



# REPORT ON HUMAN TRAFFICKING, FORCED LABOUR AND FISHERIES CRIME IN THE INDONESIAN FISHING INDUSTRY





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This publication is produced with the generous financial support of

**Australian Government Department of Immigration and Border Protection**



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# ACKNOWLEDGEMENTS

This report represents a joint research effort by the Indonesian Ministry of Marine Affairs and Fisheries (KKP), Indonesia Presidential Task Force to Combat Illegal Fishing, the International Organization for Migration (IOM) Indonesia, and Coventry University.

The authors from the Ministry of Marine Affairs and Fisheries (KKP) and the Indonesia Presidential Task Force to Combat Illegal Fishing included Dr. Mas Achmad Santosa, Dr. Yunus Husein, Pahrur Roji Dalimunthe, and Maria Anindita Nareswari.

Dr Ioannis Chapsos from Coventry University provided invaluable contributions on the maritime security and human security implications of Illegal, Unreported and Unregulated (IUU) fishing.

The IOM Indonesia writing team included Nurul Qoiriah, Dr. Peter Munro, Among Resi, Ricky Ramon, Gema Bastari, Justitia Veda, Dr. Wayne Palmer, and Elise Caron. Thanks also go to Shafira Ayunindya for her mentoring and support given to the trafficking team during the writing process, and to Diah Zahara for her insights into the interview process with the victims. Several of the IOM authors were also involved in the rescue, interviews, and repatriation of the fishers. Thanks go to Mr. Mark Getchell, Chief of Mission of IOM Indonesia, who has been an ongoing champion of the plight of the rescued fishers and managed the trafficking team through the whole writing process and Minister Susi Pudjiastuti for the support on putting an emphasis on combating illegal fishing and human rights abuses in the Indonesian fishing industry and initiating and supporting government actions to release, rescue and remediate victims from Benjina and Ambon.

## ACKNOWLEDGEMENTS

Special thanks go to Mr. Steve Hamilton, Deputy Chief of Mission IOM Indonesia, who was instrumental in the rescue of the victims of trafficking in Benjina and Ambon and was insistent that the research reach a wide audience to prevent future exploitation of fishers both in Indonesia and internationally.



# FOREWORD



***Susi Pudjiastuti,  
Minister of Marine Affairs and Fisheries  
of the Republic of Indonesia***



Let us give praise to the Allah SWT who has graced us with His blessing and guidance so that the Joint Research regarding Human Trafficking and Forced Labour in the Indonesian Fishing Industry and Fisheries Crime can be completed. The writing of the report which constitute a cooperation between the Task Force to Combat Illegal Fishing (Task Force 115), the Ministry of Marine Affairs and Fisheries (KKP) and the International Organization for Migration (IOM Indonesia) should be appreciated, considering this report is the first and only comprehensive and critical report which depict the human trafficking and forced labour in the fishing industry situation in Indonesia.

Under the leadership of the Jokowi Administration, KKP established three main pillars to function as the mission of the Ministry of Marine Affairs and Fisheries (KKP), namely sovereignty, sustainability and prosperity. Those 3 (three) main pillars are then translated into several policies, beginning with the moratorium policy as well as the analysis and evaluation of fishing vessels that were built overseas. Through this policy, based on a report by the Associated Press, the Task Force for the Prevention and Eradication of Illegal Fishing uncovered slavery practices in Benjina. The finding was then followed by the Ambon case, a discovery of slavery within the fishing industry, which according to the case, was the biggest involving slavery in the 21st century.

Legal and non-legal remedies have been made, in order to impose upon the perpetrators the appropriate punishment as well as assure that the victims receive remedial rights, restitution and repatriation to their home countries. In March 2016, 8 (eight) defendants were found guilty by the Tual District Court and, with the assistance of IOM Indonesia, 1500 victims have returned to their home countries.

Aside from the human trafficking case within the domestic fishing industry, human trafficking is also perpetrated in foreign fishing boats which involve Indonesian crews. Through Task Force 115, Indonesia have uncovered and conducted legal process towards human trafficking cases which involve international illegal fishing boats such as FV. Viking, FV. Jiin Horng No. 106 and FV. Hua Li 8. Finally, on July 2016, Task Force 115 apprehended human trafficking perpetrators onboard a Chinese fishing boat operating in Iran. These efforts constituted an initial step in terms of KKP's seriousness in protecting Indonesian crews overseas.

Human trafficking is a modern form of slavery and one of the worst forms of treatment in regards to the violation towards the dignity of man. Unfortunately, the human trafficking issue in fisheries has yet to be comprehensively identified with a lack of adequate legal instruments, which makes workers on fishing boats susceptible to acts of slavery. For that reason, Greenpeace categorized the work on fishing boats to be identical to '3D' (dirty, dangerous and demeaning).

As an initial step of my concern towards this issue, I have stipulated the Minister of Marine Affairs and Fisheries Regulation Number 35 year 2015 on the Fisheries Human Rights System and Certification. This regulation has become the prerequisite of fishing business permit as well as fish capture permit and obligates fishery businessmen to comply to human rights protection standards. That being said, Indonesia still has homework towards the approximately 250.000 Indonesian crews on foreign vessels operating across continents that remain unprotected.

In the future, through this report, by engaging the ministry and other agencies,

there needs to be a discussion on how to resolve the human trafficking issue which involves Indonesian crews on foreign vessels. I hope the Joint Research on Human Trafficking and Forced Labour in the Indonesian Fishing Industry and Fisheries Crime can become a reference for cross-sectoral stakeholders, in developing systems and regulations, in order to prevent and eradicate human trafficking in the fishing industry

**Jakarta, August 2016**  
**Minister of Marine Affairs and Fisheries**



**Susi Pudjiastuti**



# FOREWORD



***Professor Mike Hardy  
Executive Director  
Centre for Trust, Peace and Social Relations,  
Coventry University***



Maritime spaces create both opportunities and challenges for coastal communities and for wider society worldwide. The research described in this Report underlines the real and measurable problem of ungoverned maritime spaces and the transnational organised criminal networks that thrive under the cover of apparently legitimate fishing and other businesses. This study highlights how shortcomings in maritime security policy in this part of the world are creating major negative impact on communities and especially on vulnerable individuals, placing both at risk of active organised crime.

Maritime security is a multidimensional and multifaceted contemporary challenge for the economy, for food, energy and political security. Illegal, unreported and unregulated fishing, provides a powerful example of the nexus between maritime and human security, encapsulating all the dimensions and risks. This nexus represents the conceptual approach that this report aims to highlight. It remains a 21<sup>st</sup> Century tragedy that human smuggling, trafficking and forced labour should continue to flourish.

Coventry University's Centre for Trust, Peace and Social Relations (CTPSR) has worked closely with the International Organisation for Migration (IOM) Indonesia and the Ministry for Marine Affairs and Fisheries (KKP) throughout the several last years, committed to raise awareness, build capacities in Indonesia, contribute to the improvement of a common understanding of maritime security through the human security lens and disseminate research findings which will support these joint efforts. I am confident that this particular report will make a significant contribution towards putting this issue firmly on the international agenda.

By reaching a multi-stakeholder audience that embraces policy makers, practitioners, academics, NGOs and civil society, we seek to establish a community of maritime security practice, improve governance and inter-agency collaboration and enhance maritime security in the biggest archipelagic country of the world. We are very pleased to be aligned with President Joko "Jokowi" Widodo's vision for Indonesia as a global maritime axis.

Our overarching responsibility, however, remains to vulnerable people and their communities and to support the elimination of human suffering and exploitation of vulnerable individuals by the illicit activities of transnational organised crime.



**Professor Mike Hardy**  
**Executive Director**  
**Centre for Trust, Peace & Social Relations**  
**Coventry University**

# FOREWORD



**Mark Getchell**  
**Chief Of Mission IOM Indonesia**

In 2015, IOM Indonesia worked closely with the Ministry of Marine Affairs and Fisheries, the Indonesian National Police, the Directorate General of Immigration and other Indonesian Government agencies in the mass rescue, support and repatriation of foreign fishers in Benjina and Ambon. The scale of the exploitation and abuse made it one of the largest cases of human trafficking for labour exploitation to ever be uncovered.

Following the rescue, IOM Indonesia conducted interviews with the fishers and collected firsthand accounts of deceptive recruitment, abuse, non-payment of wages and even murder. The heartrending stories of these fishers could not be left untold. As a result, IOM Indonesia embarked on a collaboration with the Ministry of Marine Affairs and Fisheries, the Presidential Task Force on the Prevention and Eradication of Illegal, Unreported and Unregulated Fishing (IUU Fishing) and Coventry University in the research and drafting of this important report. This report documents exploitation on a massive scale in an industry where abuses continue to take place globally.

The unique collaboration between IOM, the Government of Indonesia and Coventry University has enabled the issues of human trafficking, forced labour, fisheries crimes and IUU fishing to be considered from a multi-disciplinary

perspective. This report provides an insight into the fishing industry, the fishers and their exploiters.

As Chief of Mission of IOM Indonesia, I have had many occasions to meet the fishers and to travel to areas where the exploitation took place. I have also had the pleasure of working closely with Minister Susi Pudjiastuti and the Ministry of Marine Affairs and Fisheries in exploring ways to combat trafficking in the fishing industry and promote the human rights of fishers.

It is important that these tragic events not be forgotten and that this report be used by governments to inform their ongoing law enforcement efforts and policy making. The report should also prove useful to the social sector in encouraging the provision of support services to victims of trafficking and to the private sector and consumers in respectively highlighting the criminal activity and exploitation potentially underpinning their profits or the fish on their plate.

The rescue of the fishers in Benjina and Ambon led to governments in the Association of Southeast Asian Nations (ASEAN) focusing on the fishing industry and the exploitation of fishers. Although this focus is in its early days, the signs are encouraging that governments sincerely want to combat both human trafficking and IUU fishing. Much still remains to be done.

It is my hope that this report can serve as a catalyst for governments, non-government organisations, the private sector and consumers alike to take concerted action against human trafficking in the fishing industry. The human trafficking cases documented in Benjina and Ambon, while quite significant, still only represent one small snapshot of the much larger global exploitation and abuse of fishers. It is the scale of this exploitation that demands broad collaboration in order to effectively combat it.

**Jakarta, July 2016**

**Chief Of Mission IOM Indonesia**



**Mark Getchell**



# EXECUTIVE SUMMARY

In 2015 the mass rescue of foreign fishers trafficked for labour exploitation on Illegal, Unreported and Unregulated (IUU) fishing vessels in Benjina and Ambon highlighted the lack of adequate policing of the fishing industry and a lack of scrutiny of working conditions on vessels and in fish processing plants.

The case highlighted the expansive nature of this transnational criminal venture. Victims were recruited from numerous countries and forced to work illegally within Indonesia. National laws and regulations were breached and international conventions ignored. Front companies were established and illegally caught fish transshipped in the Indonesian EEZ and boundary areas, thus preventing interception by the Indonesian authorities. Ultimately the catch entered the global supply chain and was handled by legitimate suppliers of fish, unaware of its provenance and the human toll behind the catch.

The situation in Benjina and Ambon is symptomatic of a much broader and insidious trade in people, not only in the Indonesian and Thai fishing industries, but indeed globally.

This research provides a glimpse into a far-reaching and well-entrenched criminal industry operating alongside the legitimate fishing industry, and often overlapping. The situation represents the spread of transnational organized crime at sea and the threat it poses as a maritime security threat to nations, and a human security threat to fishers, seafarers and fishing communities.

Human Trafficking and Forced Labour in Indonesia fishing industry is characterized by:

- systematic and highly organized deceptive recruitment and exploitation of fishers and seafarers from multiple source countries in South East Asia;

- witness testimony of murder and the unlawful disposal of corpses;
- extreme cases of labour exploitation with fishers working in excess of 20 hours per day up to 7 days per week; and
- a lack of awareness at the local level of human trafficking and forced labour and associated criminal activity.

IUU fishing in Indonesia is characterized by:

- overlapping Indonesian government legislation and regulations has created confusion over the responsibilities of key government bodies responsible for the oversight of worker recruitment, conditions, and monitoring of fishing companies, manning agencies, and fishing vessels;
- collaboration of more than 2 people: double-flagged vessels are registered in two different countries. This act of forging the deletion certificate is done by at least the ship-owner, the backers and field actors;
- suspected commission of serious criminal offences: illegal fishers violate numerous laws, from deactivating the transmitter, using prohibited and destructive fishing gear, illegal transshipment, forging vessel documents and the logbook;
- foreign masters working illegally for indefinite periods of time: although there has been a national law prohibiting the use of foreign crews, there are still lots of foreign fishing masters working on board vessels undertaking lengthy voyages. This shows that there is considerable planning to conduct the crime;
- the pursuit of profit and/or power: the very reason for fisheries crime is to gain more profit and financial benefits with the least minimum effort in regards to compliance and exploiting the corruptible tendencies of some high level authorities and politicians;
- operating at an international level: illegal fishers operate in multiple countries, fish in various areas, fly flags of convenience and land their catch directly to another State, and sell the fish in the international market at high cost; and
- using commercial or businesslike structures: most illegal fishing operations are managed using large companies, often established with foreign investment, have valid licences, yet they are violating laws and evading taxes.

# RECOMMENDATIONS

- That port authorities record the movements of vessels, particularly foreign affiliated vessels;
- That port officials fisheries investigators be trained in identifying indicators of human trafficking , forced labour and IUU fishing;
- Minimise overlapping regulation / authority between Government agencies;
- That all deaths on board fishing vessels or in port are investigated and an autopsy performed;
- That Flag States take more responsibility for the actions of IUU Fishing vessels flying under their flags;
- Efforts to establish a global vessel record (registry) are supported;
- Support increased inspections and accessibility to fishing vessels and remote fish processing plants;
- Support an increased role for investigators (navy, marine police and fisheries) to conduct inspections of fishing vessels for evidence of trafficking and IUU fishing;
- Conduct human rights due diligence and human rights audits on fishing companies before issuing licences;
- Establish centres for fishers and seafarers at ports (centre for fishers to report abuse, injuries, deaths and seek protection);
- Support multi-agency inspections and investigations at ports;
- Introduce a multi traceability policy to prevent human rights violations and reduce IUU fishing; and
- Increase and consumer awareness of human trafficking in the fishing industry.



# LIST OF ACRONYMS

AIS	Automatic Information System
AP	Associated Press
COI	Certificate of Identity
DGI	Directorate General of Immigration
EEZ	Exclusive Economic Zone
FAO	Food and Agriculture Organization
Fisher	A person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel (Work in Fishing Convention)
FOC	Flags of Convenience
GDP	Gross Domestic Product
ILO	International Labour Organization
INP	Indonesian National Police
IOM	International Organization for Migration
ITF	International Transport Workers' Federation
IUU	Illegal, Unreported and Unregulated (Fishing)
KKP	Ministry of Marine Affairs and Fisheries
Lao PDR	Lao People's Democratic Republic
MLC	Maritime Labour Convention
MoSA	Ministry of Social Affairs
NGO	Non-Governmental Organization
PSC	Port State Control
PSMA	Port State Measures Agreement
RFMO	Regional Fisheries Management Organisation
Satgas	Task Force
Seafarer	Any person who is employed or engaged in any capacity on board a seagoing ship (Maritime Labour Convention)
SIKPI	Fish Freight Permit
SIPI	Fishing Permit
SIUP	Fishery Business Permit

## LIST OF ACRONYMS

TD	Travel Document
TiP	Trafficking in Persons
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNODC	United Nations Office on Drugs and Crime
UPI	Fish Processing Units
VMS	Vessel Monitoring System
VoT	Victims of Trafficking

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# METHODOLOGY AND RESEARCH LIMITATIONS

The report draws from investigations conducted by the Ministry of Marine Affairs and Fisheries (KKP) and Indonesia Presidential Task Force to Combat Illegal Fishing into IUU Fishing and the assessments conducted by the International Organization for Migration (IOM) Indonesia with fishers and seafarers, both foreign nationals and Indonesians, who were identified as victims of trafficking and provided IOM assistance.

The research on human trafficking in the Indonesian fishing industry comes from three specific sources of research:

1. IOM Indonesia screening interviews of 1342 fishers rescued from Benjina and Ambon in 2015;
2. Questionnaires administered to 285 foreign fishers from Benjina and Ambon; and
3. IOM Indonesia interviews with 283 returned Indonesian fishers and seafarers.



Picture 1:  
IOM Indonesia  
conducting an  
interview with a  
fisher  
(Source: IOM)



# INTRODUCTION

**D**uring 2015 the Indonesian Ministry of Marine Affairs and Fisheries (KKP) and the International Organization for Migration (IOM) Indonesia responded to an Associated Press (AP) investigative story on trafficking and collaborated in the unprecedented rescue of foreign fishers trafficked for labour exploitation in the Indonesian fishing industry in Benjina and Ambon. The fishermen were recruited from Cambodia, Myanmar, Thailand, and Lao PDR and worked under exploitative conditions in Indonesian waters. The AP story had identified fishers it believed to be victims of trafficking. When the KKP, Indonesian National Police (INP) and IOM arrived at the location, more fishermen appeared from the surrounding areas, all claiming to have been exploited and abused. An estimated 1342 fishers sought assistance. Unfortunately the fishing companies involved in the exploitation of the workers were able to repatriate most of the Cambodian and Thai nationals before they could be interviewed by the police.

The scale of labour trafficking into the fishing industry is believed to be extensive however little empirical data has existed to support this claim. After the rescue operation IOM Indonesia conducted structured questionnaire based interviews with 285 of the trafficked fishermen. These interviews provide the basis for the research and analysis in this report. The report represents one of the largest qualitative assessments conducted on victims of labour trafficking internationally. The interviews also yielded extensive information on the dynamics of Illegal, Unreported and Unregulated (IUU) fishing conducted by foreign vessels in Indonesia. As such they provide invaluable data for agencies combating transnational organized crime at sea.

The case highlighted the expansive nature of this transnational criminal venture. Victims were recruited from numerous countries and forced to work illegally within Indonesia. National laws and regulations were breached and international conventions ignored. Front companies were established and

illegally caught fish transshipped in the Indonesian EEZ, thus preventing interception by the Indonesian authorities. Ultimately the catch entered the global supply chain and was handled by legitimate suppliers of fish, unaware of its provenance and the human toll behind the catch.

Trafficking into the fishing industry is not new yet it has gone largely unpunished for too many years. The situation in Benjina and Ambon is symptomatic of a much broader and insidious trade in people, not only in the Indonesian and Thai fishing industries, but indeed globally.

This research report considers the international ramifications of Benjina and Ambon as a glimpse into a far-reaching and well-entrenched criminal industry operating alongside the legitimate fishing industry, and often overlapping. The situation represents the spread of transnational organized crime at sea and the threat it poses as a maritime security threat to nations, and a human security threat to fishers, seafarers and fishing communities.

## **Illegal, Unreported and Unregulated (IUU) Fishing and Maritime Security**

Illegal, Unreported and Unregulated (IUU) fishing in Indonesia is a maritime security threat and needs to be regarded as such. While IUU fishing itself is not regarded as a transnational crime, it does involve transnational criminal activity such as trafficking in persons. The seriousness of the crimes committed at sea reinforces the need for IUU fishing in Indonesia to be regarded as a serious maritime security threat.

The Secretary General of the United Nations in his 2008 report to the General Assembly, under the title “Oceans and the law of the sea” addressed maritime security.<sup>1</sup> After making clear that there is no universally accepted definition, but that different versions and meanings are attributed to the term depending on the context and the user, he identified seven specific threats to maritime security: Piracy and armed robbery at sea; terrorist acts involving shipping; offshore installations and other maritime interests; illicit trafficking in arms and

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<sup>1</sup> UN (2008). Oceans and the law of the Sea. Report of the Secretary General UN General Assembly. A/63/63.

weapons of mass destruction; illicit traffic in narcotic drugs and psychotropic substances; smuggling and trafficking of persons by sea; illegal, unreported and unregulated fishing; and intentional and unlawful damage to the marine environment.<sup>2</sup>

The UN Secretary General urged states to broaden their approach to maritime security from the state-centric 'narrow conception' to a human-centric approach. He stressed that new evolving threats go beyond the use of force and state boundaries, reflecting the human insecurity conditions ashore; these cannot be addressed through the traditional means such as projections of naval power and use of force by naval assets, therefore a more collective maritime security response is required.<sup>3</sup>

Maritime security is a contemporary multidimensional security challenge, which entails several threats (such as maritime piracy, human trafficking, smuggling, etc.) that challenge international security. However, their metamorphosis in their contemporary form and in the globalised marine environment, results in the proliferation and increasing involvement of non-state actors in maritime security issues and inevitably in transnational organised crime activities. In this framework, the lack of an internationally accepted definition demonstrates maritime security's multidisciplinary nature but also the broad spectrum of the involved stakeholders.<sup>4</sup>

The existing and adopted maritime security strategies conceptualise and approach maritime security from a distinct lens, based on local/regional distinctiveness, prioritisation of interests and the significance of each threat in their own context.<sup>5</sup> Although most of the mapped maritime security threats have a place in all the reviewed strategies, their prioritisation is different. Each actor includes more (or less) threats, broadens and deepens the contested concept according to his own risk assessment, involved actors and emerging threats.<sup>6</sup>

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<sup>2</sup> UN. (2008). *Op Cit*, p33.

<sup>3</sup> UN. (2008). *Op Cit*.

<sup>4</sup> Chapsos, I. (2016). Is Maritime Security a Traditional Security Challenge? *Exploring the Security Landscape: Non-Traditional Security Challenges*. A. J. Masys, (ed). Switzerland, Springer International Publishing. p74.

<sup>5</sup> AU (2014). 2050 Africa's Integrated Maritime (AIM) Strategy, African Union; EU (2014). European Union Maritime Security Strategy, European Union. 11205/14; and UK (2014). The UK National Strategy for Maritime Security London.

<sup>6</sup> Chapsos, I. (2016). *Op Cit*. p74.

In this framework, IUU fishing remains on the top of the maritime insecurities' list in all the above strategies, and involves complex webs of actions and entities, which have undermined international conservation and management efforts.<sup>7</sup>

Distinguishing and defining the three components of IUU fishing, the term Illegal specifically refers to "fishing which is conducted by national or foreign vessels in waters under the jurisdiction of a state, without the permission of that state, or in contravention of the laws and regulations of that state."<sup>8</sup> Unreported fishing refers to (intentional and unintentional) fishing activities "which have not been reported, or have been misreported to the relevant national authority, in contravention of national laws and regulations," or similar lack of reporting or misreporting to regional fisheries management organizations.<sup>9</sup> Finally, Unregulated fishing is another broader term which includes "...fishing conducted by vessels without nationality, or those flying the flag of a country not party to a Regional Fisheries Management Organisation<sup>10</sup> (RFMO), or more generally fishing in a manner which contravenes the regulations of the RFMO, [...] or in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law".<sup>11</sup>

IUU fishing is another challenge which highlights the transnational and cross-boundary nature of maritime insecurity, irrespectively of states' sovereign territories, since it has been reported in many different regions and in international waters and zones under littoral states' jurisdiction.<sup>12</sup>

Furthermore, and on several occasions it has established links with organised crime networks and activities; a precondition for the perpetrators is to remain 'under the radar' and use the fishing industry as a legitimate business cover for their illicit activities. This complexity and multidimensionality of maritime security in general and crime in the fishing industry in particular, is highlighted in a comprehensive study where the UN Office on Drugs and Crime (UNODC)

<sup>7</sup> Committee on Fisheries (2007). Combatting illegal, unreported and unregulated fishing through monitoring, control and surveillance. Port State measures and other means, Twenty Seventh Session edn., Translated by FAO. COFI/2007/7.

<sup>8</sup> Bondaroff, P., et al. (2015). The Illegal Fishing and Organised Crime Nexus: Illegal Fishing as Transnational Organised Crime, Global Initiative Against Transnational Organized Crime and The Black Fish. p12.

<sup>9</sup> *Ibid.*

<sup>10</sup> See European Commission, 'Regional fisheries management organisations (RFMOs), available online from [http://ec.europa.eu/fisheries/cfp/international/rfmo/index\\_en.htm](http://ec.europa.eu/fisheries/cfp/international/rfmo/index_en.htm) [accessed March 2016].

<sup>11</sup> Bondaroff, P., et al. (2015). *Op Cit.*

<sup>12</sup> Chapsos, I. (2016). *Op Cit.*p67.

examined and reported criminal activities in the fishing industry. It exposed the extent of forced labour and abuse in the fishing industry, where both children and fishermen are trafficked by organised crime networks.

In parallel, these networks are involved with illegal fishing —both in terms of their practices and focus on endangered species—‘laundering’ illegal catches in the international fisheries market, which can be achieved only with fraudulent documents, transshipments and corruption. As if this was not enough, it also reveals that in most of the cases, these organised crime networks exploit the fishing industry operators’ skills and knowledge of the maritime domain and recruit them in order to expand their illicit activities. Hence, fishing vessels are most often used as the legitimate business cover to facilitate smuggling of migrants, and trafficking of drugs and weapons.<sup>13</sup> In a similar vein, another UNODC report on transnational crime in SE Asia, exposes the extent to which human trafficking, smuggling of migrants, forced labour and sexual exploitation are directly and/or indirectly linked to the fishing industry.<sup>14</sup>

The discussed findings lead us to the obvious but required distinction between IUU fishing and fisheries crime. Although the two have a conceptual correlation and interconnection by default, they are distinct by scope and nature: the former mainly entails fisheries management issues such as the extraction of marine living resources and falls with the focus of the Food and Agriculture Organization (FAO). The latter though, as discussed earlier, includes a whole range of criminal offences, such as document fraud, trafficking and smuggling related crimes, money laundering, etc., mainly perpetrated by organised crime networks, hence falls under the mandate of the UNODC.<sup>15</sup> Again, as already discussed in detail with regards to the definition of maritime security, fisheries crime lacks an accepted legal definition. Thus, fisheries crimes can be defined as “...those criminal offences defined as such in domestic law (including, but not limited to, such offences in marine living resources acts) committed within the fisheries sector”, with the ‘fisheries sector’ referring to the entire value chain from vessel registration to sale.<sup>16</sup>

<sup>13</sup> UNODC (2011). *Transnational Organised Crime in the Fishing Industry*. Vienna, United Nations Office on Drugs and Crime.

<sup>14</sup> UNODC (2013). *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment*, United Nations Office on Drugs and Crime. pp6,7,9,16.

<sup>15</sup> Palma Robles, M. (2014). “Fisheries crime: bridging the gap.” Retrieved 17 March, 2016, from <http://cimsec.org/fisheries-crime-bridging-conceptual-gap-practical-response/12338>.

<sup>16</sup> Witbooi, E. (2015). “Towards a new ‘fisheries crime’ paradigm: challenges and opportunities with reference to South Africa as an illustrative African example.” *Marine Policy* 55: pp43-44.

Another enabling factor for this challenge too, is again coastal states'—and even more developing states'—inefficient and insufficient monitoring, control and surveillance of fishing activities, even over vessels flying their flag. This already difficult task of addressing IUU fishing becomes even more complicated due to the practice of numerous fishing vessels registered with countries other than the country of ownership, commonly known as Flags of Convenience (FOCs— or open registries). As the International Transport Workers' Federation<sup>17</sup> (ITF) reports, ship owners are encouraged to register their vessels in FOCs by cheap registration fees, low or no taxes, and freedom to employ cheap labour. Some FOCs have poor safety and training standards and no limitations in terms of the crew's nationalities, which from a security perspective creates a security gap. Thus, more effective flag states' and port states' control, as well as market related measures, could significantly contribute to eliminating the phenomenon.



Picture 2: IUU fishing vessels in Indonesian Waters (Source: KKP)

## The Fishing Industry in Indonesia

Indonesia is the largest archipelago country in the world with 17,504 islands which spread out with a coastline of 99,030 kilometres making it the second

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<sup>17</sup> See International Transport Workers' Federation (ITF), 'Defining FOCs and the problems they pose', available online from <http://www.itfseafarers.org/defining-focs.cfm/languageID/1> [accessed March 2016].



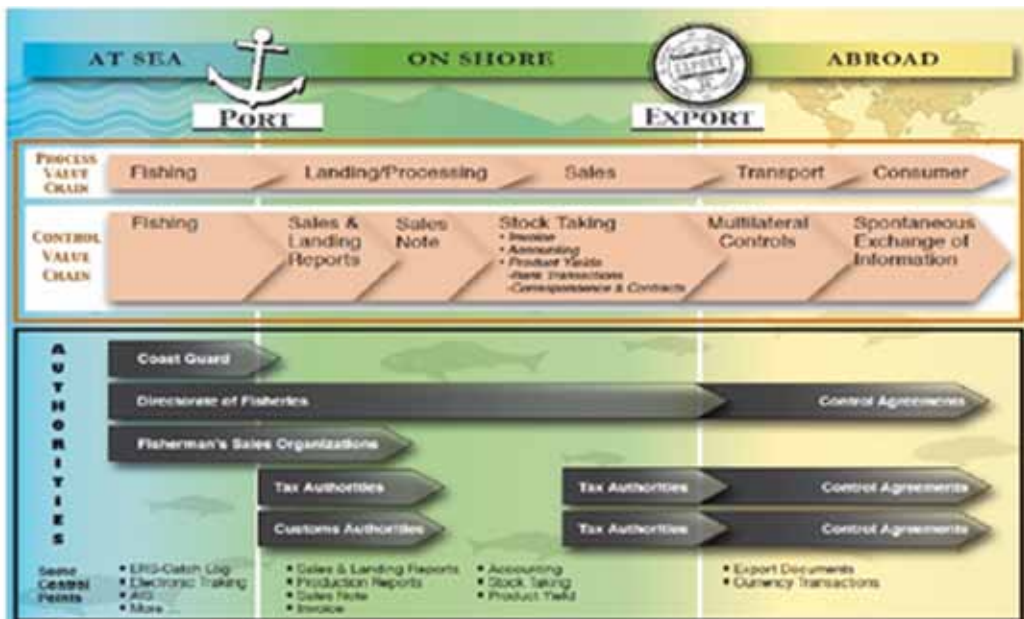
Table 1. Marine capture fisheries: major producer countries

2012 Ranking	Country	Continent	2003	2011	2012	Variation		
						(Percentage)		
			(Toones)					
1	China	Asia	12,212.188	13,536.409	13,869.604	13.6	2.4	
2	Indonesia	Asia	4,275.115	5,332.862	5,420.247	27.0	1.7	
3	United States of America	Americas	4,912.627	5,131.087	5,107.559	4.0	-0.5	
4	Peru	Americas	6,053.120	8,211.716	4,807.923	-20.6	-41.5	
5	Russian Federation	Asia/Europe	3,090.798	4,005.737	4,068.850	31.6	1.6	
6	Japan	Asia	4,626.904	3,741.222	3,611.384	-21.9	-3.5	
7	India	Asia	2,954.796	3,250.099	3,402.405	15.1	4.7	
8	Chile	Americas	3,612.048	3,063.467	2,572.881	-28.8	-16.0	
9	Viet Nam	Asia	1,647.133	2,308.200	2,418.700	46.8	4.8	
10	Myanmar	Asia	1,053.720	2,169.820	2,332.790	121.4	7.5	
11	Norway	Europe	2,548.353	2,281.856	2,149.802	-15.6	-5.8	
12	Philippines	Asia	2,033.325	2,171.327	2,127.046	4.6	-2.0	
13	Republic of Korea	Asia	1,649.061	1,737.870	1,660.165	0.7	-4.5	
14	Thailand	Asia	2,651.223	1,610.418	1,612.073	-39.2	0.1	
15	Malaysia	Asia	1,283.256	1,373.105	1,472.239	14.7	7.2	
16	Mexico	Americas	1,257.699	1,452.970	1,467.790	16.7	1.0	
17	Iceland	Europe	1,986.314	1,138.274	1,449.452	-27.0	27.3	
18	Morocco	Africa	916.988	949.881	1,158.474	26.3	22.0	
<b>Total 16 major countries</b>			<b>58,764.668</b>	<b>63,466.320</b>	<b>60,709.384</b>	<b>3.3</b>	<b>-4.3</b>	
<b>World total</b>			<b>79,674.875</b>	<b>82,609.926</b>	<b>79,705.910</b>	<b>0.0</b>	<b>-3.5</b>	
<b>Share 18 major countries (percentage)</b>			<b>73.8</b>	<b>76.8</b>	<b>76.2</b>			

longest coastline in the world after Canada. The geographical nature of Indonesia means that it has a vast sea area of 5,193,250 km<sup>2</sup> or 75% of Indonesia's total area. 65% of the total 467 regencies/cities in Indonesia are located in the coastal area. Looking at this geographical context, it can be concluded that the main strength of Indonesia is in the sea.

The vast area of Indonesian sea provides incentives in the form of abundant and promising marine and fisheries resources to be exploited and explored to support national development. Indonesia's marine wealth among others is as the largest *marine mega-biodiversity* in the world with 8,500 fish species, 555 seaweed species and 950 biota species associated with coral reefs. Indonesia has potential development for capture fisheries. FAO data in *The State of World Fisheries and Aquaculture* shows that Indonesia is the second biggest producer of capture fisheries in the world after China with the amount of fish production reaching 5,420,247 tons in 2012 (7.3% of global fish production)<sup>18</sup>.

Figure 1. Fisheries Sector Value Chain



(Source: "Evading the Net: Tax Crime in the Fisheries Sector", OECD 2013)

<sup>18</sup> FAO, 2014, *The State of World Fisheries and Aquaculture*, p.10.

Based on the data from the Ministry of Marine Affairs and Fisheries in the Marine and Fisheries Basic Data Analysis 2014 (Analisis Data Pokok Kelautan dan Perikanan 2014), the production of captured fisheries reached 6.20 million tons, the highest in Southeast Asia. This export contributes to the country's income in the form of fisheries exports valued at US\$ 4.64 billion.<sup>19</sup> From the labour point of view, it is estimated that 3.8 million Indonesians are working in the downstream to the upstream of the fisheries industry. The types of fisheries business include activities in the sea (fishing), activities in the fishing ports (landing, processing and selling fish) and exporting fish abroad (transporting and consumption).

Of the 3.8 million workers, a total of 2,641,967 of whom are working as fishers (boat crew/Captain/fishing master) at sea in 550,000 on fishing boats, and the other 913,788 working in other fisheries industries such as Fish Processing Units (Unit Pengolahan Ikan - UPI).<sup>20</sup>

Indonesian fisheries resources have not been managed well in the past. Consequently, the potential natural wealth of Indonesia's fisheries resources has not benefited the Indonesian people. One of the causes has been the growth of illegal, unreported and unregulated fishing (IUU Fishing). IUU fishing activities have become a crime that is harming the Indonesian economy as well as violating the country's sovereignty. IUU Fishing leads to an estimated US\$20 billion worth of lost revenue<sup>21</sup> and approximately 65 percent of Indonesia's coral reefs are considered threatened from it.<sup>22</sup>

IUU Fishing also disrupts the business of small fishermen as it decreases the stock available to them significantly. Because of IUU Fishing the prospects for Indonesian fishermen has fallen, and fishing as a profession is no longer as viable as it used to be. Data from the Badan Pusat Statistik/Central Bureau Statistics Indonesia (BPS) show that based on Census data for the period 2003-2013, the number of traditional fishermen has decreased from 1.6 million to 864,000 households. According to BPS, 0.9 million people (18%) of 47.3 million poor people work as fishermen. As the second biggest producer of captured fish in the world, Indonesia is in fact excluded from the top ten global fishing exporters due to IUU Fishing activities.

<sup>19</sup> Pusat data dan Indormasi Kementerian Kelautan dan Perikanan, *Analisis Data Pokok Kelautan dan Perikanan 2014*.

<sup>20</sup> Greenpeace, 2013, *Laut Indonesia dalam Krisis*, p. 2.

<sup>21</sup> Sri Mulyani Indrawati, *The Case for Inclusive Green Growth* (2015). source: <http://www.worldbank.org/en/news/speech/2015/06/09/the-case-for-inclusive-green-growth>

<sup>22</sup> *Ibid.*

## Minister of Marine Affairs and Fisheries Policy in Releasing Moratorium on Fishing Vessels

Since being appointed as the Minister of Marine Affairs and Fisheries in October 2014, Susi Pudjiastuti has introduced a vision of Indonesian maritime and fisheries policy focused on sovereignty, sustainability and prosperity. This vision has been formulated into various strategic policies including the moratorium policy for ex foreign vessels<sup>23</sup> which was introduced from October 2014 until April 2015. The moratorium policy was then extended to October 2015. According to the Minister of Marine Affairs and Fisheries, the moratorium on ex foreign vessels was a temporary halt on the issuing and extending of business licenses for captured fishing in the Republic of Indonesia Fishing Management Area imposed on ex foreign vessels.<sup>24</sup>

The moratorium policy was only imposed on ex foreign vessels for the following reasons:

1. Ex foreign fishing vessels have the ability to exploit marine resources greatly and could suppress the recovery cycle of the fishery ecosystem. As a country included in the Coral Triangle, Indonesia should preserve its sea ecosystem with their best efforts to ensure food availability for its people and for the rest of the world;
2. Ex foreign fishing vessels have an enormous plundering capacity. This decreases the number of fish available for the traditional fishermen. The country's commitment to provide prosperity through natural resources for its people becomes difficult to realize and social conflict can occur as a result of this reason (the capacity of ex foreign vessels is 100-600 GT); and
3. Low compliance of ex foreign vessel operators with Indonesian legislation.

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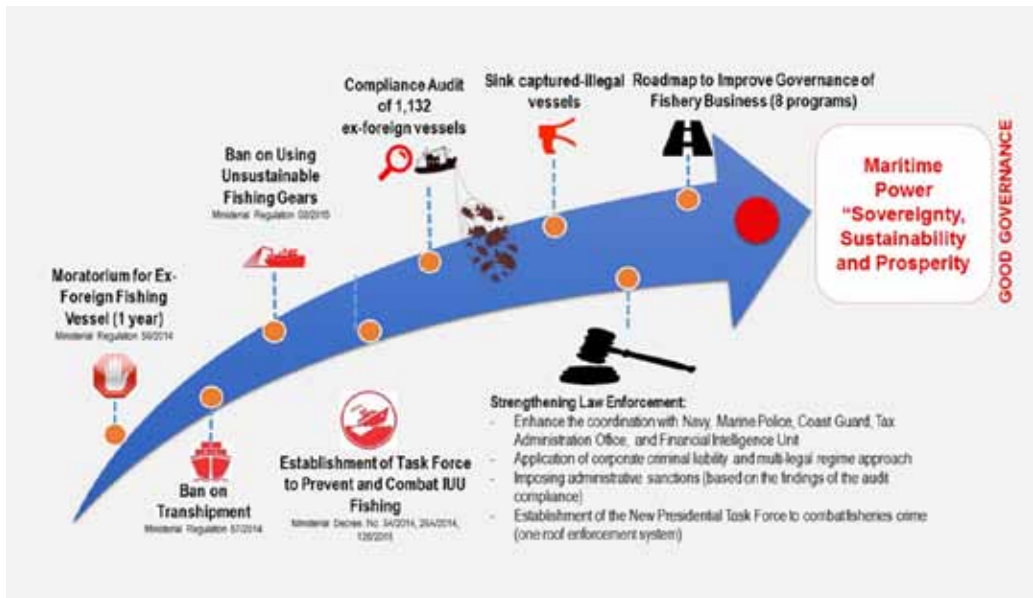
<sup>23</sup> An Ex foreign vessel is a fishing vessel which was built abroad according to Article 1 of Minister of Maritime Affairs and Fisheries Regulation No. 56 Year 2014.

<sup>24</sup> Minister of Maritime Affairs and Fisheries Regulation No. 56 Year 2014 on Moratorium of Licenses in Fishing Business Activities in Republic of Indonesia Fishing Management Area Article 1 Subsection (1).

Besides the moratorium policy implementation, the Minister of Marine Affairs and Fisheries also imposed a ban on transshipment in the Ministerial Decree of Ministry of Marine Affairs and Fisheries No. 57/PERMEN-KP/2014 on Captured Fishery Business in the Indonesia Fishery Management Area (Permen KP 57/2014). This prohibition has banned boats offloading their catch at sea to transshipment vessels.

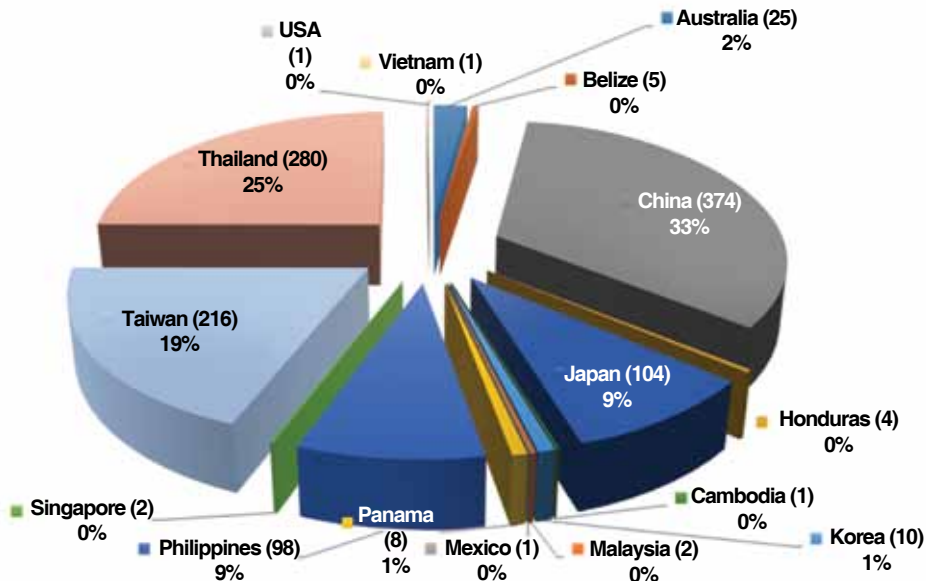
Along with the implementation of the moratorium and transshipment ban, the Ministry of Marine Affairs and Fisheries also issued a ban on the use of unsustainable fish nets that could harm the sea resources ecosystem such as trawls and seine nets. This prohibition was issued under the Ministerial Decree of the Ministry of Marine Affairs and Fisheries No. 2/PERMEN-KP/2015 on Prohibition the Usage of Trawls and Seine Nets in Indonesia Fishery Management Area (Permen KP 2/2015). The combination of the moratorium policy, transshipment ban and ban on unsustainable capturing equipment ban is a policy combination to prevent and to solve Indonesian fisheries resource exploitation. These policies are beginning to achieve the vision of the Indonesian fisheries sector under the leadership of Minister Susi Pudjiastuti, these being sovereignty, sustainability, and prosperity (Figure 2).

Figure 2.



The moratorium policy mandates the implementation of compliance analysis and evaluation of fishing vessels and companies who use vessels built abroad. Based on the licensing data from the Ministry of Marine Affairs and Fisheries on 3 November 2014 when the moratorium started, there were 1,132 ex foreign vessels operated in Indonesia (Graph 1).

Graph 1  
Country of origin



An environmental analysis was conducted by representatives of various institutions in the joint Task Force on the Prevention and Eradication of Illegal, Unreported and Unregulated Fishing (IUU Fishing) including the Police, Navy, Directorate General of Sea Transportation Ministry of Transportation, Directorate General of Tax and Directorate General of Customs and Excises.

The team conducted a compliance audit of fishing companies and fishing vessels operating from 2013-2015. The audit covered the following compliance aspects:

1. The legality of the establishment of a limited liability company / corporation
2. Compliance on the ownership of the tax identification number
3. Validity of limited liability company / corporation domicile

4. Obligation of vessel monitoring system/automatic information system (VMS and AIS) activation
5. Compliance in owning /partnering with a fish processing unit
6. Unlawful landing of catches
7. Violation of transshipment at sea
8. Using foreign seamen and captain
9. Using prohibited fishing gear
10. Violation of fishing ground
11. Compliance of tax payment
12. Compliance of tax reporting
13. Vessels and companies indicated conducting fisheries crime and fishery related crime

Based on the results of document analysis and field inspections conducted in 17 regions on 1,132 vessels, all the companies and vessels violated fisheries and fisheries related regulations (100%). The violations divided as the following:

1. Using foreign seamen and captain (67%)
2. Not landing the fish in the fishing port (29%)
3. Trafficking in persons and forced labour (10%)
4. Using illegal fuel (23%)
5. Fishing outside the fishing ground (47%)
6. Deactivating the vessel monitoring system (VMS) (73%)
7. Using prohibited fishing gear (2%)
8. Transporting goods to and from the territory of Indonesia without going through customs authorities (37%)
9. Transshipment at sea (37%)
10. Not owning /partnering with a fish processing unit (24%)
11. Forgery of fishing logbook record (17%)

Other than the violation of fisheries legislation, were fisheries related crime including:

1. corruption;
2. money laundering;
3. tax violation;
4. customs related crime;
5. immigration related crime;
6. illicit drugs trafficking; and
7. human rights violations (human trafficking, forced labour and child labour)

Based on the results the following fisheries crime and fisheries related crime were identified:

### **Fisheries Specific Criminal Activity**

The IOM Indonesia administered questionnaires on IUU fishing further supported many of the findings of the KKP environmental assessment, highlighting the consistent violation of Indonesian fisheries legislation and regulations. Some of these violations included the following:

#### *Using illegal fuel*

89% of fishers had witnessed the refuelling of vessels at sea. This was in violation of Indonesian fisheries law which stipulates that the harbour master must oversee refuelling activity.

#### *Transshipment at sea*

78% of fishers stated that they had witnessed the transshipment of the catch at sea. Larger vessels from their own company had collected the fish, and in other cases the catch was transferred to cargo ships and other large vessels for export.





Picture 3: Transshipment Vessel (Source KKP)

*Transporting goods to and from the territory of Indonesia without going through customs authorities*

The transshipment of fish was not the only activity. 55% of fishers had seen the movement of goods between larger vessels and their fishing vessels. This included the transfer of cigarettes, electronic goods, food, beverages, and fishing equipment.

*Reflagging Fishing Vessels*

The fishing vessels operating from Benjina and Ambon reflagged on a regular basis. 48% of fishers witnessed vessels reflagging at sea. 61% of these noted that the Thai flag was replaced with the Indonesian flag.

Figure 3. Modus Operandi of Fisheries-Related Crime

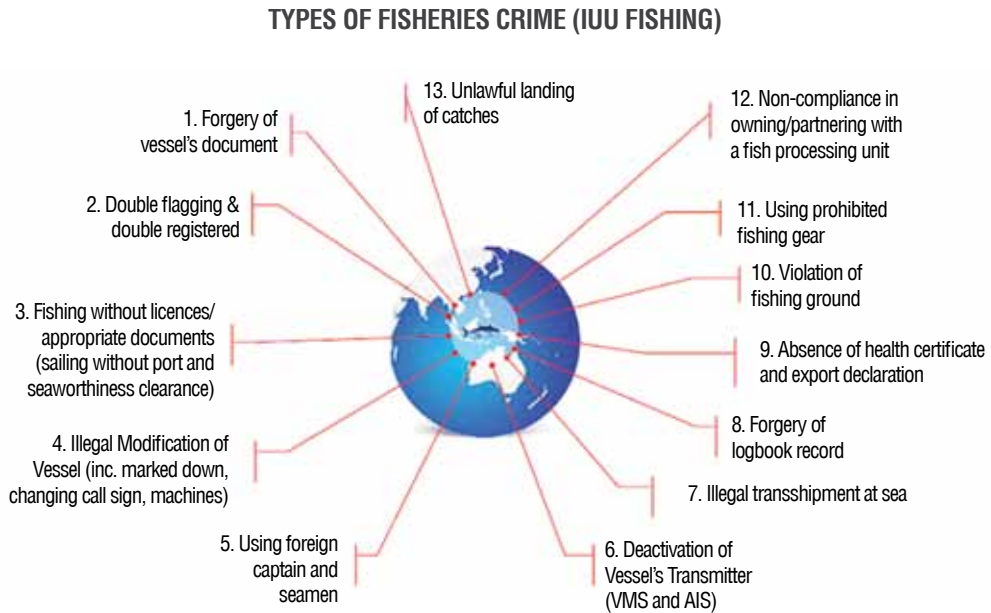


Figure 4. Modus Operandi of Fisheries-Related Crime



The finding of serious human rights violations was unpredicted by the environmental analysis team. Following up on the report from Associated Press on suspected slavery in Benjina, the team conducted a field inspection and comprehensive investigation into the slavery allegations. The team also

found human rights violations in Ambon.<sup>25</sup> The findings not only revealed violations of labour rights, but also violations of personal freedom and the right to live (Figure 5 & Figure 6).

Figure 5.

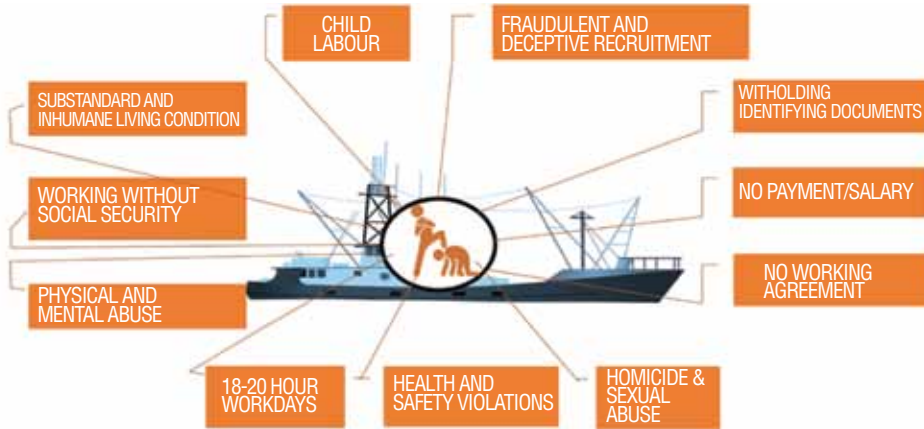
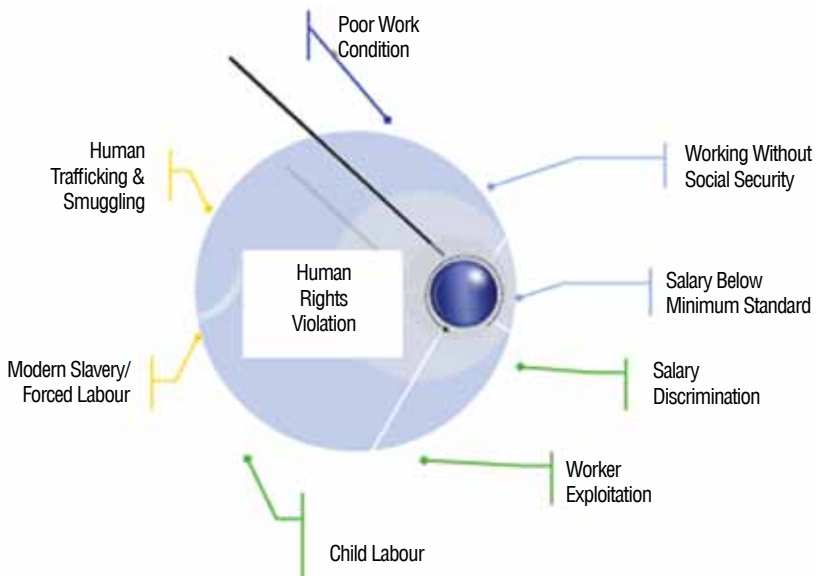


Figure 6.



<sup>25</sup> From the findings of the audit at least 168 of the 1132 (14.8%) ex-foreign vessels were involved in trafficking in persons and forced labour. The audit findings also found that 635 of the 658 foreign crew in Benjina and 373 of the 385 crew in Ambon were victims of trafficking. The crews worked for ±18-22 hours per day for 7 days a week with only 2-4 hours of rest time. They also suffered physical and mental abuse during work on the fishing boat.

Based on the environmental analysis, the Ministry of Marine Affairs and Fisheries (KKP) conducted an investigation in Benjina and then Ambon, Maluku. This investigation by the KKP and the Task Force on Prevention and Eradication of IUU Fishing concluded that thousands of migrant workers from Myanmar, Cambodia and Lao PDR in Benjina and Ambon were victims of trafficking.

The results of the investigation encouraged the KKP to evacuate approximately 700 Myanmarse seafarers from Benjina to Nusantara Tual Fishing Port gradually between April and May 2015. This action was followed by the evacuation of 400 Myanmarse seafarers from various areas in Ambon to temporary shelter at Nusantara Ambon Fishing Port. Based on interviews and verifications conducted by the International Organization for Migration, there were 682 Myanmarse seafarer in Benjina, and 391 Myanmarse seafarers in Ambon assessed as being victims of trafficking.

The report was presented by Minister Susi Pudjiastuti to President Joko Widodo who afterwards followed up on 7 April 2015 in Istana Negara by ordering the then chief of the Indonesian Police, General Sutarman, to form a special Task Force to combat trafficking in persons in Benjina.<sup>26</sup>

Based on the investigations by the Task Force of Police, it was confirmed that there were 8 suspects of trafficking in persons (TIP) in Benjina. Five of them were captains from Thailand and the others were company employees<sup>27</sup>. Police also confirmed that there was one suspect of TIP in Ambon who was a vessel's captain with Thai nationality.<sup>28</sup>

## Enforcement of Criminal, Administrative and Civil Law

In order to enforce the law and legislations related to fisheries, especially related to the policy of Ministry of Marine Affairs and Fisheries under the administration of President Joko Widodo and Minister Susi Pudjiastuti, the

<sup>26</sup> <http://www.cnnindonesia.com/nasional/20150407172900-20-44867/usut-kasus-benjina-jokowi-minta-polri-bentuk-satgas-terpadu/> (accessed on 16 Februari 2015).

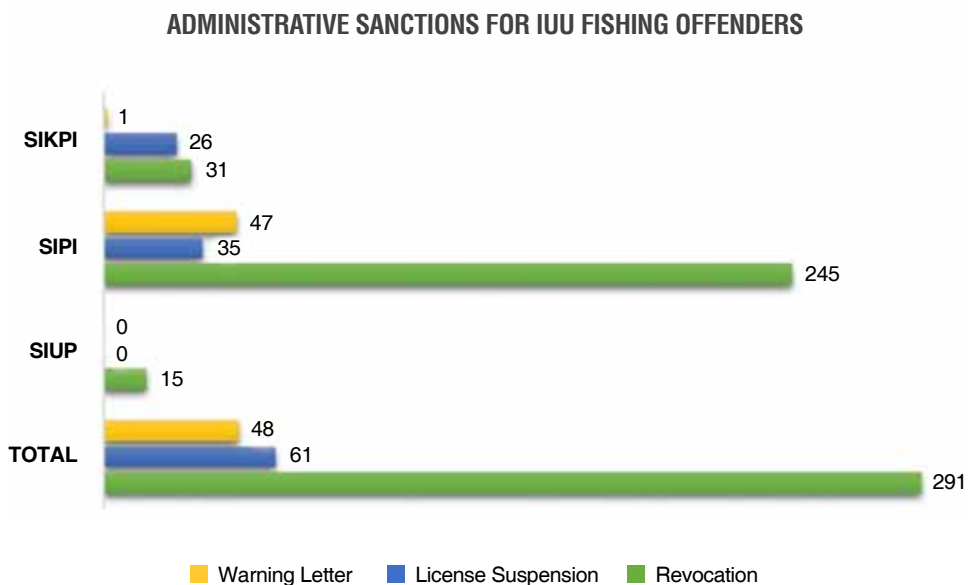
<sup>27</sup> <http://www.cnnindonesia.com/nasional/20150513172949-12-53149/polisi-bakal-ada-tersangka-baru-kasus-perbudakan-benjina/> (diakses pada tanggal 16 Februari 2015).

<sup>28</sup> <http://news.liputan6.com/read/2287325/45-abk-asal-myanmar-diringkus-jajaran-bareskrim-polri> (accessed on 16 Februari 2015).

Ministry implemented several administrative and criminal law enforcement efforts.

Based on the findings, 100% of the investigated vessels had committed violations of fisheries and fisheries related regulations. In response to the findings, Minister Susi Pudjiastuti ordered administrative sanctions by revoking and freezing their fishing permit (SIPI), fish freight permit (SIKPI) and fishery business permit (SIUP) as well as issuing warnings. From 1,132 vessels, 769 of them conducted severe violations and 363 vessels conducted general violations.

Graph 2



The Ministry of Marine Affairs and Fisheries (KKP) through the Task Force on the Prevention and Eradication of IUU Fishing started to conduct criminal law enforcement by a multi-door approach where the law enforcement was not only based on Fisheries Law but also based on other related laws including Shipping Law, Environment Protection and Management Law, Elimination of Corruption Law, and the Prevention and Eradication of Money Laundering Law.

As a follow up to the implementation of the environmental audit, investigating officers from the Navy, Water Police and PPNS PSDKP conducted criminal law enforcement. Some of these are still under investigation and the others has been decided by the court. These cases include the MV. Hai Fa case and the MV. Silver Sea 2 case. Several companies are still under investigation with the total number of vessels being 324 from 15 companies. Meanwhile, in order to implement the court execution and court orders to illegal fishing vessels, the Joko Widodo administration has destroyed 176 fishing vessels until August 2016.

**Table 2. Total Ships Sunk by KKP, Indonesian Navy and the Marine Police Between October 2014 - February 2016**

No	Maritime Flag	Total
1	Philippines	43
2	Vietnam	46
3	Thailand	21
4	Malaysia	16
5	Indonesia	18
6	China	1
7	Papua New Guinea	2
8	Belize	1
<b>TOTAL</b>		<b>148</b>

## The Relationship Between Market Demand, Overfishing, Illegal Fishing, and Human Trafficking

*“...international demand for cheap seafood is perpetuating a brutal trade in vulnerable humans and the collapse of entire marine ecosystems” (EJF, 2014)<sup>29</sup>.*

Fisheries products are the most globally traded commodities. In 2010 there were 57 million tons of fish entering the global market with an export value of

<sup>29</sup> Environmental Justice Foundation, 2015, *Pirates and Slaves: How Overfishing in Thailand Fuels Human Trafficking and the Plundering of Our Oceans*. p5.

US\$125 billion<sup>30</sup>. Market demand for fisheries products has been increasing, especially in the last decade. Unfortunately the increase in market demand is not followed by enough availability of fisheries resources. The captured fishing sector (other than aquaculture) is decreasing. The number of fish in the sea is continuously decreasing, it has even finished in some fishing grounds.

The decrease in fish stock in several fishing grounds has been caused by the mismanagement of the fisheries industry that allows the use of fishing equipment that are not environmentally friendly, the mismanagement of issuing fishing licenses that are not matching the resources capacity, and the number of fishing vessels that have exceeded the quota, and illegal fishing activities. These factors have resulted in huge exploitation that has caused overfishing. The FAO has predicted that 29.9% of the global fish stock has perished and been over-exploited. More than half of the global fish stock (57.4%) has been fully exploited and the fisheries business cannot be developed further. Only 12.7% of fish stock is capable of being developed. However these fishing grounds are generally only full of fish with low selling values<sup>31</sup>.

Overfishing, illegal fishing and the scarcity of fisheries resources has had an effect negatively towards fishermen in terms of work, forced labour and trafficking in persons.<sup>32</sup>

The vanishing fish stocks in territorial seas has caused traditional fishermen who could initially fish easily around the coastal area to stop work in the fishing sector. With minimal education and the need to earn a living, they have been forced to work as crew on fishing vessels. The fishing vessels who employ them also have to sail further to fishing grounds with available fish, often at the outermost areas of Indonesian territory and sometimes in the territory of other countries.

This has caused traditional fishermen who have no professional fishing skills to become migrant workers. The wages of employees in the fisheries business with distant fishing grounds can reach 30-50% of the operational fishing cost.<sup>33</sup> In order to keep the product's price competitive, the companies use cheap

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<sup>30</sup> FAO, 2012, *Guidance on Addressing Child Labour in Fisheries and Aquaculture (Rome and Geneva)*, p. 49.

<sup>31</sup> FAO, *Ibid*, p. 53.

<sup>32</sup> ILO, *Caught at Sea, Loc Lit*, p. 5.

labour without any work accident and safety protection insurance. Research from the FAO and United States Institute for Occupational Safety and Health found that fishermen were at more risk of work safety issues in competitive fisheries rather than in quota-based fisheries.<sup>34</sup>

To be able to operate freely in other fishing grounds, operators of organized illegal fishing register their fishing vessels with a country that is not capable or not willing to be fulfill its international responsibility of ensuring the compliance of its flagged vessels to national and international laws. This enables these fishing companies to get the maximum profit with minimum risk. The victims are the fishermen who work in the vessels. Fishermen tend to be neglected, receive no protection and are subject to inhumane treatment.

This explains what happened in the Benjina case. The foreign investment company in Benjina was a foreign company based in the British Virgin Islands (BVI) (Being registered in the BVI with ownership in Thailand has been one of the main characteristics of organized transnational illegal fishing operators in Indonesia). Fishing vessels are generally ex Thai and some open register countries such as Panama (operating far from their original countries), and fishermen from Myanmar, Cambodia and Lao PDR (migrant workers).

In order to operate illegally in Indonesia, the Thai vessel's owner bribes local authorities in Indonesia, and changes their flag to the Indonesian flag. This process was described by the Associated Press during their investigation:

*"Illegal Thai boats are falsely registered to fish in Indonesia through graft, sometimes with the help of government authorities. Praporn Ekouru, a Thai former member of Parliament, admitted to the AP that he had bribed Indonesian officials to go into their waters, and complained that the Indonesian government's crackdown is hurting business"*<sup>35</sup>

*"In the past, we sent Thai boats to fish in Indonesian waters by changing their flags," said Praporn, who is also chairman of the Songkhla Fisheries*

<sup>33</sup> Agnew & Barends, 2004, *Economic Aspects and Drivers of IUU Fishing: Building Framework*, 180-181.

<sup>34</sup> FAO, 2012, *Guidance on Addressing Child Labour in Fisheries and Aquaculture*, *Ibid*, 154-155.



*Association in southern Thailand. "We had to pay bribes of millions of baht per year, or about 200,000 baht (\$6,100) per month."<sup>36</sup>*

The fishers and seafarers are treated inhumanely by working years without payment, trapped by debt, no repatriation, placed in remote areas with tight control that makes it impossible to escape, and a working environment where they are vulnerable to accidents. Responding to the human trafficking cases in fisheries in an AP interview, Patima Tungpuchayakul, manager of Labour Rights Promotion Network Foundation, a Thailand NGO working in labour protection stated:

*"The employers are probably more worried about the fish than the workers' lives," she said. "They get a lot of money from this type of business."<sup>37</sup>*

## Human Trafficking in the Fishing Industry

The fishing industry is a harsh work environment demanding physical endurance and an ability to operate in geographically isolated areas. By its very nature the industry exacts a physical and psychological toll on fishers and seafarers working in it. What then distinguishes this harsh environment from the one experienced by foreign and Indonesian fishers and seafarers in this current study? The key differences are the way in which they have been recruited (deceptively) and the working conditions (exploitative and lacking payment). The fishers and seafarers in this study have been trafficked for the exploitation of their labour on board fishing vessels and in ports and fish processing plants.

In December 2000, the United Nations General Assembly signed and adopted the "Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially

<sup>35</sup> <http://bigstory.ap.org/article/98053222a73e4b5dab9fb81a116d5854/ap-investigation-slavery-taints-global-supply-seafood> (accessed on 13 Februari 2016).

<sup>36</sup> <http://bigstory.ap.org/article/98053222a73e4b5dab9fb81a116d5854/ap-investigation-slavery-taints-global-supply-seafood> (accessed on 13 Februari 2016).

Women and Children” (or commonly known as the Trafficking Protocol). The Protocol is an important component of the United Nations Convention against Transnational Organized Crime. The Protocol also provides an internationally recognized definition of trafficking in persons and at the same time serves as the first universal legally-binding tool in the fight against human trafficking.<sup>38</sup> The Protocol aimed to supply a comprehensive legal framework to facilitate global partnership in investigating and prosecuting trafficking. At the same time, the Protocol was established to provide protection and assistance for the victims of trafficking.

According to the Protocol on Trafficking in Persons trafficking is defined as<sup>39</sup>:

*“... the recruitment, transportation, transfer, harboring or receipt of persons, by means of 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, manipulation or implantation of organs”*

The TIP definition is constructed of three different aspects. First, is the action aspect that focuses on the recruitment, movement and concealment of the victim. Second, the means by which the victim ends up in an exploitative situation. Third, the purpose of the exploitation. In Indonesia the crime of trafficking in persons is covered by *Law No. 21 of 2007 on the Eradication of the Criminal Act of Trafficking in Persons*.

International mechanisms exist for the protection of victims of trafficking and for preventing the exploitation of fishers and seafarers. Unfortunately some of these mechanisms are difficult to enforce in the maritime environment, they may be applicable to seafarers but not fishers, or they have not been adopted by countries in the region.

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<sup>38</sup> Preamble of the Trafficking in Persons Protocol, par. 2, retrieved <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>.

<sup>39</sup> *Ibid*, Art. 3

## ***United Nations Convention Against Transnational Organized Crime and the Protocols Thereto***

In New York, on the 15 November 2000, the General Assembly approved the Convention against transnational Organized Crime by Resolution 55/25. The Convention entered into force on 29 September 2003. Thus, 41 articles and three protocols structure the Convention:

- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
- Protocol against the Smuggling of Migrant, by Land, Sea, and Air
- Protocol against the Illicit Manufacturing of Trafficking in Firearms, their parts and components and ammunition

Regarding Article 1 of the Convention, its purpose is to “promote cooperation to prevent and combat transnational organized crime more effectively”. With this purpose, the Convention defines the term vessel as: “any type of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water, except a warship, naval auxiliary or other vessel owned or operated by a government and used, for the time being, only on government non-commercial service”.

### *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*

The Trafficking Protocol, also known as the Palermo Protocol was adopted by the United Nations in 2000. It requires a comprehensive international approach for better prevention and efforts to combat trafficking in persons. The Protocol tends towards facilitating global partnership in investigating and prosecuting trafficking. It provides as well, protection and assistance for the victims of trafficking in persons “with full respect for their Human Rights”.

The Protocol provides a definition on trafficking in persons understood as, “the recruitment, the transportation, transfer, harboring or receipt of persons, by means of threat or use of force or others 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 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 forms of sexual exploitation,

*forced labour or services, slavery or practices similar to slavery, servitude or the removal, manipulation or implantation of organs”.*

Consequently, Indonesia has translated the Protocol in its own legislation in 2007 and defines trafficking in persons as *“the recruitment, transportation, harboring, sending, transfer or receipt of a person by means of threat or use of force, abduction, incarceration, fraud, deception, the abuse of power or a position of vulnerability, debt bondage or the giving or receiving of payments benefits to achieve the consent of a person having control over another person, whether committed within the country or cross-border, for the purpose of exploitation or which causes the exploitation of a person”.*

The TIP definition is constructed of three different aspects. First, is the action aspect that focuses on the recruitment, movement and concealment of the victim. Second, the means by which the victim ends up in an exploitative situation. Third, the purpose of the exploitation. In Indonesia the crime of trafficking in persons is covered by Law No. 21 of 2007 on the Eradication of the Criminal Act of Trafficking in Persons.

### ***International Maritime Law***

#### ***United Nations Convention on the Law of the Sea (UNCLOS)***

The United Nations Convention on the Law of the Sea, also known as the “Constitution of the Oceans”, constitutes a globally recognized regime that deals with every matter linked to the law of the sea. Indeed, more than 400 articles and 9 annexes structure the Convention. It was opened to signature in 1982 but entered into force in 1994.

The flag under which a ship flies determines the competent tribunal, the standards of construction and maintenance of the ship as well the labour conditions on the ship for Fishermen. Despite the regulation for the ship’s owner to fly the flag of its State, many of them use *flags of convenience*. This practice involves the registration of the ship or fishing vessel under another State to reduce operating costs and avoid international, regional or national maritime regulations.

Indonesia signed and ratified it through a national law in 1985.

## ***International Convention and Treaties***

### *Maritime Labour Convention*

The International Maritime Labour Convention was established in 2006 and entered in force in 2013. It is also known as the “Seafarer’s Bill of Rights”. The Convention prescribes permanent and specific standards as well as detailed guidance to establish adequate working and living conditions on a ship. It also encourages the ship owners to demonstrate fair competition. Indeed, article 3 stipulates that State Parties must be compatible and respect the fundamental rights of freedom of association and collective bargaining. State Parties also work for the elimination of all forms of forced or compulsory labour, the effective abolition of child labour and the elimination of discrimination in respect of employment and occupation. Moreover, the Convention states in article 4 that ship owners shall provide a safe and secure workplace, fair terms of employment, health protection, medical care, welfare measures, and other forms of social protection.

Indonesia has not ratified this Convention yet. Otherwise, the Convention has still a widespread effect. Indeed, when a vessel flies a flag from a non-signatory State to the Convention and enters a port of a signatory State, it has to observe the rules and regulations of the Convention. If it does not, it may be subject of prosecution, arrest and penalties for non-compliance with the Maritime Labour Convention. In fact, this condition can be very relevant for Indonesian ships and vessels. Indeed, around Indonesia, many States have ratified the Convention such as: Australia, China, Myanmar, Thailand, Vietnam, Malaysia, Singapore, and the Philippines.

### *International Convention on Standards of training, Certification and Watchkeeping for Seafarers*

This Convention was first signed in 1978 in London, then was ratified in 1984 and entered into force in 1984. The Convention was the subject of major amendments in 1995 and in 2010 (Manila Amendments). Its first objective is to establish basic requirements, technical aspects for vessels and minimum standards on training, certification and watch-keeping for seafarers that States are obliged to meet or exceed. Indonesia ratified it by a Presidential Decree adopted in 1986.

*Maritime Law related specifically to fishers*Torremolines Protocol and Cape Town Agreement

This protocol was first established in 1977 as a Convention to regulate the Safety of Fishing Vessels. It contains safety requirements for “the construction and equipment of new, decked and seagoing fishing vessels”. The Convention has never been ratified, and in 1993 it was changed to the Torremolines Protocol. The Protocol has a focus on “the general trend in modern designed fishing vessels, if they are to be economically profitable, must include improvements in machinery and fishing gear, improvements in safety features as a whole and better working conditions for fishermen”. The Cape Town Agreement signed in 2012 fills in the gaps of the Protocol and tends towards its ratification. But still, it has not been ratified by enough States and consequently its provisions are not in force.

ILO Work in Fishing Convention

The ILO Work in Fishing Convention (WIF Convention) was signed in 2007. Completed by the Work in Fishing Recommendation, this Convention aims to protect the Rights of Fishermen as well as promoting their working conditions. It involves among others the establishment of minimum requirements for work on board vessels, conditions of service, accommodation and food, occupational safety and health protection, medical care and social security. Despite these protective provisions, Indonesia has not ratified the Convention yet, and only 8 States have; which cannot permit the Convention to enter into force at this stage (August 2016).

ILO Forced Labour Convention

The ILO Forced Labour Convention 1930, as ratified by Indonesia through Law No. 19 Year 1999, stipulates all state parties suppress the use of forced or compulsory labour in all its forms within the shortest possible period. Rather than giving definitive scope of forced labour, this convention provided an open-ended definition of forced labour without listing specific prohibitions. In terms of prevention, the convention prescribes the government not to issue permits upon the forced or compulsory labour for the benefit of private individuals,

companies or associations. This convention also demands state parties to provide any measures to eliminate forced labour. Along with this convention, Protocol and Recommendations on forced labour are adopted. The Protocol to Convention 29 explicitly links forced labour and human trafficking. It states that "...the context and forms of forced or compulsory labour have changed and trafficking in persons for the purposes of forced or compulsory labour, which may involve sexual exploitation, is the subject of growing international concern and requires urgent action for its effective elimination..."; and "the measures referred to in this Protocol shall include specific action against trafficking in persons for the purposes of forced or compulsory labour." The Protocol also recognizes gaps in implementation of Convention 29 regarding "prevention, protection, and remedies". The Protocol a quo demonstrates forced labour as form of exploitation happening when someone is trafficked.

### Seafarer's Identity Documents Convention (revised) 2003

Indonesia ratified the Seafarer's Identity Documents Convention (revised) 2003 through the enactment of Law No. 1 year 2008. This convention prescribes each member state to issue to each of its nationals who is a seafarer and makes an application to that effect a seafarers' identity document conforming to the content and form as ruled in convention a quo. Article 7 of the convention also prescribed that the identity document shall remain in the seafarer's possession at all times. The owner or the master of the vessel do not have the right to hold the documents. In practice they do hold them as a means to prevent fishers from leaving the vessel.

### ***The role of the International Maritime Organization***

The International Maritime Organization (IMO) is a specialized agency of the United Nations and sets global standards on the security, safety and environmental performance of international shipping. Through the years, IMO has promoted the adoption of more than 50 Conventions and Protocols related to maritime security and safety. IMO provides technical assistance to developing countries in order to reach the international standards of Maritime Conventions. The technical assistance involves training but also expertise. Indonesia has been a member of IMO since 1961, and applies provisions and recommendations of IMO by incorporating them in its own national legislation.



Picture 4: IUU Fishing Vessel (Source KKP)

Human trafficking in the fishing industry primarily occurs in two different contexts. The first context involves trafficking in persons (fishers and migrant workers) for the purpose of labour exploitation or forced labour both at sea and in shore-based operations. The activities in a sea-based operation include fish processing on board fishing vessels, fish farming on aquaculture installations at sea, or capturing marine resources from rafts, vessels or fishing platforms. Examples of activities in shore-based operations include work at ship repair yards, work at ports (repairing nets or lines, sorting fish or shellfish), shore-based harvesting of marine resources, and work at fish processing plants.<sup>40</sup> The second context involves trafficking in persons (women and children) for the purpose of organized sexual exploitation by fishers and seafarers.

<sup>40</sup> Elaine Pearson, "Chapter 3: Fisheries" in *Mekong Challenge: Underpaid, Overworked and Overlooked: The Realities of Young Migrant Workers in Thailand (Volume 2)*, ILO, 2006, p. 122, retrieved from <http://www.no-trafficking.org/content/pdf/ilo-fishing-vol2-eng.pdf>.



International studies of trafficking in the fishing industry show commonalities in practice of trafficking irrespective of the geographical location. This includes: Trafficked children who were forced to work on rafts and canoes in inland fisheries in Ghana,<sup>41</sup> Sierra Leone, and other West African countries;<sup>42</sup> Young migrant workers in the Thai fishing industry;<sup>43</sup> and Ukrainian fishers and seafarers working in Russia and South Korea.<sup>44</sup>

The UNODC identified four phases that are common with trafficking in persons in the fishing industry. These include: initial recruitment (or in some cases abduction); transportation or potentially illegal transfer (entry) from one country (origin) to another (destination); exploitation on board fishing vessels; and the subsequent phase of profit laundering.<sup>45</sup> While the recruitment, transfer, and laundering stages are common to trafficking practices in other sectors, the exploitation conducted on fishing vessels is, in fact, a particular attribute only to the fisheries sector.

Victims of trafficking in the fishing industry are subjected to excessive workloads and inhumane working conditions, migrant fishers and seafarers and also a harsh living environment. This has included being placed in small, shared sleeping quarters, often without beds, and lacking hygienic cooking facilities and adequate food resources.<sup>46</sup> As a result, many have become ill and severely malnourished due to a lack of food combined with excessive work and irregular sleeping hours.<sup>47</sup> The absence of any legal framework that regulates and governs the standardization of living and working conditions on board fishing vessels, as in merchant vessels by the Port State Control (PSC), is presumed to be one of the primary factors that increases the exploitation degree of the victims of trafficking.<sup>48</sup>

<sup>41</sup> Through "Yeji Trafficked Children Project (YTCP)" IOM Ghana has rescued up to 700 children trafficked into the industry from 2002-2011, retrieved from <https://www.iom.int/files/live/sites/iom/files/What-We-Do/docs/IOM-Ghana-CT-2013-Update.pdf>.

<sup>42</sup> Brian O'Riordan, "Senegal: Child Labour: Growing Pains", in *Samudra Report* No.44 2006, International Collective in Support of Fishworker (ICSF), p. 12-13, retrieved from [http://www.icsf.net/images/samudra/pdf/english/issue\\_44/2527\\_art02.pdf](http://www.icsf.net/images/samudra/pdf/english/issue_44/2527_art02.pdf); See Rebecca Surtees, "Child Trafficking in Sierra Leone", UNICEF, 2005, p. 38, retrieved from [http://www.childtrafficking.com/Docs/unicef\\_05\\_ctsl\\_0108.pdf](http://www.childtrafficking.com/Docs/unicef_05_ctsl_0108.pdf).

<sup>43</sup> See Pearson, *Op cit*.

<sup>44</sup> Surtees, R. (2012). *Trafficked at Sea. The Exploitation of Ukrainian Seafarers and Fishers*. IOM & Nexus Institute: Geneva.

<sup>45</sup> UNODC, "Trafficking in Persons: Global Patterns", 2006, p. 57, retrieved from <http://www.unodc.org/mwg-internal/de5fs23hu73ds/progress?id=jhXdQH69GO>.

<sup>46</sup> Environmental Justice Foundation (EJF), "All at Sea: The Abuse of Human Rights Aboard Illegal Fishing Vessels", EJF, 2010, p. 10, retrieved from <http://ejfoundation.org/mwg-internal/de5fs23hu73ds/progress?id=oWH3hWfU/Q>.

<sup>47</sup> Rosenberg (Ed.), *Op cit*, p. 111.

<sup>48</sup> John Withlow, "The Social Dimension of IUU Fishing", OECD, 2004, p. 5 par. 8, retrieved from <http://www.oecd.org/greengrowth/fisheries/31492524.PDF>.

Previous research also points to the existence of violence—not limited to physical, but also psychological, and sexual abuse—against fishers and seafarers committed by the owner of the ship or senior crew members who are affiliated with the owner and recruitment agencies.<sup>49</sup> Minor mistakes, laziness, and insubordination were not only punished with beatings and whippings, but also in some cases victims were confined or chained when they were on board the vessel at sea.<sup>50</sup> Reports also indicate that crew members were murdered or thrown overboard to die when injured or sick.<sup>51</sup> Evidence also exists of victims being abandoned in the case of fishers who fell overboard.<sup>52</sup> The current study lends credibility to these accounts with numerous victim statements outlining murder, physical assault, and the disposal of victim’s corpses at sea and on land.

In order to prolong the exploitative situation and maximize the labour of the victims, traffickers usually apply several means of control. First, threats of violence which are mostly in the form of physical and psychological abuse. Second, coercion in the form of physical confinement and the confiscation of documents limit a victim’s freedom of movement. Third, fraud or deception that hinders the victims in knowing initially the real situation of their work and payment. Lastly, debt bondage that traps the victims of trafficking in a spiral of debt.

When compared to trafficking in persons in other sectors, exploitation in the fishing industry is among the most severe. This has been supported by research undertaken by the International Labour Organization (ILO) in 2006 which concluded that “Fishing workers are among the most exploited when compared with other migrant sectors. Working conditions on the fishing boats are even worse than those in the fish processing. Being forced to work is not uncommon on fishing boats.”<sup>53</sup>

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<sup>49</sup> For example the case of Cambodian seamen trafficked and exploited in Thai fishing industry, in UNIAP, “Exploitation of Cambodian Men at Sea: Facts About the Trafficking of Cambodian Men on Thai Fishing Boats, 2009, p. 5, retrieved <http://www.no-trafficking.org/mwg-internal/de5fs23hu73ds/progress?id=oqi2gz1brQ>.

<sup>50</sup> See reports by International Transport Worker’s Federation (ITF), “Out Sight, Out of Mind: Seafarers, Fishers & Human Rights, 2006, p. 22, retrieved from <http://www.itfseafarers.org/files/extranet/-/1/2259/HumanRights.pdf>.

<sup>51</sup> Jon Gorvett “Traffickers Prey on Cambodian Men” The New York Times, January 12, 2009, retrieved from [http://www.nytimes.com/2009/01/12/world/asia/12iht-traffic.1-405492.html?\\_r=0](http://www.nytimes.com/2009/01/12/world/asia/12iht-traffic.1-405492.html?_r=0).

<sup>52</sup> UNIAP, *Op cit*.

<sup>53</sup> Pearson, *Op cit*. p. 82.

Victims consider themselves helpless since there is no way to escape when they are trapped in the middle of the ocean, as stated by one victim: “we were always thinking of escaping...there was no way, though. We were powerless. The sea itself was our prison.”<sup>54</sup>

## Historical Background of Trafficking and Forced Labour in the Fishing Industry, Case Study: The *Jermal* Case

Indonesia is a major source of human capital for human trafficking and also a destination and transit country for foreign victims of trafficking. In 2015 alone, more than 1000 fisherman from Myanmar, Cambodia, Thailand, and Laos were found stranded in Ambon and Benjina. They were trafficked from their home country, mostly by means of deception, forced to work over 20 hours per day on a boat in the middle of the sea, with little to no chance of escape.

Human trafficking for labour exploitation in the Indonesian fishing industry is not new. In 1999 the International Labour Organization (ILO) conducted a study of forced child labour on fishing platforms known as *jermals*.<sup>55</sup> A *Jermal* is a wooden structure often situated miles from the shore which consists of a 20-40 square metre platform and a small wooden hut for sleeping quarters and fish processing. Almost all of the labour force working on these platforms were young boys under the age of 14.<sup>56</sup> They were recruited from villages with the promise of three months’ work on offshore fishing platforms and large salaries. However, the recruiters did not explain the conditions of work clearly. The boys then suffered from excessive working hours, unsanitary working conditions, physical abuse and sometimes sexual abuse. As a result of being stranded on the *jermals* they were unable to attend school.<sup>57</sup>

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<sup>54</sup> Gorvett, *Op Cit*.

<sup>55</sup> International Labour Organization. (2013). *Caught at Sea: Forced Labour and Trafficking in Fisheries*. ILO: Geneva. p7. Retrieved from [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/--declaration/documents/publication/wcms\\_214472.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/--declaration/documents/publication/wcms_214472.pdf).

<sup>56</sup> *Transnational Organized Crime in the Fishing Industry* (Vienna: UN, 2011), 48, retrieved from <http://www.unodc.org/mwg-internal/de5fs23hu73ds/progress?id=W2HpMV8BpT>.

<sup>57</sup> Rosenberg, R. *Trafficking of Women and Children in Indonesia*. (Jakarta: ICMC), 20, retrieved from <http://www.solidaritycenter.org/mwg-internal/de5fs23hu73ds/progress?id=kJ83WQgAAB>.

The Government of Indonesia recognized that child labour on jermals was one of the worst forms of child labour and prohibited the practice under law. Although rarely used in describing the jermal case, the government also recognized the practice as a form of trafficking because children were taken from their families and forced to work in exploitative and isolated conditions. Since 2000, actions by Indonesian law enforcement agencies and NGOs have resulted in the removal of many children from *Jermal* platforms.<sup>58</sup> As a result of ILO's International Programme on the Elimination of Child Labour (IPEC), the employment of children in *jermal* fishing platforms has been reduced significantly.<sup>59</sup> Trafficking on *jermals* represented only one component of human trafficking in the Indonesian fishing industry and trafficking has continued in other areas with less law enforcement scrutiny or interest from international organizations.

Indonesians, however, have not been the only victims of trafficking in the Indonesian fishing industry. In fact, they represent a minority when compared to the number of foreigners trafficked to Indonesia to work as fishermen since 2011. These people, mostly from Cambodia and Myanmar (but also Lao PDR and Thailand), were deceptively recruited into the fishing industry. Brokers targeted villages in Myanmar, Cambodia, and Lao PDR and promised men lucrative job opportunities as fishermen in Thailand. When they had left their villages and commenced on the journey to their new employment it became clear that the promises and conditions would not be met. Unfortunately for many, this realization came too late, often when the boat had already left Thailand to go to Indonesia, and there was no way for them to escape.<sup>60</sup> Instead of lucrative salaries they were faced with no pay, or a token pay, excessive working hours often exceeding 20 hours a day, and unsanitary and unhealthy conditions. This represented the 'best case' scenario. For most it meant human trafficking for labour exploitation, forced labour, physical, sexual, and psychological abuse, with no prospect of escape.

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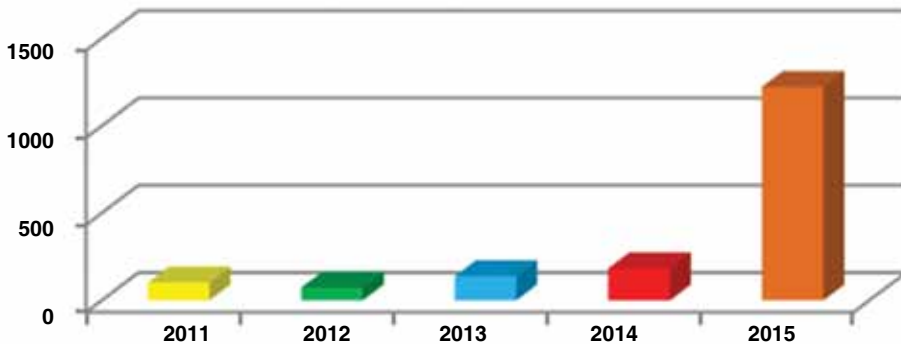
<sup>58</sup> *Ibid*, 111.

<sup>59</sup> Sebastian Mathew, "Children's Work and Child Labour in Fisheries: A Note on Principles and criteria for employing children and policies and action for progressively eliminating the Worst Forms of Child Labour in fisheries and aquaculture" (paper presented at FAO Workshop: Child Labour in Fisheries and Aquaculture, Rome, April 14-16 2010), retrieved from [http://www.faoilo.org/fileadmin/user\\_upload/fao\\_ilo/pdf/WorkshopFisheries2010/WFPapers/MathewICSFChildLabourFisheriesFinalNote.pdf](http://www.faoilo.org/fileadmin/user_upload/fao_ilo/pdf/WorkshopFisheries2010/WFPapers/MathewICSFChildLabourFisheriesFinalNote.pdf).

<sup>60</sup> The boat in question was a Thai fishing boat but they changed their flag into Indonesian when they arrived in Indonesia

The number of fishermen Victims of Trafficking (VoT) assisted by IOM Indonesia remained stable from 2011 to 2014, averaging 124 VoT per year. In 2015 the number suddenly exploded to 1222 (Graph 3). The sudden increase in the number of assisted victims was due to the coverage by Associated Press regarding the story of slavery in Benjina. The headline, “Slaves may have caught the fish you bought” was given global coverage. The Government of Indonesia, represented by the Indonesian Fisheries Minister, Susi Pudjiastuti, took swift action to respond to the situation.<sup>61</sup> With a strong commitment from the Government of Indonesia, IOM managed to identify thousands of VoT in Benjina and Ambon and repatriate them back home.

**Graph 3. Trend of Foreign Fisherman VOTs Assisted by IOM (2011-2015)**



Despite being identified in Indonesia, all of the foreign fisherman assisted by IOM Indonesia were employed by the Thai fishing industry. How they get stranded in Indonesia is inherently tied to the history of the Thai fishing industry which has experienced a rapid modernization and industrialization of the fleet since the 1970s and 1980s. With the introduction of trawl fishing via the Philippines under a joint Thai-German Government initiative, the industry changed dramatically. The trawl fishery of Thailand grew from just over 2,600 registered vessels in 1969 to over 11,000 in 1982.<sup>62</sup> This situation eventually led to overfishing.<sup>63</sup> By the 1980s, Thailand’s fishery exploitation capabilities were already comparable to those of a

<sup>61</sup> “Your seafood might come from slaves,” New York Times, March 25, 2015, retrieved from <http://nypost.com/2015/03/25/your-seafood-might-come-from-slaves/>

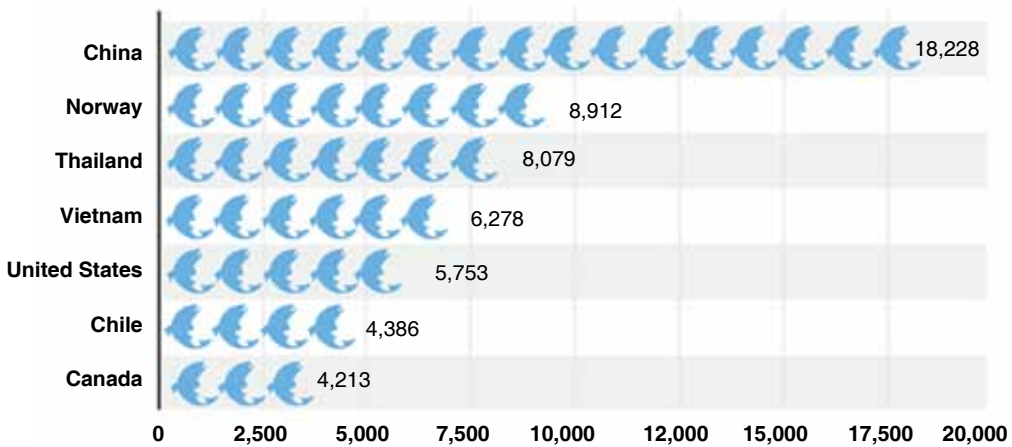
<sup>62</sup> International Labour Organization, *Employment practices and working conditions in Thailand's fishing sector* (Bangkok:2013), 10.

<sup>63</sup> Janofsky, *Thailand: The overfishing underclass*, 2012.

high-income country, far exceeding the resource management capabilities of the Thai Government.<sup>64</sup>

The fishing industry has been among the main industries in Thailand (Graph 4). As can be seen from the statistics, Thailand was the third largest exporting country of fish and fishery products in 2012. Many Thai people rely on this industry.

**Graph 4. Leading exporting countries of fish and fishery products in 2012.**



During that time the other countries in the region began declaring national Exclusive Economic Zones (EEZs) under the UN Law of the Sea Convention (UNCLOS), which had a profound impact on the activities of the Thai fishing fleet within the region. Much of what had previously been considered international waters now fell under the jurisdictions of other countries in the region. However, Thai fishing vessels often entered these EEZ without permission to fish, leading to seizures of Thai trawlers in Vietnam, Myanmar, Philippines, Indonesia, and Malaysia. However, these arrests acted as no real deterrent because they represented only a tiny proportion of the Thai fleet, which responded to the increased regulation of fishing areas by investing in faster vessels, detection equipment, and weapons so as to avoid arrest. In addition, violent clashes between Thai trawlers and fishing vessels from Myanmar, Vietnam, Indonesia, and other countries began occurring as a result of these illegal activities.<sup>65</sup>

<sup>64</sup> International Labour Organization, *Employment practices and working conditions in Thailand's fishing sector*, 11.

<sup>65</sup> *Ibid.*

As a response, Thailand started entering into joint venture arrangements with countries within the region during the late 1990s to allow its fleet to fish legally in their EEZs. However, illegal, unreported, and unregulated (IUU) fishing in foreign waters remained common. Such practices have been incentivized by the inability of Thai authorities to control the number of vessels fishing in their own territorial waters, which encourages Thai vessels to seek larger catches outside of their sovereign fishing grounds. IUU fishing and associated activities thus continue to pose a grave threat to national, regional, and international efforts to ensure the long-term sustainability of fisheries.<sup>66</sup>

The situation is further complicated because of the overlap with the EEZs of its maritime neighbors, creating legitimate confusion among fishers as to where the borders of the EEZs have been delimited.<sup>67</sup> Indonesia, as one of the important fishing sources, has been a convenient target of illegal operators for years.

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<sup>66</sup> *Ibid.*

<sup>67</sup> *Ibid.*





# VICTIM PROFILE AND DATA

## Foreign Victims of Trafficking in the Indonesian Fishing Industry

In general, economic factors are believed to be the primary factor that drives both foreign victims of trafficking in Indonesia and Indonesian victims of trafficking abroad to migrate for better employment. For foreign workers, disparities in the level of economic development, exchange rates and wage levels (except for Thai nationals) between Thailand, Cambodia, Myanmar and the Lao People's Democratic Republic (PDR) serve as a migratory pull factor that attracts migrants from the neighboring countries to find better employment in Thailand.<sup>68</sup>

Table 3 shows the comparison of GDP (PPP) Per Capita between Thailand and its neighboring countries.<sup>69</sup> The table depicts the existence of a significant gap between Thailand's GDP with its neighbors, with Thailand's GDP more than four times larger than Cambodia's GDP and three times as large as the Lao PDR's and Myanmar's GDP. Thailand is attractive for labour migrants who want to gain a benefit from its economy.

**Table 3. GDP (PPP) Per Capita of ASEAN Countries  
October 2015 (USD)**

Country	GDP (PPP) Per Capita (USD)
Thailand	16.081
Cambodia	3.486
Laos	5.335
Myanmar	5.164

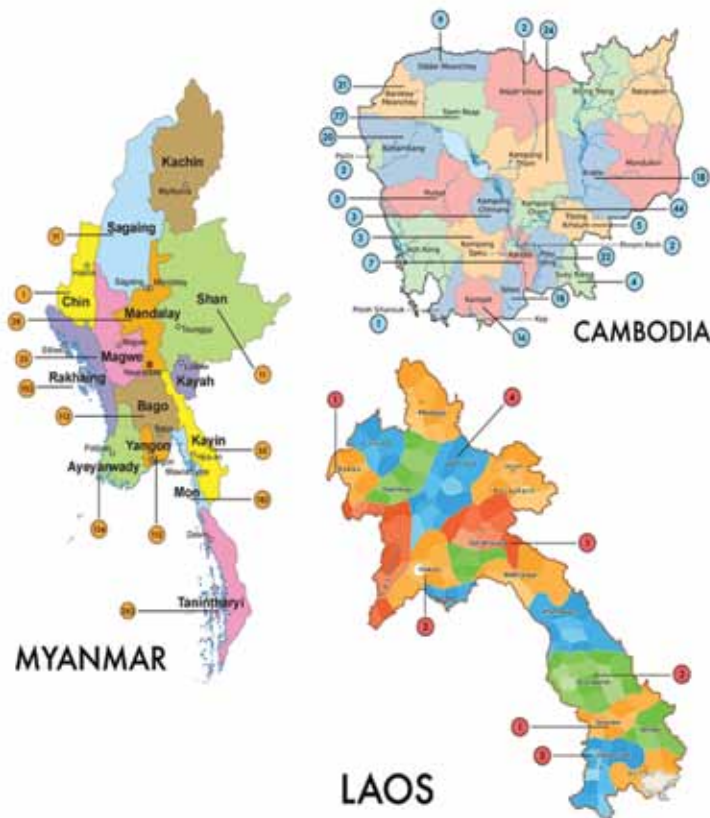
<sup>68</sup> Jerrold W. Huuget & Sureepom Punplung, "International Migration to Thailand", IOM Thailand, 2005, p. 5, retrieved from <https://publications.iom.int/books/international-migration-thailand>.

<sup>69</sup> Retrieved from <http://www.imf.org/external/ns/cs.aspx?id=28>.

Aside from economic difficulties and poverty, some studies have indicated that non-economic factors may also contribute to the migration of people out of their respective countries. In past years migrants moved from Myanmar because of conflict and slow economic growth (due to the economic sanctions before 2012), but also to avoid forced labour in development projects undertaken by the previous Government of Myanmar.<sup>70</sup> Other groups, mostly those who lived near the borders, found their way to Thailand in order to search for better access to health and education services as well as for work opportunities.

Myanmar nationals constituted the majority of the victims, followed by Cambodians, with much fewer victims from Thailand and Lao PDR. Most of the victims came from the provinces bordering Thailand (Figure 7).

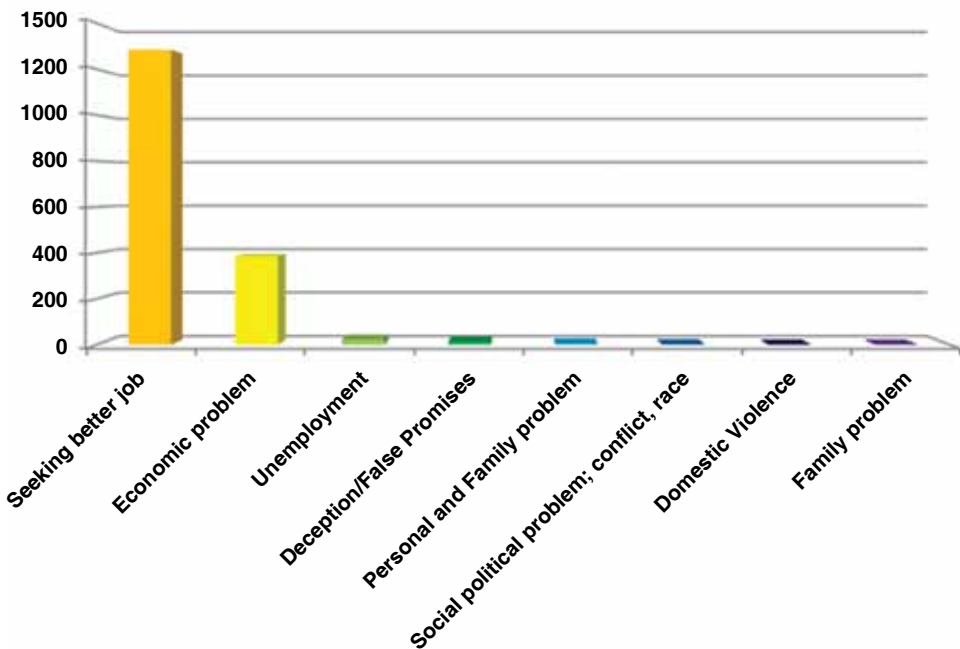
**Figure 7. Province Origin of Foreign Fisherman VOT in Indonesia (2011-2015)**



<sup>70</sup> Supang Chantavanich, "Myanmar Migrants to Thailand and Implications to Myanmar Development", in *Policy Review Series on Myanmar Economy No. 7 October 2012*, Bangkok Research Center IDE-JETRO, p. 1, retrieved from <http://www.ide.go.jp/English/Publish/Download/Brc/PolicyReview/07.html>.

The range of reasons that induced foreign victims of trafficking to leave their homes and travel to Thailand in the first place are outlined in Graph 5. The data was collected by IOM Indonesia during interviews with victims of trafficking from Cambodia, Myanmar, and Lao PDR (1718 individuals) in Indonesia from 2011-2015. The primary reason for migration in 74.8% of cases was to seek a better job. Victims of trafficking who chose this reason as their major motivation for leaving their homes were described as those who had worked previously in any sector, whether related to fishing or not, prior their employment in the fishing industry in Thailand. They decided to leave their jobs in their respective countries in order to obtain different jobs abroad, which could provide them with better payment.

Graph 5.  
Reasons to Leave Home (Migration)

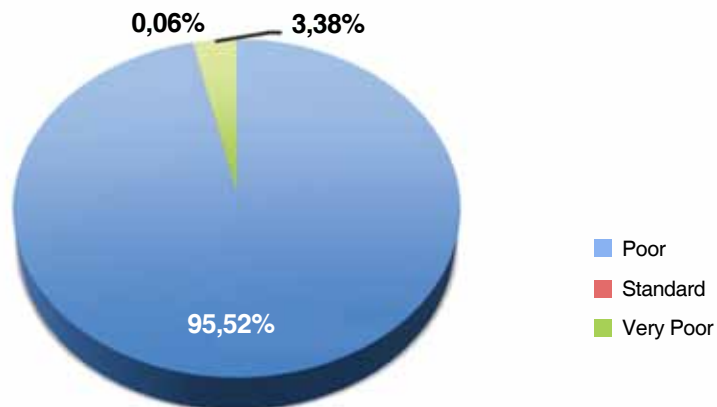


A second reason for migration in 22.4% of cases were economic problems. The victims were assumed to have experienced economic difficulties within their families and because of the situation they were pushed to leave Myanmar in order to look for higher earnings to sustain their families at home. Most

victims that fell under this category were the head of the family (married) or the breadwinner within their families (single). Many respondents interviewed by IOM Indonesia had a shared expectation of a high level of wage in Thailand compared with the level of wage in their respective countries. Thus, working in Thailand had been something that young uneducated people were encouraged to do in order to alleviate their families' financial problems. It is not surprising then that when recruiters came to their villages with a promising job offer in Thailand, villagers would accept the offer.

Graph 6 shows the economic condition of the foreign victims prior to being trafficked into the fishing industry in Indonesia. Almost all of the victims considered themselves to be "poor" (95.52%) followed by a small numbers of victims who regarded themselves as very poor at the time they were trafficked. Poverty was an important factor in the vulnerability of individuals towards trafficking as it limited prospects for better employment.

**Graph 6.**  
**Economic Status of Foreign VOT in Indonesia**  
**2011-2015**



On the Thai side, as a consequence of the economic boom in 1980s and 1990s, Thailand started to experience a great shortage of labour and a growing demand for unskilled labourers in a number of labour intensive sectors in the early of 1990s, including its fishing industry.<sup>71</sup> The rapid economic growth

<sup>71</sup> Supang Chantavanich, "Factors Affecting Thailand Immigration Policies During 1992-2004", ISS, 2007, retrieved from, [http://www.iss.nl/content/download/8391/81651/file/Panel%205\\_Supang.pdf](http://www.iss.nl/content/download/8391/81651/file/Panel%205_Supang.pdf).

also affected the preference of Thai workers in choosing their occupation. Over the past two decades, a remarkably large number of Thai workers have left the fishing industry and increasingly numbers of other (Thai) workers have considered the fishing industry as less attractive due to its low level of wages (compared to other sectors), harsh working conditions, and risks that involved in the occupation.<sup>72</sup> The extreme scarcity of local workers in 3-D (dirty, dangerous, and difficult) work, like the fishing industry, has opened up opportunities for many migrant workers from Myanmar, Cambodia and Lao PDR. This has provided an opportunity for workers to escape the difficult situations in their respective countries and meet the demand for unskilled workers in the Thai labour market.<sup>73</sup>

This situation along with the geo-economic circumstances of its less developed neighbors, encouraged the private sector in Thailand to view workers from neighboring countries as a solution to overcome the problem of labour scarcity in Labour-intensive industries. The Government of Thailand was later pushed by Thai businesses to allow the employment of migrant workers from the three countries as unskilled or low-skilled workers in various sectors such as fisheries, fish processing, manufacturing, agriculture and domestic work. Businesses in Thailand not only benefit from the existence of migrant workers in terms of labour supply, but also from the efficiency that they bring in the production and operational processes.

It is obvious that the rise of a country's economy is always followed by the rise of its national wage level. Therefore, hiring local workers would automatically eliminate the Thai fishing industry's low production costs and its competitive advantage in both the national, and more importantly, international markets. While the labour element is usually a small portion within the total production cost, for small and medium labour intensive industries, like the fishing industry, labour costs are a critical factor in suppressing the production cost.<sup>74</sup> Over past decades, the economy of Thailand has progressively relied on the supply

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<sup>72</sup> Pearson, *Op Cit*, p. 113.

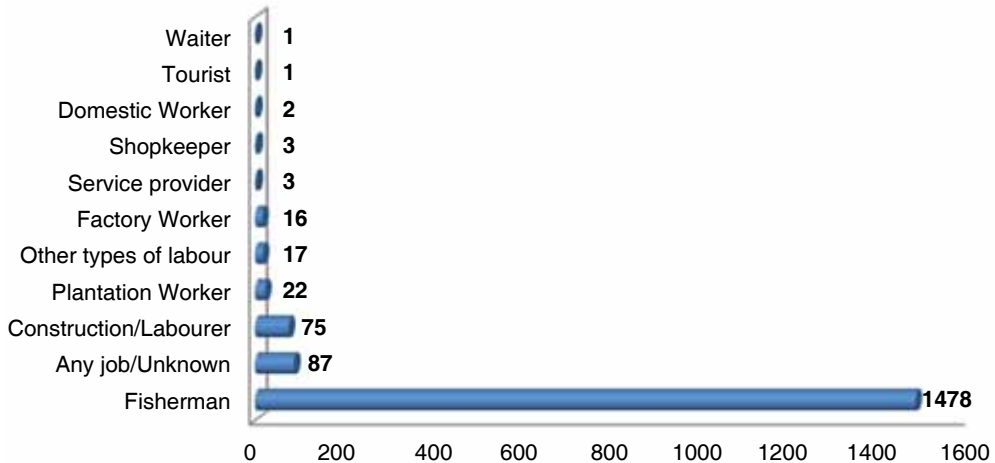
<sup>73</sup> Supang Chantavanich and Premjai Vungsiriphisal, "Myanmar Migrants to Thailand Economic Analysis and Implications to Myanmar Development," in Hank Lim and Yasuhiro Yamada, *Economic Reforms in Myanmar: Pathways and Prospects*, BRC, 2012, 214-215, retrieved from [http://www.ide.go.jp/English/Publish/Download/Brc/pdf/10\\_06.pdf](http://www.ide.go.jp/English/Publish/Download/Brc/pdf/10_06.pdf).

<sup>74</sup> Dennis Arnold and Kevin Hewison, "Exploitation in Global Supply Chains: Burmese Migrant Workers in Mae Sot, Thailand", in *Journal of Contemporary Asia* Vol. 35 No 3, 2005, p. 3, retrieved from [http://www.burmalibrary.org/docs3/EXPLOITATION\\_IN\\_GLOBAL\\_SUPPLY\\_CHAINS.pdf](http://www.burmalibrary.org/docs3/EXPLOITATION_IN_GLOBAL_SUPPLY_CHAINS.pdf).

of relatively low-waged migrant workers from its less developed neighbors. This has been met through the deployment of foreign labour, both illegal and legal. In 2008 the Thai Ministry of Labour admitted the necessity to employ 1.2 million low-skilled foreign workers in Thai labour market.<sup>75</sup>

Data gathered by IOM Indonesia from interviews with all foreign victims of trafficking in the fishing industry in Indonesia from 2011-2015, indicated that the majority the victims had already been informed about the kind of job the recruiters were going to give them. Victims were promised a variety of work (Graph 7) by agents at the beginning of the recruitment process. The majority of them who were working in the fishing industry (86%), felt that the job promised to them at the beginning was similar to the actual job they acquired. Only small numbers of the victims considered themselves as being cheated due to differences in the type of work between the promised and the actual. In fact, among those who regarded themselves as being victims of fraudulent recruitment, more than half of them were not informed clearly about the type of job they were going to undertake (categorized as “unknown”).

**Graph 7.**  
**Promised Work**



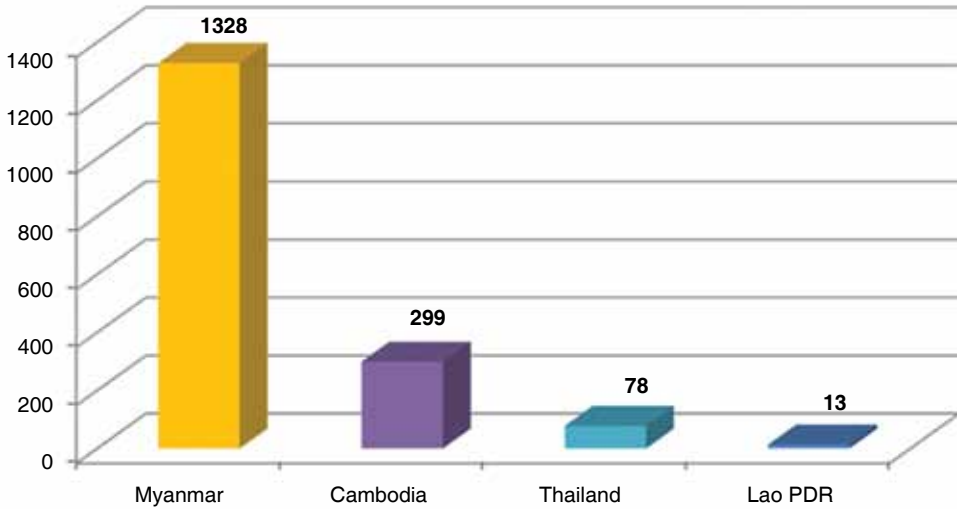
<sup>75</sup> Boot, W. 2008 in Khen Suan Khai, “Thailand’s Policy towards Irregular Migration: Situation Analysis of Burmese Migrant Workers under Thailand’s Migration Policy”, MFU, p. 3, retrieved from <http://connexion.mfu.ac.th/2015/ejournal/Vol.1%20No.1%202012/125%20Thailand%E2%80%99s%20policy%20towards%20Irregular%20Migration.pdf>.

Foreign Labour migrants' perceptions of the Thai fishing industry were also important in motivating them to migrate. There was a misperception that working in the fishing industry was an easy occupation. Working on a fishing boat, to most of the victims from Myanmar, Cambodia and Lao PDR was perceived as not requiring any special training and expertise, only strength and durability. There was also a perception among the victims about the easiness of saving money while working in fishing industry compared to work in other land-based sectors even though the wage was lower. They believed that working on board a fishing vessel at sea would allow them to save some or even all of their wages, not only due to their lodging and daily needs being provided by the fishing company, but also because there was no place to spend their wages as they were at sea.

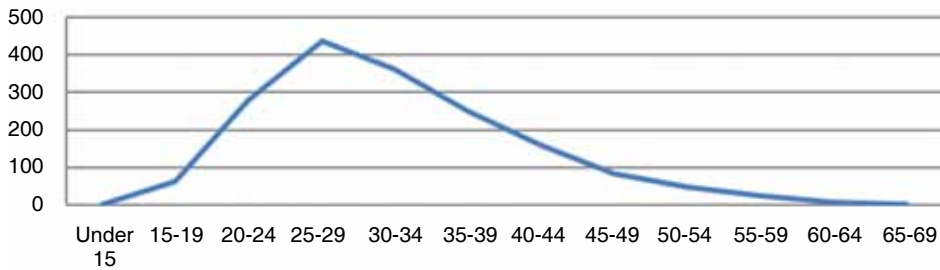
Lastly, the simplicity of the working requirements and "safety" in the fishing industry. Some of the respondents explicitly mentioned about the cost they would have to pay to acquire documents (such as an ID card), should they want to work in factories. Although all sectors in Thailand require registration or legal documents for foreign workers to work, the majority of the fishing companies still accept undocumented or unregistered foreign unskilled workers and are reluctant to register their present employees due to the high costs they would have to spend on them. Therefore, it is not surprising that the fishing industry has become a temporary safe-haven for migrant workers without documentation to avoid arrest compared to work on land where the risk of being caught is much higher.

The majority of victims were young adults and adults within the age range of 20 to 34 (Graph 8). The reason for this is that traffickers are more likely to target impressionable young people with limited life experience which makes them easier to be deceived. The majority of foreign victims had a low level of education (Graph 10). The lower the education, the higher the number of victims. Eligibility for gainful employment in Southeast Asia is largely determined by the level of education. Most well-paid job opportunities are only available to those with higher education, closing the door on those with lower education. The Labour market which limits options for people with elementary education makes these people an ideal target for traffickers.

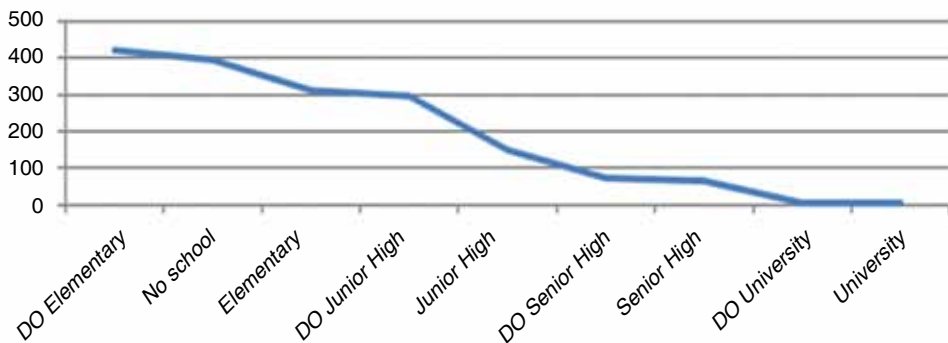
**Graph 8.**  
**Nationality of Foreign VOT in Indonesia (2011-2015)**



**Graph 9.**  
**Age of Foreign VOT in Indonesia**



**Graph 10.**  
**Education Level of Foreign VOT in Indonesia**

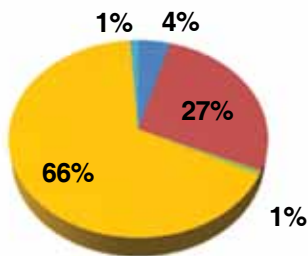




The tendency for traffickers to target single people was highlighted by the survey which found that 66% of victims were unattached (Graph 11). The complexity of family situations in Southeast Asia is generally determined by marital status, as individuals who are single will be more likely to go overseas since they only have responsibility to their immediate family members, consisting of parents and siblings. Married individuals, on the other hand, are less likely to go overseas because of their responsibility not only to their parents and siblings, but also their spouse and children.

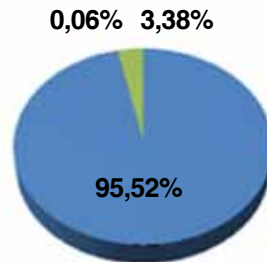
The single factor common to most victims was their economic situation. An overwhelming majority of the victims claimed that they were poor or very poor at the time when they were trafficked to be exploited as fisherman (Graph 12). Less than one per cent of victims claimed to have a standard living condition. This distribution of data shows that the poor and very poor are prime targets for traffickers because they have limited options for employment.

**Graph 11.**  
**Marital Status of Foreign VOTs in Indonesia**



- Divorced
- Married
- Separated
- Single
- Widow/er

**Graph 12.**  
**Economic Status of Foreign VOTs in Indonesia**

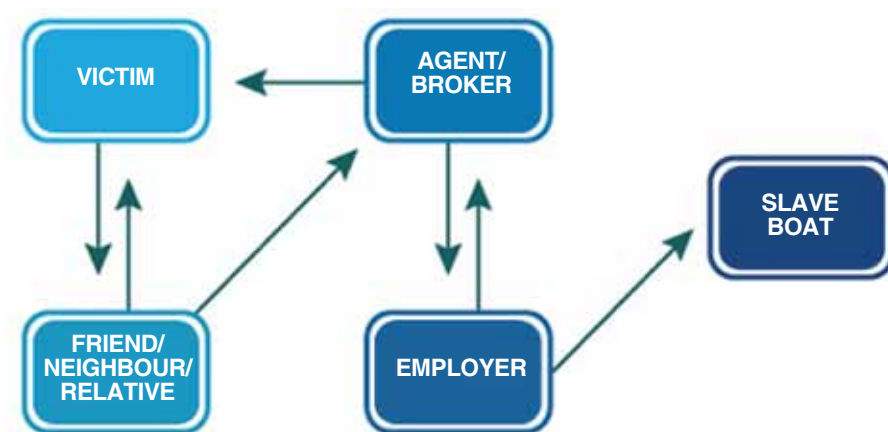


- Poor
- Standard
- Very Poor

## Indonesian Victims of Trafficking in the Foreign Fishing Industry

Since most of Indonesian victims of trafficking into foreign fishing industries did not involve illegal entry to any particular country, the complexity of recruitment was less than compared to foreign trafficked individuals in the Thai and Indonesian fishing industries. Another particular distinction in Indonesian victims of trafficking was the fact that recruitment by the recommendation of relatives and friends was more common than by themselves (Figure 6).

Figure 8.  
Pattern of Recruitment and Movement of Indonesian Victims Abroad



The majority of Indonesian fishermen victims of trafficking assisted by IOM Indonesia worked on Taiwanese fishing vessels. In general, there are two types of placement for Indonesian fishermen who work on a Taiwanese vessel. Firstly, there is official placement (Government to Government), where the fishermen are placed through BNP2TK on Taiwanese vessels that only operate only in Taiwanese waters. Due to the official nature of this placement, Indonesian fishermen usually obtain an alien resident certificate which guarantees their rights under Taiwanese Law. As such, they are less vulnerable to labour

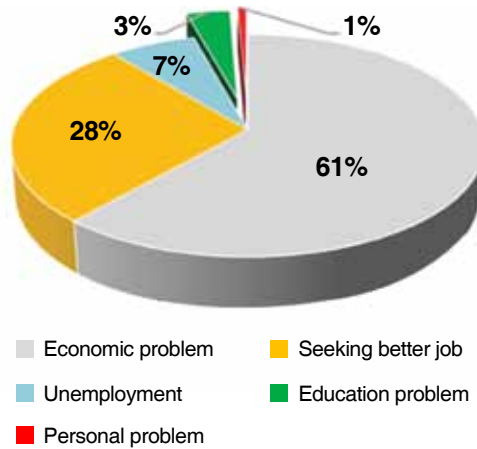
exploitation and abuse. Secondly, there is Letter-Guaranteed placement in which Indonesian fishermen are placed directly by the manning agencies without the involvement of both governments (Private to Private).

Most of the vessels that fall under this type of placement operate beyond Taiwanese waters (including Trinidad and Tobago, Ivory Coast, and South Africa). As a result of the absence of the government and the remote location of the fishing operation, Indonesian fishermen who work under this type of placement are more vulnerable and face a higher potential of being exploited and abused. Most of the Indonesian trafficked fishermen assisted by IOM Indonesia fall within this category.

Most of the trafficked Indonesian fishers and seafarers that IOM Indonesia assisted from 2011-2015 were reluctant to look for information on fishing opportunities themselves or apply directly to the employer or recruitment agencies. They tended to trust people they already know (not just a new acquaintance) who had experience working in the foreign fishing industry. Recruitment agencies have to approach the potential target initially in order to gain their trust before persuading or deceiving them to enter the industry. In addition to that, during the early phase of recruitment, all of the Indonesian victims interviewed already possessed basic information about the kind of job (sector) they would be doing. Victims of trafficking from Myanmar, Cambodia, and Lao PDR did not possess that information about their proposed jobs. Recruitment agencies did not provide a range of jobs to the Indonesian victims. Instead, they only stated the job and information about the place (country or fishing ground) the victims were going to for the work.

Indonesian victims of trafficking considered “economic problems” as the primary factor that encouraged them to work in foreign fishing industries (Graph 13). The second reason was to look for “better employment”. In this category, the opportunity to work abroad was expected to provide individuals with higher and better earnings in comparison to the earnings they would have earned in Indonesia.

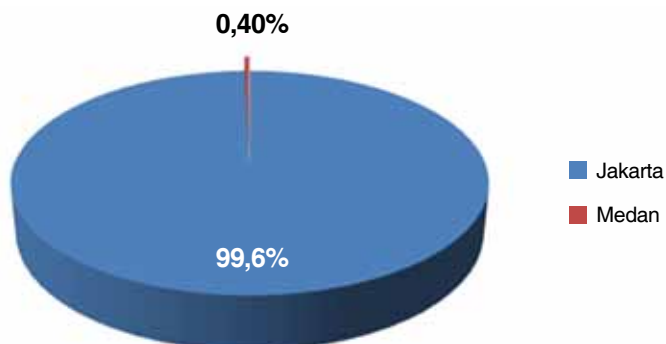
**Graph 13.**  
**Reasons to Work Abroad (Indonesian VOT in Foreign Fishing Industries 2011-2015)**



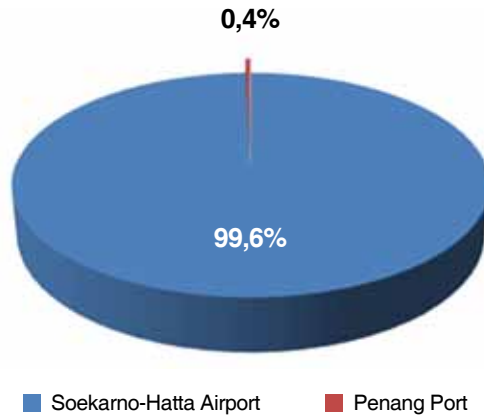
After the recruitment process, the trafficked persons enter the phase of movement and transfer. Though all of the Indonesian victims of trafficking in foreign fishing vessels possessed basic legal and valid travel documents (passport and visa), there were still a minority of Indonesian seafarers whose work documents were forged, mostly by recruitment agencies.

Interviews conducted with the fishers and seafarers highlighted only two key points of departure were used in the movement process. These were Jakarta and Medan (Graph 14).

**Graph 14.**  
**Departure Cities of Indonesian VoT Abroad**

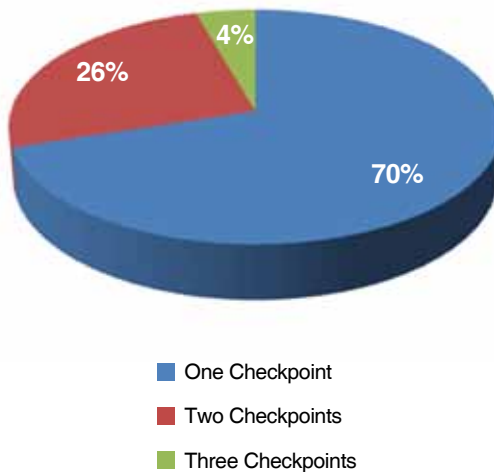


**Graph 15.**  
**Name of Departure Port or Airport**

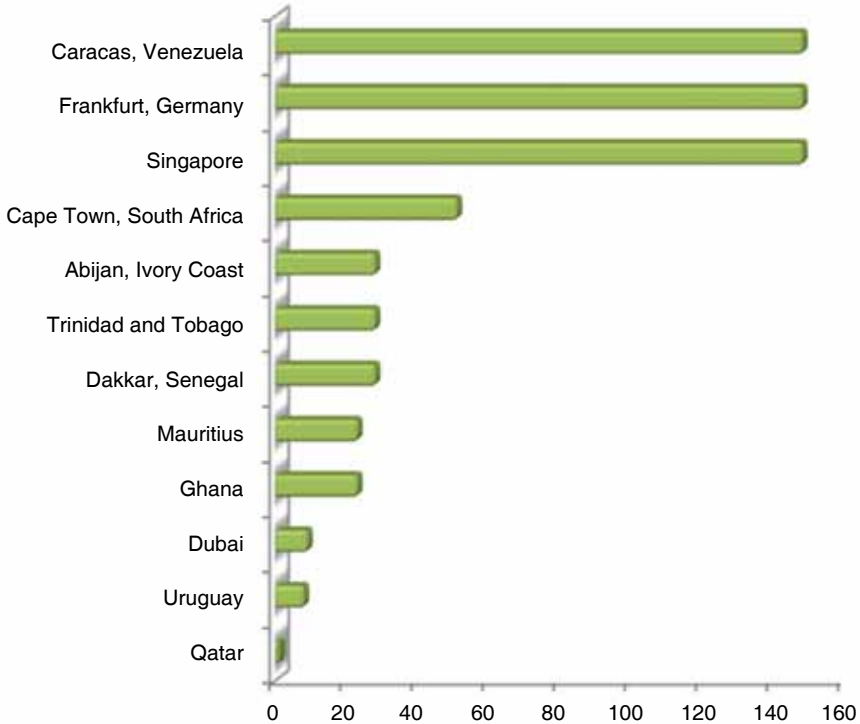


Additionally, only two exit points existed for Indonesian victims to reach their employers abroad (Graph 15). Individuals would use Soekarno-Hatta International Airport in Jakarta to fly to their workplace or go to Medan before taking a boat to Penang in Malaysia where they were taken by the employers' or brokers' vessels. Once the journey had begun to the workplace, the victims encountered between one and three international checkpoints before arriving at the workplace (Graphs 16 & 17).

**Graph 16.**  
**Total Number of Checkpoint Passed During Movement**

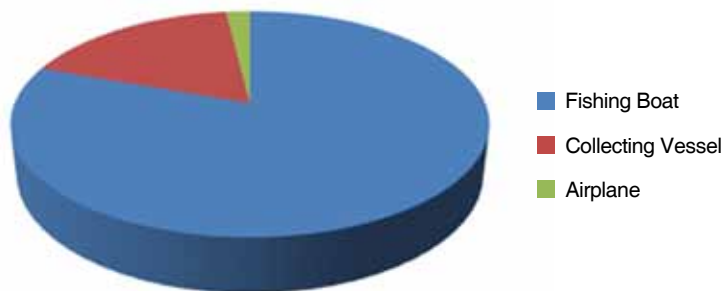


**Graph 17.**  
**Name of Checkpoint Passed during Movement**



As a result of the remoteness of the workplaces, the victims were transported by a variety of means to the fishing grounds (Graph 18). The majority of Indonesian victims were transported to their work location utilizing a fishing boat. A minority were moved using collecting vessels. Only small numbers of victims were moved using an airplane.

**Graph 18.**  
**Method of Transportation**



Unlike the situation with the foreign fishermen in Indonesia, labour recruitment overseas is regulated by the Government of Indonesia. The placement of Indonesian fishermen abroad is managed through several regulations (Table 4).

**Table 4.**  
**Indonesian Government Regulations Relevant to Recruitment  
Into Fisheries Abroad**

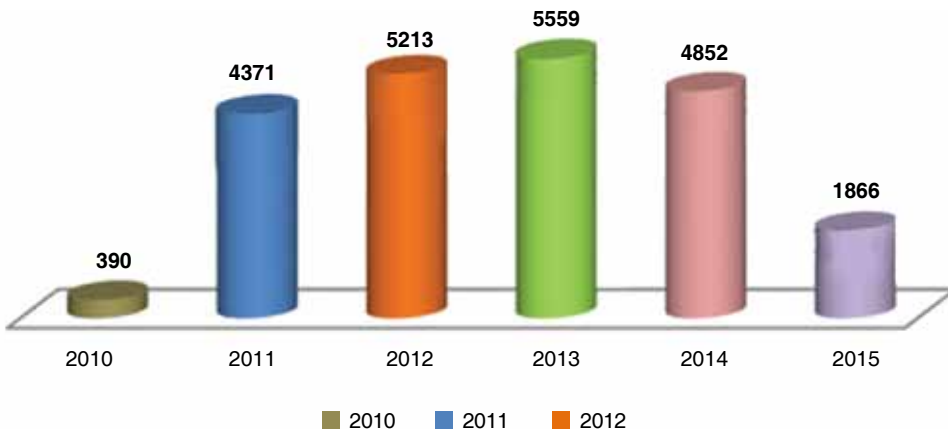
Presidential Regulation	Government Regulation (Presidential Regulation) Number 7 Year 2000 on Seamanship
Ministry of Transportation	Ministerial Regulation (Ministry of Transportation) Number 84 Year 2013 on Mechanism of The Recruitment of Seafarer
Head of BNP2TKI	Head of BNP2TKI Regulation Number 03/KA/1/2013 on the Mechanism of Placement and Protection of Indonesian Fishermen at Foreign Fishing Vessel
Head of BNP2TKI	Head of BNP2TKI Regulation Number 12/KA/IV/2013 on the Mechanism of Recruitment and Placement and Protection of the Seafarer on Foreign Vessel

Two of the regulations specifically manage Indonesian fishermen abroad, these are the *Ministerial Regulation (Ministry of Transportation) Number 84 Year 2013 on Mechanism of The Recruitment of Seafarer* and *Head of BNP2TKI Regulation Number 03/KA/1/2013 on the Mechanism of Placement and Protection of Indonesian Fishermen at Foreign Fishing Vessel*. Ever since the enactment of the regulations, the Indonesian government has been actively sending Indonesian fishermen abroad. The placement data from BNP2TKI for the period 2010 to 2015 showed a significant increase. In 2010 the Indonesian Government only sent 390 fishermen overseas, while in 2011 it sent 4371 fishermen abroad. In 2012 the Government allowed 5213 fishermen to work overseas with highest movement being in 2013 with 5559 fishermen abroad.

According to the labour statistics (Graph 19), the placement of Indonesian fishermen abroad decreased in 2014 and 2015. This decrease can be attributed to a new policy to review the placement of Indonesian fishermen abroad. This policy was influenced by the high number of cases of exploitation faced by

fishermen abroad. For example in 2011, The Indonesian Government assisted 27 Indonesian fishermen who were employed in South Korea as fishermen on the *Melilla* 203 fishing vessel. Upon their arrival in South Korea, those 27 Indonesian fishermen were transferred to the *Melilla* 203 which travelled to New Zealand waters. The working conditions on *Melilla* 203 were very poor and the fisherman were forced to work excessive working hours and were treated as slave labour. In addition, some of the fishermen were also subjected to sexual and physical abuse on this Korean-flagged ship.<sup>76</sup> This case became the centre of attention for both the Indonesian and New Zealand governments.

**Graph 19.**  
**Number of Indonesian Fishermen Abroad 2011 – 2015**



\*Source: BNP2TKI data on Placement and Protection of Indonesian Worker Overseas 2010 – 2015

In July 2012, a further 203 Indonesian fishermen were rescued from trafficking activities in Trinidad and Tobago territorial waters. These fishers worked for the Kwo Jeng Trading Co. Ltd Company in Taiwan. These fishermen were promised work in Taiwan and lured with offers of a large salary. Instead, they were transported to Trinidad and Tobago and suffered physical and psychological abuse. They were subjected to excessive working hours, denied proper food and medical assistance request, and had restricted freedom of movement.

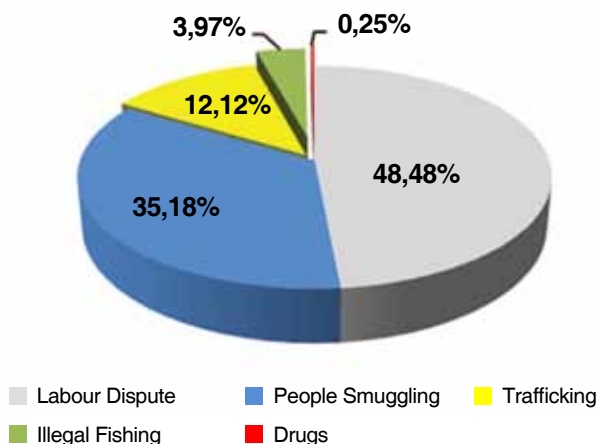
<sup>76</sup> Hamish Clark, Fishermen claim unpaid wages, sexual abuse,|| <http://www.3news.co.nz/Fishermen-claim-unpaid-wages-sexualabuse/tabid/421/articleID/232989/Default.aspx>



Their identity documents were confiscated by the captain and they were bound with debt. Similar cases also occurred in 2013, where 119 Indonesian fishermen in African countries were also victims of Trafficking. In 2015 there were 26 Indonesian fishermen in Angola and 55 Indonesian fishermen in Peru who suffered from exploitative situations.<sup>77</sup>

Indonesian fishermen working internationally have also found themselves involved with labour disputes, IUU fishing, and other crimes at sea (Graph 20). According to the Ministry of Foreign Affairs, for the period 2012-2015, the Indonesian government assisted 2,368 Indonesian fishermen abroad who had experienced IUU related crimes. The main cases experienced by Indonesian Fishermen were labour disputes (1148 cases), people smuggling (833 cases), Trafficking in Persons (287 cases), illegal fishing, (94 cases) and drugs abuse (6 cases).<sup>78</sup>

**Graph 20.**  
**Number of Indonesian Fishermen who Encountered IUU-related cases Abroad**



Among the 2368 fishermen who had experienced IUU problems, 12.12% or 287 of the fishermen suffered from trafficking cases. Most of them were trafficked to East Asia and South East Asia (97 fishermen), South Africa (135 fishermen),

<sup>77</sup> Akibat Dualisme Aturan, Banyak ABK TKI di Luar Negeri Jadi Budak, <http://buruh-online.com/2015/07/akibat-dualisme-aturan-banyak-tki-abk-di-luar-negeri-jadi-budak.html>

<sup>78</sup> Rekapitulasi Kasus ABK 2012-2015, Kompilasi Data Penanganan WNI di Luar Negeri, Direktorat Perlindungan Warga Negara dan Bantuan Hukum Internasional, Ministry of Foreign Affairs.

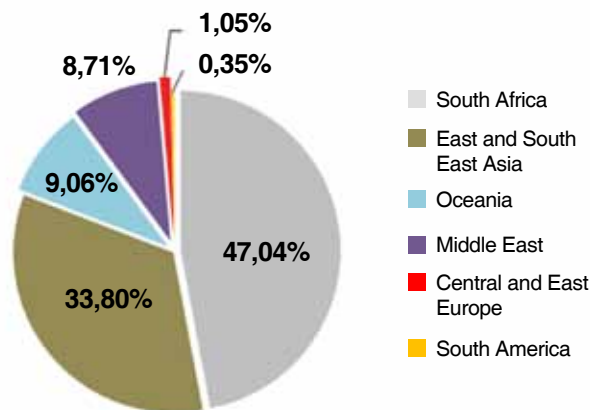
the Middle East (25 fishermen), Oceania (26 fishermen), Central and Eastern Europe (3 fishermen) and South America (1 fisherman).

IOM Indonesia has assisted Indonesian fishermen abroad who have been victims of trafficking. The first case was referred from the Indonesian National Police to IOM in October 2005. A 27 year old fisherman was recruited by an individual broker to work in Malaysia as a construction worker. He was transported from Nangroe Aceh Darussalam via mixed transportation to Malaysia. Once he arrived he was sent to the vessel and employed as a fisherman. He worked for 3 months without receiving any salary and adequate food and water. He experienced physical and psychological abuse.

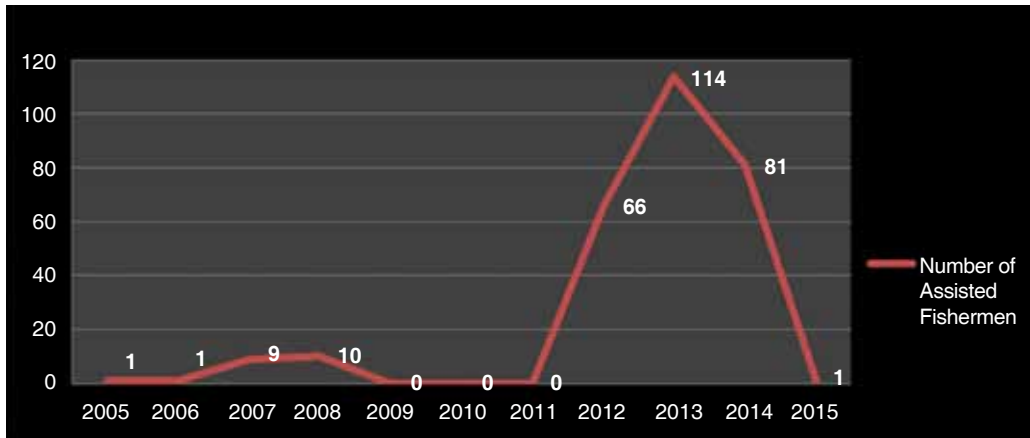
The second case was received by IOM in 2006, involving one fisherman from Sambas. He was trafficked to Malaysia by an agency, suffered from psychological abuse, faced excessive working hours and denied medical assistance and adequate food. He was rescued by Police and referred to IOM by the Indonesian Embassy. In 2007 IOM received a referral for 9 fishermen from West Kalimantan who were trafficked through a legal agent to Malaysia as fishermen.

The number of Indonesian fishermen has increased year by year, and in 2013, IOM Indonesia received referrals for 114 Indonesian fishermen who were trafficked abroad. Graph (21) illustrates the number of Indonesian fishermen assisted by IOM since 2005 – 2015.

**Graph 21.**  
**Trafficked Fishermen in Destination Regions**

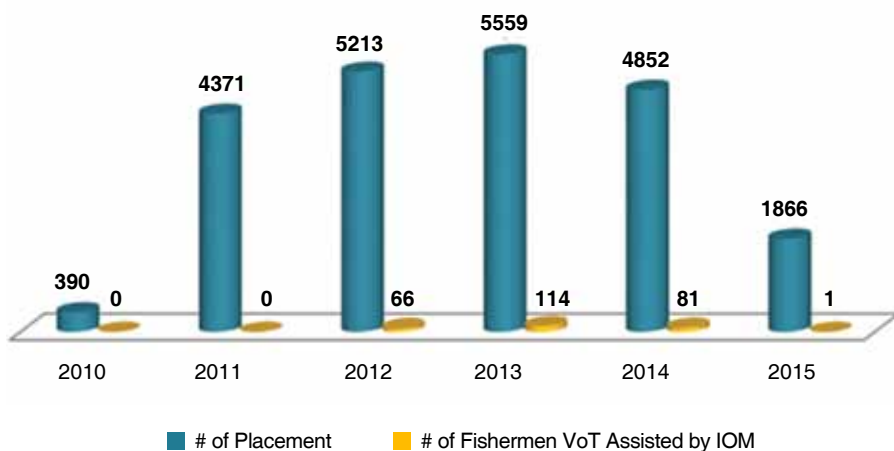


**Graph 22.**  
**Number of Indonesian Fishermen Assisted by IOM since 2005 - 2015**



According to the IOM data, the trafficking of Indonesian fishermen abroad has increased significantly since 2011. When compared to the BNP2TKI’s data on the placement of Indonesian fishermen abroad, there are similarities in the increasing number of placements and cases. When the number of placements is high, the number of the cases also increased.

**Graph 23.**  
**Comparison of Placement Number and Trafficking Case faced by Indonesian Fishermen**

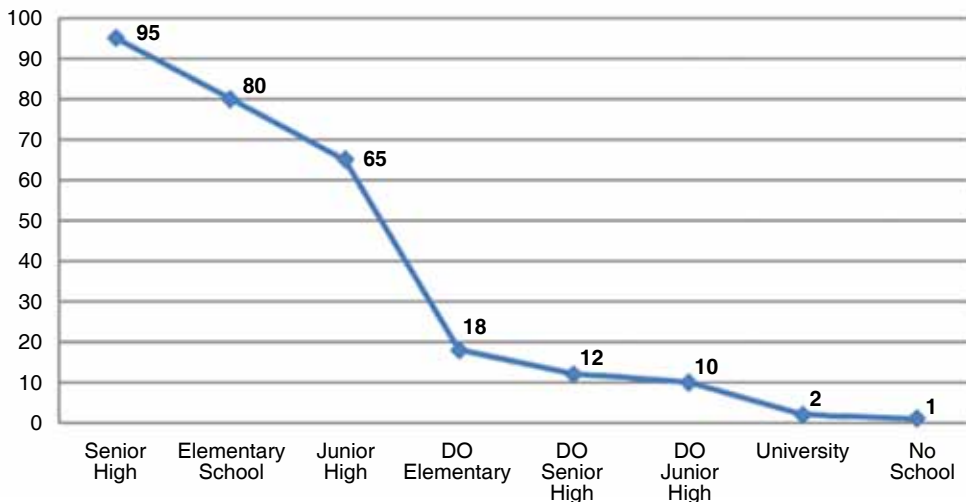


## Education

The relationship between education attainment and the proportion of victims of trafficking is negative. It would appear that the lower the education, the higher the number of victims.

In contrast with the education level of the foreign fishermen who were trafficked in Indonesia, the fishermen from Indonesia had a higher level of education. This has been influenced by the government regulation and requirements for Indonesian fishermen to work abroad. The Indonesian government has regulated that fishermen should meet basic requirements to secure overseas employment opportunities, such as completing basic security training and undergoing training which is confirmed by the issuance of a certificate of competency and proficiency.

Graph 24.  
Educational Background of Indonesian Fisherman VOT  
(2011-2015)



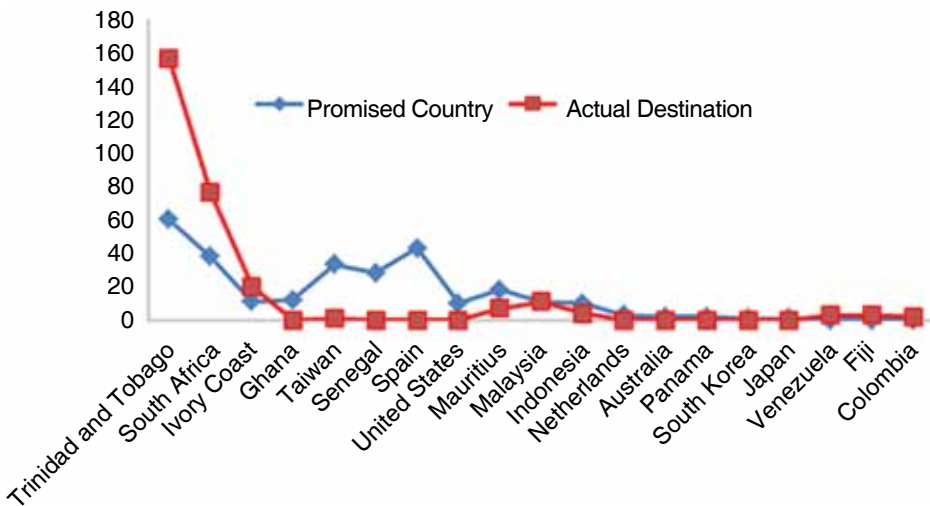
## Promised Jobs

Recruiters mostly promised victims gainful employment in the fishing industry, accounting for 98 percent of recruitment. Two percent of victims reported that the recruiter offered to find them work but did not specify the job category. In both instances, the recruiter did not deceive the victim about the type of activity, as they either knew or were not informed that their labour would be used in the fishing industry. Even though 98 per cent had been informed about the work as fishers, they had been manipulated in the destination countries, where their working conditions and working period were not as originally anticipated.

13 percent of victims reported that the actual employment in the fishing industry was in the promised destination, including Indonesia, Ivory Coast, Malaysia, Taiwan and Trinidad and Tobago. 87 per cent claimed that the actual destination was different to the one that was promised. Most fishermen (21% or 60 fishermen) were promised work in Trinidad and Tobago, 43 in Spain, 38 in South Africa, 33 in Taiwan, and 28 in Senegal. The rest of the fishermen were promised work in various countries such as Malaysia, United States, Ghana and Japan. Whereas the actual destination countries were dominated by Trinidad and Tobago (156 fishermen), South Africa (76 fishermen), Ivory Coast (20 fishermen), and Malaysia (11 fishermen). Graph 25 provides detail on the promised country and actual destination country.

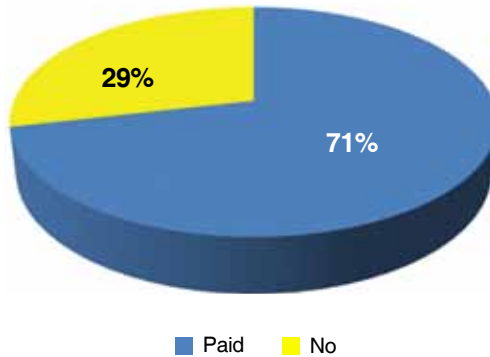
Graph 25.

### Promised *vis-à-vis* Actual Destination Country



## Recruitment fee

Graph 26.  
Recruitment Fee

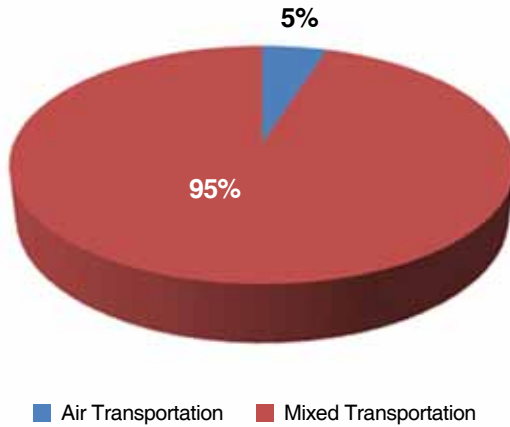


In many cases traffickers charged the victim a recruitment fee. This fee is charged for transportation, accommodation and document issuance expenses. IOM data show that from 283 fishermen, 202 of them (80%) were required to pay a recruitment fee. Among those who paid the fee, 176 victims were required to sign debt contracts a day before their departure while the remaining 29 victims claimed to have paid a recruitment fee of \$2,000 to \$4,000 directly to the recruitment agency.

## Movement Process

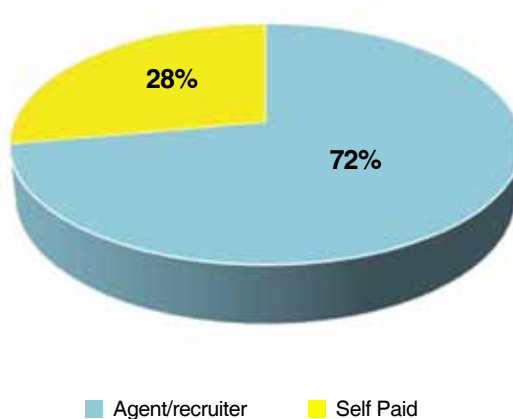
The method of transport has much to say about the way in which the victims arrived on the vessel of exploitation. Two thirds of victims reported that the trafficking network used a combination of land, air and sea-based modes of transport. Generally, victims were moved from their home village to the capital city via land transportation. Afterwards, the victims moved through air transportation to the coastal location at the promised destination country, then transported to the vessel at sea.

**Graph 27.**  
**Means of Movement**



Transportation expenses were normally borne by the recruiter but over 28 percent of victims reported that they paid the costs by themselves. 72 percent reported that the movement fees were paid by the recruiter. However these 72 percent victims confirmed that they should pay back the movement fees once they started work. Their salary would be deducted for these expenses

**Graph 28.**  
**Payers of Movement**

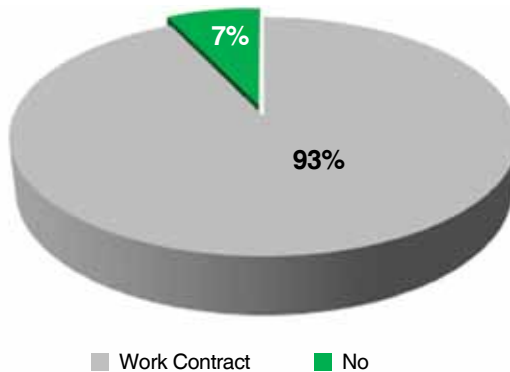


## Work Contract

The study found that 263 victims were employed under a work contract and only 20 did not have a contract. Of 263 of victims who had contracts, 95% of them were recruited by a legal recruitment agency and less than 5% or 12 of them were recruited by an individual broker. In addition, the recruitment services of a family member were reported for only one case.

The twenty fishermen who were employed without a work contract were recruited by an individual broker (middleman) or a friend. A few of the fishermen reported that they were recruited by a legal recruitment agency. Legal recruitment agents tended to organize contracts while the individual recruiter or middleman were not likely to do so.

Graph 29.  
Availability of Working Contract

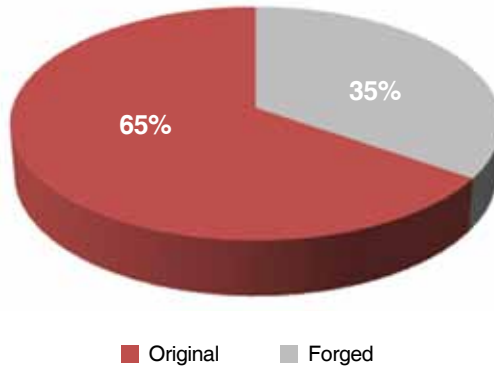


## Document Falsification

The victims' primary document was a seaman's book, and it was confirmed by 275 victims that they possessed the document and it had been arranged through the recruitment agency. Eight victims reported that they had never possessed a seaman's book, although it is the primary travel document for seafarers who land or operate in a foreign country's territory. In addition, of the 275 victims with a seaman's book, 96 reported that their document was falsified, such as details of their date of birth or name and address.



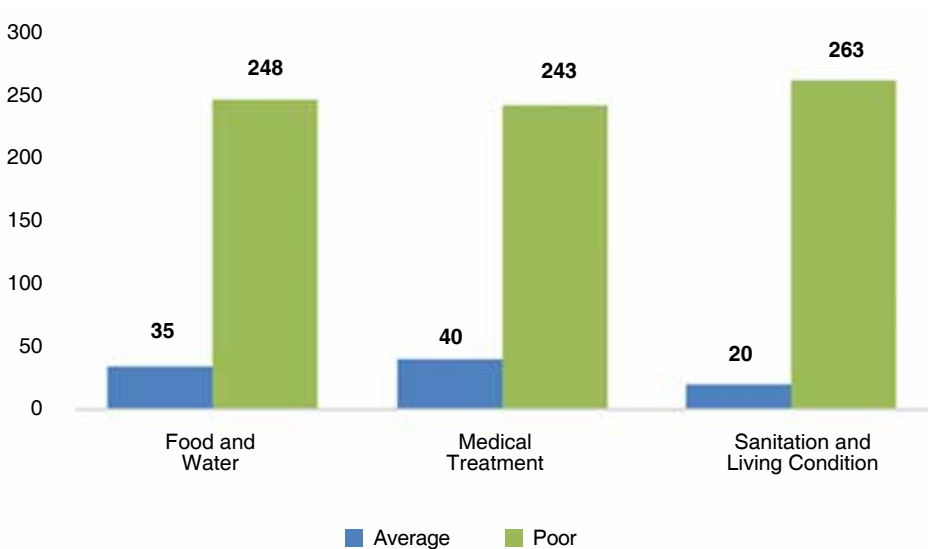
Graph 30.  
Document Originality



## Quality of Life

Victims reported that their quality of life in the place of exploitation was generally poor. An overwhelming majority of victims deemed that their living quarters were unsanitary and claimed that they were denied adequate food, water and medical treatment.

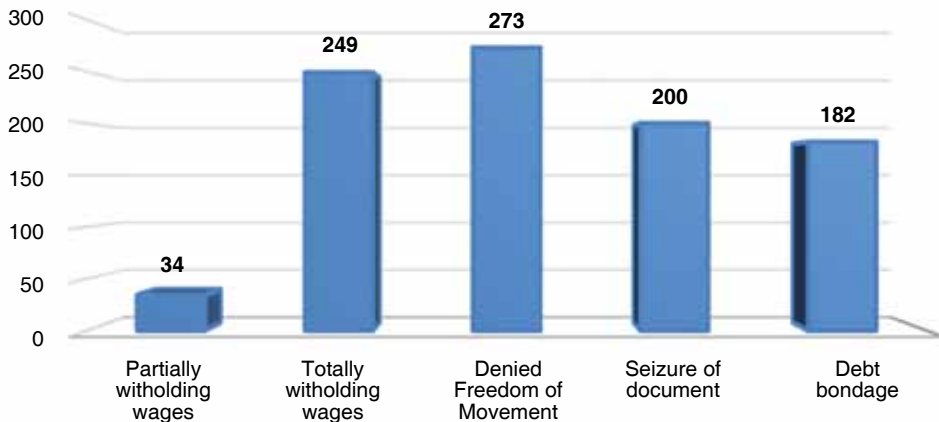
Graph 31.  
Quality of Life



## Mechanisms for Control

Traffickers used various methods to prevent victims from leaving the place of exploitation when the opportunity to do so presented itself. Almost 96 percent of victims reported that the trafficker restricted their movement.

Graph 32.  
Means for Control

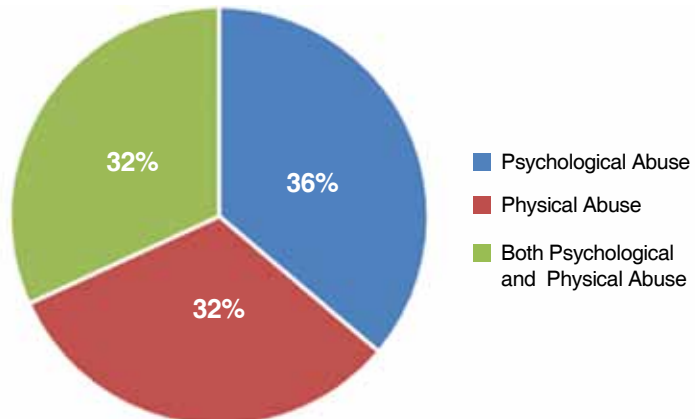


More than 88% of the victims reported that the employer kept their salary and did not allow them to take their own money at all, while 12% of the victims reported that their partial salary had been kept by the employer or trafficker. 71% of fishermen had their identity documents, including but not limited to the seaman's books, confiscated and by the trafficker. Debt was also used as a means of control with 64% of victims reporting that they had a debt with the trafficker.

## Abuse

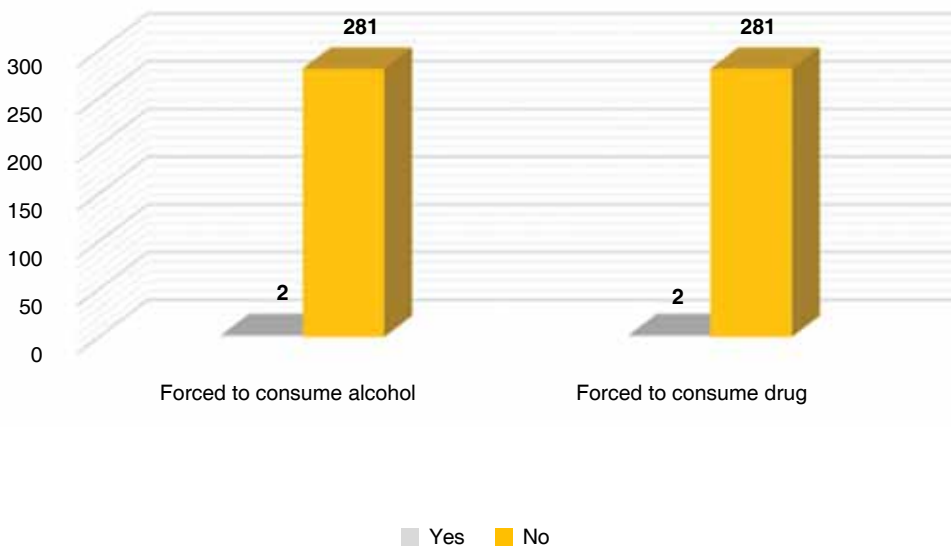
Over 83 per cent of victims reported that the trafficker psychologically abused them. Additionally, 94 per cent of victims experienced psychological abuse. It was also common for victims to experience both psychological and physical abuse with 82% having experienced both. None of the Indonesian victims reported experiencing sexual abuse.

**Graph 33.**  
**Type of Abuse**



A minority of victims reported that the trafficker forced them to consume alcohol and use drugs. Two victims were forced to use drugs and consume alcohol

**Graph 34.**  
**Forced to Consume Alcohol/Drugs**

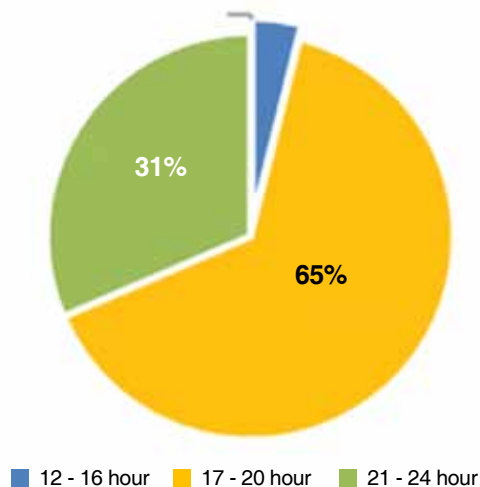


## Labour Exploitation

The exploitation involved abuse of labour rights. This was the case for 88% or 249 victims who reported that they were not paid for the work that they had performed for the trafficker. Another 12%, or 34 victims, reported being partially paid. Only 7 victims were allowed to keep their wages. The rest of the 27 fishermen confirmed that their partial salary was taken by Boat's Captain.

As well as payment issues, 99 per cent of victims also reported that the trafficker required them to work excessive hours. This included 65 per cent of victims who claimed that they worked between 17 and 20 hours per day. Another 31% of the reported that they worked for 21-24 hour and 4% worked for between 12-16 hours. None of the victims reported working less than 12 hours per day.

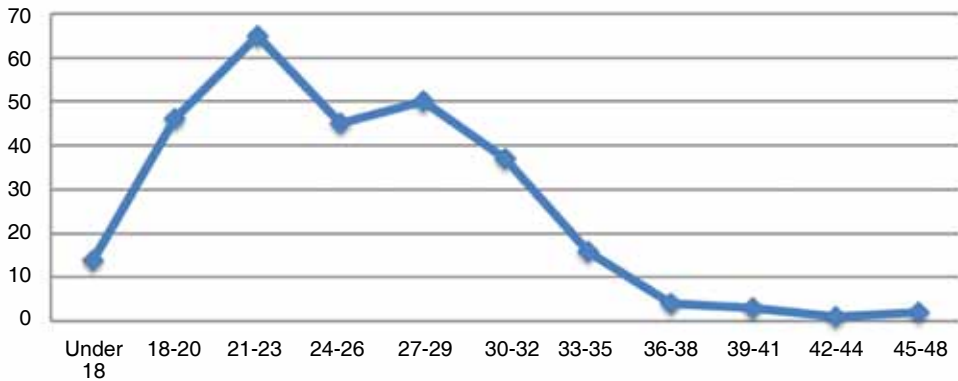
Graph 35.  
Working Time



## Age

IOM data show that among the 283 Indonesian VoT, 5% of them or 14 of the fishermen were underage, while the largest proportion was 23% (or 65 fishermen) were in the 21-23 age category. This was followed by the 27-29 age group (18% or 50 fishermen); 18 – 20 age and 24 – 26 age ( each group consist of 16% or 45 fishermen); and the 30-32 age group with 13% or 37 fishermen. There were far fewer fishers and seafarers who were 33 and above.

Graph 36.  
Age of Indonesian Fisherman VOT (2011-2015)

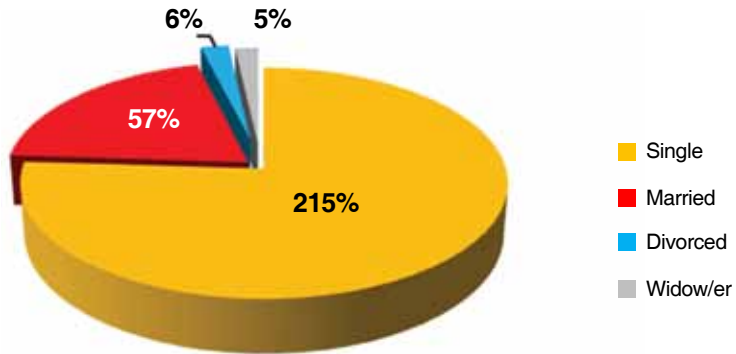


It appears that traffickers mainly targeted Indonesian males in the 18 – 30 age brackets for recruitment. People within 18 -30 ages are well known for their dynamism, productivity, and have strong motivation as well as being full of hope and dreams. They can be lured with offers of high income and a better life overseas. Generally, younger victims are more likely to be single, whereas older victims tend to be married, divorced or widowers. This family status also has influence on why the traffickers targeted younger people within 18 -30 age group.

## Family Situation

The majority of victims (76%) reported that they were single, while 20% of them were married, 2% divorced and 2% were widowed. Among the 76% or 215 fishermen with single status, 190 were in the 18-30 age brackets. This indicates that traffickers target young men with simple family situations for exploitation. Younger single victims may be targeted because of their limited life experience, while victims who are married are targets because of expectations to make greater financial contributions.

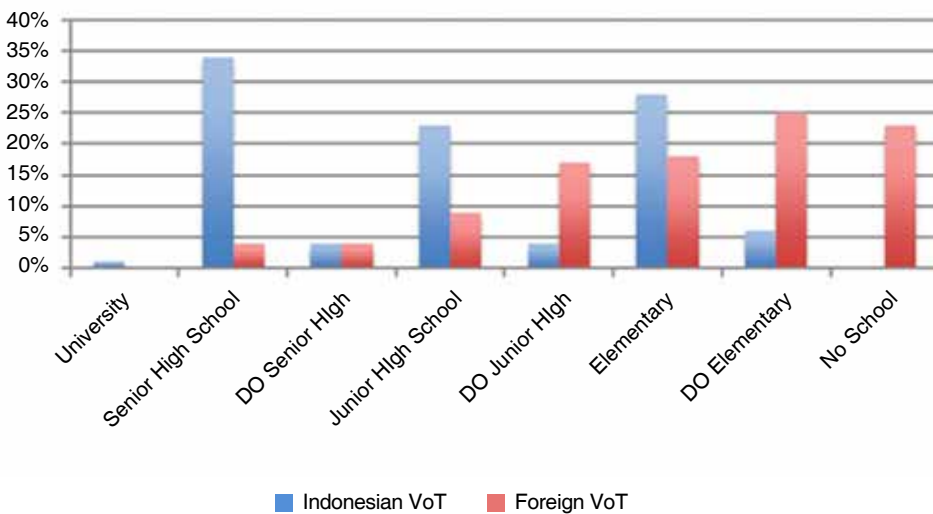
Graph 37.  
**Marital Status of Indonesian Fisherman VOT (2011-2015)**



## Educational Level

One interesting motivating reason with Indonesian victims was related to ‘education problems’. This was unlike the foreign VoT in the Indonesian fishing industry who did not state this as a motivating factor. There was a significant difference in the educational background of foreign victims compared to Indonesian victims of trafficking abroad.

Graph 38.  
**Educational Background of Victims of Trafficking (Both Categories)**

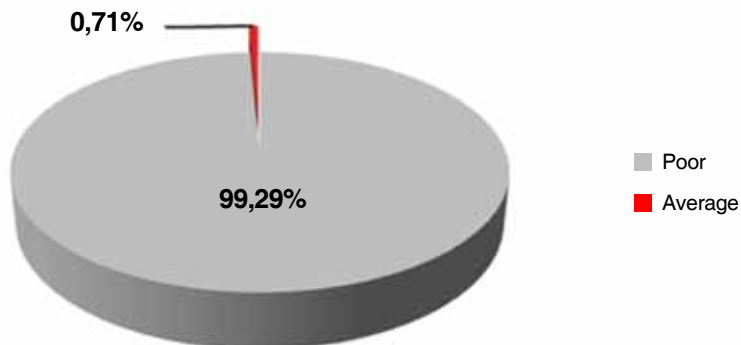


Most of the Indonesian victims of trafficking had completed some secondary schooling (Junior and Senior High School) (Graph 38). This was the opposite situation to foreign victims of trafficking in Indonesia. The emergence of education considerations as a reason to work abroad is found reasonable and logical. Individuals who fall within this category explained that by working abroad, they could earn higher wage, which at the end would be used to fund their further or pending studies. It is clear that victims initially saw an economic advantage and benefit from working in foreign fishing industries compared to work in the similar industry at home. Although education appears to play a pivotal role in preventing people from being trafficked, in Indonesian victims of trafficking it did not prevent Indonesian victims from falling into the trafficking cycle.

## Economic Status

In terms of economic status, there was no significant distinction between the foreign and the Indonesian victims of trafficking. An overwhelming majority of victims identified themselves as being economically disadvantaged (Graph 39). A smaller proportion of less than one per cent claimed to be average in their economic position. This data supports the assumption that individuals coming from disadvantaged economic status are more likely to be trafficked than those in an economically advantaged group. Similarly, victims with average means are also believed to be motivated by the desire to obtain better employment in terms of the position and salary rate.

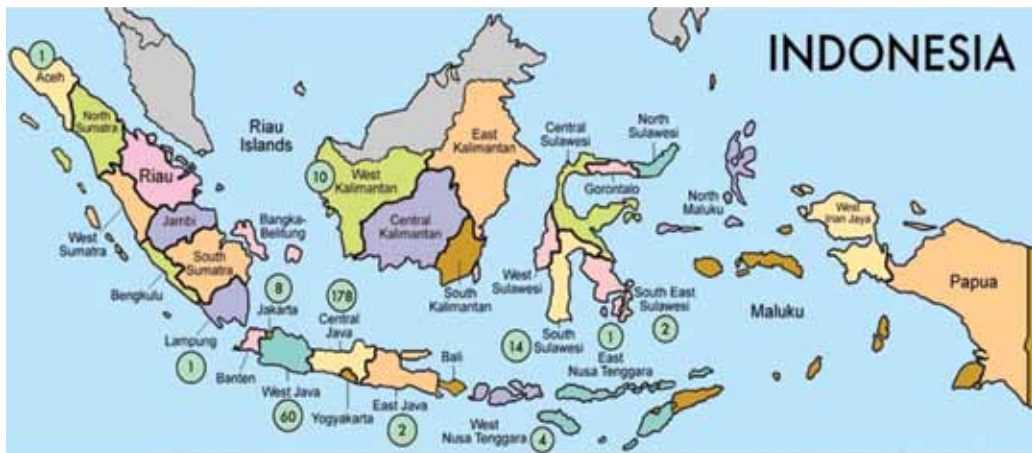
Graph 39.  
Economic Status of Indonesian VOT (2011-2015)



## Place of Origin

Traffickers will frequently target victims who live in remote areas. As for fishermen assisted by IOM, 62.9% (178 fishermen) came from Central Java, 21.2% (60 fishermen) from West Java, and 4.9% (14 fishermen) from West Borneo (Figure 9).

Figure 9.  
Place of Origin Indonesian Fisherman VOT (2005-2015)



Fishermen from Central Java, generally come from the north and south part of Central Java such as Pemalang, Tegal, Pekalongan, Batang, Brebes, Cilacap, Purworejo, Pati, Rembang. These areas are well known as a source of fishermen because they are located on the coastline of Java. Only 8 fishermen were recruited from inland Central Java from Wonosobo, Banyumas and Klaten. Most of the victims from West Java, 56% of them (36 victims) originally lived in coastal areas, such as Indramayu, Subang and Cirebon and Ciamis. South Sulawesi was also a popular source of trafficked fishers. This can be accounted for by the fact that people from South Sulawesi are renowned as good seafarers, able to read navigation maps, and have a good knowledge of the sea, fishing and vessels.



# RECRUITMENT AND MOVEMENT

## Foreign Victims of Trafficking in Indonesia: Pre-Departure

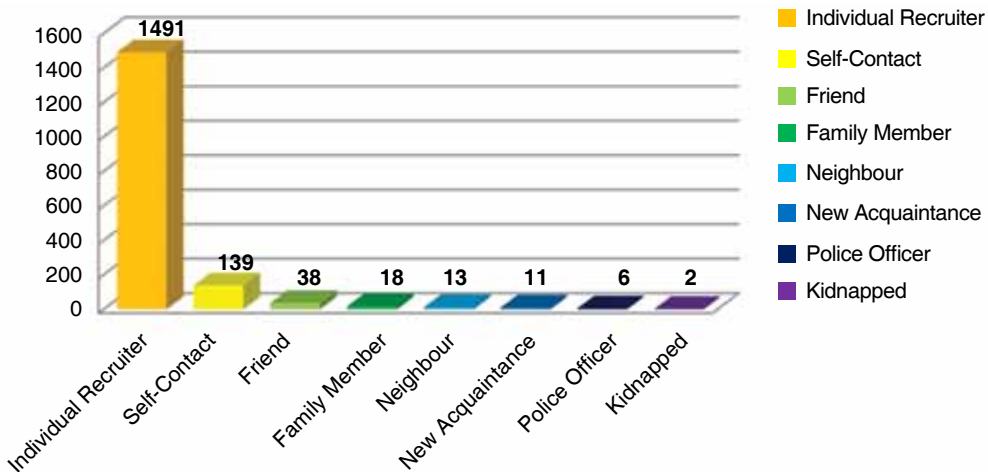
In general, there were three types of recruitment that were utilized by agents to recruit foreign migrants from Myanmar, Cambodia and Lao PDR into the Thai fishing industry, they included:

1. Agents or brokers who resided in one of the three countries and Thailand looked for potential migrant labourers in coordination with the employers. These agents usually charged a recruitment fee to the migrants in the form of a cash advance or debt, by allowing the migrants to work at the first place and later deduct the fee from their salaries once or through installment.
2. Recruitment conducted by the agents based on the request of the employers wherein the fee for recruitment was borne by the employers.
3. Recruitment that occurred when the potential workers deliberately looked for the job in person or through friends or relatives who had previous experience working in the fishing industry or at least had a channel or contact in that industry.

Individual brokers were found to have more ability in convincing potential workers to work in the fishing industry compared to members of the family or other relatives (Graph 40). More than three quarters of recruitment was performed by a broker or individual recruiter, who was unknown to the victims. According to some victim testimonies, a single broker was able to recruit dozens of people from a village. Potential recruits were given a brief description about the job in Thailand and told that it could earn them more than \$300 a month. This was enough to attract workers. In several cases, young people immediately asked their parents' permission to go to Thailand along with the recruiter. A smaller percentage (less than four percent) facilitated the

process by themselves, or with assistance from their family members, relatives, friends, neighbors, or new acquaintances. A small percentage (less than one percent) were involuntarily (forceably) recruited.

Graph 40.  
How Victims Were Recruited

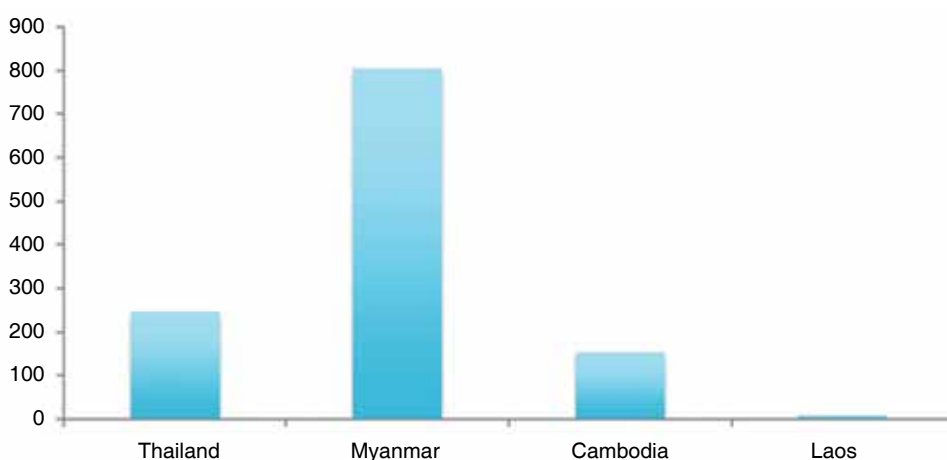


Recruiters from Myanmar dominated (66%) the nationality of recruiters in villages (Graph 41). A reason that may best explain this phenomenon may be because the majority of the victims were Burmese nationals and that in order to successfully attract a high number of potential targets, the recruiters must have the capacity to speak the local language fluently. Therefore, locals are presumed to have a better chance of convincing or deceiving their fellow nationals compared to foreigners.

Recruiters were mainly from the country of origin of the victims except for the case of Thai recruiters. A number of Thai recruiters were found to be successful in recruiting people outside of Thailand. While language was an essential element, nationality also determined the success of the recruitment process. Thais with some local language ability, had a high chance of making locals believe their stories; not because of the language but because of the recruiters' nationality as a country that was more developed than the country where they organized the recruitment. It appeared that people from less developed areas were more prone to trust people from more developed regions compared to those who came from the same socio-economic position. In the case of Lao

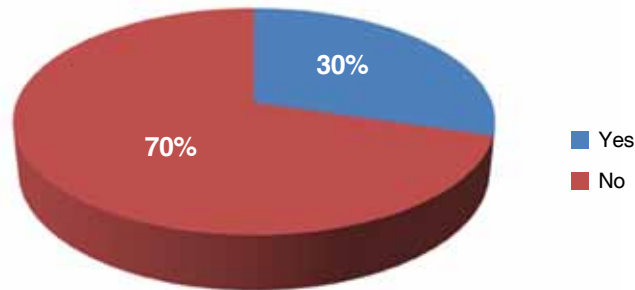
PDR, the low number of Lao recruiters can be attributed to the similarity in language spoken both in Lao PDR and Thailand. This similarity in language also decreased the possibility of Lao recruiters being involved in the process since Thai recruiters could conduct the recruitment directly. The similarity in language in both countries could also account for the low numbers of Lao victims in the Indonesian fishing industry, since most Lao nationals would have gone to Thailand directly to find work.

**Graph 41.**  
**Recruiters Nationality in Home Village**



The majority of the trafficked fishers and seafarers to Indonesia had not had any previous work experience in Thailand before accepting the position on the fishing vessel (Graph 42). Approximately 70 percent of them stated that their present job was their first job in Thailand. The remainder admitted that they had previously worked in Thailand. Individuals who did not possess any previous work experience in Thailand had a higher possibility of being deceived and trafficked compared to those who had already worked there. Adequate knowledge and experience of the actual work conditions and environment in Thailand could prevent potential victims from being trafficked by employers or recruiters.

Graph 42.  
Previous Working Experience in Thailand



For the victims that had previous work experience in Thailand, the majority of them had worked in a similar industry previously (Graph 43). The majority of workers who had previously worked in the Thai fishing industry found themselves in the same cycle when their contracts with their previous employer ended. Through personal connections with new employers or friends working in similar companies, they obtained information about vacancies on the fishing vessels that would sail for Indonesia, including the salaries they would obtain from the operation.

Most of the trafficked persons found their way to Thailand via irregular channels. In the case of victims from Myanmar, there were three types of entry that were found to be common: Firstly, crossing the border using land-based transport, alone or with relatives or friends and paying a sum of money to the Thai border officials for entry; Secondly, crossing the border (land-based border) alongside the recruiter and allowing the recruiter to arrange a permit entry at the border; and thirdly, entering Thailand via its coastal territory, wherein several cases involved the use of people smugglers (as opposed to traffickers) to avoid Thai coastal patrols. For Cambodians and Lao PDR nationals their entry to Thailand was mostly performed through land-based border crossings, accompanied and facilitated by their brokers. For less than 10,000 baht a safe crossing and entry to Thailand could be provided to migrants who desired to enter Thailand for work purposes.<sup>79</sup>

<sup>79</sup> Jeerold Huget, *op cit*, p. 5

Graph 43.  
Previous Work Experience in Thailand (Sector)

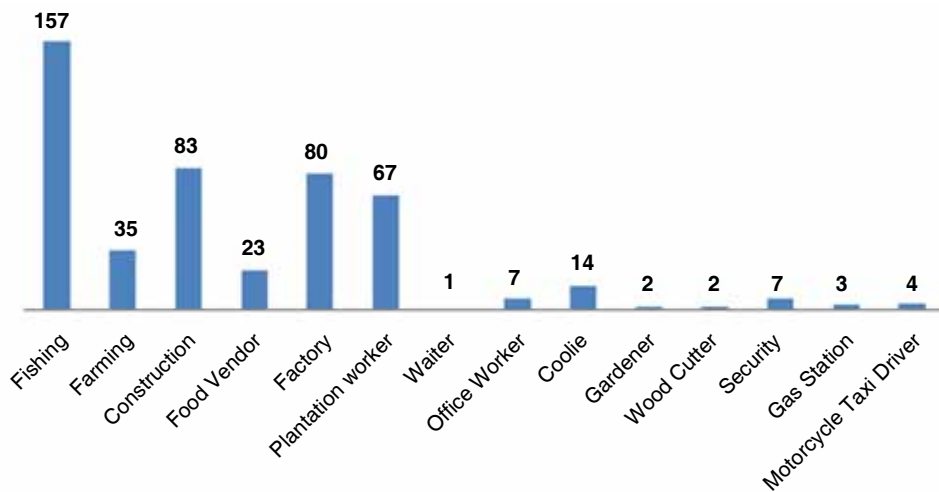


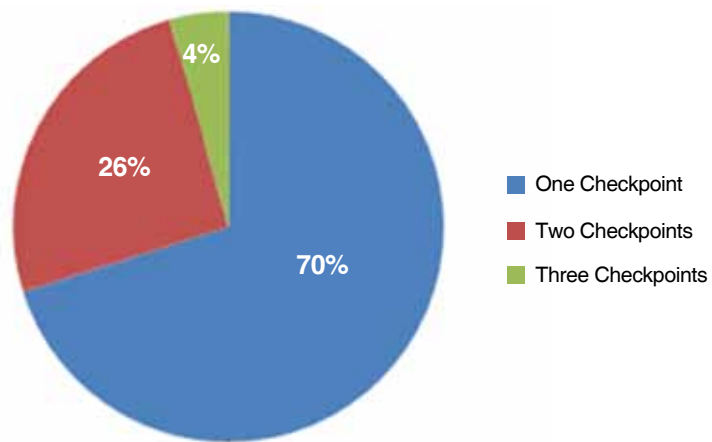
Table 5 displays the border crossings that were used by all the foreign victims who were trafficked to Indonesia and interviewed by IOM Indonesia (2011-2015). In several cases victims were required to make multiple border crossings (Graph 44).

Table 5.  
Name of Borders Used by Migrants to Enter Thailand

Name of Border	Percentage of Crossing
Cambodia - Battambang Province	1.70%
Cambodia - Koh Kong	0.26%
Cambodia - Lam Area	7.33%
Cambodia - Malai District	3.93%
Cambodia - Nang Chan	0.13%
Cambodia - O'Smach	0.13%
Cambodia - Pak Khlong	0.39%
Cambodia - Poipet Town	10.86%
Cambodia - Prey Veng Province	0.26%
Cambodia - Siem Reap Province	0.52%
Laos - Chong Mek	0.13%
Laos - Savannakhet	0.52%
Myanmar - Bago Province	0.26%
Myanmar - Kawthaung	39.01%

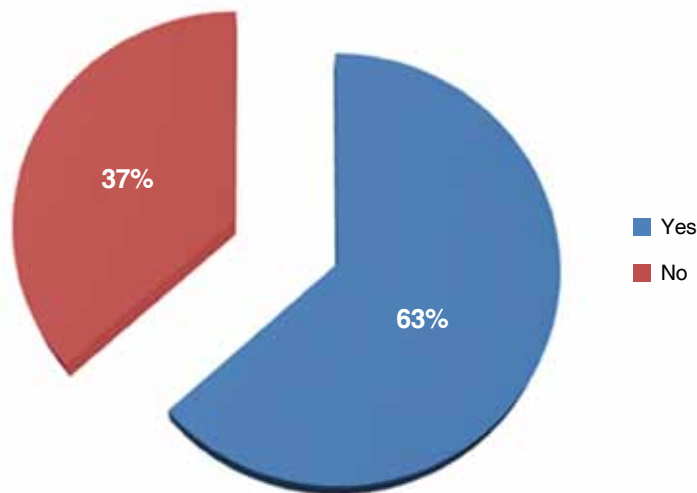
Name of Border	Percentage of Crossing
Myanmar – Myawaddy	5.76%
Myanmar - Rakhine State	0.26%
Thailand - Bang Trakouen	1.31%
Thailand – Liem	0.65%
Thailand - Mae Sot	4.45%
Thailand - Nong Khai	0.13%
Thailand - Phaya Tone Zu	14.92%
Thailand - Preah Vihear	0.13%
Thailand – Ranong	3.93%
Thailand - Than Phyu Zayat	2.49%

Graph 44.  
**Numbers of Checkpoint During the Movement**



The majority of the migrant workers were not directly transferred to employers but were instead transferred to one or more agents before reaching their final destination. Graph 45 provides information about the numbers of trafficked persons that were referred to another agency prior their employment in Thai fishing industry. More than 60 percent of the respondents admitted to being moved to a different recruitment agency after reaching Thailand, while less than 40 percent stated that they were directly referred to their employers shortly after arriving in Thailand.

Graph 45.  
**Transfer to Other Agency After Arriving in Thailand**



Previous IOM Thailand research identified several common routes that are used by both people from Myanmar and Cambodia to reach Thailand:<sup>80</sup>

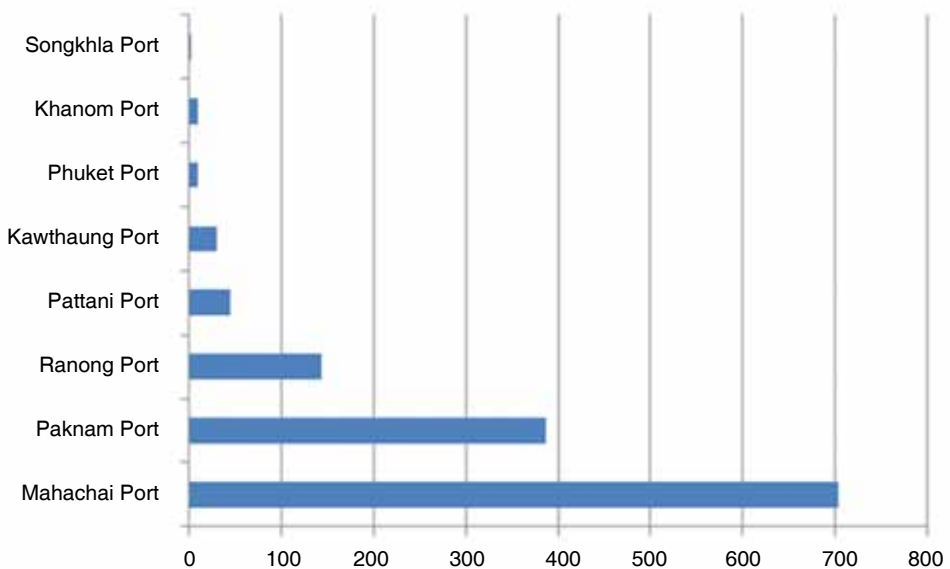
1. Victims from Myanmar are trafficked from Kawthaung (Tanintharyi region) in Myanmar to Ranong in Thailand. From Ranong the trafficked persons are moved onto fishing boats operating out of Mahachai, Songkhla, Pattani, Surat Thani, or Trang. Another common route that is frequently used to transport victims of trafficking is to take them to Mae Sot (Tak province, Thailand) from Myawaddy (Kayin State) in Myanmar. Victims of trafficking are later transferred and distributed to Sakhon, Samut Prakan, Songkhla, or Chonburi. The last route takes the victims through the Three Pagodas Pass border crossing into Sangkhlaburi, and followed by their transfer to Samut Sakhon. Though the last route is less commonly used by traffickers, recent trends have indicated there has been an increase in the use of the route as an alternative route for trafficking.

<sup>80</sup> Philip Robertson, "Trafficking of Fishermen in Thailand", IOM Thailand, 2011, p. 26, retrieved from <http://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/countries/docs/thailand/Trafficking-of-Fishermen-Thailand.pdf>.

2. For victims of trafficking from Cambodia, the most frequent route used by traffickers is to reach Aranyaprathet by crossing at Poipet. From Aranyaprathet, the victims are moved to Pak Nam of Samut Prakan district, Chonburi, or Rayong. Another group of trafficked persons are transported from Battambang to Chantaburi and from Koh Kong to Trat, with similar destinations to Prakan, Rayong or Chonburi. In some cases, victims are transferred between boats operating out of ports on Thailand's eastern seaboard (i.e. Trat and Rayong) to fishing boats that operate out of Pattani, into Malaysian and Indonesian in response to seasonal weather patterns.

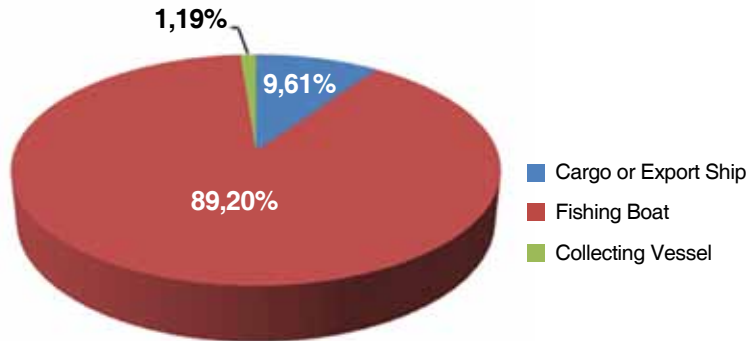
The journey of the fishers and seafarers to Indonesian waters started from several ports around Thailand (Graph 46). Mahachai Port, in Samut Sakhon Province, has become the primary port used for departing migrant fishers and seafarers to Indonesia. Samut Sakhon is known as one of the principal destinations for foreign unskilled or low skilled labourers who want to work in Thailand, particularly foreign workers from Myanmar.

**Graph 46.**  
**Departure Port Prior to the Arrival in Indonesian Waters**



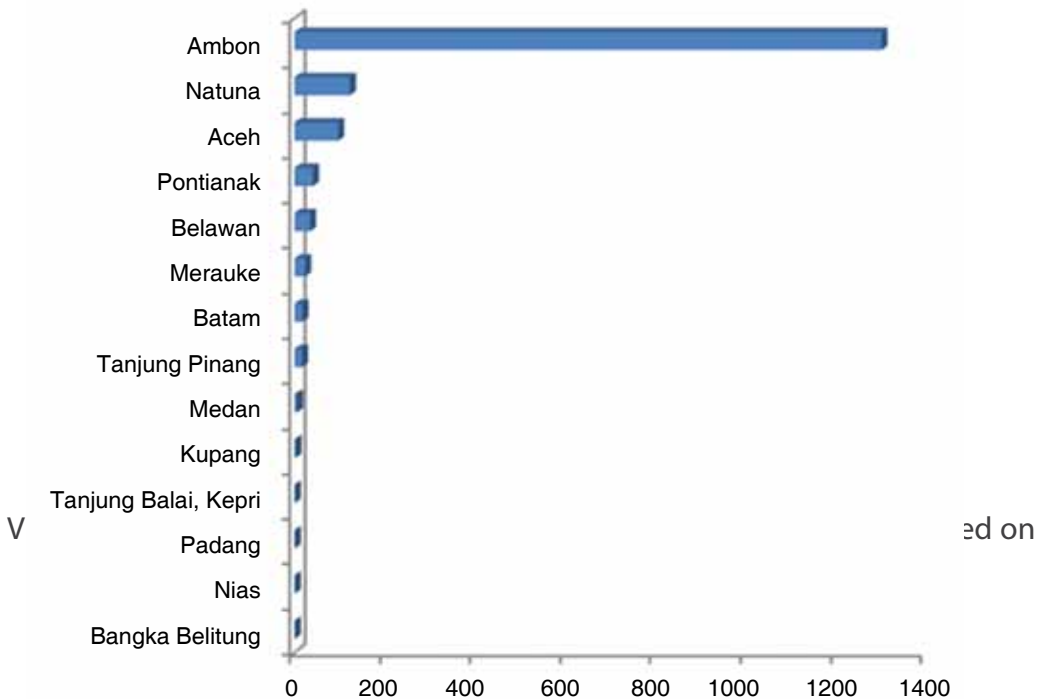


**Graph 47.**  
**Method of Transportation to Indonesia**



Not all of the trafficked foreign fishers and seafarers used fishing vessels to reach Indonesia. A small amount came to Indonesia both via cargo or export ship and collecting vessels. It is interesting to note that foreign individuals could evade the immigration checks and monitoring processes of the Indonesian coastal authorities when entering Indonesia on cargo ships (or in a collecting vessel) as they were not legally allowed due to their status as fishermen.

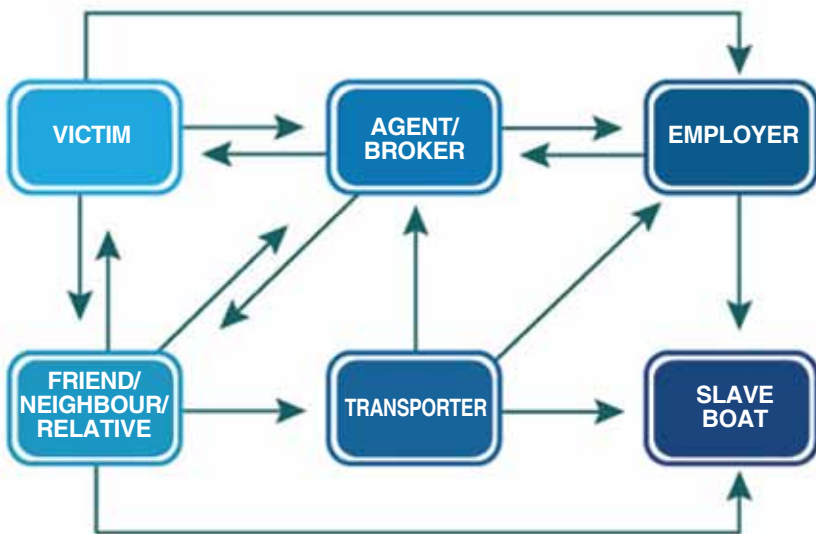
**Graph 48.**  
**Arrival Point in Indonesia**



the data, Ambon was the key entry Port for victims of trafficking in the fishing sector. There are two particular reasons that may best explain the preference of Ambon for the traffickers. Firstly, Ambon is the city where most of the Indonesian companies which have joint ventures with Thai fishing companies reside. To ease the management and coordination at the operational level, moving all the trafficked fishermen to Ambon was the most convenient option they had. Secondly, Ambon’s geographical location placed it close to their target fishing grounds —mostly in Arafura Sea and other seas in the eastern part of Indonesia.

In summary, there was more than one way for foreign victims of trafficking in the fishing industry to be trafficked to Indonesian territory. Based on the findings during the assessment period, it is clear to say that self-recruitment, friends, new acquaintances, relatives, brokers, or recruitment agencies were utilized and all could lead to an individual being trafficked into the fishing industry. Figure 10 illustrates the overall recruitment and movement process of foreign victims of trafficking from Myanmar, Cambodia, and Lao PDR, and Cambodia to be trafficked by Thais into the Indonesian fishing industry.

Figure 10.  
**Recruitment and Movement Process of Foreign Trafficked Persons to Indonesia**



# CONTROL MECHANISMS

## Crimes Against the Person

The human rights abuses, including trafficking in persons, uncovered during the investigation were extensive as were the range of fisheries crimes, and fisheries related crimes. The primary focus of the investigations in Benjina and Ambon were trafficking in persons offences. The seriousness of the allegations and the scale of TiP offences inadvertently overshadowed other criminal offences. Primary amongst these were the claims of murder made by victims of TiP.

### **Murder**

There is much anecdotal evidence of the killing of fishermen by captains or other crew members in previous research. Aside from a few unconfirmed reports of killing, there is little witness testimony. The Benjina and Ambon cases in particular highlighted the murder of crew members with several victims of trafficking providing graphic accounts of witnessing the disposal of bodies in collusion with local officials.

*“In Benjina port, every time my ship harbored, I have seen 1-2 dead bodies floating on the sea, I had even helped and carry one of the body who happened to be a Burma. The port officer will take away those body and dry them out on the edge of the beach, wrap them with plastic, and burn them in Benjina island. Most of the dead bodies were Burma and Thai” (Cambodian male fisher, a).*

*“If a crew is dead, the captain would ask assistance from the local government to burn the body on an island across the Benjina island” (Cambodian male fisher, b).*

*“While on board, I often heard the news from the boat radio that several boat crews had died, either falling to the ocean, fighting or killed by the other crews. While I was working on the boat, I saw with my own eyes more than 7 dead bodies floating in the sea. Prior to leaving Benjina, I also saw 2 dead bodies, they were Thai crews, floating in the sea” (Cambodian male fisher, b).*

*“I was forced to carry fetid Thai dead body to the boat” (Myanmarese male fisher, b).*

Accounts of deaths at sea and at port during fishing operations appear to be quite common according to the victim statements. A more sinister account relates to the transshipment vessel or export ship. This vessel remains in international waters and resupplies the smaller fishing vessels and stores their catch. It is also supposedly responsible for returning crew members to Thailand (and from there they go home to Myanmar, Cambodia, Laos, or stay in Thailand). One victim statement suggested that the promise of returning home was a lie and that fishermen were killed at sea by being thrown overboard.

*“I was not brave enough to return home with the export ship because I heard that they threw Myanmar nationals to the sea once they were on the waters” (Fisherman).*

This account resonates with labour trafficking of Ukrainian fishermen where there were suggestions of ‘no return’ for crew members. In previous research, EJF conducted interviews with victims who had been trafficked from Myanmar into the Thai fishing industry. Two interviewees reported witnessing the torture and murder of a fellow crewmember and the murder of at least five other individuals.<sup>81</sup>

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<sup>81</sup> Environmental Justice Foundation. (2013). *Sold to the Sea: Human Trafficking in Thailand's Fishing Industry*. EJF: London. p9.

A UNIAP report with 49 Cambodian fishermen on Thai vessels claimed that 59% of interviewees stated that they had witnessed the captain of the vessel murder a crew member.<sup>82</sup> This included one witness stating that he had seen two people decapitated by two captains.<sup>83</sup>

Interviews conducted by IOM in Thailand with fishermen from Myanmar and Cambodia found that they had witnessed the murder of colleagues by captains, particularly, '... when they were too weak or sick to work'<sup>84</sup>.

The Benjina and Ambon victim of TiP statements contain very detailed information on the unlawful disposal of human remains both on land and at sea. There would appear to have been no accountability for the loss of life of fishers and seafarers working in IUU fishing in Indonesian waters. Whether the person was murdered or died of an accident or natural causes, there was no post mortem conducted or investigation instigated. The next of kin and other family members may never have been informed of the death.



Picture 5: Part of the cemetery in Benjina used to bury victims of trafficking (Source: KKP)

<sup>82</sup> UNIAP. (2009). *Op Cit.* p5.

<sup>83</sup> *Ibid.*

<sup>84</sup> IOM Thailand. (2011). *Trafficking of Fishermen in Thailand.* IOM: Bangkok. p25.

## ***Attempted Murder***

It would appear from witness testimony that some fishers and seafarers also came very close to being killed by the captain or other crew members. The most popular form of attempted murder was to throw crew members into the sea in an attempt to drown them.

*"...I met with one of my old colleague who warned me about my captain that he tried to kill my colleague by putting him into the cage and locked and thrown into the ocean because my colleague requested to let him go back. Luckily my colleague could managed to break the cage and escaped but some other people had died due to the captain.... I got into a fight with the captain one day and he tried to shoot me with a gun and I ran away from his boat" (Male Myanmar Fisherman, a).*

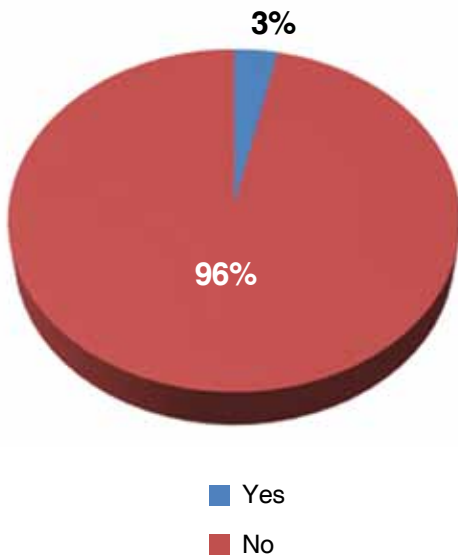


Picture 6: Visible head injuries on a rescued fisher (Source: KKP)

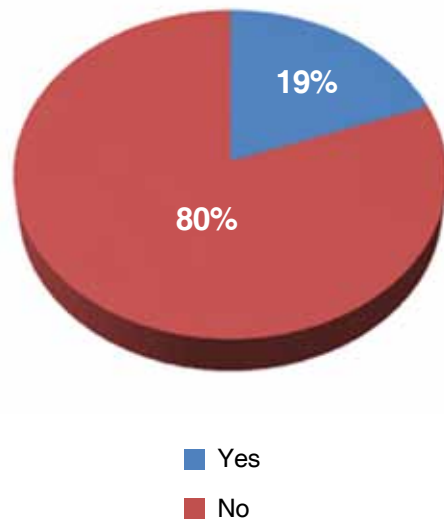
## Working Conditions and Exploitation

Most victims in the fishing industry were not employed under a work contract. The victims' primary document was the seaman's book, which was only issued to 30 per cent of victims although it is the primary travel document for seafarers who land or otherwise operate in a foreign country's territory. Myanmar nationals accounted for 83 per cent of these victims. No victims from the Lao PDR possessed a document. 87 per cent of victims from Myanmar and 85 per cent from Thailand also lacked documents. 50 per cent of Cambodians reported not having a seaman's book.

Graph 49.  
Work Contract

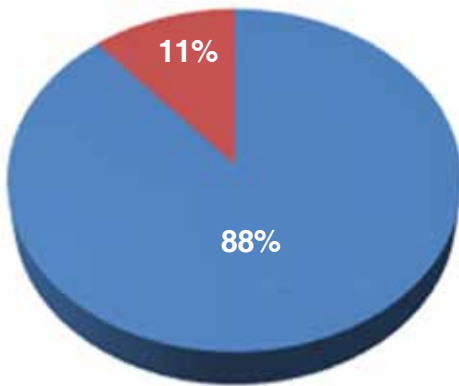


Graph 50.  
Have Documents



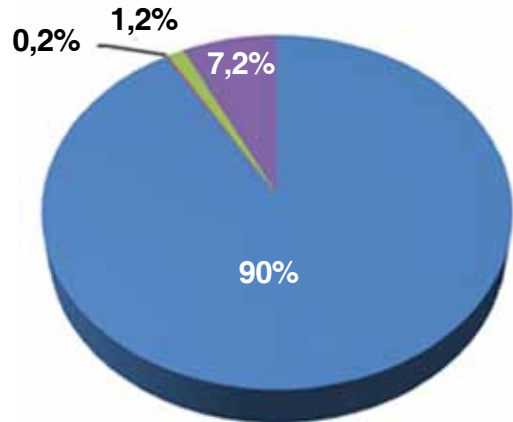
The overwhelming majority of victims with a seaman's book reported that it contained false data. The proportion of victims with such documents was highest among nationals from Cambodia (78 per cent) and Myanmar (77 per cent). Of the 12 victims from Thailand, 67 per cent held seaman's books containing false data. Victims reported that they held onto their documents in less than one per cent of cases. 90.9 per cent of victims identified the employer as the person who held their documents. Legal recruitment agents held documents in 20 per cent of cases, and 3 per cent of victims reported that another recruiter held their documents. Less than 1 per cent of victims claimed that their documents were held by a police officer.

Graph 51.  
Forged Documents



■ Yes  
■ No

Graph 52.  
Holder of Documents



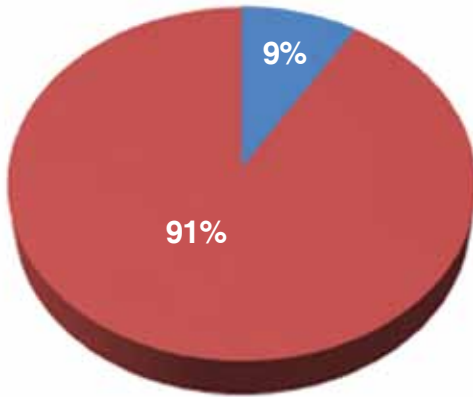
■ Employer  
■ Victim  
■ Agent/Recruiter  
■ Undocumented

Traffickers use various methods to prevent victims from leaving the place of exploitation. Confiscation of the victim's identity documents is one of those methods. Another method involved debt. 9 per cent of victims reported that they owed a debt to the trafficker. The majority of victims reported that the debt was to repay the recruitment fee. A much smaller proportion claimed that it was related to transportation expenses.

The fact that victims were working at sea and far away from their home was enough to make the idea of escaping impossible for most of them. The remoteness of the working environment and inability to escape was further exacerbated by the traffickers who restricted their victims' freedom of movement to varying degrees. When the boat was docked in port, several guards were placed around the boat to prevent victims from escaping. More than three quarters of victims reported that they were partially denied the ability to move freely on board the vessel when it was at sea and in port. In 14 per cent of cases, victims claimed that the trafficker totally denied them freedom of movement.

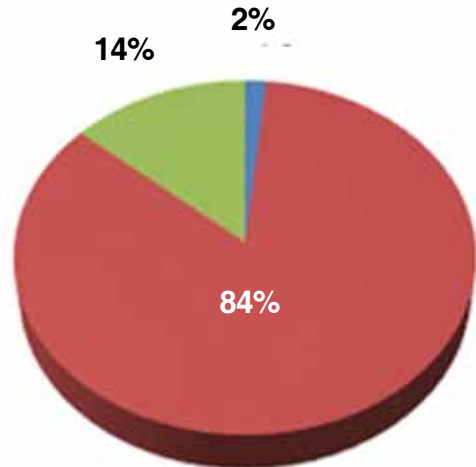


Graph 53.  
Debt to Employer



■ Yes  
■ No

Graph 54.  
Denied Freedom of Movement

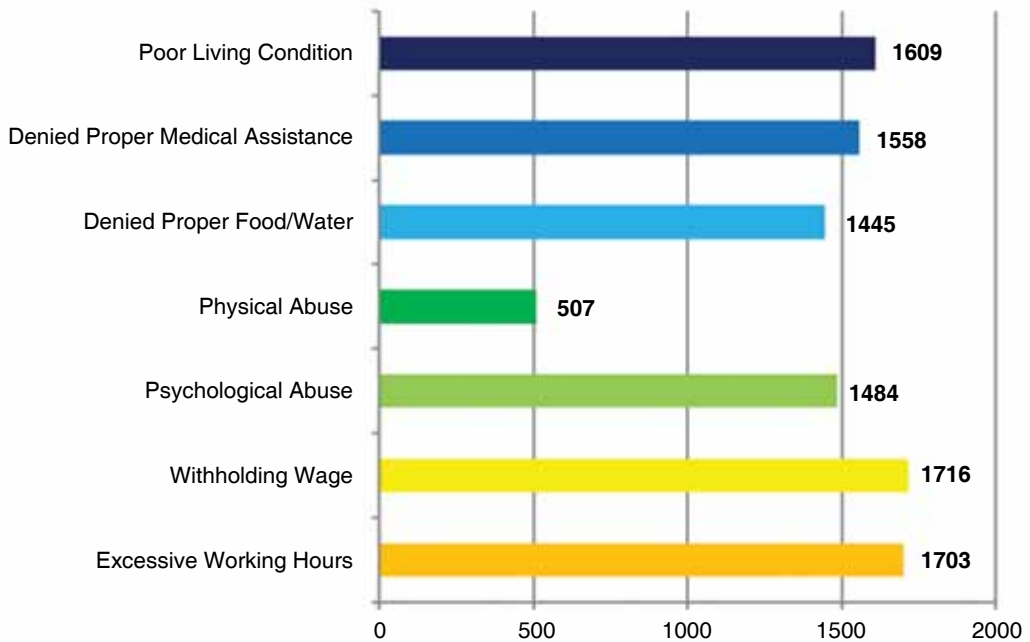


■ No restriction  
■ Partially Denied  
■ Totally Denied

A hallmark of human trafficking in the global fishing industry is the exploitation of victims' labour. 99 per cent of victims reported that the trafficker required them to work excessive hours. In-depth interviews with 285 victims in one location revealed more details about the length and timing of work. Almost 78 per cent of victims claimed that they worked between 16 and 24 hours per day. This happened because most boats cast their fishnets four times a day, effectively doubling their earning capacity and also increasing their victim's workload.

Over 86 per cent of victims reported that the trafficker psychologically abused them. It was common for victims to be told that they were never going home, that they had been sold, and no one would ever rescue them. Victims were threatened with assault or death and were forced to witness skippers beat and kill other crew members.

Graph 55.  
Types of Exploitation



30 per cent of the victims who experienced psychological abuse also suffered physical abuse. This ranged from getting beaten, getting whipped with poisonous stingray tails, having ice blocks thrown at them, and being shot. Victims usually experienced this physical abuse when the skippers believed that they were being lazy. Victims even experienced physical abuse when they complained that they were sick. Requesting to leave the boat was a death sentence for some victims according to witness testimony. Accounts suggest that those who did find themselves chained on the deck in the middle of the day or locked in the freezer.

94 per cent of victims reported that the living conditions on the boat were awful. Victims slept in small, cramped, low-ceilinged rooms together without any mattress or pillow. Some boats had the sleeping quarters near the engine room, making it very hot. When the workload was too much they would miss meals. The meals were far from adequate as reported by 84 per cent of victims. It consisted of mainly fish and water every day.

91 per cent of victims reported that they were denied proper medical treatment. The only medical assistance on board the boat was an injection of an unknown drug, referred to by victims as 'Yakanam'. This was a combination of white powder and liquid administered by syringe. Victims reported that it was used as a painkiller and to treat a variety of health conditions and was used frequently by the skippers when a victim was too sick and unable to work. After getting injected the victim reportedly no longer felt pain and was able to continue to work.

Aside from these abuses, the victims didn't get their wage. 40 per cent of victims reported that they were not paid for the work that they performed for the trafficker. Of the 60 per cent who were paid, 99 per cent reported that the trafficker partially withheld wages. Victims were usually paid after they had completed their trip, which was usually 3-4 months. After 4 months, they were paid \$200 or less, which was less than what they were promised (around \$260/month). The skippers explained to victims that the rest of their money was with the company and could only be received once they returned to Thailand. However, without being able to return to Thailand, the victim was never able to get the rest of their wages.



# ASSISTANCE FOR VICTIMS AND THE LEGAL PROCESS

## Return Assistance

IOM Indonesia has received referrals and assisted trafficked fishermen who have been stranded in Indonesian waters since 2005 through its Counter-Trafficking Unit. In total, there have been 2,001 fisherman assisted by IOM Indonesia. Among these victims, 283 were Indonesian and 1718 were foreigners.

Between 2011 and 2015 the number of trafficking cases involving fishermen, mostly foreigners, continued to increase. The largest caseload was in 2015. The victims were referred to IOM Indonesia following the implementation of a moratorium on foreign fishing vessels by the Indonesian Minister for Marine Affairs and Fisheries at the end of 2014. Since that time IOM Indonesia has been cooperating closely with the Ministry to assist the fishermen in need.

In 2015 alone, IOM Indonesia identified and assisted a total of 1,342 fishermen, of which 77% were Myanmar nationals, 10% Cambodian, 11% Thai and 1% from Lao PDR. These fishermen were stranded in nine areas across Indonesia (Table 6).

Table 6.  
**Assisted Foreign Fishermen**  
**from 7 April 2015 to 31 January 2016**

No	Location	Nationalities				Screened Fishermen	Returned Fishermen	Fishermen Who Passed Away	Remaining Fishermen
		MM	KH	LO	TH				
1	Ambon	383*	3	6	80	472	421	2	49
2	Tarempa	44	33	0	30	107	105	0	2
3	Belawan	23	0	0	0	23	21	0	2**
4	Pontianak	35	2	0	0	37	36	0	1
5	Tanjung Balai	4	0	0	0	4	4	0	0
6	Tanjung Pinang	38	3	0	0	41	29	0	12
7	Benjina	508	96	8	42	656	654	0	2***
8	Kupang	2	0	0	0	2	2	0	0
9	Bau Bau****	1****	0	0	0	1****	1****	0	0
Total		1037	137	14	152	1342	1272	2	68

\* 383 Myanmar nationals including 2 Myanmar national referred from Benjina Case.

\*\* 2 remain fishermen in Belawan, one run away from Belawan Immigration and one refused to return and has been referred to UNHCR for asylum seeker.

\*\*\* 2 remain fishermen in Benjina refused to return home and went missing

\*\*\*\* Upon an in-depth interview, the fisherman who was originally from the Ambon case, in this regard the number is not counted

In collaboration with various stakeholders, IOM Indonesia provided a range of assistance to the fishermen, including return assistance, shelter assistance, logistical assistance, health care assistance, and also legal assistance.

## Return Assistance for Victims to Countries of Origin

IOM Indonesia facilitated the return of 1,648 foreign fishermen to their home countries up to 31 January 2016. Several dozen fishermen remained in Indonesia in 2016, and two Myanmar nationals had passed away. The return assistance was provided through collaboration between the IOM Mission in the country of origin, Embassies, and the Directorate General of

Immigration (DGI) of Indonesia. The Embassies issued each fisherman with a Certificate of Identity (Col) or Travel Document (TD) to enable the immigration office in Indonesia to issue a formal exit document to leave Indonesia. The IOM Mission in the fisherman's home country closely coordinated with the government in the home country to assist with airport assistance, arrangement of onward transportation to the fishermen's home villages, as well as providing reintegration assistance for those in need. IOM Indonesia is still considering means to return the remaining trafficked fisherman to their homes.

## Provision of Food and Non-Food Assistance

The Benjina and Ambon rescue represented a major logistical effort for the Government of Indonesia and IOM Indonesia. IOM provided food and drinking water supplies to 275 fishermen who were staying at the Ambon Port of Fishery's compound, those who were staying on the boats, and those who stayed with foster families, until they were returned to their home countries. Similar assistance was also provided to 45 fishermen who were sheltered in Jakarta.

After the rescue IOM provided non-food assistance to victims including hygiene kits (Toiletries for a month) and clothing which were provided to 392 fishermen in Ambon. This support was provided on a monthly basis.

During the support period, IOM provided food to 978 fishermen and non-food items to 1050 fishermen who were stranded in Benjina and Ambon. Table 7 provides detailed information on food and non-food distribution to fishers and seafarers.

Fishers and seafarers from Benjina were provided with hygiene supplies, clothing and daily meals, while for those in Ambon, such assistance was only given to those who stayed at the Ambon Port of Fishery.

Table 7.

### Number of Fishermen Assisted with Food and Non-Food Item

Location	Hygiene Supplies	Clothing	Daily Meals (3 times a day)
Ambon Port of Fishery	392	392	320
Tual Port of Fishery	658	658	658

## Health Assistance

Up to 31 January 2016, IOM Indonesia had been continuously providing health care assistance to the fishermen in need. Fishermen received health care assistance, with one receiving in-hospital treatment. Some of the fishermen also received additional health care, including medical clearance prior to their departure to home countries.

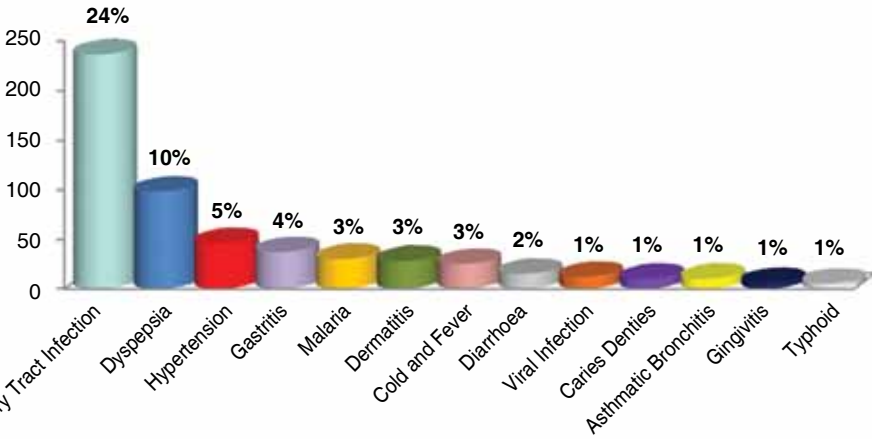
In total 994 fishermen received health care assistance from IOM, of which 658 of them were fishermen in Benjina and 336 fishermen in Ambon. Among the 994 fishermen, 843 of them were Myanmar nationals, 96 Cambodian nationals, 42 Thai nationals, and 13 Lao nationals. In addition, out of the 994 fishermen who received health care, 18 of them also received in-patient care. In-patient care was provided to 2 per cent of the fishermen who suffered from a range of conditions including Myalgia, Typhoid, Gastritis and bone fractures. One of the fishermen also received intensive health care and needed to be evacuated to Makassar due to a complicated disease.

Additionally, 44% fishermen were provided medical clearance support prior to their return to their home country. The medical clearance was provided at least 3 days before their departure. Most of the fishermen were declared fit to travel and only a few of them were required to undergo another medical check before departure.

Medical reports on the victims indicated a range of health issues they had faced while at sea. These included upper respiratory tract infection, dyspepsia, typhoid, respiratory infection, and dermatitis.



**Graph 56.**  
**Health Issues Faced by Fishermen**



WORKING AND LIVING CONDITIONS MAY HAVE CONTRIBUTED TO THE LARGE NUMBER of fishermen who suffered from upper respiratory infection. Some of the fishermen also suffered from multiple infections and disease.

## Shelter Assistance

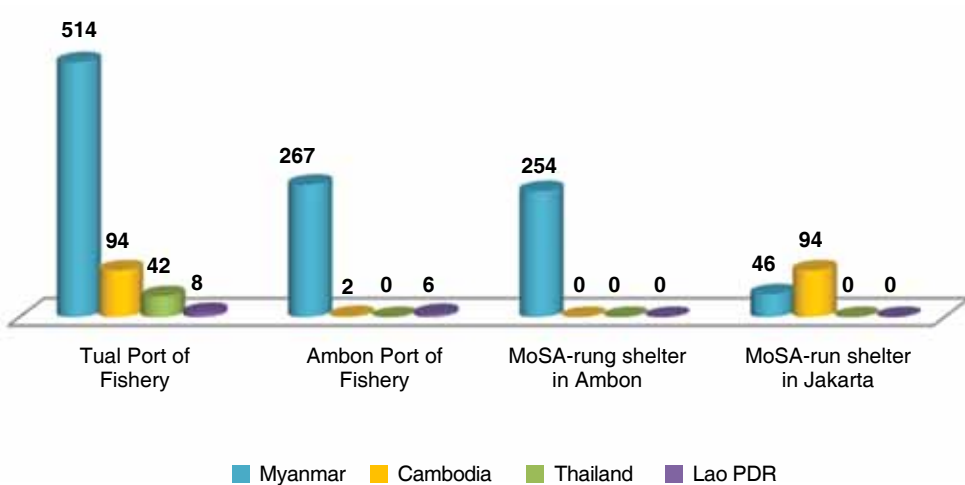
Temporary shelter was provided to the fishermen in Ambon. In providing the temporary shelters, IOM worked closely with governments at both the national and sub-national level including the Ministry of Social Affairs (MoSA) and the Ministry of Marine Affairs and Fisheries. MoSA were actively involved in providing shelter assistance, while IOM assisted MoSA by providing minor renovations to shelters, providing a fee for cleaning services, and the provision of security guards. The Government coordinated with Ambon and Tual Ports of Fishery in providing the venue and/or compound for victims, while IOM provided support.

IOM provided continuous support to the fishermen while they were in temporary shelter. The number in shelters reduced as victims were repatriated to their home countries. In early 2016 there were 154 fishermen were being provided with temporary shelters in Ambon and Jakarta, with 109 of them

staying at temporary shelters in the Ambon Port of Fishery compound. 45 of them were transferred from Ambon to Jakarta “illegally” by the company and rescued by the Indonesian National Police. After the rescue they were then sheltered at RPTC (*Rumah Perlindungan Trauma Center* – Ministry of Social Affairs (MoSA) run shelter) in Jakarta until their return to their home country on the 21st of October 2015.

In total, 978 fishermen from the Benjina and Ambon case were assisted with temporary shelter facilities, of which 826 of them were Myanmar nationals, 96 Cambodian nationals, 42 Thai nationals, and 14 were Lao nationals. Those fishermen from the Benjina case who were rescued and sheltered at Tual Port of Fishery were later transferred to a MoSA-run shelter in Ambon while they were waiting for international flights home.

**Graph 57.**  
**Assisted Fishermen with Shelter Facility in Each Location**



## Reintegration Assistance

IOM’s support to the victims did not end once they had been repatriated. Upon their return home, IOM Cambodia assisted 84 Cambodian fishermen

with livelihood support. 41 of them were assisted with farming cattle, 18 with raising pigs, 7 to buy motorcycles to be a motorcycle taxi driver, and 6 were assisted to establish traditional grocery stalls. In addition, 5 fishermen decided to take skills training courses such as a driving course and mechanics course.

IOM Myanmar also provided reintegration assistance to the repatriated fishers and seafarers in collaboration with the Government of Myanmar. IOM Myanmar coordinated with the Government of Myanmar to prepare and develop an action plan for the returned fishermen and discussed the sustainability of reintegration support and coordinated with the local authority to identify the fishermen's needs.

The reintegration process for Indonesian victims has also been implemented well. 3 victims continued their studies and worked their way towards providing legal aid and advocacy for justice for victims of trafficking in the future. 18 victims were assisted in fish farm activity and have saved some revenue to buy new fish along with their food amounting to 9 tons and also use that revenue for further maintenance. 10 victims were assisted in building a photocopy and printing business in Jakarta and received approximately \$104 income per month. 27 victims were assisted in developing their own fishing boat which gave them \$1324 income per month by catching fish to be sold to local customers.

The assistance was given based on an in-depth consultation with the fisherman. In the first stage IOM staff assisted the fisherman in developing a business plan. The business plan was developed by considering the fisherman's background, the availability of resources, and the sustainability of the activity. Each fisherman was required to submit a budget estimation, and state their commitment to the business plan in order to receive assistance from IOM. IOM supported the fishermen through direct assistance in purchasing the needs of their small business and delivering the items to the fisherman. IOM also continued to support the activity by monitoring the development of each fisherman's business.

## Legal Assistance

The Benjina case was referred by the prosecutor to the Aru Islands District Court in Tual. The INP worked closely with the Agency for the Protection of

Victims and Witnesses (*Lembaga Perlindungan Saksi dan Korban – LPSK*) and the Attorney General’s Office to prosecute the suspects from the company, PT. Pusaka Benjina Resource (PBR).

The first hearing was held on 17 November 2015 and the second on 4 December 2015. The hearing involved the participation of two of the victims who had suffered from exploitative and abusive working condition under the *Taikong* (Boat Master) and also the fishing company during their work.

The trafficking in persons cases in Benjina and Ambon were tried in court with the verdict given on 10 March 2016. The Tual State Court decided that the 8 defendants were guilty of trafficking in persons in Benjina with each perpetrator sentenced to three years in jail and ordered to pay fines of Rp 160 million or serve six more months in jail. The five defendants who were captains had to pay a total of Rp 773,300,000 (seven hundred and seventy three million and three hundred thousand rupiah) in compensation to their 11 crew members who had been categorized as victims by the court. Meanwhile for the trafficking in persons cases in Ambon, police have confirmed two suspects.

Out of 470 fishermen who were stranded in Ambon, the INP conducted investigations into the cases of 45 fishermen who were brought illegally to Jakarta by the company.

## Salary Settlement

An effort was made to negotiate on behalf of victims for their lost wages. The salary negotiation process was only undertaken for the fishermen from Ambon as the fishermen from Benjina were in the process of being repatriated to their home countries after their rescue. The Government of Indonesia, particularly the KKP through its IUUF Task Force and the respective governments of the fishermen initiated a salary negotiation process between the fishermen and the 3 major companies in Ambon that were responsible for the fishermen they had employed.

To conduct the process, the IUUF Task Force collaborated with the Immigration Office, the INP, and the Ministry of Manpower, while, IOM took part as an observer in the salary negotiation process. Most of the fishermen who were involved in the salary negotiation were from Myanmar, aside from

one Cambodian fisherman. The Laotian and Thai fishermen were not involved in the salary negotiation process as they had been taken care of by their own governments and most of them did not have any salary disputes.

Among the 487 fishermen in Ambon, there were 373 Myanmar fishermen and one Cambodian who were able to achieve a settlement and receive their remaining salary from the companies. 87 fishermen did not submit salary claim, 12 fishermen could not because their company was located in Benjina, and 7 others were unable to because they did not know their boat's name. There are still 4 Myanmar fishermen who are still waiting for their salary payment and 3 Myanmar fishermen whose salary claim was rejected by their company.



## Overlapping Authority

Indonesia has regulated the placement of Indonesian migrant workers ever since the enactment of Law No. 39/2004. However, the law put more emphasis on land-based workers, whilst sea-based workers, which includes fishers and seafarers, is said to be further regulated by other specific ministerial regulations.

The placement of land-based Indonesian migrant workers in general is different compared to the placement of sea-based workers. Furthermore, the sea-based work is also divided into several categories, each of which has a particular type of placement management, such as those who work in fishing, transport, and merchant vessels. These differences include: type of boat, area of operation, type of load, working time, salary, and the required skills.

While those who work in merchant and transport vessels enjoy protection from various international conventions, such as the International Maritime Organization's (IMO) International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), individuals who work on fishing vessels are not covered to the same degree as their counterparts. The fact that the Indonesian Government has not ratified several international conventions that regulate individuals who work on fishing vessels, such as IMO's Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F) is strongly believed to be a factor that has resulted in less protection for fishers and seafarers.

The lack of both national and international regulations to protect Indonesian workers in foreign fishing vessels makes them more vulnerable to exploitation and abuse. The data from BNP2TKI in 2013, for example, showed that among Indonesians who work on foreign fishing vessels, 92% of them were found to

encounter multiple problems related to their work. On the contrary, only 8% of Indonesians who work in either foreign transport or merchant vessels faced difficulties.

The problem faced by Indonesian workers in foreign transport or merchant vessels were mostly related to Labour disputes, which could be solved solely by the Indonesian Seafarers Union (KPI). However, the workers in foreign fishing vessels have to face much larger problems including: a comparatively small wage (compared to other types of sea-based work) which is mostly paid irregularly; exploitative working contracts; and forcedly involved in illegal fishing activities.

The increasing cases of Indonesian fishers who have been exploited on foreign fishing vessels has driven BNP2TKI to take an initiative by enacting the Head of BNP2TKI Regulation No. 3/2013 about the Management of Placement and Protection of Indonesian Fisherman in Foreign Vessels. Although BNP2TKI is not a ministry, thus not eligible to enact a regulation, the absence of any ministerial regulation on the issue allowed the BNP2TKI's regulation to serve as an effective law to protect Indonesian workers on foreign fishing vessels.

Through the BNP2TKI Regulation No. 3/2013, the procedure for the placement of Indonesian workers on foreign fishing vessels has been reaffirmed. Previously, anyone could send any Indonesian to work on a foreign fishing vessel as long as they had a relationship with the owner of that vessel. The 2013 law regulated that any placement of Indonesian workers on foreign fishing vessels must be done through a legal entity known as the Indonesian Fisherman Placement Agency (P4TKI). Furthermore, Indonesian workers on foreign fishing vessels are also required to apply for an Indonesian Migrant Worker Card (KTKLN), in order to ensure monitoring by BNP2TKI. Several Government to Government placements are also arranged by BNP2TKI, most notably to Taiwan and South Korea, where BNP2TKI oversees all of the recruitment and placement process.

In October 2013, the Ministry of Transportation enacted Ministerial Regulation No. 84/ 2013 about the Recruitment and Placement of Seafarers. The regulation enacted by the Ministry of Transportation in reality overlaps with the BNP2TKI's regulation in several areas. For example, the Ministry of Transportation's regulation that states a seafarer candidate to only prepare a Seaman's Book



and Seafarer Identity Document (SID). Under Ministry of Transportation's regulation, KTKLN is therefore deemed unnecessary because of the mobility aspect of the seafarer. Furthermore, the Ministry of Transportation also regulates that a manning agency is required to have a license to business published by Ministry of Transportation (SIUPPAK) in addition to the business license which BNP2TKI already regulated.

Most of all, the Ministry of Transportation's regulation overlaps with the Ministry of Manpower's authority to regulate seafarers, who are considered as a migrant worker under Law No. 39/2004. The regulation also overlaps with the Ministry of Marine Affairs and Fisheries (KKP) authority to regulate fishermen, which is considered as a seafarer by Ministry of Transportation's new regulation. The inclusion of fisherman in Ministry of Transportation's Law creates another barrier for fisherman candidate to work abroad in the form of Basic Security Training (BST) when normally, fisherman only needs to complete a Basic Security Training for Fisherman (BST-F), arranged by KKP, in order to be placed as a fisherman abroad.

The involvement of Ministry of Transportation in the placement management of Indonesian workers in foreign fishing vessels creates confusion among manning agencies. When normally they only need to undertake the BNP2TKI's administrative process, the enactment of Ministry of Transportation's new regulation creates more administrative process that lengthens the previous processing time and increase the administrative cost. In the end, the numerous hoops they have to jump through to fulfill their client's application to work as a fisherman in foreign vessels forced the manning agencies to find alternative ways and shortcuts to speed up the process.

Some agencies choose to go with lobbying route, paying some amount of cash to government's officials, in order to be prioritized. This route, however, causes an increase in administrative cost for applicants. Other agencies choose to maintain the price as cheap as possible but at the cost of forging applicant's documents, such as BST certificate and seamen book. Neither route is ideal. Indonesian migrant worker candidates are trapped in a position to choose between an expensive legal job and cheap illegal job. Otherwise, they have to wait for a longer period (at least a year) before being sent to work abroad.

There are four main government bodies that are involved in the management of fishing crew recruitment and placement in Indonesia. These are: the Ministry of Marine Affairs and Fisheries (KKP); the Ministry of Manpower; the National Agency for Placement and Protection of Indonesian Workers (BNP2TKI); and the Ministry of Transportation. The Ministry of Marine Affairs and Fisheries regulates the operational aspects of the fishing vessel, including licensing, and crew. The Ministry of Manpower has the authority to regulate the placement of Indonesian migrant workers in the field of maritime affairs, as mentioned under article 28 Law Number 39/2004 about the Placement and Protection of Indonesian migrant workers.

The regulation has a primary focus on the placement and protection of land-based workers and as a result sea-based workers are mandated through its derivatives. To complement the role of the Ministry of Manpower, BNP2TKI was established under Presidential Decree Number 81/2006 with the principal task being to undertake the placement, service, and oversee Indonesian migrant workers both at home and abroad. The Ministry of Manpower has the authority to pass rules and regulations on the placement and protection of Indonesian migrant workers, while the BNP2TKI serves as the implementator of policies made by the Ministry of Manpower. In reality, the separation of the authority of both institutions is vague as a result of overlapping policies and this leads to legal uncertainty.

The other institution with overlapping authority is the Directorate General of Sea Transportation, of the Ministry of Transportation, which has the authority to formulate and implement policies related to sea transportation, including fishing activities. There is a potential for operational confusion due to the overlapping policies of the four institutions. Table 8 illustrates the overlapping regulations passed by the four institutions, respectively. The table 8 sets categories to locate all relevant government agencies and their respective authorities, and identifies overlapping domains. Core among the overlapping domains are these critical areas:

- Source of Authority
- Manning Agency Registration & Licensing
- Establishment of Branch Offices for Manning Agencies
- Appointment of Harbormaster
- Monitoring Activities

- Vessel Operating License
- Crew Admission
- Recruitment of crew
- Seafarer's Employment Agreement
- Monitoring System
- Responsibility for Penalty

Table 8  
**Scheme of Overlapping Authority of Institutions Related to Trafficking in Persons in IUU Fishing**

Category	Ministry of Marine Affairs and Fisheries	Ministry of Transportation	Ministry of Manpower and Transmigration	National Authority for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI)
Source of Authority	Referring to the authority to manage fishing vessel and crew arrangement to Law No. 31/2004 jo. Law No. 45/2009	Referring to the authority to manage fishing vessel and crew arrangement to Law No. 17/2008	In charge of developing Ministerial Regulations on arranging the placement of Indonesian Overseas Workers in the position of fisherman (article 28 Law No. 39/2004)	To implement the policies enacted by the Ministry of Manpower and Transmigration, so as it is not capable of developing a regulation on recruitment and placement of vessels' crew
Registration and License for the Company of the Fishing Vessel	Registering the Agent of the Fishing Vessel's Crew as the Recruitment Agent of the Fishing Vessel's Crew (Regulation of Ministry of Maritime and Fisheries Affairs No. 35/2015)	Issuing the Business License for Crew Recruitment and Placement (SIUPPAK) (Article 4 of Ministry of Transportation Regulation No. 84/2013)	Issuing the Recruitment and Placement License (SIPPTKI) for Private Indonesian Manpower Supplier Company (Law No. 39/2004)	Registering The Ship Manning Company (P2K) that has SIPPTKI (Article 2 section II Chief Regulation of BNP2TKI No. 12/KA/IV/2013)
Establishment of branch office of the Fishing Vessel Company	(does not regulate)	Issuing the approval of the establishment of crew's agency branch offices (Article 9 (9) Ministry of Transportation Regulation No. 84/2013)	(does not regulate)	Issuing the Recruitment and Placement License (SIPP) for Seafarer Recruitment and Placement Services (P5) (Article 3 and 4 Section III Chief Regulation of BNP2TKI No. 12/KA/IV/2013)
Appointment of a Port Master	Appointing a Port Master in a Fishing Port (Article 42 Law No. 45/2009)	Assigning a Port Master (Article 207 (2) Law No. 17/2008)	(does not regulate)	Registering The Ship Manning Company (P2K) in di BNP2TKI to become the authority of the company to establish a branch office (Article 6 Section II Chief Regulation of BNP2TKI No. 12/KA/IV/2013)
Monitoring the Activities of the vessel at Sea	Through a Port Master, monitoring the activities of the vessel (Article 42 law No. 45/2009)	Monitoring the operation of the vessel and its crew (Article 5 Ministry of Transport Regulation 70/2013)	(does not regulate)	(does not regulate)

Category	Ministry of Marine Affairs and Fisheries	Ministry of Transportation	Ministry of Manpower and Transmigration	National Authority for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI)
Operation License for the Fishing Vessel	<p>Responsible for registration related matters and Fishing Vessel Operation License, both Indonesian-flagged and ex-foreign-flagged vessel (Law No. 45 Year 2009 jo. Law No. 31/2004, Article 3 Ministry of Maritime and Fisheries Affairs No. 35/2015)</p> <p>Through a Port Master, issuing the Port Clearance (Article 44 (1) Law No. 45/2009 Law No. 31/2004)</p> <p>Through fisheries inspector, issuing the Warrant of Operation (SLO) (Article 44 (2) Law No. 45/2009 Law No. 31/2004, Ministry of Maritime and Fisheries Affairs Regulation No. 45/2014)</p> <p>Issuing and/or revoking the Fishery Business License (SIUP), Fishing License (SIP), and Shipping Vessel License (SIKPI) (Article 32 Law No. 45 Year 2009 jo. UU 31/2004, Ministry of Maritime and Fishery Affairs Regulation 45/2014)</p>	<p>Requiring the completed documents of seaworthiness for the issuance of Port Clearance (Article 7 jo. Article 5 Government Regulation No. 51/2002)</p>	(does not regulate)	(does not regulate)
The Required Documents of the Crew	(does not regulate)	<p>Mustering the obligatory Seaman's book (Article 25 (3) Ministry of Transportation Regulation No. 84/2013, article 224 Law No. 17/2008)</p> <p>Issuing the obligatory Certificate Of Competency (Article 4 Government Regulation No. 7/2000)</p>	(does not regulate)	<p>Issuing the Overseas Worker's ID Card (KT/KN) (Article 10 Section III Chief Regulation of BNP2TKI No. 12/KA/IV/2013)</p>
Determining the Recruitment System of the Vessel's Crew	<p>Determining the requirement for the recruitment system of fishing vessel's workers and crew (Article 6 Ministry of Maritime and Fisheries Affairs Regulation No. 35/2015)</p>	<p>Determining the requirement for fishing vessel's crew recruitment and its method (Article 13 Ministry of Transportation Regulation No. 84/2013)</p>	(does not regulate)	<p>Determining the requirement for fishing vessel's crew recruitment and its method (Article 6 Section III Chief Regulation of BNP2TKI No. 12/KA/IV/2013)</p>

Category	Ministry of Marine Affairs and Fisheries	Ministry of Transportation	Ministry of Manpower and Transmigration	National Authority for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI)
Seafarer's Employment Agreement	Through a Port Master, ratifying the Seafarer's Employment Agreement (PKL) (Ministry of Maritime and Fisheries Regulation No. 35/2015)	Monitoring the agreement of the vessel's owner and the agency, as well as working contract between the agency and the crews (Article 21 Ministry of Transportation regulation No. 84/2013)	(does not regulate)	Through the Agency for the Service, Placement and Protection of Indonesian Overseas Workers (BP3TKI) knowing the Placement Agreement of Seafarer between the Seafarer Recruitment and the Placement Services (P5) and the fisherman. (Article 7 Section III Chief Regulation of BNP2TKI No. 12/KA/IV/2013)
Monitoring the Activities of the Vessel and Agency	Determining the system and issuing the Certificate of Human Rights in fishery for the fishing vessel (Article 4 and Article 8 Ministry of Maritime and Fisheries Affairs Regulation No. 35/2015)	Ratifying the Seafarer's Employment Agreement (PKL) (article 25 (3), Ministry of Transportation Regulation No. 84/2013)  Monitoring the fulfillment of the welfare of the crew as stipulated in the Seafarer's Employment Agreement (PKL) (Article 151 Law No. 17/2008)	(does not regulate)	(does not regulate)
Imposition of Penalty	Issuing and/ or revoking the license issued by the Minister (Article 41 (4) Law No.45/2009 jo. Law No. 31/2004)	Evaluating the performance of the crew agency (Article 12 Ministry of Transportation Regulation No. 84/2013)  Withholding the Business License for Crew Recruitment and Placement (SIUPPAK) in a case of the legal violation of an agency of company (article 33 Ministry of Transportation regulation No. 84/2013)	(does not regulate)	(does not regulate)

## Lack of Strong International Legal Framework

The trafficking of fishers and seafarers has become a major issue in recent years as more cases come to light. Isolation at sea, limited contact with authorities on land and at sea, and the identity of fishing vessels with obscure ownership enables trafficking and other crimes to take place. In Indonesia the Anti-Trafficking Law 2007 provides the authorities with the mechanism to combat trafficking however difficulties exist in the investigation and prosecution of crimes at sea due to the isolated nature of the crimes. The situation for fishers and seafarers is worsened because Indonesia is not yet a party to several comprehensive international conventions.

There are several international conventions regarding seafaring and the activity of fishing vessels or merchant ships that have been in force for several decades. It is unfortunate that until now, Indonesia has not yet ratified important international conventions to improve the protection of both Indonesian and foreign seafarers and fishers. Indonesia has ratified some conventions however their impact has been minimal and may be attributed to a lack of government political commitment to fully adopt and actualize the provisions. The International Convention on Standards of Training, Certification and Watch-keeping for Seafarers (STCW) is one of the relevant conventions which entered into force and was actively adopted in Indonesian national law. The Government of Indonesia has not yet ratified some other crucial conventions, such as the Maritime Labour Convention (MLC) and ILO Work in Fishing Convention. The absence of willingness to ratify such conventions has led Indonesia with minimum exposure towards regional and international cooperation in strengthening protection for Indonesian seafarers and/or fishers.





# CONCLUSIONS AND RECOMMENDATIONS

Fishers and seafarers are a special category of worker and, given the global nature of the seafood industry and the different jurisdictions that they may come into contact with, need special protection, especially in relation to contact with public authorities. Not only must they contend with multiple jurisdictions, they can also be confronted with complex laws and procedures in a language they do not understand.

In addition to the hardships of the workplace, fishers and seafarers face particular legal vulnerabilities. They may find themselves without access to justice due to the limitations within the systems of governance of certain flag states. They also lack legal protection due to inadequate employment agreements. Because they do not have any collective bargaining agreements or individual contracts, they did not receive any wages during their period of employment and were subject to inhumane treatment. The vast majority of seafarers from the major labour supply countries find their positions through the services of manning agents. Fishers and seafarers find themselves paying fees for jobs or taking cuts of their salary for spurious administrative services and non-existent social security.

While discrimination according to nationality has been entrenched in the fishing industry, vessel owners consider cost savings on crews from developing countries to be a legitimate tool in achieving competitive rates. Such a practice has inherent problems including concern over adequate training, and cultural and language barriers in mixed crews.

Fishers and seafarers are dependent on the ratification and effective implementation of international conventions to protect their fundamental rights. They rely on the responsible engagement of flag states, port States and labour supply States. However, it cannot be denied that a worker's legal status does not fully guarantee his or her safety from exploitation

at the destination, notwithstanding it does reduce the possible scope of exploitation to a large extent. Considering the above conclusion, the following points are taken into account as recommendations:

- It is recommended that the use of Flags of Convenience by Fishing and Fisheries Support Vessels should cease. Flag States should ratify all existing international conventions in regards to fisheries responsibilities, in order to provide a comprehensive legally binding framework. The international community should exert pressure to end the exploitation of Flags of Convenience. This should include a new and binding implementing agreement to the UN Law of the Sea framework that sets out enforceable measures to ensure that the Flag States fulfill their responsibilities under the United Nations Convention on the Law of the Sea (UNCLOS) and other existing instruments.
- The problems of international registry and vessel identification system for fishing vessels bound by internationally agreed regulations can be addressed by supporting FAO moves towards establishing a global vessel registry that provides greater transparency in the identification of fishing vessels. The international community should also strengthen its technical and financial support for developing coastal states and FRMOs, giving them capacity to more effectively control national and international waters. Another important move would be supporting the full and timely exchange of all relevant information among all Port States, Coastal States, Flag States and regional fisheries bodies globally.
- In regard to working conditions this should be addressed by the Ministry of Labour in both Indonesia and Thailand. It would be timely to revise the Labour Protection Act (LPA) to ensure that workers employed on board fishing vessels are fully protected under labour law, in the same way workers are in other sectors. In addition, there should be closer monitoring of recruitment agencies in Indonesia and Thailand. This is aimed at curbing the spurious administrative services and non-existent social security which demand the workers to pay money in advance otherwise their wages will be deducted. There should be further engagement on the discussion of a standard minimum wage for all workers. A regular dialogue should take place among employers to find strategies to address forced overtime and ensure a payment mechanism is in place for overtime work in line with labour laws.

- Another problem is the inaccessible workplace that fishing boats represent and the fact that they are rarely inspected because of this reality. Fishers and seafarers employed on board the boats are even more vulnerable since they are out at sea with nowhere to escape if there is any sign of abuse or exploitation. It is recommended that the Ministry of Labour in both countries establish close cooperation with the respective ministries, local governments, and also non-government organizations (NGO) in order to develop practical strategies for local inspectors to be able to access small or home fish processing factories, especially if there is any indication that labour exploitation might be occurring.
- It is recommended that the Ministry of Defence discuss with Navy officials whether their mandate could be extended to regularly inspect conditions on fishing boats to ensure that at least the minimum working conditions are maintained, children are not employed on boats and any cases of forced labour can be identified.
- It is recommended the Ministry of Labour in both countries ensure a more appropriate registration process for migrants in the fishing sector is established. The registration period for migrant workers employed aboard fishing boats should be extended or made more flexible in order to help them to register easily when they return ashore.
- It is recommended that the Police authority engage in high-level dialogue with the Ministry of Labour to ensure employers holding workers' original documents are penalized or create a mechanism where workers who hold a copy of the documents can have their working status verified by checking with the employer.
- The Indonesian government obligates fishing companies to ensure compliance with human right instruments as a licensing requirement for capturing and transporting fish, and fisheries business.
- A human rights compliance assessment is applied by conducting a human rights due diligence and human rights audit. Companies who comply and have a human rights certificate are entitled to operate in the fisheries sector.

- Develop a database of national and international fishing vessels (among others in RPOA IUU Fishing Vessels List, RFMO IUU Vessels List, FAO Global Record of Fishing Vessel, International Transport Workers Federation (ITF) Vessels Registry and Data Base Interpol) which lists the compliance performance of vessels, including labour and human rights aspects which can be accessed publicly. This listing will be an important instrument on the Port State Control regime and when flag states conduct inspections.
- Capacity building programs for law enforcement and port officers on the typology and modus operandi of human rights violations in the fisheries industry are needed. This understanding is needed to solve trafficking cases effectively. Supervising officers at the port are mostly unaware of the forms of human rights violations taking place within their jurisdiction, especially trafficking in persons. This lack of knowledge concealed the trafficking in persons activities in Benjina and Ambon from being uncovered.
- The Port authority in partnership with the Ministry of Labour and Ministry of Social Affairs could establish migrant and seafarer centers at ports. These centers would inform boat crews of their rights and provide assistance in cases of human rights violations. The existence of a migrant and seafarer center at a port would be more effective if Indonesia ratified the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA). The PSMA is comprised of provisions which could indirectly identify and prevent trafficking in persons in fishing vessels. Chief amongst the provisions are: pre-entry notification when the vessel enters the port (article 8); inspection at port (article 12); fish landing port requirements (article 7); and blacklisted vessels list provision at the Regional Fisheries Management Organization (RFMO). Currently Indonesia is in process of ratifying the PSMA through a President Regulation.
- Support the conduct of inspections and multidisciplinary investigations at fishing ports conducted together by the port authority, labour inspectors, human rights commission, police and other necessary elements.<sup>85</sup>

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<sup>85</sup> One form of partnership in preventing trafficking in persons is The ITF Blue Certificate. ITF has 600,000 seafarers as members, dan one quarter of Flag of Convenience (FOC) Vessels are covered by ITF agreements which signifies the ITF's acceptance of the wages and working conditions on board. Certification compliance is monitored by a network of over 130 ITF inspectors in ports throughout the globe. Read *Fish Wise, 2014, Trafficked II: An Updated Summary of Human Rights Abuses in the Seafood Industry*, p. 33.

- A multi traceability policy should be developed to provide food safety, IUUF and human rights violations traceability before captured fish enter the national and international markets. The multi traceability policy is very important considering the supply chain in fisheries business is very difficult to trace, especially in the captured fisheries<sup>86</sup>.
- There is a need to increase consumer awareness on how important it is for the fisheries product to comply with the respect for human rights<sup>87</sup>. “Money may be able to buy a lot of things, but it should never, ever be able to buy another human being”<sup>88</sup>. Consumers should also be aware of a message by one of the victims of trafficking in Benjina:

*“If Americans and Europeans are eating this fish, they should remember us,” said Hlaing Min, 30, a runaway slave from Benjina. “There must be a mountain of bones under the sea. ... The bones of the people could be an island, it’s that many.”<sup>89</sup>*

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<sup>86</sup> Logan Kock, VP of responsible sourcing for Santa Monica Seafood explained that “The supply chain is quite cloudy, especially when it comes from offshore,” - look at: <http://www.seafoodsource.com/news/supply-trade/27883-associated-press-links-slave-fishing-labor-to-thai-union-prominent-u-s-firms#sthash.fXMFHACt.dpuf>.

<sup>87</sup> One of the efforts to raise consumer awareness of trafficking in persons and forced labour especially in the supply chain, including in the fisheries business, was from the IOM MTV Exit Project in Myanmar. They produced some films and music videos with famous artists in Myanmar. This film has successfully increased awareness of labour candidate in fishing vessels and consumer of fisheries product on the condition of trafficking in persons in fisheries industry. <https://www.youtube.com/watch?v=aVyA8afsutM>.

<sup>88</sup> <http://www.state.gov/secretary/remarks/2015/01/236950.htm> (accessed on 13 Februari 2016).

<sup>89</sup> <http://bigstory.ap.org/article/98053222a73e4b5dab9fb81a116d5854/ap-investigation-slavery-taints-global-supply-seafood> (accessed on 13 Februari 2016).



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