



Human Trafficking and the Fishing Industry in Thailand

by Ellen Taylor*

I. Introduction

Two years ago, a smuggler promised to take Myint Thein across the border into Thailand, where he would find work in a factory.¹ After arriving, Thein realized that he had been sold into slavery aboard a ship in Katang, a port on Thailand's western coast.² "They wouldn't let me go," he said, ". . . when I tried to escape, they beat me and smashed all my teeth."³

This is the story of many migrant workers in Thailand's fishing industry, where human trafficking—forced labor and exploitation through means such as fraud, abduction, abuse of power, or deception⁴—is rampant.⁵ Although the phrase "human trafficking" is most often associated with sex trafficking, the fishing and agriculture industries also are plagued by the use of forced labor.⁶ The lack of transparency in seafood suppliers, hiding their actions from the public eye, allows labor trafficking to go undetected.⁷ The fact that these human rights abuses happen on the open ocean, where there is no government or NGO

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¹ Kate Hodal and Chris Kelly, *Trafficked Into slavery on Thai Trawlers to Catch Food for Prawns*, THE GUARDIAN, (June 10, 2014), <http://www.theguardian.com/global-development/2014/jun/10/sp-migrant-workers-new-life-enslaved-thai-fishing>.

² *Id.*

³ *Id.*

⁴ *Human Trafficking*, U.N. OFFICE ON DRUGS AND CRIME, <https://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html> (last visited Dec. 3, 2014).

⁵ Editorial, *Slavery and the Shrimp on Your Plate*, N.Y. TIMES, June 21, 2014, http://www.nytimes.com/2014/06/22/opinion/sunday/thai-seafood-is-contaminated-by-human-trafficking.html?_r=0.

⁶ Naomi Jiyoung Bang, *Casting A Wide Net to Catch the Big Fish: A Comprehensive Initiative to Reduce Human Trafficking in the Global Seafood Chain*, 17 U. PA. J.L. & SOC. CHANGE 221, 221 (2014).

⁷ See *id.* at 232, 241-242.

oversight, also makes catching traffickers difficult.⁸ Furthermore, victims of human trafficking are often undocumented migrants from other countries who would risk deportation if they attempted to notify police.⁹ This fear prevents them from trying to seek help from the government.¹⁰

The use of human slaves in Thailand's fishing industry is "systematic," according to the deputy Directors of Human Rights Watch's Asia division, Phil Robertson.¹¹ The owners of Thai fishing vessels place their "orders" for trafficked laborers with brokers, stating the number that they need and the price that they will pay for them.¹² To fulfill these orders, brokers bring trafficked laborers into Thailand from countries such as Burma, the number one country of origin for trafficking victims in Thailand, Laos, and Cambodia.¹³ In these countries, fake labor recruiting agencies ensnare potential victims with the promise of work and then sell their "recruits" into slavery on Thai fishing vessels.¹⁴ Inhumane working conditions and daily abuse become part of these victims' lives.¹⁵ Years may pass before they see land. Often, a plate of rice is their only daily meal¹⁶ and they are forced to drink "amphetamine cocktails" to stay awake for days in a row.¹⁷ It is not unheard of for these workers to be murdered by their captors if they become too sick to work.¹⁸ In an attempt to escape, some jump to their death in the ocean.¹⁹

The number of trafficking victims in Thailand's fishing industry has not been officially recorded, but the government of Thailand "estimates that up to 300,000 people work within its fishing industry, 90% of whom are migrants."²⁰ Lured by the nation's relative prosperity and often lacking Thai language skills,

⁸ *Id.* at 229.

⁹ *Id.* at 230.

¹⁰ *Id.*

¹¹ Hodal and Kelly, *supra* note 1.

¹² *Id.*

¹³ *Slavery and the Shrimp on Your Plate*, *supra* note 5; see also U.S. DEP'T OF STATE, OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, 2014 TRAFFICKING IN PERSONS REPORT 372 (2014), available at <http://www.state.gov/j/tip/rls/tiprpt/2014/index.htm> (*hereinafter* 2014 TIP REPORT)

¹⁴ *Slavery and the Shrimp on Your Plate*, *supra* note 5.

¹⁵ Charlie Campbell, *Child Slaves May Have Caught the Fish in your Freezer*, TIME (Mar. 5 2014), <http://time.com/12628/human-trafficking-rife-in-thai-fishing-industry/>.

¹⁶ Hodal and Kelly, *supra* note 1.

¹⁷ Campbell, *supra* note 15.

¹⁸ Bang, *supra* note 6, at 229.

¹⁹ *Id.*

²⁰ Hodal and Kelly, *supra* note 1.

these migrants are one of the most at-risk groups for human trafficking in Thailand.²¹

This essay first examines the weaknesses in Thailand's own internal efforts to prevent and combat the slavery that its fishing industry seems so dependent on. It then turns to the United States' half-hearted response based on the Trafficking Victims Protection Act (TVPA).²² The State Department, acting under TVPA auspices, has taken steps to shed light on Thailand's rampant human trafficking problem through the annual Trafficking in Persons (TIP) report. However, the United States has not enforced sanctions against Thailand that are authorized when a country receives the lowest ranking available in this report. Although the U.S. is hesitant to upset its international relations with Thailand by sanctioning the country, using other diplomatic tactics could strengthen the TIP Report's effectiveness by encouraging countries to combat human rights abuses. Without taking steps beyond labeling and drawing attention to the human trafficking problem in Thailand, it is unclear whether the United States' response to human trafficking in Thailand will bring about a lasting change in the country's reliance on slavery.

II. Thailand's Failed Enforcement

Although Thailand has laws against human trafficking, they go unenforced for several reasons. The Ministry of Labor, which inspects workplaces in Thailand for instances of human trafficking, does not have enough inspectors to fully investigate potential cases—even after these cases have been identified and reported to the local police.²³ While it is common knowledge that the Thai fishing industry is plagued with human trafficking, the Royal Thai Marine Police have not made serious efforts to search for trafficked laborers.²⁴ They claimed to find zero forced labor cases in pre-departure searches in 2011.²⁵ Compounding the failure to detect cases of human trafficking, many victims are unable to reach out to government officials for help. Although the government

²¹ *Thailand*, HUMANTRAFFICKING.ORG, <http://www.humantrafficking.org/countries/thailand> (last visited Dec. 3, 2014).

²² Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (lapsed in 2011, subsequently reauthorized in 2013); Trafficking Victims Protection Reauthorization Act of 2013, Pub. L. No. 113-14, 127 Stat. 54.

²³ Carolin Guentert, *A Unilateral Governance Mechanism: The Influence of the U.S. Tip Report on Human Trafficking in Thailand*, 46 N.Y.U. J. INT'L L. & POL. 955, 986 (2014).

²⁴ *Id.*

²⁵ *Id.*

has established trafficking hotlines to encourage victims to self-identify, these hotlines are useless for migrant victims who do not speak Thai or English.²⁶

Thailand's legal system has not proven effective in addressing human trafficking. Prosecutors, border officials, and members of the Thai government's anti-trafficking unit often lack the training to address potential cases of human trafficking.²⁷ Many border officials in Thailand have difficulty differentiating between trafficking victims and migrants.²⁸ According to the Thai Office of the Attorney General, some prosecutors themselves do not adequately understand the concept of human trafficking or exploitation.²⁹ In 2009, only 22 cases of human trafficking were prosecuted in Thailand.³⁰

Corrupt government officials also contribute to the prevalence of human trafficking in Thailand. There have been reports that Thai military and civilian officials played a part in smuggling Burmese asylum-seekers into Thailand, where these asylum-seekers were then sold into slavery on Thai fishing boats.³¹ There are also reports that Thai police officials sold men being held in Thai detention facilities into slavery through smugglers and brokers.³² These victims were allegedly sent to labor in shipping companies, restaurants, farms, and camps.³³

III. America's Failing Protection

Slave labor is so prevalent in Thailand that in 2014, the U.S. Department of State gave Thailand the lowest ranking available, Tier 3, in the 2014 Trafficking in Persons (TIP) Report.³⁴ This annual report includes information about the amount of human trafficking happening in a particular country, the efforts its government is taking to combat human trafficking, and recommendations by the United States about how the country can combat human trafficking.³⁵ A Tier 3 rank classifies Thailand's government as one that fails to "fully comply with the

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ 2014 TIP REPORT, *supra* note 13 at 373.

³² *Id.*

³³ *Id.*

³⁴ *Id.* at 372.

³⁵ Annie Kelly, *How NGOs are using the Trafficking in Persons report*, THE GUARDIAN (June 21 2013), <http://www.theguardian.com/global-development-professionals-network/2013/jun/21/ngos-using-trafficking-persons-report>.

minimum standards [of the Trafficking Victims Protection Act] and [is] not making significant efforts to do so.”³⁶

There are two main methods through which the TIP Report may affect policy in other countries.³⁷ The first is economic and the second is reputational.³⁸ The U.S. reserves the power to sanction countries that rank Tier 3 on the TIP Report, which could result in “restrictions on US foreign assistance and access to global financial institutions such as the World Bank.”³⁹ Countries may also be motivated to increase their scores on the TIP Report in order to avoid reputational damage in the eyes of the international community and the United States in particular.⁴⁰

While the U.S. has the power to sanction countries that rank Tier 3 on the TIP Report, it waived sanctions against Thailand.⁴¹ Economic motivations were most likely a major factor in this decision, given that Thailand is one of the main suppliers of seafood to the U.S.⁴² The shellfish caught on these ships are often sold to multinational companies like CP Foods and then sold to retailers such as Costco or Walmart.⁴³

Waiving sanctions against Thailand without utilizing other meaningful diplomatic tactics could make the possible economic repercussions of ranking Tier 3 in the TIP Report appear to be an empty threat.⁴⁴ The reputational damage of ranking Tier 3 is most likely not enough to spur Thailand to improve their efforts to enforce human trafficking laws, given that fishing is the economic lifeblood of Thailand.⁴⁵ It remains to be seen how the decision not to enforce

³⁶ 2014 TIP REPORT, *supra* note 13 at 43.

³⁷ See Hodal and Kelly, *supra* note 1.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Guentert, *supra* note 23, at 978.

⁴¹ *US Waives Human Trafficking Sanctions on Malaysia and Thailand*, ASIAN CORRESPONDENT, Sep. 19, 2014, <http://asiancorrespondent.com/126824/us-waives-human-trafficking-sanctions-on-malaysia-and-thailand/>.

⁴² *Wild-Caught Seafood Outside the U.S.*, FISHWATCH, http://www.fishwatch.gov/wild_seafood/outside_the_us.htm. See also Guentert, *supra* note 23, at 993-94 (last visited Dec. 3, 2014).

⁴³ Hodal and Kelly, *supra* note 1.

⁴⁴ In 2010, the United States only sanctioned two of the thirteen countries that ranked Tier 3- Eritrea and North Korea, Guentert, *supra* note 23, at 965.

⁴⁵ Kate Bollinger and Kim McQuay, *Human Trafficking Rampant in Thailand's Deep-Sea Fishing Industry*, IN ASIA (Feb. 8, 2012), <http://asiafoundation.org/in-asia/2012/02/08/human-trafficking-rampant-in-thailands-deep-sea-fishing-industry/> (noting that despite years as a Tier 2 country, and mounting international pressure, Thailand had failed to meaningfully correct the human trafficking prevalent in its fishing industry)

sanctions will impact the Thai government's efforts, or lack thereof, to combat human trafficking.