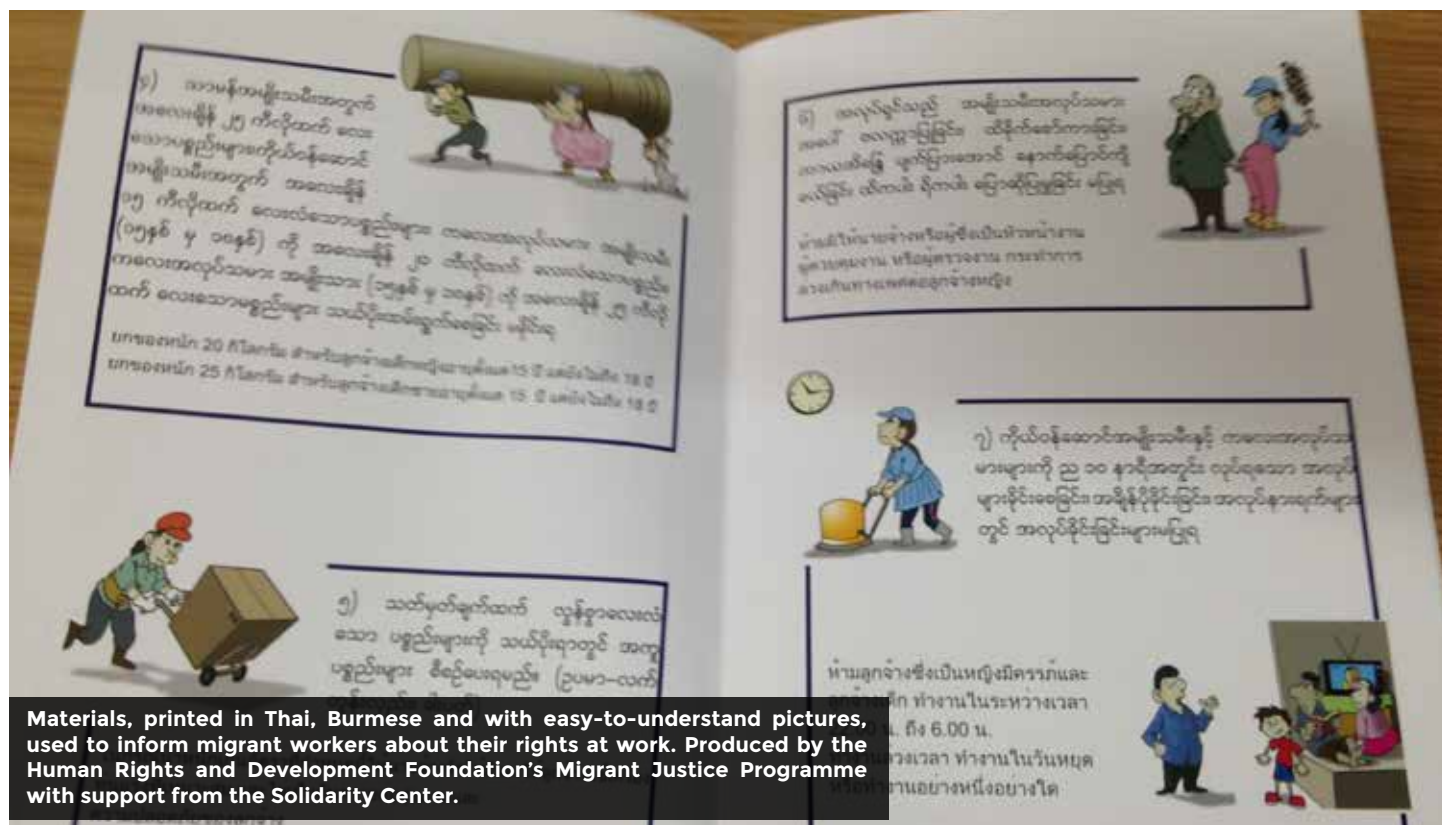
mechanisms are an important step forward. However, they fail to address the fundamental problem that allows abuses of all migrant workers to continue: a legal and economic framework designed to secure a cheap workforce rather than protect human rights, which institutionalizes the vulnerability of all migrant workers in Thailand. Ultimately, these interventions are only variations on a theme that allow the status quo to continue largely unchanged. Thailand still permits employers to charge workers 100 percent of the substantial cost of migration and prohibits migrant workers from forming their own unions.

Companies still rely primarily on third-party audits to monitor working conditions and voluntary agreements to improve conditions rather than binding agreements with workers that would provide access to legal recourse if not enforced.⁴⁴ Worker groups have complained that they are excluded from

international industry efforts to “improve” working conditions.⁴⁵ Audit systems and hotlines do not meet the basic requirements of an effective grievance mechanism; at best they are a means to receive information from workers, but they do not improve workers ability to engage management and negotiate better terms. An effective system for remediating and preventing the workplace violations described above should include workers at all stages of the process: establishing standards, participating in workplace monitoring, resolving conflicts and establishing protections to prevent reprisals.

The Government of Thailand is failing to fulfill its duty to protect universally recognized workers’ rights, and global seafood companies are failing to fulfill their responsibilities to respect the rights of workers

in their supply chains. If government and industry actors are to truly change conditions in Thailand’s seafood supply chain, they must heed the lesson of more than a century of improving abusive supply chains. Workers must be brought into the process as equals and valuable stakeholders in a process to fix systemic imbalances, not as victims needing to be saved by outside actors.



A worker transports shrimp in Samut Sakhon, Thailand.





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Part V. Conclusion

Companies profiting from the workers laboring in Thailand's seafood industry, their governments, and the Thai government have responsibilities to effectively end the gross human rights violations in the sector. Understanding the root causes of the abuses is essential to effective change. Audit-based schemes intend to provide assurances to end buyers. They are not ensuring workers the ability to exercise their rights and access responsive grievance remediation mechanisms when their rights are violated.

The real solution turns the focus inside out. Securing decent conditions in the seafood industry depends on the ability of the workers to exercise their rights at work and access responsive grievance redress mechanisms when their rights are violated. Companies can and should respect the rights of the workers in their seafood supply chains, including by adding the following requirements of suppliers to contracts and purchasing orders and ensuring that their purchasing practices support compliance:

1. **Prohibit worker-paid recruitment fees and confiscation of documents.** All costs for hiring workers, including costs for obtaining legal working documents and required identification for migrant workers should be borne by the employer exclusively. Workers should have access to identity documents at all times.
2. **Respect fundamental rights at work, including the right to organize freely and collectively bargain.** The best means for buyers to signal that they do not agree with the legal restrictions being placed on worker organizing in their sector is to preferentially source seafood from vessels and facilities with collectively bargained union contracts. Buyers must communicate to suppliers that they are to respect workers' fundamental rights and support resolution of rights violations

that occur. Buyers should also promote social dialogue in these workplaces.

3. **Establish a legitimate worker-based grievance mechanism.** Buyers and their suppliers should have a grievance redress system that permits workers to directly, and through their legal representatives, submit complaints to the supplier and involve the buyer whenever necessary. The mechanism should also provide for anonymous use, protect against retaliation, and ensure the supplier and buyer will respond with a reasonable process for resolving the issue that includes the worker and/or worker representative in the assessment of the issue and development of a resolution.
4. **Document legal compensation.** Suppliers should be able to demonstrate that workers have access to contracts in a language they understand and show through pay stubs and/or that workers receive regular wages, at or above the minimum wage, with any deductions kept to within legal maximums, for legal purposes, and should be clearly explained.
5. **Be transparent.** Seafood buyers and suppliers alike should make information regarding how and from which suppliers and sub-suppliers seafood products are sourced publicly available to provide full chain-of-custody verification. This includes proactively identifying gaps in their supply chains (i.e. sub-suppliers that cannot be accurately identified) and reforming practices to ensure all entities in their supply chains can be verified. Public access to such information makes unapproved subcontracting more difficult, and allows for products made with illegal labor practices to be more traceable.

Retailers must change the way they buy from suppliers in order to achieve these changes. They have a responsibility to do so. The case studies presented in this report demonstrate that factory-level changes in the Thai seafood sector are feasible. Employers have been pressed to move toward more direct hiring, and to cover some portion of workers' recruitment costs. Increased international pressure for the above changes would help migrant workers themselves enforce the laws that could improve working conditions. The industry could thus move away from dependence on forced labor and toward a rights-based relationship between employers and workers.



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End Notes

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