



# Drawing From Experience: Response Center Practices in the Thai Fishery Industry

## PREFACE

With the shared intention to drive positive change and support sustainable and ethical practices within the seafood and fishing industries, United States Agency for International Development (USAID) Asia Counter Trafficking in Persons (CTIP) and Thailand CTIP projects—led by Winrock International—developed a shared-value partnership with Mars Petcare to reduce vulnerability to trafficking in persons (TIP).

The primary partnership activities include establishing a response center in Phuket, called the Migrant Development Center (MDC). The MDC has assisted migrant workers in submitting complaints through state-based grievance mechanisms since its establishment in 2019.

Another primary partnership activity is to conduct a research project to identify best practices in operating response centers for workers in the Thai fishery industry. The best practices identified from this research will serve as a reference for those seeking to open response centers, as well as provide learnings and recommendations for those response centers already operating.

## ACKNOWLEDGEMENTS

This report was commissioned by Winrock International under the Thailand Counter Trafficking in Persons project (USAID Thailand CTIP) funded by USAID.

Phacharawadee Tasee was the writer of the report and conducted research with Ratre Prasomsup. This report was made possible through the valuable information from expert interviewees: Andrew Wasuwongse (International Justice Mission), Paphop Siamhan (Human Rights and Development Foundation), Suthasinee Kaewleklai (Migrant Worker Rights Network), Sompong Sakeaw (Labor Rights Protection Network), Sumana Phakbulawat (Migrant Development Center), Nattaya Petcharat (Stella Maris), and law advisors/coordinators from Foundation for Education and Development and Raks Thai Foundation.

We are grateful to all 21 people from eight non-governmental organizations (NGOs), four local government agencies, and five migrant workers—all who generously shared their time and information. Our intent is that these findings can serve to make response centers successful in planning and reaching the ultimate goal of helping migrant workers.

**The report was prepared by the consultant team:**

**Phacharawadee Tasee**

**Ratre Prasomsup**

July 2022

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# ACRONYMS

CBO	Community-Based Organization
CPF	Charoen Pokphand Foods
CSO	Civil Society Organization
CTIP	Counter Trafficking in Persons
DATIP	Division of Anti-Trafficking in Persons
DOE	Department of Employment
DSI	Department of Special Investigation
FED	Foundation for Education and Development
FLEC	Fisherman's Life Enhancement Center
GO	Government Office
HRDF	Human Rights and Development Foundation
IJM	International Justice Mission
ILO	International Labor Organization
IOM	International Organization for Migration
LPN	Labor Rights Protection Network
MDC	Migrant Development Center
MDT	Multidisciplinary Team
MOL	Ministry of Labor
MOU	Memorandum of Understanding
MSDHS	Ministry of Social Development and Human Security
MWG	Migrant Working Group
MWRN	Migrant Worker Rights Network
NGO	Non-Governmental Organization
PDR	People's Democratic Republic
PIPO	Port-In Port-Out
SOP	Standard Operating Procedure
SWG	Seafood Working Group
TIC	Trauma-Informed Curriculum
TIP	Trafficking in Persons
USAID	United States Agency for International Development
VCMS	Victim's Case Management System

# 1. Project Background

## 1.1 Non-State Response Centers and Roles

Thailand has been a key destination for migrant workers from neighboring countries for more than two decades. The Ministry of Labor (MOL) states that by the end of March 2022, there were 2,124,846 million registered migrant workers in Thailand from Myanmar, Cambodia, Lao People's Democratic Republic (PDR), and Vietnam.<sup>1</sup> Unofficial estimates suggest that there are likely more, with closer to four million undocumented migrant workers in Thailand (International Organization for Migration [IOM] 2019 and 2022).<sup>2</sup> Most work in lower-wage industries—including fishing, construction, manufacturing, and agriculture.

Migrant workers have become a key driver of the Thai economy. The IOM (Ibid) estimates that migrants constitute over ten percent of Thailand's total labor force, and Thailand's demographic profile suggests that demand for migrant workers will not decrease because of the need for them to fill positions in industries with high labor demands.<sup>3</sup> However, these workers often are at high risk to human trafficking and abuse. This is especially true in the fisheries industry where workers are subject to injustices ranging from unclear contracts and wage withholding to serious exploitation and forced labor (International Labor Organization [ILO] 2016).<sup>4</sup> Migrant workers do not always access the same rights protection and benefits as Thai workers, and their contributions to the local economy are often disregarded.

Migrant workers facing rights abuses in Thailand have the option of submitting complaints to a range of state-based and non-state-based complaint mechanisms. In 2020, United States Agency for International Development (USAID) Thailand Counter Trafficking in Persons (CTIP) commissioned a review of complaint mechanisms for migrant workers in Thailand and found that, despite the abundance of state-based and company-operated channels to lodge labor complaints, there are many obstacles that prevent undocumented and irregular workers from accessing and utilizing them. These include such things as language barriers, distrust toward government agencies, lengthy processes, and remote locations. The research revealed that migrant workers have difficulty accessing official complaint mechanisms without personal relationships with local

civil society organizations (CSOs) or community leaders. Non-state complaint mechanisms are thus crucial to supporting migrant workers who may be unable or unwilling to use other complaint mechanisms. Response centers run by local community organizations or CSOs act as non-state complaint mechanisms that migrant workers can access and request support for a variety of issues. These centers, often funded by non-governmental organizations (NGOs) or multi-stakeholder initiatives, are generally located in proximity to migrant worker communities and serve as a resource that migrants can come to for help. Centers often support migrants with not only worker rights issues but also other issues—such as domestic violence, conflict, and challenges with accessing education for their children. They collaborate with local authorities and partners to advocate for the rights of migrant workers and to ensure they have access to available government services. Most migrant workers—whether undocumented or documented—look for solutions from the centers for a wide variety of issues. At the same time, centers are able to screen incoming complainants for indicators of human trafficking and forced labor and to perform preliminary, informal identification of trafficking victims. Should a potential victim of trafficking be identified, centers then coordinate with appropriate authorities to investigate the facts and assist the victims. Ultimately, centers have an important role to cooperate and take action with government sectors to help victims of trafficking (Sr Law 2018).<sup>5</sup>

## 1.2 Objectives

The research aims to explore and compare how different response centers serving migrant workers in the Thai fishing industry are operating, identify the key challenges they face, and document good practices they have achieved. The main target audiences for the research are NGOs and private sector partners who are operating, funding, and/or interested in opening a center. This research can be a point of reference for what has been learned from the field.

While there has been previous research that assessed the practices and effectiveness of non-state complaint mechanisms in promoting human rights (e.g., Wielga and Harrison 2021; ILO 2020), this research specifically focuses on response centers run by CSOs targeting workers in the fishing industry in Thailand.

1 Totals for each country: Myanmar (1,504,413), Cambodia (435,935), Laos PDR (184,405), and Vietnam (93). Migrant workers statistics, Department of Employment (DOE), March 2022.

2 A) "Thailand Migration report 2019," United Nations Thematic Working Group on Migration in Thailand, 2019. More information available at <https://thailand.un.org/sites/default/files/2020-06/Thailand-Migration-Report-2019.pdf>.

B) "IOM Annual Report 2021," The International Organization for Migration (IOM) Thailand, 2022. More information available at [https://thailand.un.org/sites/default/files/2022-08/IOM%20Annual%20Report%202021\\_0.pdf](https://thailand.un.org/sites/default/files/2022-08/IOM%20Annual%20Report%202021_0.pdf).

3 ILO estimated that the migrant workforce contributed to 4.3–6.6% of GDP in 2010 (OECD/ILO 2017). More information available at [https://www.oecd.org/countries/thailand/Prelim\\_version\\_ECLM\\_Thailand.pdf](https://www.oecd.org/countries/thailand/Prelim_version_ECLM_Thailand.pdf).

4 "Global supply chains: Insights into the Thai seafood sector," International Labor Organization, 2016. More information available at [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_474896.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_474896.pdf).

5 Handbook on "Building Capacity of CSO" for Assisting People Injured from Human Trafficking through Forced Labor [Thai]. Social Responsibility Law Office, 2018.

## 2. Methodology

### 2.1 Methodology

The research employed qualitative research methods and included both primary and secondary data collection to uncover how response centers are working in the field, the challenges they face, and the good practices that enable effectiveness in supporting workers. The research project was carried out from December 2021 to August 2022.

Secondary research was completed, which included a review of existing research on non-state complaint mechanisms and response centers, along with publicly available information on centers operating in the Thai fishing industry. Partners were asked to consult on available documents regarding centers funded by USAID Thailand CTIP. The full list of documents reviewed is available in the Appendices section. Results from the desk review were then analyzed and used to design interview questions and identify potential centers to be interviewed. The resulting interview questions list included specific questions on identified center “practice areas”—such as coordination with government, community outreach (refer to Section 2.2), and questions on challenges and good practices.

Primary research included key informant interviews with response center staff and government representatives, and a focus group discussion with migrant workers who have previously used the services of the Migrant Development Center (MDC). The centers in this study were identified through the document review and through direct referral from USAID Thailand CTIP partners. Organizations interviewed included the Labor Rights Protection Network (LPN), Stella Maris, International Justice Mission (IJM), Human Rights and Development Foundation (HRDF), Raks Thai

Table 1: Interviewee Demographics by Position and Gender

POSITION/LEVEL	GENDER		TOTAL
	Male	Female	
NGOs			
Director/Manager	3	3	6
Staff	1	2	3
Government Agencies			
Director/Manager	3	-	3
Staff	2	2	4
Migrant Workers	2	3	5
<b>Total</b>	<b>11</b>	<b>10</b>	<b>21</b>

6 Most of the organizations we interviewed have several response centers. Therefore, eight organizations may be represented by more than eight response centers. Each organization has the following number of centers: HRDF (5), LPN (2), Stella Maris (4), Rak Thai (16), MWRN (2), FED (3), and IJM (2)—IJM works with partners (centers) in many provinces. It should be noted that the work of each organization is not limited to where the centers are located.

7 Selecting a platform is based on the interviewee time and convenience.

8 Government officers were interviewed via online platform.

Foundation, Foundation for Education and Development (FED), Migrant Worker Rights Network (MWRN), and the MDC.<sup>6</sup> All of the mentioned organizations serve migrants on fishing vessels who are highly vulnerable to trafficking for forced labor and those in other job sectors where labor exploitation frequently occurs—such as construction, domestic work, and seafood processing—and represent various provinces and sizes. The staff from these organizations included directors, managers, coordinators, and lawyers. Interviews were completed in-person and remotely. The LPN based in Samut Sakhon Province and the MDC based in Phuket Province were interviewed in person, while other centers were interviewed via the Google Meet Online platform.<sup>7</sup> In Phuket, along with interviewing and visiting the MDC center, the researchers interviewed and gathered data from five migrant workers (beneficiaries) who have used MDC’s services. The migrant workers were from the seafood processing industry, laundry factory, and construction sector. The research also included interviews from four local government agencies in Phuket<sup>8</sup>—including Phuket Provincial Office of Employment, Social Development and Human Security, Labor Protection and Welfare, and Port In/Port Out (PIPO)—to collect information on the complaint process, experience from working with local NGOs, and anti-human trafficking work.

### 2.2 Practice Areas

To achieve the research project’s first objective of exploring how different response centers are operating, the research team first identified key practice areas that would guide interview questions and allow comparison between different centers. These practice areas were identified based on the secondary research and later validated through the interviews with center staff. Identified practice areas included:

- available complaint channels
- community outreach strategies
- procedures for screening cases and identifying potential victims of trafficking
- procedures for referring complaints to relevant government agencies
- procedures for managing case records—including use (if any) of a complaint database and data privacy policies and protocols
- networks for collaborating with other stakeholders—including private sector and other civil society stakeholders
- strategies to ensure sustainability

Moreover, the study examines the challenges and obstacles in understanding what response centers staff face during their work process. This is important because it could affect how they need to adjust their processes.

## 2.3 Good Practice Criteria

The second objective of the research project is to identify the key challenges faced by response centers and the good practices they have achieved. This was accomplished by analyzing how the practices described in Section 2.2 enabled the centers to meet beneficiary needs.

The research is looking for best practices amidst the many challenges the response centers encounter. There are at least three criteria<sup>9</sup> used to find best practices:

- **relevance**—the extent to which the centers’ interventions meet beneficiary requirements and needs
- **effectiveness**—the extent to which the centers’ interventions produce desired results and/or achieve objectives and intended results
- **sustainability**—the immediate benefits and probability of continued long-term benefits and sustainability of the centers

The research is not limited to the three criteria above. Some practices may demonstrate impact (positive/negative and intended/unintended long-term effects) or efficiency (how resources were utilized in cost-effective ways) or may clearly show better outcomes than other alternatives.



9 Adopted from “Evaluation Criteria,” DAC-OECD, 2021.

## 3. Non-State Response Centers' Practices

### 3.1 Areas of Practice

#### 3.1.1 Outreach strategies

##### OUTREACH TO MIGRANT WORKERS IN COMMUNITIES

All interviewed response centers proactively engage local migrant communities to build community-based organizations (CBOs) and widen the reach of the centers. This includes identifying migrants in the community who are interested in becoming community-based volunteers or leaders, training them on fundamental labor rights issues and laws, and working closely with them to ensure that these CBOs are empowered to support their own community members. The CBO volunteers and leaders also act as the primary contact between the centers and the target beneficiaries, helping connect complainants with the center staff if needed, and disseminating information and news to workers. In addition to connecting with their target beneficiaries through migrant community volunteers and leaders, all interviewed centers reported that they routinely organize other activities to maintain ongoing engagement and trust with migrant communities. These activities include targeted trainings designed to empower migrant workers to identify incidents of rights abuse and report them, as well as activities that support migrant workers' livelihoods more broadly—such as donation runs and religious or community events.

Response centers also implement many other activities that are intended to broaden centers' reach to target populations and to show migrant worker communities that the centers are ready to help and support them. These activities include trainings, donating/distributing necessary items, and leading community events. The trainings are mostly focused on basic laws/regulations, health issues, women's rights/roles, labor issues, and rudimentary Thai language. The centers also train migrant workers to become volunteer community paralegals. This training aims to prepare paralegals who can provide labor law advice to their communities. This is especially common for centers that focus on legal cases.

Some response centers have staff (mobility teams) who can travel to work in any province—including the fishery industry provinces. The centers' mobility teams will work closely with other frontline centers (their NGOs partners) and will usually visit the target areas for case investigations; they will support their partners by providing technical advice and collecting information in order to obtain more data for each case.

##### OUTREACH TO MIGRANT WORKERS IN SPECIFIC LOCATIONS

Building the CBO and outreach strategies for migrant workers is limited in certain sectors. Most response centers state that some specific areas—such as construction camp sites, factories, and fishery vessels<sup>10</sup>—are difficult to access. If the center wants to organize activities, they must first ask for permission from the person in charge of that site. For example, centers must obtain a permit from a construction campsite's head foreman/contractor, factory owner, or fishing vessel owner in order for human resource staff to enter a worker camp, factory, or fishery vessel. These regulations make it somewhat inconvenient and difficult to organize activities with any frequency. As a result, many workers in those locations may be unaware of their rights and potential assistance from centers.

#### 3.1.2 Complaint channels

**Walk-in visits** are allowed by the response centers interviewed and have established their offices in areas that are accessible to their target beneficiaries.<sup>11</sup> Centers are either located close to the port or migrant workers' housing. Migrant workers wanting to raise complaints can directly visit the center during operating hours, which generally follow business hours. Centers have trained interpreters or staff on call who are native speakers to welcome complainants and accept complaints.

All of the interviewed response centers also maintain **social media and telephone accounts** that migrants can use to submit complaints. These channels are often operated at all times; the center staff reported receiving complaints directly from the migrant communities or centers. Centers have active LINE and Facebook<sup>12</sup> accounts, with some variation in the use of official center accounts and personal accounts. Others communicate with workers on social media through personal social media accounts, meaning that if there were a change in staff, contacts may be lost. None of the centers represented in this research maintained free-of-charge hotlines.

In addition to walk-in visits and telephone/social media accounts, two response centers told of specific attempts at **ensuring that workers who are at sea with limited cellular signal can still access complaint channels**. Stella Maris shared that center staff maintain chat accounts on WhatsApp, finding that it provides a more stable platform to communicate with workers at sea who have limited cellular signal. Nonetheless, since WhatsApp still relies on cellular signal, workers who are on vessels that travel to areas without cellular signal would still be out of reach. The MDC in Phuket has

10 Only Stella Maris does not have a problem accessing migrant worker on boats or visiting the boats; workers on boats are the first priority for Stella Maris.

11 The one exception is IJM (based in Bangkok), which is working closely with partners who are located close to ports or workers' housing

12 Facebook is the least-used traffic channel because workers cannot remember a center's Facebook account name. Workers also regularly change their mobile telephone number, complicating access their Facebook accounts.

tested a chat application<sup>13</sup> that uses a satellite signal instead of cellular signal. This technology allows workers to remain connected to complaint channels in areas without cellular signal.

In addition to direct complaint channels between complainants and the response centers, a key finding from this research was the importance of **migrant community networks, leaders, and volunteers, who act as another channel of complaints for migrant workers**. All of the interviewed centers maintain close relationships with migrant communities through proactively identifying potential candidates to become community volunteers and training them with the skills necessary to identify cases of rights abuse. These trained volunteers are then able to identify issues in their community or receive complaints and help refer complainants to the center. As noted, in some cases, volunteers who are capable and/or interested have been trained to become paralegals and are then equipped to provide legal advice to members of their community.

Migrant workers choose to contact response centers not only because they provide several available channels but also because the migrant workers feel safer if they report the issues to the centers. This is especially true for cases involving migrants who are intimidated by their employers. Migrants know that center staff members will protect them and alleviate worrisome issues related to the complaint. Moreover, center staff members can communicate in the workers' languages; therefore, these multiple channels are migrant workers main complaint and consultation resource.

### 3.1.3 Case screening and preliminary victim identification

Most response centers have an average of four–ten staff members working on a labor-rights team,<sup>14</sup> including lawyers (both in-house and volunteer), interpreters, and liaisons. Centers that focus on legal issues and have an in-house legal team are stricter with their victim acceptance criteria when compared to the other centers.

When a migrant worker contacts a response center via telephone or LINE, the center will provide advice and gather more information as needed—including a personal interview and preliminary screening. Most centers have a form or checklist to identify whether a worker meets the definition of human-trafficking under Thai laws. Some centers use 11 indicators of forced labor from the ILO as a reference.<sup>15</sup> If it is considered to be a human-trafficking case, the center refers the relevant information to the multidisciplinary team (MDT) for further screening and investigation.

Because employers retain all essential worker documents—such as an employment contract, work permit document, details of deductibles, and passports—validating human trafficking/forced labor becomes more difficult. And while police officers are technically responsible for gathering any evidence, response centers will also assist in fact-checking to identify a potential case. This is important because evidence must be presented in order to support prosecutions during the legal process.<sup>16</sup>

Locating other victims or securing witnesses may be necessary, although they may not be willing to attend court hearings or be openly involved. It must be noted that centers cannot be expected to collect all the evidence; government investigation officers will need to use their legal power or capacity to collect critical evidence outside a center's capacity or power—including tracking of financial and asset transfers of perpetrators, search warrants in homes or offices, interrogation of suspects, etc.

### 3.1.4 Case management

The general process a response center uses after *case screening and preliminary victim identification* is as follows: 1) the initial process of completing a needs assessment begins, 2) information is given to the complainant and the center asks for their consent to collect information, 3) an interview is conducted, and 4) an analysis is made. Centers can verify and gather more information if needed before they connect the complainant to appropriate authorities and resources.<sup>17</sup>

In cases of human trafficking or forced labor, the response centers will monitor the wellbeing of the complainant. The center will do this by asking how the migrant feels and if they are experiencing severe stress, evaluate their general health, and determine if they are eating and in general good physical and mental health. Based on their answers, the centers will then provide necessary support. When there has been an infringement on labor rights, centers will close the case only if the issue has been successfully resolved.

## NEEDS ASSESSMENT

A needs assessment is the preliminary step and an on-going process for determining the needs of the potential victims and documenting/resolving human trafficking and forced labor cases. In this assessment, the response centers provide necessities—such as food, water, and medicine. Centers will assess the health, physical, and mental state of the worker and arrange a hospital check-up if needed. The center also provides other support—such as temporary accommodation and the means to contact their family.

13 For more information on the Connectivity at Sea Pilot, see the USAID Thailand CTIP-Mars Petcare Partnership Learning Action Brief: <https://winrock.org/wp-content/uploads/2022/05/USAID-CTIP-MARS-LAB-Final.pdf>.

14 These work solely on the labor rights issue. Some centers have more staff but work on many issues—not only issues related to workers' rights.

15 Paavilainen, "Introduction to case studies: ILO Indicators of forced labor," ILO, 2014.

16 This is not always the case; in some instances, centers have to monitor and follow up after referring them to an officer. Some case centers work with lawyers and support the victims until the court case is closed.

17 These steps could be slightly different in each case and for each center. For example, centers may need to find interpreters if they do not have one for a particular language, centers may need to ask for consent one more time before referring cases, and centers may need to provide more information during the process, etc.

Some of the organizations follow the assessment process as is found in the Assessment of Survivor Outcomes Tool/Guidance Manual.<sup>18</sup> This manual covers the initial assessment and follow-up process, including measuring survivor outcomes and progress toward restoration.

## CASE REFERRAL AND COORDINATION

Although response centers act as the case manager and play a coordinating role to connect the migrants to appropriate authorities and resources, there are only informal referral systems available between each center and relevant government offices. Therefore, the government should develop referral and follow-up mechanisms to increase the efficiency of working on migrant worker cases.

Most response centers use telephone or LINE to contact government agencies on behalf of migrant workers; formal records or files are sent via email or through official notes or letters. More than 50 percent of the centers prefer telephoning due to its convenience and speed; however, other centers found it inconvenient based on the inefficiency of the calling system or human error.

Because multiple organizations will be working on the same case and need coordination, response centers identify a manager for each worker's case; the centers will also communicate closely with the victim and find accommodations if the victim does not want to stay in a government shelter. If several centers or NGOs are helping with the case, support will be divided by each center's capacity. The centers will assist and support the case until it is closed.

## PROTOCOL MANUAL

More than half of the response centers have protocol guidelines in the form of a flowchart. One center is planning to create a protocol manual that demonstrates the procedure in each case type; clearer case procedures will help their staff to manage and document their reasoning and save discussion time.

Response centers that have in-house lawyers or law experts to take care of legal cases for workers will produce guidelines, manuals, or booklets focusing on tasks relating to laws and roles of legal personnel, or work on issues to increase their knowledge. For example, HRDF has a CSO manual on coordinating with lawyers and assisting migrant workers in the fishing business,<sup>19</sup> and IJM has a manual for their lawyers

who work in the field. Centers also have other specific manuals for their training—such as the Trauma-Informed Curriculum (TIC) for justice practitioners (IJM 2020)<sup>20</sup> and Assessment of Survivor Outcomes (IJM 2018, *Ibid*).

## 3.1.5 Resolutions of legal cases

One role of the response centers is to explain the process of protection and compensation. Centers have to clarify the result of the complaint, which depends on several factors, as detailed below.

### MEDIATION<sup>21</sup>

Labor law is open to mediating a dispute.<sup>22</sup> The employee and employer can discuss terms to end the dispute if the employer is willing to abide by the law. However, there are several cases where the term is unfavorable to the employee. The response centers encourage mediation that will not be a disadvantage to the worker or lower the employee's benefits as specified in their contract. The center will take legal action otherwise.

### JUDICIAL LEVEL

Human trafficking and forced labor cases cannot be mediated. The response centers have an obligation to explain the legal process to the worker, especially for human trafficking cases, which take a long legal period in court. Centers emphasize the importance of workers taking legal action, which benefits both the complainant and other migrant workers. Eventual punishment could prevent employers from taking advantage of workers now and in the future.

In cases where workers have several concerns during the court period, response centers will provide all possible support. Centers will consider all the workers' benefits—such as the Justice Fund, Anti-Human Trafficking Fund, and victim compensation from labor law cases and criminal cases—so that workers are able to send some earned payment back to their families.

For workers who refused to act on a human trafficking case, response centers can present the case as a violation of human rights under the labor protection laws or labor laws. However, despite the support from the centers, the worker can decide not to take any action if they are not ready; ultimately, everything depends on the willingness of the workers.

18 "Assessment of Survivor Outcomes," IJM, 2018. More information available at <https://www.ijm.org/aso>

19 This manual was created by HRDF (2018) and later was combined with two other manuals into the same book series. The new handbook is called the "Handbook for civil society in the fishing business" [Thai]. HRDF, 2019.

20 "TIC for justice practitioners," IJM, 2020. More information available at: <https://www.ijm.org/vawc/blog/trauma-informed-curriculum-for-justice-practitioners>.

21 Mediation can occur either before, during, or after the arraignment. Centers will first try to informally mediate the dispute with the employer. If the dispute continues, the case will be transferred. Depending on the case, government agencies will also try mediation if both parties are willing. If not, the case will go to court.

22 A) Labor Relations Act, B.E. 2518 (1975), Chapter 2, Settlement of Labor Disputes.

B) Act on Establishment of Labor Courts and Labor Court Procedure B.E. 2522 (1979), Section 38: "In case of both the plaintiff and the defendant appearing before the court, the Labor Court shall mediate the parties to reach a mutual agreement or to reach a compromise between them. The labor cases are regarded as the disputes to be settled in a considerate manner, in order to maintain good relationships between them."



### 3.1.6 Case database and data privacy

#### CASE DATABASE

One-third of the response centers in this research mentioned the need to improve database systems in order to effectively facilitate and efficiently use data collection from multiple sources. This study finds that improvements are needed for better data recording, data processing, and data monitoring. Centers may need better tools and systems to implement these.

Seven of the eight response centers use paper-based formats to record data, including Microsoft Word and Excel programs. This method of data recording and data documentation cannot efficiently nor effectively collect and process the data, which includes interview questions and answers, testimonies, photographic evidence, and audio recordings. Paper-based formats make it more difficult to analyze trends, filter data from each feature, conduct cross-sectional data, and eliminate unexpected errors during data updates.

Only one organization's system (that manages the data by their own developed program) is similar to the Recollectiv Victim's Case Management System (VCMS).<sup>23</sup>

Their program provides efficacy on data management; however, most response centers have never used a VCMS program.

One organization that had experience using VCMS found it was not convenient with their data type; currently, this organization is now developing their own database using the Google Sheet Platform.<sup>24</sup> Some obstacles this organization found while using VCMS were: 1) the complexity of the Thai legal system required copious amounts of documentation/recordings, and the program had limitations when trying to upload the many files; 2) staff members did not want to learn or use the program because they were already overloaded with daily work; 3) VCMS is designed for human trafficking cases and the criminal court but response centers work on many legal case types, which can include labor court or civil cases; 4) language barriers exist, requiring accurate translation from English to Thai; 5) data confidentiality concerns are present since the program relies on a central developer to manage the system and there is the potential that data could leak; and 6) program developers are foreigners who have low levels of knowledge of the Thai legal process. All in all, the program did not match well with the Thai law data system nor the response centers' data.

23 More information on VCMS programs can be found at <https://www.recollectiv.org/about-vcms>.

24 Interview conducted March 2022.

## DATA PRIVACY

All response centers state that the confidentiality of complainants is something people working in this area know very well; there is an effort from all centers to protect migrant worker data—such as not unnecessarily sharing a migrant worker’s identity for their safety. Centers allow only a limited number of people to have access to data in the documents in filing cabinets; they also follow the data privacy advice of auditors and funders.

Nevertheless, not all response centers have a clearly established data privacy policy that requires practices to strictly comply with safeguarding principles, Thai human trafficking laws,<sup>25</sup> and follow high confidentiality practices (for example, when staff shares information only when they receive specific approval). These confidentiality practices also include providing partners with just enough information that the center believes would be useful to help the victims; the center gets prior written consent from the victim to give out their information.

### 3.1.7 Collaborating network

The response centers maintain good relationships with government organizations, especially at the director level, since the government agencies implement the laws. Centers also cooperate by sharing their statistical data, locating information (if requested), training government officers, sharing labor issues or government regulations and law enforcement problems from their experience, and providing suggestions or feedback to the government. Overall, the centers work closely with the government to advocate and protect labor rights. In addition to

building relationships with local authorities, the response centers also focus on policy-driven plans for helping workers with their more complex cases. To facilitate policy changes, the centers will communicate the problems and policies that should be improved to the central and local authorities. This information is also sent to the Migrant Working Group (MWG) for policy advocacy. Additionally, the centers write advocacy or action letters to the government. All of these activities aim to promote policy change to ultimately benefit migrant workers.

The response centers also generally have good relationships with the central public authorities. This is because centers that deal with policy work are required to work closely with policymakers in order to understand the problems and expedite procedures to benefit migrant workers. In addition, there are some complex cases—such as human trafficking—in which government officers are involved. Working with a central authority or having a central authority take responsibility for the cases will alleviate the problem of corrupt local-level processes.

The response centers work with communities and employers to educate migrant workers about labor rights and fundamental laws and regulations. The centers further cooperate with various companies or entrepreneur associations to build better understanding about labor rights, seeking to lower the number of disputes on workers’ rights. Good relationships motivate employers to cooperate in resolving disagreements/complaints and allow for labor training. Centers are also partnering with the private sector through projects—including producing manuals, establishing guidelines that gather data about knowledge, and providing lesson-sharing on relevant issues.

## NGOS ARE PARTNERING WITH THE PRIVATE SECTOR

The MWRN completed a project with the Thai Union Group on the welfare committee model, which ultimately was a successful project. Hence, the response center continued working on this matter with a private sector entity—the Thai Tuna Industry Association. MWRN asked the association to study the role of the welfare committee during the COVID-19 pandemic and whether the committee could help migrant workers. There may also be other opportunities for future cooperation between the center and the association.

The MDC Center has positioned itself to help by addressing the needs of both employers and employees. In the past, employers have also sought consultation from the center in case of disputes with law enforcement, access to basic employer rights, and improving the understanding of employer duties. Additionally, the center collaborated with employers in the area—such as the Constructions Association—which may work within the private sector in the future on labor rights training.

Stella Maris and Charoen Pokphand Foods (CPF) partnered to establish the Fishermen’s Life Enhancement Center (FLEC) in 2016. Currently it is in its Second Phase (2021–2025) to continue preventing human trafficking along with promoting food security and protecting the marine environment. The FLEC has improved the quality of life of fishermen and their families in Songkhla Province and has helped reduce labor exploitation. The FLEC has not only supported fisherman but also extended a helping hand to fishermen’s families—including their children. The efforts aim to give them a better quality of life.

<sup>25</sup> The Anti-Trafficking in Persons Act (No. 3) B.E. 2560 (2017).

### 3.1.8 Strategic plan for sustainable impact

A sustainable development strategy that is shared by many response centers is to strengthen the knowledge and skills of migrants through activities that help to increase their independence. Topics include:

- labor rights as per Thai laws and policies
- occupational health and safety
- rights' protection and filing labor complaints to authorities
- health insurance and social security benefits
- basic education for migrants
- safe migration
- labor exploitation and Trafficking in Persons (TIP)

Response centers are hopeful that workers will be able to help and rely on each other even when the centers begin to downsize or close—both which would decrease customary support levels to workers. To strengthen the skills of migrant workers, centers offer training activities and encourage them to access government agencies either for services or to submit complaints as needed. Activities and tasks within the labor training include 1) providing a training course in fundamental legal knowledge for workers and promoting its integration among migrant workers, 2) reaffirming that workers understand that no one should violate their rights, and 3) encouraging workers to negotiate with employers about their problems and to connect with government agencies on their own for uncomplicated cases without the help of the centers.

The response centers/organizations that work on legal issues will focus on developing policy stability and a fair justice system. If the justice system is not working as it should, labor problems will continue, and the centers will have to assist migrant workers in gaining access to the complaint or justice system. All centers, regardless of their

**“We are closely working with the focus group by including workers in designing activities and consulting with the leader to develop useful activities that meet the workers’ needs.”**

**– Stella Maris**

**“Our strategy is to support civil society, CBOs, employers, and employees based on the principles of human rights.”**

**– MDC**

focus, aim for structural change at the community level and policy/law implementation to reduce reoccurring cases or disputes. A strong justice system is key to a sustainable impact.

## 3.2 Challenges

### 3.2.1 Performing rescues for workers on board fishing vessels

If workers are offshore and need assistance, response centers can only notify institutions that are able to contact the boat—such as the PIPO or Marine police. If the boat is outside the Thai territorial waters area, it could take at least a month or more to contact it, because it involves many governments agencies—such as the Ministry of Foreign Affairs, the MOL, or the diplomatic entity in charge of the workers. It also depends on the International Maritime Conventions and agreements with the specific country involved, which can greatly increase the time needed to provide help. Another problem is that workers are unable to access communication equipment on the boat themselves due to their lack of authority.

### 3.2.2 Difficulty determining the truth for cases involving missing fisherman on board

Workers who are lost by falling from the boat is a common case in which the response center or public sector cannot offer much help due to lack of evidence. For many such cases, the center helps the fishery worker's family to access compensation. Nevertheless, in investigating the true cause of death, it is still difficult to prove, and witnesses are sometimes reluctant to provide all the information. Centers often help migrant's families determine what happened—for example, was the death accidental (either from work or non-work related) or were they maliciously killed? Once this is done, then centers will direct them to any funding available for such cases.

### 3.2.3 Difficulty gathering fisherman information

Many workers return to the shore for only brief periods. Since response centers must wait for a vessel to come back to shore and then arrange a time to meet with a migrant worker, it is difficult and time-consuming to gather data; even when on shore, workers may not be available to provide the necessary information.

If the opportunity is missed to get the information while the worker is on shore, the response center has to wait until they return again. If the case relates to abuse, it is even more challenging to get access to the workers. These obstacles challenge centers to gather quality data on time; without adequate data and information, the complaint process or legal action may be delayed and incomplete.

### 3.2.4 Challenges of screening for and identifying forced labor and human trafficking

Every step in the process requires knowledge and analytical skills, involving reviewing and considering

all gathered information and evidence.<sup>26</sup> Forced labor is one of the hardest forms of human trafficking to certify because it is complicated and can occur in many different business sectors (fishing, construction, domestic, small-sized business, etc.) (SR Law 2018, Ibid). Therefore, the process poses challenges to police officers and response centers, since both must identify how each instance qualifies as a human trafficking case.

Incomplete analytical skills for TIP indicators can cause misidentification of cases. As a result, an incorrect presumption can be made that the situation is only the result of physical abuse, narcotic addiction, debt problems, or unfair/unpaid wages, rather than seeing it for what it is: human trafficking and forced labor. An unidentified human trafficking or forced labor case will become a labor case and coordination with the relevant government agencies will be needed.

Effective communication, sufficient knowledge, skills, and sensitivities of practitioners are crucial during the interview process. Victims need interaction that leads to trust, so they feel safe to speak openly. The findings from The Practitioner Guide (RSO and Nexus 2021)<sup>27</sup> are in agreement with this.

### 3.2.5 Resource availability of the centers

Many cases are long and complicated, taking many months or up to four years or more for some special cases. Response centers must have sufficient resources to handle all the cases, even those that do not match existing funds or projects.<sup>28</sup> Centers also need funds to provide temporary accommodations and basic needs to workers.

Although the government has the responsibility to protect each victim, that protection may not be adequate throughout the entire case process. For example, the government provides compensation for a maximum of one year for victims who lose their income, but litigation can take much longer than one year. There are also cases in which compensation is not enough, delayed, or not received at all because the victim is not qualified, or his/her criteria is not met. The burden will be passed to both the migrant worker and the response centers. The centers must then find an alternative solution. Any costs incurred have to be paid by the center, which could cause some to run into debt.

Workers often deny that they are trafficking victims because they do not want to go through the protective custody process and stay at a public shelter provided by the government. These facilities are often not friendly to migrant workers; workers report that they have poor experiences and lack the freedom of movement. As

an alternative, NGOs can obtain a license to establish their own private shelter from the Ministry of Social Development and Human Security (MSDHS). There are conditional requirements for each center to be met to register as a private Welfare Protection Center for victims of TIP, which create significant obstacles. Some of those include:

- lack of understanding of the registration initiative
- insufficient resources (staff, administration, and finances)
- challenges in engaging organizational stakeholders to support participation in the initiative
- hesitancy in opening their shelters to what is perceived as possible interference by Government Offices (GOs) with limited experience in caring for victims of human trafficking

All these issues create challenges for response centers to adequately help each worker. If a victim is not willing to stay in a public shelter, the center is obligated to find an alternative solution. To ensure that a worker has access to a location that can improve their physical and mental health, the center may request that the state take the worker to a place other than a public shelter. All these negotiations require both time and resources, which becomes a huge challenge for centers.

### 3.2.6 Workers' lack of awareness and discomfort with taking legal action

It takes quite some time to help the workers understand the legal processes and for response centers to gain their trust; it is also difficult to estimate the timeframe for completing legal and judicial processes. Workers simply want to work to earn money for their families, which may make them reluctant to file complaints or to take legal action.

### 3.2.7 Government officers do not want any reported human trafficking cases in the area

Formal reports of human-trafficking cases can give the impression that authorities or government officers are neglecting their duties by allowing illegal action to occur in their area. Officers, therefore, do not want to report any human trafficking cases because they may be punished or ordered to relocate to other offices. Also, if a case of human trafficking is confirmed, it can affect various entities. Not only will officers and related areas be under inspection, but the investigative process itself will engage influential and powerful people in the area, potentially complicating police' work even further.

26 One investigative officer might participate in the process of helping remove the potential victim from the human trafficking situation to a safe location. Then, the operation team and police officers will collect as much evidence as possible.

27 A) "Trafficking Victim Identification: A Practitioner Guide." Regional Support Office of the Bali Process (RSO) and NEXUS Institute, 2021. <https://nexusinstitute.net/wp-content/uploads/2021/05/Trafficking-Victim-Identification.-A-Practitioner-Guide-NEXUS-and-RSO-2021-1.pdf>.

B) Practitioners who are likely to encounter trafficking victims in this guide book include law enforcement officers, social workers, health care practitioners, child protection staff, and immigration and border authorities.

28 For example, they were undocumented workers who were exploited, or they were documented workers but did not have social security or health insurance, were unfairly fired, and had unpaid wages from the employer, etc.

**“Challenges that derive investigation are a primary issue. Sometimes, we also need to understand that for the police it may be their local policy that the area should be free of human trafficking, so this affects the investigation process. It seems like sometimes the police want to investigate the case but sometimes they don’t, because if the case is found, many other complicated issues will follow.”—anonymous informant from Center A**

### 3.2.8 Influence of local employers’ power

Employers, especially vessel owners, wield considerable power in their locality. They may be apt to protect peers or close contacts who may be relevant to a case; workers may be caught in the middle, causing them to refuse to fight for justice. Government officers’ work may also be hindered by local employers, which prevents them from performing to the best of their ability. The government may lack mechanisms to protect local officers who are involved with dangerous cases. It must also be noted that government officers themselves sometimes ignore cases of injustice or inappropriate behaviors in order to protect influential people.

### 3.2.9 Delay in action from government officers due to high workloads

Government officers who delay processing of workers or miss deadlines to help them may seem to be ignoring their duties. However, government agencies are often overwhelmed with their workload and not able to complete their work as a result. Because of this, response centers often have to call government agencies for follow-ups and ask for accelerated action on issues.

Conversely, the violation of migrant workers’ rights occurs every day and that requires response centers to report cases frequently. Consequently, some government officers believe that problems relating to migrant workers are endless and deliberately delay completing the next steps or avoid doing the necessary work; sometimes they ignore cases altogether.

### 3.2.10 Legal gaps

There are a number of issues relating to the law which may not be able to be completely covered in this report.

- Memorandum of Understanding (MOU) migrant workers are only able to change employers before the end of their contract if their employer is found to be at fault—such as if workers were tortured or abused, the employer violated the employment contract or related labor protection laws, or the employer entered bankruptcy.<sup>29</sup> Workers must present evidence or witnesses to confirm there was fault,<sup>30</sup> otherwise it is difficult to prove.

Interviews reveal that some migrant workers—especially in the fishery sector—are not in possession of their own identity documents or official employment contracts. Therefore, trying to provide evidence is normally not a viable solution for migrant workers who want to leave their position. They also have limited time<sup>31</sup> to find a new employer before their work permit expires and their status becomes illegal. As a result of these difficulties, workers face significant uncertainties if they want to leave their current employer or file a complaint,<sup>32</sup> and usually must choose to accept the unfair work conditions until their employment contract is completed. In some cases, response centers can assist MOU workers by negotiating with the employer, referring cases to government agencies, or helping find a new employer so the migrant can maintain their legal status while working through the litigation process. It is therefore evident that relevant laws must be amended to protect workers’ rights while remaining fair for employers.

- The law states that employers can pay compensation for unpaid wages or severance pay to employees in installments, which may mean that an employee’s length of stay in Thailand does not match with the payment period; monies are seldom forwarded. The cost of filing a lawsuit for unpaid compensation by employers may cost more than monies owed; workers therefore prefer to end the case through negotiations, thus ending up with fewer benefits or compensation.
- Too many laws exist, and they leave too much room for interpretation. Enforcement of these laws involves many government departments and institutions, which adds to the confusion of knowing which department should be in charge of

29 More information on changing an employer before the end of a contract, due to the employer’s fault, is at: [https://www.doe.go.th/prd/assets/upload/files/kamphaeng-phet\\_th/211a9265637326fbb841fc0edd5ea0f8.pdf](https://www.doe.go.th/prd/assets/upload/files/kamphaeng-phet_th/211a9265637326fbb841fc0edd5ea0f8.pdf).

30 A) These regulations are used with all sectors, including MOU migrant workers in the fishery sector.

B) If employers provide a “notice of leaving document,” the worker does not need to provide proof to an officer that they can change an employer. However, the notice of leaving document must indicate the reason for the worker leaving employment and it is unlikely that the employer will say something bad about themselves. It is also suggested that workers are obligated to pay for any damages or fees.

31 Workers must be re-employed within 30 days of leaving their previous employer. [https://www.doe.go.th/prd/phetchaburi/faq/param/site/147/cat/25/sub/24/pull/detail/view/faq-detail/object\\_id/219](https://www.doe.go.th/prd/phetchaburi/faq/param/site/147/cat/25/sub/24/pull/detail/view/faq-detail/object_id/219).

32 Under the Labor Protection in Fishing Work Act, B.E 2562 (2019), “laying off fishing workers because of complaints that are lodged against vessel owners is prohibited.” In practice, the research team believes this is difficult to enforce.



the case or which law should be handled by whom. Additionally, even within the same institution, regulations may still be unclear. For example, if the local authority waits for authorization from the central authority to begin work on a case, a great deal of time is wasted. Response centers need to explain to local officers that these cases are under their authority according to the law.

- Many articles in labor laws include the words: “depends upon the government officer’s consideration.” That phrase allows government

officers to use their own judgment and make decisions that may or may not benefit the migrant workers; these laws are often used by officers to justify their actions, whereas the response centers believe that the laws are clear and there is no room for personal interpretation. This issue keeps the centers from achieving justice for cases, causing precious time to be wasted. When this occurs, centers must point out to officers why the government is obliged to take action as requested to help migrant workers receive justice.

**“When we contacted the labor inspector of the Ministry of Labor, he replied that he had no authority to proceed with any action because it is under the authority of the Department of Fisheries and suggested that we contact them. Nonetheless, the Department of Fisheries would say that this matter is under the responsibility of the police. We cannot blame officers for this situation—it is due to unclear regulations and overlapping responsibilities. Therefore, even if there is a Standard Operating Procedure (SOP) and MOU or Special Task Force, in practice, it is still a case-by-case solution. It does not have a pattern or one set of formulas that can be applicable to all cases.”**  
—anonymous informant from Center B

## 4. Best Practices

### 4.1 Maintain Diverse Channels for Worker Grievances and Build Community Networks

The factors that enable migrant workers to approach the response centers are:

- direct contact channels—such as telephone numbers, multiple LINE ID contacts, Facebook contacts, and walk-ins
- centers that migrants can access with low cost and time requirements
- centers that are highly responsive and trustworthy
- centers whose reach has been extended through community leader networks and community law volunteers<sup>33</sup>
- interpreter availability
- longstanding locations near migrant worker communities
- safety and comfortable environments where workers are more likely to tell their stories/file complaints

Response centers are based in the area and quite well known by most migrant workers. The centers have established large networks of CBOs and paralegals in multiple areas along with active contact channels. These factors have helped the centers reach out to workers and made it convenient for workers to seek help and send photographic evidence and other supporting documents. An ability to communicate in the language of the workers increases accessibility to the workers, whether it is communicating through CBOs or directly with the centers; this has made it possible for them to take on cases immediately without language barriers. The centers arrange a call-back time or visit the workers face-to-face if necessary.

A range of contact channels and community networks are the main points of linkage with workers who need help. By establishing diverse channels and networks, making them as active as possible, response centers will be able to handle complaint cases more effectively and efficiently.

### 4.2 Support and Work With a Multidisciplinary Team to Identify Victims

The MDT helps screen for TIP and forced labor cases, providing preliminary victim identification for potential cases and temporarily taking care of workers. Response centers are prepared to assist and support the teams however possible in identifying victims. When

government officers request assistance on related matters, the centers support different sections of agencies as needed, helping cross-check and assisting in finding what may be missing or what else should be done.

Having the response centers work together with MDTs or collaborate on some steps will help reveal important issues for consideration. At the same time, the centers can use these opportunities to observe the work's progress, with the aim to help identify victims. This collaborative process will enhance learning and discussion on related TIP indicators and will ultimately improve the understanding of TIP among practitioners and local officers, particularly MDTs.

### 4.3 Continue to Conduct Fact-finding for Human Trafficking and Forced Labor Cases

The number and effectiveness of investigations by the police, together with the number of reported cases, may not accurately reflect the scope of trafficking and forced labor. This is due to time constraints, expedited or abbreviated procedures, and a lack of soft skills in communicating with migrant workers. Additionally, workers do not trust the police because some workers have been extorted or sent back to employers by the police. This has resulted in inefficient and ineffective investigations.

Response centers conduct fact-finding interviews, which require specific techniques and skills. Conducting preliminary victim interviews also require appropriate and sufficient timing—often when workers are in a state of trauma; the investigative process cannot be rushed or pushed. This fact-finding provides additional evidence to augment that of the police—particularly in human trafficking and forced labor<sup>34</sup>—by proactively using case screening. This also helps the victim compile a more complete set of facts and information for the police investigation and court process.

### 4.4 Encourage and Assist Migrant Workers to Pursue Justice

Many migrant workers, whose rights are being violated, prefer to solve the problem as quickly as possible so they can continue working.<sup>35</sup> Workers may not understand that if they file legal action against their employer, it will not only help solve their own problem but also potentially prevent the violation of other workers' rights in the future. Therefore, it is very important to communicate potential positive outcomes of raising grievances to help migrant workers recognize that they need to file complaints and seek justice when their rights are violated. Migrant complaints can help reflect labor violations or gaps in the law and enable punishment for the unethical employers—

33 Response centers often call them paralegals.

34 Several researchers have found similar results that NGOs in Thailand have been supporting the Thai government in finding and screening potential victims in human trafficking cases.

35 For example, if their rights are being violated by passport confiscation, unpaid wages, or unfair employment termination, workers prefer that these issues be quickly resolved, even if the solution is less than satisfactory.

potentially positively impacting the well-being of migrant workers in the future.

Response centers are an important part of this process; they are able to clearly demonstrate impacts and explain the importance of protecting worker rights; they identify complaint options/possible outcomes without over-promising. Nevertheless, in the end, the workers themselves must determine how and to what extent they want to fight for their rights and seek justice. The centers will not force the workers on their decisions.

Response centers also help monitor and follow up on cases until they are able to close them. Centers' lawyers support migrants throughout the legal process with a strong focus on court proceedings along with assisting and comforting workers as needed.<sup>36</sup> Centers do this work for the simple reason that they are trying their best to help the migrant workers.

Response centers assist migrant workers whose rights are being violated without regard to their legal status; no matter if they are documented or undocumented workers, centers seek to help all migrants without discrimination. Centers endeavor to find solutions to help workers secure sources of state funding and do not ignore undocumented workers who are vulnerable and at high risk of being trafficked and forced to work.

In short, response centers continue to perform excellently and have a very positive reputation for assisting workers and standing up for their rights.

## 4.5 Monitor Policy/Legal Changes and Constantly Update Knowledge

Information must be consistently updated in order to effectively help migrant workers. Personnel involved need to be well-equipped with comprehensive knowledge on relevant laws and guidelines in accordance with international standards for migrant workers. In Thailand, new regulations are frequently being enacted due to a lack of long-term policy planning. A response center closely monitors local/national news and updates in order to provide accurate policy and legal information to workers and employers. The center also needs to have a good understanding of technical fields and specialized knowledge/skills pertaining to human rights, safe migration, and safety issues.

In order to provide help for human trafficking and forced labor victims, it is important that the response centers and relevant persons in charge are well-equipped with knowledge and information in order to assist with necessary procedures, available mechanisms, and best practices that needed to be taken. Most importantly, the persons involved need to be able to explain each step and

regulation in simple and clear language for the migrant workers to easily understand.

## 4.6 Continue Consistent Work on Laws and Policy Advocacy

The presentation of amended or new laws and policies to better protect migrant workers must be done on a consistent basis. Sometimes that does not happen; case in point, some complaints and requests for reforms were filed by response centers more than ten years ago, including the rights of employees to organize unions or engage in collective bargaining action, negotiate for social security benefits, and gain access to the judgement process.

Because response centers are familiar with the laws, they are aware of which ones need to be amended or have been unenforced, especially those relating to rights and process of judgement. To make up any deficit in keeping laws and policies current, the centers' role in policy advocacy work is represented in various forms—including filing letters to the government directly, providing useful data to the MWG, forwarding useful information to donors, sharing best practices, exchanging lessons learned, advocating for policies reform at different platforms, and calling for compliance with International Labor Conventions.

In addition, NGOs' advocacy for migrant worker rights includes making concrete recommendations for reforms and drawing international attention to vulnerable groups and human trafficking issues (Seafood Working Group [SWG] 2021).<sup>37</sup>

These combined efforts have created valuable sources of knowledge, tools, and practice guidelines for practitioners, CSOs, and others who want to use them for their work. The response centers' efforts in working with the government continues to reflect what issues should be reformed and prioritized. All these efforts are intended to strengthen the justice system in order to actually establish the protection of workers' rights in the long run.

## 4.7 Understand Migrant Workers' Local Contexts and Time Constraints

Each target group is attentively listened to by staff members at the response centers. This has increased trust and enabled centers to reach out to migrant workers and provide needed help in a timely manner. It is very important for the workers to be involved in the grievance, mediation, and legal processes; this must be done voluntarily without the center seeking to influence or manipulate a worker's decisions. Instead, the centers attach importance to listening to the needs of the workers carefully and attentively. Because of this, the center is able to effectively address workers' needs.

<sup>36</sup> Usually if the case is first handled by the response center, the center would be in charge of that specific case from the beginning of its administration and all subsequent relevant steps.

<sup>37</sup> Joint Letter to Secretary Blinken: Proposed Thailand Law Threatens Civil Society Organizations Combatting Human Trafficking. SWG, June 17, 2021.

The response centers do their best to ensure that workers' rights are not being violated, including ensuring that migrants can access assistance and receive needed protections. This is the reason why centers will always try to include participation of workers in all processes and listen to their needs. If the center can address those needs, they will do so without hesitation; however, if the center is not well equipped for some issues, they will try to respond to those needs through other organizations or through alternative support.

Response centers also design activities and work methods that consider workers' employment and working conditions, helping to make employers comfortable when possible; this has helped centers have better access to workers. The centers' work must be very diligent and active. Since migrant workers are only able to meet during their free time, center staff are not able to adhere to a fixed schedule or timeline. Meetings may need to occur on weekends, long holidays, and before or after work. Therefore, the staff must be dedicated and very flexible in terms of time.

## 4.8 Make Lawyers/Law Experts and Interpreters Available

Available personnel may include lawyers or law experts. The important point is that these persons be equipped with knowledge and expertise in the law—especially as it relates to labor and migrant workers—so that they can provide advice and guidance to file complaints properly and prepare sufficient evidence to work the case effectively.

The advantage of having in-house lawyers or law experts at a response center is that they can be the legal representative of the complainant; this can help with mediation, negotiation, and tracing the progress of the case. Having lawyers on staff bolster workers' confidence when confronting employers who are accompanied by their own lawyers and help enhance the likelihood of winning the case. Therefore, having lawyers or law experts on staff allows a center to complete a case itself without having to refer the case to another center.

Whether the response center needs to have in-house lawyers depends on a number of things—including the center's working style,<sup>38</sup> what kind of cases are coming in, and the level of complication. It also depends on whether a center can network with a partner organization to use their in-house lawyers as referrals, or whether the center has the ability to outsource the hiring of lawyers.

In-house interpreters are also a definite asset, helping to enhance the response center's capacity to assist migrant workers and supporting the government's work. In fact, government agencies often ask for the support of a center's interpreters in government-related work with migrant workers, especially when the agencies do not have

their own interpreter or when their work requires a large number of interpreters—such as victim identification and screening for COVID-19 vaccinations.

## 4.9 Protect Complainant Identity and Enforce Data Privacy and Protection

Response centers protect information by concealing the identity of the complainant—including name, gender, photograph, and workplace; they also ask for consent from workers on various matters, which includes not disclosing the identity of the complainant to the employer. This is a fundamental issue and an essential aspect of ethics and human rights that is vital in preventing any harm to the accuser.

Each response center also adheres to established practices on data protection via the advice of donors and auditors. Moreover, the centers have also been cautious with the publication of their successes in rescue work through social media and other kinds of media. Although these considerations relating to media are good practice, there is still room for improvement for overall data privacy and protection (see recommendations in Section 5).

## 4.10 Establish Appropriate Roles and Build Strong Relationships

Response centers must work with various parties—including the government, civil society, and employers. It is therefore important to ensure appropriate roles with all relevant sectors to remain in the area for the long term. There are multiple ways to work with employers—including providing them with correct information to make sure they follow proper guidelines related to migrant workers. A healthy relationship can also be enhanced through collaboration; for example, working together to deliver training to employees in the workplace.

Response centers have established good relationships with employers and listen to them when conflicts arise. Nevertheless, when centers have to take action on behalf of workers, they will work diligently—based on the principles of justice—to help protect the rights of workers. This also includes working with government agencies, as appropriate.

Response centers have endeavored to respectfully balance both a supporting role and an advocating role when working with government sectors. It is important for the government to feel that that they are working on the same team for the mutual benefit of society and the workers.

38 For instance, frontline centers have many daily cases; if they do not have enough manpower or budget, the center may choose to refer difficult cases to other assistant teams to complete.



## 5. Conclusion and Recommendations

### 5.1 Conclusion

Most migrant workers do not submit complaints directly to government agencies and are unlikely to do so. They do not find it convenient to contact a government agency due to language barriers, difficulty contacting the government by telephone, and general mistrust of government officers.

Because of inefficient government services, migrant workers whose rights have been violated may decide to seek help from response centers. If the government does not improve its services, this trend seems likely to persist in the future; migrant workers currently depend on assistance from the centers, which is a primary source of support. Centers take a proactive role in creating awareness of rights and basic understanding of laws among migrant workers; during every activity, workers are assured they can contact a center whenever they need advice or help.

Many different types of issues are reported to the response centers, including salary problems, social security rights, passport confiscation, and rights violations—even those that potentially fall under the scope of human trafficking and forced labor. Impeding the process may be local government policies, conditions of public shelters, financial status of migrant workers, migrant workers not wanting to go through a long-term court process, flaws in the investigative process by local police and governments, fear of local mafias or infamous people, and corruption. If not for considerable attention and collaboration from all parties, trafficking complaints may be dropped before becoming legitimate cases or are instead are often classified as common cases of labor rights violations.

Research studies show that response centers play important roles in screening human trafficking and forced labor cases. The centers help minimize flaws in the investigative process<sup>39</sup> and assist workers throughout the process. The centers' focus on building strong migrant worker networks and mechanisms will make the system sustainable and work as it should. Additionally, centers focus on policies that promote the rights of migrant workers—including strengthening the justice system to create a system with long-term impact.

<sup>39</sup> Government officers may commit an unintentional mistake regarding human trafficking cases, due to potential unfamiliarity with labor rights or works relating to migrant workers.

## 5.2 Recommendations

### 5.2.1 Recommendations for response centers

In addition to following best practices, these recommendations will enhance the effectiveness and efficiency of response centers that work to help migrant workers.

#### 1. **Customized computer-based record system to improve NGOs/centers' performance**

The key purpose of enhancing NGO/response center performance is to ensure that migrants are well-tended and that their information is secure. One way to do so is to develop/apply an enhanced level of computer-based data record-keeping. In order for organizations and response centers to do this, several aspects need to be considered, including prevention of data leakage, policy advocacy, monitoring and evaluation, donor reporting, and research. These can be accomplished by choosing suitable computer programs that enhance the quality and efficiency of data usage and processing.

Good data storage will better assist field work and give clear numerical evidence and qualitative information, especially as it relates to labor rights violations or complicated cases. When such data is available for use, it will uncover gaps at policy levels by applying statistical and/or in-depth evidence-based data.

#### 2. **Well-trained interpreters, especially for legal processes**

Most response centers confirmed that Thailand needs competent, professional interpreters so centers are able to conduct business more effectively; good interpreters are very much in demand. In the past, government agencies organized examinations and trainings to improve the quality and standard of interpreters' translations. Now, however, centers and NGOs must train interpreters themselves to equip them with the right skill sets for the work. A good interpreter must be able to translate comprehensively, especially when it comes to explaining difficult terminology, technical and legal terms, policies, litigation procedures, and court processes to migrant workers. If an interpreter cannot understand and translate in such a manner, it will not be possible to have in-depth conversations or to provide insightful information to the workers.

#### 3. **Lawyers and law experts who are very knowledgeable on human trafficking and forced labor laws/regulations for migrant workers**

In addition to having a thorough understanding of all relevant laws, response centers' lawyers and legal personnel must have expertise in human trafficking and forced labor laws. Lawyers should be able to discern if a case meets the legal requirements to move forward. Therefore, centers may consider having a regular or in-house lawyer. Response centers' lawyers will play a key role from the start. These cases are often complex and time-consuming.

In addition, response centers should expand cooperation with central government offices that are directly responsible for human trafficking; in turn, this will strengthen the work potential of the centers. These offices include the Office of the Attorney General Department of Trafficking in Persons Litigation, the Bureau of Human Trafficking Crime, Department of Special Investigation (DSI), and Division of Anti-Trafficking in Persons (DATIP) Police (Royal Thai Police). These organizations have the expertise and are well equipped with the knowledge to support and enhance the work of the centers.

#### 4. **Clearly defined roles, priorities, and protocols**

##### **Roles and priorities**

Clearly defining the roles and responsibilities of response centers will help them focus on their priorities; however, this advice may be difficult to apply in practice. Although centers are an important source of help for migrant workers, the amount of work required in their cases does not match with centers' limited human resources. Centers should therefore establish clearer case acceptance criteria, along with guidelines for prioritizing the urgency of cases. For example, if centers develop an easy-to-use telephone application and short guidance video, migrant workers could be assisted more efficiently, thereby reducing the number of questions that staff need to answer.

Although the response centers can further assist by giving advice on who the migrant workers can contact, the study finds that language barriers may pose a problem. The center may therefore coordinate and provide assistance with interpreters, if necessary.

### Setting protocols

Protocol manuals can create standardized and established good practices. Because response centers' work involves many government agencies, having protocols in place will create precise and well-articulated guidelines for inexperienced or new staff and other stakeholders. Having a protocol manual is also useful for organizations that want to expand their work further in the area of labor rights, human trafficking, and forced labor or to help them detect potential signs of violation.

In addition, when response centers encounter other problems or challenges in their fieldwork, they can use the lessons learned and update the manual to reflect where/when problems emerge, or which mechanisms and procedures can be improved. It is also an opportunity to reflect on what kind of action(s) the centers and government agencies should undertake to collectively improve the system or channels of receiving complaint cases.

#### 5. **Comprehensive knowledge and skill set of staff**

As frontliners, response centers play a very important role in pointing out whether a case qualifies as human trafficking and forced labor. Therefore, centers should focus on building the comprehensive knowledge and skill sets of their staff members so they understand essential elements to look for in a case.

Human trafficking and forced labor cases may not have the same patterns, making them more difficult to spot; for example, they may consist of severely delayed wages or mental harm. Cases like these are easily missed as human trafficking cases when officers lack sufficient knowledge to access and evaluate the evidence.

Staff knowledge and skill sets can help support government officers with information that can be used for legal procedures. It is important to demonstrate to the judge how trafficking/forced labor issues caused injuries, how they hurt victims, or how force was executed. The key point is to turn stories (e.g., from boat crews/fishermen/migrant workers) into legal cases within a framework that brings justice to the workers.

#### 6. **Written guidelines and protocols for data privacy and data use policies**

Response centers may have general guidelines for protecting workers' privacy and information but have not formalized them as written rules. Since most of the centers' work is to pass on information to government agencies or other case partners, it is imperative that there be established protocol. Otherwise, center staff will have to use their own judgement to decide which information can be disclosed or to whom they can share. Therefore, in order to minimize inconsistency of practice, centers should have a clear policy about what the staff can and cannot do, considering workers' consent to share or not share their information. Passwords must also be put in place to limit access to data by personnel. These measures will increase efficiency and ensure there is no violation of data privacy and protection protocol.

Response centers can be proactive by encouraging government agencies to also have data privacy and data use policies firmly in place. This will help ensure that government agencies do not share workers' information in a public forum (e.g., press conference), which could affect the workers' safety. Therefore, it is best if all parties put mutual effort into learning the significance of this issue.

## 5.2.2 Recommendations for government

Migrants should be protected and able to access justice if their rights are violated. Overall, there are public services that migrant workers should receive from the government, even if the local area or province does not have a response center. Below are some recommendations for government agencies in improving their system.

#### 1. **Improve complaint management/referral system to facilitate better access**

Because the current complaint-receiving system is not convenient and user-friendly for migrant workers, the state should make improvements to facilitate better accessibility. For instance, the "1300" hotline for receiving cases, established by the MSDHS, is directed to a central office, causing delays in call transfers or obligating workers to call another time. It also requires workers to use the Thai language in order to get access to an interpreter. Other troubles include limited official operating hours, being required to show up in person, and general discrimination.

An efficient case referral system will make it easier and more useful for all parties. Referring cases from NGOs to government agencies is primarily done through telephone calls, potentially causing time-consuming delays if there is no clear understanding among the coordinating staff. In complicated cases, the referral process relies heavily on the proper communication channels and the government's staff in charge.

Channels for receiving cases should be a well-established system. Government agencies should have a clear understanding of their duties and responsibilities as well as be able to identify which agencies they should forward the matter to; therefore, the state should have an efficient complaint management system. It could be comprised of highly responsive email or online systems to receive complaints that allow for status tracking. For efficiency, the government's referral system must eliminate/reduce discussions with officers and requiring only the minimum necessary information in the process.

Since response centers are the main users of the referral system, the government should collaborate with them and NGOs to make improvements. This can be done by the government gathering centers' suggestions for improving the system and implementing them as needed.

## 2. **Law amendment suggestions**

Over time, law-related issues are encountered, which lead to daily problems and become a burden to response centers and government agencies. This is due to a lack of long-term planning by the government, which in turn leads to many short-term plans and consequently, an overlapping of different laws. It is also problematic to have laws that are inconsistent with the actual context of migrant workers and a lack of law enforcement.

Legal amendments require further study, particularly on the aspect of limitations and impacts on employers, workers, and the government. Despite all the work needed, it is very important that the government conduct a revision of laws and pay more attention to law enforcement, as has been consistently requested by migrant workers and civil society. All of the challenges relating to legal matters are beyond the scope of this study.

## 3. **Work more proactively**

The state should use available resources and work more proactively in a migrant-friendly manner<sup>40</sup> in order to identify and assist more abuses and rights violation cases. This is particularly true in areas that are not easily accessed by the response centers—such as construction camps, factories, fishing boats,<sup>41</sup> and remote areas. The use of existing resources means expansion of duties and responsibilities of existing employees to perform tasks. This includes labor inspectors affiliated with the Department of Labor Protection and Welfare, the Social Development and Human Security Volunteer from the MSDHS, and the MDT. The state should not work passively and wait for cases to appear or be reported. Instead, proactive work on the part of the government will show employers that law enforcement agencies are treating violations of migrant workers' rights seriously.

## 4. **Enhance knowledge and skills to improve capabilities related to TIP**

Human trafficking—especially in the form of forced labor in the fishery sector—is one the most difficult for screening and identification of victims. Because the traffickers/perpetrators always hide it and required screening is complicated, it can result in unintentional misidentification of human trafficking by government officers. To prevent this happening, the state should focus on training government officers on TIP topics—including victim identification case studies, effective communication tactics with victims, and the Anti-Human Trafficking Thai Law.

Quality training and workshops should increase knowledge and skills and result in improving the capabilities of government officers. This can help ensure that the process of screening for cases is efficient, and that any existing/additional cases be identified.

40 In this context, "migrant-friendly" means not needing to be fully dressed in official uniform, abstaining from publishing photos to showcase their success if not necessary, minimizing the size of delegation on field visits, and reducing unnecessary protocols.

41 Although PIPO and the MDT are in charge of inspecting boats/ships, there are still issues to be discussed in order to improve inspection quality, especially the problem of work efficiency and quality during the COVID-19 pandemic.

# APPENDIX 1: ORGANIZATIONS CONSULTED

INTERVIEWEE POSITION		ORGANIZATION/AGENCY/GROUP	DATE
<b>Response Centers/NGOs</b>			
1	Field Coordinator	Migrant Development Center	December 19, 2021
2	Manager	Stella Maris Seafarers' Centers, Songkhla	February 2, 2022
3	Laws Advisor	Foundation for Education and Development	February 4, 2022
4	Head of Human Resources and Coordinator with Government Agencies	Foundation for Education and Development	February 4, 2022
5	Executive Director	International Justice Mission	February 10, 2022
6	Director	Labor Rights Promotion Network Foundation	February 28, 2022
7	Coordinator	Migrant Workers Rights Network	March 3, 2022
8	Field Coordinator	Rak Thai Foundation Surat Thani	March 14, 2022
9	Program Director	Human Rights and Development Foundation	March 16, 2022
<b>Local Government Agencies</b>			
10	Head of Phuket Provincial Labor and Protection Welfare Office	Phuket Provincial Labor and Protection Welfare Office	February 2, 2022
11	Social Worker, Practitioner Level	Phuket Provincial Social Development and Human Security Office	February 3, 2022
12	Office of Phuket Provincial Anti-Human Trafficking Center	Phuket Provincial Social Development and Human Security Office	February 3, 2022
13	Head of Phuket Provincial Employment Office	Phuket Provincial Employment Office	February 3, 2022
14	Labor Specialist	Phuket Provincial Employment Office	February 3, 2022
15	Fishery Specialist, Practitioner Level	PIPO, Phuket	February 7, 2022
16	Labor Specialist, Practitioner Level	Phuket Provincial Labor and Protection Welfare Office	February 7, 2022
<b>Migrant Workers</b>			
17	Female Migrant Worker (1)	Laundry Factory	December 19, 2021
18–19	Female Migrant Worker (2)	Seafood Processing Industry	December 19, 2021
20–21	Male Migrant Worker (2)	Construction Industry	December 19, 2021

# APPENDIX 2: INTERVIEW QUESTIONS

## Interview Questions for Response Centers

1. How many channels does your organization have for the complaint process? Which one is the most common channel? Have you ever recorded the number of users in each channel?
2. What is your organization's eligibility criteria to accept each case?
3. Does your organization have sufficient numbers of staff to help out each worker? This will include the number of lawyers and interpreters for each available language.
4. How does your organization keep/record and manage each data? Are those data being leveraged and used for in-depth analysis and reporting? How does this process work?
5. Does your organization have protocols or a manual for complaint procedures or for referring cases? If yes, then how is this manual being made? What is the process?
6. Does your organization have guidelines and procedures regarding the initial victim identification in the case of human trafficking and labor conscription (VOT identification)? How does the needs assessment for victims proceed? How does the case management system proceed? Which indicators does your organization use to recognize and record cases as human trafficking or forced labor?
7. Please give us some examples of procedures your organization has when a complainant does not have enough documents or evidence, especially in the case of human trafficking.
8. What is the approach for your organization in terms of working with government sectors? What does cooperation look like between your agents and government agents?
9. What are your organizational codes and procedures for case mediation or when you do you bypass mediation to go to a higher judicial level for case complaints and litigation?
10. What are your organization's practices for complainants' data privacy? Are there any protections for the complainant, and how is that accomplished?
11. What are the challenges faced by the organization from complaints of labors in fishing sectors? Does it affect your capability to aid them or not? If yes, then how does the organization handle these issues?
12. Are there any obstacles during the process? Please identify.
13. Are there any activities or strategies from your organization provided to workers and their community in order to build engagement, strengthen their skills, and create channels for them to make complaints, especially for locations that are difficult to access—including construction camps and worker accommodation within the factory area?
14. Does your organization design or employ any strategic plan for sustainable impacts?
15. From your point of view, what are your organization's best practices and strengths in terms of performance?
16. Are there any recommendations for individuals or organizations willing to initiate the establishment of the Migrant Center Services? Please identify the top five crucial points of guidance.
17. Do you have additional suggestions on the following topics?
  - improving and promoting the protocol for receiving and referring the complaint case in order to help migrant workers
  - improving and promoting the usage of personal data protection rules and utilization of data

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45 Translation of original Thai title. In Thai "คู่มือการจัดการเรื่องร้องเรียนด้านแรงงานของแรงงานข้ามชาติ"

46 Translation of original Thai title. In Thai "การเปลี่ยนนายจ้างของแรงงานต่างด้าว"

47 Translation of original Thai title. In Thai "คู่มือการปฏิบัติงาน การต่อต้านการค้ามนุษย์เบื้องต้น สำหรับทีมสหวิชาชีพและผู้นำชุมชน"

48 Translation of original Thai title. In Thai "รายงานการดำเนินการของอุตสาหกรรมทูนาไทย ในปี 2563 เพื่อต่อต้านการใช้แรงงานเด็ก แรงงานบังคับ และการค้ามนุษย์"



*This report is made possible by the generous support of the American people through the United States Agency for International Development (USAID). The contents are the responsibility of Winrock International and do not necessarily reflect the views of USAID or the United States Government.*