

# Human trafficking in Taiwan's fisheries sector

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**The Environmental Justice Foundation (EJF)** is a UK-based non-profit organization working internationally to protect the environment and defend human rights. Over the past year this has included investigations into the related problems of human trafficking and Illegal, Unreported and Unregulated (IUU) fishing in Taiwan's massive Distant Water Fleet (DWF). This briefing details the structural shortcomings in Taiwan's management of its DWF that allow human trafficking and human rights abuses to persist.

## Executive Summary

- Taiwan has one of the world's largest DWFs, with over 1,800 vessels flying the Taiwanese flag operating across the world and hundreds of Taiwanese-owned vessels flying other flags. But the fleet suffers from high levels of human trafficking, which has been documented in each of the past five US Department of State's Trafficking in Persons (TIP) reports, as well as by Non-Governmental Organizations such as Greenpeace<sup>1</sup>.
- EJF's investigations have found that migrant fishermen based in Taiwan and in the DWF regularly have significant deductions taken from their salaries by brokers, who apply fees upon recruitment. These generate substantial debts, creating a bonded labour workforce where individuals are deterred from leaving, even when captains are abusive or force them to work hours well in excess of international standards.
- Despite significant deductions being made for food and accommodation from salaries, it is common that workers sleep in squalid conditions onboard their vessels and do not have access to sufficient food or clean water, even when in the port.
- Though high levels of human trafficking have been documented in successive TIP reports - accompanied by a damning lack of prosecutions - fundamental shortcomings in the structures and practices necessary to combat abuses remain unaddressed.
- Taiwan must strengthen its legal regime in this area, including bringing it in line with the requirements of the International Labour Organization's (ILO) Work in Fishing Convention (C188). This must be supported by a system of inspections in the DWF that will allow authorities to identify and vigorously prosecute cases and issue sanctions that reflect the serious nature of the offences and deter others.
- The European Union has played an important role over recent years working with Taiwan to introduce measures to combat IUU fishing. There is now an opportunity to build on progress made in that area by encouraging Taiwan to address the significant gaps in legislation protecting migrant fishermen and to invest in their robust, sustained enforcement.

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1 <https://www.greenpeace.org/international/Global/international/publications/oceans/2016/Taiwan-Tuna-Rpt-2016.pdf>

## 1. Taiwan's Distant Water Fleet

**Taiwan has one of the largest DWF industries in the world. According to the Taiwanese Fishery Agency, in 2016 it caught more than 820,000 tons<sup>2</sup>.** The export value of the DWF over recent years has ranged between \$1.6 billion to \$2 billion<sup>3</sup>. These products usually land in foreign countries, such as Thailand and Mauritius, and are then transported to local factories for processing before being re-exported to the final consumer markets. There are also a significant number of Taiwanese-owned vessels using Flags of Convenience (FOC) around the world.

A vessel using a FOC is one that flies the flag of a country other than the country of ownership. The flag State used usually has weaker regulations and looser enforcement of fisheries and labour rules, lowering costs<sup>4</sup>.

In February 2017, Taiwan identified 249 vessels that have investments from Taiwanese citizens but do not fly a Taiwanese flag. EJF believes that this list is unlikely to be comprehensive and that there are further vessels where the true beneficial ownership is Taiwanese. An example is provided below where Taiwanese-owned vessels that no longer had a Taiwanese flag were using trafficked workers and were fishing illegally (see section 6).

According to data provided by the Fishery Agency<sup>5</sup> and Ministry of Labour<sup>6</sup>, in 2016 there were about 26,000 migrant workers working in the Taiwanese fishing industry. However, the US Department of State Trafficking in Persons Report 2014 cites estimates of up to 160,000 migrant workers in Taiwan's DWF industry<sup>7</sup>. The actual number is likely to be somewhere in between. Uncertainty exists due to a lack of any legal requirement for vessel owners to report the identity, or even total number, of crew to authorities. Such a requirement would be a basic first step toward being able to monitor crew working conditions to prevent human trafficking.

The DWF is dispersed across the Pacific, Indian and Atlantic oceans. Over 90% of the fleet fishes primarily for tuna, which is normally found far from shore. Vessels can operate for years at a time without calling on port, by using transshipments at sea to get fish to market and take on supplies<sup>8</sup>. These factors mean the workers on the Taiwanese DWF are some of the most inherently vulnerable workers in the industrial world to trafficking.

Over recent years, following a warning from the European Union that Taiwan needs to do more to stop illegal fishing, the Taiwanese government has taken steps to improve its fisheries laws. However, there has not been a comparable strengthening of protections and control over the employment of migrant workers that provide most of the sector's labour. This is not only devastating for the migrant workers victimized by this system, but also allows Taiwanese vessels to artificially lower their labour costs and continue to operate in degraded and less economically favourable fisheries, at the expense of legitimate operators and the security of marine ecosystems.

Last year, EJF released a film, *Illegal Fishing and Human Trafficking in Taiwan's Fishing Industry*, documenting conditions in the domestic fishing fleet. A further film documenting the conditions faced by workers in the DWF will be released in the coming months<sup>9</sup>.

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2 Fishery Agency (2016) Fishery Yearbook 2016 FISHERIES PRODUCTION BY YEARS

3 Fishery Agency (2016) Fishery Yearbook 2016 THE TRADE OF FISHERY PRODUCTS (2)EXPORT

4 International Transport Workers' Federation

<http://www.itfglobal.org/en/transport-sectors/seafarers/in-focus/flags-of-convenience-campaign/>

5 A Study on Overstay Problem of Foreign Fishermen in Taiwan (2016)

<https://www.immigration.gov.tw/public/data/761915382471.pdf>, pp 17-18

6 Ministry of Labor (2017) <http://statdb.mol.gov.tw/html/mon/212010.htm>

7 U.S Department of State (2014) Trafficking in Persons Report 2014

<https://www.state.gov/documents/organization/226849.pdf>

8 <http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2017/11/best-practices-for-transshipment>

9 <https://vimeo.com/205927565/11fdc0a4fd>

## **2. Lack of suitable official department responsible for DWF crew**

Despite this vulnerability and repeated warnings in the past five TIP reports, Taiwanese authorities still do not have a single, well-resourced and trained agency responsible for protecting migrant crew from human trafficking<sup>10</sup>.

Migrant fishers on Taiwan's fishing vessels come from two channels, recruited through Taiwan's territory and from overseas. The former is under the management of the Ministry of Labour and the latter is the Fishery Agency. However, the Ministry of Labour has no presence in the international ports used by the DWF. The Fishery Agency is not undertaking overseas labour inspections and does not have the regulatory tools or experience to identify and prosecute human traffickers, or the resources to do so across Taiwan's globally dispersed fleet.

Following consultations with shelters and local authorities as well as observations of vessels arriving in and out of ports, EJF is concerned that efforts to inspect working conditions onboard Taiwanese fishing vessels, operating around the world, still do not exist<sup>11</sup>. This should be urgently addressed by introducing regular risk-based inspections of crew conditions on vessels based in Taiwan and overseas, including confidential interviews with migrant fishermen in their native languages.

## **3. Insufficient improvement of the legal framework**

While significant advances were made in the remote monitoring and control of the DWF to prevent illegal fishing, there have been only slight, incremental improvements in the protection of migrant workers. The introduction of the Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members (the Regulations) in early 2017, deals with the process of the employment of migrant fishery workers from outside Taiwan territory. These contain insufficient, weak measures to protect the rights of migrant fishermen employed in the DWF. In comparison to the standards set out in ILO C188, significant, critical gaps remain:

- Unlike the requirements under ILO C188, the Regulations allow recruitment agencies to charge unlimited recruitment/service fees as long as it is for 'reasonable' service items. This allows a common method for trapping workers in bonded labour.
- Unlike the requirements under ILO C188, Taiwan's Regulations do not require employers to pay the expense of bringing migrant workers to vessels or repatriating them if they end their contract early. Both the debt created by charging workers to bring them to the vessel and the deterrence of high costs to workers who want to return during their contract term reinforce conditions of bonded labour.
- There is no requirement to provide work contracts in a language that can be understood by the migrant worker being employed.
- Even before deductions, the Regulations set a minimum monthly wage at US\$ 450, lower than the international standard as well as Taiwan's minimum wage, which is about US\$ 733.<sup>12</sup>
- Living conditions and health and safety on the vessel are ignored by the Regulations and there are no requirements for quality or amount of food and water provided.

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<sup>10</sup> U.S Department of State (2017) Trafficking in Persons Report 2017 <https://www.state.gov/documents/organization/226849.pdf>

<sup>11</sup> EJF undertook investigations in Taiwan in August 2016 and May and December 2017 as well as investigations in Indonesia in May 2017, the Seychelles in August 2017 and Phuket, Thailand in February 2017. EJF also regularly consults the Serve the People Association (SPA, a network of shelters in northern Taiwan), the Presbyterian Church in Taiwan Seamen's / Fishermen's Service Center (PCTSFSC) in Kaohsiung, the Stella Maris network of shelters operating in ports around the world and Taiwan's Fishery Agency.

<sup>12</sup> Ministry of Labor (accessed on 29th January 2018) <https://www.mol.gov.tw/topic/3067/5990/13171/19154/>

In the Regulations, only Article 32 mentions the crime of human trafficking. It states that in the situation where a migrant fisher escapes their employers and then afterwards becomes the victim of cross border human trafficking, the competent authority will then investigate and treat the case as a trafficking in person crime. This Article provides a perverse incentive for vessel owners to limit shore leave and keep workers on vessels to prevent them escaping and becoming known to the Fishery Agency. Most workers who attempt to escape employment are trying to leave situations of bonded labour or physical abuse. Instead of proactively introducing a scheme of inspections to identify trafficking victims, the Regulations incentivize captains to prevent any avenue of escape.

The Regulations do allow for the annual evaluation of recruiting agencies, starting in 2018. However, the government has confirmed to EJF that these evaluations will be scheduled in advance rather than being unannounced, severely limiting their likelihood of identifying issues.

#### 4. Prosecutions

As has been observed in successive TIP reports, prosecutions for human trafficking in the fishing industry are rare, and when they do take place sanctions are inadequate. For example, in September 2017, a vessel owner and 18 other people were accused of violating the Human Trafficking Prevention Act, following a case discovered a year before. In 2016, 37 fishery workers were found locked in a 66 square meter basement near Kaohsiung, Taiwan and another 44 fishermen were kept in a house with guards and cameras limiting their freedom. They were found after a worker who was previously kept in the same place notified local charities, who in turn sent a letter to the Prosecutor's Office asking them to intervene. 19 traffickers were sued by the Prosecutor's Office who requested that the court confiscate \$120,000 illegal gains, but no other penalties are mentioned in the suit<sup>13</sup>. The case is still under the review of the court and details are not accessible to external parties. The long period that it is taking to bring the case to court is a discouragement for the victims to participate and provide testimony. According to Stella Maris Kaohsiung and the Presbyterian Church in Taiwan Seamen's/Fishermen's Service Centre (PCTSFSC), among the 81 victims, only one remains in Taiwan to testify in court. All others have moved back to their home countries and therefore cannot be established as victims of human trafficking.

The Fishery Agency, the authority responsible for protecting vulnerable migrant workers on the DWF, has not brought forward any cases against human traffickers in the last year. Apart from Article 32, all other offenses in the Regulations available to the Fishery Agency relate to the recruitment process and operating requirements for agencies, rather than the actual incidence of human trafficking overseas. In 2017, seven sanctions with average fines of about six thousand dollars were applied, relating to procedural violations<sup>14</sup>.

The lack of prosecutions by the Fishery Agency is unfortunately not a surprise, as in addition to the weak Regulations covering the DWF, there is no framework for labour inspections overseas, where the vessels spend almost all their time. The situation is not much better in Taiwan, where the Ministry of Labour and local councils are responsible. There are concerns that the inspection process in Kaohsiung port, the main DWF port in Taiwan, are unlikely to identify issues. EJF has interviewed local shelters and translators who worked with inspectors and reviewed materials published by the Ministry of Labour<sup>15</sup>. EJF found that inspectors do not have professional translation support and they do not separate migrant crew from their captains or create a private, confidential environment to ascertain the crew's identity and condition.

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13 Kaohsiung District Prosecutors Office (September 18th 2017) News Release <http://www.ksc.moj.gov.tw/ct.asp?x-Item=487677&ctNode=44787&mp=021>

14 Fishery Agency Website - Combating IUU (2017) <https://www.fa.gov.tw/cht/PolicyIUU/content.aspx?id=9&ch-k=8db63778-3976-47fo-97c4-052aba6fc627&param=pn%3d1>

15 Ministry of Labor (2017) <https://laws.mol.gov.tw/FLAW/FLAWDATo1.aspx?lsid=FLO47733>

Despite low inspection rates by government, even at home, victims of human trafficking in the domestic fleet based in Taiwan periodically make themselves known to the Ministry of Labour, who has responsibility for workers based on the island. However in recent years, Serve the People Association (SPA), a group of shelters in northern Taiwan, has observed that the Ministry of Labour is rushing some investigations, not allowing cases to be investigated sufficiently to be passed to the Prosecutor's Office. Since 2012 the number of investigations passed to the Prosecutor's Office for human trafficking has dropped more than half, from 86 cases to only 37 in 2017, according to the statistic published by the Immigration Agency<sup>16</sup>.

Identified victims are assigned to shelters, which receive a government subsidy. While this victim support is vital, it does not appear to be matched by corresponding prosecutions of those responsible for trafficking or the mistreatment of victims. Last year there were in total 144 migrant workers identified as victims of human trafficking and labour exploitation<sup>17</sup>, while only eight criminals were found guilty<sup>18</sup>. It is recommended that Taiwan works with NGOs to review how human trafficking cases are investigated and prosecuted, with a view to improve regulations and train the judiciary to facilitate the successful conviction of human traffickers.

## **5. Government hotline**

Since 2009, when Taiwan was last a Tier 2 country, the government has funded a 24-hour hotline for migrant workers living in Taiwan (#1955). However, discussions between EJF and recent domestic users of the hotline have highlighted multiple areas for improvement. Victims have reported instances of #1955 staff encouraging victims to go back to work despite serious breaches of contract, downplaying abuse from captains and failing to establish whether a migrant was in need of protection. Experience from shelters have shown that without their help, hotline staff would often react slowly or not respond at all to the migrant workers who called for help. It can also take a long time for the cases to be delivered from the hotline system to the local government, who is responsible for resolving the labour dispute. For this to be improved, hotline staff must receive training from experts in supporting victims of human trafficking and independent monitoring (involving licensed shelters) of the hotline's effectiveness should be introduced.

Currently the hotline is accessible to workers on domestic vessels, with Ministry of Labour officials in each Taiwanese county responsible for following up cases referred by the hotline. However, this process takes time and victims on distant water vessels visiting Taiwan - let alone an overseas port - are very unlikely to know about the hotline, or if they did, are unlikely to be able to trigger a response in time to reach them. PCTSFSC finds that almost none of the workers that they speak to on distant water vessels visiting Kaohsiung are aware of the hotline. Once reformed, Taiwan should expand the hotline service to the many thousands of migrant workers in the distant water fleet, with measures in place to quickly respond to distressed workers at home and abroad.

## **6. Bolivia case study: stateless vessels owned by Taiwanese nationals**

As vulnerable and poorly protected as migrant workers on the Taiwanese DWF are, there is a further group in the broader Taiwanese seafood sector with even less protection: those working on Taiwanese-owned FoC or stateless vessels.

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16 Immigration Agency (2017) <https://www.immigration.gov.tw/public/Data/812316464571.pdf>

17 Immigration Agency (2017) <https://www.immigration.gov.tw/public/Data/812416272571.pdf>

18 Immigration Agency (2017) <https://www.immigration.gov.tw/public/Data/812316464571.pdf>

In October and November 2016, nine tuna longliner vessels claiming they were registered in Bolivia arrived into Phuket for repairs. Thai authorities contacted the Bolivian International Registry of Ships to verify the vessels' identities. The Registry replied saying that the vessels were not registered in Bolivia. Subsequently, the Royal Thai Navy impounded the vessels.

The vessels listed an address in Kaohsiung, Taiwan on their registration documents. Upon investigation by EJF in Phuket<sup>19</sup> it was established that at least four vessels had recently changed their name and were previously registered under Taiwanese flags with RFMOs. Even after changing their name and flag, six of the vessels retained Taiwanese captains, and the agents listed by the vessels had links to Taiwan. EJF understands that at least four of the vessels are on the Indian Ocean Tuna Commission's list of vessels cited for Illegal, Unreported and Unregulated fishing, under previous names and Taiwanese flags.

EJF conducted detailed, filmed interviews with three Indonesian crew, repatriated after the vessel seizure, who were identified by Thailand as victims of trafficking. The workers described how when they arrived in Phuket to board the Taiwanese-owned vessels, their local broker told them that their original contracts were no longer valid and that a verbal contract would suffice. The broker also confiscated their passports and seaman books. Their contracts had promised a salary of between US\$ 100 and US\$ 350 a month depending on their role on-board the vessel. None of the workers EJF spoke to had been paid anything since they started at the company. One of the fishermen said that he had worked at the company for over 18 months without pay.

As well as being forced to work without pay, two of the fishermen stated that they had witnessed one of their colleagues being physically abused by their employer – the owner of the Yi Hong Fishery Company - along with two bodyguards. The incident happened in the Yi Hong offices in Thailand. Variations of “Yi Hong” were used by several of the vessels when they were registered with Taiwanese flags. Their boat captain led the worker into the office where the owner was waiting with a sword. The owner struck the worker using the flat edge of the sword while one of the bodyguards pointed a handgun at him to prevent him from fighting back. The abuse continued for several minutes before the captain led the other fishermen away.

Two of the three fishermen EJF spoke to also described how their broker had threatened them shortly after their initial rescue, just before they were supposed to testify to the provincial Phuket court about their case. The broker is now in Thai prison awaiting trial for his involvement in the trafficking of these nine men.

Thailand provided evidence to Taiwan of the vessels' identity and the treatment of their crew. Information was also transmitted about the identity of the Taiwanese captains. However, to date no prosecutions of vessel captains or owners have taken place, with Taiwanese authorities reporting to EJF that they are unable to establish the identities of vessel owners. This case could have been quickly processed by Taiwan if its register of FoC vessels was complete and included the beneficial Taiwanese ownership of the vessels in question.

## **7. Conclusion and recommendations**

Taiwan should strengthen the legal and regulatory regimes governing fishermen in its fisheries sector. This should include ensuring all workers on domestic and overseas Taiwanese vessels are protected in line with the International Labour Organization's (ILO) Fundamental Principles and Rights of Work. The additional implementation of ILO Convention C188 Work in Fishing, addressing the gaps with the current Regulations, would strengthen working conditions on fishing vessels.

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<sup>19</sup> Over the course of 2017, EJF's investigation included interviews with crew members in Phuket and Indonesia, information exchanges with the Royal Thai Government and comparison of photos of the arrested vessels to our photograph library.

In addition, EJF recommends Taiwan adopts ILO Convention C180 (1996) Seafarers' hours of work and the manning of ships, as well as the guidelines for seafarers' monthly wages set out in the ILO 2006 Maritime Labour Convention. Unmonitored transshipments at sea should be banned and maximum trip lengths set in regulation.

Once in law, these minimum standards should be made clear to prospective crew, industry and NGOs and systems established so that in instances where these standards are not met, including through human trafficking, this can be identified through hotlines and rigorous inspections. Where trafficking is found, prosecutions should be done in a timely manner and convictions should result in sanctions that reflect the seriousness of the crimes. A primary agency must be given authority to monitor and protect migrant workers and they need training and resources to enforce strengthened regulations.

The nature of Taiwan's fleet and the island's international status mean its officials alone cannot hope to monitor crew conditions on every vessel. But for sympathetic governments, NGOs and industry around the world to help, in addition to making the above minimum standards clear, there needs to be a radical improvement in transparency of vessels associated with Taiwan. By publishing a single, transparent list of Taiwanese vessels and Taiwanese-owned vessels, their authorizations, unique vessel identifiers, beneficial ownership and details of their crew, Taiwan would make it more likely that nefarious operators would be identified and trafficked crew rescued by governmental and non-governmental bodies working to combat human trafficking and other labour abuses across the world.

Protecting workers on Taiwan's DWF is a unique challenge – not only because of their dispersed and remote locations, but also because they operate in deeply competitive, often failing, fisheries. However, shortcomings in Taiwan's approach have been regularly documented by outside observers, not least in the last five TIP reports. As one of the world's most advanced economies, Taiwan should have done more to protect the workers who make possible a key sector of its economy. The same energy and political will that has been applied to addressing illegal fishing must be invested in tackling human trafficking in the DWF.

#### HEAD OFFICE

1 Amwell Street, London EC1R 1UL, UK  
Tel: +44 (0) 207 239 3310  
[info@ejfoundation.org](mailto:info@ejfoundation.org), [www.ejfoundation.org](http://www.ejfoundation.org)

#### GLOBAL OFFICES

EUROPE: Germany, Spain  
ASIA: South Korea, Taiwan, Thailand  
WEST AFRICA: Liberia, Ghana, Côte d'Ivoire