TRAINING MANUAL
Countering Human Trafficking in the Thai Fishing Industry
# Table of Contents

## Introduction
- Background and Purpose of Training ............................................ 1
- Target Audience ............................................................................ 1
- Learning Objectives ........................................................................ 1
- Training Material ........................................................................... 2
- Overview of Training Modules ....................................................... 2

## Module 1: Understanding human trafficking and related concepts
- 1.1. A general introduction to human trafficking ............................... 4
- 1.2. The legal framework against the crime of human trafficking ...... 7
- 1.3. Key concepts in understanding trafficking in persons ............... 11
- 1.4. Differentiating between Human Trafficking and Migrant Smuggling .................................................. 16
- 1.5. Summary points and review questions .................................... 19

## Module 2: Understanding human trafficking in the fishing industry
- 2.1. Causes and drivers of human trafficking in the fishing industry .... 23
- 2.2. Increased focus on human trafficking in the Thai fishing industry 27
- 2.3. Elements of human trafficking in the context of the fishing industry .................................................. 35
- 2.4. Summary points and review questions .................................... 39

## Module 3: Identifying victims of trafficking in the fishing industry
- 3.1. Principles, challenges and stages of identification ....................... 44
- 3.2. Stage 1: Pre-interview Indicators of trafficking in persons in the fishing industry .................................................. 47
- 3.3. Stage 2: Identification interview with possible victim of trafficking .................................................................................. 53
- 3.4. Stage 3: Corroborative Evidence and Final Decision ................... 62
- 3.5. Summary points and review questions .................................... 65

## Module 4: Treatment of victims of trafficking in the fishing industry
- 4.1. Key standards and best practice principles ................................ 69
- 4.2. Assistance and referral of potential victims of trafficking in the fishing industry .................................................. 74
- 4.3. Summary points and review questions .................................... 76

## Annex: Key Legislation .................................................................. 79

## Annex: Key Actors ........................................................................ 83

## Annex: Key Resources ................................................................... 88
Introduction

Background and Purpose of Training

This training programme has been developed in the context of the International Organization for Migration (IOM) project titled ‘Strengthening the Criminal Justice Response to Human Trafficking in Thailand.’ The project, funded by the United States’ Bureau of International Narcotics and Law Enforcement Affairs (INL), is a pilot project conducted in cooperation with the Royal Thai Government (RTG), particularly the Royal Thai Police.

AAPTIP has entered into an agreement to participate in the delivery of the training.

The training was initially developed for piloting during July – October 2016 in the provinces of Ranong, Samut Sakhorn and Trang.

The purpose of the training is to enhance skills and knowledge of law enforcement officers to identify potential victims of trafficking in the fishing industry, including methods of interviewing potential victims and witnesses in accordance with protection principles.

Target Audience

The target audience of the training is law enforcement officers who encounter possible victims of trafficking in persons in the fishing industry in the course of their work. These practitioners include law enforcers of the Royal Thai Police, the Marine Police and the Immigration Bureau among others.

Learning Objectives

At the end of this training program, participants will be able to:

- Describe the phenomenon of human trafficking in general terms
- List key international and national legal instruments relevant to human trafficking
- Explain why victims may seem to consent to being exploited
- Describe the different forms of exploitation that persons may be trafficked for
- Explain the difference between human trafficking and migrant smuggling
- Describe some causes and drivers of trafficking in the fishing industry
- Explain why countering trafficking in the Thai fishing industry is an increasing priority
- Identify elements of the crime of trafficking in persons in the context of the fishing industry
Outline key principles and stages of identifying victims of trafficking in the Thai fishing industry
List some key indicators of human trafficking in the Thai fishing industry
Explain some key challenges of carrying out identification interviews of victims of trafficking in the fishing industry and suggest measures to address them
Offer examples of corroborative evidence
Explain application of the presumption that a person is a victim of trafficking
Outline key standards and best practice principles concerning victim treatment
Explain their obligations in addressing the immediate needs of victims of trafficking
Suggest stakeholders who they may need to refer possible victims of trafficking to.

Training Material

The training programme consists of:
- This Training Manual
- The Trainer’s Guide
- PowerPoint presentations
- Handouts (including case studies)

The original English version of the training material has been translated into Thai.

Overview of Training Modules

This Training Programme is comprised of the following four modules:
- Module 1: Understanding human trafficking and related concepts
  - General introduction to human trafficking
  - The legal framework against the crime of human trafficking
  - Key concepts in understanding trafficking in persons
  - Differentiating between human trafficking and migrant smuggling
- Module 2: Understanding human trafficking in the fishing industry
  - The evolution of human trafficking in the fishing industry
  - Increased focus on human trafficking in the Thai fishing industry
  - Elements of human trafficking in the context of the fishing industry
- Module 3: Identifying victims of trafficking in the fishing industry
  - Principles, challenges and stages of identification
  - Stage 1: Pre-interview indicators of trafficking in persons in the fishing industry
  - Stage 2: Identification interview with possible victim of trafficking
Stage 3: Corroborative Evidence and Final Decision

- Module 4: Treatment of victims of trafficking in the fishing industry
  - Key standards and best practice principles
  - Assisting and referring of victims and potential victims of trafficking in the fishing industry
Module 1: Understanding human trafficking and related concepts

Module Objective:  
To introduce participants to human trafficking and related concepts

Learning Objectives:  
At the end of this module participants will be able to:

- Describe the phenomenon of human trafficking in general terms
- List key international and national legal instruments relevant to human trafficking
- Explain why victims may seem to consent to being exploited
- Describe the different forms of exploitation that persons may be trafficked for
- Explain the difference between human trafficking and migrant smuggling

1.1. A general introduction to human trafficking

**Trafficking in Persons at the International level**  
Trafficking in persons is a phenomenon that occurs across the globe. Every country of the world is affected by trafficking in persons, whether as a country of origin, transit, or destination with some countries being all three. As globalisation increases opportunities for goods and ideas to move throughout the world, so too are there increasing avenues for people to move, whether through safe and legal channels or through illegal and unsafe channels that may expose them to the risk of falling victim to exploitation.

The trafficking situation in a given country evolves as economic and other factors change. For instance, the onset of conflict or other instability within the country can increase the need of its people to seek opportunities for safety and security elsewhere, in turn increasing their vulnerability to falling prey to traffickers. Many people may be fleeing persecution and marginalization in their home countries. At the same time, as a country develops socially and economically, it may become an attractive place for people, with growth opening up new markets and opportunities that unscrupulous criminals can take advantage of by profiting on the exploitation of vulnerable people within them. For these reasons, the challenges of preventing and combating trafficking are ongoing, requiring that authorities anticipate new avenues for exploitation and modus operandi for exploiting people, particularly migrants.

The exact prevalence of global trafficking in persons is not precisely known, given that different countries use different methodologies to arrive at figures. At the global...
level, widely varying figures have been arrived at on the basis of differing and often disputed data.\(^1\) What is known is that significantly more people are trafficked than are actually identified. It is also clear that victims of trafficking may be women and men, as well as children, and that the forms of exploitation they are trafficked into include forced labour and services among other forms of trafficking.

** Trafficking in Persons at the Regional level **

Countries within the Southeast Asia region are origin, transit and destination countries. In most countries, internal trafficking takes place with rural to urban migration as people seek economic opportunities away from their homes. At the intra-regional level, movement of people and goods across the borders has long been a part of life in Southeast Asia. For centuries, people and goods have crossed from one country into others, with varying degrees of regulation. As a result, in the present day there are significant challenges associated with identifying illicit movements of people between countries of Southeast Asia, many of whom fall prey to the offers of migrant smugglers and human traffickers. At the inter-regional level, as trade and travel routes expand across the globe, the opportunities for organised crime grow to both move Southeast Asians in other countries, and people of other regions through and to Southeast Asia.

The countries of Southeast Asia are strengthening their economic ties, and exploring new ways to expand and integrate their economic markets. With this rising integration, methods are being found to ensure that people, goods and money can be rapidly moved across borders. The flipside to these developments, are emerging security threats resulting from new opportunities for organized crime, impacting on economies, communities and individuals through the rise in illicit trade in goods, money, and of course people.\(^2\) People, who can be exploited in many ways over extended periods of time, are highly profitable commodity.

As people in some States in the region are displaced and need to search for labour opportunities elsewhere, a market is created for migrant smuggling, particularly where legal opportunities for regular labour migration do not exist or are inaccessible. Migrants who rely on the services of smugglers have been subject to abuse, torture and have even been murdered en route. Many survive their ordeal, but subsequently become victims of crime including trafficking in persons, resulting in them being exploited in sectors that are not strictly controlled by governments.

\(^1\) See Jessie Brunner, *Inaccurate Numbers, Inadequate Policies: Enhancing Data to Evaluate the Prevalence of Human Trafficking in ASEAN* (East-West Center, 2015). Brunner refers to the Walk Free estimate of 36 million people in ‘modern slavery’ and ILO’s estimate that 20.9 million people are victims of forced labour.

\(^2\) *Protecting peace and prosperity in Southeast Asia: synchronizing economic and security agendas* (UNODC, February 2016).
 Trafficking in Persons in Thailand

Thailand is a key country of origin, transit and destination for all forms of trafficking, including of men, women and children throughout Southeast Asia and beyond. Thailand is also a country in which domestic trafficking occurs; for instance, rural and hill tribe populations have fallen victim to exploitation in Thailand’s industrial and urban areas.

As a country of origin, the exploitation of the prostitution of Thai women abroad is a significant problem. Countries where Thai women have been commercially sexually exploited include Australia, Bangladesh, Belgium, Canada, Cyprus, the Czech Republic, Denmark, Germany, Hong Kong, Japan, Kosovo, Macau, the Netherlands, South Africa, Switzerland, Taiwan and the United States of America.3

The issue of trafficking into the Thai sex industry is one that receives significant attention. There are large numbers of sex workers in Thailand (with estimates of 140,000 and 250,000 people, 90% of whom are female), notwithstanding the illegality of prostitution.4

While not all sex workers in Thailand are victims of trafficking, a portion certainly is, with foreign sex workers considered to be particularly vulnerable to exploitation. Victims of this type of trafficking have been found in Bangkok, Pattaya, Northern and Southern Thailand, as well as port areas and tourist hubs. While sex tourism is a significant contributor to demand, the key problem is high domestic demand for commercial sex among Thai men.5 Thailand is a key destination country for sexual exploitation, particularly of women from neighbouring China, Myanmar and Lao PDR but also from countries further away including Uzbekistan and Russia. There have been many reports of victims being subject to physical abuse, having their earnings withheld, being subject to debt bondage, and even being forced to service local police and authorities.6

Beyond trafficking for the purpose of sexual exploitation, a key concern in Thailand is trafficking for exploitation in labour. Many people are forced to work in factories or as domestic workers, or forced to beg on the street, or are exploited in commercial fishing and fishing-related industries. Thailand is relatively prosperous

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3 ASEAN Training Program on Trafficking in Persons for Specialist Investigators - Reactive Investigation, (ASEAN, 2011), pp.32-33.
6 See Health and Human Trafficking in the Greater Mekong Subregion’ (IOM / London School of Hygiene and Tropical Medicine (LSHTM), 2015); ASEAN Training Program on Trafficking in Persons for Specialist Investigators - Reactive Investigation (ASEAN, 2011), pp.32-33.
relative to many of its less-developed neighbouring countries in the region, making it a key destination for job-seekers from elsewhere. Three to four million migrant workers are estimated to be in Thailand, with Myanmar, Laos and Cambodia being the biggest contributors. Many people turn to smugglers to facilitate their travel into Thailand; it is estimated that half a million migrants are smuggled into Thailand annually from Lao PDR, Cambodia and Myanmar, generating US$192 million annually for smugglers. The link between smuggling and trafficking is acute in this context; smuggled migrants have little capacity to assert their rights and are frequently subjected to conditions that descend into exploitation. UNODC estimates that 5% of those who are smuggled into Thailand from Laos, Cambodia and Myanmar into Thailand are subsequently trafficked, generating US$33 million for their exploiters annually. While many migrants from these countries successfully find employment, many are forced to work for no pay, are subject to inhumane or dangerous conditions, or even extreme violence. Many migrants have been murdered. The exploitation of men, women and even children from these countries in conditions that have been described as ‘slave-like’ has been reported in Thai factories, agriculture, construction and in the fishing industry.

Also as a country of destination, many other forms of trafficking exist in Thailand. Children and young people from other Southeast Asian countries (including China, Cambodia, Myanmar and Lao PDR) have been exploited in domestic servitude in Thailand. Children as well as adult women and men from Bangladesh, Cambodia, Lao PDR, Myanmar (as well as children from Northern Thailand) have been trafficked into Thai cities to beg and sell goods on streets. While people are vulnerable to exploitation in all areas of work in Thailand, it is exploitation in the fishing and seafood processing industries that has received significant attention in recent years and is the focus of this training manual.

1.2. The legal framework against the crime of human trafficking

International definition of trafficking

Human trafficking (also known as trafficking in persons) was first defined in international law by the Protocol to Prevent, Suppress and Punish Trafficking in persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Trafficking Protocol). With

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10 Further discussion about trafficking into the Thai fishing industry is found below in Module 2.
the adoption of the Trafficking Protocol by the United Nations General Assembly in 2000, the phenomenon of trafficking was given an international definition for the first time. The Trafficking Protocol is a legally binding treaty creating obligations for all States parties to it. Thailand signed the Protocol on 18 December 2001 and ratified it on 17 October 2013.

Article 3 of the Trafficking in Persons protocol defines trafficking as:

a). Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

b). The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.

c). The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means set forth in sub-paragraph (a) of this Article.

d). ‘Child’ means any person under the age of eighteen years of age.

Essentially, the crime of trafficking in persons consists of three elements:

1. An act - recruitment, transportation, transfer, harbouring or receiving of persons
2. By means - the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or a position of vulnerability, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person
3. For the purpose of exploitation - whether exploitation of the prostitution of another, other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The crime of trafficking in persons is therefore established when the three elements is present. However, in the case of trafficking of a child (a person under the age of 18), the ‘means’ element need not be established; an act, perpetrated
for the purpose of exploitation is sufficient to satisfy the crime of trafficking in persons as defined by the Trafficking Protocol. Only one act, by use of one means and one exploitative purpose need to be identified in order to establish that the crime of trafficking has taken place, but in reality more than one of each may have occurred.

<table>
<thead>
<tr>
<th>Act</th>
<th>Means</th>
<th>Exploitative Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recruitment</td>
<td>Threat or use of force</td>
<td>Exploitation of the prostitution of another and other forms of sexual exploitation</td>
</tr>
<tr>
<td>Transportation</td>
<td>Other forms of coercion</td>
<td>Forced labour or services</td>
</tr>
<tr>
<td>Transfer</td>
<td>Abduction</td>
<td>Slavery or practices similar to slavery or servitude</td>
</tr>
<tr>
<td>Harbouring</td>
<td>Fraud</td>
<td>Removal of organs</td>
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<tr>
<td>Receipt</td>
<td>Deception</td>
<td>Other forms of exploitation</td>
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<td></td>
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<td>Abuse of power or a position of vulnerability</td>
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<td></td>
<td></td>
<td>Giving or receiving of payments or benefits to achieve the consent of a person</td>
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<td>having control over another person</td>
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</tbody>
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Key points to understand about the international definition of trafficking in persons:
- Victims of trafficking may be men, women, boys and girls
- All forms of trafficking, including forced labour, are recognized by the definition
- The list of exploitative forms provided in the definition provides a minimum standard, but it is not exhaustive; other forms of exploitation can also be captured;
- Trafficking can occur within the boundaries of one country; no border crossing is required

**Regional definition of trafficking in persons**

On 21 November 2015, Member States of the Association of Southeast Asian Nations (ASEAN) became party to the ASEAN Convention against Trafficking in Persons, Especially Women and Children (ASEAN Convention).\(^{11}\)

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\(^{11}\) Member States of ASEAN are Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People’s Democratic Republic, Malaysia, the Republic of the Union of Myanmar, the Republic of the Philippines, The Republic of Singapore, The Kingdom of Thailand, and the Socialist Republic of Viet Nam.
The ASEAN Convention confirms the definition of trafficking provided for in the UN Trafficking Protocol.

**Definition of trafficking in persons in the Kingdom of Thailand**

Thailand signed the Trafficking Protocol on 18 December 2001 and ratified it on 17 October 2013. Trafficking in Persons is criminalized in Thailand by the Anti Trafficking in Persons Act (No. 2) B.E. 2015, that amended the Anti- Trafficking in Persons Act B.E. 2551 (2008). The 2008 Act repealed the earlier instrument (B.E. 2540 (1997)).

According to the Act, trafficking in persons is defined in Section 6 and Section 4.

**Section 6**

Whoever, for the purpose of exploitation, does any of the following acts:

1. procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harbouring, or receiving any person, by means of threat or use of force, abduction, fraud, deception, abuse of power, or of the giving money or benefits to achieve the consent of a person having control over another person in allowing the offender to exploit the person under his control; or

2. procuring, buying, selling, vending, bringing from or sending to, detaining or confiding, harbouring or receiving a child;

is guilty of trafficking in persons.

This provision clarifies that the understanding of trafficking in persons in Thailand is the same as the international understanding; the ‘means’ provided for need not be proven where the person is a child, only the elements of an ‘act’ for the purpose of exploitation need to be established.

Exploitation is explained in Thai legislation as follows

**Section 4**

“Exploitation” means seeking benefits from the prostitution, production or distribution of pornographic materials, other forms of sexual exploitation, slavery, causing another person to be a beggar, forced labour or service, coerced removal of organs for the purpose of trade, or other similar practices resulting in such forced extortion, regardless of such person’s consent.

“ Forced labour or service” means compelling the other person to work or provide service by putting such person in fear of injury to life, body, liberty, reputation or property, of such person or another person, by means of intimidating, use of force, or any other means causing such person to be in a state of being unable to resist.”
The definition of trafficking in persons in the Thai legislation covers all the forms of exploitation that have been provided for in the UN Trafficking Protocol, and adds begging as a form of exploitation. This provision clarifies that the victim’s consent to exploitation is irrelevant; according to Thai legislation, where there is exploitation, it is irrelevant that the victim may have consented to it.

In addition to the Anti-Trafficking in Persons Act (2008), there are other legislative instruments that are relevant to the work of authorities counter trafficking in the fishing industry (see 2.4).

1.3. Key concepts in understanding trafficking in persons

The irrelevance of the victim’s consent
Article 3(b) of the Trafficking Protocol states that the consent of a victim of trafficking in persons to exploitation is irrelevant where any of the ‘means’ have been used. In other words, where force has been used or threatened, or where a person has been coerced, abducted, deceived, or where fraud, abuse of power, or abuse of vulnerability has been used to perpetrate any of the ‘acts’, it does not matter that the victim consented. Similarly, where a person who has control over the victim of trafficking is given payments or benefits, the consent of the victim is irrelevant.

In the case of child trafficking, the victim’s consent to exploitation is always irrelevant. It does not matter whether any means were used to achieve that consent; all that is required is that the child was recruited, transported, transferred, harboured or received, for the purpose of exploitation.

In many trafficking situations, victims consent to their exploitation. Here it is important to understand that even if a person appears to accept his or her situation, has entered into it voluntarily or agrees to the conditions (for instance, the conditions of employment), he or she may still be a victim of trafficking. It is also irrelevant that a person considers that he or she is better off in the trafficking situation; even though a person may earn more money or be otherwise better off than he or she was prior to being trafficked, a person may still be a victim of trafficking.

To understand why a victim of trafficking may consent to exploitation or may appear to voluntarily remain in a situation of exploitation, it is important to consider the mechanisms that may be applied by traffickers in order to maintain control over their victims. Control may be achieved through a combination of mechanisms, including by:
• Using force or violence, or threatening to use force or violence against victims. Victims have been beaten, sexually assaulted, raped, confined, denied food and tortured to achieve their obedience.
• Using force or violence, or threatening to use force or violence against the friends or family members of victims. Traffickers may obtain significant details about victims’ family members, and can use threats of reprisals against them to deter them from escaping.
• Debt bondage, by which victims are required to repay exaggerated and ever-inflated costs allegedly incurred for bringing them to a destination or maintaining them there.
• Confiscating travel and/or identity documents, hindering their ability to move or establish legal status, and exposing them to risk of detention, punishment or deportation.
• Isolating victims from social contact with other people, whether physically because they are in a strange country, or linguistically because they cannot communicate to others.
• Manipulating fears of victims by telling them that police will deport or harm them, or are corrupt and in the control of traffickers to deter victims from approaching authorities for assistance.
• Stigmatising and shaming victims, by playing on their fears that friends, family or communities will learn of their victimization, and the experiences that they have endured in the course of having been exploited. Traffickers may even threaten to expose victims to their families if they do not comply with orders, some even documenting the abuse victims are subject to.
• Creating and/or increasing dependency of victims on drugs and/or alcohol to manipulate their physical and psychological dependency on substances and those who provide them. Victims of trafficking in the fishing industry have been given amphetamines to keep them working for long hours.

The situations that victims of trafficking are in vary and may involve a combination of these factors. There also may be other ‘hidden’ reasons as to why a victim of trafficking does not escape from his or her situation, including the fact that returning to the situation they were in before they were trafficked, may be a worse fate than remaining in the situation of exploitation. A victim may also consider that he has no choice but to stay, given that leaving may forfeit the earnings he believes he will receive.

In understanding the international definition of trafficking in persons, the key point to understand is that even if a person consents to exploitation, this consent is irrelevant if means have been used. In Thai legislation, the irrelevance of consent is not tied to the use of means but is tied to exploitation; exploitation is defined in a way that makes consent irrelevant regardless of the use of means. In short, where there is exploitation, consent to it is entirely irrelevant.
**Different forms of Exploitation**

Many victims of trafficking are identified during the exploitation phase of trafficking. It is therefore important to understand different forms of exploitation provided for in international and national law. The Trafficking Protocol offers examples of forms of exploitation. These are exploitation of another person’s prostitution, other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. These forms of exploitation - and the term ‘exploitation’ - are not otherwise defined in the Trafficking Protocol. However, international law offers insights that assist in understanding what is meant by these different forms of exploitation.

**Sexual forms of exploitation:**
The Trafficking Protocol includes ‘exploitation of the prostitution of others’ and ‘other forms of sexual exploitation’ in the list of exploitation. Drafters of the Trafficking Protocol decided not to define either term, so as to allow States to address sexual forms of exploitation irrespective of their domestic law concerning prostitution. Exploitation of the prostitution of others is generally understood as profiting financially or materially from the prostitution of another person, requiring States to establish the conduct of the person who benefits from and exploits the prostitute, rather than the prostitute him or herself. There is little international guidance on the meaning of ‘sexual exploitation’, which is to be construed broadly. Forms of sexual exploitation that are included in the Thai Anti-Trafficking in Persons Act B.E. 2551 (2008) include ‘seeking benefits from the prostitution, production or distribution of pornographic materials, other forms of sexual exploitation’.

**Forced labour:**
The 1930 International Labour Organization (ILO) Forced Labour Convention (No. 29), which Thailand became a party to in 1969, defines ‘forced labour’ as

“...all work or service which is exacted from any person under the menace of penalty and for which the person has not offered herself / himself voluntarily”.

In understanding the definition, the following concepts are useful to consider:
• ‘Work or service’ includes all types, whether or not that work or service is legal or illegal.

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• ‘Any person’ refers to all people regardless of age, gender, nationality or migration status.
• ‘Menace of penalty’ is understood to include physical or psychological coercion by the employer, which may include denying employees the possibility of being promoted or transferred, or denying him or her new employment or housing, not paying wages or deducting wages, debt bondage (for instance, through inflated recruitment or brokerage fees). A test of whether something constitutes ‘menace of penalty’ is whether a person is free to leave employment without losing any rights or privileges.
• ‘Involuntariness’ refers to the fact that a worker has not given free and informed consent to perform the labour and/or is not free to retract that consent. Consent is negated or damaged by deception or coercion of the employer or recruiter, and cannot be ‘free and informed.’

In the Thai Anti-Trafficking in Persons Act B.E. 2551 (2008), ‘forced labour or service’ is defined as

...compelling the other person to work or provide services by putting such a person in fear of injury to life, body, liberty, reputation or property, of such person or another person, by means of intimidation, use of force, or any other means causing such person to be in a state of being unable to resist.

According to the Thai Preliminary Interview Schedule for Screening Victims of Trafficking, forced labour and/or service, means

...an employment or provision of service agreed out of the employee’s fear for losing life, being injured or being deprived of one’s freedom, reputation or property or by fear that the freedom, reputation or property of the other person(s) would be taken away, as a result of threatening words, physical attack or being put in a condition of inability to resist.

Slavery and practices similar to slavery:

One of the most extreme forms of human exploitation is slavery. Slavery was defined in the 1926 Convention to Suppress the Slave Trade and Slavery (the Slavery Convention) as

“...the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.”

Essentially, slavery is about ownership, and refers to the relationship between the perpetrator and the victim, rather than the conditions as such. It may involve the authority to determine a person’s name, religion, sexual partners, or fate. Slavery
may degrade the mental and physical capacity of a person to sustain his or her life. Slavery is so serious that freedom from slavery is one of the few norms of international law that States can never ‘derogate’ from, meaning that there is no circumstance in which a State can allow slavery to occur.

Practices similar to slavery also refer to exploitative relationships between people that have elements of ownership to them. Specifically, the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery identifies the following practices as being similar to slavery:

- Debt bondage: “...the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.” (Article 1(a)). In short, debt bondage refers to a situation where a person provides services to pay a debt that can never be repaid, or where the conditions are otherwise unclear or unfair.
- Serfdom: “…the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status.” (Article 1(b)).
- Any institution or practice (Article 1(c)) whereby “(i) A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or kind to her parents, guardian, family or any other person or group; or (ii) The husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or (iii) A woman on the death of her husband is liable to be inherited by another person.”
- Sale of children for exploitation, whereby the parents or guardians of a child allow a third party to exploit the child’s labour (Article 1(d)).

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13 Since the Supplementary Convention on Slavery entered into force, it has been widely acknowledged that boys and men can also be forced into marriage and that this provision should also apply to those situations.
Other forms of exploitation:
In addition to the above-mentioned forms of exploitation, the Trafficking Protocol also explicitly includes the ‘removal of organs’. Trafficking in persons for the purpose of organ removal can occur in the commercial trade in organs for transplantation into paying donors, as well as removal of organs for ritualistic purposes, sometimes involving removal of body parts in addition to organs. Some States have included organ removal to include body parts as well as cells and fluids to also capture situations of commercial surrogacy. Thai legislation includes “coerced removal of organs for the purpose of trade” within the definition of exploitation in section 4 of the Anti-Trafficking in Persons Act B.E. 2551 (2008).

It is important to understand that the list of exploitative forms provided for in the international definition of trafficking in persons provides a minimum standard. The list is not exhaustive, meaning that other forms of exploitation can also be captured by the definition and be specified by states in their domestic legislation.

1.4. Differentiating between Human Trafficking and Migrant Smuggling

The phenomenon of trafficking in persons is often confused with smuggling of migrants. There are many reasons for this confusion, including the fact that smuggled migrants are highly vulnerable to being trafficked and that many victims

Understanding Child Labour
The 1973 ILO Convention concerning Minimum Age for Admission to Employment describes child labour as being any work or service performed by a person under the age of 18 years that is dangerous to his or her health and safety, or hinders his or her education or vocational orientation and training.

In relation to exploitation of children, the 1999 ILO Convention on the Worst Forms of Child Labour adds forced or compulsory recruitment of children for use in armed conflict, pornography, illicit activities such as the production and trafficking of drugs and ‘work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.” Article 2(a) of the 2002 Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography broadly defines the ‘sale of children’ as “any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration.”

‘Child labour’ is not the same as ‘child work’. Child work does not compromise the health or safety of children, or their educational opportunities.
of trafficking begin as smuggled migrants. This fact highlights the need for authorities to treat smuggled migrants as a group that is highly vulnerable to being trafficked, and look for victims of trafficking among them.

The crime of migrant smuggling was defined by the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (the Smuggling Protocol). Article 3 of that instrument defines migrant smuggling as follows:

“Smuggling of migrants means the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.”

The definition of smuggling captures the actions of a person in relation to the migrant; it does not target the migrant him or herself. Further, the requirement that a migrant is smuggled for ‘financial or other material benefit’ confirms that persons who smuggling people for purely familial or humanitarian reasons do not fall within the scope of the Smuggling Protocol. The following distinctions are useful to understanding the different between migrant smuggling and human trafficking:

<table>
<thead>
<tr>
<th>Trafficking in Persons</th>
<th>Smuggling of Migrants</th>
</tr>
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<tbody>
<tr>
<td><strong>Definition</strong></td>
<td>...the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation (\text{(Article 3(a) of the Trafficking Protocol)})</td>
</tr>
<tr>
<td><strong>Purpose and source of profit</strong></td>
<td>Exploitation of the victim</td>
</tr>
</tbody>
</table>
Identifying trafficking in persons can be very difficult given that many people begin their journeys paying smugglers to help them irregularly migrate to or through Thailand to flee persecution and marginalization in their countries of origin. In many instances the situation becomes one of trafficking. Many people have been beaten, raped and even murdered during their journeys. Others have ended up being exploited, including in the fishing sector and seafood processing industry. The fact that so many additional crimes have been committed in a given case, and the fact that many people begin their journeys as smuggled migrants can make it difficult for law enforcers to identify victims of trafficking. The next module looks more closely at trafficking in persons in the fishing industry.

A key point to note in understanding the distinction between human trafficking and migrant smuggling is the fact that both smuggled migrants and victims of trafficking have rights and protection needs. One of the stated purposes of both the Smuggling Protocol and the Trafficking Protocol is protection of rights, with mandatory protection provisions included in both instruments. Therefore, in practice it is important for practitioners to protect the lives and safety of smuggled migrants and victims of trafficking, and render urgent assistance when required.
1.5. Summary points and review questions

**General introduction to human trafficking:**

- Trafficking in persons is a global phenomenon, affecting every country in the world as a country of origin, transit or destination or combination of all three.
- Trafficking situations and vulnerability to trafficking in a given country change depending on social, economic and other facts, that may make people leave their country, or that may draw people to a given country.
- The precise number of trafficked victims globally is not known, but it is clear that there are more victims than are identified.
- Men, women and children can fall victim to trafficking in persons, including in forced labour or services.
- The countries of Southeast Asia are origin, transit and destination countries, as well as countries of internal trafficking. New trade relationships between countries within the region are being taken advantage of by organized crime groups, that fuel illicit movement of goods and people.
- People in some countries migrate in search of labour opportunities and turn to the services of smugglers. Many people are abused, tortured or even murdered en route. Others may fall victim to crimes including trafficking in persons.
- Thailand is a country of origin, destination, transit as well as domestic trafficking, particularly as people move from rural to urban areas in search of opportunity.
- Victims of trafficking from and within Thailand fall into several forms of exploitation including sexual exploitation. Thai women have been trafficked abroad for sexual exploitation, and Thai women and others within the region and beyond have been trafficked into sexual exploitation in Thailand.
- Thailand is a key country of non-sexual forms of labour exploitation, including in factories or as domestic workers, or forced to beg on the street, or exploited in commercial fishing and fishing-related industries.
- Thailand, as a developed country, is attractive to migrants from neighbouring countries, including Myanmar, Laos and Cambodia. Myanmar is the biggest contributor of labour.
- Many migrants turn to the services of smugglers to facilitate their entry into or through Thailand. Many people are subjected to abuse and other forms of violence at the hands of their smugglers. Some become victims of trafficking.

**Legal framework against the crime of human trafficking**

- The Trafficking Protocol is a legally binding instrument that Thailand became a State party to in 2001. The Trafficking Protocol provides an international definition of the crime of trafficking in persons (in Article 3)
The crime of trafficking in persons is comprised of three elements:
- An ‘act’
- A ‘means’
- An exploitative ‘purpose’

Where the three elements are present, the crime of trafficking in persons is established. However, in the case of children, only two elements need to be established (the ‘act’ for the ‘purpose’ of exploitation).

All forms of exploitation are recognized by the international definition of trafficking in persons, including forms that are not explicitly listed in the definition.

Trafficking in persons can occur within one country - no international border needs to be crossed.

The ASEAN Convention against Trafficking in Persons, Especially Women and Children (ASEAN Convention) confirms the definition of trafficking in persons provided for in the Trafficking Protocol.

Trafficking in persons is criminalized by Section 6 of the Anti-Trafficking in Persons Act B.E. 2551 (2008) amended by the Anti-Trafficking in Persons Act B.E. 2015. The definition is harmonized with the international definition.

Key concepts in understanding trafficking in persons:
- At the international level, the consent of an adult victim of trafficking to exploitation is irrelevant where any ‘means’ have been used. Consent of a child victim of trafficking is always irrelevant, irrespective of whether means have been used or not.
- According to Thai legislation, consent to exploitation is irrelevant regardless of the means that have been used to trafficking a person. Where there is exploitation, consent to it is irrelevant.
- Victims of trafficking may be reluctant to leave their trafficking situations and seek help for several reasons, including because of concerns about stigmatization.
- There are several different forms of exploitation that a person may be trafficked for, including sexual exploitation, forced labour or services, slavery and practices similar to slavery and other forms of exploitation.
- The ILO Forced Labour Convention, 1930 (No. 29) which Thailand is a party to, defines forced labour as “...all work or service which is exacted from any person under the menace of penalty and for which the person has not offered herself / himself voluntarily”. Menace of penalty may include all forms of coercion by the employer.
• Thai legislation defines ‘forced labour or service’ as “…compelling the other person to work or provide services by putting such a person in fear of injury to life, body, liberty, reputation or property, of such person or another person, by means of intimidation, use of force, or any other means causing such person to be in a state of being unable to resist.”

• Debt bondage is where a person remains in a situation to repay a debt, but the terms of repayment are undefined or indeterminate. Debt bondage may be both an exploitative purpose of trafficking, or a means by which a person is trafficked.

• Child labour is work or service provided by a person who is less than 18 years old. The worst forms of child labour include those that can harm the health, safety or morals of children.

• The forms of exploitation that are prohibited in the Trafficking Protocol are not exhaustive; other forms of exploitation than those listed may also be captured.

Differentiating between human trafficking and migrant smuggling:

• Human trafficking and migrant smuggling are often confused. Many victims of trafficking in persons begin as smuggled migrants; smuggled migrants are highly vulnerable to being trafficked.

• The crime of migrant smuggling is criminalized and defined by Article 3 of the Smuggling Protocol, as the procurement of another person’s illegal entry into a country for the purpose of financial and material gain.

• The Smuggling Protocol criminalizes the activities of smugglers; it does not target migrants themselves or persons who smuggle migrants for only familial or humanitarian purposes.

• The source of the profit in human trafficking and migrant smuggling is different; in trafficking the source of profit is the exploitation, in smuggling the source of profit is the smuggling fees.

• The purpose of trafficking in persons is exploitation. However, in smuggling of migrants, exploitation is an aggravating circumstance.

• A person may consent to be trafficked, but his or her consent is irrelevant to establishing the crime of trafficking. Smuggled migrants generally consent to being smuggled, but their consent may be retracted or damaged en route. Presence or absence of consent is not an element of migrant smuggling.

• Trafficking in persons can occur within the boundaries of one country, whereas smuggling of migrants involves the crossing of a border (or the attempted crossing of a border).

• Both trafficked victims and smuggled migrants have rights and protection needs that must be considered on a case-by-case basis. Law enforcement officers must protect the lives and safety of all persons - whether they are smuggled migrants or victims of trafficking.
Questions for Review

- What forms of trafficking affect Thailand?
- Why are smuggled migrants vulnerable to trafficking in persons?
- What is the key international instrument against trafficking in persons? Is Thailand party to it?
- What three elements are needed to establish a case of trafficking of an adult?
- Which elements need to be established in showing that a child has been trafficked?
- Which types of exploitation does the international definition of trafficking apply to?
- How does the ASEAN Convention definition against trafficking in persons differ from the international definition?
- Which Thai legislative instrument criminalizes trafficking in persons?
- Why might a victim consent to being trafficked? What is the relevance of this consent?
- Can you offer an example of ‘forced labour’ that you have encountered in your work?
- How would you explain what ‘debt bondage’ is?
Module 2: Understanding human trafficking in the fishing industry

Module Objective:
To introduce participants to the phenomenon of human trafficking in the fishing industry

Learning Objectives:
At the end of this module participants will be able to:

- Describe some causes and drivers of trafficking in the fishing industry
- Explain why countering trafficking in the Thai fishing industry is an increasing priority
- Identify elements of the crime of trafficking in persons in the context of the fishing industry

2.1. Causes and drivers of human trafficking in the fishing industry

The global fishing and seafood sector consists of aquaculture, being the farming of fish in man-made ponds, at fishponds, the capturing or harvesting seafood on vessels at sea, and the processing of seafood further down the supply chain. Around the world, exploitation of people in all of these areas - including of children - has long been a concern, and believed to have been going on at least since the 1990s. In recent years several factors have collided to make human trafficking for forced labour in these sectors worse.

Fish and seafood are multi-billion dollar industries in many countries around the world, and are major sources of food and job security. The world fishing fleet is reportedly comprised of more than 4 million fishing vessels: of these, almost three quarters are in Asia. Most fishing operations function legitimately and adhere to appropriate conditions for their workers. However, there are also a number of operators in the industry that are engaged in illegal acts including abusive practices against their workers. Overfishing has depleted the supply of wild fish, raising competition for fish and increasing fish farming and aquaculture. Much of the available stock is lost to illegal fishing; areas particularly vulnerable to overfishing including the West African coast, the Western Central Pacific, the Northwest Pacific, the Southwest Atlantic and the Eastern Indian Ocean.

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16 Fishy business: Trafficking and labour exploitation in the global seafood industry (World Vision, 2013)
Demand for cheaper seafood is increasing and fuel prices are rising; the price of shrimp has dropped by nearly 30% since the 1980s at the same time as becoming one of the largest sectors of the seafood industry, with a dramatic increase in production and consumption.\textsuperscript{18} Fish catches in the Gulf of Thailand and the Andaman Sea have dropped by 86% since 1966, resulting in unregistered fleets of ships fishing illegally in seas of other countries.\textsuperscript{19} Some Thai fishing vessels have been reported to be operating not only in the Gulf of Thailand, but also internationally, throughout Southeast Asia - including in Indonesia and Papua New Guinea - but also in India and as far as Somalia and East Africa.

The regulatory frameworks that are in place to monitor fishing and protect the rights of persons who work in these sectors require strong enforcement to be effective. On shore, there are often limited resources with which to monitor registered seafood processing factories, let alone the many more unregistered vessels where exploitation takes place. Far out at sea where the workplace is isolated, workers may be at sea for long periods time, with limited or no means of communicating. In these conditions, the challenge of monitoring conditions for workers and identifying trafficked people among them are enormous. Resources are stretched even in monitoring legal fishing vessels, with many fleets of ‘ghost ships’ operating without any oversight by States at all. The jurisdiction in which the vessel is registered, is responsible for providing protection to people who work on it yet often ‘flag States’ are unwilling or unable to do so, particularly where criminal groups register their ships in jurisdictions that have limited regulatory and criminal justice capacity. In some cases, practices amount to human trafficking for forced labour. Research has revealed exploitation of people in the fishing industry in countries as diverse as Bangladesh, Belarus, Cote d’Ivoire, Ecuador, Egypt, El Salvador, Gabon, Ghana, India, Indonesia, Ireland, New Zealand, Russia, Scotland, South Korea, Thailand, Turkey and the Ukraine, Vietnam among others.\textsuperscript{20}

\textit{Changing nature of the workforce}

The impact that overfishing and illegality have had on conditions of the people who work in the industry are significant, and have contributed to the rise of exploitation and human trafficking to cater to the demand for labour in supply chains. Increased competition for fewer fish has meant that fishers have had to go further out to sea and remain there for longer periods of time, with conditions on board vessels worsening and safety standards being reduced as greater risks are taken. At the same time that the fishing industry has become strained, the workforce has shifted


\textsuperscript{19} \textit{EU threatens Thailand with trade ban over illegal fishing}, Guardian, 22 April 2015.

towards developing countries. Some decades ago, the Thai fishing industry was primarily focused in the Gulf of Thailand and the Andaman Ocean, and mainly done by seasonal Thai workers. However, in 1989 Typhoon Gay struck, resulting in the sinking of more than 200 fishing boats and the deaths of several hundred people, some of whom where never found. Most of these people were Thai fishing crews from northeast Thailand. Thailand’s increasing growth from the early 1990s reduced its unemployment rate and resulted in many Thai workers turning away from arduous and dangerous work in the fishing and seafood industry, to instead find work with better pay and better conditions.

The flipside to this development and economic prosperity, was that boat owners and seafood producers were left with a labour short-fall and in need of alternative sources of labour, which they found in the form of migrant workers from neighbouring, less prosperous countries.21 As Thai fishers were being driven away from work the industry, migrants were increasingly drawn to it. The vast majority of crews on board Thai fishing vessels and in seafood processing factories are now migrant workers, from Myanmar, Indonesia, Cambodia and Lao PDR, emphasizing the need for regulation and monitoring to prevent their exploitation and trafficking for forced labour.

The increased mobility of people in mixed migration flows, including migrant workers has increased the supply of vulnerable people who can be victimized in these industries, by an increasingly organized and criminalized industry.22 A range of criminal actors are yielding high profits from this industry, including ship owners, ship captains, some corrupt officials, as well as brokers who source victims for exploitation in the fishing industry.

Recruitment of victims into the fishing industry
Brokers and recruitment agencies with connections to trafficking syndicates recruit people either from their home villages, or in or near port towns. They also may be recruited along migration routes, whether by being approached at transport hubs or connected via migrant smugglers who are facilitating migration journeys and illegal entry into countries. Migrants are often deceptively recruited; particularly where migrants enter Thailand illegally, they may be coerced by labour brokers to work for one employer, and may incur debts that must be repaid over several months or years.23 Some brokers may charge job-seeking fees to the people they


22 Caught at Sea: Forced Labour and Trafficking in Fisheries (ILO, 2013), pp.5-6

recruit, or impose a ‘travel now, pay later’ model on this, which they are to pay back from their future earnings. Sometimes, this can amount to debt bondage, for instance, where a worker incurs hefty debts for recruitment fees, and debts inflate as victims are passed between brokers, or as workers are charged exorbitantly for basic needs like food and accommodation. Others may be given some payment in advance of their wages (for instance, to support their families on shore), which can result in them working for several months or even years for no pay. There have also been reports of people being deceived, drugged or even abducted and placed onto fishing vessels where they are subsequently made to work; this can be cheaper means of sourcing labour than relying on brokers to provide it.

**Confusion between trafficking in persons and smuggling of migrants**

Where recruiters facilitate the illegal entry of a migrant into a country for the purpose of exploiting him in the fishing industry, there is a close and often confusing relationship between migrant smuggling and human trafficking. Migrants may pay smugglers or brokers to assist them to enter Thailand through irregular migration channels, and to secure work for them once they are in Thailand. These people do not begin their journey as victims of trafficking, but are vulnerable to falling victim to trafficking at many different stages along the smuggling journey. Migrants who have entered the country without the required documents are particularly vulnerable as they are in irregular situations, and more easily coerced and exploited than those who enter through regular migration channels, given their fear of being reported to authorities as “illegal” migrants and subsequently deported. For example, a migrant may be promised work on a construction site, but instead be made to work on a fishing boat through threats or other means of coercion. Or, the migrant may know that he is to work on a fishing boat, but be deceived as to the conditions of that work. In such situations, the person may be classified as an illegal migrant under Thai law, as he has been smuggled into the country without the required travel documents and work permits. However, where ‘means’ such as deception, coercion or force have been used to exploit him in the fishing industry, he is a victim of trafficking.

The appeal of smuggling migrants as a way of making money has increased among fishermen, as the profitability of fishing has decreased; fishermen in Ranong have reported that reforms introduced by the Thai Government to regulate its fishing industry, combined with overfishing and reduced fish stocks, mean that they are no longer able to make a living from fishing. Smuggling of migrants is more profitable for them. Some Thai fishermen converted their vessels to carry migrants rather

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than fish. Enormous profit has also been made by holding people to ransom to extort money from their families. Abuse, rape and torture of thousands and mass murders of hundreds of people have taken place in jungle camps in remote areas of Thailand. The criminal infrastructure developed in complexity and reach, with different actors involved, from brokers through to employers, ship owners and some corrupt authorities.

2.2. Increased focus on human trafficking in the Thai fishing industry

Thailand is the third largest seafood exporter in the world, with seafood exports generating around USD$7 billion annually.\(^{26}\) The growth of the shrimp industry has been particularly significant in Thailand; it is now the world’s largest exporter of shrimp.\(^{27}\) Trafficking in the Thai fishing industry is detrimental to Thailand in several ways. Individuals and communities are damaged as organized crime groups and corruption flourish. Trafficking is also harmful to Thailand’s international reputation, and risks significant damage to its economy and prosperity. The trafficking of people into the Thai fishing industry is been increasingly documented, and prevention of this crime, protection of its victims and bringing its perpetrators to justice, are key priorities of the Royal Thai Government. In 2014, the United

\(^{26}\) Sarah Murray, Case Study: Casting a Tight Net, Stanford Social Innovation Review, Fall 2015.

\(^{27}\) For instance, Thailand exported 392,000 tonnes in 2011, primarily to the US, European and Japanese markets. See The Hidden Cost: Human Rights Abuses in Thailand’s Shrimp Industry (Environmental Justice Foundation, 2013), p.5
States State Department’s Office to Monitor and Combat Trafficking in Persons reduced Thailand’s Tier Ranking to ‘Tier 3’ in its annual trafficking in persons report, the lowest possible ranking that may result in the US restricting its bilateral assistance and withholding foreign assistance. In 2015, the same Tier ranking was issued. In 2016 however, the report upgraded Thailand to the ‘Tier 2 Watchlist’.  

There have been several high-profile media reports documenting trafficking in persons and exploitation in the Thai shrimp industry. In 2015, a series of reports were released by the Guardian with the support of Humanity United (HU), documenting the linkages between Thailand’s commercial seafood-sector and trafficking in persons as a form of ‘modern slavery’. As a result of these media campaigns, prominent follow up coverage also resulted from these reports including The Bangkok Post, The Wall Street Journal, USA Today, The New York Times and BBC, among others. Also in 2015, the Associated Press published several investigative reports into exploitation in the seafood industry, achieving the Associated Press a Pulitzer Prize in 2016 and resulting in even more global attention on the issue. Collectively, these reports outline a complex industry that profits from the exploitation of vulnerable people, and is damaging Thailand’s fishing and seafood industries.

**Conditions of forced labour exploitation in the fishing industry**

Several reports outline the treatment of victims on board Thai fishing vessels. People are often trapped on boats at sea, far away from land for several months or even years, particularly where boats are kept supplied by mother ships (or ‘Reua Mae’) with food, equipment and other supplies, as well as new forced labourers, to avoid the need for them to return to land. Abuses are often worse on boats where low value or ‘trash’ fish (being young or inedible fishmeal that is used to make pet food and feed farmed prawns), and on vessels operating beyond Thai waters, as boats stay offshore for longer periods of time - even up to several years - and crimes that take place on board are less visible. The majority of victims are men and boys, owing to the physically arduous nature of the work that makes males more often recruited to perform it.

The work is difficult and dangerous, more so where victims are unskilled and unexperienced, and given inadequate safety training and equipment. Some people remain at sea for several years, working for as many as 18 to 20 hours per day,

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28 2016 Trafficking in Persons Report (United States, 2016)
29 See: http://www.pulitzer.org/winners/associated-press
seven days a week, sometimes even given amphetamines to keep them working.\textsuperscript{31} Sleeping and sanitary facilities are often grossly inadequate, with dismal hygiene standards resulting in illness and infection. Poor quality and quantities of food and fresh water have resulted in malnutrition, starvation and dehydration. Work injuries can be severe, and go untreated. Captains and controllers are often brutal, administering severe physical punishments to migrants who are too ill or injured to work, or who fall asleep or otherwise disobey orders. Several victims - including those too sick to continue working - have been murdered at sea, sometimes with other victims witnessing the event as a warning to them.\textsuperscript{32} Wages can be low, or even remain unpaid. If a worker is paid as a share of the catch upon the completion of a contract, pay may be forfeited if victims leave before the end of this period, acting as a disincentive to escape, particularly where the victim has a family to support. Earnings may be further reduced when victims are charged for food and other items on board. Suicides of victims have been reported.\textsuperscript{33} Dangerous escapes have been attempted, where victims have jumped ship and attempted to swim ashore or to other boats. Captains also take measures to avert escape; victims have been locked on board when vessels are at port or near land, or even chained when other boats draw near.

In addition to being exploited on board fishing vessels, people can also fall victim to forced labour trafficking in seafood processing factories, such as shrimp peeling sheds. The forced labour exploitation in this situation reportedly involves more women than men, as well as children. Work in ‘peeling sheds’ involves removing heads, shells and veins of shrimps; this is labour-intensive work that is poorly regulated and involves abuse, child labour, as well as human trafficking for forced labour. Victims have reported being beaten and humiliated, and locked inside for months or even years, being forced to work up to 16 hours per day with little or often no pay.\textsuperscript{34} There are believed to be many more unregistered peeling sheds

\textsuperscript{31} Health and Human Trafficking in the Greater Mekong Subregion (IOM / London School of Hygiene and Tropical Medicine, 2015), p.39.

\textsuperscript{32} A 2015 report, found that 59% of 49 trafficked men interviewed witnessed a murder of a fellow crew member by the boat captain. Health and Human Trafficking in the Greater Mekong Subregion (IOM / London School of Hygiene and Tropical Medicine, 2015), p.36. Also see: Trafficking of Fishermen in Thailand (IOM, 2011), pp.7-9, pp.27-29. Fishy business: Trafficking and labour exploitation in the global seafood industry (World Vision, 2013); Sarah Murray, Case Study: Casting a Tight Net, Stanford Social Innovation Review, Fall 2015.

\textsuperscript{33} Robin McDowell, Margie Mason and Martha Mendoza, ‘AP Investigation: Slaves may have caught the fish you bought’, Associated Press, 25 March 2015.

\textsuperscript{34} Martha Mendoza, ‘AP report on slave-peeled shrimp spurs calls for boycott’, Associated Press, 14 December 2015. Also see Health and Human Trafficking in the Greater Mekong Subregion (IOM / London School of Hygiene and Tropical Medicine, 2015), p.39, in which the mean number of hours worked in the fishing industry was reported to be 18.8 hours.
than there are registered sheds in Thailand, with estimates ranging between 400 and 2000. The Department of Fisheries (DOF) has registered 203 peeling sheds. The Department of Fisheries lists 81 primary processing workplaces that are signatories to the Good Labour Practices (GLP) instituted in 2013, 77 of which are in Samut Sakhon.

Samut Sakhon province is the largest seafood processing area in Thailand, accounting for three quarters of all Thai shrimp. In 2013, it was estimated that 700,000 people work in the seafood processing factories, most of who are women, and 400,000 of who are migrant workers from Myanmar. In this situation, workers - 90% of whom are migrants - may be made to work long hours in poor conditions with little rest. Children - predominantly migrants but also Thai children - have also been found working in these contexts, preparing shrimp or fish ponds, feeding and maintaining stock, sorting and cleaning fish, removing heads of shrimp and fish, peeling shrimp in factory lines, freezing, weighing and loading, processed shrimp and fish. Workers in Thai prawn peeling sheds are exposed to harsh chemicals, and suffer other work-related injuries and infections. Women and children in these situations have also been subject to physical, sexual and emotional abuse and humiliation. Exploitation has also been found at the seconding phase of processing - where fish and shrimps are processed and packaged for export around the world.

**Relationship between IUU and Trafficking in Persons**

The Thai fishing and seafood industry is complicated; fish and shellfish are caught at sea and farmed, before being directly or indirectly bought by processing facilities that may be independent or owned by large brands. Processed seafood is then shipped internationally. These various stages mean that it is difficult to trace which fish and seafood or products are legal or illegal, or come from supply chains where exploitation has been used. However, international consumers - including leading global retailers - are becoming increasingly aware of the exploitation and abuse

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37 See: http://www.fisheries.go.th/thgflp/


that exists in Thailand’s supply chains and are increasingly incentivized to stop importing food from Thailand. Several international corporate buyers of seafood from Thailand are now scrutinizing their supply chains to avoid sourcing products that involve exploitation. Initiatives - including that lead by Humanity United - are working to change the practices of major consumers in relation to the Thai seafood industry. In addition to this, laws including in North American and Europe exist to prevent the sale and trade of goods obtained or produced with forced labour. There is also increased global action to stop illegal, unreported and unregulated fishing; a phenomena related to human trafficking in the fishing industry.

Globally, between 11 and 26 million tonnes of fish (at least 15% of the world’s catches) are caught illegally every year. Illegal, Unreported and Unregulated Fishing (IUU) is related to human trafficking in the fishing industry; where fishing occurs illicitly and without adequate oversight, trafficking in human beings can flourish. IUU is not the same as trafficking, but it concerns illegal fishing activities that may or may not involve the use of trafficked persons. For this reason, there may be cross-cutting issues relevant to the causes of both IUU and human trafficking, and that are key to combating both practices.

In 2010, an IUU Regulation entered into force requiring the European Union to only allow ‘legal’ fish into its market. The process of certifying legal fish involves issuing ‘green’ cards where concerns are adequately addressed, warnings in the form of ‘yellow’ cards, and ‘red’ cards if issues are not solved. On 21 April 2015, the European Commission put Thailand on formal notice for not taking sufficient measures to fight IUU, issuing it with a yellow card. In response to the European Commission’s warning, the Royal Thai Government put in place a series of measures aimed at addressing the issues raised. Among them include the Royal Ordinance on Fisheries B.E. 2558 (2015) that aims to strengthen licensing and monitoring of vessels through 28 Port-in-port-out (PIPO) centres; the establishment of a Monitoring, Control and Surveillance Centre at the Command Centre for Combating Illegal Fishing (CCCIF) and the Department of Fisheries. Law enforcement measures have also been taken in the form of special task force units and legislative amendments enacted to strengthen labour standards.

Notwithstanding these efforts of the Royal Thai Government, in January 2016, the European Commission extended the yellow card by six months, to consider whether to issue Thailand with a red card. In the context of this deliberation, a coalition of 27 human rights, labour and environmental organizations that closely track human rights in the Thai fishing and seafood industry issued a joint letter to the EU Commissioner for fishers, maritime affairs and environment. In that letter,

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they drew the Commissioner’s attention to forced labour and human trafficking in the industry, calling on the need to combat human trafficking, bonded and forced labour across the entire Thai seafood industry. That letter also explained the relationship between IUU and forced labour in the fishing industries.

“As fish stocks continue to be overfished, fishing vessels travel further and stay out longer at sea, with an associated increase in cost. In order to remain profitable, workers at sea are required to work longer hours and fish in remote areas with fewer visits to shore, increasing their vulnerability to exploitation and abuse, including forced labour. Thailand should be pressured to investigate and prosecute unscrupulous fleet owners and captains who are willing to break laws to make unsustainable practices seem profitable. Evidence suggests, and the Thai government recognizes, that the Thai fishing fleet has massive over-capacity and the depletion of fish stocks in Thai territorial waters due to over-fishing has led to a corresponding, on-going decline in catch per unit effort over a considerable period of time, which, in turn, has made some vessels operating in the Thai fleet simply unprofitable without the use of cheap, precarious labour.”

Ultimately the authors of the letter to the EU Commissioner urged him to consider issuing a red card to Thailand unless it demonstrates improvement of laws to protect human rights in the fishing and seafood sector and actions taken to implement those laws to prevent the trafficking of men and boys from Myanmar, Cambodia, Thailand and Laos in the seafood industry. Unless Thailand combats illegal fishing practices, it may be issued with a red card that could end exports to the European market.

Combating trafficking in persons in the fishing industry is therefore key to ensuring the long-term health, sustainability and profitability of the industry. Countering trafficking in the fishing and seafood industries is a key priority of the Royal Thai Government, resulting in a series of legislative amendments including, among other measures, the significant amendments made to the Royal Ordinance on Fisheries B.E. 2558 (2015) to combat IUU and trafficking in the fishing industry. There is also to be an Action Plan to Combat Human Trafficking in the Fishery Sector (2016) The work of law enforcement officials at the provincial level is absolutely crucial in the effort to give effect to these ends.

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41 Joint letter to EU Commissioner Vella, 17 February 2016.
42 Joint letter to EU Commissioner Vella, 17 February 2016.
Thai criminal justice response to trafficking in the fishing industry

The Royal Thai Government has taken many measures to coordinate counter-trafficking response in recent years. This has included several legislative amendments (see Annex: Key Legislation).

- Legislation in relation to labour and labour conditions include Labour Protection Act B.E. 2541 (A.D. 1998) and Ministerial Regulation No.10, B.E. 2541 (A.D. 1998) that was recently amended to expand the scope of applicability of the Labour Protection Act in the fishing industry and to prohibit people below the age of 18 from working in the fishing industry.
- Legislation in relation to the fishing industry includes the Fisheries Act and the Royal Ordinance on Fisheries B.E. 2558 (2015) that was enacted in 2015 to strengthen actions that can be taken against factories in violation of the Labour Law and strengthens port-out procedures.

There are several key actors involved in combating trafficking in persons:

- The Royal Thai Marine Police (RTMP) have authority to board and search vessels in coastal waters (being up to 12km from shore). The Royal Thai Navy (RTN) has law enforcement authority beyond 12km from coastal waters. Local (Phu Torn) police have authority to investigate cases and refer them for prosecution.
- The Department of Labour Protection and Welfare (DLPW) under the Ministry of Labour (MOL) has jurisdiction over labour protection and conditions, and can carry out inspections on vessels.
- The Ministry of Social Development and Human Security (MSDHS) is the key agency responsible for assisting victims of trafficking and receives referrals where there is suspicion that a person is a victim of trafficking. Multi-Disciplinary teams (MDTs) of government officers from several ministries within the MSDHS exist in every province to conduct boat inspection patrols to identify and protect victims of trafficking.

The Thai government has also implemented cooperation mechanisms against trafficking in persons.

- In July 2015, an anti-trafficking interagency task force was established, comprised of the Royal Thai Police, the Department of Special Investigation and the Special Development and Human Security Ministry, with support from national anti-corruption entities.
Coordinated inspections aim to ensure that no forced labour is used on land (in shrimp peeling sheds and seafood processing factories) or at sea on fishing vessels in Thai territorial waters.

- **Command Centre for Combating Illegal Fishing (CCCIF)** lead by the Royal Thai Navy, under the supervision of Thailand Maritime Enforcement Coordinating Center (THAI-MECC). The CCCIF is mandated to monitor IUU fishing and the use of forced labour, child labour and trafficking in the fishing industries. Established in May 2015, the CCCIF has lead interagency inspections, comprised of officials of key relevant ministries. The CCCIF plays a role in combating trafficking in persons by conducting inspections in four ways:
  - **On shore:**
    - Port in-port out controlling (PIPO) centres on shore, of fishing vessels and fishery workers. In 2015, 28 PIPO centres were established by the Department of Fisheries to record and monitor movement of fishing vessels and their crew, in 22 provinces including Ranong, Samut Sakhon and Trang.
    - Inspections of establishments related to fisheries and seafood processing including shrimp peeling sheds
  - **At sea:**
    - In Thai fishing vessels in Thai waters
    - In Thai fishing vessels with permits to operate beyond Thai waters; generally vessels returning from waters outside Thai territory (such as high seas or foreign territorial waters)

The CCCIF signed an MOU with 36 organizations in January 2016 including the Marine Department, Department of Fisheries and 21 private sector stakeholders (including the Thai Tuna Industry Association and the Thai Frozen Food Association), as well as the Labour Rights Promotion Network (LPN) and the ILO to combat IUU fishing and trafficking in the fishing industry.

Towards strengthening labour standards and conditions, the following mechanisms have been put in place.

- **Coordination Centres for Sea Fishery Workers:** The Ministry of Labour in partnership with the Department of Employment and the Ministry of Social Development and Human Security has initiated a pilot Provincial Coordination Center for Sea Fishery Workers in seven coastal provinces (Samut Sakhon, Rayong, Trad, Chumporn, Songkhla, Ranong, Satul) with plans to expand the project to other coastal provinces.
- **Sea Fishery Worker Management Centers:** Established in 22 coastal provinces to advocate for Good Labour Practices (GLP) and ensure businesses comply with relevant Thai and international laws and standards.
2.3. Elements of human trafficking in the context of the fishing industry

Chapter 3 of the *Trafficking in Persons Act* gives competent officials (as defined under the Penal Code) several powers and duties to prevent and suppress trafficking in persons, under Section 27:

(1) To summon any person to give statements, or submit documents or evidence;
(2) To search the body of any person, with his consent, where there is a reasonable ground to believe that such person is a trafficked person, in case such person is a woman, the searcher shall be another woman;
(3) To search any conveyance with a reasonable ground to suspect that there is an evidence or a person falling the trafficked person therein;
(4) To enter any dwelling place or a premise, to search, seize or attach, when there is a reasonable ground to believe that there is an evidence of the commission of trafficking in persons, or to discover and rescue a trafficked person therein, and that by reason of delay in obtaining a search warrant, such evidence is likely to be removed, concealed or destroyed, or such person is likely to be assaulted, relocated or concealed.

Section 27 provides further details of conditions of exercising these powers, and when they can be delegated to subordinates. In short, law enforcers have powers and duties to investigate any premises where they suspect that trafficking in persons is taking place, and identify trafficking in persons. To do so, they are required to look for the three elements discussed in Module 1: an ‘act’, by ‘means’, for ‘the purpose of exploitation’. Where one of each element is found, trafficking is established. Identifying and proving these elements in the context of trafficking in persons in the fishing industry can be challenging. The following tables offer examples of such elements in the fishing industry.

**The ‘act’ element**

Several ‘acts’ may be perpetrated to trafficking individuals into the fishing industry. Generally, a trafficking situation will involve a combination of several acts, even though only one ‘act’ is needed in order to make out the trafficking offence.
<table>
<thead>
<tr>
<th>Trafficking ‘Acts’</th>
<th>Examples in the fishing industry</th>
</tr>
</thead>
</table>
| Recruitment       | Several different types of brokers are involved in recruitment of fishers through different methods, charging various prices for migration processes and placement into fishing industry.  
In many situations, ‘labour brokers’ approach young men in their country of origin, promising work in construction, a factory (textile, garment, food, fish processing) or agriculture. The person agrees to pay the broker back for their travel costs.  
In other situations, brokers approach jobseekers at urban transport hubs (such as bus stations and train stations in Bangkok and elsewhere). |
| Transportation    | In some instances, a single broker arranges travel from origin to destination area. In other instances, several brokers may be involved, each operating as a link in a chain of actors between the point of origin and the point of destination. |
| Transfer          | In some cases, a broker will take the victim to the Thai border and hand the person over to other brokers who sell them to boat owners or captains.  
Victims may be transferred between fishing vessels; often between boats in the same fleet or owned by the same person. This is often done when a boat must return to shore, to avoid victims attempting escape to shore. |
| Harboured         | Along the chain of trafficking, victims may be harboured in various locations en route whether in rural areas hidden from view, or in urban areas. For instance, victims may be held in traffickers’ homes, or under armed guard at warehouses where they are ‘sorted’ into different categories bound for different destinations. There have been reports of trafficked victims being harboured in locked rooms including at karaoke bars while on shore.  
Fishermen may also be harboured on board fishing boats indefinitely to avoid them contacting authorities if they return to shore, on uninhabited atolls at sea, or even caged on inhabited islands when the ship must return to shore.  
| Receipt           | Boat owners receive trafficked victims from brokers at port, or via shuttle boats that take them to larger ‘mother ships’ out at sea. |
**The ‘means’ elements**

As with trafficking ‘acts’, traffickers may use a combination of ‘means’ in order to traffic victims into the fishing industry. Some means are quite subtle (such as abuse of vulnerability or deception) while others are more blatant (such as use or force or abduction). Subtle means can be more difficult for law enforcers to identify and prove.

<table>
<thead>
<tr>
<th>‘Means’ of trafficking</th>
<th>Examples in the fishing industry</th>
</tr>
</thead>
<tbody>
<tr>
<td>Threat or use of force</td>
<td>Many brokers and captains of boats threaten or use force against migrants, forcing them to accept whatever they are told. In some instances, migrants are physically forced onto boats. There are reports of fishermen being beaten and attacked in instances when they are too weak or sick to work. Where a victim witnesses the beating or murder of a fellow victim he can be considered threatened with force or violence.</td>
</tr>
<tr>
<td>Coercion</td>
<td>Coercion can take many forms. Debt bondage, as well as being an exploitative ‘purpose’ of trafficking, can also be a ‘means’ of coercing a person into a trafficking situation or keeping him there. For instance, many fishers are paid a ‘ka yep rua’, or advance payment by the owner or captain of the fishing boat that they must paid off. In some cases, they make money when the amount is paid off, in other cases they do not. In some cases, customers who visit karaoke bars for food, drink and / or sexual services have been presented with inflated bills which they are told must be paid off by working on fishing boats. Traffickers may coerce migrants who are irregular and/or undocumented by threatening them with deportation by authorities. Brokers and captains may confiscate documents of migrants including any travel or identity documents such as the Seafarer (Fisherman) book (these documents may be unofficially used as travel documents, despite the absence of any basis in law for their use as travel documents). There are reports of some captains keeping migrants’ documents so they cannot run away.</td>
</tr>
<tr>
<td>Abduction</td>
<td>There have been reports (e.g. in Songkhla) of customers at karaoke bars being drugged and / or detained and sold to fishing boats.</td>
</tr>
<tr>
<td>Fraud and Deception</td>
<td>Fishers generally do not enter into written contracts from employers, suggesting that they are unclear on the terms of their employment and may have been deceived as to those terms. Working conditions and wages often not transparent. Brokers may promise certain types of works to migrants (such as work in factories, in construction or on vegetable farms) and a high salary to get migrants to agree to recruitment. Many people have reported being unaware that they would be working on boats until they were taken to a pier.</td>
</tr>
</tbody>
</table>
Countering Human Trafficking in the Thai Fishing Industry

**The ‘purpose’ element**

The key purpose of trafficking individuals into the fishing industry is forced labour. However, some other forms of exploitation may also occur.

<table>
<thead>
<tr>
<th>The exploitative ‘purpose’</th>
<th>Applied to the fishing industry</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exploitation of the prostitution of another and other forms of sexual exploitation</td>
<td>Sexual exploitation can involve victims who are men, women and children. There have been cases of people being trafficked onto fishing vessels for the purpose of sexual exploitation.</td>
</tr>
<tr>
<td>Forced labour or services</td>
<td>In many countries and contexts, practitioners have trouble understanding the difference between what is a violation of labour codes and other legal instruments, and what constitutes forced labour. According to the Thai Victim Screening Form, forced labour or service is an exploitation of a person by forcing him or her into an employment or provision of service. Forced labour and/or service</td>
</tr>
</tbody>
</table>

**Abuse of power or a position of vulnerability**

Upon arriving in the destination country or area, migrants may be vulnerable because of not speaking the language, not knowing their surroundings, having no family or friend networks, and may be fearful of Thai authorities or brokers, accepting whatever conditions they are placed in.

Most fishermen on Thai fishing boats are undocumented and have entered the country in violation of immigration laws and are unregistered with the Department of Employment. Being in an undocumented / irregular situation is a position of vulnerability.

Abuse of power can occur for instance, where local Phu Torn police authorities capture and return escaped victims to brokers. These actors are also traffickers, who are liable to severe penalties. Article 13 of the Anti-Trafficking Act (2008) doubles penalties for traffickers who are government officials.

In some instances, traffickers sell trafficked fishermen to fishing boat representatives who pay money for them, at a certain price per head. The cost charged is called ‘kah hua’ fee. Fishers may be told that they have to work off their purchase price debt (a form of debt bondage). In 2011, it was reported that boat owners or representatives would pay brokers between 10,000 and 30,000 baht per migrant. This price can fluctuate depending on supply and demand.

There have been instances of brokers paying for jailed migrant workers to be released into their custody, and then selling them on to overseas fishing boats. Migrants often have no choice but to trust the broker to get them a job, having no other option of paying for their release.

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and for which the person has not offered herself / himself voluntarily” (1930 International Labour Organization (ILO) Forced Labour Convention)

**Slavery or practices similar to slavery or servitude**
“...the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised” (1926 Convention to Suppress the Slave Trade and Slavery (the Slavery Convention)

**Practices similar to slavery**
‘Debt bondage’ is a practice similar to slavery. In the fishing industry, many people are subject to debt bondage, for instance when they enter into arrangements with recruiters or brokers where they must pay them against their earnings.

The cash advance (deducted from future earnings of the victim) given to victims before they board the fishing boat and head out to sea is called ‘Ka Yep Rua’ and is often used to pay costs associated with going out to sea and for leaving money with the victim’s family on shore.

Sometimes, a victim is paying off the money over a period of many months before earning any wages for himself and his family; in some cases he could work for years without pay.

| and for which the person has not offered herself / himself voluntarily” (1930 International Labour Organization (ILO) Forced Labour Convention) | means an employment or provision of service agreed out of the employee’s fear for losing life, being injured or being deprived of one’s freedom, reputation or property, or by fear that the freedom, reputation or property of the other person(s) would be taken away, as a result of threatening words, physical attack or being put in a condition of inability to resist. Employment means a contract made between an ‘employee’ and another party called ‘employer’ in which the ‘employee’ agrees to work for the ‘employer’ and the ‘employer’ agrees to pay a wage during the period of work (Section 575, Civil and Commercial Code). Slavery as can occur in the fishing industry where a broker, recruiter, or corrupt state officials ‘buy’ or ‘sells’ a person and treats him or her as property. Slavery relates to the relationship between the victim and the perpetrator, more so than to the conditions in which the person exists. |
| Slavery or practices similar to slavery or servitude | ‘Debt bondage’ is a practice similar to slavery. In the fishing industry, many people are subject to debt bondage, for instance when they enter into arrangements with recruiters or brokers where they must pay them against their earnings. The cash advance (deducted from future earnings of the victim) given to victims before they board the fishing boat and head out to sea is called ‘Ka Yep Rua’ and is often used to pay costs associated with going out to sea and for leaving money with the victim’s family on shore. Sometimes, a victim is paying off the money over a period of many months before earning any wages for himself and his family; in some cases he could work for years without pay. |

### 2.4. Summary points and review questions

**Summary of Key Points**

**The evolution of human trafficking in the seafood industry**
- Thailand is the third largest seafood exporter in the world, with seafood exports generating around USD$7 billion annually. Thailand is the world’s largest exporter of shrimp.
• Exploitation has long been a concern in the fishing and seafood processing industries, with recent events making the situation worse.
• While most fishing vessels operate legitimately and adhere to appropriate conditions and standards, many engage in illegal acts including abusive practices against their workers. Some even engage in trafficking in persons.
• Overfishing has depleted the supply of wild fish, raising competition for fish and increasing fish farming and aquaculture. Much of the available stock is lost to illegal fishing.
• Regulation is inadequate to monitor registered fishing boats, and many ‘ghost’ fleets operate illegally, further out at sea where conditions for workers are worse, resulting in increased human trafficking to cater for demand for labour.
• Reduction in Thai workers in the fishing industry has increased supply of vulnerable migrant workers from neighbouring countries. The majority of crews on board fishing vessels are now from Myanmar, Indonesia, Cambodia and Lao PDR.
• Increased mobility of asylum seekers in 2015 resulted in many falling prey to traffickers, with complex organized crime networks flourishing.
• People may fall victim to being trafficked into forced labour in the fishing industry in several ways. Brokers recruit victims into the fishing industry by deceptively recruiting them from their home countries on during their migration journey. They may also incur debts that bind them to employment. They also may be abducted and forced into work.
• Many people have been sold into the fishing industry, by networks of smugglers and other criminals, including corrupt officials. Many people have been tortured and held to ransom in jungle camps before being sold into the fishing industry.
• Several criminal actors are involved in perpetrating these crimes; corruption plays a key role.

The evolution of human trafficking in the seafood industry
• Trafficking in the Thai fishing industry is detrimental to the country in many ways, including through the proliferation of organized crime and corruption and the damage to its international reputation. The Thai economy and its long-term prosperity are compromised.
• Increased international focus on Thailand’s response to trafficking in the fishing industry has resulted from several high-profile media reports in recent years.
• Insights into the conditions of work in the fishing and seafood industry show that trafficking in persons for forced labour continues. Work is difficult, dangerous, and people are forced to work without rest, with inadequate food and sanitation.
There are significant challenges involved in investigating and prosecuting assault and murder that is committed at sea.

Human trafficking for forced labour also occurs in the seafood processing industry. This crime mostly victimizes women, but men and children are also involved.

Most victims of exploitation in seafood processing factories are migrants, but Thais have also been affected.

International consumers are increasingly scrutinizing their supply chains to avoid sourcing products that involve exploitation of people. Laws in several countries are also in place to prevent imports from exploitative seafood supply chains.

Illegal, Unreported and Unregulated (IUU) fishing is not the same as trafficking, but there is a relationship between the two. Trafficking can take place in the context of IUU fishing.

The European Commission has issued Thailand with a yellow card and is considering issuing it with a red card. Many organisations are campaigning for a red card to be issued, which would mean that Thai seafood exports to Europe end.

Combating trafficking in the Thai fishing industry is a key priority of the Royal Thai Government. Provincial law enforcers are crucial to this effort.

Elements of human trafficking in the fishing industry:

- Several ‘acts’ may be perpetrated to trafficking individuals into the fishing industry. Generally, a trafficking situation will involve a combination of several acts, although it is to sufficient to prove one in order to make out the trafficking offence.
  - Victims may be recruited in their country of origin, or during their migration movement at transport hubs along the way.
  - Brokers may be involved in transporting victims for all or part of their journey
  - Brokers may transfer a victim of trafficking to another broker or to a fishing vessel. Ship captains may also transfer victims between vessels. Victims of trafficking may be harboured at different locations en route, in traffickers’ homes, in warehouses, in karaoke bars, or on board vessels.
  - Sometimes victims are locked or detained or even kept under armed guard.
  - Boat owners may receive trafficked victims from brokers at ports
- Traffickers use a combination of ‘means’ to traffic victims into the fishing industry. Some are subtle (such as abuse of vulnerability or deception) while others are more blatant (such as use or force or abduction). More subtle means can be more difficult to identify and prove.
Recruitment brokers, ship captains and others involved in trafficking may threaten or use force against victims of trafficking in order to achieve their compliance.

Different forms of coercion may be applied against victims of trafficking, including debt bondage, or confiscation of travel or identity documents.

Victims of trafficking may be abducted, for instance, by being drugged and taken to fishing vessels.

Deception is a common form of recruitment, whereby victims are offered one type of work but end up in another, or where conditions are promised but not met.

Migrants in irregular situations are highly vulnerable, that vulnerability can be abused by traffickers to place them in situations of exploitation or keep them there. There are also reports of local police authorities and other officials abusing their power to profit from the exploitation of victims in the trafficking industry.

The buying or selling of people into the trafficking industry occurs when money changes hands to place a person in the industry. Where a person has to pay off their ‘purchase price’ he may also be placed in a situation of debt bondage.

The key purpose of trafficking individuals into the fishing industry, is forced labour or services. However, some other forms of exploitation may also occur.

There have been instances of people been placed in situations of sexual exploitation on board Thai fishing vessels.

Forced labour is the primary form of exploitation that takes place in the Thai fishing industry.

Slavery and practices similar to slavery may also be found in the fishing industry. For instance, a victim in a situation of debt bondage can result in high profits for the exploiter.

Combating trafficking in persons into the Thai fishing industry is a key priority for the Royal Thai Government.

Questions for Review

- Explain some of the reasons human trafficking for forced labour in the fishing industry occurs? Describe some factors contributing to the supply and demand for exploitative labour.

- Who is exploited in the fishing industry? Why are these people particularly susceptible to being victimised?

- How are victims of trafficking recruited or placed into the Thai fishing industry?

- Describe the conditions that victims of trafficking face in the Thai fishing industry.
Describe the criminal actors who may be involved in trafficking people in the Thai fishing industry.

What is the relationship between IUU fishing and human trafficking?

Why do you think some interest groups are critical of Thailand’s response to IUU fishing?

How is IUU fishing and trafficking for forced labour into the fishing industry detrimental to Thailand?

Describe the elements that need to be established in order to make out that an individual has been trafficked into the fishing industry.

Offer examples of some key ‘acts’ that may occur in the trafficking process.

Offer examples of some key ‘means’ by which trafficking into the fishing industry may be perpetrated.

Describe the types of exploitation that victims of trafficking in the fishing industry are subjected to.

What does the Anti-Trafficking in Persons Act allow competent authorities to do in relation to premises where they suspect trafficking in persons may be taking place?
Module 3: Identifying victims of trafficking in the fishing industry

Module Objective:
To introduce participants to principles and stages of identifying victims of trafficking in the fishing industry

Learning Objectives:
At the end of this module participants will be able to:

- Outline key principles and stages of identifying victims of trafficking in the Thai fishing industry
- List some key indicators of human trafficking in the Thai fishing industry
- Explain some key challenges of carrying out identification interviews of victims of trafficking in the fishing industry and suggest measures to address them
- Offer examples of corroborative evidence and applying the presumption that a person is a victim of trafficking

3.1. Principles, challenges and stages of identification

The ‘purpose’ element
Victim identification is a cornerstone of counter-trafficking response, essential to achieve protection, prosecution and prevention goals.

- **Protection**: Unless they are identified, victims of trafficking cannot be protected from further harm and denial of their rights or be assisted with their needs. Victims of trafficking who receive appropriate protection and assistance are further better able to assist with criminal justice processes; allowing for traffickers to be prosecuted and prevented from further trafficking activities.
- **Prosecution**: Investigation and prosecution human trafficking are strengthened when practitioners effectively identify victims who may be able to serve as witnesses; information and evidence to prosecute traffickers can be obtained from identified victims.
- **Prevention**: Identification of victims of trafficking is necessary to prevent and deter human trafficking; identification of root causes and individuals or groups vulnerable to being trafficked is essential for evidence-based prevention.
**Opportunities and challenges in identifying victims of trafficking**

Law enforcement officials may come into initial contact with potential victims of trafficking in a variety of ways. In very few cases, a person may step forward and identify themselves as victims. More often, several providers or other actors refer a person to police. Victims may also be encountered when police carry out a raid on the basis that they suspect human trafficking or other exploitation is occurring, or when police encounter people in the context of carrying out non-trafficking related enquiries, for instance, when carrying out illegal fishing-related inspections, including through:

- At point in - port out controlling (PIPO) centres on shore, of fishing vessels and fishery workers
- At sea in Thai fishing vessels in Thai waters (by PIPO Centres)
- At sea in Thai fishing vessels with permits to operate beyond Thai waters by multidisciplinary team of Command Centers for Combating Illegal Fishing (CCCIF) of the Royal Thai Navy
- On shore inspections of establishments related to fisheries and seafood processing such as shrimp peeling sheds.

Identification of victims is enormously challenging. Victims may be non-cooperative, and language barriers may require the use of interpreters to carry out interviews. Furthermore corroborative evidence may be lost given the difficulty of securing the locations where victim identification is taking place, particularly where it is on board vessels. For these reasons, most victims of trafficking are not identified. In order to strengthen their ability to identify a possible victim of trafficking, law enforcers must understand why victims of trafficking may not identify themselves as victims or even understand that they have been victimized. Not only may victims be subject to the mechanisms of control described earlier (1.3), but other factors may also be at play.

- **Relationship with trafficker:** Victims may be related to traffickers, whether because they are family members or because the trafficker has cultivated a relationship of control over the victim. Victims may trust the negative things the trafficker has told them about authorities.
- **Fear of threats or reprisals from traffickers:** Victims may fear that traffickers will harm them or their families if they are identified, and lack faith that the criminal justice system can protect them if they come forward.
- **Lack of incentive:** Victims, particularly where they have entered the country irregularly, may fear that their identification will result in their detention and/or deportation due to their irregular status in the country. Where receiving assistance and protection means that they cannot work to support their families, they may have little incentive to cooperate with authorities. They may also consider that the conditions they endure in the exploitative situation are better than the alternatives available to them, that can result in being returned to insecure situations.
• **Shame and stigmatization:** Victims may fear that authorities will not protect their identity, confidentiality and privacy, resulting in shame, stigmatization and social exclusion. Male victims of trafficking are known to be particularly reluctant to admit that they have been victimized. In some cases, where the identity of the victim is revealed it can also lead to persecution.

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**Stages of identification**

Many, if not most victims of trafficking are not identified. Often, law enforcers encounter victims but fail to recognize them, sometimes misidentifying them as smuggled migrants. Tools to identify victims (such as indicators and screening forms) can be valuable to practitioners, but ultimately successful identification of victims of trafficking depends on the skills and professionalism of the people who encounter them. The success of identification depends largely on the understanding of the impact of human trafficking on victims, and the skills of the law enforcement officer to interact with the victim. The identification process can be broken down into three key stages:

**Stage 1: Pre-interview screening with use of indicators**

At the first stage of identification, law enforcement officials come into initial contact with potential victims of trafficking, for instance, where a person is referred to police or when police encounter people in the context of carrying out a non-trafficking related enquiry. At this stage, they carry out initial screening with use of ‘indicators’.

**Stage 2: Initial identification interview**

The second stage involves an initial interview with a person who the law enforcement officer suspects may be a victim of trafficking. At this stage, the interviewer must overcome significant obstacles owing to the challenges of the location where the interview takes place, time pressure, as well as the reactions of the possible victims.

**Stage 3: Corroborative material and final decision**

In the final stage of identification, the law enforcement officer collects information to collaborate the victim’s account of what has happened that can help with the decision. Such material may include records of earnings and evidence of conditions of labour or treatment.
On the basis of these three stages, an assessment is made of the indicators, the answers provided by the victim to interview questions, and other available corroborative material to determine whether a person is a victim of trafficking.

3.2. Stage 1: Pre-interview Indicators of trafficking in persons in the fishing industry

Law enforcement officers have a duty to consider all the circumstances of an individual, and make a considered, balanced judgment as to whether a person is a victim of trafficking or not. The first stage of identification occurs before the individual is asked any specific questions. At this stage, law enforcers carry out initial screening with use of ‘indicators’. Identification of trafficking victims and trafficking situations is aided by the use of ‘indicators’ as a starting point for further investigation. Indicators are generalizations that may be based upon current knowledge of the modus operandi of traffickers, or what is known about typical victims in typical contexts, and/or may relate to particular types of exploitation. Given that most victims of trafficking are identified in the exploitation phase, indicators relating to exploitation may be particularly useful.

Indicators are important because very few victims will step forward and identify themselves as victims when they are initially encountered by authorities. Some may even try to not be identified, and fail to cooperate with authorities. Indicators provide law enforcers with a means of identifying a victim regardless of whether he or she cooperates during interviews and regardless of whether he or she claims to be a victim.

It is also important to understand the limitations of indicators. Indicators are generalizations only, and that exceptions can be found to all of them, and all of them can be interpreted in different ways. Some indicators may be strong in a given context, and weak or even irrelevant in another context. No single indicator can provide an investigator with a definitive answer or ‘proof’ of trafficking; they are meant to be considered collectively to support law enforcers to paint an overall picture and identify areas for further enquiry.

Victim-related indicators
The indicators below are non-exhaustive lists of sample indicators pertaining to the victim that can be adapted and strengthened on the basis of local knowledge, expertise and experience.

Age: The person is within the age range identified in current methods used by traffickers for a type of trafficking
• Trafficking for sexual exploitation often involves younger victims to cater for demand
• Trafficking for forced labour and slavery-like practices normally involves younger, and fitter individuals who have been recruited to perform arduous, demanding work
• Trafficking for sweatshop labour, domestic service and begging may include younger victims as well as elderly or disabled victims

Gender: Relevance of the gender of victims depends on the type of exploitation involved
• In forced labour exploitation, physically demanding work such as in the fishing industry, is more likely to affect males than females. Conversely, aquaculture work and seafood processing will likely involve females as well as males.
• Sexual exploitation often involves females to cater to demand from heterosexual males, although sexual exploitation of teenage and younger boys is increasing. The presence of a young woman or girl on board a fishing vessel may be an indicator of sexual exploitation.

Nationality and language: Victims may come from a State that features as a country of origin in the known modus operandi
• The supply chain of victims relies on exploitation of a combination of factors including poverty, discrimination and lack of opportunity
  ○ Some people are subject to discrimination in their home countries as well as in the countries they travel to, and are particularly vulnerable to exploitation
• Victims may not be able to speak the language of the country they are in but speak the language of a known country of origin
  ○ Many victims of trafficking in the Thai fishing industry do not speak Thai but speak Burmese, Rohingya, Khmer or Bahasa.

Documentation:
• Individuals may be in possession of identity and/or travel documents of a type and from a country that features in the current modus operandi
• Alternatively, victims may lack identify and/or travel documents; documents may be seized and retained by trafficker as a control mechanism
  ○ Ship captains may be in possession of identity, work and travel documents of victims of trafficking
• The individual may have false identity, work and / or travel documents
  ○ Seafarer (Fishermen) documents may be fraudulently produced or falsified, to allow migrant workers to pose as ‘legitimate’ Thai seafarers on board Thai vessels overseas
• The individual may be in a situation of irregular migration / residence status
**Movement:** Where possible victims of trafficking are encountered en route, rather than during the exploitation phase, the following indicators may be relevant.

- The individual is encountered along a known route for trafficking in persons
- The individual may be using carriers or ticket agencies that appear within known modus operandi
- The individual may be travelling in the company of other persons, whether other victims, traffickers or smugglers, in a way that fits the modus operandi
- The individual may not appear to know the people he or she is travelling with
- The individual may seem to be under the control of a person that he or she is with
- The individual’s luggage or possessions do not correspond with his or her statement
- The individual is confused about his or her travel route, destination or purpose of travel
- The location of the victim immediately prior to coming into contact with law enforcement will be relevant

**Behavior:**

- The individual may be evasive in answering questions or otherwise behave suspiciously
- The individual may appear frightened, angry, suspicious or depressed
  The individual may seem to be answering questions in a pre-prepared, or ‘rehearsed’ manner

**Signs of abuse:**

- The individual may show visible signs of abuse, including physical injuries, malnutrition, lack of medical and health care, or psychological trauma
  - Victims of trafficking on board fishing vessels are often treated very brutally and may show physical scars or injuries
  - Victims of trafficking may have illnesses or injuries that have gone untreated
- The individual may be reluctant to talk about or discuss injuries
- The individual may appear anxious, depressed, submissive, fearful, tense, nervous, paranoid
- The individual may show signs of drug or alcohol addiction, dependency or use
  - There have been cases of trafficking in the fishing industry where victims have been given drugs to induce them to work for longer
- The individual may show signs poor hygiene due to lack of access to washing and / or sanitary facilities
Victims of trafficking on board fishing vessels may suffer from poor diet and hygiene, appearing to be unhealthy, malnourished and unclean as a result of lack of access to sanitation.

Unlawful labour practices and violations of any provisions of Ministerial Regulations including the Royal Ordinance on Fisheries B.E. 2558 (2015) may be useful indicators of potential trafficking.

The above indicators can be further understood with additional information provided by other agencies or actors who have referred an individual to authorities. The circumstances of the case must be considered in light of local knowledge and expertise of the trafficking modus operandi.

**Indicators related to use of ‘means’ by the suspected trafficker**

The means set out in the Trafficking in Persons Protocol are indicators of trafficking. Although use of means is not a required element of the trafficking offence where victims are children, their use may still be indicative of trafficking or related exploitation. Some more direct means (such as use of force) may be easy to identify, while others (such as abuse of power or position of vulnerability) are more subtle and difficult to identify.

**Threat or use of force**

- The individual (or his or her friends or family) is threatened with force or violence
- The individual is threatened with deteriorated living or working conditions, or being handed over to authorities
- The individual displays signs of physical, mental or psychological harm, or sexual assault / rape

**Coercion**

- The individual has familial or economic problems
- The individual has irregular migration status and / or is undocumented
- The individual’s documents, money or other possessions have been confiscated
- The individual has entered into an unfair debt arrangement
- The individual is isolated, confined, and/or under surveillance or supervision
- The individual’s cultural or religious beliefs have been manipulated

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• The individual has entered into an unfair debt arrangement
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• The individual’s cultural or religious beliefs have been manipulated

Fraud / Deception:
The individual may have been provided with false, inaccurate or misleading information relating to:
• The immigration process or prospects
• Travel or recruitment conditions
• Employment conditions, including the type, pay, conditions, wages, income or earnings
• Access to education opportunities, housing and location or living conditions
• Legality of the person’s documents, migration status, work or contract
• Laws, attitudes or conduct of authorities towards the person
• Prospects of supporting and / or being unified with family members

Abuse of power or a position of vulnerability:
The individual may trafficked through the abuse of:
• The individual’s economic, psychological or emotional dependence or relationships
• The individual’s romantic or emotional attachments
• The individual’s migration documentation, and or status
• The individual’s social, cultural or linguistic isolation
• The individual’s unemployment or economic destitution
• The individual’s mental or physical disability
• The individual’s age (young or old), sex, gender, sexual orientation, nationality, ethnic or social origin and disability
• The person’s age (young or old), sex, gender, sexual orientation, nationality, ethnic or social origin, and disability
• The person’s cultural or religious beliefs, rituals or practices
• The person’s drug or alcohol dependency or addiction
Countering Human Trafficking in the Thai Fishing Industry

Giving or receiving of payments or benefits to achieve the consent of a person in having control over another person:
- The person is placed in a situation through payment of fees, or giving or receiving of gifts to third persons.

*Indicators relating to the conditions of the place in which the person is found*

The conditions of the place or work (such as fishing vessels or seafood processing sites) and the arrangements that are in place or not, will be strong indicators of trafficking.

Pay and contracts:
- The individual is prohibited from possessing and/or transferring earnings and/or savings
- The individual receives little or no pay for his or her work
- The individual is underpaid relative to wages promised or national minimum wages
- Excessive deductions are made from the person’s salary, including to pay debts
- The individual is denied benefits and social protections he or she is legally entitled to
- The individual did not sign a contract upon arriving in the State and/or commencing employment
- The employer cannot show evidence of payment of wages to employees
- The individual was dismissed without cause, notice and/or benefits

Health and safety at workplace:
- The individual is not provided with appropriate safety and other protective gear, clothing and equipment or given safety training
- The individual receives poor quality / sub-standard food and shows signs of malnourishment
- The individual is denied access to medical care or provided with substandard medical care
- The individual works excessively long / unusual hours
- The individual has little or no rest or leisure time
- The individual is subjected to punishments / fines for failure to meet quotas

Restriction on movement and substandard facilities:
- There are signs of physical restraint or confinement to place of work or other location
- The individual has no private space, or private space is inadequate
- The individual is confined or denied social interaction
- The individual sleeps where he or she works
• The individual is denied access to means of communication
• The individual does not have possession of his or her travel, work or identify documents, and / or documents were confiscated by their employer or someone else

3.3. Stage 2: Identification interview with possible victim of trafficking

The second stage of identification involves an initial interview with a person who the law enforcement officer suspects may be victims of trafficking. For this purpose, interviewers must use the Thai screening form (titled ‘Preliminary Interview Schedule for Screening Victims of Trafficking’).

To summarize, the form is set out as follows:

<table>
<thead>
<tr>
<th>Summary of the ‘Preliminary Interview Schedule for Screening Victims of Trafficking’ form:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Interviewee’s information</td>
</tr>
<tr>
<td>Detailed information about the interviewee such as name, description, parents’ names, travel and identification documents, means of entering into Thailand, etc.</td>
</tr>
<tr>
<td>2. Facts from the interview</td>
</tr>
<tr>
<td>2.1 Facts regarding transportation and persuasion of the victim e.g. reasons for travel, means of transportation, expenses incurred, etc.</td>
</tr>
<tr>
<td>2.2 Facts about the interviewee’s condition and treatment during transportation or at place where the victim was found (e.g. workplace)</td>
</tr>
<tr>
<td>2.3 Other facts shared by the interviewee</td>
</tr>
<tr>
<td>3. Interpretation of behavioural facts</td>
</tr>
<tr>
<td>1.1 The use of ‘acts’ including whether the interviewee has been supplied, bought, sold, distributed, transported, delivered, detained, confined, harboured, received</td>
</tr>
<tr>
<td>1.2 The use of ‘means’ including whether the interviewee has been threatened, forced, abducted, defrauded, deceived, or whether abuse of power has been used, or whether money or benefits have been given to achieve the consent of a person having control over the interviewee.</td>
</tr>
<tr>
<td>The purpose of exploitation, including seeking benefits from prostitution, production or distribution of pornography, other forms of sexual abuse, slavery, begging, forced labour or service, removal of organs for commercial purpose other forms of extortion.</td>
</tr>
</tbody>
</table>

On the basis of the above, the Thai screening form then gives the interviewer(s) the choice of the following decisions:

- The interviewee is not a victim of trafficking
- The interviewee is a victim of trafficking
- The interviewee could be a victim of trafficking. A provisional protection right shall be granted or pending further screening attempt
- The interviewee consents to receive provisional protection right and / or provide further information
The interviewee refuses to receive the provisional protection right and / or provide further information. The officials shall enforce Section 29 of the Anti-Trafficking in Persons Act B.E. 2551 (2008).

4. **Recommendations and other observations**
   - Recommendations in terms of providing protection
   - Any additional observations

The Thai victim screening form is for screening of persons who may be victims of trafficking, including migrant workers on fishing boats and facilities. This tool is for use in the initial screening interview to make a rapid determination, after which an in-depth interview process and further investigation would follow, potentially leading to a court proceeding. The screening form was endorsed by the coordinating and Monitoring on Anti-Trafficking in Persons Performance Committee (CMP Committee) on 25 November 2015, and been distributed to state and non-state actors. Trainings are being delivered on its use throughout the provinces of Thailand so it can be used in all victim-screening processes, including those that take place on board fishing vessels and at seafood processing sites.

The screening form provides guidance to officials about the types of information necessary to make accurate determinations and serves as a source of data to monitor performance. The form is detailed and complex (6 pages long), and requires a high level of skill use in practice, particularly in the challenging context of operations that take place on board fishing vessels. Using the form for individual victims where several possible victims are encountered will require a great level of organisation among the law enforcers on board a fishing vessel, to ensure that interviews are efficient but of adequate quality to be detailed, and to ensure that those who are waiting to be interviewed are protected from contact with, and possible threats or coercion by the captain and other persons.

Therefore it is imperative that users familiarise themselves with the form before they use it and prepare themselves sufficiently to apply it in practice.

**Key challenges in identification interviews**

In carrying out the interview, the interviewer must overcome significant obstacles owing to the challenges of the location where the interview takes place, time pressure, as well as the reactions of the possible victims.

Communication challenges can pose obstacles to identification interviews. These include, but are not limited to the following:

- Language and cultural barriers may be present, for instance where the interviewing officer and the interviewee do not speak the same language or do not understand each other’s culture.
• Gender issues, for instance, women may not feel comfortable being interviewed by men. Women in particular are susceptible to sexual assault and may be particularly fearful in their situation.

• The individual being interviewed may not cooperate with the officer interviewing him or her. He or she may even be hostile, suspicious and distrustful of authorities or may be too scared or too traumatised to communicate. These feelings may be the result of their former negative experiences with police or because of what exploiters have told them about police.

What is trauma?
Trauma is a condition that results from a person who has had an extreme experience or series of experiences, that the victim is unable to understand, rationalise or accept. The experience may be so traumatic that the victim may deny that it has happened to him or her, or even consider that it has happened to someone else. Trauma may also alter a victim’s sense of time and impair his or her memory. Victims may survive traumatic experiences in several ways, including by doing everything they can to avoid further violence or abuse (for instance, by complying with all demands made of them), by identifying with the trafficker to gain his approval (and accordingly refusing to cooperate with law enforcement officers), or by becoming ‘numb’ to experiences. Talking about the experience may even cause a person to experience ‘flashbacks’ that make them feel as though they are re-living experiences. The impact of trauma may remain with a person for the rest of his or her life.

Trauma poses significant challenges for authorities who are attempting to identify traumatised victims; victims may refuse to cooperate, deny that he has been victimized or even fail to remember the experience. Interviewees must as far as possible stabilize the victim by providing him with protection and assistance before interviewing him.

Additionally, there may be more practical challenges facing the interviewer, for instance:

• The interviewer may not have enough information to which to base interview questions.

• There may be inadequate facilities in which to conduct the interview, particularly where the interview takes place on board a fishing vessel.

• Time pressures may be present, meaning that the interviewer does not have adequate time to conduct the interview properly or establish the trust of and rapport with the interviewee.
The space in which interviews may be conducted may not facilitate a useful interview. For instance, where the interview takes place under the gaze of the captain or others on board who could retaliate against the interviewee.

**Addressing challenges in identification interviews**

Of utmost importance is that interviewers DO NO HARM to interviewees.

A key part of doing no harm requires that the interviewer have the correct attitude and approach to the interviewee and the interview process. Throughout the interview, interviewers should ensure they have the appropriate attitude, and ensure that they do not judge or interrogate the person they are interviewing. At the outset, interviewers must work hard to reassure the person, be respectful and non-judgmental towards him or her and his responses, and ensure that trust and rapport is built. Even though time may be limited, interviewers should use the little time available to him or her to empathise with the potential victims and establish rapport; the more rapport that can be established, the more likely it is that the individual will provide answers to questions. It is also important for interviewers to keep in mind the impact of trauma and the fact that the victim may identify with the trafficker in order to have survived his or her ordeal and deny that he or she was victimised. In such situations, interviewers should ensure that a denial does not prevent positive identification of a victim.

In order to overcome these barriers, it is useful to ensure that people who come into contact with possible victims of trafficking have language and cultural skills or backgrounds, or easy-access to people who do, in order to equip them to effectively interview them at the point of first contact. Where possible, key interview partners should be present to support victims during identification interviews. Such partners may include:

- **Interpreters:** Where persons being interviewed do not speak proficient Thai, interpreters in their mother tongue should ideally be present.
- **Counsellors:** Given that many people being interviewed may be traumatised, trained psychological counsellors should be present during interviews.
- **Legal counsellor:** Victim support agencies may be able to provide legal
- **counsellors to support potential victims understand their rights and options**
- **Independent child specialists:** Independent third parties such as relatives or a teacher may be required. Chapter 3 of the Thai Child Protection Act (2003) concerns the protection and assistance children are entitled to. According to Article 32, children warranting social welfare include children who are exploited, abused or subjected to conditions that may harm them. Chapter 4 of that Act concerns safety protection.

If interviewers adhere to the above guidelines, it is more likely that interviewees will provide information that is necessary for appropriate identifications to be carried out.
Preparing to conduct the interview

Before the identification interview begins, law enforcers should make appropriate preparations. The following good practice tips are offered as guidance.

Conditions:

- Ensure that a closed, private space is found to conduct the interview, where others cannot interrupt or overhear the interview. The door should be marked with a sign not to interrupt or other measure put in place to prevent interruptions. If no closed space can be found, then the interviewer should find another private place where the interview cannot be overheard. Notably it is important that captains or other officers on board fishing vessels and senior staff or management at seafood processing factories are unable to observe the interview.
- Secure an interpreter where the person is not able to understand Thai; if a professional interpreter is not immediately available then someone who speaks the appropriate language should be found, provided that the person is not suspected of being a trafficker.
- Ensure that the only people who are present are the person being interviewed, the interviewers, and other necessary persons (interpreter, qualified support person such as legal or psychological counsellor)

Introductions:

- The lead interviewer should introduce him or her self to the individual and describe what his or her role in law enforcement is.
  The interviewer should also introduce other persons who are present and describe what their role is.

Support:

- The interviewer should check that the individual feels secure and comfortable; where possible, it should be ascertained whether or not the person needs to use the bathroom, needs a drink, or is suffering from any sort of pain or discomfort.
- If the interviewee is suffering from any sort of pain or discomfort, is ill or injured, and / or needs urgent medical attention, a medical professional should carry out an examination of the person and attend to his or her needs before an interview is carried out.
- If there are any indications that the victim may be suffering from trauma, the victim should be interviewed in the presence of a trained psychologist or counsellor

Explanations:

The interview should explain the following points:
What the purpose of the interview is
That the person can take his / her time answering questions and can take a break if necessary
That the person can ask questions at any time or seek clarification of any questions or ask that they are repeated

The interviewer should then check that the person has understood the explanation and ask if she or he has any questions at this stage, before proceeding with the interview.

Additional considerations when interviewing children:
Only persons with specialized skills should interview children and only in the presence of a child psychologist or social worker. Children can be particularly traumatised by the trafficking process and have impeded willingness or capacity to provide information. Significantly, children suffering from trauma are highly vulnerable to the risk of being re-traumatised through improper or insensitive questions.

Initial questions by law enforcers should be strictly confined to establishing some basis for belief that the individual may be a child and may be a victim of trafficking. No more questions beyond those necessary to establish those two presumptions should be asked until specialist assistance is available.

The two key presumptions that should be made in cases where a law enforcer is seeking to identify potential child victims of trafficking:

- Age: in all cases where they is any doubt that an individual is a child or not (for instance, where the person seems like a mid-to-late teenager who is not prepared even to offer his or her name and age), the person should be presumed to be a child and treated as such until his/her age can be established. Accordingly, officers should restrict their questioning to only obtaining sufficient biographical data to enable the age of the individual to be determined.

- Victim status: in all cases where there is any doubt that a person who may be a child is a victim of trafficking or not, the person should be presumed to be a victim of trafficking. Accordingly, officers should restrict their questioning to only obtaining the briefest outline of what may have occurred to enable a determination to be made of the exact situation of the child.

Where the officer suspects that the person is a child victim of trafficking, the next, immediate step is to:

- Ensure the safety of the child by removing him or her from any harm
- Arranging for the possible child victim to be transferred as soon as possible to a place of safety that is suitable for children
• Notify the Permanent Secretary or Provincial Governor so that they can begin to address and coordinate issues concerning the child’s welfare, including by appointing a child safety protection, in accordance with Chapter 5 of the Child Protection Act (2003).

**Sample interview questions**
The table below sets out a range of sample interview questions; these are general questions that can be adapted to the situation and circumstances. No single answer to any of these questions will resolve an issue; they must be considered collectively, along with the indicators outlined above (at Stage 1) for the purpose of completing the screening form. Interviewers are advised to familiarize themselves with the types of questions that may be useful in screening a possible victim of trafficking and adapt the questions as appropriate to the specific situation and individual interview.

The following questions are offered as examples of key questions that address the different phases of trafficking, that can be adapted to the context of an interview:

<table>
<thead>
<tr>
<th>Questions</th>
<th>Notes on answers</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Recruitment:</strong></td>
<td>In smuggling cases, migrants normally seek out smugglers, whereas in trafficking cases, the trafficker either initiates contact directly or through a network of personal or family contacts or the victim makes contact by responding to some form of advertisement placed by the trafficker. In cases of exploitation in the fishing industry, individuals may be recruited at transport hubs or be given by smugglers directly to trafficking brokers. Although force is used in recruiting victims only in a relatively small number of cases, some trafficked victims have been abducted. Abduction is a strong indicator of trafficking.</td>
</tr>
<tr>
<td>Why did you leave your home to come here?</td>
<td>In most cases in Southeast Asian, transportation of trafficked victims involves covert crossing of green borders and does require use of genuine or falsified or fraudulent documentation. However, there have been instances of seafarer documents being inappropriately used as travel and identity documents. Use of clandestine border crossing points, and use of falsified or fraudulent documents are indicators of trafficking.</td>
</tr>
<tr>
<td>Were you forced to leave? If so, who forced you and how?</td>
<td></td>
</tr>
<tr>
<td>If you were not forced, who approached you about leaving home and coming here?</td>
<td></td>
</tr>
<tr>
<td>How did you come into contact with the people you are working for?</td>
<td></td>
</tr>
<tr>
<td>Were you told anything about where you would be coming and what you would be doing here? If so, what?</td>
<td></td>
</tr>
<tr>
<td>Where you told anything about your wages, and your living and working conditions? If so, what?</td>
<td></td>
</tr>
<tr>
<td>Did you sign any sort of contract?</td>
<td></td>
</tr>
<tr>
<td><strong>Travel and identity documents:</strong></td>
<td></td>
</tr>
<tr>
<td>Did you use your own identity or travel documents during the journey?</td>
<td></td>
</tr>
<tr>
<td>How did you obtain these documents? Did somebody assist you?</td>
<td></td>
</tr>
<tr>
<td>Did you get a visa to come here? If yes, did somebody assist you?</td>
<td></td>
</tr>
<tr>
<td>Did you have to pay for any documents? If so, were you told you have to repay any debts?</td>
<td></td>
</tr>
<tr>
<td><strong>Do you have your travel or identity documents? If not, who has them? Why?</strong></td>
<td></td>
</tr>
<tr>
<td>--------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>trafficking. If documents include visas, it is useful to know whether the individual obtained them him or herself, or whether someone else made the application for him. If a person has paid more money for the visa than the officially costs, this may indicate that the person is being exploited.</td>
<td></td>
</tr>
<tr>
<td>Remember though that not all victims of trafficking have travelled from other countries; some victims may have travelled from elsewhere in Thailand.</td>
<td></td>
</tr>
<tr>
<td>Trafficking often involves some sort of debt bondage. For instance, a person may incur debts for being smuggled from one country to another and have to pay them off en route or upon arrival in the destination country. In the fishing industry, some victims of trafficking are paid some money in advance with which to support their families on shore, and then have to work to pay the debt off. Victims may also owe brokers fees for finding them work. The existence of a debt bondage arrangement is a strong indicator of trafficking.</td>
<td></td>
</tr>
<tr>
<td>If the person does not have his her or own documents, he or she should be asked to explain who has them and why. Trafficked victims are often not able to retain their own documents; captains of fishing vessels often seize documents of victims as a means of controlling them and reducing their prospects for escaping.</td>
<td></td>
</tr>
<tr>
<td><strong>Exploitation</strong></td>
<td></td>
</tr>
<tr>
<td><em>What work or services do you provide here?</em></td>
<td></td>
</tr>
<tr>
<td><em>Is this different from what you were told you would be doing?</em></td>
<td></td>
</tr>
<tr>
<td><em>Have you been forced to do this work or some different type of work? If so, who forced you?</em></td>
<td></td>
</tr>
<tr>
<td><em>Since when have you been doing this work?</em></td>
<td></td>
</tr>
<tr>
<td>Exploitation is the purpose of trafficking people, and is therefore a key indicator. In contrast, in smuggling cases, exploitation generally does not happen in the destination country because smugglers make their profit from smuggling fees.</td>
<td></td>
</tr>
</tbody>
</table>
| Trafficking often involves deception on the part of the trafficker; this may be complete deception, for instance, as to the nature of the employment, or partial deception, for instance, as to the conditions of employment. Some victims may know that they are going to be doing the type of work they are exploited in (for instance, in the fishing industry) but have been deceived as
Means that states and other stakeholders should:

- Put human rights of victims at the centre of all counter-trafficking efforts, and ensure that counter-trafficking efforts do not adversely affect the human rights and dignity of persons.

### Working conditions

- What are your living and working conditions like?
- Are you able to move around freely?
- Where do you sleep and eat?
- What sort of facilities do you have there?
- Have you ever been deprived of food, water, sleep or medical care?
- Do you have to ask permission from anyone to eat, sleep or leave your workplace?

Inhumane and restrictive working conditions are indicative that the situation is likely to be one of trafficking. Continuous control and abuse of the victim is a strong indicator of trafficking. Trafficked victims are often overworked, given little or no freedom of choice as to the nature of the work or services they perform, and are often deprived of their liberty to move freely. On fishing vessels, victims may be confined or locked in certain areas, and be punished for not reaching certain quotas or for other transgressions.

In seafood processing factories, living conditions are reported to be poor. There have been reports of people working up to 24 hours a day with little or no rest, eating inadequate food, and not being provided with fresh drinking water. There have also

<table>
<thead>
<tr>
<th>Wages and pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are you paid for your work or services?</td>
</tr>
<tr>
<td>If so, how much, and is this the same as the amount you were promised?</td>
</tr>
<tr>
<td>Do you receive your wages or are they being held for you? If so, by who?</td>
</tr>
<tr>
<td>Have you been told that you owe debts? If so, have you been told that you will not receive wages until this debt is paid?</td>
</tr>
</tbody>
</table>

Trafficked victims often do not control their money, whether to spend it locally or remit it back to their families in countries of origin. In the majority of cases, the trafficker takes possession of all or most of the victim’s earnings and may only give small amounts for living expenses or remittances purposes. Some victims may receive no wages. Even where victims are able to remit money to their families, the case may still be one of trafficking where traffickers have established bogus bank accounts to assuage concerns of the family and/or to launder profits.
3.4. Stage 3: Corroborative Evidence and Final Decision

In the final stage of identification, the law enforcement officer collects information or ‘evidence’ to collaborate the victim’s account of what has happened that can help with the decision. Corroborative material, or ‘evidence’ may include:

- **Identity / travel documents**: for instance, Seafarer (Fishermen) documents may be fraudulently produced or falsified to allow a migrant worker to pose as a ‘legitimate’ seafarer on board Thai vessels overseas, or a person may be given a legitimate Seafarer book of a Thai national to make him appear Thai
- **Licences**: for instance, ship licences for a country may be falsified for a ship that is really from another
- **Medical reports**: reports of medical treatment provided in respect of injuries prior to referral
- **Copies of employment contract or recruiter offer**: for instance, copies of bogus contracts of employment or copies of advertisements used to recruit victims
- **Records of earnings / wages / debts that are owed**: for instance, sometimes the treatment of victims who owe debts will be worse; debts are often recorded by traffickers
- **Evidence of conditions of labour or treatment**: for instance, the presence of locks, chains or weapons on board a vessel may corroborate what an interviewee has said in the interview
- **Documentation or travel tickets**: may be forged (original documents that have been changed) or counterfeited (reproduced as originals)

---

<table>
<thead>
<tr>
<th>Treatment</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Have you been threatened if you try to leave?</em></td>
</tr>
<tr>
<td><em>Have you been physically harmed in any way?</em></td>
</tr>
<tr>
<td><em>Have any threats been made to you or your loved ones?</em></td>
</tr>
<tr>
<td><em>Is anyone forcing you to do anything you do not want to do?</em></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Evidence</th>
</tr>
</thead>
<tbody>
<tr>
<td>been reports of people who are ill or injured being denied medical care and being made to continue working.</td>
</tr>
</tbody>
</table>

Vicims of trafficking may fear reprisals against themselves or their families if they attempt to leave their situation. Traffickers may also instilled fear in them about what will happen if they leave, ranging from arrest and detention or other mistreatment by authorities. Some victims who have attempted to escape from fishing vessels have been beaten, tortured or even murdered. These characteristics are strong indicators that a situation is one of trafficking.
Trafficking of persons for the purpose of exploitation in the fishing industry is a crime committed for profit. Law enforcers should consider how the evidence that they collect bears on the exploitation of the victim. In gathering evidence for the purpose of identifying a victim of trafficking by corroborating his or her account of what has happened, the following considerations are relevant:

**Examining locations**

Places where evidence may be found of trafficking for the purpose of exploitation in the fishing industry may include:
- Fishing vessels
- Ports
- Establishments related to fisheries and seafood processing such as shrimp peeling sheds

In order to gather evidence to effectively corroborate the possible victim’s account of what has happened, the following considerations are relevant:
- Records should be made of who is present at the location and what they were all doing when the location was first entered.
- A record of the conditions at the location should be made, showing the health and safety equipment that is present (or not present), and the condition of any machinery and equipment.
Evidence of where people sleep and eat as well as what they eat and where people work should be recorded.

Documents should be sought, including any displayed notices or regulations, travel or identity documents and employment ledgers.

Documents should be sought, including any displayed notices or regulations, travel or identity documents and employment ledgers.

**Examining possible victims**

Upon first encountering a possible victim of trafficking it may be difficult to differentiate whether a person is a victim or a suspect. Where a person has clearly been assaulted or suffered abuse it is easier to establish, but in other situations, evidence will need to be obtained to corroborate the victim’s account of what has happened to establish how long they have been exploited, to identify any injuries that have resulted, establish the victim’s age, and to link him or her to a particular location, or in the case of trafficking in the fishing industry, to connect the victim to a particular piece of machinery or equipment that they use. The following considerations are relevant:

- Record should be made of where the person was when they were first encountered and what he or she was doing.
- The condition that the victim was found in should also be recorded. Medical practitioners will be useful in identifying injuries or physical effects on the body of certain activities.
- Law enforcers can make a note, draw or - with the consent of a victim - photograph any visible injuries. In taking photographs, law enforcers must be aware that it can be problematic to show a victim’s face and may compromise their safety and reduce their incentive to cooperate, and reduce the likelihood of a successful investigation.
- Examination of clothing can be useful in showing damage that corroborates the victim’s account, as will evidence of where the victim sleeps.

In order to establish the age and identity of a person believed to be a victim of trafficking, only professionally trained medical personnel should undertake physical examinations (e.g. of teeth). Law enforcement officers who are first responders can make a preliminary assessment based on the person’s physical appearance and responses to questions. When in doubt, the presumption should be made that the person is a child who should be treated accordingly, before in depth determinations can be made.

**Final Decision - applying the presumption that a person is a victim of trafficking**

On the basis of the indicators, the responses to interview questions and the corroborative evidence that is gathered, the interviewer should collectively
evaluate the information they have in front of them and determine whether the person is a victim of trafficking or not.

In the context of their very challenging work at sea on board fishing vessels, at ports or at seafood processing sites, it may not be possible to conclusively determine whether a person is a victim of trafficking, particularly before authorities have had adequate time to build the trust of the person. A low threshold should be applied so that where a person is believed to be a victim of trafficking he or she is treated on the presumption that he or she is a victim, for the purpose of providing initial assistance and protection. If the presumption later proves to be unfounded, then assistance and protection be adjusted accordingly. Similarly, when a potential victim of trafficking may be a child it is good practice to treat him or her as though he or she is a child, in accordance with the Convention on the Rights of the Child.

A person who is not a victim of trafficking may be a victim of other crimes that cannot be ignored. All persons who law enforcers encounter may have suffered harm or injuries and have assistance and protection needs that law enforcers are obliged to address. People who are encountered by law enforcers may be in immediate need of medical treatment or assistance; regardless of their status (whether they are or are not victims of trafficking, and regardless of whether they are documented or undocumented), law enforcers are obligated to provide for the immediately safety of the persons they encounter. Presumed victims of trafficking and anyone who is in need of assistance can be referred to specialized service providers for medical, social and psychological care and safe accommodation to ensure they come to no further harm.

3.5. Summary points and review questions

**Summary of Key Points**

**Principles, challenges and stages of identification**

- Victim identification is necessary for victim protection, for prosecution of traffickers and for prevention and deterrence of human trafficking.
- Victims rarely self-identify.
- Law enforcers have opportunities to identify victims of trafficking including when carrying out non-trafficking related inspections, including at ports, in Thai fishing vessels in Thai waters or beyond, or on-shore in fisheries and seafood processing factories.
- There are several challenges involved in identifying victims, including non-cooperation of victims and language barriers.
- Traffickers may have a relationship of control over victims, have told them negative things about authorities to deter them from cooperating with them. Victims may fear reprisals from traffickers.
• Victims may lack incentive to be identified, fearing that their identification will result in deportation and detention, and lost income with which to support their families.
• Victims may fear the stigmatization of having been victimized and fear that authorities will not protect their privacy and confidentiality.
• Many victims of trafficking are not identified or are misidentified as smuggled migrants.
• Identification success depends largely on law enforcers understanding the impact of human trafficking on victims, and having skills of to interact with victims.
• There are three stages of identification: (1) pre-interview screening with use of indicators, (2) an initial identification interview, and (3) use of corroborative material to make the final decision.

(1) Pre-interview screening with use of indicators
• Indicators are generalizations that may be based on current knowledge of the modus operandi of traffickers, or what is known about typical victims in typical contexts, and/or may relate to particular types of exploitation.
• There are several limitations to indicators; they are generalizations only, and there are exceptions to all indicators. No single indicator will be conclusive proof of trafficking, but collectively they may paint an overall picture and point to areas for further enquiry.
• Indicators may pertain specifically to the victim, his or her age, gender, nationality and language of victims, documentation, movement, behaviour or signs of abuse.
• Indicators may relate to means used by the trafficking to put or maintain him or her into a situation of exploitation, and the conditions of the place in which the person is found.

(2) Identification interview with possible victim of trafficking
• Law enforcers may carry out an initial interview with a person who he or she suspects is a victim of trafficking. In doing so, they must use the ‘Preliminary Interview Schedule for Screening Victims of Trafficking’.
• The Screening form is detailed and complex, and interviewers must familiarize themselves with the form before they use it and prepare themselves sufficiently to apply it in practice.
• Challenges involved in interviewing possible victims of trafficking, include language and cultural barriers, gender issues, time and resource constraints, inadequate space, and the non-cooperation of the interviewee.
• A key challenge to carrying out an interview is trauma, which can be detrimental to how the possible victim engages with the interviewer.
• A key priority is to ensure that interviewers do no harm in carrying out interviews.
• Responding to challenges involves ensuring that people responsible for carrying out interviews have the appropriate background and skills, or have ready access to people who do. Partners may include interpreters, counsellors, legal counsellors, and independent child specialists.
• Preparing for the interview requires interviewers to:
  ○ Put in place appropriate conditions (including a closed or at least private space where the interview cannot be overheard), an interpreter, and ensuring that only relevant people are present in the interview phase.
  ○ Introduce him or herself and other people present
  Provide the interviewee with adequate support to ensure that he or she is comfortable
  ○ Explain the purpose and process of the interview
Where the interviewee is a child or who may be a child, law enforcers should ensure that they only ask questions necessary to establish that the person is potentially a child and potentially a victim of trafficking.
Interviewers should familiarize themselves with the types of questions that may be useful in screening a possible victim of trafficking and adapt the questions as appropriate.

(3) Stage 3: Corroborative Evidence and Final Decision
Corroborative evidence can be gathered and considered to support
• information provided in the interview process.
Corroborative evidence can include police or other reports, documents,
• records of wages, evidence of treatment of persons or the conditions.
Corroborative evidence will be more successfully gathered if the scene and
• the evidence at the scene is protected and adequately recorded. Law enforcers present at the scene must consider the resources they have and the strategy that can be applied to achieve this.
Law enforcers should be prepared to carefully document, record and
• potentially gather evidence found at locations including fishing vessels, at ports or at seafood processing sites.
Examinations of persons found at sites must be taken carefully and records
• made with the consent of persons, preferably with the involvement of medical practitioners.
Age inspections should only be carried out by appropriately trained medical
• personnel - law enforcers should only make a preliminary assessment and apply the presumption that a person is a child.
A low threshold should be applied so that a person who is believed to be a
• victim, is presumed to be for the purpose of providing initial assistance and protection.
Questions for Review

- Why is identification of victims of trafficking crucial to counter-trafficking response?
- What are some key factors that may make victims of trafficking difficult to identify?
- Why may some victims fear being identified by authorities?
- What are the three stages of identification?
- What are indicators? How are they used in the identification process? What are their limitations?
- How might documentation or lack of documentation be indicative of trafficking in persons?
- What types of physical indicators may suggest a person is a victim of trafficking?
- Describe some indicators that are relevant to the conditions of the place (for instance, fishing vessel or seafood processing site) where the possible victim is encountered.
- What is the ‘Preliminary Interview Schedule for Screening Victims of Trafficking’? In what circumstances is the form to be used?
- What does it mean for an interviewer to ‘do no harm’ in carrying out an interview? How can he or she do no harm?
- What are some key challenges in conducting an identification interview with a possible victim?
- What is trauma and how can trauma pose challenges to the identification interview?
- What are some key ways that challenges can be overcome?
- What are the steps that must be taken in preparing for the interview?
- What are some additional considerations that the interviewer must take into account where the interviewee is or may be a child?
- What is corroborative evidence in the context of victim identification?
- Give some examples of corroborative evidence that may be found on fishing vessels or in seafood processing factories.
- What does it mean to apply a low threshold for identification of victims of trafficking?
Module 4: Treatment of victims of trafficking in the fishing industry

Module Objective:
To introduce participants to key obligations in relation to the treatment of possible victims of trafficking in the fishing industry

Learning Objectives:
At the end of this module participants will be able to:

- Outline key standards and best practice principles concerning victim treatment
- Explain their obligations in addressing the immediate needs of victims of trafficking
- Suggest key stakeholders who they may need to refer possible victims of trafficking to

4.1. Key standards and best practice principles

Protection and assistance needs of victims are complex and vary from individual to individual. Though law enforcers have key obligations and responsibilities in this respect, there are some needs that they do not have the appropriate expertise to address. Therefore, the relationship between law enforcement agencies and victim support agencies is critical. Both stakeholders are inter-dependent and can perform their core work more effectively in cooperation with each other. For victim support services, the law enforcement agencies are essential in identifying, rescuing and referring victims, and for law enforcement agencies, victim support agencies are essential for delivering support measures to victims who may go on to be witnesses in prosecuting traffickers.

Several governmental and non-governmental agencies may provide support measures for identified victims of trafficking. These include:

- Shelter and accommodation providers
- Health care and counselling providers
- Interpretation services
- Legal advice and support

Treating victims of trafficking in accordance with standards and best practice principles depends at the outset, on victims being appropriately identified. Coming into contact with criminal justice practitioners should result in an improvement of the situation of victims of trafficking. However, lack of capacity and professionalism can mean that the situation of many victims of trafficking in persons is made worse when they encounter criminal justice practitioners. Two key principles for law enforcers to keep in mind in carrying out their work are the following:
• **Non-criminalization**: Victims of trafficking should not be criminalized for immigration or other offences that directly relate to the fact of their being trafficked.

• **Non-re-victimization**: Victims of trafficking should not be re-victimized by the actions or inactions of criminal justice officials, including law enforcers.

**International standards and best practice principles**

Other standards and best practices can be found in the UN OHCHR Principles and Guidelines on Human Rights and Human Trafficking that are based on the Trafficking Protocol and other key international law instruments including international human rights and humanitarian law.

The key principles of human rights set out in the Principles and Guidelines concern the following:

<table>
<thead>
<tr>
<th>Principle</th>
<th>Means that states and other stakeholders should:</th>
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</thead>
<tbody>
<tr>
<td><strong>The primacy of human rights</strong></td>
<td>• Put human rights of victims at the centre of all counter-trafficking efforts, and ensure that counter-trafficking efforts do not adversely affect the human rights and dignity of persons.</td>
</tr>
<tr>
<td><strong>Preventing trafficking</strong></td>
<td>• Address the root causes of trafficking and factors that increase vulnerability to trafficking (such as inequality, poverty and discrimination), and exercise due diligence in identifying and eradicating involvement of public officials in trafficking.</td>
</tr>
</tbody>
</table>
| **Protection and assistance** | • Not detain, charge or prosecute trafficked persons for the illegality of their entry into or residence in the country of transit or destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their having been trafficked.  
• Protect trafficked persons from further harm and ensure their access to adequate physical and psychological care, regardless of whether they cooperate with authorities or not.  
• Provide legal and other assistance, including protection and temporary residence permits to victims throughout any criminal, civil or other actions  
• Identify children who are victims of trafficking and consider their best interests to be paramount at all times  
• Provide appropriate assistance and protection to child victims of trafficking, taking into account special vulnerabilities, rights and needs.  
• Guarantee safe, and to the extent possible, voluntary return to trafficked persons, and offering trafficked persons legal alternatives where repatriation would pose a serious risk to their safety and/or to the safety of their families. |
Law enforcers should be aware of these principles and understand how their work can specifically uphold these principles.

Guideline 6 of the UN OHCHR *Recommended Principles and Guidelines on Human Rights and Human Trafficking* (2002) advises that States, and where relevant inter-governmental and non-governmental organizations, should consider:

- Ensuring that victims are not held in any form of immigration or other detention facility
- Ensuring that victims are not obliged to accept any protection or assistance services that they do not consent to receive
- Informing victims of their rights to access diplomatic and consular representatives from their State of nationality
- Protecting victims from threats, harm or retaliation from traffickers, including by respecting their privacy and not disclosing their identity.

### Regional standards and best practice principles

Key protection principles are also reflected in the ASEAN Convention against Trafficking in Persons, especially Women and Children (2015). Article 14 of that instrument, concerning protection of victims of trafficking in persons, underscores the link between identification and protection. Among other things, it refers to the introduction of national guidelines or procedures for proper identification of victims of trafficking and collaboration with non-government victim assistance organizations, the physical safety of victims, their care and support in cooperation with NGOs, and non-criminalization of victims.

Further, the ASEAN Declaration against Trafficking in Persons, Particularly Women...
and Children (2004) outlines key standards member States are to uphold in the
treatment of victims of trafficking.

<table>
<thead>
<tr>
<th>Point</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Point 5</td>
<td>Ensure that victims are treated humanely and provided with essential medical</td>
</tr>
<tr>
<td></td>
<td>and other forms of assistance deemed appropriate</td>
</tr>
<tr>
<td>Point 6</td>
<td>Undertake actions to respect and safeguard the dignity and human rights of</td>
</tr>
<tr>
<td></td>
<td>genuine victims of trafficking in persons</td>
</tr>
</tbody>
</table>

The *Criminal Justice Responses to Trafficking in Persons: ASEAN Practitioner Guidelines* (2007) also set out the principle of non-criminalization

| Guideline C.2 | To the extent possible, victims of trafficking should not be charged or prosecuted in relation to crimes committed by them that are a direct consequence of an act of trafficking in persons |
| Guideline C.3 | Victims of trafficking should, as provided in domestic law, be provided with prompt access to protection and shelter |

From a practical point of view, taking such measures are also essential towards building trust of and rapport with victims, who are more likely to cooperate with law enforcers if they are assisted by them.

The *Bali Process Policy Guide on Protecting Victims of Trafficking* (2015) states that victim-centred approaches should be based on the following key principles:

| Safety      | The personal safety of victims of trafficking and their families should be provided for at all times. |
| Confidentiality | Breaches of confidentiality can compromise the safety of victims and their families, and victims may fear stigmatization. Accordingly, information should only be shared when a victim gives consent and should be confined to as few people as possible in order to maintain confidentiality of victim information. Where a victim consents to information being shared, those who it is shared with (whether state or non-state agencies, or the media) should be made aware of the confidentiality of the information. |
| Non-discrimination | Safeguards to protect victims of trafficking should apply to all victims, without discrimination of any kind (for instance, on the basis of age, sex, gender, race, language, religion, property, birth, economic, migration, educational, familial or other status). States should not only refrain from discriminating against victims, but should also take positive steps to combat all forms of discrimination against them by state and non-state actors. |

These principles are to apply irrespective of whether or not victims of trafficking cooperate with law enforcement officers or participate in the criminal justice process or not.
Thai standards and best practice principles
In the interim, Section 29 of the Anti-Trafficking in Persons Act B.E. 2551 (2008) is relevant:

Section 29
In case of necessity for the benefit of fact clarification in relation to the trafficking in person and the security protection of a person, where there is a reasonable ground to believe that he is a trafficked person, the competent official may temporarily take such person into his custody, but the custody shall not be over twenty four hours. The custody of such person must be reported to the Commissioner-General of the Royal Thai Police, the Director General of the Department of Special Investigation, the Director General of the Department of Social Development and Welfare or the Provincial Governor, as the case may be, without delay.

In case of necessity for the custody of any person suspected to be a trafficked person, to any extent longer than that provided in paragraph one, the competent official shall file a petition to the Court asking for a permission order. The Court shall grant permission for a period of not more than 7 days and may impose any condition upon such permission.

The custody of person suspicious to be a trafficked person according to this Section must be placed in an appropriate place which shall not be a detention cell or prison, in accordance with the regulations prescribed by the Minister.

The performance of the duties under this Section shall take into account all human rights principles seriously.

Chapter 4 of the Anti-Trafficking in Persons Act sets out ‘Provision of Assistance and Protection of safety’ to the trafficked person.

Section 33
The Ministry of Social Development and Human Security shall consider to provide assistance as appropriate to a trafficked person on food, shelter, medical treatment, physical and mental rehabilitation, education, training, legal aid, the return to the country of origin or domicile, the legal proceedings to claim compensation according to the regulations prescribed by the Minister, providing that human dignity and the difference in sex, age, nationality, race, and culture of the trafficked person shall be taken into account. The right to receive protection, whether it be prior to, during and after the assistance providing, including the timeframe in delivering assistance of each stage, shall be informed the trafficked person. In this connection, the opinion of trafficked person is to be sought.

The competent official, in providing assistance under paragraph one, may
place the trafficked person in the care of a primary shelter provided by the law on prevention and suppression of prostitution, or a primary shelter provided by the law on child protection, or other government or private welfare centers.

4.2. Assistance and referral of potential victims of trafficking in the fishing industry

Adhering to standards and best practice principles in practice requires that law enforcers treat persons they suspect of being trafficked as if they victims of trafficking and accordingly ensure they have access to appropriate assistance and protection. Reaching decisions can be difficult particularly in challenging contexts such as those presented by exploitation in the fishing industry. When in doubt, it is good practice to favour humanitarian considerations and treat a person as if he or she is entitled to the rights of a victim. For instance, to ensure such persons are not criminalized or re-victimized, they must not be detained or charged. The risk here is that some criminals including traffickers may be misidentified as ‘victims of trafficking’; however this is preferable to failing to identify a genuine victim who needs assistance and support given that a criminal who is misidentified as a victim can always be prosecuted later once further information leads to an alternative conclusion about their situation.

To ensure that law enforcers adhere to fulfilling their obligations, good principles to apply in practice from the first point of contact onwards include the following:

- **Treat and assist victims of crime irrespective of whether they cooperate:** Victims are entitled to full enjoyment of their internationally guaranteed rights, irrespective of whether they cooperate or not. Furthermore, compliance with rights and principles is useful to establish trust and rapport and can increase the chance that they will cooperate as witnesses.

- **Ensure safety as the paramount consideration:** The immediate safety of identified victims and their families is the direct responsibility of the law enforcement official, and trumps any law enforcement objectives.

- **Be open and honest:** Victims are often deceived or mislead by traffickers and should never be by law enforcement officials. Law enforcement officials have a clear duty to be open and honest with victims and make them fully aware in a language they can understand (preferably their first language) of all the options and associated risks so they can make fully informed choices.

- **Ensure access to available assistance:** It is not the role of law enforcers to provide services, but it is their responsibility to ensure that victims are fully informed (again, in a language they can understand) of the legal, material, medical, psychological and social assistance that is available to them and are that they are enabled to contact relevant organisations.
Types of abuse that victims of trafficking suffer

Responding to the immediate needs of victims of trafficking requires law enforcers to understand the types of abuse that victims may be subjected to. The following table offers some examples:

<table>
<thead>
<tr>
<th>Types of abuse</th>
<th>Impact of abuse</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Physical Abuse</strong></td>
<td><strong>Psychological Abuse</strong></td>
</tr>
<tr>
<td>• Murder</td>
<td>• Isolation (linguistic, social)</td>
</tr>
<tr>
<td>• Physical assault</td>
<td>• Inducing fear of authorities</td>
</tr>
<tr>
<td>• Torture</td>
<td>• Deprivation of liberty</td>
</tr>
<tr>
<td>• Deprivation of sleep, rest, food, water</td>
<td>• Threats of violence and other coercion</td>
</tr>
<tr>
<td>• Deprivation of medical care</td>
<td>• Substance dependency</td>
</tr>
<tr>
<td>• Sexual assault</td>
<td>• Emotional manipulation</td>
</tr>
<tr>
<td>• Forced use of substances</td>
<td></td>
</tr>
<tr>
<td><strong>Physical Abuse</strong></td>
<td><strong>Psychological Abuse</strong></td>
</tr>
<tr>
<td>• Death</td>
<td>• Trauma, loss of memory, sleep loss</td>
</tr>
<tr>
<td>• Severe physical / mental injuries</td>
<td>• Depression / mistrust</td>
</tr>
<tr>
<td>• Severe physical / mental injuries</td>
<td>• Feelings of isolation / mistrust</td>
</tr>
<tr>
<td>• Malnutrition</td>
<td>• Fear, trauma</td>
</tr>
<tr>
<td>• Worsening illness or injury</td>
<td>• Addiction</td>
</tr>
<tr>
<td>• Sexual injuries / infections</td>
<td>• Feelings of guilt, shame, demoralisation</td>
</tr>
</tbody>
</table>

Addressing immediate needs may include the following considerations:

| SAFETY | Do not arrest victims, but remove them from immediate harm, and relocate them to a place of safety (e.g. police premises, victim shelter or hospital). Ensure that immediate physical privacy, safety and security of victims is provided for. |
| HEALTH | Administer urgent medical attention and seek medical help to obtain examination and treatment for physical injuries, symptoms of illness or malnutrition and sexual health screening. |
| COMMUNICATION | Communication with family and family tracing (where there is no reason to suspect the involvement of the family in the trafficking and where such communication is safe for the victim and his or her family) |
| COUNSELLING | Provide for an initial assessment of trauma to be carried out so that psychological assistance and counselling can be provided |
| INFORMATION | Provide access to independent legal, migration and social welfare advice including on the assistance and protection services available to them, and the obligations and responsibilities that receiving such services may involve. Explain legal options and responsibilities and rights of access to temporary residency visas and repatriation support. Interpreters and translators may be important at this stage to ensure that individuals are at ease and can fully understand the information provided to them, and whether they want to participate in the criminal justice process. |

**Appropriate referrals**

It is important for law enforcers to understand that their job is not to provide assistance beyond what they can immediately do to address urgent needs, but
to provide access to assistance. Here, cooperation between law enforcers and victim support providers is essential to ensure that possible victims are treated appropriately.

 Appropriately referring victims of trafficking supports the principles of protection discussed above (at 3.1), that identification is a cornerstone of protecting the human rights of victims of trafficking. All persons within Thailand are entitled to human rights, regardless of their background, nationality, migration status, or the activities that they have been doing in Thailand. In order to ensure that they can enjoy those human rights, law enforcers must refer individuals who are identified as victims of trafficking to specialized agencies. Such agencies may include:

• Providers of shelter and protection from physical or psychological harm for victims of trafficking
• Providers of medical, social and psychological support that victims of trafficking may need
• Legal services, including support relevant to migration status and residency permits
• Voluntary repatriation or resettlement services
• Authorities that can carry out age assessments, appoint legal guardians and conduct best interest determinations and make appropriate care arrangements for children

4.3. Summary points and review questions

Summary of Key Points

Key standards and best practice principles:

• The UN OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking (2002) outline some key principles in identification. These include the need to put in place guidelines and procedures, cooperation between state and non-state actors in the provision of assistance, and non-detention and non-prosecution of trafficked victims.
• The ASEAN Convention against Trafficking in Persons, especially Women and Children (2015), the ASEAN Declaration against Trafficking in Persons Particularly Women and Children (2004) and the ASEAN Criminal Justice Responses to Trafficking in Persons - ASEAN Practitioner Guidelines (2007) emphasize the need to provide them with prompt assistance and protection.
• The Thai Anti-Trafficking in Persons Act B.E. 2551 (2008) sets out principles and standards for protecting identified victims of trafficking. Article 33 sets out the provision of assistance and protection of safety to the trafficking persons, giving responsibility to the Ministry of Social Development and Human Security (MSDHS) to provide assistance and protection.
Good practice considerations include ensuring that possible victims of trafficking are assisted and protected, irrespective of whether they cooperate with authorities; protect safety as the paramount priority; being open and honest with victims about their options and the associated risks; and ensuring that victims have access to assistance.

Assistance and referral of potential victims of trafficking in the fishing industry:
- Immediate needs of victims must be tended to irrespective of whether or not the victim cooperates with authorities.
- Immediate needs can include providing for the safety of victims; their health (including through the administration of urgent medical attention); access to food, water and clothing; providing them with the means of communicating with their families, who may not know whether the victim is alive; counselling (particularly where victims are suffering from trauma); and information.
- Law enforcers should understand that victims of trafficking may experience a range of physical and psychological abuse in the fishing industry.
- Beyond immediate needs, it the responsibility of law enforcers to provide access to assistance and support services by making appropriate referrals.
- Assistance and protection needs can only be effectively provided to victims of trafficking where law enforcers cooperate with specialized service providers, which may include state and non-state actors. Partners can include providers of shelter and accommodation, health care and counselling, interpretation services and legal advice and support.
- Where victims of trafficking are children, their special needs must be taken into consideration. They must be referred as soon as practical to a child protection service provider.
- Law enforcers are responsible for appropriately referring the people they identify as being victims of trafficking or possible victims of trafficking to service providers.
- Service providers who law enforcers may need to make referrals to include authorities that can provide specialized care for children; shelter and protection from physical or psychological harm; medical, social and psychological support; legal services including in relation to migration and residency.
- Service providers may include state actors, as well as international organizations and non-governmental organizations.
- Law enforcement officers who encounter victims of trafficking should be equipped with contact details of appropriate actors to refer victims of trafficking to.
Questions for Review

- Outline some key principles governing the treatment of identified victims of trafficking
- According to the Anti-Trafficking in Persons Act B.E. 2551 (2008), which is the responsible ministry for assisting and protecting victims of trafficking?
- Why must a possible victim of trafficking not be detained or charged?
- What are some good practice principles for ensuring that possible victims of trafficking are treated in accordance with international, regional and Thai law.
- What types of abuse may a victim of trafficking be subjected to?
- Explain what immediate needs of victims may be.
- Which type of actors may be involved as partners in the provision of protection and assistance service to victims of trafficking?
- Why must law enforcers make referrals of victims of trafficking they identify?
- Which authorities might law enforcers make referrals to?
- How can law enforcers be equipped to ensure that appropriate referrals are made?
## Annex: Key Legislation

<table>
<thead>
<tr>
<th>Thai Instrument</th>
<th>Relevance to trafficking in the fishing industry</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>In relation to trafficking in persons and related exploitation</strong></td>
<td></td>
</tr>
<tr>
<td>Anti-Trafficking in Persons Act B.E. 2551 (2008) and Anti-Trafficking in Persons Act (No.2) (2015).</td>
<td>Section 6 and Section 4 criminalize human trafficking. Severe penalties apply for all forms of trafficking, including forced labour on fishing boats. The 2015 amendments to the Anti-Human Trafficking Act impose high fines and strict (8-20 year) imprisonment in cases of aggravating trafficking, where serious body injury results. Punishments can result in life imprisonment or capital punishment where a victim dies. Section 10 imposes harsher penalties for traffickers who are members of organized crime groups (e.g. where an individual operator would receive 4 years, a member of an organized crime group would receive 6). Section 5 of the Act defines organized criminal group as a group of three or more persons, with no need for formally defined roles. Trafficking outside of Thailand also attracts harsher penalties. Section 13 of the Act aggravates punishments for public officials who commit trafficking in persons crimes. According to Section 16 of the 2015 Act, business establishments or factories can be immediately shut down where evidence of trafficking is found.</td>
</tr>
<tr>
<td>Thai Penal Code B.E.2498 and amendments</td>
<td>Section 312 and 312 bis of the Penal Code prohibit forced labour. Section 282 and 283 of the Penal Code prohibits child trafficking.</td>
</tr>
<tr>
<td><strong>In relation to labour</strong></td>
<td></td>
</tr>
<tr>
<td>Labour Protection Act B.E. 2541 (A.D. 1998)</td>
<td>Establishes a minimum standard for wages and working conditions. However, this is based on terms of agreement between the employer and employee (as per Ministerial Regulation 10). Chapter 4, section 44 establishes 15 as the minimum age for work;</td>
</tr>
</tbody>
</table>
### Chapter 4, sections 49 and 50 establish 18 as the minimum age for hazardous work

Chapter 4, sections 49 and 50 prohibit hazardous occupations or activities for children.

**Ministerial Regulation No.10, B.E. 2541 (A.D. 1998)**


The Ministerial regulation places fishing industry outside of the scope of the Labour Protection Act. Also, small vessels (of less than 20 employees) that operate outside of Thailand for at least one year are excluded. This was revised to extend labour protection to fishing boats with more than one labourer, both inside and outside of Thailand and to prevent persons under 18 from working on fishing boats.

Among other things, Ministerial Regulation 10 requires crew lists to be kept, wages and holiday pay to be recorded, with signed acknowledgment that pay was received.

### In relation to the fishing industry


Sets out requirements for registration and licencing of shipping equipment and issuance of permits for persons engaged in commercial fishing.

Following updates to the Act; Section 56 allowed government officials to board and inspect fishing vessels but only for certain purposes that did not include fishers. Sections 57 and 58 allowed authorities to seize fishing vessels, equipment and catches in some instances.


Enacted and entered into force November 2015. Aims to reorganise fisheries in Thailand in compliance with international measures and regulations on IUU Fishing, and to combat trafficking in the fishing industry.

Section 11 prohibits factory operators from engaging persons in violation of the Labour Law. Where violations are found, operations
can be suspended from 10 to 30 days. If more than five people are employed unlawfully, the factory can be closed. Fines of 400,000-800,000 baht apply for each unlawfully employed person, or where there are more than five people, imprisonment or fine of 200,000 to 2,000,000 baht or both and a daily fine of 100,000 to 500,000 per day for the duration of the violation applies.

Port-out procedures: Section 82 requires that owner / master of fishing vessels report on vessel registration, permits, fishing licence, details of number of fishers on board, authorization, licence and permits, occupational safety, hygiene and well-being of seamen. Fines of 400,000 baht per seaman apply.

<table>
<thead>
<tr>
<th>Act Governing the Right to Fish in Thai Fishery Waters, B.E. 2482 (1939)</th>
<th>Regulates fishing in Thai territorial waters. Section 7 of this Act prohibits ‘alien’ crew, with some exceptions, meaning that the crew cannot comprise more than 25% foreigners. Section 8 requires permits to be present at all times, Section 9 allows boarding and inspecting of fishing vessels and Section 10 allows seizure and legal proceedings.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministerial Regulation on Labour Protection in Sea Fishery Work</td>
<td>In effect since December 2014. Developed in accordance with ILO Convention No. 188 (2007) on Work in Fishing (which Thailand has not yet ratified). The Regulation increases the minimum age of workers from 16 years old to 18 years old, guarantees minimum rest and holidays, makes contracts and safety training mandatory.</td>
</tr>
<tr>
<td>Marine Department Regulation on Boat Registration</td>
<td>Requires all fishing boats 30 tonnes or larger to be registered with the Marine Department, and for employers to present documents for each worker to the Marine Department for verification</td>
</tr>
<tr>
<td>Other</td>
<td></td>
</tr>
<tr>
<td>The Navigation in Thai Waters Act B.E. 2456</td>
<td>In relation to actions at sea</td>
</tr>
<tr>
<td>The Thai Vessels Act, B.E. 2481</td>
<td>In relation to actions at sea</td>
</tr>
<tr>
<td>Act/Order/Notification</td>
<td>Description</td>
</tr>
<tr>
<td>------------------------</td>
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</tr>
<tr>
<td>Immigration Act B.E.2522</td>
<td>In relation to immigration and migrant workers</td>
</tr>
<tr>
<td>Alien Working Act B.E. 2551</td>
<td>In relation to immigration and migrant workers</td>
</tr>
<tr>
<td>NCPO Order No.10/2558</td>
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<tr>
<td>NCPO Order No.24/2558</td>
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<tr>
<td>CCCIF Notification No.15/2558</td>
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</tbody>
</table>
## Annex: Key Actors

<table>
<thead>
<tr>
<th>Agency</th>
<th>Role in respect of trafficking into the fishing industry</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Anti-trafficking agencies</strong></td>
<td></td>
</tr>
<tr>
<td>Ministry of Social Development and Human Security (MSDHS)</td>
<td>Lead agency for Thailand’s counter-trafficking response. Receives referrals where there is suspicion that a person is a victim of trafficking. Section 33 of the Anti-Trafficking Law states that MSDHS is to consider providing assistance to trafficked persons, including food, shelter, medical attention and treatment, physical and mental rehabilitation, education, training as well as legal aid to return to their country of origin and claim compensation.</td>
</tr>
<tr>
<td>Division of Anti-Trafficking in Persons, Ministry of Social Development and Human Security (DATIP)</td>
<td>Operates four shelters in Thailand to assist adult men (Chaiing Rai, Pathum Thani, Ranong and Songkhla). Responsible for leading MSDHS anti-trafficking projects and programmes and for coordinating anti-trafficking Committees and Sub-committees established under the Anti-Trafficking Act and assistance to victims.</td>
</tr>
<tr>
<td>Provincial level MSDHS</td>
<td>Provincial level Ministry of Social Development and Human Security (MSDHS) are responsible for sending social workers to victim screenings and identification activities.</td>
</tr>
<tr>
<td>Multi-disciplinary Teams</td>
<td>Multi-Disciplinary Teams (MDTs) within the MSDHS are formed in every province, consisting of government officers from various ministries, including Royal Thai Police (RTP), including separate representatives from the Immigration Bureau, provincial level MSDSH usually a social worker. MDTs are responsible for screening victims of trafficking in provinces (including by conducting boat inspection patrols to identify victims of trafficking) and are responsible for protecting victims from the moment of first contract through to prosecution proceedings.</td>
</tr>
<tr>
<td>One-Stop Service Centres (OSSC)</td>
<td>Register migrant workers and support them to access health and medical care. (A registration drive resulted in registration of in 22 coastal provinces and in Bangkok from 25 November 2015 – 22 February 2016. As of 7 January 2016, 25,730 migrant workers in the seafood processing industry were registered, consisting of 21,135 persons from Myanmar, 469 Laotians, and 4,126 Cambodians).</td>
</tr>
<tr>
<td>One-Stop Crisis Centers (OSCC)</td>
<td>Government-run centers to register undocumented migrant workers from Myanmar, Laos, and Cambodia and their dependents. Grants temporary stays and temporary work permits to registered migrants, provides health checks, supports migrants to purchase health insurance for themselves and their children, and records them in the</td>
</tr>
<tr>
<td><strong>Agency</strong></td>
<td><strong>Role in respect of trafficking into the fishing industry</strong></td>
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</tr>
<tr>
<td><strong>Anti-trafficking agencies</strong></td>
<td></td>
</tr>
<tr>
<td>MOI’s nationwide online citizen database system, along with Thai nationals. Operates a ‘1300 hotline’. MSDHS program that focuses several issues including human trafficking and child labour. Interpreters available for callers speaking English, Burmese, Khmer, Vietnamese, Chinese, and Thai Yai (Shan).</td>
<td></td>
</tr>
<tr>
<td><strong>Department of Special Investigations (DSI)</strong> Anti-Human Trafficking Centre within the Department of Special Investigation (DSI) of the Ministry of Justice</td>
<td>Department of Special Investigation is mandated to conduct investigations of cases of complex nature, including trafficking in persons cases as of 2011. DSI investigates complicated human trafficking crimes, including those related to government officials’ complicity and transnational or organized crime. MOU between the RTP and DSI states that a NGO or social worker can choose which entity will investigate and that such entity must work on the case from start to finish. Involved in raids.</td>
</tr>
<tr>
<td><strong>Anti-Trafficking Division (AHTD) of the Royal Thai Police</strong></td>
<td>Involved in investigating specific cases of trafficking referred to them. The Royal Thai Police is the main authority for investigating trafficking in persons in Thailand. They can use the VOT screening form, and refer to MSDHS where there is strong evidence of trafficking. Enforces laws specifically related to forced labor, human trafficking, and commercial sexual exploitation of women and children. Operate AHTD ‘Hotline 1191’ to receive complaints regarding human trafficking and violence against children and women.</td>
</tr>
<tr>
<td><strong>Maritime institutions</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Royal Thai Marine Police (RTMP)</strong></td>
<td>Under the Royal Thai Police. Leading law enforcement agency at sea, with authority to board and search vessels in coastal waters (being up to 12km from shore). May also conduct pre-departure inspections of some boats and interviews with fishing crews in cooperation with the Thai Fisheries Association. Does not have legal authority to formally investigate and refer cases for prosecution; this authority lies with the local (Phu Torn) police. Marine police can take immediate action against fishing boats that employ underage workers and refer them to MSDHS.</td>
</tr>
</tbody>
</table>
| **Royal Thai Navy (RTN)** | Has law enforcement authority beyond 12km from coastal waters. National Maritime Enforcement Cooperation Centre (MECC) operates under the command of the RTN, including all key agencies on maritime issues. (Reportedly an information
<table>
<thead>
<tr>
<th>Department of Fisheries (DOF) under the Ministry of Agriculture and Cooperatives (MOAC)</th>
<th>Responsible for licencing fishing equipment. Focus is on expanding fisheries production. Has boats for carrying out inspection but does not carry out significant inspections at sea.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marine Department under the Ministry of Transportation</td>
<td>Registers vessels and operators and issues Seafarer documents for fishermen on Thai boats. Concerned with safety of fishers, in terms of length of time a worker is aboard a fishing boat but trafficking does not fall within core work. Marine department has authority to board and inspect vessels and may delegate this authority, but conducts few inspections. Focus is mainly on reviewing documentation; under the <em>Ministerial Regulation to Protect Labour in the Sea Fishing Industry</em> B.E.2557, the Marine Department inspects seaman books and permission for fishermen to work on board as part of operations team. At the provincial level, majority of boat owners reportedly do not register their vessels as required by law, resulting in low regulation and control.</td>
</tr>
</tbody>
</table>

### Immigration and Labour

<table>
<thead>
<tr>
<th>Immigration Bureau</th>
<th>Part of the Royal Thai Police. Responsible for checking fishermen leaving and arriving in Thailand and carrying out inspections. Authorized to carry out inspections on board fishing boats.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Labour Protection and Welfare (DLPW) under the Ministry of Labour (MOL)</td>
<td>Relevant where there are possible violations of <em>Labour Code</em>. Enforces labour laws, including the <em>Labour Protection Act and Occupational Safety, Health, and Environment Act</em>, through workplace inspections. DLPW telephone hotline, ‘Hotline 1546’, answers questions involving working conditions and receives complaints from the public about child labour.</td>
</tr>
<tr>
<td>Fishing Coordination Centers (operating jointly by the Department of Employment, DLPW, and the Marine Police)</td>
<td>Monitor and inspect working conditions of fishing vessels. Can carry out inspections on board vessels. Inspects employment contracts and crew lists as part of operations team under the <em>Ministerial Regulation to Protect Labour in the Sea Fishing Industry</em> B.E.2557. Supports regularization of migrants through registration process. The Ministry of Labour has carried out awareness-raising on labour protection standards on (under Royal Ordinance on Fisheries Act, B.E. 2557) with employers and workers in fishery establishments in 22 coastal provinces, including Ranong, Trang and Samut Sakhon.</td>
</tr>
</tbody>
</table>
## Other actors

### Associations

The Thai Fisheries Association (TFA) and the Thai Overseas Fisheries Association (TOFA) operate at the provincial level; not all fishing boat owners are members.  
Migrant Karen Labour Union (MKLU); Seafarers Union of Burma (SUB); Federation of Trade Unions - Burma (FTUB)

### International Organizations

For instance, IOM may be able to support with emergency accommodation, repatriation. Also may be able to provide interpreters (Myanmar / Rohingya).  
UNHCR is relevant when a victim expresses a fear of being returned home.

### NGOs

For instance, Raks Thai Foundation, Stella Maris, World Vision Foundation of Thailand, Labour Rights Promotion Network (LPN) and the Foundation for AIDS Rights (FAR) support by offering translation and interpretation for Thai government officials. Their work is case-work oriented. They make referrals for action and assistance as needed. The Mirror Foundation, partners with several Thai NGOs in assisting trafficked fishermen.

## Other provincial-level actors

### Ranong

Provincial Coordinator Centre for Sea Fishery Workers  
Sea Fishery Worker Management Center  
Non-MSDHS shelters: In Ranong, women are referred to shelters in Srisuras shelter in Suratthani province (4 hours away from Ranong by road). Family and children home selected to be emergency shelter for women and children VOTs.  
SDHS; World Vision Foundation for Thailand  
Provincial Operation Centre on Prevention and Suppression of Human Trafficking (POCHT); monthly meetings of 16 government agencies and two IO / NGOs are held to update and discuss counter-trafficking in Ranong

### Samut Sakhorn

Provincial Coordination Centre for Sea Fishery Workers  
Sea Fishery Worker Management Centre  
Stella Maris Songkhla: NGO active in Samut Sakhorn, where victims are occasionally accommodated.
| Labour Rights Promotion Network Foundation (LPN): NGO active in Samut Sakhorn that has referred cases to the DSI and ATPD and may be able to assist in providing interpretation.  
Raks Thai Foundation (RTF)  

| Trang  
Provincial Coordination Centre for Sea Fishery Workers: to be established in Trang in 2016.  
Sea Fishery Worker Management Centre.  
Trang Home for Children and Family: provides emergency support and shelter for rescued victims of trafficking before they are transferred to appropriate MSDHS facilities.  
Raks Thai Foundation (RTF) |
Annex: Key Resources

The following resources are offered for further information.

**Key reports and articles relevant to exploitation in the Thai seafood and shrimp industry**

*Protecting peace and prosperity in Southeast Asia: synchronizing economic and security agendas* (UNODC, 2016)


*Health and Human Trafficking in the Greater Mekong Subregion’* (IOM / London School of Hygiene and Tropical Medicine (LSHTM), 2015)


*Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (UNODC, 2013)

*Exploitative Labour Practices in the Global Shrimp Industry* (Accenture, 2013)

*Casted at Sea: Forced Labour and trafficking in fisheries* (ILO, 2013)

*Fishy business: Trafficking and labour exploitation in the global seafood industry* (World Vision, 2013)

*Trafficking of Fishermen in Thailand* (IOM, 2011)

*Mekong Challenge: underpaid, overworked and overlooked* (ILO, 2006)

*Out of Sight, Out of Mind: Human Trafficking & Exploitation of Migrant Fishing Boat Workers in Thailand* (Solidarity Centre, 2009)

**Manuals, tools and other resources for criminal justice practitioners**


*Anti-Human Trafficking Training for Criminal Justice Practitioners* (UNODC, 2009)

*IOM Handbook on Direct Assistance for Victims of Trafficking* (IOM, 2007)

*Recommended Principles and Guidelines on Human Rights and Human Trafficking,* (OHCHR, 2002)
Legal instruments


The Royal Thai Government, Ministerial Regulations

Preliminary Interview Schedule for Screening Victims of Trafficking