In African waters.

The trafficking of Cambodian fishers in South Africa

2014
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In African waters.

The trafficking of Cambodian fishers in South Africa

2014

Rebecca Surtees

A research cooperation between IOM and NEXUS Institute
South Africa and Cambodia

The Oceans around South Africa

Map credit: Laura S. Johnson
Foreword

This report describes the experiences of Cambodian men who were held in servitude by human traffickers or suffered other forms of extreme exploitation on fishing vessels in the waters of South Africa. It joins several previous NEXUS Institute studies authored by Senior Researcher, Rebecca Surtees, which examine issues of human trafficking at sea. Other reports include: At sea: The trafficking of seafarers and fishers from Ukraine; Trapped at sea. Using the legal and regulatory framework to prevent and combat the trafficking of seafarers and fishers; and Trafficked at sea. The exploitation of Ukrainian seafarers and fishers.

Together, these reports document the stories of men who, in seeking to support themselves and their families through commercial fishing (or other types of work at sea), pursue this employment at the risk of enslavement and extreme violence and exploitation. Their experiences poignantly illustrate the tragic and widespread phenomenon of trafficking aboard vessels at sea occurring around the world.

This report, reinforcing the findings of our earlier studies, recounts the physical violence used to compel the labour of men at sea:

All but two of the 31 Cambodians in this study experienced physical abuse and violence while trafficked on fishing vessels in the oceans around South Africa. . . . Men described a wide array of assaults and abuses perpetrated against them – for example, being hit with hands and fists, as well as beaten with batons and bamboo sticks and attacked with weapons.

One man described being beaten on the head with a fishing gaff to force him to work.

Among the striking reflections made by some of the men interviewed for this study compared the treatment they experienced as victims of trafficking at sea against a very personal benchmark of abuse and suffering: “Even when we were sick or injured, they still forced us to work... It was more brutal than the Pol Pot regime...”
It is a common tactic of traffickers to isolate their victims in order to minimise the possibility of escape or rescue. Many of the commercial vessels stay at sea for long periods of time, rarely coming to port, so that trafficking at sea provides nearly perfect isolation that veils the criminal acts perpetrated against the men harboured on board. The vast, open waters in which these vessels operate allow traffickers to inflict brutalities upon the bodies and spirits of men a long way from the possibility of escape and freedom.

Thus, this manifestation of human trafficking is all the more insidious because, despite universal recognition of human trafficking as a serious crime and a violation of human rights, traffickers have found a haven at sea largely immune from official inquiry or prosecution.

This report highlights a myriad of complex issues that governments around the world – individually and collectively – must now face before they can be able to end the impunity of the perpetrators and protect the victims of trafficking on the waters of the earth. Some of the initial steps needed to combat this form of human trafficking emerged from the accounts of the men interviewed in these studies.

At the same time, part of the solution must be a reinvigorated dedication to applying current international and national legal instruments to trafficking at sea while new and more potent legal tools against this specific form of trafficking are enacted. The United Nations Convention Against Transnational Crime and its associated Anti-Trafficking Protocol (“Palermo Protocol”) call upon countries to work together to eradicate human trafficking around the world. It is irrelevant to this mandate of combatting human trafficking whether exploitation, which is the principle element of the crime of human trafficking, is perpetrated on land or at sea (or, as in many cases, a combination of both). Although a much stronger specialised international legal framework will likely be required, in the meantime, the conduct described in these reports falls within the scope of activities that countries obligated themselves to criminalise and combat as human trafficking.

Governments will need to adopt comprehensive strategies tailored to the unique characteristics of this form of human trafficking. They must foster new tactics to create and ensure, for example, effective transparency in fishing supply chains. In the future, through a combination of technology, instantaneous communications, information-sharing and awareness produced by social media and other means, consumers will be able to make more fully informed decisions about the products they consume. Consumers of products of the fishing industry will have the opportunity to reward companies that sell fish that were not caught through the exploitation of humans as described in this research. They will be able to reject products offered by companies engaged in these practices.
As the level of consumer engagement grows, the international community will almost certainly begin to note which governments licence or otherwise perpetuate or acquiesce to the practices of companies that have become known to engage in or facilitate human trafficking.

The type of vigorous international cooperation envisioned by the countries of the world in embracing the Palermo Protocol will be needed to forge effective transnational strategies and solutions against this form of human trafficking. It will require governments, the business community, and the breadth of civil society to work together to be successful.

The analyses and findings contained in NEXUS Institute reports are a call to action for governments to begin to immediately address the plight of trafficked fishers (and seafarers on vessels of all types). There will be no easy solutions. However, human trafficking in this sector can be eradicated. I hope that this research will serve to inform and advance serious deliberations globally on the actions that must be taken to end the practice of enslaving humans at sea once and for all.

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Acronyms and abbreviations

ADHOC  Cambodian Human Rights and Development Association
CCA  customs controlled area
CLEC  Community Legal Education Center
DHA  Department of Home Affairs
EEZ  exclusive economic zone
EJF  Environmental Justice Foundation
FAO  Food and Agriculture Organization of the United Nations
FCV  foreign charter vessel
FoC  flag of convenience
FoNC  flag of non-compliance
ILO  International Labour Organization
IMO  International Maritime Organization
IOM  International Organization for Migration
ITF  International Transport Workers’ Federation
IUU  Illegal, unreported and unregulated
LICADHO  Cambodian League for the Promotion and Defense of Human Rights
LSCW  Legal Support for Children and Women
MLC  Maritime Labour Convention
MoFAIC  Ministry of Foreign Affairs & International Cooperation
MoI  Ministry of Interior
MoLVT  Ministry of Labour and Vocational Training
MoSAVY  Ministry of Social Affairs, Veterans and Youth Rehabilitation
MoU  Memorandum of Understanding
NCLCT  National Committee to Lead Counter-Human Trafficking
NGO  non-governmental organisation
RFO  regional fisheries organisation
RFMO  regional fisheries management organisation
SEA  South-East Asia
SIM  Subscriber Identity Module
TIP  trafficking in persons
UN  United Nations
UNCLOS  UN Convention on the Law of the Sea
UNIAP  United Nations Inter-Agency Project on Human Trafficking
In African waters. The trafficking of Cambodian fishers in South Africa

UNODC United Nations Office on Drugs and Crime
US United States
USD United States dollar
VoT victim of trafficking
WIF Work in Fishing Convention
Executive summary

1. Introduction

 Trafficking within the commercial fishing industry in South-East Asia has gained increased attention and recognition in recent years, with researchers, practitioners, policymakers and media focusing on the stories of men from Cambodia, Indonesia, Myanmar and Thailand exploited on fishing vessels in the waters off the coasts of Indonesia, Malaysia and Thailand. Accounts also exist of men from South-East Asia trafficked onto vessels much further from home through formal migration channels. This paper explores and discusses the experiences of Cambodian men who migrated for work in the fishing industry through a legally registered recruitment agency in Cambodia – Giant Ocean International Fishery Company Limited (“Giant Ocean”) – and ended up trafficked and exploited on fishing vessels off the coast of South Africa. While estimates of the number of Cambodian men trafficked as fishers by Giant Ocean differ, what is clear is that hundreds of Cambodians were exploited in this way. Police received almost 200 complaints and estimate that more than 700 men were sent abroad by Giant Ocean for fishing. The trafficked men themselves told of many other men from their villages and communities who also accepted work through Giant Ocean.

 The high numbers of men trafficked through just one recruitment company in Cambodia raise serious concerns of widespread trafficking and exploitation of fishers from the country and within the fishing sector more broadly. It also highlights the lack of protections that legal recruitment and deployment may offer in some settings. This study discusses the trafficking of Cambodian men for fishing out of South Africa and/or in South African waters – how the men were recruited and transported as well as their trafficking experiences at sea. The study also discusses how these trafficked fishers were (or, more commonly, were not) identified as trafficking victims in South Africa and what assistance they did (or did not) receive when they escaped and returned home to Cambodia and sought to (re)integrate into their families and communities.

 This study is intended to give voice to these trafficked Cambodian fishers and, in so doing, to develop an understanding of what happened to them when they legally migrated to work abroad. There are aspects of their experiences and the formal, legal recruitment context through which they were trafficked that
may reveal unique vulnerabilities, particularly the lack of protections that legal recruitment and deployment may offer in some settings. This study focuses on what can be learned from these experiences in order to inform anti-trafficking policies and programmes, and to improve responses and interventions for fishers who end up trafficked at sea.

2. Research methodology and data collection

Research methodology

This paper is based on the experiences of 31 Cambodian men trafficked for fishing to South Africa between 2010 and 2013. Interviews with 11 men, conducted in January 2014, focused on their trafficking experiences (including their recruitment, transportation, exploitation, exit from trafficking and any assistance they received), their current life situation, and their future plans and needs. A further 20 case files of Cambodian fishers trafficked to South Africa were reviewed, coded and analysed using the same analytical categories and framework. In addition, interviews were conducted with seven Cambodian men who were recruited through Giant Ocean but ended up exploited on fishing vessels in Fiji and Mauritius.

Interviews were conducted with 42 key informants over the course of the research – both in Cambodia and South Africa. Four rounds of fieldwork were conducted in Cambodia – one each in August 2013 and January 2014, and two rounds in March 2014. A total of 28 key informants – representing IOs, NGOs and key ministries within the Cambodian government – were interviewed. In six instances, key informants were interviewed on more than one occasion.

Interviews were conducted with 14 key informants in South Africa between December 2013 and May 2014, representing NGOs and civil society, international organisations, government, researchers and embassies, including experts on illegal, unreported and unregulated (IUU) fishing, to learn about issues within the industry in general, as well as within the specific context of IUU fishing in and around South Africa.

Methodological limitations

This study focuses very specifically on Cambodians trafficked by Giant Ocean – that is, recruitment through a formal, “legal” recruitment agency, and migration with legal documents and work permits, among others. As such, this study represents a very specific trafficking experience and trajectory, and may not represent the experiences and needs of trafficked fishers in general. Many other Cambodian men are trafficked through more informal channels and following different recruitment patterns. Their experiences and needs are likely to differ in parts and to varying degrees from men exploited as fishers in South Africa. Identifying appropriate interventions in such cases will require research tailored to the specificities of their experiences and needs.
The sample for this study is relatively small, given that hundreds of men were recruited and allegedly trafficked by Giant Ocean. Identifying and contacting respondents was challenging, as was the relatively short time frame for data collection and the travel involved. As such, this study may not represent the full breadth of trafficking experiences and assistance needs that trafficked fishers may have.

Interview data involves certain biases; it was difficult for men to provide information on some topics. Some information they did not remember, and some they may have opted not to remember, to avoid thinking about and discussing a very difficult period of their life. Sometimes men had not paid attention to specific types of information, for example, details of boats, such as vessel numbers and so on. In still other cases, there was information that the men did not know because of language differences on the boats, as well as on land in South Africa (men often could not communicate with or understand the authorities and what was happening around them).

There were also challenges in accessing key informants, particularly in South Africa, where it was not possible to conduct fieldwork and it was possible to arrange interviews with only one official from the Government. This means that there might be more information from the destination side that would be useful in better understanding what happened in these cases.

**Ethical issues**

Each interview began by obtaining the respondent’s informed consent – a detailed process which included an explanation of the purpose of the study; the questions that would be asked; the respondent’s right to decline to answer any questions or end the interview at any time; and assurances of confidentiality. Interviews were conducted in a location chosen by the respondent. All interviews were strictly confidential and secured according to NEXUS’ internal data protection policies. The researcher was equipped with current referral information about services and agencies providing different types of support and assistance. All respondents were offered this referral sheet as part of the interview process. Because compensation can potentially create a pressure to participate in research in ways that may compromise informed consent, compensation per se was not provided as part of the study. However, funds were provided to cover respondents’ transportation, accommodation and food costs when interviewed outside of their home setting. A small “gift” (i.e. food item) was also provided, in recognition for their contribution to the research.
3. Definitions, terms and concepts

Definitions, terms and concepts used in this study centred around two main themes: (a) those integral to an understanding of trafficking in persons and, more specifically, trafficking at sea; and (b) those focusing on the commercial fishing industry.

Understanding trafficking in persons

**Trafficking in persons.** Trafficking, in this study, refers to the definition in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, as follows:

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

**Trafficking at sea.** Trafficking which takes place involving seafarers and fishers in the context of at-sea activities.

- **Fisher.** A fisher is a person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch, but excluding pilots, naval personnel, other persons in the permanent services of a government, shore-based persons carrying out work aboard a fishing vessel, and fishery observers.
- **Seafarer.** A seafarer is any person who is employed or engaged in any capacity on board a ship, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing.

The “3P” paradigm. The 3Ps of anti-trafficking are as follows:

- **Prevention** (of the act of trafficking). In the context of trafficked fishers prevention might focus on increased awareness of the risk of trafficking in this labour sector – through both formal and informal recruitment channels.
- **Protection** (of trafficked persons). This requires both the formal identification of trafficking victims and the provision of (voluntary) assistance aimed at the recovery and (re)integration of trafficked persons.
• *Prosecution*. This refers to the range of criminal justice activities, from proactive investigation to legal proceedings against alleged perpetrators of trafficking crimes and dismantling of the criminal enterprises, but can also include civil and other (e.g. administrative) actions.

**Framing the fishing industry and work at sea**

*Illegal, unreported and unregulated fishing (IUU) fishing*. IUU fishing is fishing that, for instance, occurs without or in contravention of appropriate fishing licenses, in marine protected areas, or without reporting catch in accordance with applicable fishing regulations.

*Fishing vessel*. A fishing vessel is any vessel used commercially for catching fish, marine mammals or other living resources of the sea.

- **Long-haul fishing vessel**. A long-haul fishing vessel refers to any fishing vessel that remains at sea for many months, even years, before returning to port. (To be distinguished from long-haul fishing, which is a specific form of fish harvesting in which a net is pulled between two boats for a distance to encircle fish by the boats crisscrossing in the water.)
- **Drift netting** and **drift netter**. Drift netting is a technique where nets are hung vertically and extended from a vessel. A vessel that employs this technique is called a *drift netter*.
- **Longline fishing** and **longliner**. Longline fishing is a form of fish harvesting in which a fishing line (“longline”) is extended from a vessel. The longline is kept afloat by buoys and at regular intervals secondary fishing lines attached to the longline extend down in the water. A vessel that employs a longline is called a *longliner*.
- ** Reefer**. A reefer is a refrigerated cargo ship that may act as a mother ship and which allows fishing vessels to unload their catch at sea.

*Transshipment*. Transshipment is the transfer of cargo or fish from one vessel to another for further transit.

**Recruitment practices for fishing**

- **Broker or meekol**. A broker (*meekol*) is a person who recruits individuals to crew fishing vessels.
- **Crewing agency**. A professional company that matches seafarers and fishers to vessels in need of crew; also called a *recruitment agency*.
- **Fishing company**. A fishing company is a company that, depending on its size and scope, catch, process and/or market fish.
Jurisdictions for fishing

- **High seas.** The high seas are all parts of the sea that are under neither sovereignty or jurisdiction of any State.
- **Flag State control.** The system of flag state control is the system of jurisdiction on the high seas, in which all vessels must be registered to a country and fly that country's flag.
- **Flag of convenience (FoC).** A flag of convenience is a flag from a State with an open register that is unable or unwilling to take its flag State responsibilities seriously (either in terms of enforcing existing national laws or in terms of implementing laws).
- **Flag of non-compliance (FoNC).** An FoNC is a flag State that, while not necessarily having an open registry like FoC States do, nonetheless fails to enforce flag State obligations, particularly on the high seas or in distant water fisheries.
- **Territorial waters.** Territorial waters (or “the territorial sea”) are waters that are part of coastal State territory and therefore under the jurisdiction of a coastal State.
- **Contiguous zone.** The contiguous zone is a zone contiguous to the territorial sea in which a coastal State may exercise jurisdiction to prevent and punish the infringement of its laws and regulations in the territorial sea.
- **Exclusive economic zone (EEZ).** An EEZ is a sea zone in which a coastal State has sole exploitation rights over all natural resources.
- **Coastal State.** A coastal State is a State with a coastline and therefore with exclusive exploitation rights to natural resources and some jurisdiction in designated parts of the sea.
- **Port State.** A port State is the coastal State with jurisdiction over a port.
- **Port of convenience.** A port of convenience is a port where the port State is unable or unwilling to enforce regulations.
- **Port State control (PSC).** The system of PSC is one in which States sign a memorandum of understanding to extend coastal state jurisdiction to allow for the inspection of foreign ships in national ports.
- **Customs zone.** The customs zone is an area within a port designated for the storage of commercial goods that have not yet cleared customs.
- **Customs controlled area (CCA).** The CCA is a secure and controlled environment in a port where activities are monitored and conducted by customs authorities.
4. Who was trafficked? Cambodian fishers trafficked to and off South Africa

Sex, age and nationality. Cambodian trafficked fishers were all adult men, ethnic Khmer and Cambodian citizens. They ranged in age from 24 to 54 years at the time they were trafficked.

Family and economic situation. Many men were married and had children (numbering generally between three and five). Most married men were living with their wives and children. Younger men were often not married and lived with parents, siblings and extended family. All were primary contributors to their household economy, financially supporting other family members.

Education. Most of the men had attained only very basic levels of education. Most had attended school for two or three years and had not completed primary school (grade six). Two of the men were, as they put it, “uneducated” and were not able to read or write.

Professional training and work experience. Only one man had experience fishing at sea. Men worked in different fields prior to being recruited – primarily in construction or agriculture. The need to support one’s family was a primary driver for the men in their decision to accept and, indeed, in most cases, seek work abroad. In some instances the pressure of existing debt meant that men were particularly “enticed” by offers of good, reliable pay abroad.

Place of origin. Men were recruited from different provinces around Cambodia, including Phnom Penh, Kampot, Prey Veng, Siem Reap, Banteay Meanchey, Kampong Chhnang, Kampong Cham, Kampong Speu, Kratie and Takeo.

5. Recruitment of Cambodian fishers: The role of Giant Ocean

Formal recruitment and recruitment agencies. Cambodian fishers trafficked to South Africa were formally recruited through the recruitment company Giant Ocean International Fishery Company Limited (“Giant Ocean”), which was legally registered with Cambodia’s Ministry of Labour and Vocational Training. This formal recruitment process – through a legally registered agency – created a façade of legality and safety for some of the men interviewed. They spoke about how they felt that this legal framework meant that they could trust the recruitment agency. More than one man contrasted the “risk” involved in going through an informal labour broker (which they were aware could lead to trafficking) with the safety they felt was linked to this formal process and the trust they felt as a consequence. That being said, while the recruitment process appeared formal and legal on the surface, in reality the agency, while legally registered, was not licensed to recruit fishers. This raises important questions about the monitoring and oversight of recruitment agencies, as well as sanctioning those in violation of the regulations.
Role of broker and middlemen. Most of the men learned about Giant Ocean through a broker or middleman (*meekol*) who came to their individual villages to recruit workers. Some of the men learned about the agency through friends or neighbours or through advertisements on the radio and in newspapers. None of the men paid a recruitment fee to either a broker or the recruitment agency.

Work promises at recruitment. In most cases (27 of 31), men were told by the recruitment agency that they would be working on a fishing vessel. However, it was often not explained clearly what the work would entail. The majority of men (17) were promised work in Japan. Six men knew that they would be going to South Africa, and another man knew that he would be going to Africa, but did not know which specific country. Three men were not told where they would be going or were told that they had to wait for news from overseas to determine where they would be sent. One man was promised work as a fisher in Nepal, another one in Singapore, and yet another in China.

Salary and benefits promised, and penalties for breaking the contract. Most of the men were promised a salary of USD 150 per month, along with bonuses for extra work or for catching particular types of fish. There were also penalties and fines to be incurred, most commonly for breaking the contract – i.e. not finishing its full term, which was generally between two and three years.

Work contracts and agreements. Most men (15 out of 31) signed formal written contracts with Giant Ocean. In some cases, men signed contracts in both Khmer and English and understood the terms and conditions outlined in at least the Khmer version. In some cases, the contract was not in the Khmer language at all. One man signed a contract, which he said was in English and Chinese, neither of which he was able to read or understand. Further, a number of men were illiterate or had low education levels and were not able to read and understand the terms of the contract in any of the languages. Some of the men received and kept copies of their work contract. Quite commonly, though, the recruitment agency kept the signed copies of the contract or took them from the men before they departed for work abroad – for “safekeeping.” Some men made an oral agreement with the agency without signing a written contract.

Recruitment fee and agency costs. None of the men paid the agency any recruitment fees. Indeed, the recruitment agency typically provided the men with a small advance against their salary in the amount of USD 100. Two men borrowed money prior to their departure to support their family members until their first pay check was issued. Both were seemingly small amounts, but both men spoke about the stress that these debts caused.

Pre-departure “training.” Some men received what was described to them as pre-departure “training” to equip them with the skills and the physical strength needed to work on a fishing vessel. In reality, the training was not in fishing work itself, but instead focused on exercises and building their strength for work
and life on the boat. Some of the men were not trained but were deployed immediately after recruitment. Periods of training were seemingly opportunistic, with men being “trained” while waiting for other arrangements to be made or for positions to become available.

**Passports, work permits and seamen’s books.** It was generally during the training/preparation period that documents— including international passports, work permits, visas and/or seaman’s books— were arranged. All men travelled with passports. They held valid visas and work permits, but were generally unable to provide further details of the legality and validity of such documents. Men were issued certificates by Giant Ocean labelled as “work permits.” Men also carried fishery seaman’s books issued by Giant Ocean, although seamen’s books are normally issued by the maritime authority in the country of origin and are typically not for fishers. All documents were arranged and paid for by Giant Ocean. None of the men were directly involved in the processing of their documents; none reported paying for the documents themselves.

6. From Cambodia to South Africa: How the men travelled

**Means of transportation and travel routes.** Travel arrangements were made and paid for by the recruitment agency. Men received airline tickets at the airport prior to departure. None had to pay anything in advance for travel arrangements; the costs of these arrangements were to be deducted from their future earnings on the vessel. Routes travelled by Cambodian fishers to South Africa varied. The majority (20) travelled by airplane to South Africa, transiting through countries like Malaysia, Qatar, Republic of Korea, Thailand and the United Arab Emirates. Some men were not entirely clear about the route they took, not having been informed about it by the recruitment agency and not being able to read signs or communicate with authorities or others in the various transit countries. Two of the men interviewed travelled to South Africa by vessel – flying first to Singapore and then sailing to South Africa.

**Documents and permits; border crossings and entries.** Men trafficked for fishing in South African waters entered South Africa legally, using international passports and visas. Men arriving by air were typically issued a temporary “crew visa” at the airport in South Africa, which allowed them to enter the country and subsequently embark on a vessel. For men arriving by sea, their visa status upon entry remains unclear.

**Arrival and embarkation.** All men who travelled by airplane were met at the airport upon their arrival in South Africa and escorted, most commonly, to the Cape Town port. They were generally met by persons from (mainland) China or Taiwan Province of China, as well as other countries, who represented fishing companies in the port. Some of the men immediately embarked on their vessel upon arrival at the port and left the harbour. Others stayed for a time on the vessel in the Cape Town port doing preparatory work and training how to fish.
Some men were held in the port area before embarkation, accommodated temporarily by the fishing company in rooms in the harbour. One man was locked up in a room in the port facility with no option to leave at all and being also under the strict control of security guards.

7. Exploited in South African waters and beyond: The trafficking experience

Destination and exploitation. All of the men trafficked for fishing who participated in this study were exploited on fishing vessels working in or around South African waters. The precise location where the fishing occurred is unclear, but may have been in South African territorial waters (including the contiguous zone), the EEZ and continental shelf area, or the high seas beyond South African jurisdiction. One man was first exploited in the vicinity of South Africa, but later sailed on a fishing vessel to the Pacific, where he was also exploited for commercial fishing.

Types of vessels and types of fish. All men worked on long-haul fishing vessels, spending months and even years at sea and often travelling long distances. None of the men clearly specified the kind of fish their vessels targeted, although from their descriptions it seems likely that many of them were on vessels targeting various species of tuna.

Vessel names and flags. Approximately one third of the men could recall either the name or number of the vessel they were on. Others were unable to read the name of the vessel or to remember it. Some men could recall and describe the flag flown on the vessel where they were exploited; flags identified were that of China, Japan, South Africa and Taiwan Province of China. Most captains were from (mainland) China or Taiwan Province of China. Crew on the fishing vessels were usually of mixed nationalities—Cambodia, China, Indonesia, Malaysia, Myanmar, the Philippines, Taiwan Province of China and Viet Nam.

Working conditions on the vessels. All of the men were exploited on deep-sea fishing vessels, working long hours in harsh conditions. Cambodian fishers did a wide range of tasks at sea related to fishing and operating the fishing vessels. They generally worked a minimum of 18 hours a day, and approximately half of them worked 20 hours a day or more. They were forced to work even when sick, injured or exhausted. The men also struggled to adjust to life and work at sea, which involved seasickness, harsh weather conditions, exposure to the elements and so on. The only time off that fishers had was when they came to port, which was extremely seldom. Some were exploited for several months but, not uncommonly, fishers were exploited for periods of up to three years. While in exploitative situations, the men spent long periods of time at sea, seldom coming to land.

Occupational health and safety. Cambodian fishers suffered various injuries and illnesses as a result of the hard and often unsafe working conditions on
board the vessels. Men reported various injuries and illnesses as a result of poor working conditions or the harshness of the work itself. Fishers on long-haul fishing vessels frequently experienced injuries to their hands, such as cuts and wounds from processing fish or placing hooks on fishing lines, or from getting hands and fingers caught in nets, processing equipment, unguarded machinery, winches, augers, bait choppers and so on. They also became ill or got frostbite from working in the freezer/ice storage. Cambodian fishers exploited off the South African coast did not seem to have appropriate gear and equipment for working on these fishing vessels. None mentioned receiving equipment like goggles, safety harnesses or wet/cold weather gear. None of the Cambodian men off the coast of South Africa referred to having life jackets or access to life buoys while on the vessels.

Living conditions on the fishing vessels. Living conditions on the fishing vessels were substandard – unhealthy, unhygienic and inhumane. Men suffered due to a lack of (or poor quality) food and fresh water. Living quarters on board the fishing vessels were cramped, sometimes with not enough room for men to lie down. Some men became ill because of the substandard living conditions and described being unable to maintain a reasonable level of personal hygiene. Other men became ill because of inadequate or unsanitary food and water. Illness and injuries were sometimes improperly or inadequately treated, or left untreated altogether.

Experience of abuse and violence on fishing vessels. All but two of the 31 Cambodians in this study experienced physical abuse and violence while they were trafficked on fishing vessels in the waters around South Africa. Men described a wide array of assaults and abuses perpetrated against them – being hit with hands and fists, as well as being beaten with batons and bamboo sticks and attacked with weapons. Reasons for receiving physical violence were often linked to working too slowly or not well enough (at least by the standards of the captain and senior crew). Men were also beaten for falling asleep or resting too long or too frequently. Not being able to understand instructions because of language barriers also exposed Cambodian fishers to regular violence, as punishment for not working well. In some cases, violence seemed to have been used a means of control and maintaining constant fear and submission among the crew. Violence was also a punishment for misbehaviour. Violence was not only exacted by captains and senior crew against trafficked crew members, but was also a feature of life aboard some vessels. A number of men reported fights and violence between crew members and a generally tense and often violent environment on board the vessels.

All men reported some level of psychological abuse – being yelled at and insulted, being threatened with abuse, violence and even death. None of the men reported experiencing or witnessing sexual abuse on the fishing vessels while they were exploited, although service providers in Cambodia have assisted a small number of male victims who reported sexual assault while being trafficked on fishing vessels.
Payment of salary and withheld wages. Cambodian fishers sent abroad through Giant Ocean received little or no payment for their months or years of fishing off the South African coast. In addition, because the men were at sea for months, and sometimes even years, they were often only aware of the lack of payment when they came to port after quite some time. Some men received small amounts of “pocket money” (usually about USD 50–200) from the captain when they came to port, which they could use to buy new clothes and supplies or call their families. Some men also received small amounts of money upon their departure from the vessel, in amounts ranging from USD 50–300.

Restricted freedom of movement and use of control. Cambodian fishers described how catch was transshipped at sea and provisions replenished from a larger supply vessel. Men were also moved between vessels while at sea. This was done to ensure that crew with the requisite skills were available on all of the fishing vessels. However, it was also likely a means of controlling the men and limiting opportunities for escape while in port. Most men were at sea for the vast majority of the time that they were trafficked. Even while in port, however, Cambodian fishers were generally not free. They were required to continue working – offloading fish, conducting maintenance and repair of the vessel, mending nets and lines and so on. They were also often restricted in terms of movement and were under surveillance and control.

None of the men held their documents while on the vessels; documents were always taken upon arrival at the port and stayed either with the captain or the fishing company at the port.

8. Leaving the vessel: Exit, escape, rescue and release

Exit, escape, release and rescue. Cambodian fishers were only able to leave their trafficking situations when their vessels came to port. Only one man described being “rescued” from his trafficking situation after calling home for help with leaving his vessel. In other cases, victims ran away, looking for help to leave the vessel or port and make their way home. This often happened after calling home to their families and learning that they had not been paid and that the recruitment agency had disappeared. Some fishers left vessels on their own or together, in small groups, with a few workmates from their boat. In some cases, Cambodian men walked off the fishing boats in large numbers. In one instance, the crew of four vessels working together at sea walked off the vessels together when they came to port. Still in other cases, trafficked fishers were “released” by their captains. However, “release” often came after two to three years of work (i.e. the full duration of the contract) for which the men received little or none of their salary. In some cases, the men’s release seemed to have involved the action of local authorities. However it often took quite some time for documents to be secured and travel arrangements to be made. Oftentimes the authorities were involved in negotiating the return of documents, which nonetheless took some time.
**Issues and challenges when leaving the trafficking situation.** While men left their exploitative situations in any of various ways, they nevertheless faced some common challenges which complicated their exit and generally prevented their identification and assistance as trafficking victims in South Africa. These included:

- Lack of identification and recognition of exploited fishers as trafficked;
- Lack of legal framework for labour trafficking;
- The assumption that trafficking occurs only through illegal channels;
- Trafficking victims’ lack of awareness that they are in a trafficking situation;
- General lack of knowledge of trafficking in the fishing sector;
- Negative impact of being unidentified;
- Issues of commitment and resources;
- Lack of experience in intervening on fishing vessels;
- Limited time frame for intervention;
- Language barriers;
- Trafficked fishers were unassisted in South Africa; no services offered or available;
- Lack of a Cambodian diplomatic mission in South Africa and bureaucratic procedures delayed intervention.

**9. The way home: Returning from trafficking**

**Returning home.** Trafficked Cambodian fishers exploited in South Africa expressed great relief and happiness when they were finally free of their trafficking situation and able to return home. Many had waited for some time in the Cape Town port, unsure of if and how they would be able to return home.

The men returned to Cambodia via airplane. Some travelled back home as a group, often having left the vessel and sought help together. Some men, however, travelled on their own. Some transited through a variety of countries, making the return long, tiring and very stressful.

None of the men were required to pay for their return transportation. However, the details and arrangements surrounding the return of trafficked fishers from South Africa were not entirely clear, even to the men themselves. In most cases, it appeared to have been a fishing company – perhaps affiliated with the vessel or the boat captain – which arranged and paid for travel home. However, some of the returns may also have been arranged and paid for by Giant Ocean before it closed its office. In a handful of instances, assistance was provided by IOM and/or a Cambodian NGO. The Cambodian Government did not fund the return of any of the men trafficked to South Africa.

Most men were not met upon their return to Cambodia and needed to make their own way home to their families and communities. In a few instances, men
immediately went to the Giant Ocean office upon their arrival back in Cambodia, only to find it had closed down, and so they had nowhere to turn to get the money they had not been paid.

**Issues and challenges in returning home.** Some issues were consistently faced when Cambodian fishers returned home from South Africa. These included:

- High costs of return transportation;
- Delayed returns and the stress of waiting to go home;
- No screening of fishers upon departure;
- Trafficked fishers were not received upon their return to Cambodia;
- Going unidentified as trafficking victims upon their return to Cambodia due to: i) lack of screening at the airport in Cambodia; and ii) victims returned “unofficially.”

10. Life after trafficking: Recovery and (re)integration in Cambodia

**Coming home.** Most men described happy homecomings when they returned to Cambodia. Their families had often been searching for them for some time, seeking the help of the Government and NGOs, in a bid to bring them back. Some families feared that the men were already dead.

**Challenges and issues in recovery and (re)integration.** That being said, coming home was often bittersweet for the men and their families. Although happy, relieved and grateful to be home, there were also challenges and problems that they faced as they sought to recover from their exploitation and (re)integrate into their families and communities. Men trafficked to South Africa were interviewed at various stages after coming home. Some had returned in 2010 and 2011, although the majority had returned more recently – in 2012 and 2013. In a handful of cases, men had been home for only a few months. This meant that they were at different stages of (re)integration, facing a raft of issues and challenges, including:

- *Return to a fragile economic situation.* Men typically returned home to a difficult economic situation; many of their families had struggled to survive during their absence. Over time, the men were generally able to find work. Nonetheless, their economic situation remained precarious – sometimes the same as before they were trafficked, and in some cases deteriorating further. Most of the men were the primary and, generally, sole income earner in their families. Two men accumulated serious debts before going abroad, which mounted while they were away. This translated into a very fragile situation after trafficking. Many men exploited in South Africa have since remigrated, forced by their fragile economic situation – sometimes to other provinces in Cambodia, sometimes abroad.
• **Coping with the impact of trafficking.** Trafficked fishers struggled to recover from their trafficking experience, describing both physical and psychological injuries. Indeed, one man, when describing his experience, referred to it as “physically traumatising.” Others continued to suffer from injuries inflicted by their exploiters – including chronic headaches resulting from a fractured skull and pain from broken bones that did not heal correctly. Other medical ailments that the men suffered included malnourishment, skin infections and irritations, and lung conditions. Men also described a range of emotional reactions and psychological impacts resulting from the trafficking experience.

• **Lack of assistance (inadequate or none at all) for trafficked men.** There is a dearth of assistance for trafficked males in Cambodia. There are only a few programmes/services that trafficked men can access, most of which are emergency-based and not focused on longer-term (re)integration. Services available to men were not comprehensive, but focused on a few select service areas (i.e. emergency medical care, counselling, vocational training and legal assistance). Further, there was geographical bias in the distribution of services, with some areas of the country without any services for trafficked men and some types of services (like psychological support) only available in Phnom Penh. Men identified a raft of assistance needs, but received little to no assistance following their trafficking situation, despite being identified as trafficking victims by the State and/or NGOs or international organisations. A number of men described requesting assistance, even proactively seeking it out, but to no avail.

• **Assistance did not fit the victims’ life situations or meet their needs.** Whatever assistance was available was not always accessible to trafficked men. A number of men described wanting to receive vocational training but faced personal and practical barriers which prevented them from benefiting from this service. Most commonly this was because they needed to support their families and could not afford to not be earning a salary as their time was spent learning new skills. Even when assistance was available, it was not always suitable for the trafficked fishers, as jobs and business opportunities in these men’s communities were very limited. Other forms of assistance were difficult to access for practical reasons. Medical services and counselling are typically offered only in the capital and, to a lesser extent, in major towns – which were not the places where most trafficked men lived after being trafficked. This meant travelling to receive these services, which entailed spending money for transportation and a potential loss of income if one missed work.
• **(Re)uniting with family and coming home.** Most men had reunited with their families after being exploited at sea and were living again in their homes and communities. The long separation sometimes meant men returning home to find their families “broken,” with wives and children having moved on with their lives in their absence. Even when reuniting with one’s family, the return home was not uncomplicated, with trafficked fishers facing problems and tensions. While tensions differed from family to family, they most commonly centred around the family’s expectations and their reactions to the man’s (failed) migration. Indeed, some men did not return home after they escaped from their trafficking situation, opting instead to work on another boat in the hope of earning money that they could return home with. The family also did not always know the full extent that the fisher had suffered, and so were not always best positioned to empathise and appreciate the difficulties he faced coming to terms with his exploitation. It took time to rebuild relationships within the family – especially between spouses who had lived so long apart and who may have been harbouring resentment, especially when not fully apprised of what had happened. In the case of children, some had complicated reactions to their parent who, in their minds, had left them behind, that is, abandoned them.

• **(Re)integrating in the community: pity and support, blame and shame.** When asked how they were received in their communities on their return, some men described warm reception from community members. Others, however, struggled with this community reaction, feeling shame for their trafficking experience. Shame seemed to have been linked in large measure with the failure to return home with money, that is, with being a failed migrant. Many men struggled with having to come home empty-handed. The shame may also have been about having failed as a man in a culture where social codes dictate he should be able to take care of himself and support his family.

• **Issues in the legal process and desire for compensation.** The main form of assistance available to trafficked men on their return to Cambodia was assistance in lodging a complaint against their recruitment agency. Many men accepted this support and while, in a handful of cases, the men spoke about a desire for justice and wanting accountability on the part of their recruiters, most were primarily interested in the legal avenue as a mechanism to receive their outstanding salaries (or compensation for not having received them). Even as, on 29 April 2014, the owner of Giant Ocean was convicted of human trafficking, pursuing the case was far from uncomplicated, as there are issues such as a slow investigation process, hearings being regularly postponed, no arrests of Cambodian involved in their exploitation, and the stress and personal expense of acting as victim/witnesses, and so on.
11. Conclusion and recommendations

While the trafficking of Cambodian fishers is not new, the recruitment and transportation of fishers through legally registered recruitment agencies and with legal documents and work permits constitutes a different modus operandi and one which sufficiently camouflaged their intended exploitation and trafficking. Literally hundreds of Cambodian men migrating for work in the fishing industry ended up trafficked and exploited on fishing vessels operating along the South African coastline, as well as in other African and Pacific destinations. This highlights the need to pay careful attention to recruitment and migration through legal and formal channels from Cambodia, as there exist opportunities for abuse and violations within this formalised process. It also highlights once again the risk of trafficking within the fishing industry, not only in South-East Asia but, indeed, in many regions of the world. This study also seeks to shed light on South Africa as a destination country for labour trafficking, a newly recognised and legislated form of trafficking for the country, and particularly within the commercial fishing sector.

As important as documenting the way that trafficking takes places in these cases is documenting how trafficked persons are (or are not) identified and assisted (and why). Trafficked fishers faced substantial issues and obstacles in both South Africa and Cambodia in terms of escaping their situation of abuse, making their way home and recovering from their exploitative trafficking experience. In some cases, failures and gaps in the anti-trafficking response in South Africa left trafficked fishers unidentified and sent back to sea to suffer continued exploitation on fishing vessels for months and even years. In other cases, men remained on vessels and in the hands of their exploiters while their situation was assessed and their return arranged. Those who eventually returned home generally lacked the support and services to which they were legally entitled as trafficked persons and which are often central in one’s ability to recover and move on from trafficking.

The following recommendations aim to articulate possible ways forward for governments, NGOs, international organisations, unions and associations, and local actors to address the trafficking of Cambodian fishers. Recommendations are structured around the “four Ps” of anti-trafficking efforts: prevention, protection, prosecution and partnership.

1. Prevention

(a) Enhance monitoring of recruitment agencies.
(b) Government should enhance information available to fishers at recruitment.
(c) Vessel owners and fishing companies should ensure the ethical recruitment of crew.
(d) Enforce existing policies and legislation on formal/legal recruitment.
(e) Develop clear policy on the recruitment of migrant fishers containing adequate procedural and substantive protections.

(f) Ratify ILO conventions (No. 9 and No. 179) on the regulation of recruitment and placement agencies.

(g) Ratify the Work in Fishing (WIF) Convention and work to bring it into force.

(h) Monitor job advertisements for legality and reliability.

(i) Increase awareness of the risks of trafficking through legal, registered crewing agencies.

(j) Provide information and resources to allow fishers to check placements.

2. Protection

2.1 Identification

(a) Improve identification of trafficked seafarers and fishers.

(b) Screen for trafficking within the fishing sector.

(c) Develop protocols to intervene in the fishing industry.

(d) Enhance capacity of frontline actors to identify trafficked fishers.

(e) Enhance the role of embassies and consulates in identifying trafficked fishers.

(f) Ensure fishers have contact information for assistance abroad and a means of communication.

(g) Immediately remove all suspected trafficking victims from trafficking situations.

(h) Address language barriers to victim identification.

(i) Address conceptual barriers to victim identification.

2.2 Assistance

(a) Improve and expedite governmental procedures to return trafficking victims.

(b) Ensure adequate provision of assistance to male trafficking victims in Cambodia and South Africa.

(c) Enhance service providers’ capacity to work with male trafficking victims.

(d) Cooperate with service providers working with fishers.

(e) Maintain proper case coordination to ensure comprehensive assistance to trafficked persons.

(f) Create assistance funds for seafarers and fishers.

(g) Cost of assistance should be borne by the flag State.

3. Prosecution

(a) Prosecute recruitment agencies that place fishers on vessels where they are exploited.

(b) Prosecute cases against fishing companies that profit from the exploitation of fishers.
(c) Create transnational cooperation systems for anti-trafficking law enforcement and prosecutions.
(d) Ensure that witnesses and victims are able to testify.
(e) Enforce the legal responsibilities of flag States.
(f) Pursue labour trafficking cases, including for fishing.
(g) Cooperate with maritime lawyers working to support abused and abandoned fishers.
(h) Improve legislation to cover violations within the fishing industry.
(i) Explore all avenues for compensation of fishers.

4. Partnerships

(a) Develop protocols and procedures to safely and confidentially share data about cases.
(b) Establish a referral mechanism between South Africa and Cambodia to facilitate the identification and return of trafficked fishers.
(c) Establish contacts between anti-trafficking stakeholders and those working to assist fishers.
(d) Advocacy with flags of convenience and flags of non-compliance to enhance the anti-trafficking response.
(e) Enhance attention to and put pressure on trafficking at sea through the US Trafficking in Persons Report.
1. Introduction

Trafficking within the commercial fishing industry in South-East Asia has gained increased recognition and attention in recent years – within the media, as well as among researchers, practitioners and policymakers. Trafficked fishers have generally been men (and sometimes boys) from Cambodia, Indonesia, Myanmar and Thailand exploited in the waters off the coasts of Indonesia, Malaysia and Thailand. In some cases, however, trafficked fishers been trafficked onto boats much further from home. In 2011, anti-trafficking organisations and State institutions in Cambodia began to receive urgent calls for rescue and help from Cambodian men being exploited off the coast of South Africa. The men had migrated for work in the fishing industry, through a legally registered recruitment agency in Cambodia, but ended up trafficked and exploited on fishing vessels operating in the vicinity of the South African coastline and, in some cases, further afield (including off the coasts of Micronesia, Fiji, Mauritius and Senegal). Some calls came from the families of fishers who had been contacted for help by the men or whose family members had gone missing for a long time after having migrated for fishing work abroad. Other calls came directly from fishers themselves, requesting urgent assistance and support.

While estimates of the number of Cambodian men trafficked into the fishing industry by the (now defunct) Giant Ocean International Fishery Co Ltd. (“Giant Ocean”) differ, it appears that literally hundreds of Cambodians were exploited in this way. Police reported receiving almost 200 complaints and estimate that more than 700 men were sent abroad by Giant Ocean for fishing work. The trafficked men themselves told of the many other men from their villages and communities who also accepted work through Giant Ocean. One man explained that 50 men from his community alone had migrated through the company; another described being accommodated alongside almost 50 Cambodians when he received pre-departure training at the recruitment agency. Also, trafficked fishers who escaped and managed to return home told of hundreds of Cambodians working on fishing vessels operating out of South African ports.

The high numbers of fishers trafficked through just one recruitment company in Cambodia raise serious concerns of widespread trafficking and exploitation of fishers from the country and within the sector more broadly. It also highlights the lack of protections that legal recruitment and deployment may offer in some
labour settings. This study discusses the trafficking of Cambodian men for fishing out of South Africa and/or in South African waters – how the men were recruited and transported, as well as their trafficking experiences at sea. The study also discusses how these trafficked fishers were (or, more commonly, were not) identified as trafficking victims in South Africa and what assistance they did (or did not) receive when they escaped and returned home to Cambodia and sought to (re)integrate into their families and communities.

By highlighting this particular type of trafficking at sea, this study is intended to give voice to these trafficked Cambodian fishers and, in so doing, to enhance understanding of what happened to them when they legally migrated to work abroad in South Africa. The research critically focuses on what can be learned from these experiences, to improve responses and interventions for fishers who end up trafficked at sea. As one of the Cambodian men interviewed for this study said, it is most critical that this story is told so that the situation for others can be improved: “The experience was terrible and miserable. I will remember it for the rest of my life. I will share this with the younger generations. I won’t let it be lost because I do not want other generations to be deceived like me.”

This paper, authored by NEXUS Institute, is part of a series of research papers being prepared jointly by the NEXUS Institute and IOM, funded by US Department of State’s Office to Monitor and Combat Trafficking in Persons. The overall objective of the joint research project is to augment and enhance the current knowledge base on human trafficking.
2. Research methodology and data collection

Research methodology

This paper is based on the experiences of 31 Cambodian men trafficked for fishing to South Africa by Giant Ocean between 2010 and 2013. Respondents were initially contacted through service providers who had been in contact with and assisted the men on their return from South Africa. Some were identified through other trafficked men who were interviewed for the study. Using a standard questionnaire designed specifically for this project, interviews were conducted in January 2014, with 11 men accessed through Cambodian non-governmental organisations (NGOs). The research tool was shared with various agencies in advance of data gathering to solicit feedback and allow for adjustments. Three pilot interviews were conducted, after which the research tool was revised.

In interviews, trafficked fishers were asked about their trafficking experience (their recruitment, how they travelled and their exploitation as fishers); how they left their trafficking situations and returned home; the assistance (if any) they needed and received; their life when they came back home to Cambodia; their current life situation and their future plans and needs. Interviews ranged from 60 to 120 minutes, with most about 90 minutes in length. The interviews were conducted either at the offices of the respective NGOs that assisted the men or in their home communities in Cambodia. Interviews were conducted in Khmer by a Cambodian researcher with a service provision background, and who was trained on the use of the research instrument and on ethical research protocols. Interviews were digitally recorded, transcribed and translated into English by a professional translator. All quotes appearing in this paper are verbatim. A further 20 anonymised case files of Cambodian fishers trafficked in South Africa were reviewed, coded and analysed using the same analytical categories and framework.

In addition, interviews were conducted with seven Cambodians who were also recruited through Giant Ocean and exploited in Fiji and Mauritius. While the details of their experiences differed and therefore are not included in this analysis, the interviews were nonetheless valuable, not only in terms of providing information about their pre-existing vulnerabilities, their recruitment,
how they travelled and their exploitation, but also in determining the challenges
in identifying and assisting trafficked persons in the commercial fishing sector
more generally.

Interviews were conducted with a total of 42 key informants in Cambodia and
South Africa. Key informant interviews included anti-trafficking professionals (e.g.
service providers, law enforcement officers, government agencies, international
organisations) and professionals/experts in the fishing industry (e.g. seafaring
and fishing associations, illegal, unreported and unregulated (IUU) fishing
experts, labour organisations and maritime lawyers). Most of these individuals
and institutions had been directly involved in different ways in the identification,
referral and assistance of trafficked fishers and interview questions centred on
their specific experiences in these cases. In other cases, interviews focused on
general patterns of work in the fishing industry, including where and how abuses
take place and the existing mechanisms and frameworks for addressing these
abuses.

Four rounds of fieldwork were conducted in Cambodia – one in August 2013,
another in January 2014 and two in March 2014. A total of 28 key informants
were interviewed: 3 informants representing international organisations; 19
from NGOs; and 6 from key ministries in the Cambodian Government, namely,
the Ministry of Labour and Vocational Training; Ministry of Foreign Affairs
and International Cooperation; Ministry of Social Affairs, Veterans and Youth
Rehabilitation, and Ministry of Interior. In six instances, key informants were
interviewed on more than one occasion. The first round of interviews focused
on learning about this particular form of trafficking in persons through the
individual experiences of the men, as well as the protection response in both
South Africa and Cambodia. Additional rounds of key informant interviews aimed
at following up on specific issues identified in the course of fieldwork and data
analysis, clarifying any outstanding questions raised in the fieldwork and gaining
a longitudinal perspective on the cases of trafficked seafarers/fishers (including
the status of legal proceedings and the men’s (re)integration). Most interviews
were conducted in English; others were conducted in Khmer with the assistance
of a professional interpreter.

In South Africa, interviews were conducted with 14 key informants between
December 2013 and May 2014. Among these individuals, 9 represented NGOs
and civil society; 1 represented international organisations; 1 was from the
Government; 2 were researchers; and 1 was from the US embassy. Interviews
focused on how the cases of the Cambodian fishers were handled, as well as of
trafficked fishers in general, and on the overall anti-labour trafficking response
in the country. Interviews were also conducted with experts on IUU fishing, to
learn about issues within the industry in general, as well as the context of IUU
fishing in and around the waters of South Africa. Interviews were conducted in
English over the telephone or on Skype.
The study also benefits from a review of literature on human trafficking and exploitation in the commercial fishing industry.

**Methodological limitations**

This study focuses very specifically on Cambodians trafficked for fishing by Giant Ocean – that is, recruitment through a formal, “legal” recruitment agency, migration with legal documents and work permits. As such, this study represents a very specific type of trafficking and trajectory and may not represent the experiences and needs of trafficked fishers at large. Many other Cambodian men are trafficked through more informal channels and following different recruitment patterns, to be exploited in the Thai fishing industry. Their experiences and needs are likely to differ in parts and to varying degrees from men exploited as fishers in South Africa. Identifying appropriate interventions in such cases will require research tailored to the specificities of their experiences and needs.¹

In addition, the sample of trafficked fishers is relatively small, considering that hundreds of men were recruited and allegedly trafficked by Giant Ocean. However, identifying respondents was challenging. Many of the men referred by NGOs were difficult to reach. In some cases, telephone numbers were no longer valid. In other cases, men were no longer living in their home communities, many having remigrated for work abroad or elsewhere in the country. Moreover, the relatively short time frame for data collection and the travel involved in reaching often distant villages was an impediment. As such, the findings of this study may not represent the full breadth of these men’s trafficking experiences and protection needs. That being said, because each man had his own unique story – of trafficking, as well as pre-trafficking situation and post-trafficking needs and plans – there are a range of issues to be considered in terms of policy and programmatic response and many common themes.

In African waters. The trafficking of Cambodian fishers in South Africa

men had not paid attention to specific types of information – for example, details of boats, vessel numbers and so on. Still in other cases, there was information that men were not privy to because of language barriers. This was certainly an issue on board the fishing vessels, where the language spoken, commonly Chinese, was something they generally did not understand. In South Africa, the men often could not communicate with or understand the authorities, and so did not always have information about what had transpired in terms of their (non) identification and (non)assistance. Some information is incomplete because some of the data were drawn from anonymised case files rather than from direct interviews with trafficked fishers. Further, case files did not always have clear and/or complete information on all of the issues explored in the interviews.

In addition, there were challenges in reaching key informants for interviews. It was possible to speak to a large sample of key informants in Cambodia (total=28) although this required four rounds of fieldwork over a period of six months. However it was not possible to conduct fieldwork in South Africa, and telephone interviews proved difficult to arrange, which meant a smaller pool of respondents. While 35 respondents in South Africa were identified and contacted over a period of five months (often with a minimum of two to three interview requests each), only 14 key informants were actually interviewed. This means that there are missing pieces of information from the destination that would have been useful in terms of better understanding what happened in these cases (including information that was not known to the trafficked men themselves), as well as regarding challenges and issues in South Africa. Equally important to stress is that it was possible to interview only one respondent from the Government of South Africa. Most interview requests to the Government went unanswered and, in some cases, it was difficult to set up interviews because of the schedules of the respondents. Efforts were also made to contact key informants working on IUU fishing and other labour issues, but with limited success.

**Ethical issues**

Each interview began with a detailed process of acquiring informed consent, which included an explanation of the purpose of the study, what the interview would involve, the questions that would be asked, their right to decline to answer any questions or end the interview at any time and assurances of confidentiality. Interviews were conducted in a location chosen by the respondent – often an NGO office or in his home. All interviews were strictly confidential; interview transcripts were shared only with the lead researcher and secured according to NEXUS’ internal data protection policies.

The researchers were equipped with current information about the referral system for services and agencies providing different types of support and assistance. All respondents were offered a referral sheet as part of the interview process and, in cases of more acute need, the researcher played a more proactive role in facilitating referrals and access to services. One serious constraint was
the general lack of services for trafficked men to which respondents could be referred.

Because compensation can potentially create a pressure to participate in research in ways that may compromise informed consent, compensation per se was not provided as part of the study. However, allowances were provided to cover a respondent’s transportation, accommodation and food costs when he opted to be interviewed outside of his home setting. In addition, a small “gift” (i.e. food items) was given in recognition of the respondent’s contribution to the research.
3. Definitions, terms and concepts

Definitions, terms and concepts used in this study centre around two main themes: (a) those integral to an understanding of trafficking in persons and, more specifically, trafficking at sea; and (b) those focusing on the commercial fishing industry and, more specifically, violations and exploitation within this sector.

Understanding trafficking in persons

Trafficking in this study refers to the generally accepted definition established in international legal documents, including the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons (also known as the “UN TIP Protocol” or the “Palermo Protocol”). The Protocol defines trafficking in human beings in Article 3a as:

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

Also relevant are the definitions promulgated in Cambodian and South African legislation. Cambodia’s National Assembly passed the Law on the Suppression of Human Trafficking and Sexual Exploitation on 20 December 2007, which makes it a crime to unlawfully remove a person from his or her current place of residence.
to a place under the actor’s or a third person’s control “for the purpose of profit-making, sexual aggression, production of pornography, marriage against the will of the victim, adoption or any form of exploitation.”

Further, Cambodia’s law prohibits unlawful recruitment for exploitation, defined as “to induce, hire or employ a person to engage in any form of exploitation with the use of deception, abuse of power, confinement, force, threat or any coercive means.”

South Africa’s Prevention and Combating of Trafficking in Persons Act was signed into law on 29 July 2013 and draws on the UN TIP Protocol’s definition of trafficking in persons, defining the crime of trafficking in persons as follows:

“Any person who delivers, recruits, transports, transfers, harbours, sells, exchanges, leases or receives another person within or across the borders of the Republic, by means of – (a) a threat of harm; (b) the threat or use of force or other forms of coercion; (c) the abuse of vulnerability; (d) fraud; (e) deception; (f) abduction; (g) kidnapping; (h) the abuse of power; (i) the direct or indirect giving or receiving of payments or benefits to obtain the consent of a person having control or authority over another person; or (j) the direct or indirect giving or receiving of payments, compensation, rewards, benefits or any other advantage – aimed at either the person or an immediate family member of that person or any other person in close relationship to that person, for the purpose of any form or manner of exploitation, is guilty of the offence of trafficking in persons.”

_Trafficking at sea_ refers to the exploitative conduct defined and envisioned by relevant human trafficking laws that takes place involving seafarers and fishers in the context of at-sea activities (including fishing, transportation and fish processing while on vessels, rafts, fishing platforms or otherwise offshore). It

5 Article 10 of Cambodia’s 2007 Anti-Trafficking Law further clarifies that the phrase “any form of exploitation” means to include the exploitation of the prostitution of others, pornography, commercial sex acts, forced labour or services, slavery or practices similar to slavery, debt bondage, involuntary servitude, child labour and the removal of organs.

6 Cambodia’s 2007 Anti-Trafficking Law, Article 12.

7 Republic of South Africa (2013) _Prevention and Combating of Trafficking in Persons Act_, No. 7, 2013, subsequently referred to as South Africa’s 2013 Anti-Trafficking Law. While the law was passed in July 2013, at the time of this publication, it is still not yet in force. It was anticipated that the law will come into effect in July 2014.

8 Exploitation includes, but is not limited to: all forms of slavery or practices similar to slavery; sexual exploitation; servitude; forced labour; child labour; the removal of body parts; or the impregnation of a female person against her will for the purpose of selling her child when the child is born (Article 1 of South Africa’s 2013 Anti-Trafficking Law). The law (in Article 4) also defines trafficking in persons as adopting a child (through legal or illegal means) or concluding a forced marriage with another person for the purpose of exploitation of that child or person.
does not include shore-based operations (e.g. fish/seafood processing and packaging, port-based work and shore-based fish harvesting).  

Men exploited for this study worked as fishers on board fishing vessels. A fisher, according to the Work in Fishing (WIF) Convention is:

“[…] a person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers.”

Thus, in lay terms, a fisher is an individual who works on a fishing vessel at sea. When someone is involved in some aspect of fishing – for example, getting fish out of the sea, processing and handling fish, transporting fish, storing fish in the refrigerator, and operating a fishing vessel – he or she is a fisher. That being said, there is often an overlap between the definitions of seafarer and fisher, particularly in relation to fish carriers, in that oftentimes those operating the vessel also assist with the catch.

Combating human trafficking requires a holistic approach, with action and intervention guided by the “3P” paradigm of anti-trafficking – the three Ps

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9 Shore-based operations comprise an important labour sector and one in which human trafficking has been identified. (However, this type of exploitation was not documented among the Cambodians trafficked to South Africa for fishing.) See, for example: Surtees, R. (2013) After Trafficking: Experiences and Challenges in the (Re)integration of Trafficked Persons in the Greater Mekong Sub-region, Bangkok: UNIAP/NEXUS Institute; UNIAP (2009) Exploitation of Cambodian Men at Sea.


11 The Maritime Labour Convention defines a seafarer as: “any person who is employed or engaged in any capacity on board a ship to which this Convention applies.” The convention applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing. ILO (2006) Maritime Labour Convention, Geneva: International Labour Organization, Article II(f), subsequently referred to as the MLC. Seafarers hold a variety of professions and ranks, and each of these roles carries unique responsibilities which are integral to the successful operation of seafaring vessels in the merchant sector. Fishing vessels, inland navigation, naval ships and ships below 200 gross tonnage in coastal areas are excluded from the scope of the convention. Nevertheless, according to the International Transport Workers’ Federation (ITF), it is a widespread practice in some places for seafarers to be considered anyone working on board ships (including fishing, inland waterways and coastal and harbour vessels).

12 For example, some Ukrainian seafarers trafficked at sea used their training as seafarers to work on board fishing vessels, where they operated the vessels, but were also directly responsible for the catch. Even though the men were trained as and self-identified as seafarers, all of their work took place on board fishing vessels; therefore, according to the WIF Convention, they are considered fishers. Surtees, R. (2013) Trafficked at sea. The exploitation of Ukrainian seafarers and fishers, Geneva and Washington, D.C.: IOM and NEXUS Institute.
standing for prevention, protection and prosecution. The three Ps, as applied to trafficking at sea, are briefly discussed below:

**Prevention** (of the act of trafficking). In the context of trafficked fishers, prevention might focus on increasing awareness of the risk of trafficking in this labour sector — through both formal and informal recruitment channels. It might also include improved regulation of recruitment agencies and implementation of labour standards in the fishing sector.

**Protection** (of trafficked persons). This requires both their formal identification as trafficking victims; protection of their physical safety, as well as their human, civil and other rights; and the provision of (voluntary) assistance.

**Identification** is the process by which a trafficked person is formally identified as trafficked (or potentially trafficked) in an appropriate, sensitive and timely fashion. Ideally, this also involves provided the (potentially) trafficked individual with suitable options for referral and assistance at home and/or abroad, depending on the situation. Identification of trafficked fishers may take place in different settings, including during inspections at sea, in ports and so on.

**Assistance** includes voluntary measures, programmes and services aimed at the recovery of trafficked persons. These may be offered by government, non-governmental or international organisations in countries of destination, transit and origin. These might include but are not limited to: accommodation/housing, medical care, psychological assistance, education, vocational training, life skills,
employment and economic empowerment, legal assistance, transportation and family mediation/counselling. Assistance may involve one or multiple services.18

Organisations and individuals that provide one or more services to trafficking victims are called service providers. These may include social workers, psychologists, shelter staff, medical personnel or legal professionals from government organisations, NGOs and international organisations. One of the long-term outcomes of anti-trafficking assistance is the social and economic (re)integration of trafficked persons. (Re)integration refers to the process of recovery and socioeconomic inclusion following a trafficking experience. It includes settlement in a safe and secure environment, access to a reasonable standard of living, mental and physical well-being, opportunities for personal, social and economic development, and access to social and emotional support.19

In many cases, (re)integration involves the victim’s return to his or her family and/or community of origin. Alternatively, a victim may undergo a process of integration in a new community and sometimes even in a new country, depending on the needs and interests of the trafficked person. Thus, in lay terms, (re)integration refers to a broad range of measures over a period of some time that aim to support and assist those who have experienced problems of various kinds because they were trafficked.

Prosecution refers to the range of criminal justice activities, from proactive investigation to legal proceedings against alleged perpetrators of trafficking crimes and dismantling of the criminal enterprises, but can also include civil or other (e.g. administrative) actions. These actions serve as a way for trafficked victims to access remedies, such as compensation claims against traffickers.

**Framing the fishing industry and work at sea**

The fishing industry is critical to the world’s food supply. Work within the industry, particularly within the commercial fishing sector, can be difficult and hazardous. Commercial fishing20 today means seeking declining fish stocks far out into the ocean, often in dangerous conditions. Recent reports indicate that within the commercial fishing sector there are abuses and violations that translate into both environmental crime and often very severe human rights violations, many of which rise to the level of human trafficking.21 Most commonly these seem to occur within the framework of illegal, unreported and unregulated (IUU) fishing.22 The complete definition of IUU fishing comes from the Food and Agriculture Organization of the United Nations:

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20 Commercial fishing is catching fish for profit. It differs from fish farming or aquaculture, which is the other avenue for producing fish commercially. Commercial fishing also must be distinguished from traditional fishing for subsistence or small-scale commercial operations as well as from recreational fishing.
22 Some organisations and experts prefer the term “fisheries crime” or “marine living resource crime.”
Illegal fishing refers to activities characterised by any of the following:

(a) Conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;
(b) Conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organisation but operate in contravention of the conservation and management measures adopted by that organisation and by which the States are bound, or relevant provisions of the applicable international law;
(c) In violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organisation.

Unreported fishing refers to fishing activities characterised by either of the following:

(a) Have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations;
(b) Undertaken in the area of competence of a relevant regional fisheries management organisation which have not been reported or have been misreported, in contravention of the reporting procedures of that organisation.

Unregulated fishing refers to fishing activities which may be described by either of the following:

(a) Those in the area of application of a relevant regional fisheries management organisation that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organisation, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organisation;
(b) Those in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.\(^\text{23}\)

A fishing vessel is any vessel used commercially for catching fish, marine mammals or other living resources of the sea.\(^\text{24}\) A fishing vessel that, for instance, operates without or in contravention of appropriate fishing licenses, in marine-protected areas, or without reporting their catch in accordance with applicable fishing regulations are engaging in IUU fishing. Some forms of IUU


fishing are also transnational organised environmental crime. IUU fishing vessels may remain at sea for extended periods of time, avoid contact with authorities and are often non-compliant with maritime standards. As a consequence of its clandestine nature, IUU fishing exposes fishers involved to a range of risks and violations, including the possibility of human trafficking. Trafficked fishers on vessels engaging in IUU fishing are forced to commit fisheries crimes while they are trafficked, which can potentially complicate how they are perceived and received by authorities, including potentially making them subject to criminal prosecution.

**Long-haul fishing** is a form of fish harvesting in which a net (often around 1,000 m wide or larger) is pulled between two boats for up to 8 km (5 miles) before the fish are encircled by the boats crisscrossing in the water. That being said, the term *long-haul fishing vessel* may be used to describe any fishing vessel (regardless of the actual means by which fish are caught) that remains at sea for many months, sometimes even years, before returning to port. Fishers undertaking this form of fishing may be especially prone to exploitation, including that which constitutes human trafficking, given the long periods at sea and the isolation. Often, long-haul fishing vessels are resupplied at sea by a *mother ship*. They may also *transship* (the transfer of cargo or fish from one vessel to another for further transit) to a *reefer* (a refrigerated cargo ship that may act as a mother ship and that allows vessels to unload their catch at sea) to avoid coming to port. Cambodians exploited on fishing vessels off the South African coast all worked on long-haul fishing vessels.

Short-haul fishing vessels (fishing vessels that remain at sea for shorter periods of time, from a few days to two or three months at most), generally present fewer risks to migrant fishermen, in part because there are more opportunities to leave the vessel.

There are different types of fishing vessels in the commercial fishing sector. A *drift netter* is a vessel that employs *drift netting*, a fishing technique whereby nets are hung vertically and extended from a vessel. Because they are not anchored to the ocean floor, they drift with the current (hence the name “drift net”). The nets have weights along the bottom and are kept upright with a series of buoys along the top, creating a wall of net near the surface of the water. They can measure up to 50 km (30 miles) in length. Large-scale drift netting has been globally banned; nonetheless, extensive violations continue, often as part of IUU fishing. A *longliner* is a vessel that engages in *longline fishing*; virtually any vessel can serve as a longliner to some degree. Longline fishing involves extending a fishing line (i.e. a “longline”) from a vessel. The longline is kept afloat by buoys and, at regular intervals, secondary fishing lines attached to the

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27 For example, while there are instances of trafficking on Thai short-haul fishing vessels that operate in the Gulf of Thailand, “the frequent trips back to shore make it more difficult and labour intensive to control trafficked fishermen.” (Robertson, P. (2011) *Trafficking of Fishermen in Thailand*, 9)
longline extend down into the water. The secondary fishing lines are hooked and baited. Longlines range in length from 1.6 km (1 mile) to over 160 km (100 miles) on larger boats with bigger crew.  

Fishing vessels in the commercial fishing sector target a certain species or size of fish, within what is called a fishery. A fishery is a classification of activities leading to the harvesting of fish, although the term fishery can also be used to refer to fishing grounds (areas of the sea where fish are caught). Certain areas of the ocean (as well as certain species of fish) are managed by a regional fisheries management organisation (RFMO) – also called a regional fisheries organisation (RFO) – which is an international organisation that is dedicated to the sustainable management of fishery resources. The fish or other species that are caught unintentionally while working to catch the target are referred to as bycatch.

Recruitment into the fishing sector can be formal and informal. Many Cambodian fishers are recruited by brokers (meekcol) in their villages. A broker is a person who recruits individuals to work on fishing vessels. This can be an informal arrangement or someone who works directly for a crewing company (or crewing agency, sometimes called a recruitment agency or manning agency), which is a professional company that matches seafarers and fishers to vessels in need of crews. Most crewing agencies offer little to no guarantee that the job they place the seafarer or fisher in will be the one advertised and described. Liability rests with the employer to uphold their end of the contract. The employer in the fishing industry is often a fishing company. Fishing companies are companies that, depending on their size and scope, catch, process and/or market fish. Many fishing companies own and operate their own fleet of fishing vessels. In the South African context, some South African fishing companies may have a joint venture with a vessel/vessels from another country, which, in laymen’s terms, can be understood as a temporary partnership that allows the foreign vessel(s) to fish in South African waters “for” the South African fishing company (i.e. under the license given to the South African fishing rights holder).

Trafficked fishers may be exploited in different jurisdictions (on land and at sea), each of which involves different opportunities (and obstacles) for intervention.

At sea. The high seas are all parts of the sea that are under neither sovereignty or jurisdiction of any State. On the high seas, jurisdiction depends on the system of flag State control. At sea, all vessels must be registered to a country and fly that country’s flag. The State whose flag they are entitled to fly is the flag State. Flag States have the authority and responsibility to exercise jurisdiction and control in administrative, technical and social matters over ships flying their flag. Flag States are also in control of criminal and disciplinary matters on board vessels on their registry.  

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The system of flag state control is challenged by vessels that fly *flags of convenience* (FoCs). An FoC is a flag from a State with an open register that is unable or unwilling to take seriously its flag state responsibilities (either in terms of enforcing existing national laws or in terms of implementing laws). *Vessel owners* (any person or corporation possessing title to a vessel and the proceeds of its services)\(^{32}\) will frequently register vessels to a state different from their own in order to reduce operating costs or to avoid complying with certain regulations. Some vessels are registered to a *flag of non-compliance* (FoNC). An FoNC is a flag State that, while not necessarily having an open registry like FoC States do, nonetheless fail to enforce flag State obligations, particularly on the high seas or in distant water fisheries.

Further complicating jurisdiction and enforcement on the high seas are vessels engaging in *flag hopping*. This is when a vessel re-flags, moving from one FoC to another. This practice is commonly associated with IUU fishing and can be used to confuse authorities and/or avoid detection. Flag hopping can be done frequently and cheaply, as applications for new flags can often be sent by fax or made online and processed within 24 hours.\(^{33}\) Some vessels may also utilise the system of *bareboat registration*, which temporarily permits a vessel to fly the flag of another country while ownership continues to be registered in the underlying registry. Bareboat registration is essentially a “lease” that allows a vessel registered in one State to fly the flag of a second State for a determinate period. The legal nature of bareboat registration is confusing and it is commonly referred to as *dual or parallel registration*.\(^{34}\)

At sea, vessels will also sail in waters under the jurisdiction of *coastal states*, which is a state with a coastline and, therefore, with exclusive exploitation rights to natural resources (including fish) and some jurisdiction in designated parts of the sea (territorial waters, contiguous zones, continental shelf areas and exclusive economic zones). *Territorial waters* (also called the *territorial sea*) are those that are part of coastal State territory and therefore under the jurisdiction of a coastal State. These include internal waters and coastal waters up to 12 nautical miles (22 km) from the baseline of a coastal State. Within territorial waters, the coastal State sets laws and regulates the use of any resources, including fish. The *contiguous zone* is a zone contiguous to the territorial sea in which a coastal State may exercise jurisdiction to prevent and punish the infringement of the laws and regulations it sets in the territorial sea. The contiguous zone is limited to 24 nautical miles (44 km) from the baseline from which the territorial sea is measured.\(^{35}\)

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\(^{32}\) Vessel owners need not be (and often are not) present on board the vessel. Some vessel owners charter the vessel to an “operator,” although this differs by context and region. Some registered vessels owners are essentially shell companies in a tax haven, particularly when the vessel is registered in a State that is unable or unwilling to exercise its jurisdiction and duties over the ship (i.e. a flag of convenience).


\(^{34}\) Arguello Moncayo, M.G. (2011) *Bareboat Charter Registration: A Practice in the Maritime World that is aimed to Stay*, Sweden: Lund University, 9.

\(^{35}\) UNCLOS, Article 33.
The **exclusive economic zone** (EEZ) is a sea zone in which a coastal State has sole exploitation rights over all natural resources. The EEZ stretches from the seaward edge of a State’s territorial sea up to 200 nautical miles (370 km or 230 land miles) from its coast. The coastal State may also claim sovereign rights over the **continental shelf area** for the purpose of exploring it and exploiting its natural resources.

**On land.** Jurisdiction is also relevant on land, most significantly from the *port State*, which is the coastal State with jurisdiction over a port. A *port* is a location on a coast where ships can dock and transfer cargo or passengers to or from land. Ports are usually located within *harbours* (places along the coast where vessels can anchor to seek shelter from bad weather, often protected naturally by landforms, but sometimes artificially built). Some ports may be used by certain vessels or fleets routinely for *hubbing*, which refers to the use of a particular port as a “hub” for discharging cargo, resupplying and all things involved with getting a ship into and out of port.

Within some ports are special customs areas (called *customs zones* or *free zones*), which are designated for the storage of commercial goods – like fish – that have not yet cleared customs. The customs zone is treated as an area “outside” of the country, allowing for transshipment to a third country without the payment of customs duties or the involvement of customs authorities. However, customs zones are still within the overall *customs controlled area* (CCA) (a secure and controlled environment where activities are monitored or conducted by customs authorities) and are territorially part of the country, therefore, they remain subject to local laws. Customs zones are surrounded by a customs border and are usually strictly controlled and monitored.

Some ports may be considered a *free port* or *port of convenience*. Just as there are flags of convenience, there are also ports of convenience where the port State is unable or unwilling to enforce regulations. These port areas with relaxed jurisdiction, either because there are generally less strict customs regulations (e.g. no control for transshipment) or because of issues with the enforcement of regulations by the port State (e.g. corruption or lack of capacity), can be used by fishing vessels that are unseaworthy or engaged in illegal activities to avoid inspection.

Jurisdiction in ports is strengthened by the system of port state control, in which States sign a memorandum of understanding to extend coastal State jurisdiction to allow for the inspection of foreign ships in national ports. Under port State control, once a ship voluntarily enters port it becomes fully subject to the laws and regulations prescribed by the officials of that territory.

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36 UNCLOS, Article 57.
37 UNCLOS, Article 77.
4. Who was trafficked? Cambodian fishers trafficked to and from South Africa

Cambodian fishers: Sex, age and nationality

The 31 trafficked fishers included in this study were all adult men. Trafficked fishers ranged in age from 24 to 54 years at the time they were trafficked, the largest number of whom were from 24 to 35 years of age. This is consistent with the nature of the work on fishing boats, which is very hard manual labour, requiring physically strong, fit and, arguably, younger men. Nonetheless, men in their 40s and 50s were also recruited and trafficked as fishers to and off of South Africa.\(^\text{40}\)

While all of the trafficked men interviewed for this study were adult males, this was not always the case in occurrences of trafficking for fishing from Cambodia.

\(^{39}\) Photo credit: EyeofJ

\(^{40}\) Boats on a lake in Cambodia. This photograph is not of a trafficking victim or trafficking situation. It is used to illustrate villages and communities that some trafficked fishers may come from. This photograph is available via a Creative Commons license (https://creativecommons.org/licenses/by-nd/2.0/) through Flickr.

\(^{40}\) One of the men in his fifties lied about his age on the “advice” of the recruitment company, fearing that he was “too old” for this work. This led him to use another family member’s identity (and identity documents) when he migrated.
One service provider reported instances when older boys – 16 and 17 years old at the time of recruitment – were trafficked as well. This was more common among those who travelled illegally across the border to Thailand and were subsequently trafficked on Thai fishing vessels. The recruitment of only adult men for work in South Africa is likely due to the formal (and more scrutinised) process by which they were transported, that is, legal travel with proper work documents.41

All of the men were Cambodian citizens and ethnic Khmer.42 This does not mean, however, that only Cambodian fishers were exploited on the vessels. The men interviewed for this study reported being trafficked and exploited alongside fishers from other countries, including China, Indonesia, Malaysia, Myanmar, Philippines, Taiwan Province of China and Viet Nam.43

**Family and economic situation**

[Photo credit: Nuth Sam Ol]

41 There were cases of boys originating from Cambodia and other countries of South-East Asia who were trafficked for fishing. In a study of Cambodian males trafficked onto Thai fishing boats, 9 of 49 victims were between 15 and 18 years when recruited and forced onto the vessels. UNIAP (2009) *Exploitation of Cambodian Men at Sea: About the Trafficking of Cambodian Men onto Thai Fishing Boats*, SIREN case analysis series, Phnom Penh: UNIAP, 3. In a report on (re)integration in the Greater Mekong subregion, 37 of the victims interviewed had been trafficked into fishing, of which one was a Thai boy (16 years old) who was trafficked aboard a fishing boat in Indonesian waters. (Surtees, R. (2013) *After trafficking*. See also: Seangly, P. (2012) ‘Trafficked teens return home’, *Phnom Penh Post*, November 6.)

42 Approximately 90 per cent of the Cambodian population is ethnic Khmer.

43 One respondent assisting fishers in South Africa noted that many different nationalities were represented in the fishing industry, including: Cambodia, China, Indonesia, Japan, Myanmar, Nepal, Philippines, Taiwan Province of China and Viet Nam.
Many of the men were married at the time of recruitment and most had children whom they were supporting. Of those who had children, most had between three and five, with one a father of nine. Most married men were living with their wives and children; older (even adult) children were often still living at home and, at least in part, being supported by their parents.

Some of the (younger) men who were trafficked were not married; none of the single men had any children. Single men typically lived with parents and siblings (and sometimes extended family) and were often primary contributors to the household economy. One man lived with and was supporting his grandmother who had raised him. None of the men reported being separated, divorced or widowed.

Regardless of their marital/family situation, all of the men were financially supporting other family members (sometimes as the sole income earner). Often married men were the primary income earner for their family, as one man explained: “My four kids and my wife rely on me. We live on a small plot of land in the community. When I get money from my work, I only spend a small amount to eat. I give the rest to my family”.

It merits mention that many of the fishers’ wives also worked and it was only with this combined income that they were able to support their families. One man explained how his wife was a worker in a garment factory, earning only USD 60 a month, which was not enough to care for their family. His wife had struggled financially while he was trafficked, trying to support the family on her own.

Unmarried men were commonly supporting parents, grandparents and siblings as well as, in some cases, adult siblings and their family. None of the unmarried men reported living independently, as is consistent with traditional living

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44 Village in Kampong Thom Province, Cambodia. This photograph is not of a trafficking victim or trafficking situation. It is used to illustrate villages and communities that some trafficked fishers may come from. This photograph is available via a Creative Commons license (https://creativecommons.org/licenses/by-nd/2.0/) through Flickr.
arrangements in Cambodia. One young man, 24 years old, was living with his mother and younger brother, as well as his older sister, her husband (who had polio and was not working) and their child. His father, who also supported him, had died a few years prior.

The need to support one’s family was a primary driver of the men’s decision to accept and, indeed, in most cases, seek work abroad. It was also a factor in their families’ agreement with the decision. Some of the men described the economic pressures they were experiencing at the time of their recruitment by Giant Ocean:

“I wanted to buy land and build a proper house for my family. If I had some money left from buying land and building the house, I would buy a motorbike to earn money to support my family.”

“I wanted to make more money to support my family, as result I was cheated. We did not have enough food to eat every day.”

“[My wife] ... now she is sick. I alone have to earn money to support them.... I just wanted to try to go and work abroad for three years. I could not save any money while I was working in Cambodia.”

In some instances the pressure of existing debt meant that men were particularly “enticed” by (deceptive) offers of good, reliable pay abroad. One man explained how he became indebted to three different moneylenders when he was recruited by a Giant Ocean broker – debts that amounted to almost four million Riels (USD 1,000), with a debilitating interest rate of 10 per cent a month. The money was borrowed because his wife needed surgery, which was prohibitively expensive.

Decisions about migrating for work on fishing boats were not made independently. The men consulted family members and often also friends and neighbours before making a decision. Very commonly, decisions to migrate were supported and even encouraged by family members. It was one young man’s mother who told him about the work opportunity abroad. Another man explained how he and his wife went together to the recruitment agency to learn about the work offer and decided together that he should accept the job. Another man was encouraged not only by his wife to migrate, but also by his siblings who were also poor and unable to help him and his family to pay off their mounting debts: “My siblings also wanted me to go because I was in debt. They could not help me because they are also poor. The debt was increasing so much and if I went for just one year, it would be able to pay off the debt. I was hopeful and happy about that.” Only one man interviewed was discouraged by his parents from migrating (they told him he should work at home and take care of his wife); his wife, however, encouraged him to migrate.
Education

Most of the men interviewed for the study had attained only very basic levels of education. Most had attended school for two or three years and had not completed primary school. None of the men had attended school beyond primary school. Two men were, as they put it, “uneducated” and were unable to read or write.

Low education likely served as a contributor to trafficking in that the fishers had, as a consequence of poor education, only very limited economic options at home. Equally, their inability to review and sufficiently assess work contracts limited their ability to make informed choices and assess risks. Some were not even able to read and understand their contracts before signing.

Professional training and work experience

For the most part, men recruited for work as fishers in South Africa did not have experience working as fishers. Five of the men reported having fished before, but in four cases this was traditional fishing, in small boats on Cambodian lakes and rivers or in the canals of rice paddies. Only one of the men had experience fishing at sea, having worked for a year on a Thai fishing vessel.

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45 In Cambodia, the general education system involves 12 years of schooling. Primary education comprises grades 1 to 6; lower secondary education is from grades 7 to 9; and upper secondary education comprises grades 10 to 12 (UNESCO, Education Systems Profiles: Cambodia, webpage, available from www.unescobkk.org/education/resources/resources/education-system-profiles/cambodia).

46 The low education levels and limited economic options of fishers and seafarers have been recognised as important factors in the treatment of crewmen by the South African judiciary (as well as by other countries). Modern maritime lawyers who have lodged claims on behalf of seafarers and fishers have often used the judicial treatment of seamen from the early nineteenth century as a reference for the need to offer seafarers and fishers special protections, even today. Of note is the frequently cited 1825 Minerva case, which recognised the problems posed by crewmen having low education levels and the consequent need to offer special protection to them, with the Judge describing seamen as “a set of men, generally ignorant and illiterate...ill-provided with the means of obtaining useful information, and almost ready to sign any instrument that may be provided to them, and on all accounts requiring protection, even against themselves.” (Ng, M. (2008) ‘The Protection of Seafarers’ Wages in Admiralty: A Critical Analysis in the Context of Modern Shipping’, Australia and New Zealand Maritime Law Journal, 22.)

47 Villager fishing in Cambodia. This photograph is not of a trafficking victim or trafficking situation. It is used to illustrate villages and communities that some trafficked fishers may come from. This photograph is available via a Creative Commons license (https://creativecommons.org/licenses/by/2.0/) through Flickr.
Instead men had worked in different fields prior to being recruited – primarily in construction or in agriculture. A handful worked as moto dop drivers (i.e. motorcycle taxi drivers) or cyclo drivers.\(^{48}\)

Of note, however, is that some of the men later remigrated for work on fishing vessels after having returned home from having been trafficked in South Africa. One man’s brother, with whom he was trafficked, had since worked on fishing vessels in Thailand on four different occasions. Another man was also thinking about migrating for fishing work in Thailand. Having learned the skill of fishing, he felt that this offered him a good work opportunity.

**Place of origin**

Men were recruited from different provinces around Cambodia. Men interviewed for this study originated from Phnom Penh, Kampot, Prey Veng, Siem Reap, Kampong Chhnang and Kampong Cham. They were trafficked alongside fishers who were also from other provinces, including Takeo, Kratie, Kampong Speu and Banteay Meanchey.\(^ {49}\)

\[\text{Figure 1: Map showing the provinces of Cambodia} \]

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\(^{48}\) A cyclo is three-wheeled pedalled bicycle taxi, also known as a rickshaw.

Summary

All trafficked fishers were adult men, ethnic Khmer and Cambodian citizens. They ranged in age from 24 to 54 years at the time they were trafficked. Many of the men were married and had children. Younger men were often unmarried and lived with their parents, siblings and extended family. All of the men were primary contributors to their household economy, financially supporting other family members. Most men had only very basic levels of education and none had attended school beyond primary school (grade six). Only one man had experience fishing at sea; most men recruited for work as fishers in South Africa did not have experience working as fishers. The need to support one’s family was a primary driver for the men in their decision to accept and indeed, in most cases, seek out work abroad. In some instances, the pressure of existing debt meant that men were particularly “enticed” by offers of good, reliable pay abroad.
5. Recruitment of Cambodian fishers: The role of Giant Ocean

Formal recruitment and recruitment agencies

All men trafficked to South Africa were recruited to work as fishers by the recruitment company Giant Ocean International Fishery Company Limited (“Giant Ocean”), which, at the time, was legally registered with the Ministry of Labour and Vocational Training (MoLVT). Giant Ocean was issued a license by the MoLVT in July 2010. Some trafficked fishers also exploited in these destinations were recruited through two other recruitment agencies also based in Phnom Penh – Phoenix International Co., Ltd. and Hao Yuen International Co., Ltd. – which seem to have cooperated with Giant Ocean. It is not clear whether these companies were also registered with the MoLVT.

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50 International Fishing Fleet Crewing Agency. This photograph is not of a recruitment agency that recruits trafficked fishers. The photograph is used to illustrate the office of a recruitment agency. This photograph is available via a Creative Commons license (https://creativecommons.org/licenses/by-nd/2.0/) through Flickr.

51 Neither Cambodia or South Africa have ratified the two ILO conventions (No. 9 and No. 179) that deal specifically with the regulation of recruitment and placement agencies.

52 In some cases, there appear to have been links between Giant Ocean and recruitment/crewing companies in Singapore and Taiwan Province of China (Chen, D.H. (2013) ‘More Details Emerge on Trafficked Fishermen’,...
Formal recruitment, through a legal recruitment company and with formal documents and work permits, contrasts sharply with the recruitment and transportation of Cambodian men who end up trafficked on boats in Thailand. In the latter case, Cambodian migrants are commonly offered work in Thailand (sometimes in the fishing sector; sometimes other types of labour) through a broker in Cambodia. In other instances, the men are not formally recruited, but migrate on their own, without legal travel documents or work permits, and then end up trafficked in transit from Cambodia into Thailand or upon arrival in Thailand.

The formal recruitment process – through a legally registered agency – created a facade of legality and a false sense of safety. A number of men spoke about how they felt that this legal framework meant that they could trust the recruitment agency. More than one man contrasted the “risk” involved in going through an informal labour broker (which they were aware could lead to trafficking) with the perceived safety to this formal process:

“I trusted them because I know that assistance from a recruitment agency was more trustworthy [than] local brokers. I would be sold if I went with broker.”

“Before I went, my family said [the decision] was up to me. They said that it is legal because we go through the company. If it is not a company, I would not go. But now I was deceived still! My relatives also said the same as my mother [that it is okay to go with company].”

One man described his shock and disbelief when, after several months at sea, he called home and his grandmother told him that the recruitment agency closed down and that he had been deceived:

“She said I was cheated by the recruitment agency. It was closed now. She asked me to return home. I said I did not believe it. It was a licensed agency. How could it cheat me? I asked [my co-worker] to call his home to check whether it was the same. He said his family said the same. I was so shocked to hear that. I was working so hard, but I did not receive [any] pay.”

The extent to which this is the case and whether such agencies were complicit in the perpetration of human trafficking is unclear. That said, in 2012 a victim of Giant Ocean provided key pieces of documentary evidence that linked Giant Ocean to the Singaporean agency Step-Up Marine Enterprise, which has allegedly been involved in the illegal recruiting and trafficking of fishermen since 1987 (CLEC, LICADHO, LSCW and CLEC, LICADHO, LSCW, Human Rights Watch (2012) Universal Periodic Review, Cambodia, Joint Submission on Human Trafficking for Labor Exploitation, 7). A 2012 study documented that the Step-Up Marine Agency was involved with the trafficking of Filipinos into the long haul fishing industry: Yea, S. (2012) Troubled Waters.
Another man felt that he could trust the agency because during his stay at the office (the “training period” prior to departure) the agency was monitored by government authorities: “I saw that the authorities visited that company often too and to check there, which made me feel secure.”

That being said, while the recruitment process appeared formal and legal on the surface, in reality Giant Ocean was not licensed to recruit fishers. The agency was licensed to recruit workers for jobs in only four countries – Japan, Kuwait, Malaysia and Thailand – for work in factories, construction and so on. As part of the process of issuing a license for Giant Ocean, the MoLVT did visit the company’s office and training facility and assessed them to be in adherence with procedures. One trafficked fisher explained that while being trained at the Giant Ocean facility/office prior to his departure, government officials visited and inspected the facility. However, Giant Ocean allegedly began operating three to four months before it was officially licensed by the MoLVT. All of these factors raise questions about the level of monitoring and oversight of recruitment agencies, as well as sanctioning those violating regulations.

Figure 2: Giant Ocean Company License

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54 The very name of the company – Giant Ocean International Fishery Company – seems to indicate it would recruit for the fishing industry, raising questions about the MoLVT’s licensure process. In addition, men spoke of being trained at the company’s office for work at sea, raising further questions about what the MoLVT representatives who visited the office and training facility for assessment purposes observed.

55 Some sources suggest that the company’s ability to operate without a licence indicates some collaboration between the company and corrupt officials (see, for example: Heimkhemra, S. (2013), “Fishing Company Owner Awaiting Sentence for Trafficking,” Voice of America | Khmer, 8 June.)
Registration of recruitment agencies in Cambodia is subject to the provisions of Sub-Decree 190. Acquiring a license requires, among other steps, registering with the Ministry of Commerce, providing a deposit of USD 100,000 with the MoLVT, having an office with a clear address and sufficient staff, having a training centre (i.e. a building equipped with materials and equipment for vocational training, proper accommodation and dining), providing language training to workers, agreeing and adhering to a contract with the MoLVT, and being subject to regular monitoring and oversight, including of the pre-departure training centre. Sanctions for violations of these requirements are weak. Article 39, for instance, stipulates that any recruitment agency violating any provisions of Sub-Decree 190 shall be subject to a written warning, temporary suspension of authorisation and revocation of authorisation. The law fails to create an automatic trigger for the temporary suspension and/or revocation of an agency’s license, nor does it require that penalties be escalated for repeated offenses. Furthermore, the law also does not specify the type of offence that would invoke the suspension or revocation of authorisations. In the past, recruitment agencies were typically “punished” by multiple written warnings; however, even when abuses were systematic, licences were not commonly suspended or revoked.

The role of brokers and middlemen (meekol) in recruitment

While recruitment and placement was through the formal recruitment agency Giant Ocean, the men came into contact with information about the agency in different ways.
In African waters. The trafficking of Cambodian fishers in South Africa

Table 1: Means of recruitment

<table>
<thead>
<tr>
<th>How the respondent learned about the recruitment agency</th>
<th>Number of fishers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Newspaper advertisement</td>
<td>1</td>
</tr>
<tr>
<td>Radio</td>
<td>2</td>
</tr>
<tr>
<td>Local broker/recruiter came to their village</td>
<td>15</td>
</tr>
<tr>
<td>Other (e.g. followed friends or a neighbour told them, etc.)</td>
<td>6</td>
</tr>
<tr>
<td>unknown/not recorded</td>
<td>7</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>31</strong></td>
</tr>
</tbody>
</table>

In some cases, men were recruited by brokers or middlemen (*meekol*) who travelled to villages to recruit workers for Giant Ocean, as one man described his experience:

“There was a broker coming to the village. At lunchtime, while I was eating, my wife told that the neighbours said that people were assisted to work in Japan. I replied that as long as there was a good salary, I would go. The next day my neighbour approached me and then I went to the company in Khan Toul Kok in Phnom Penh. I remember three persons...who managed everything there. They were Cambodian.”

Other brokers were people who recruited their friends and neighbours in the same village and gave these men the illusion of trustworthiness. Some recruiters were “professional brokers,” recruiting for various types of work abroad, and not only for Giant Ocean. One man was recruited by a female broker living in his village who recruited migrant workers not only for fishing in South Africa, but also for work in destinations like Malaysia.

In other cases, recruiters seemed to have been involved only in recruitment for Giant Ocean and “by default.” One man, for instance, “recruited” his two sons and other men in the village after hearing about the work opportunity from the recruitment company. He received USD 10–20 for each man he recruited. However, as one of the men whom he recruited later explained after his return from being trafficking, this “broker” was also deceived by the company, having lost his two sons in the process.

Brokers did not charge a recruitment fee from the workers; all received payment from the recruitment agency for each worker they recruited – amounts that apparently ranged from USD 10 to 20. This is significant in terms of noting that the non-imposition of recruitment fees, while important and in compliance with international standards, is not in and of itself sufficiently protective against

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human trafficking.\(^{62}\) That being said, not having incurred debts to fund one’s migration likely has a positive impact on (re)integration outcomes after the trafficking experience.

In other cases, men learned about the work opportunity through word of mouth – from family, friends and neighbours – and decided to pursue it. Some travelled with friends or brother to the recruitment agency in Phnom Penh. In some cases, family members seemed to have inadvertently facilitated their exploitation. One woman assisted her nephews in contacting Giant Ocean about work abroad, even seeing them off at the airport when they departed, only to learn later on that the company had closed down and she was then unable to find her nephews.

Giant Ocean also apparently advertised work opportunities abroad. One man approached the recruitment agency after seeing Giant Ocean’s newspaper advertisement. Another contacted the company after hearing a radio announcement about Giant Ocean’s offer of work in Japan. It is unclear if these advertisements offered work in the fishing sector or another type of job. It should be noted that Sub-Decree 190 and the accompanying *Prakas* on the Recruitment Process and Pre-Departure Orientation Training include regulations for job advertisements.\(^{63}\)

**Work promises at recruitment**

Twenty-seven men were told by the recruitment agency that they would be working on a fishing vessel. In the other four cases it is unclear whether the victims knew that they would be fishing.

\(^{62}\) International standards call for the non-charging of recruitment fees by agencies. Article 22 of the WIF Convention requires that no fees or other charges for the recruitment or placement of fishers be borne directly or indirectly, in whole or in part, by the fisher. However, the WIF Convention is not yet in force and, as of May 2014, had been ratified by only four countries. South Africa, notably, has ratified the WIF Convention, although Cambodia has not. South Africa also ratified the Maritime Labour Convention in 2013, which will enter into force for South Africa on 20 June 2014. Two ILO conventions deal specifically with the regulation of recruitment and placement agencies and prohibit the payment of recruitment fees (by seafarers). ILO Convention No. 170 contains such a prohibition, and ILO Convention No. 9 states in Article 2 that “the business of finding employment for seamen shall not be carried on by any person, company, or other agency, as a commercial enterprise for pecuniary gain; nor shall any fees be charged directly or indirectly by any person, company, or other agency, for finding employment for seamen on any ship” and that laws shall provide punishment for violating this article. As noted earlier, neither Cambodia nor South Africa has ratified either of these conventions.

\(^{63}\) Article 22 of Sub-Decree 190 specifies that: “All advertisements of the recruitment agencies shall be appropriate and comprehensive according to the facts regarding selection requirements, working conditions and benefits to be entitled during the employment without lying or cover-up”. Similarly, the *Prakas* on Recruitment Process and Pre-Departure Orientation Training (No. 046/13), in Article 2, stipulates that: “In public advertisements or by any other means that demonstrate the demand for recruitment of workers of both sexes for overseas jobs, private recruitment agencies shall promote only true and real information about employment and working conditions for workers and benefits to be received by workers. The messages of advertisements shall be approved by the Ministry of Labour and Vocational Training”. Kingdom of Cambodia [2013] *PRAKAS on Recruitment Process and Pre-Departure Orientation Training*, No. 046/13, Phnom Penh: Ministry of Labour and Vocational Training.
Some men were shown photos of fishing and fishing vessels and told clearly about the kind of work that they would be doing. They were also fully informed that they would spend months on end at sea working on a fishing vessel. As one man explained: “[They said that I would be] only working on the sea. They told me that every time I opened my eyes, I could only see the sea.”

By contrast, some men seem to have been deceived about the nature and conditions of work. While most knew that they would be working on fishing vessels, what this meant in practice was not always clear to them, nor was it always fully explained that the work was hard, working hours would be long and that life at sea was going to be difficult and included the likelihood of seasickness. One man described the broker in his village presenting a “rosy” picture of what fishing work would entail, which was far different from reality. As he explained:

“She told me it was not heavy work at all. I would have to just collect the fish and put it in the container. I did not know that they would let us spread those hooks, nor [that we would be] coming back to shore [only] after one year like that. If I knew, I would not have gone that time. I thought that it would just be putting the fish in containers then taking them back to shore to sell and we would be able to contact home...But after all, it was not like that. We were on the sea all the time.”

The majority of men (17) were promised work in Japan. Six men knew that they would be going to South Africa, and another man knew that he would be going to Africa, but was not informed of the specific country. Three men were not told where they would be going or were told that they had to wait for news from overseas to determine where they would be sent. One man was promised work as a fisher in Nepal, which he was unaware is a landlocked country. Another was told he would be working in Singapore; another, in China.

**Table 2. Country where work was promised**

<table>
<thead>
<tr>
<th>Country</th>
<th>Number of fishers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Japan</td>
<td>17</td>
</tr>
<tr>
<td>South Africa</td>
<td>6</td>
</tr>
<tr>
<td>Did not know where they would work</td>
<td>3</td>
</tr>
<tr>
<td>Africa (country not specified)</td>
<td>1</td>
</tr>
<tr>
<td>China</td>
<td>1</td>
</tr>
<tr>
<td>Nepal</td>
<td>1</td>
</tr>
<tr>
<td>Singapore</td>
<td>1</td>
</tr>
<tr>
<td>No response</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>31</strong></td>
</tr>
</tbody>
</table>
Salary and benefits promised; conditions of work

The majority of men were promised a monthly salary of USD 150, with a handful offered slightly more (USD 200). In some cases, the full salary was to be paid to the fisher’s family at home; in other cases, the fisher was to receive a portion of his monthly salary (usually USD 50) while on board, with the rest paid to his family or a bank account in Cambodia.

In addition to the monthly salary, men were promised bonuses for extra work or catching particular types of fish. One man was told that he would receive USD 20 per month if anyone on the vessel caught a shark. Another man was told that he would receive an additional USD 80 per month for “good performance,” although what constituted good performance was not made clear. Other men reported being promised extra salary for performing various additional tasks on the vessel:

“I was told I could earn [a lot] working abroad in three years…more than USD 10,000 when returning home. I could have additional income from working on the vessel such as preparing fish, getting shark tails and also when we went to port, we could earn more money.”

“[The recruitment agency] told me that if the vessel came to port, I could get USD 700 or USD 800.”

“The salary was USD 150, plus bonus[es]...They told us that they would pay us for the overtime ...It was a three-year contract. If any of us could stay up to three years, the bonus would be an extra USD 450 per year.”

While there were alluring promises about salaries and bonuses to entice the men, there were also penalties and fines to be incurred, most commonly for breaking the contract – that is, not completing the term of work which was generally between two and three years. One man detailed the conditions he was explained when recruited: “They said if I escaped from my work place without completing one year period, I would be fined USD 1,000.”

Using long contracts and prohibitive sanctions has been noted in other situations. According to service providers who have worked with fishers in South Africa, Indonesian fishers who were recently identified as trafficked in the country were threatened with a debt of USD 10,000 to the agency when they asked to return home: “So the men, they have no option to go home.” Similarly, one report on trafficked fishers from Indonesia noted that fishers signed contracts with such prohibitive sanctions that it essentially prevented them from being able to leave their jobs. For example, one Indonesian man’s contract stipulated that he would

surrender 30 per cent of his salary, which the agency would hold onto until the work contract was completed. He would be paid nothing for the first three months and, if the job was not finished to the fishing company’s satisfaction, he would be sent home and charged more than USD 1,000 for airfare. The contract also stated that the fisher’s family would owe nearly USD 3,500 if he were to run away from the vessel.65

**Work contracts and agreements**

Most men (15 out of 31) signed formal written contracts with Giant Ocean. Once a recruit agreed to and accepted the job as explained to him, he signed a contract at the recruitment agency.

**Table 3: Types of contracts and agreements at recruitment**

<table>
<thead>
<tr>
<th>Contract</th>
<th>Number of trafficked fishers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Written contract</td>
<td>15</td>
</tr>
<tr>
<td>Oral agreement (no written contract)</td>
<td>8</td>
</tr>
<tr>
<td>Information about contract unknown/not recorded</td>
<td>8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>31</strong></td>
</tr>
</tbody>
</table>

In some cases, men signed contracts in both Khmer and English and understood the terms and conditions outlined in at least the Khmer version.66 However, a number of men were illiterate or had limited education and explained that they were unable to read and understand the terms of the contract.

“They didn’t tell me the working conditions. They just told me that the period of contract was three years. They gave me the contract to sign. I did not know how to read as I am not educated. They made me sign plus my thumb print.”

“I could understand some, but not all [of the contract]. They just told my wife and I [what it said]. The contract was written in Khmer and English.”

“Me and my other friends who went along, we don’t know Khmer script [cannot read or write]. I have grade four education but I cannot read or write at all.”

In some cases, the contract was not in Khmer language at all. One man signed a contract, which he said was in English and Chinese,67 neither of which he was able

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66 The men were generally not fluent in English and, therefore, were unable to assess what was stated in the English version. It is unknown if the terms and conditions were the same in both languages.

67 It was not always clear whether respondents were referring to the Chinese spoken in China, Taiwan Province of China, or Singapore.
to read or understand. Another signed a contract in English and Chinese offered to him and relied on the translation by the staff member at the recruitment agency, to explain its terms:

“There was a written contract but the contract was written in English and Chinese, which I could not understand. There was no Khmer script on that contract because there was already a translator who was from [my home province] too. He knew how to read and he told me what was written in the contract. I thought I could trust him because he was also from the same place as me. He told me it was okay, I could go.”

Some men received and kept copies of their work contracts. Quite commonly, though, the recruitment agency kept signed copies of the contract or took them from the men when they departed for work abroad, for “safekeeping.” The practice of a recruitment agency retaining a contract and the fisher never receiving a copy should raise concern and be something of which fishers are made aware. In some cases, contracts may be switched with ones that have less favourable terms and conditions, as was the case for Ukrainians exploited on illegal crabbing vessels in the Russia Federation. In other cases, the original contract may be replaced by another that the fisher never sees – one that is similar to typical shipping contracts for seamen. This complicates any potential legal claims against the vessel owner or operator (or even recruitment agency), as the terms of the original contract become unknown or masked and any paper trail that points to exploitation can be tampered.

The men did not always recognise the importance of a written contract; some did not read the contract at all prior to signing it. This is likely because many jobs in Cambodia are in the informal sector, and the use of written contracts and agreements is not normative. Most of the men had likely never signed a work contract in the past. When one of the men was asked about whether he had read and signed a work contract, he said:

“They asked me to sign the paper when we were ready to fly. They put it in my bag. They showed me the paper with vessel picture on that paper. The [contract] was in Chinese, English and Khmer. I did not take much attention to read... I did not give much care about it. I trusted them already.”

An additional issue is that because of their limited education and only basic literacy, the men may not have been in a position to fully comprehend the formal and legal terminology typically used in work contracts.

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68 When some of the Ukrainian seafarers arrived in the Russian Federation to embark on their vessels, they were informed by an agent at the port of embarkation that the contracts they had signed in Ukraine were not valid and that under their new contracts, they would be paid less (generally half) of what was agreed in Ukraine and that their work conditions would be different from those previously agreed. Surtees, R. (2013) *Trafficked at sea*, 42.
Eight men entered into oral agreements with the agency and did not sign written contracts. Another eight men were unable to provide information about their work agreements and contracts.

Another feature of the work agreement was the power dynamics at play, with men not necessarily feeling that they were in a position to clarify or negotiate the terms of their contracts. Given their often marginalised status – for example, as poor, uneducated rural villagers – they may not have necessarily felt empowered or entitled to assert themselves in these discussions. When asked about whether he signed a work contract and the terms of the agreement, one man answered as follows:

“I forget. I think I signed the contract and I was supposed to be returned home after three years. I put my thumbprint on too, maybe for receiving money or for giving money to my wife. I did not know what documents they were. I just put my thumbprint to be able to go very soon. I just did what I was told to do. I did not know what it said. I was in a [financial crisis and in debt] and I heard that I would earn money going there, very soon, so I just put my [thumbprint] on the contract.”

**Recruitment fee and agency costs**

As with brokers, none of the men paid the agency a recruitment fee. As noted earlier, recruitment fees were paid by the recruitment agency to brokers. None of the men reported paying a fee to the broker or middleman. In contrast, the recruitment agency typically provided men with a small advance against their salary, in the amount of USD 100. The men used this amount to buy essential items for travel or left some of the advance with their family so they would have some money until they received the first salary from him. Paying an advance also likely served to galvanise trust and confidence in the recruitment agency.

Two men borrowed money prior to departure to support their family members until their first pay check was issued. Both were seemingly small amounts – one man borrowed USD 30 at a monthly interest of USD 0.75 a month; another borrowed USD 200 at an interest of 10 per cent a month – both men spoke about the stress that this debt caused. The latter man was exploited for two years, during which time his debt increased exponentially. He was still in significant debt more than a year after his return, able to pay only the monthly interest.

Debts that are incurred as a part of initial migration (or debt that triggers the decision to migrate for work) often increase while in a trafficking situation (a victim’s family may incur additional debts to cover their basic needs and living expenses when the victim is unable to remit money). Being in debt can be a significant source of stress for trafficking victims after exit and as they return home. Having debts at the time of return from a trafficking experience can feel debilitating and may undermine the (re)integration process. Addressing debt...
In African waters. The trafficking of Cambodian fishers in South Africa was an immediate concern and priority for most trafficked persons. Debt has sometimes caused trafficking victims to decline needed assistance, as they focus instead on earning money to begin repaying it.\textsuperscript{70} It can also lead to (sometimes risky) remigration.

\textbf{Pre-departure “training”}

Some men received what was described to them as “pre-departure training” to equip them with the skills and physical strength needed to work on a fishing vessel. In reality, the training was not in fishing work itself, but instead focused on exercise and building their strength for work and life on the boat. One man described very arduous and questionable “training” prior to being deployed:

“First [before migration], we went to one office where I stayed and was trained... The exercise [trainings] we were required to do was so hard. We have to spin around two hundred times each. One person had blood coming out of his nose. No one lost consciousness. They ran and hit the wall. At first we felt dizzy but after some time we got used to it. We also lifted weights, about 30kg for each side, hold them all the way up. We even had to put them on our chest. We were told to lie down with both legs up. We were also required to walk like ducks, do push-ups 20 or 30 times each. If we failed, they would punish us by making us do more push-ups. They were mean to us. We even had to spin around on our head. It lasted about one month then we departed by plane... [One trainer] was so hard on us... He punished us most of the time if we did not do push-ups well. Just after one month, my muscles became very firm.”

The men received training while staying for varying periods of time – from a few days up to one month – at the recruitment agency office in Phnom Penh. However, some of the men were not trained but were deployed immediately after recruitment, as one man explained:

“I spent a night there, then the next day I left, without any training at all. I just took the plane.”

Periods of training were likely opportunistic, with men being “trained” while waiting for documents to be processed, travel arrangements to be made or positions to become available. It is also possible that Giant Ocean changed their modus operandi over time – that is, deploying men as quickly possible once they started to receive complaints and the operation began to unravel.

\textbf{Passports, work permits and seamen’s books}

It was generally during the training and preparation period that documents – including passports, work permits, visa and/or seaman’s books – were arranged.

\textsuperscript{70} Surtees, R. (2013) \textit{After Trafficking}, 72.
All men travelled with passports. In one instance, however, the man travelled with falsified documents, using the identity of a younger family member when applying for his passport. This was done on the advice of the recruitment agency and seemed to have been because he was older than the other men (he was in his fifties) and, therefore, less desirable in the labour market.71

Men reported holding valid visas and work permits but they were not generally able to provide further details about the legality and validity of these documents. Men also carried fishery seaman’s books issued by Giant Ocean, such as that shown in Figure 3.72 Seaman’s books are a form of identification much like a passport that instead gets logged at sea. A seaman’s book cannot be used as a passport, but instead is used to document the work history of an individual at sea (vessel numbers, places of embarkation and disembarkation, etc.).73 They are normally issued by the maritime authority in the seaman’s country of origin. Seaman’s books are typically only for seafarers, not fishers, which makes it striking that Cambodian fishers trafficked by Giant Ocean carried this document and potentially offers an entry point for identification by authorities. Immigration officials presented with such documents would presumably be able to question the veracity of the documents.

Figure 3: Giant Ocean Fishery seaman’s book

71 This is consistent with other research, which found that older seafarers/fishers can face problems with finding work because of concerns about their strength and health. In a study of Ukrainian seafarers, for example, a former trafficked seafarer, in his fifties at the time he was interviewed, explained how his age was central to his inability to find work in his profession: “[Now] the recruitment agencies refer to my age and do not take me anywhere. Generally every month I contact all the crewing companies and ask if they have any work. They say: ‘No, you should understand it’s because of your age. We hire young people without any problems’. I even saw an advertisement in the street. The work was for young people. They hire young people not older than 25 years old.” Surtees, R. (2013) Trafficked at sea, 42.

72 Some of the men assisted by NGOs reported carrying fishery seaman’s books issued by Phoenix International.

73 In some countries, however, a seaman’s book may be used as a visa. For example, in the United Kingdom, a foreign seaman travelling on duty does not need a visa if he holds a seaman’s book issued by a country on a designated list. United Kingdom (2014) UK Visa Requirements. Home Office of the United Kingdom.
All documents were arranged and paid for by the company. None of the men were directly involved in the processing of their documents; none reported paying for the documents themselves. The following account was consistent across the majority of cases: “The recruitment agency arranged [my documents] for me. They arranged the passport, visa and work permit for me. Now these documents are at my home.” The processing of passports and other documents was quite fast in some cases. One man, for instance, stayed only a few nights at the recruitment office in Phnom Penh before being deployed to South Africa. His passport was processed in just three days. The cost of documents and permits was to be deducted later from the men’s salaries. One man was told that the deduction would be approximately USD 1,000.

Summary

Cambodian fishers trafficked to South Africa were formally recruited to work as fishers by Giant Ocean International Fishery Company Limited (“Giant Ocean”), a recruitment company that was legally registered with Cambodia’s Ministry of Labour and Vocational Training (MoLVT). Most men learned about Giant Ocean through a broker or middleman (meekol) who came to their villages to recruit workers. Some men learned about the agency through friends or neighbours or through advertisements on the radio and in newspapers. None of the men paid a recruitment fee, whether to a broker or to the recruitment agency.

In most of the cases, men were told by the recruitment agency that they would be working on a fishing vessel. However, it was not always clear to them what the job would entail. The majority of men were promised work in Japan. Some men knew they would be going to South Africa. Others were told they would be going to other countries (China, Nepal, Singapore). Most of the men were promised a salary of USD 150 per month, along with bonuses for extra work or for catching particular types of fish.

Most men signed formal written contracts at the recruitment agency, although some men only entered into oral agreements. Some contracts were in both Khmer and English, but not all men were able to understand or read the terms of the contracts. In other cases, the contracts were not in the Khmer language at all.

Some men received “pre-departure training” at the recruitment agency, while others departed for work on fishing vessels almost immediately after signing a contract. In all cases, the recruitment agency arranged and paid for passports, work permits, visas and other documents for the men. All men travelled with passports. The cost of documents and permits was to be deducted later from the men’s salaries.

The typical processing time for passports in Cambodia is six weeks, although paying a higher fee can expedite the process to a three-week or one-week wait. Naren, K. & Menghun, K. (2013) ‘Difficulty of Obtaining Passports Adds to Illegal Migration’, The Cambodia Daily, 12 June. The official cost of a passport is USD 134.
6. From Cambodia to South Africa: How the men travelled

Means of transportation and travel routes

Travel arrangements were made and paid for by Giant Ocean. Men received airline tickets at the airport prior to departure. None of the men reported having to pay anything in advance for travel arrangements; such costs were to be deducted from their future earnings on the vessel.

The routes travelled by Cambodian fishers to South Africa varied. The majority (20) travelled by airplane to South Africa, transiting through countries like Malaysia, Qatar, Republic of Korea, Thailand and the United Arab Emirates. Some men were not entirely clear about the routing, not having been informed...

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75 Phnom Penh Airport. This photograph does not reflect a trafficking situation. It is used to illustrate how some trafficked fishers travelled to South Africa. This photograph is available via a Creative Commons license (https://creativecommons.org/licenses/by-nd/2.0/) through Flickr.

76 In one instance, service providers noted that the men were given the contact information for a travel agency in Taiwan Province of China in case of difficulty.
by the recruitment agency and not being able to read signs or communicate with
authorities or others in the various transit countries, as the experiences of two
men illustrate:

“First I reached Thailand, then to the next country which I was not
sure of. I thought maybe a country of Arabia...because their scripts
were curly...I was not sure. From that place, we reached Africa. In
Africa, there was a Chinese man who was waiting there for us. He
held a paper with our names on it. He saw us and asked if it was
our name. Then he took us straight to the ship... I was so worried
because I did not know where to go after the airport. But when
someone came to pick us up like this, I was so glad.”

“My flight was from Cambodia to Bangkok, from Bangkok to
somewhere I couldn’t remember but there was three times [that
I was] in transit.”

A few men stopped and stayed overnight in a transit country before travelling
onwards. In such cases, they were met by someone upon arrival in the transit
country (presumably a representative of a crewing or fishing company) and
assisted to check into a hotel and then assisted to check in again at the airport
for their onward journey.

Two of the men interviewed travelled to South Africa by flying first to Singapore,
embarking on their vessel in Singapore and then sailing to South Africa, where
they likely fished in fishing grounds in or beyond the country’s exclusive economic
zone (EEZ), going in and out of the Cape Town port.77 One man described flying
first to Singapore and then embarking on a Japanese- and Chinese-flagged fishing
vessel, sailing for 15 days before reaching South Africa. Another man described
his experience as follows:

“There were four of us who travelled from Cambodia by plane to
Singapore. When we arrived at Singapore airport, there were two
Chinese men who came to pick us up to stay at the hotel for one
night. I did not remember the name of the hotel. The next day,
they took me to the Singapore port. At that port there were three
Cambodian men waiting for us. They waited for my team to embark

77 South Africa’s Exclusive Economic Zone (EEZ), declared out to 200 nautical miles by the Maritime Zones Act
of 1994, extends from the coastal baselines of both South Africa and its possessions in the Southern Ocean
(the Marion and Prince Edwards Islands) and, therefore, comprises 1,553,000 square kilometres of sea.
South Africa occupies an important maritime position, being surrounded by three oceans: the Indian Ocean,
the South Atlantic and the Southern Oceans. South Africa operates six major ports, of which Cape Town and
Navy. Fishing within the EEZ requires a foreign vessel (i.e. a vessel registered to another country’s flag) to
have a joint venture with a Republic of South Africa (RSA) fishing right holder. The South African fishing right
holder can only hire the vessel under exceptional circumstances to engage in fishing activities within the
EEZ or in international waters registered to the South African flag. See Government Communications (2013)
Foreign fishing vessel license, South Africa: Department of Agriculture, Forestry and Fisheries.
to the sea. They moved one Cambodian man to my group. In total, there were five Cambodian men on the vessel and the other two Cambodians went on another vessel. It took us three months to arrive at the work place [in South Africa].”

Service providers in Cambodia assisted other fishers who were first sent to Taiwan Province of China and (mainland) China by airplane and then travelled by fishing vessel to South Africa.  

Documents and permits; border crossings and entries

Men trafficked for fishing in South African waters entered legally into South Africa, using passports and being granted valid crew visas by South African immigration authorities.

![Cambodian passport](https://via.placeholder.com/150)

**Figure 4: Cambodian passport**

Men arriving by air in South Africa were typically issued a temporary “crew visa” at the airport, which allowed them to enter the country and subsequently embark on a vessel. South Africa issues this type of visa (also called a “crew permit”) to foreigners who are members of the crew of a ship; application for this visa requires documentation from the owner of the ship. Fishers apply for crew visas

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78 In nine instances, details of travel between Cambodia and South Africa were not provide or sufficiently detailed.
79 Cambodian passport. This photograph is available via a Creative Commons license (http://creativecommons.org/licenses/by-sa/3.0/deed.en) through Wikimedia Commons.
80 The South African visitor’s visa has three categories: (a) visitor, (b) crew and (c) commercial or seasonal worker. The crew visa allows the visa holder to enter, but not work in, South Africa.
81 Applications for a crew permit can be made at a port of entry in South Africa and require a valid passport, documentation from the owner of the ship and sometimes a deposit. A crew permit may be issued for a maximum of three months at a time. Department of Home Affairs (2014) Types of Visas. Republic of South Africa Department of Home Affairs.
themselves upon arrival in South Africa (none of the men were accompanied as they travelled or assisted through immigration). One man described having documents from Giant Ocean to show officials (and, presumably, to apply for such a visa): “I had a few pieces of [documents] to show at the airport. They said it was to show the officer which country we are going to, from one to another airport. I had my passport. I did bring my identity documents there.” It is unlikely that any of the men entered South Africa on a visitor’s visa, as there is no South African embassy in Cambodia where these visas could have been processed, and none of the men travelled to a country with a South African embassy to secure this visa in advance. In addition, Cambodian citizens cannot be issued a visitor’s permit upon arrival.82

Figure 5: Crew visa to South Africa

There may be opportunities to better scrutinise the issuance process for maritime crew visas in ways that could prevent trafficking at sea and also identify trafficked fishers, given that fishers apply for this visa upon arriving at the airport in South Africa. Such potential entry points for identification merit further consideration.

Crew visas are valid for a short period of time. The visa in Figure 5 was valid for only one week, which is presumably sufficient time to arrive and embark on one’s vessel. The crew visa is essentially a “transit visa” that allows the passage of foreign crew through a South African port of entry (e.g. the airport), from which they should immediately carry on to another port. The challenge in such instances is that fishers would not have valid entry visas when they return from sea, which necessarily limits their opportunities to leave the vessel, disembark and seek assistance. The crew visa they had previously received can be used to gain permission to “transit” once more (e.g. to leave South Africa again via

In African waters. The trafficking of Cambodian fishers in South Africa

In practice, however, this means only that a fisher can go to immigration at port, receive permission to leave within a short timeframe and be taken immediately to the airport.

Immigration restrictions often prevent foreign fishers from leaving port and, in some cases, may prevent them from even being able to leave their vessels. Fishers may be concerned about their legal status in a country if they escape. Fishers in possession of their documents may not have (or may have been told they do not have) the appropriate visas, which might, when encountering authorities, lead to arrest and detention.³³

For the two men arriving by sea, their legal status was unclear. One man had a passport with a work permit; the other reported having a visa, but was unable to provide details of the type of visa and its validity.

**Arrival and embarkation**

Upon arrival in South Africa, all of the men who travelled by airplane were met at the airport and escorted – most commonly, to the Cape Town port – by representatives of the fishing companies they would be working for. These individuals were usually from China or Taiwan Province of China, there were those from other places as well.

“I flew from Phnom Penh to Korea, then finally to South Africa. [A Chinese man] came to pick us up at the airport. They used their car to get us. They were not the persons who were with us. They were the Chinese agency men.”

“Then when I reached Africa, there was a car that took me to the sea. I knew I was in Africa because I saw a lot of African people and I asked the Cambodian people who went there before me and they said it was Africa. The person who picked me up at the airport was a white person but I don’t know where he is from and what language he spoke.”

³³ In a study of Ukrainian seafarers trafficked at sea, one Ukrainian fisher managed to negotiate his release from the Russian crabbing vessel on which he was trafficked and made his way home by borrowing money from his Russian colleagues. When asked whether he considered seeking help in the Russian Federation, he explained that he did not trust the Russian authorities and was anxious that he should exit the country before his visa expired, fearing he would be arrested as an illegal migrant. Surtees, R. (2013) *Trafficked at sea*, 97.
Some men immediately embarked on their vessels upon arrival at the port and left the harbour. Others stayed for a time on their vessels in the Cape Town port doing preparatory work and being trained on how to fish, as one man explained: “They took us to the port and we stayed there for one month before we were off to the sea. They taught us to do fishing, to fix fishing nets.”

In other instances, men were held in the port area before embarking on the vessel. In some cases, this meant being temporarily accommodated by the fishing company in rooms in the harbour. In at least one instance, this involved being locked up in a room in the port facility with no option to leave at all, under the strict control of security guards, as one man described:

“When I arrived, there was a man coming to pick me at the airport. He called my name then I followed him to the port. I spent three nights on the shore, I was locked in the room. We did not really do anything there. There were black people there, as guards. They did not let us out. We were just covering ourselves with a blanket, inside the room. In the evening they brought a box of rice for me. I was very scared and worried that I would be dead that time, because I did not know where would they take me to. There were only two of us, locked up in that room. They gave one box of rice every day.”

Most men boarded their vessels in South Africa – most commonly in the Cape Town port, but also in the port of Saldanha (60 nautical miles northwest of Cape Town). Some were transported to fishing vessels on the fishing grounds on a

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84 Cape Town Port. This photograph is not of a trafficking situation. It is used to illustrate Cape Town Port where some trafficked fishers have been identified. This photograph is available via a Creative Commons license (https://creativecommons.org/licenses/by-sa/2.0/) through Flickr.
larger ship (a mother ship\textsuperscript{85}), as one man explained of his embarkation: “[The agent] took us to stay at the safe room at the port. After that, they put us onto the big vessel. There were a lot of people on that vessel. There were Filipinos, Vietnamese, Malaysians, Indonesians and Cambodians. They transferred people to different small vessels. Four of us were moved to another vessel.” As noted above, two men boarded their vessels in Singapore and sailed to South Africa.

**Summary**

Travel arrangements for trafficked Cambodian fishers were made and paid for by the recruitment agency, with men receiving their airline tickets at the airport prior to departure. All of the men departed Cambodia by airplane. Most men travelled by airplane all the way to South Africa, transiting in countries such as Malaysia, Qatar, Republic of Korea and Thailand. Two men travelled by airplane to Singapore and then embarked on a fishing vessel in Singapore and sailed to South Africa.

Men who arrived at the airport in South Africa entered the country legally, using passports and temporary “crew visas.” Men applied for these visas themselves upon arrival; none were accompanied as they travelled or assisted through immigration. Crew visas were valid for a short period of time, allowing the men to enter South Africa and subsequently embark on fishing vessels.

All of the men who travelled by airplane to South Africa were met at the airport upon their arrival and escorted to the port by individuals representing fishing companies at the harbour. Some of the men immediately embarked on their fishing vessels upon arrival at the port; others remained at the port for some time doing preparatory work on the vessels and/or receiving further training.

Most men boarded their fishing vessels in the Cape Town port in South Africa, although some departed from other South African ports, and some were transported to the fishing vessels at sea via a mother ship. Two men boarded their fishing vessels in Singapore.

\textsuperscript{85} Also known as a supply ship, a mother ship is a ship that services and provides supplies to smaller vessels at sea.
7. Exploited in South African waters and beyond: The trafficking experience

Figure 6: South Africa’s maritime zones


Destination and exploitation

All of the men trafficked for fishing in this study were exploited on fishing vessels working in or around South African waters. The precise location of where this fishing occurred is unclear, but the exploitation may have been in South African territorial waters (including the contiguous zone), the EEZ and continental shelf area or the high seas beyond South Africa’s jurisdiction. One man was first exploited in the vicinity of South Africa but later sailed on the fishing vessel to the Pacific where he was also exploited for commercial fishing.\(^\text{86}\)

\(^{86}\) Indeed, Giant Ocean sent Cambodian men to work as fishers in a wide range of countries including Fiji, Qatar, Malaysia, Micronesia (Federated States of), Senegal, Mauritius and Singapore. See, for example: Heimkhemra, S. (2013) ‘Fishing Company Owner Awaiting Sentence for Trafficking’, Voice of America / Khmer; and Reaksmey Kongkea, B. (2012) ‘Fishermen repatriated in growing numbers’, Phnom Penh Post, 16 July.
Offshore fishing in South African waters comprises several fisheries. In addition to inshore and mid-water trawl fisheries, the demersal deep-sea trawl fishery targets Cape hakes and is South Africa’s most valuable commercial fishery. The pelagic fisheries target anchovy, pilchard, round herring and other species and tend to be the largest in terms of volume landed. Most relevant to this study are South Africa’s line fisheries, which target albacore tuna, yellowfin tuna, tuna, shark and swordfish. Historically, foreign vessels (mostly from Japan and Taiwan Province of China) dominated the tuna, shark and swordfish subsectors in South Africa, with approximately 130 permits issued to foreign vessels annually. That being said, foreign-flag permits to fish in South African waters are no longer issued to longliners unless the vessel operates in a joint venture with a South African rights holder.87 This seems to indicate that the men in this study would have been fishing outside of South Africa’s EEZ, targeting the same species (albacore tuna, yellowfin tuna, tuna, shark and swordfish) but deeper in the ocean (i.e. on the high seas).88

Questions remain about the knowledge and complicity of South African fishing companies in the exploitation of Cambodian fishers. Whether acting as the actual employer (as vessel owners, operators or managers) or as a South Africa-based agent for a foreign employer, the fishing companies in South Africa’s ports (particularly in the Cape Town port, which served as a hub for most vessels considered in this study) played some part in the fact that the men were fishing in and around South Africa, be it working with Giant Ocean to fill positions on vessels hubbing in South Africa’s ports or representing foreign vessel owners in dealings with the men once they returned to port in South Africa.

**Types of vessels and types of fish**

All men worked on long haul fishing vessels, spending long periods of time at sea and sometimes travelling quite long distances. It was often difficult to determine from interviews with the men the specific type(s) of vessels that they worked on board of and the types fish that they targeted. A number of the men described working on quite large vessels. One referred to his vessel as “that giant vessel,” with about 30 crew members, and spoke nostalgically about the small fishing vessel he had previously worked on in Thailand: “The vessel was large, about 15 metres in width and about 100 metres long. It was big and stable, even the waves were big but could hardly shake it.”

The same man estimated that each day the fishing vessel he was trafficked on took on between 500 kg and one tonne of fish. The fish caught were large – one type (which one fisher called “jing chi,” a variant of the fish’s name based on

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88 The men may have been joint-venture vessels with a South African fishing company. However, it was also possible that they were on foreign vessels engaged in IUU fishing in South African waters (e.g. fishing in South Africa’s EEZ or continental shelf area without a permit to do so).
Chinese spoken on his vessel) generally weighed between 50 and 60 kg and sometimes even up to 80 kg; another type (which the fisher called “ta mou,” also apparently in Chinese) weighed about 100 kg each. While none of the men specifically identified the types of fish targeted (perhaps because they did not know them or because they did not understand the language of the names used), it seems likely that they were often fishing for various species of tuna, as tuna are an important commercial species in the oceans around South Africa and tuna longliners target larger, sashimi-grade fish (25 kg and heavier) that swim deeper in the water column. From the descriptions the men gave, it seems that some also fished for shark and for various other species of smaller fish.

Not all men worked on such very large vessels. One man worked on a vessel that he estimated to be about 40 metres in length and ten metres in width, with about 30 crew members. Another man estimated his vessel to be about 30 m in length, likely a longliner based on his description of the work done and the structure of the vessel:

“The work there was really difficult and we didn’t have time to sleep, we worked day and night, after two years plus of untying those fishing lines, my fingers have become that curled [showing fingers]. Those were long lines, about 60 metres.”

“When the fish bit the hook, the bell rang. If it’s shark, it tells that it is shark. The process was so fast. When the fish bit the hook, it was rolling up from the water very fast, then the crew start[ed] to bring the fish up and everyone were doing their job like untying the net. For me, I was in charge of carrying the lines for two months, from the front to the back of the vessel. It was so heavy, really extremely hard...They were heavy enough to pull the vessel to be unbalanced to one side...The length of the vessel was about 30 metres.”

Most vessels had cold storage on board, generally for storing until they transshipped the catch at sea, but sometimes also for storing the fish to bring to port. One man described the layout, facilities and crew of the vessel he worked on:

“I saw fishing tackle, a generator, a refrigerator, a computer and where they stored fish in very cold place at the bottom of the boat. I saw that they used a phone, only the Captain and controller owned. It was 5 by 35 metres. There were 38 people, three Cambodian, six Filipinos, four Indonesians, four Chinese and seven Vietnamese.”

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89 “Tuna” in Chinese is jīnqìngyú. The average size of the albacore tuna is about 1.4 me and can weigh up to 60 kg.
**Vessel names and flags**

About a third of the men were able to recall the name (or number) of the vessel that they were on while trafficked. Others, however, were not, either because they could not read, did not understand the language the name was written in or could no longer remember the name, as illustrated in their observations below:

“It had a name but I could not read the vessel’s name. It was written in Chinese and English. My Khmer co-workers could read it. I thought it belonged to the Japanese.”

“I did not remember the name [of the vessel] as I am not educated. I can’t read.”

“I do not remember the name of the vessel. It belongs to the Chinese.”

The above descriptions illustrate the difficulty faced by authorities when trying to identify men trafficked on vessels, who may not be able to adequately and clearly explain where and how they can be found. It also potentially poses a challenge in terms of subsequent legal action.

In addition, not uncommonly vessel names are changed on vessels in the IUU fleet. One Indonesian man trafficked to South Africa for fishing explained how he had repainted the name of the vessel he was exploited on at least three times while at sea, all in order to avoid detection.90

Some men were able to recall (or at least describe) the flag (or flags) flown on the vessel where they were exploited.91 Of the eleven men who provided an answer to this question, four reported being on a Chinese-flagged vessel; one reported that there was no flag on his vessel; and three described flags that did not match any country flag. Additionally, three men reported being on vessels that flew different flags depending on their location – two men were on vessels that flew the flags of South African and Taiwan Province of China; one man was on a vessel flying the Chines and Japanese flags.92 As one man explained:

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91 During interviews, respondents were first asked which country flag was flown on their vessel and then shown pictures of different country flags. Most men were able to name the country to which the flag belonged and the picture they then selected was consistent with this.
92 Questions arise about when and why the vessels flew two different flags. In Article 92 of the United Nations Convention on the Law of the Sea (UNCLOS), vessels “shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in this Convention, shall be subject to its exclusive jurisdiction on the high seas. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.” According to information about the Cape Town port, South African and nationality flags are to be flown upon entry into the port, which might explain the flying of the South African flag along with the flag of Taiwan Province of China. It’s also possible that they were joint-venture vessels between South Africa and Taiwan Province of China. See: Panargo Shipping (2006), Cape Town Port Information, available from www.panargo.co.za/wp-content/uploads/2011/06/ct.pdf. However, the only other situation in which a vessel would legally be allowed to fly
“They put a different flag when they arrived in a different place or port. I did not pay attention to it. In the middle of the sea, they did not put up any flag. I cannot remember any flag’s colour. When we reached any shore that we could see the lights of a city or so, they would put up the flag. I can hardly recognise the flag even if I see it, but I can recognise the captain clearly.”

Because at least two men reported being on vessels flagged to South Africa (and Taiwan Province of China), this implies that labour laws in South Africa would apply aboard those vessels. How labour laws on fishing vessels would be enforced, however, is unclear. It is also important to take into account the fact that Taiwan Province of China is considered a flag of non-compliance (FoNC), and there have been reports of abuses in the IUU fleet by vessels owned by persons from Taiwan Province of China and flying the flag of Taiwan Province of China.

A few men identified the nationality of the owner of their vessels, which, in some cases, was different from the flag that the vessel flew. Vessel owners were mostly from China, Japan and Taiwan Province of China, although it is unclear to what extent the men were in a position to know this specific information. Vessel ownership is significant in these cases, as the vessel owner could perhaps be considered the employer. Moreover, vessel owners certainly have a role to play in better monitoring the recruitment process and identifying exploited and trafficked workers on board their vessels.

Some men identified the nationality of the captain on their vessel, although this was not clear in all cases. Most commonly, as reported by those who answered this question, the captain was from either China or Taiwan Province of China, with two captains from Japan. Furthermore, in the case of China and Taiwan Province of China, it was not clear if they could distinguish between captains from China and captains from Taiwan Province of China (or the languages they spoke). In many cases the flag flown and the nationality of the captain were the same (in these cases, both the flag and the captain were from China). Senior crew were primarily from China, Taiwan Province of China and Viet Nam.

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93 South Africa requires employers in the fishing industry to adhere to labour laws and provide security for line fishers (South African Department of Environmental Affairs (2013), Fishing Rights and Permits, webpage, available from www.westerncape.gov.za/service/fishing-rights-and-permits). Notably, South Africa has also ratified the Work in Fishing (WIF) Convention, although the WIF Convention is not yet in force.


95 There is uncertainty regarding the identity of the actual employer in cases where an employment contract has been signed with a recruitment agency and not the vessel owner, operator or manager (de Coning (2013) Caught at Sea, 18).

96 It is not clear to what extent the men were able to distinguish between the Mandarin Chinese spoken in Mainland China and Taiwan Province of China. None spoke either language at the time of recruitment.
Crew on the vessels were often mixed – from Cambodia, China, Indonesia, Malaysia, Myanmar, the Philippines, Taiwan Province of China and Viet Nam. Cambodian men reported that fishers were treated and paid according to nationality, and fishing vessels seemed to include a mix of trafficked and non-trafficked fishers. Not all fishers on board seemed to have been trafficked or even exploited. One man, for example, learned from one of the Vietnamese fishers he was working with that the Vietnamese fishers were paid USD 500 a month, whereas Cambodian fishers received no pay at all. He also described how the Filipinos on the vessel were better treated or, as he put it, “loved by the Captain” because “the Filipinos worked well because they had a lot of energy and strong bodies.” Other fishers also described discrepancies in treatment and payment by nationality. Said one man: “They loved Vietnamese fishermen more than others... When Vietnamese sat, they said nothing. When Cambodians sat, they hit them.”

**Working conditions on the vessels**

Deep-sea fishing involves long hours of physical activity in harsh conditions. Fishers are primarily responsible for catching the fish. This means that they will both cast and haul in fishing nets, lines and sometimes pot traps (“pots” or portable traps used to catch small fish). On drift netters, fishers may be responsible for “splicing the ropes,” which is very physically demanding work that involves putting a spike into the rope (the line being extended to sea) and creating a loop to attach a trawl (the net used for trawling). If working on a longliner, fishers will prepare the line and bait the hooks for the line with fish, squid or other bait. Depending on the size of the vessel, this may mean preparing the bait (e.g. cutting up fish) and baiting by hand hundreds or thousands of hooks on a single series of connected lines many miles in length every time the line is cast. On all deep-sea fishing vessels, fishers will work as the nets or lines are cast out, physically keeping the lines or nets from twisting as they extend from the boat.
When the line/trawl/net comes back in (usually each day) fishers have to manoeuvre the catch on board. The fish are removed individually from the longline or dumped from the net and the fishers have to prepare the line or net to be cast again. Fishers will have to detach the catch from the line or net and separate the targeted fish from bycatch. For boats that process fish on board, fishers will gut and clean fish prior to putting them in cold storage. Fishing yields are highly dependent on the skill, speed and stamina of fishers on board.

Fishers also often undertake maintenance tasks while at sea, such as mending the nets or longlines by hand. Depending on the size of the vessel, they may also operate and maintain machinery on board (e.g. to manoeuvre nets and other equipment). This can be very dangerous work and the cause of many injuries.

Cambodian fishers trafficked off the South African coast did a wide range of tasks related to all aspects of fishing and operating the vessel, as men described:

“I learnt fast, after months I could prepare fish. That was a difficult task that was not easy to learn. The captained promised us that we could get some benefits while working. He said would give USD 30 per month for putting in net and also another USD 30 for pulling

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99 Fish on deep-sea fishing vessel. This photograph is not of a trafficking victim or trafficking situation. It is used to illustrate situations that trafficked fishers may encounter when trafficked at sea. This photograph is available via a Creative Commons license (https://creativecommons.org/licenses/by/2.0/) through Flickr.


up nets. All of these promises turned nothing when I arrived at the port. At the beginning I pulled the net. After I was able to prepare fish, I did that job forever.”

“My job was to prepare the bait, gut the fish and gather the fish to be placed in the freezer.”

“I tied up the broken nets, arranged the fishing line, spread the net and so on. I didn’t get to rest from the time that I arrived there. I had to work all the time during that nine months.”

“It took us half a month before we reached the fishing spot. On the way, I was in charge of the machine [that puts out the longline for fishing], so I washed the machine, cleaned it, roll the rope, tight up the fishing net, fix the machine...we did fishing, pull the fish on to the ship, organise the fish, froze them, spread the fishing net and so on.”

All Cambodian fishers described very harsh working conditions while on fishing vessels. This is particularly striking as most of the men were accustomed to hard manual labour at home, in construction and agriculture. A particularly compelling observation came from two older men who lived through the Pol Pot regime and drew comparisons between life at that very brutal time in Cambodia and work on the fishing vessels:

“I was so happy when I could get back home [to Cambodia]. I still remember the working conditions [on the vessel] were so bad. It was harder than the Pol Pot Regime. Pol Pot gave us enough time to rest, but on the vessel it was much less.”

“Even when we were sick or injured, they still forced us to work... It was more brutal than the Pol Pot regime. Pol Pot gave us time to rest, at least one or half an hour to rest, but this not. [On the fishing vessel] if they saw that we were free, they made us busy. My legs and arms were so sore, so stiff.”

The men generally worked a minimum of 18 hours a day and approximately half of them reported working 20 hours a day or more. Fishers worked every day of

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103 Pol Pot was a Cambodian communist revolutionary who led the Khmer Rouge (or Red Khmer) in an insurgency against the Lon Nol government. Pol Pot became the leader of Cambodia in 1975 when his forces captured Phnom Penh. From 1975 to 1979, the Khmer Rouge regime repressed the people of Cambodia on a massive scale, subjecting them to what has been recognised as genocide, which resulted in the death of an estimated two million Cambodians. Pol Pot imposed a radical form of “agrarian socialism,” evacuating the cities and forcing all Cambodians to labour on collective farms and other projects in the countryside. They worked as unpaid labourers, living in conditions of virtual slave labour, suffering starvation, injury, illness and the constant threat of execution. The Khmer Rouge was overthrown in 1979.
the week with no days off. They described arduous and exhausting work and the stress of never having enough rest:

“They told us that they would pay for the overtime for us. In fact, it was like overtime every day! Overtime for full two years! We worked for 18 hours a day. We had only six hours to sleep. However, the exact time that we had for sleeping was really only four hours because we had to spend time for eating and taking a shower and everybody felt dizzy when they woke up.”

“I worked from the morning until night. I had two or three hours to relax. I worked without weekends [off].”

“I could only sleep one or two hours every day. I worked from three o’clock in the morning until twelve o’clock at night. I caught fish, pulling up the nets. I could not get enough sleep. [I was] so very tired!”

“Every five hours, they allowed us to rest for five minutes.”

“I could sleep for about four to five hours per day in a bunk bedroom with four other men. Sometimes if we were busy we worked for 24 hours.”

“Life was terrible. We worked day and night without sleeping. It was all heavy work.”

“We could sleep only one or two hours per night. If there was a sea storm, we stood under the storm for the whole day and whole night.”

The men were forced to work even when sick, injured or exhausted and were beaten if they were caught resting:

“I was working so hard. I slept only one or two hours, then they woke me up to work. Working without weekends for months and years! Some nights I did not sleep. I stood up 24 hours to put out the [fishing] nets. They would not allow us to sit otherwise we would be beaten. They used strong words. I could not understand the language, just that they were shouting violently. The captain saw me falling asleep, he approached to hit me, he slapped on my face. I dared not to go against him because I was in the middle of the sea.”

“While standing for work, we were falling asleep. So they blamed us, beat us. There was no time to rest, no weekends. Even when we were seasick, they still made us work.”
“When we were standing guard on the front deck and we almost fall asleep, they saw us and came down to beat us. We were tired because we worked nonstop morning until night then until dawn without sleeping like this. After we collected the fishing lines to place in the warehouse, a while later...here they were again [to be collected]. How could we not be sleepy!”

In addition to the difficult and abusive work conditions, men struggled to adjust to life and work at sea – which involved seasickness, harsh weather conditions and exposure to the elements. Trafficked fishers faced a great deal of difficulty in this adjustment, as one man described his experience:

“I could not eat my meals for half of the month because I was seasick. They still forced men to work even when they were sick. They did not do any harm to me as I was older. The captain gave me two tablets and allowed me to sit on the vessel without doing anything. I was in difficult state at that time. When the wave hit the vessel, I almost fell into the sea. I said to God that if could go back to my country, I would offer you a grilled pig.”

The only time off that Cambodian fishers had was when they came to port, which was extremely seldom. One man trafficked for three years entered the port only twice in this time; another was in port only once in nine months. Even then, some of the men described their time at the port as very taxing – having to offload fish, repair or clean the boat, fix the fishing lines and perform other duties. One man described how it would take three days to offload fish from the vessel before leaving the port again. Another fisher described his time in port as such: “When the vessel hit the shore [came to land], we also didn’t get to rest. We have to bind and tie the strings day and night until one or two at night.”

Not only were the working conditions harsh but Cambodian fishers were also exploited for long periods of time. Some were exploited for several months but, not uncommonly, fishers were exploited for periods of up to three years. In this time, the men spent long periods of time at sea, seldom coming to land.

Table 4: Length of time trafficked on fishing vessels

<table>
<thead>
<tr>
<th>Length of time trafficked</th>
<th>Number of fishers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 1 year</td>
<td>7</td>
</tr>
<tr>
<td>1–2 years</td>
<td>7</td>
</tr>
<tr>
<td>2 years</td>
<td>3</td>
</tr>
<tr>
<td>3 years</td>
<td>1</td>
</tr>
<tr>
<td>Incomplete, imprecise or unclear information</td>
<td>13</td>
</tr>
<tr>
<td>Total</td>
<td>31</td>
</tr>
</tbody>
</table>

104 This is a traditional practice of praying for assistance and then giving offerings to repay the assistance.
**Occupational health and safety**

Cambodian fishers suffered various injuries and illnesses as a result of the hard and often unsafe working conditions on board the vessels. Men reported various injuries and illnesses as a result of poor and harsh working conditions.

Fishers on long haul fishing vessels frequently experience injuries to their hands, such as cuts and wounds from processing fish or placing hooks on fishing lines or from getting hands and fingers caught in nets, processing equipment, unguarded machinery, winches, augers and bait choppers. Cambodian men reported suffering a range of such fishing-related injuries:

> “Once my hand was running into the finishing net machine, my finger was broken. In spite of my hand becoming swollen, they asked me to carry the fish basket and put it [away].”

> “The work there was really difficult and we didn’t have time to sleep. We worked day and night, after two years plus of untying those fishing lines, my fingers became curled.”

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106 Longline hooks. This photograph is not of a trafficking situation. It is used to illustrate the type of work that trafficked fishers may be required to undertake while exploited at sea. This photograph is available via a Creative Commons license (https://creativecommons.org/licenses/by/2.0/) through Flickr.

“They stored fish at the lower part of the vessel. The fish froze within five minutes. For the men who prepared fish in the freezer, they had to wear very thick clothes otherwise they would be frozen like the fish.”

Fishers are also prone to getting frostbite from working in the freezer/ice storage on board a vessel. Men generally work in these cold rooms with no cold weather gear, at temperatures below –30° C.\textsuperscript{108}

At times, the poor working conditions had fatal consequences for fishers. One man described the death of three men working on his vessel when one of the machines on the vessel malfunctioned: “I saw three men die on the vessel. They were working in the fish freezer when the freezing machine exploded. They threw the bodies into the sea. I was so scared... I saw blood on the wall.”

Given the very long hours that the men were forced to work and the severe sleep deprivation suffered over long periods of time, it is not surprising that accidents and injuries occurred. Being exhausted (and often seasick) in the hazardous work environment abord a fishing vessel puts individuals at risk of lacerations, deep bruises, broken bones, internal injuries, amputation and even death. Fishers are at constant risk of losing their balance and falling overboard. Research conducted on foreign charter vessels in the New Zealand EEZ found fatigue to be a common cause of accidents, as one respondent described: “I saw that [man] was sleepy in front of the fish cutting machinery and his hand was cut. I myself got cut by the wire when I worked on the deck when I was sleepy and I even fainted at that time.”\textsuperscript{109}

Cambodian fishers exploited off the South African coast did not seem to have appropriate gear and equipment for working on fishing vessels. None referred to receiving equipment like goggles, safety harnesses or wet/cold weather gear. One man described layering his clothes to keep warm in the freezer, presumably because suitable weather gear was not provided:

“My hands still have some scars from brushes because I wore gloves working in the salty sea. My legs too. I wore three layers of clothes together, only my eyes were left. I wrapped up my whole body. It was so cold. They asked me to prepare fish in the lower part of the vessel where they stored fish. It was freezing. I could not stand it, I thought I would die.”

\textsuperscript{108} On the particular dangers of working on fishing vessels with freezers, see, for example: Lucas, D.L., et al. (2014), “Work-related traumatic injuries onboard freezer-trawlers and freezer-longliners operating in Alaskan waters during 2001–2002”, American Journal of Industrial Medicine (DOI: 10.1002/ajim.22310), which notes that handling frozen fish caused nearly half of all injuries aboard commercial freezer-trawlers and about one fourth of the injuries on freezer longliner vessels operating off the coast of Alaska.

One Cambodian fisher described falling ill because of exposure to the elements – working in driving rain without rain gear or warm clothes. This is consistent with research on foreign charter vessels in New Zealand’s EEZ, where many crew members reported that they were issued with only one set of wet weather gear for their two year contract, one set of gloves per month and no safety goggles, earmuffs or safety harnesses.\textsuperscript{110}

Another Cambodian fisher described the dangerous conditions when the weather was stormy and the seas were rough, causing waves to come onto the deck and, in some cases, resulting in illness and injury: “The vessel was so fast and if we fell, we wouldn’t survive. The waves were also very big. There was rain and storms almost every day”. He added: “When the big waves hit the vessel, it sounded like “bang bang,” just as noisy as a bomb. We were getting used to it, being tired and sleepy, so we were even able to sleep with that [noise from the waves].” None of the Cambodian men off of South Africa referred to having life jackets or access to life buoys while on the vessels. Research on conditions of the fishing boats in Thailand also noted injuries and death of fishermen during bad weather. One Cambodian fisher noted:

“It is especially dangerous when there are high waves that spill over the deck, destroy equipment and splash people overboard . . . Sometimes, the waves are so big that one feels dizzy and falls in the sea without other people noticing it, for example, when it happens during night-time or when everybody else is asleep. The body then gets lost in the sea. Sometimes we return to look whether we can find the body. Some of them manage to stay alive by clinging to a piece of bamboo and eating small crabs.”\textsuperscript{111}

**Living conditions on the fishing vessels**

Living conditions on fishing vessels were substandard – unhealthy, unhygienic and inhumane. Men talked about suffering as a result of a lack of (or poor quality) food and lack of potable water.\textsuperscript{112}

“It was difficult. There was only fried food. It was tasteless. They cooked fish from the sea and boiled it [in] fresh water, which was taken from the land. They saved this water. They did not allow us to drink fresh water. We could drink from the soup they cooked. [We had] no spoons, we used chop sticks to pick food up from small rice bowls. They only gave us such a small bowl of food. If we were not careful while the vessel was not steady, that was it for the food. No more! I once spilt my food when the wave hit the vessel.”


\textsuperscript{112} In only one instance did a respondent report not being deprived of food while trafficked on fishing vessels of the coast of South Africa.
“We had nothing to eat, just [enough food] to survive. There was no regular meal time. It was three meals per day but not at regular times. We sometimes took turns to eat. The meal provided was just enough to survive, no taste, just plain taste, just to make us full so we could stay alive.”

“They cooked one chicken for 30 fishermen. [There was] enough fresh water. In the morning they cooked rice porridge and rice in the afternoon and evening.”

“They provided us with meals two times per day and we got some cakes at night. I never had enough food and fresh water.”

“We ate two times a day. Cambodian people ate together. There are twelve Cambodians including me on the vessel. The food was pork, beef, fish head and other things I didn’t recognise. We ate the same food every day. Before the vessel hit the shore, they ran out of rice and they let us eat steamed buns with the food. And sometimes we had to sleep without eating. They treated us badly. I wondered why they didn’t buy the rice from the other vessel. We drank fresh water and took showers with salt water. For the drinking water, sometimes it was not enough. However, I wonder how could they purify the fresh water out of the vessel through a small pipe? If we wanted to drink, we have to ask for their permission. We needed to have our own container and take it to them to fill the water up for us. We asked from the vessel guard.”

Living quarters on board the fishing vessels were cramped, with not enough room sometimes for men to lie down. As one man explained: “There was room for us, like a shelf. Each room there were four or eight people. The space was not enough for us to lie straight. We had to bend our back, sitting in that bed. It was just enough space for our body and legs...It was like a cage”.

Men also described living quarters that were dirty and unhygienic:

“We had a place to sleep but there were so many bugs, [it was] so hard to sleep. There were ten people in my room, [it was] so crowded, just enough space for our body. There were bunk beds.”

“I could sleep only two hours per night but I could not sleep at night. There were a lot of bed bugs. I just kept watching the bed bugs during my sleep.”

Some men became ill because of the substandard living conditions and described being unable to maintain a reasonable level of personal hygiene. One man spoke about the impact of bathing in seawater on his body: “Because of taking
showers with salt water, my leg became swollen… We wore the big boots night and day and our feet were swollen. We worked until we got sick and were not able to work anymore. Then they called us to take the medicine. After using the medicine, we still have to work again even though we were still sick”. A number of men returned home with skin conditions because they were only able to bathe in saltwater from the sea. One man described being so desperate to bathe in fresh water that he sometimes saved his drinking water (which was always in very short supply) for bathing his body.

Other men became ill because of inadequate or unsanitary food and water. Service providers in Cambodia also reported that some of the men they assisted were forced to cook bait to avoid starvation. One man came home malnourished after being fed only once or twice a day over a period of almost two years working on the vessel.

Illness and injuries were sometimes untreated or improperly or inadequately treated. One man’s broken fingers went untreated; another had an untreated head injury. While men were generally given medicine when they were sick, language barriers between captains and trafficked fishers meant that communicating their health problems was challenging and any “diagnosis” was likely imprecise. The men generally did not know what medicine they were being given and were therefore hesitant to take it, as one man recounted:

“When we were sick we could ask the captain for medicine. But we sometimes did not because we did not know what to tell him about our sickness. They sometimes gave the wrong medicine and we were still sick. But they still asked us to work even while being sick. No one knew how to tell him, just show him with body language, and they gave medicine, just pointed to the stomach or head.”

**Experience of abuse and violence on fishing vessels**

All but 2 of the 31 Cambodians in this study experienced physical abuse and violence while trafficked on fishing vessels in the oceans around South Africa. The pervasive and extreme use of physical violence was also documented by service providers in Cambodia who assisted the men after their return. Men described a wide array of assaults and abuses perpetrated against them – being hit with hands and fists, beaten with batons and bamboo sticks, and attacked with other types of weapons. Some of their experiences are shared below:

“They had their [surveillance] cameras to control our activities. If they saw any one was lazy or sleepy, they approached them to hit or knock them... [Another] Cambodian fisherman who was in different boat... was hit by a knife on his shoulder. He showed me. He told me when the vessel got to the port.”
“I was hit by a controller. He is responsible after the captain. [He] used the fishing gaff to hit me on my head... When the manager hit me, the crew helped to stop him to beat me. They came together to help me. One man told him to get away from me and then he went away. That guy hit me two times while I was working on the vessel. The second hit was when I could not catch the fish and the fish got away. He hit me with a bamboo stick on my back two times. It was so painful.”

“[The controllers] hit every one if they worked slowly or were lazy. He hit one man with a wooden stick and he fell into the sea. Five men help him back from the sea... They hit other fishermen, sometimes they returned the hit because they were big, but we are Cambodian, we did not return hit to them because we were only three – less than them. Three of us were hit by them. I did not know why he hit me. I was working, he beat my head. I walked up to the room. He followed me and hit me. I just bare that experience till I could come back home. Sometime they hit when I was late after the meal. The controllers also hit the vessel master, the captain shouted at them, they shouted back to the captain and the captain said nothing then. One day, he hit me on face. It became bloody and swollen. The captain called me and gave medicines. I could not walk until I got medicines.”

“Cambodians were beaten more than other nationalities...They used several items to beat us such as baton, knives and so on... If we could escape when they beat, it was fine. If not, we would be injured. One of the Cambodian fishermen was beaten until he lost consciousness. [There were] only three Cambodians on the vessel, not one dared to help.”

“If we did not work, they would beat us. If they did not see us for a while, they would look for us and they would make trouble or beat us. Those workers beat me on my head, the scar is still here now. I was sleepy, standing near the table... We were all sleepy, when we passed stuff from one to another, something fell down, I did not know why. They just immediately beat me. They were bigger. There were four of them... they hit me on my head, with a long metal [rod].”

Incidents of physical violence were often linked to working too slowly or not well enough, as judged by the captain and senior crew. Men were also beaten for falling asleep or resting too long or too frequently, as more than one man explained:
“No, they just ordered us to work all of the time, day and night. The Cambodians did not get to sleep. While we were watching out [for fish to be caught] and if we fell asleep, the captain would come down to beat us. He hit me twice when I was on the vessel when I almost fell asleep. He hit me with fists on my back. He once wanted to hit me on the head but I avoided so it was on this place instead. He hates Cambodian people terribly. We Cambodians were not lazy and I don’t know why he hates us so much. We were so mad. He hit one other man because he almost fell asleep like I did, while we standing guard [watching for fish] in the front of the vessel. He hit [my friend] too because of the same thing. When he saw us almost fell asleep while on guarding, he opened the window and hit us. We cannot hit back.”

“They hit, kicked fishermen when they worked slowly. Sometimes Cambodian fishermen were hit on the head until we bled. They used sticks to hit or sometimes they used the fishhooks.”

The inability to understand instructions because of language barriers also exposed Cambodian fishers to regular violence, as punishment for not working well. One man described being beaten when he could not follow work instructions: “The three of us were beaten up. From the beginning, we did not know how to do things, we did not know the language well so we were slow, so they blamed or beat us. We sometimes used body language. They used theirs hands to slap our faces or kicked us...”

In some cases, violence seemed to have been used as a means of controlling the fishers and maintaining constant fear and submission among the crew. As one man explained: “Sometimes they [the controllers] walked pass and kicked without any reason.” Violence was also a punishment for “misbehaviour” as defined by those in control of the men. One man described an episode involving a man who had started a fight on the vessel, who was almost beaten to death by the captain in front of all of the crew, as a “lesson” to both the man and the crew as a whole:

“One of the vessel deputies was “chopped” on his head in a few places by the other [man]. He was angry that he asked him to do so much work while he was exhausted and sleepy too, so he got angry and “chopped” the deputy. The deputy reported this to the captain and he called everyone for a meeting at night time. Then the captain pulled him out in the middle and beat him almost to death... The captain beat him to threaten others.”
All men reported some form of psychological abuse\textsuperscript{113} – being yelled at and insulted, being threatened with abuse, violence and even death. One man, for instance, reported being beaten regularly by the captain of his vessel, who also threatened to kill him on a number of occasions – threats that he took seriously and that caused him to live in fear. Another Cambodian fisher described being psychologically abused on the vessel: “They would not allow us to sit; otherwise we would be beaten. They used strong words. I could not understand the language, just that they were shouting violently”.

None of the men reported experiencing or witnessing sexual abuse on fishing vessels while they were in the exploitative situation. However, service providers in Cambodia have assisted a small number of male victims who reported being sexual assaulted while trafficked for fishing. Other studies have also found indications that sexual assaults may have taken place. Disclosure of such incidents may be inhibited by social perceptions in Cambodia that men cannot be raped or by men’s own fear of stigma, discrimination and blame should they report such incidents.\textsuperscript{114} This aspect of sexual violence within trafficking experience is commonly documented among women and is less commonly noted among men. It is unclear to what extent this is due to a bias resulting from what questions are asked of female versus male respondents, as well as what women versus men are willing to disclose to service providers and researchers. This issue merits careful attention, not least because it severely impacts an individual’s physical and psychological recovery and (re)integration.

Although different from the violence used in the trafficking of the men, violence between crew members was also a feature of life aboard fishing vessels and added to the fear, stress and anxiety that they experienced. A number of men reported fights and violence between crew members, and a generally tense and often violent environment on the vessels. In many cases, fights seemed to play out across national lines – with solidarity within one nationality and conflict among traditional national rivals. One man described a number of violent fights he was in during his trafficking experience on the fishing vessel and being afraid for his life while on the boat: “I was worried in case they killed me and threw

\textsuperscript{113} Psychological abuse, also called “emotional abuse,” is the use of non-physical acts (such verbal aggression, non-verbal aggression, symbolic abuse/aggression, threats, limits to the victim’s well-being, and so on) to inflict mental harm. Psychological/emotional abuse can result in significant psychological injury (e.g. in studies of abused women, the women reported psychological/emotional abuse to be as harmful or even worse than the physical abuse suffered). Psychological abuse encompasses verbal abuse, which is a specific form of aggression: that of using words or verbal acts to abuse a victim. See: Mouradian, V.E. (2000) \textit{Abuse in Intimate Relationships: Defining the Multiple Dimensions and Terms}, National Violence Against Women Prevention Research Center.

\textsuperscript{114} One study of sexual abuse of boys and young men in Cambodia documented the ways in which Cambodian culture and notions of masculinity impact upon the reporting of and responses to sexual violence of boys and men. For example, boys and men are expected to be able to protect themselves and/or overcome problems very quickly. There are also different notions of virginity and honour for Cambodian boys than for girls, such that male sexual violence is not taken seriously or considered harmful. Critically, once a boy’s sexual violence becomes known publicly, the boy often becomes the target of discrimination, mockery and jokes from people in the community, resulting in further isolation and marginalisation. Hilton, A. (2008) ‘I thought it could never happen to boys’. \textit{Sexual abuse and exploitation in Cambodia}, Phnom Penh, Cambodia: SSC, Hagar and World Vision.
my passport with me to the sea. I watched out every second when I slept and worked because I did not know who hated or loved me.”

**Payment of salary and withheld wages**

A critical element of the exploitation reported by Cambodian fishers sent abroad through Giant Ocean, was receiving little or no payment for their months and years of work. Most men, at the time of signing their contract, arranged for their salaries to be paid directly to their families in Cambodia, as one man explained:

“The company asked us if we wanted to take the salary ourselves or let the family take it. I told them that I wanted my family to have it because [my wife] had to support my children while I was away. For me, I thought I would get food to eat for free and I might earn extra money from the overtime, so I thought I would save it and just leave it for my wife to take.”

Because the men were at sea for months and even years on end, they were often unaware that their salaries were not remitted to their family members.

Some men described how they never received any payment for the work they did on fishing vessels off the South African coast, as one man’s experience illustrates: “They said that, while we are working there, our parents would be the ones to take the salary from the company here [in Cambodia]. I was there for several months, they never gave any money to my parents. My parents were looking for their office, but they already moved. They even called, but could not call in.”

In other cases, the men’s salaries was paid to their family in Cambodia for an initial period after their departure but then payments ceased – often after one to three months. One man explained what happened with his salary: “For the salary, they promised I would get USD 100 a month there for living and the other USD 100 was for my family to collect from the company. When my parents came to take the money, the company was gone. They got only the salary of USD 150 for the first three months!” When family members stopped receiving salary payments, they generally contacted the recruitment agency – telephoning or even visiting the office. Some dialled the number, only to learn that the number had been disconnected. Others went to the office in the capital, Phnom Penh, to find that it had closed and the staff had disappeared. Trafficked fishers generally only found out about the deception when they came to port and called home. As one man explained: “When my vessel came to port after three months, I called my wife. She said the recruitment agency ran away already. I also did not get my salary. I told my captain about this, he said he already paid to the agency.”

Some men received more in payments than others, but, in all cases, the amounts received were nowhere near the amounts agreed in the contracts. For example,
one man should have received a sum of USD 10,000 for three years of work on the vessel (USD 150 per month, plus bonuses for extra tasks and work at the port). He received only USD 300. Another man received a total of USD 735 for the two-year duration of his contract on the vessel for two years. The amount he should have received, however, was a minimum of USD 3,600 (i.e. USD 150 per month for two years) – and even more, if the extra benefits promised are to be considered:

“It was a three-year contract. If any of us could stay up to three years, the bonus would be extra USD 450 per year. They said, beside the money given to the family, they will allocate USD 960 for us [individually]. But later on, my wife told me that she only got USD 735... In the contract, they allowed my wife to go and take the salary every three months and she received it two times, within six months, two times was altogether USD 735. Then the company ran away.”

Some men received small amounts of money (usually about USD 50–200) from the captain when they came to port (“pocket money”), which they could use to buy new clothes and supplies or to call their families. But, as one man observed, this amount did not go very far in a country like South Africa:

“Then the boss gave me and the other workers USD 200 each to buy stuff before the vessel left the shore. We bought more shampoo, toothpaste, toothbrushes... because what they gave us was not enough for the two years. We spent all our money to buy [these things] because the money was very cheap in that country.”

Some men also received a small amount of money upon their departure from the vessel, in amounts ranging from USD 50 to 300. In only one instance did it seem that the funds came from a fishing company; one man described the payment process as follows: “When we came to shore, I received USD 150 from the captain and some from the other people I did not know. They were talking among themselves, then [the agent] passed me the envelope.” More commonly, men suggested that this was the captain’s money, not funds from the recruitment agency or fishing company. Some also felt that this was some form of kindness from the captain, as he did not appear to have been involved in their deception about salary payments. The above point notwithstanding, these same captains were often complicit in their exploitation and the abuses suffered on the vessels.

In some cases there seemed to have been a discrepancy between what captains or vessel owners paid to Giant Ocean for the salaries of the fishers and what the men were promised by the recruitment company in Cambodia. One man learned while aboard the vessel that the captain apparently paid USD 600 per month for each Cambodian fisher; however, the men were offered only USD 150 by Giant Ocean. Similarly, another man learned from the captain of the vessel...
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he was working on that the captain paid USD 300 a month to the recruitment company (which in turn offered him only USD 150 a month):

“[The recruitment agency] promised me the salary of USD 150 a month in Cambodia. When I was working, my friend, who knew Chinese, as he bought a Chinese book to study, asked the Chinese captain about the salary. He said [that it was] USD 300 per month. He used the fish knife to write [the amount] on the vessel to show me how much the others received.”

These discrepancies in salary raise questions about the level of complicity and culpability in human trafficking of various actors along the supply chain. This is particularly significant given that South Africa’s new trafficking legislation includes a provision for the liability of carriers, which could apply to the captains of the vessels, as well as to vessel owners as carriers. According to the law, if a carrier transports a person within or across the borders of South Africa and knows that the person is a victim of trafficking, or ought to reasonably know that the person is a victim of trafficking, he or she is guilty of a trafficking offence.

Determining the complicity of captains and vessel owners may present potential opportunities for intervention in working with them to better monitor the recruitment process, as well as in identifying exploited and trafficked workers. One captain, for instance, appeared to be outraged when he learned from the Cambodian fishers after they called their families that they had not been paid. He called the agency he used on their behalf and let the men talk with a person from the agency who spoke Khmer. When it became clear that the company had deceived the men, the captain helped the men to return to Cambodia by purchasing their tickets and returning their documents.

**Restricted freedom of movement and use of control**

Work aboard fishing vessels does, by the very nature of being at sea, involve restricted freedom of movement. The men are confined to the fishing vessels for weeks, months and, in some cases, even years on end. Most men were at sea for the vast majority of the time that they were trafficked.

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115 According to Article 1 of South Africa’s 2013 Anti-Trafficking Law, carrier is defined as a person who is the owner or an employee of the owner, agent, operator, lessor, driver, charterer or master of any means of transport.

116 In addition, South Africa’s 2013 Anti-Trafficking Law states that, a carrier who, on reasonable grounds, suspects that any of its passengers is a victim of trafficking must immediately report that suspicion to a police official or investigation.

117 As noted above, there may be uncertainty regarding the identity of the actual employer in cases where an employment contract has been signed with a recruitment agency and not the vessel owner, operator or manager (de Coning (2013), *Caught at Sea*, 18.).

118 In this instance, the captain asked the men to stay and work and that he would pay their salaries himself. The men declined as they didn’t trust him, as one man explained: “The captain wanted us to stay and to take the salary from him from them on, but we did not trust him. We thought even a Cambodian deceived Cambodians, so how about other people with different nationality? So we didn’t trust him.”
Cambodian fishers described how fish were transshipped\(^{120}\) at sea, supplies were replenished from a larger supply ship, and fishers were moved between different vessels while at sea, to ensure that crew with the requisite skills were available on all of the fishing vessels. The movement of men between vessels was also likely a means of control and prevented opportunities for identification by stakeholders and escape in port.\(^{121}\) A very serious consequence of this type of, arguably, illegal crew change at sea\(^{122}\) is that it results in a fisher’s period of work on vessels being extended far beyond what is reasonable (i.e. what is stipulated in their contracts). One trafficked Indonesian fishers identified in South Africa in late 2013 had been at sea for four years.\(^{123}\)

One man entered the port after three months at sea and then not again until his contract of three years was completed. Some men were kept at sea for the

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\(^{119}\) In the remaining 21 instances, information about the number of entries into port was incomplete, imprecise or unclear.

\(^{120}\) Transshipment is the transfer of cargo or fish from one vessel to another for further transit. At sea, fish are usually transshipped to a refrigerated cargo ship called a reefer, which can also serve as a mother ship and provide fishing vessels with supplies.


\(^{122}\) Because South African immigration law requires crewmen to be contracted with a certain vessel when they enter the country (to receive the crew visa), this means that crewmen are supposed to stay on the vessel to which they are contracted (the vessel on which they are part of the crew list). Changing crew at sea is a violation of the seaman’s contract and is, arguably, illegal in the South African context, as it is a violation of the documentation that allowed the crewman to enter South Africa. Crew changes at sea are prohibited or highly regulated by national law in other countries. For example, there are extensive guidelines for changing crew at sea in the merchant fleet in the United Kingdom. See, for example: Step Change in Safety (2014) Marine Transfer of Personnel, United Kingdom: Step Change in Safety. See also Ranjan, A. (2009) ‘Post-26/11, crew change in ships on high seas only at port of call’, The Indian Express, 2 April.

duration of their contracts. More than one man interviewed explained that their escape/exit was only made possible by unscheduled repairs that the vessel needed, which required returning to port.

Even while in port Cambodian fishers were not generally free. They were required to continue working – offloading fish, conducting maintenance and repair of the vessel, mending nets and lines and other such tasks. Their movements were also often restricted and they were often kept under surveillance and control. One respondent working with fishers in South Africa explained the limited range of movement, due to visa restrictions, when in port: “The fishers are allowed on shore, they come on shore, but they are restricted to the boundaries of the harbour. They cannot go out of the harbour. In the harbour they need to have their passports and any other documentation that may be required, so they are allowed to come in.” Yet none of the Cambodian men held their documents while on the vessels; documents were always taken at arrival at the port and stayed either with the captain or with the fishing company at the port.124 While this practice is illegal,125 it is common. Not having documents was a source of considerable stress and anxiety for a number of the men who explained that they had no opportunity to go home even if they could escape, unless the captain returned their documents (an unlikely occurrence).

Also, as noted above, Cambodia does not have a visa-exempt status in South Africa – that is, Cambodian citizens must obtain a visa prior to arrival in the country. Without legal status in the country and with no recognition and identification of their trafficking status, trafficked fishers have been detained as irregular migrants and subsequently deported (which means that they are charged with immigration violations and consequently receive a travel ban in their passports). This occurred recently with 75 Indonesian fishers in Cape Town port – with the men being deported126 instead of being recognised as trafficking victims and offered temporary residence in the country while their situation was being resolved, an option afforded by the new South African anti-trafficking legislation.

124 This has also been noted in other studies of trafficked fishers aboard fishing vessels. See: EJF (2010) All at Sea: The Abuse of Human Rights Aboard Illegal Fishing Vessels, London: Environmental Justice Foundation; and Yea, S. (2012) Troubled Waters: Trafficking of Filipino Men into the Long Haul Fishing Industry through Singapore, Singapore: Transient Workers Count Too.125 See, for example: Alton, R. & Struble, J.R. (2010) ‘The nature of a passport at the intersection of customary international law and American judicial practice’, Annual Survey of International & Comparative Law, 16(1):9–18, which makes the argument that the confiscation and impoundment of passports is a violation of customary international law. See also the Seafarers’ Identity Documents Convention, which states: “The seafarers’ identity document shall remain in the seafarer’s possession at all times, except when it is held for safekeeping by the master of the ship concerned, with the seafarer’s written consent” (ILO (2013), Seafarers’ Identity Documents Convention (Revised), Convention 185, Article 7). Withholding passports from the fishers is also considered a violation of the Convention on the Abolition of Forced Labour (see: Thomas, J. (2011), ‘Employers holding passports is legal grey area’, The National, 28 October). Both Cambodia and South Africa have ratified the ILO Convention on the Abolition of Forced Labour.

In addition, when fishers entered the customs controlled area within the port, their movements would have been even more strictly controlled. This area of the port, within a “controlled security perimeter,” is the most surveyed, with immigration officers stationed to board vessels and clear crews, passengers, goods and conveyances before they leave the perimeter area (in the same manner as they would be leaving an international zone at an airport).  

That said, there were situations when men came into contact with authorities while in port, theoretically affording potential opportunities for identification and assistance. One man described how his vessel was inspected by the authorities each time they entered the port. He also noted, though, that the focus of the inspections was on their catch and no attention was paid to the condition of the men working on the vessel.

**Summary**

Cambodian men were all exploited on fishing vessels working in and around South African waters. All worked on long haul fishing vessels, spending months and even years at sea and often travelling long distances. None of the men clearly specified the kind(s) of fish their vessels targeted, although from their descriptions it seems likely that many of them were on vessels targeting various species of tuna.

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127 Cape Town Port. This photograph is not of a trafficking situation. It is used to illustrate the Cape Town port where some trafficked fishers have been identified. This photograph is available via a Creative Commons license (https://creativecommons.org/licenses/by-sa/2.0/) through Flickr.

Approximately one third of the men could recall the name or number of the vessel on which they worked. Others were unable to read the name of the vessel or to remember it. Some men could recall and describe the flag flown on the vessel where they were exploited; flags identified were of China, Japan, South Africa and Taiwan Province of China. Most captains were either from China or Taiwan Province of China. Crew on the fishing vessels were usually mixed – from Cambodia, China, Indonesia, Malaysia, Myanmar, the Philippines, Taiwan Province of China and Viet Nam.

All of the men were exploited on deep-sea fishing vessels, working long hours in harsh conditions. Cambodian fishers did a wide range of tasks at sea related to fishing and operating the fishing vessels. They generally worked a minimum of 18 hours a day and approximately half of them worked 20 hours a day or more. They were forced to work even when they were sick, injured or exhausted.

Cambodian fishers suffered various injuries and illnesses while trafficked, most as a result of the hard and unsafe working and living conditions on board vessels. The men reported a lack of food and fresh water while they were trafficked. They described cramped and unhygienic living quarters on the vessels.

All but two of the men in this study experienced physical abuse and violence while being trafficked on fishing vessels off the coast of South Africa. All men described suffering verbal and psychological abuse. None reported sexual violence.

The men were trafficked for long periods of time, from several months up to three years, and were confined at sea for the vast majority of the time they were trafficked. During this time they received little to no payment. While many men arranged for their salaries to be paid directly to their families in Cambodia, most never received them or stopped receiving them shortly after the men departed for South Africa. Trafficked fishers generally only found out about the deception when they came to port and called home. Some men received payments but, in all cases, amounts received were nowhere near those promised in their contracts.
8. Leaving the vessel: Exit, escape, rescue and release

Exit, escape, release and rescue

Cambodian men trafficked in the waters off of South Africa left their trafficking situation through various ways – escape, exit, rescue and release.

Table 6: How victims left their trafficking situations

<table>
<thead>
<tr>
<th>Means of exit from trafficking</th>
<th>Number of fishers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outside intervention/“rescue”</td>
<td>1</td>
</tr>
<tr>
<td>Contacted authorities at the port</td>
<td>2</td>
</tr>
<tr>
<td>Contacted a non-official person to seek assistance</td>
<td>2</td>
</tr>
<tr>
<td>Negotiated with the captain or company to be let go</td>
<td>9</td>
</tr>
<tr>
<td>Incomplete information</td>
<td>17</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>31</strong></td>
</tr>
</tbody>
</table>

Photo credit: Bas Leenders

[Cape Town Port. This photograph is not of a trafficking situation. It is used to illustrate the location where some trafficked fishers have been identified. This photograph is available via a Creative Commons licence (https://creativecommons.org/licenses/by-sa/2.0/) through Flickr.](https://creativecommons.org/licenses/by-sa/2.0/)

[In 17 instances, there was insufficient and/or unclear information about how the men left their trafficking situations. Due to language barriers and lack of communication with authorities, men did not always understand what precisely had transpired in South Africa that enabled them to leave their vessels, including who was involved in facilitating this process. Being unfamiliar with the various government institutions in South Africa and fishing companies in the port also meant they often had difficulty pinpointing the roles and actions of persons/organisations they encountered during the time.](#)
Of the men interviewed for this study, only one was “rescued” from his trafficking situation. This man called home for help in escaping the boat when the vessel docked in South Africa. His family then called an NGO in Cambodia to seek help in his behalf. When his boat returned to port, he was met by a Cambodian man (whom he believed to be a representative of a Cambodian organisation, although it is not entirely clear who the man was). The man assisted him in leaving the vessel and arranged for his travel home, including retrieving his documents from the captain, with the assistance of South African authorities, and requesting that he be escorted to the airport by authorities. While categorised by the Cambodian fisher as a “rescue,” the details of the intervention are not sufficiently clear, raising questions about whether it can be viewed as such. It merits mention that this was not a typical trafficking rescue, which should entail his immediate removal from the boat and formal identification as a trafficking victim, as well as emergency assistance by service providers in-country while his return was being arranged through formal channels.

In other cases, victims escaped when their vessels came to port. Some literally escaped, looking for help with leaving the vessel/port and make their way home. One man (with the assistance of his family) initially contacted the recruitment company in Cambodia from Cape Town Port when he faced problems on the boat (e.g. beatings, lack of food and threats) and because he was not receiving his salary. When his sister asked the recruitment agency in Cambodia to help him come home, they demanded that the family repay the amount they allegedly had spent on his transportation and travel documentation (a total of USD 1,800). The company said that if he was unable to repay this amount, he would have to work until he had paid it back. Being unable to pay such a large amount of money, the man’s family contacted an NGO in Cambodia and the Cambodian Ministry of Foreign Affairs and International Cooperation (MoFAIC) for assistance. The procedures followed by MoFAIC to request assistance and intervene took some time; in the meantime, the man was desperate and escaped from the vessel. He met a man in South Africa who took him to the police, but to no avail. He then met another man who let him to stay with him and assisted him in getting in touch with agencies that could help get him home. It was at this time that IOM received a formal request from MoFAIC and became involved through the Mission in South Africa. IOM was able to assist by providing funds for food and accommodation, as there were no shelter services for male trafficking victims in South Africa. IOM, in cooperation with the South African Department of Home Affairs and the harbour police, went to the fishing company to negotiate the return of his passport and the payment of his flight back to Cambodia.

Another man left the boat where he was working, searching for help within the port. Because his documents were held by the captain, he was unable to leave the port area. He managed to find the office of a fishing company within the port, where he asked for help to return home to Cambodia; however, agency staff ignored his request. He ended up camping out at the office for almost a
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month, along with 24 other migrant workers, before he was allowed to return home, with arrangements eventually made by the fishing company in the port.131

In other cases, fishers walked off vessels while they were at port. In a number of cases, the men did so after calling home to their families and learning that their salaries had not been paid and that Giant Ocean had closed down. Some fishers left the vessels on their own, or in small groups, with workmates from their respective boats. One man was exploited with four other Khmer fishermen and described how they left their vessel together after learning that they had been deceived by the recruitment agency: “I [said to] all Cambodians on the vessel that if anyone wanted to go back to Cambodia, please follow me... We walked away from the vessel.”

In some cases, Cambodian men walked off fishing boats in large numbers. In one instance, four vessels worked together at sea, feeding one supply ship and with crew moved between the vessels. The men managed to communicate with one another when the vessels were in occasional contact and agreed to walk off the vessels together, as one man explained:

“I told the other Khmer fishermen to wait for our group when their vessel went to (that is, arrived at) the port. My vessel arrived last. So 74 Cambodian migrants did not go back to work and went to stay in the rooms that the fishing company used for fishermen to stay [in] when vessels came to port. The captain came to persuade us three times to go back to work, but we did not. I called my family to look for an organisation to help us. We all stayed there for 40 days, until the captain and the fishing company at the port agreed for us to go back by arranging [for] documents for us to travel back home. They sent us in small numbers (that is, in small batches) to fly home. My group returned the last. The African immigration police accompanied us to the airport. We were all happy when we could go back home.”

In some cases, the men’s release seemed to have involved local authorities. One man worked on one vessel, which, after spending ten months at sea, was forced to dock in Cape Town for repairs. The men contacted their families in Cambodia who, in turn, contacted a Cambodian NGO that requested assistance from authorities in South Africa. The NGO was assisted by an immigration officer at Cape Town Port to negotiate the release of the men and their documents and to arrange their return transportation which, in this case, was paid for by a

[131] The connections between fishing companies in South Africa and recruitment agencies in Cambodia are not entirely clear from the interviews with trafficked men and other key informants. Interviews did not reveal much about the agencies (i.e. the fishing company offices) in the Cape Town port – for example, who they were, how they operated, if they had hired the men using Giant Ocean, among others. Questions exist about the layers of culpability in terms of trafficking. According to Article 9 of South Africa’s 2013 Anti-Trafficking Law, if the fishing companies in South Africa owned or operated the vessels on which the men were trafficked, they could be considered carriers and be found guilty of trafficking crimes.
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fishing company or the vessel owner. One man explained how this transpired in his case:

“It took a month until we could leave. When the vessel came to shore, we did not work and kept hanging around. We called home, trying to get help. My mom gave me the number of an NGO... We contacted them. The NGO people told us not to be worried, they would help us, but we had to make sure we were on land, not going to the sea. So we stayed on land and hung around. About one month later, the Chinese man who first took us, came for us and gave us the passports and plane tickets and sent us to the plane. I did not know who paid for all of this.”

What is striking in these (and many other cases) is that it often took quite some time to secure travel documents and make travel arrangements. Even as South African authorities were often involved in negotiating the return of their documents, this nonetheless often took some time. Of important note is that passports are legally owned by the issuing country and the individuals to whom they are issued under customary international law.132 This raises questions about why these documents were not retrieved by authorities from the captain/fishing company when complaints were made by the Cambodian fishers. One legal expert explained it as follows: “The agent has no right to keep the passports. But that’s the way it works [in practice]. The immigration authority, they don’t hold out a candle for foreign fishermen. They’re not interested.” It is also worth noting that most anti-trafficking legislation, including South Africa’s new anti-trafficking law,133 makes it clear that the documents of trafficking victims should never be withheld from them.

Also significant is that during this time, the men were often living on the boats where they were exploited or at the offices of the fishing companies, which may have had some level of complicity in their exploitation.134 One man described the following arrangement in his experience:

“I called the recruitment agency in Cambodia and it responded: “Please try again later.” I called my wife and she told me that the agency ran away. I was so shocked to hear that and then my

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132 See, for example: Alton, R. & Struble, J.R. (2010), ‘The nature of a passport at the intersection of customary international law and American judicial practice’, Annual Survey of International & Comparative Law, 16(1): Article 6, which makes the argument that the confiscation and impoundment of passports is a violation of customary international law.

133 Article 2(6) of South Africa’s 2013 Anti-Trafficking Law specifically prohibits the following: “Any person who has in his or her possession or intentionally destroys, confiscates, conceals or tampers with any actual or purported identification document, passport, or other travel document of a victim of trafficking in facilitating or promoting trafficking in persons is guilty of an offense.”

134 Vessels may not always be at the port itself. In Cape Town Port, there have been cases where fishers have been forced to live on vessels that are not at the port itself, but instead anchored in the bay, approximately five miles offshore. These vessels are accessible only by a launch, meaning that it can cost as much as USD 1,000 simply to reach the vessel (to pay for gas, secure permission from the port authority for the launch, etc.)
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wife looked for help from many NGOs to [to help me] return [to Cambodia]. She found [one NGO] and the staff called me [in South Africa] and told me not to get on the vessel again, otherwise the vessel would take me again. She asked me to tell other Cambodian people not to get on the vessel. Three of us came to the police office near the port to file a complaint. I didn’t speak the language. My godsons spoke to the police. I called [the NGO worker], then she talked to the police. The police said that one week later they would send us back to Cambodia by plane. The police sent us back to the vessel. The captain said “You have not yet sent them back, let’s wait for another group to replace [them] so they could go back home.” The [police] told us not to walk away from there. Then, another group arrived at the port and they arranged [for] our passports for us to go back.”

In still other cases, trafficked fishers were “released” by their captains. However, “release” often came only after two to three years of work (i.e. the full duration of the contract), during which the men received little or none of their salaries. One man explained how, when his boat came to port for the second time, after three years at sea, he and his colleagues negotiated their “release”:

“When the vessel came to the port for the second time (after three years at sea), I asked for help from another Cambodian who could speak Chinese, to interpret for me to my captain. I asked the captain to return home. He allowed us to go home without saying anything. When I got USD 100, I bought a phone card to call my neighbour. I took his number when I came here (that is, before he left Cambodia to work aboard the vessel). He took [the phone] to my mom. My mom told me that the agency ran away. She asked me to return home. They cried when hearing my voice on [the] phone... I was at the port for five days and then the captain sent three of us to the airport.”

Another man explained how the captain similarly “released” men who wished to return home. Here again, however, the man had worked for two years, and so his “release” was likely only allowed because he had completed his contract:

“When the vessel was on its way back to port, the captain said whoever wanted to return home, he would allow. He didn’t tell us anything about our salaries. Four people decided to return home because the work was so hard. For the remaining eight, they were transferred to other vessels and some came after I returned. Now, about only three or four people are left there. We worked so hard but it still didn’t satisfy them. [My friend on the boat] cried badly because we have been working for three years and got nothing in return. We were told that it would be a difficult task and we
decided to experience ourselves and realised that it was really hard. When we reached the port and transferred the fish, the company’s car arrived to take us and the captain gave us USD 50 each. The car dropped us at the airport and he (the car driver) gave us the passports.”

**Issues and challenges when leaving trafficking situations**

While the men were able to leave their trafficking situations through various ways, there were nonetheless some common challenges faced which complicated their exit and generally prevented their identification and assistance as trafficking victims in South Africa. Most critical was the overall failure of authorities in South Africa to identify trafficking among Cambodian fishers. This failure to identify the crime was a function of different factors, including the lack of a legal framework in South Africa; the fact that trafficking is assumed to be conducted only through illegal channels; trafficking victims’ lack of awareness that they had been trafficked; and the general lack of knowledge about trafficking in the fishing sector. Identification and the subsequent provision of assistance were further complicated by several issues, including the lack of commitment and resources on the part of the Government; lack of experience on the part of South African authorities in intervening on fishing vessels; limited time frame for intervention; language barriers; general lack of assistance options for trafficked men in South Africa; lack of a Cambodian diplomatic mission in South Africa; and bureaucratic procedures that delayed intervention.

**Lack of identification and recognition of exploited fishers as trafficked**

Only one Cambodian fisher in this study was formally identified as a trafficking victim and assisted to return home through formal return procedures for trafficking victims, through the Cambodian Government (specifically, through MoFAIC) and IOM. More commonly, trafficked fishers are considered to be disgruntled workers, and their complaints are often perceived as labour disputes, and so they go unidentified as a consequence. As one anti-trafficking specialist in South Africa puts it:

“That’s how it’s handled here, much to my dismay... I don’t think [the authorities] look at these as trafficking cases or forced labour cases, as much as just (that is, but just as) labour disputes between an employer and the employees. So they’ve been handling them in that kind of framework. And the challenge is to get them to start looking at these cases as human trafficking cases.”
Lack of a legal framework for labour trafficking

Lack of identification of trafficked fishers was due in large part to the lack of a legal framework in South Africa, as one Cambodian service provider explained: “It was difficult to return the men from South Africa because, at the time, there was no trafficking law in South Africa and [only] limited recognition of human trafficking... The Cambodian men had visas and documents, and they were there legally so the authorities didn’t see it as human trafficking.” Only in July 2013 did the Government of South Africa enact comprehensive anti-trafficking legislation that included trafficking for labour, and even at the time of the research, the law had not yet come into force. Prior to this, legislation was only partially compliant with the UN TIP Protocol and only criminalised trafficking for sexual exploitation.

In practice, this translated into a legal vacuum for handling such cases and also a general lack of capacity to identify trafficking for labour, including in the fishing sector. This is evidenced by the many instances in which Cambodian fishers in an exploitative situation came in contact with authorities and yet still went unidentified as trafficking victims. One man explained how the vessel that he was exploited on was regularly inspected by authorities when it came to port, yet no attention was paid to the working or living conditions of the fishers on board: “I was not sure what the police searched us for, maybe to search for illegal stuff [like drugs]... But my vessel had nothing bad, just fish.”

One service provider in Cambodia involved in assisting with the identification and return of Cambodian fishers from South Africa described facing difficulties because the men’s situation was not treated as human trafficking, but rather as a labour dispute, which meant that the authorities focused on securing their documents and arranging for the company to return the men home. As he put it, this aspect was all that was focused on: “That was sort of the extent of the police involvement. They would go there and ask the people if they wanted to leave and they would say “yes” and then they’d be repatriated.” Another service

135 The new trafficking legislation, which draws on the UN TIP Protocol, defines trafficking in persons to include all forms of trafficking for men, women and children. The law is expected to come into force in 2014.
137 The two pieces of legislation that had provisions with bearing on human trafficking were the Children’s Act and the Sexual Offences Act: Republic of South Africa, Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007; and Republic of South Africa, Children’s Act 38 of 2005.
138 This is addressed under South Africa’s new trafficking legislation, which states that: “Despite any law, policy or code of conduct prohibiting the disclosure of personal information, any person who knows or ought reasonably to have known or suspected that an adult person who he or she comes in contact with during the execution of his or her duties, is a victim of trafficking, must immediately report that knowledge or suspicion to a police official for investigation.” Under the law, police encountering a trafficking victim must refer the individual to the provincial Department of Social Development and if the Ministry of Social Development is convinced that the person is a victim of trafficking, they must immediately issue a letter of recognition as prescribed to the victim. This formal identification entitles trafficking victims (both foreign and national) to services, including public health-care services and referral to an accredited service organisation (which is to provide accommodation, counselling and so on).
provider in Cambodia explained that the legal framework, through which they had migrated, meant that the South African authorities did not classify these experiences as human trafficking:

“In South Africa, we asked [the authorities] to assist Cambodian fishers and they said that they are not trafficking victims because they had work contracts. But [having] work contracts is not an excuse and we don’t even know they are legal or not... But the officials said that they can’t be trafficking victims if they have contracts.”

The assumption that trafficking occurs only through illegal channels

As noted in the preceding sections, the fact that the men had migrated legally led authorities in South Africa to see this as a labour issue and not one of trafficking. In addition, successful identification of trafficking victims depends, to some extent, on how questions are asked and framed. Because the men had actively migrated through a legal recruitment agency in Cambodia, they often also did not perceive their situation as one of trafficking, making it important for frontline authorities to approach interviews and screening in ways that allow for the independent assessment of their trafficking status. One service provider described a case that an NGO handled in which inappropriate interviewing and screening by law enforcement meant that one man was not identified and returned home:

“We had four fishermen call us. The three we were able to bring back – the one who stayed at [the fishing agency’s] office was not repatriated. Why? We contacted the anti-trafficking police in Cambodia. The police [in] Cambodia quickly contact[ed] police in [the destination country]. When the police in [the destination country] arrived at the [recruitment agency], they asked: ‘Are you a victim of trafficking?’ The person said, ‘No. I just want my money back.’ So [right] then we knew what [had] happened – no protection – because the victim himself didn’t believe he was trafficked.... But when they came back, when we did the rapid assessment, victim identification, and [when] we explained about the law, then they said: ‘Oh, we may be trafficking victims.’ And they don’t think they are victims because they are men. This is another problem.”

Traffic victims’ lack of awareness that they are in a trafficking situation

The fact that fishers may not know that they are trafficking victims is another important barrier to their formal identification (which is an essential entry point for assistance). One respondent in South Africa described a recent case in which trafficked Indonesian fishers came to Cape Town Port and were interviewed
about their situation on the vessels but, in his assessment, did not know that they were trafficked (or at least did not define themselves using this term):

“…they clearly were up front [...] about how they were treated, “these are the kind of work hours we had, we weren’t paid for this amount of time.” But I don’t know that [the victims] themselves would have categorised it as trafficking. Their complaint was mostly that they hadn’t been compensated… I don’t [think] that there was awareness among themselves about their own predicament [of human trafficking]. I think [that for the victims] it was mostly that “Look, the conditions were bad and we weren’t paid,” and that was the gist of it. And [also] “we weren’t allowed to get off, we didn’t want to work anymore”… I almost wonder if… they had been paid they may have been okay to keep working.”

One law enforcement expert also argued that there may be some instances where labour trafficking goes unidentified because it is not considered to be a serious problem; it is seen more as a labour violation than a crime. This highlights how critical it is for identifying actors to have the capacity and training to conduct appropriate, effective and sensitive identification of trafficked persons and not fail to categorise trafficking cases as such.

**General lack of knowledge of trafficking in the fishing sector**

Experts in the fishing sector acknowledged a general lack of knowledge of trafficking in persons within this sector, which means that authorities working to combat illegal fishing do not necessarily look into the condition of fishers, and even those who do look at this aspect do not necessarily make the connection with human trafficking. As one professional working with fishers explained: “They don’t see it as human trafficking, but it is. Because in [the home country] it is common also to see the people and to pay people very low salaries […] even the consulate sometimes, they don’t see this violation as human trafficking, they just say that it is because they (that is, the victims) have to work.” He also went on to say that increased recognition of these cases as trafficking is vital: “...I don’t think there can be any doubt that the situation in which these seafarers, these fishermen find themselves, [is trafficking]. They are being abused, they are being recruited under false pretences, they are being promised the world when it’s a lie and they are being shipped here.”

**Negative impact of being unidentified**

Being unidentified as trafficking victims negatively impacted trafficked fishers in different ways, not least that they were not referred for assistance, but instead were left in the hands of their exploiters while their return travel was
being arranged. This was the case in spite of international law\textsuperscript{139} and the new anti-trafficking law in South Africa,\textsuperscript{140} which prescribe the contrary. Some men remained on their fishing vessels before returning home – that is, in substandard living conditions, with their exploiters, sometimes for many weeks. One man spent 40 days on the vessel on which he was trafficked, awaiting his return home. One service provider in Cambodia described being very concerned about this arrangement, fearing that the men would be harmed or taken back to the sea during this time.

“Our number one priority was to get them off the boats and make sure that they were safe – to put them in the [custody of the] consulate or something like that where no one can touch them. Because otherwise they might disappear and you might not see them [again] for another two years, ten years, you might never see them again... We were really concerned because we expected the authorities to take them off the boat and put them somewhere safe, but they stayed on the boat... We were expecting that any day the phone would stop ringing and for them to be gone.”

While the men returned safely, these instances are far from ideal, as it involved potential risks for the fishers, not least of which were the ongoing stress and discomfort of being in the hands of their traffickers. Moreover, it is unknown if this approach has been dangerous in other settings and if other fishers have been taken back to sea in such circumstances. This is a reasonable concern, as traffickers for other forms of exploitation have been known to move their victims “out of sight” of the authorities to avoid their identification as trafficked persons. Further, in 2013, two (of ten) ships on which Indonesian fishers were being exploited were detained in Cape Town, but still managed to flee the port.\textsuperscript{141} It is unknown if any of the fishers/seafarers who were aboard those runaway vessels were among those who had been trafficked.

\textsuperscript{139} Article 7 of the UN TIP Protocol addresses the problematic immigration status of foreign trafficking victims by requiring a State to “consider adopting legislation or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.” Further, the UN TIP Protocol, in Article 10, requires law enforcement, immigration or other relevant authorities in a country to consider whether individuals crossing or attempting to cross an international border “without travel documents” are “victims of trafficking in persons.”

\textsuperscript{140} Article 19 of South Africa’s 2013 anti-trafficking law affords trafficking victims a 30 day reflection period and temporary residence which allows victims to come forward regardless of their immigration status and be identified and offered assistance in South Africa. Under the new law, a foreign victim of trafficking must be informed that he or she is eligible to apply for a visitor’s visa to remain in South Africa for 30 days to recover and reflect, and make an informed decision regarding cooperation with law enforcement and prosecuting authorities in the investigation and prosecution of a trafficking case. Further, Article 15 stipulates that if a victim is willing to cooperate with authorities, the visitor’s visa allows him or her to remain in South Africa for a period of up to three months, which can be extended once for a further three months.

\textsuperscript{141} Interpol issued “Wanted” notices for the ships, which were later spotted in Kenya (ITF (2014) ‘Indonesian fishers home from “slave” conditions’, \emph{ITF News Online}, 3 March).
Living on the vessels awaiting return can also have serious psychological effects\textsuperscript{142} for the men, as a professional working at Cape Town Port explained of fishers generally:

“Now we have a situation where some of the crewmen have been stuck, and the vessel has been at the outer anchorage, which is about five miles off of, out of port. And we’ve had situations with crewmen getting depressed, just sitting out there, not knowing, no contact with their families, allotments not being paid and they’re sitting there [just] waiting...You have that sort of trauma.”

In a number of instances, trafficked fishers were housed at the office of the fishing company, which was also potentially dangerous, given that the involvement of such companies/agencies in the exploitation of the men was not explored and investigated. The relationship between Giant Ocean and fishing companies in South Africa remains unclear, as does the potential complicity of these agencies in the trafficking of fishers to, through and from South Africa. These agencies should not be assumed to have been unaware of the exploitative situation faced by fishers, and a proper security and risk assessment should have been conducted before allowing the men to be accommodated by them. Accommodation was, as noted earlier, generally inadequate. Some men talked about not having food, and one man even opted to return to the fishing vessel because the captain promised to feed him and let him sleep there. Accommodation at the offices of fishing companies was also not designed to meet the needs of trafficked persons (who have a raft of assistance needs after being exploited – not least those of a psychological and medical nature) and for this reason alone was an inappropriate arrangement for trafficked fishers.

More recently and in spite of new South African trafficking legislation, 75 trafficked Indonesian fishers were kept on their fishing vessels at Cape Town Port in inhumane conditions instead of being identified and offered assistance as trafficking victims. The men had no food, electricity or fresh water on board the vessels. One expert working with the men described the conundrum that they faced due to the unavailability of assistance: “We had nowhere else to put the mariners, the living conditions on board were atrocious, subhuman.” The eventual “solution” was for the Department of Home Affairs to forcibly take the men to a detention centre in the middle of the night. In a news interview regarding the fishers, one maritime lawyer stated: “I had a call earlier today from one of the crewman saying he had arrived [at the detention centre] and he didn’t quite understand what was going on. It’s a matter of great concern. The refugee detention centre, the conditions are atrocious. It’s not a quick fix – certainly not – it’s a convenient fix for various arms of [the] Government that are impacted in the matter.”\textsuperscript{143} The detention centre where the men stayed


In African waters. The trafficking of Cambodian fishers in South Africa for several months before they were deported has been documented to have inadequate medical care, lice, dirty bedding, insufficient blankets to keep warm at night, inadequate meals, insufficient access to basic items (such as toiletries and clean clothes), and a serious neglect of the psychological well-being of detainees. Further, detainees have reported being physically injured by security guards and immigration officials and being beaten in order to sign documents that showed they had “consented” to being deported.144

Issues of commitment and resources

The recent detention and deportation of the 75 trafficked Indonesian fishers arguably illustrates a lack of commitment and resources dedicated to identifying and assisting exploited and trafficked fishers in South Africa. The media widely reported the Indonesian fishers as “trafficked,” and those who had access to the men also assessed them to be victims of trafficking. Nonetheless, they were treated as illegal immigrants, detained and eventually deported. The men were not referred by authorities to anti-trafficking service providers in South Africa, as one local service provider explained:

“[…] if there’s an investigation going on, the crew is meant to be taken care of by the country they’re in or by the ships or boats. Neither of those things happened and these 75 men were squatting in the harbour and no referrals came through from any of our usual trafficking role players. The way we found out about it, which is really embarrassing to say, is that it came through in the media.”

To some extent, this may be linked to the legal framework in South Africa, which only recently started recognised labour trafficking. As such, the identification of trafficked fishers should improve with the implementation of South Africa’s new anti-trafficking law, which now includes trafficking for labour and can be applied to trafficked fishers in South Africa’s ports and waters. Furthermore, one service provider reported growing momentum in the country when it came to combating this form of trafficking:

“Role players are much more active, much more excited, there just seems to be a lot more buzz and a lot more happening in the last year. And that’s something that we’ve worked hard on, to try and build morale within the NGO scene, within the NGO sector. But not just that, also with key government role players…”

That being said, there remains a lack of resources (e.g. funding and staff) to utilise in the identification and assistance of foreign trafficked fishers in South Africa, as one legal expert working with exploited fishers and seafarers highlighted: “We are always kind of desperate for assistance. Often we’re acting pro bono. And

Several South African service providers interviewed also noted the need for funding to provide assistance to trafficking victims, particularly to men, which needs to be addressed as part of the implementation of South Africa’s new anti-trafficking law, as one service provider explained:

“[T]he last financial year there was no mandate for or a lot of funding to be put aside for victims of trafficking. Obviously it wasn’t a lot and it’s very costly and we all know that [the] government is stretched for funds...I think in the last financial year there wasn’t a lot of planning or provisions made for [counter-]trafficking funding. But now in the new financial year all departments are looking and thinking, “Okay we have to have funding set aside.”

A government’s commitment to identifying and assisting trafficked fishers necessitates dealing with issues of corruption. Corruption often accompanies IUU fishing and corruption in ports can inhibit trafficked fishers from coming forward and can even work to thwart law enforcement in their investigations and prosecutions. Corruption (in the form of, for example, bribes and intimidation from foreign boat owners) can undermine or limit law enforcement and the effectiveness of port inspections. The interviews did not specifically shed light on this issue, and more attention is needed on the points of intersection between corruption, trafficking and the fishing industry.

Lack of experience in intervening on fishing vessels

One of the most significant challenges in identifying (and assisting) trafficked fishers is that being at sea means that they are literally out of sight much of the time. This issue was highlighted by different respondents in South Africa working in the sector:

“Many of the illegal fishing boats out here from Asia aren’t docking here. They’re meeting up with some other boat that brings the fish in. My sense is they aren’t being recruited out of here, they aren’t being run or operated out of South Africa, it’s more like they’re operating off the coast and giving the fish to some intermediary without going into port.”

“I think the key thing is that it’s happening at sea... You just have such limited capacity to find out what’s going on...”

Intervention in the case of trafficking at sea involves additional complications due to complex jurisdictional issues (whether the vessel is at the port, territorial

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waters or on the high seas), as well as the roles and responsibilities of different authorities in the country (whether working on fishing, trafficking, customs or immigration). One anti-trafficking specialist in South Africa highlighted the confusion around interventions on fishing vessels and at sea:

“I think another big problem here is [that] there is a lack of understanding within law enforcement about whose mandate it is to go to fishing vessels that are foreign fishing vessels. There’s this whole confusion or lack of clarity around maritime law and what the mandate is of the various different law enforcement agencies and whether they have the right to board a fishing vessel, whether it should be Department of Home Affairs, and what happens if the fishing vessel is two miles out at sea. These were all the kind of things that were debated at some of the task team meetings.”

The respondent went on to describe one instance in which a fishing vessel was to be investigated because of concerns about human trafficking, but the vessel left the port ahead of time and authorities did not feel equipped to intervene once the vessel was at sea:

“They had been told the ship was leaving at a certain time, so they were going to go on board and do a rummage. But when they got there the vessel had already left and so they got the harbour master to call them back in. But either they were ignored or there was a language barrier. The police thought it was too dangerous to go out and board the vessel – a foreign vessel. They were going to be putting themselves possibly at risk.”

South African authorities do intervene in cases of IUU fishing, or when other violations occur on vessels, which is, arguably, a potential entry point for also identifying trafficked fishers. Recently, ten vessels were stopped for illegal fishing in South African waters and seized by South African port officials, after which the authorities identified the exploitation of the 75 Indonesian fishers on board.

**Limited time frame for intervention**

There is a relatively limited window of opportunity to intervene in cases of trafficked fishers. Men interviewed for this study spent the vast majority of their time at sea, coming to port very rarely, sometimes as seldom as once in a three-

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year period. Vessels did most things at sea – for example, receiving supplies, transferring crew and offloading/transshipping fish/catch. When vessels did come to port, typically only for urgent repairs, they generally stayed as briefly as possible. Most men described being in ports for only a matter of a few days before going back to sea again. This made it challenging to facilitate an intervention, as one Cambodian NGO staff explained: “It was really quite difficult because of the time frame, that you have to get it right. Sometimes you only have a window of three days or something like that and we’ve lost a lot of people. They come to port and try to get SIM cards and trying to organise all of those things. And then all of a sudden they’re gone.”

**Language barriers**

One of the major challenges that Cambodian fishers described during their time abroad was their inability to understand the languages around them and to communicate with others. This was an issue while they were exploited (e.g. as it led to beatings when they could not understand work instructions). It was also a serious constraint when trying to leave their trafficking situation, with many men unable to understand and convey information about, for example, the name of the vessel or the country or port where they were located.

Language barriers also inhibited men’s ability to approach people for help – whether the authorities or other persons they came in contact with. They were generally unable to communicate effectively and convey the problems they faced and the needs that they had. One man who approached the police at the Port of Cape Town was only able to communicate with them because those who were with him spoke a little English and the police also spoke English. Nonetheless, the man reported not being able to fully explain what was happening and why they so urgently wanted to go home. It is possible that one reason why so many of the fishers were made to stay on the fishing vessels while their return to Cambodia was being arranged was so that it would not be possible for them to effectively convey the abuse and violence they had suffered or the risk of being exploited further.

The men interviewed for this study were often unable to clearly explain what had happened in South Africa that led to their return home. None of the men had full information about this stage of their trafficking experience; language barriers meant not being able to understand what was happening. Often, discussions were had and decisions were made about their situation by authorities and/or fishing companies without their input or understanding. Often, the men did not know when and if authorities were involved in their cases, or how to tell between the staff of a fishing company and staff of an assistance organisation. One man described receiving assistance from authorities in South Africa, but not knowing who exactly they were, nor understanding what was happening or why.
He and other Cambodian fishers noted that they were not, at any stage, told about their rights as migrant workers (or trafficking victims):

“They did not explain to us what was happening. They just asked us why we would like to go home. We said that the company in Cambodia had already closed [down]. I could not depend on anybody...No one explained to me about our rights.”

“No one explained to us about the rights of migrant workers. We only knew we were cheated by the recruitment agency in Cambodia. Working without salary!”

Interpretation with authorities in South Africa was sometimes made possible by coordinating with service providers in Cambodia – NGOs often interpreted over Skype or by telephone. One man who managed to escape from the port approached a man and, using very basic English and body language, asked for help. The man assisted him in contacting his family in Cambodia, and a service provider in Cambodia assisted in communicating with an assistance organisation and authorities in South Africa. However, this was an arduous process that took many calls and much time (weeks) to resolve. In another instance, a fisher contacted his wife back home who gave him the contact information of an NGO in Cambodia. Armed with this number, the fisher went to the authorities and called the NGO in their presence, so that the NGO staff could explain the situation to the authorities and ask for help, interpreting between English and Khmer.

Nonetheless, the logistics were often quite tricky and not always effective – for example, because of the cost of telephone calls, poor Internet connections for Skype calls and the time difference between South Africa and Cambodia. The lack of a Cambodian embassy in South Africa meant limited access to translation support from the Cambodian Government in-country.

Lack of translation in some cases may have led to men not being identified as trafficked; as such, the men returned to their trafficking situation. One service provider in South Africa described a situation where authorities had inspected a fishing vessel with Cambodian men on board. However, they used a Chinese interpreter (the language of the captain) and did not have anyone who could speak the Khmer language (the language of the crew).149 As this service provider explained: “... automatically there are issues with that because they’re not actually speaking directly to the fishermen. They’re speaking to somebody who may well be exploiting these men in the first place. And obviously [the exploiter] is not going to be giving an accurate account of the experience[s] of these fishermen.”

149 Without a common language it is difficult for authorities to screen for vulnerability and risk and it is equally difficult for trafficked fishers to ask for assistance or to comprehend identification or assistance offers. See Surtees, R. (2013) Trapped at Sea, 131.
It merits mention that language barriers are generally a challenge in South Africa, with 11 official languages in the country. This means that, in practice, it may not always be possible to easily find a common language between trafficked persons and authorities (such that communication is carried out in an individual’s non-native language, which can complicate identification). Other entry points for identification and assistance were also likely inaccessible due to language barriers—help lines, for example, are unlikely to have Khmer language interpreters. Nevertheless, civil society in Cape Town was active in coordinating with counterparts in Cambodia to provide interpretation, efforts that can be maintained and expanded. In addition, according to one anti-trafficking specialist in South Africa, enactments of the new anti-trafficking law require the Government to establish a database of interpreters for the most common languages/nationalities of victims of trafficking identified in the country.

Service providers working with fishers at Cape Town Port noted that language was generally a barrier in their work, that is, with all fishers and not just those who faced problems. Fishers originate from many countries and staff members do not have the language skills to interpret for all, nor are there resources for ongoing translation/interpretation: “I think a lot of our cases are going unattended because of the language problem.” As this service provider explained, without access to interpreters, it is very taxing work and challenging to offer the support that fishers need:

“[Without translation] we are really strained, it is extremely difficult…There has actually been no way [to communicate with some nationalities], they have absolutely no [command of] English. And it is heartbreaking to try [to] communicate with them because they don’t understand. But …one thing we know for sure is [problems are] happening in their lives and on the vessels…”

Language barriers also served to complicate rescue efforts with trafficked fishers, who were often unable to convey clear information about their location and situation. Even when communicating in the Khmer language, the fact that identifying information—like the name of a port, city, vessel and so on—is in a foreign language means that it is not always possible to understand and find the location (and therefore the trafficking victim). Not knowing the English...
The trafficking of Cambodian fishers in South Africa also meant that the Cambodian fishers were generally not able to pronounce the name, for example, of the vessel, or even to identify its letters. One law enforcement officer in Cambodia, who works in the identification of trafficking victims, described spending countless hours looking up names of places in efforts to find the trafficked men who were calling for help: “We are sometimes sitting and searching on Google Earth for the place where they say they are and we just can’t find it. It’s not the right name. And we call the embassy and they say this place does not exist and we need to call around and try to guess. Sometimes it takes a week for us to get the clear, correct name... and they can move in this time or be at risk.”

**Trafficked fishers were unassisted in South Africa; no services offered or available**

Even if Cambodian fishers had been recognised as trafficked, there was a lack of assistance options for trafficked men in South Africa. To a large extent this was a function of the lack of legislation surrounding trafficking for labour at the time, which also meant a lack of services. Assistance for victims of labour trafficking (including men) is foreseen in the new South African legislation, but an assistance infrastructure does not currently exist.

Accommodating and assisting trafficked men was identified by service providers as a real and ongoing challenge. One Cambodian fisher who was formally identified as a trafficking victim in South Africa had no opportunity to be sheltered and receive trafficking assistance. Instead, he was housed in a hostel where went to when he first escaped the port and stayed there while his return was being arranged by IOM, MoFAIC and other South African authorities. Now, four years after this man was identified, different service providers explained that this challenge remains:

“In terms of accommodation for men, there’s really not a lot of places... We do have one up here in this province, that is a shelter for abused men... and they’re now taking on trafficking cases as well. But they don’t feel very well equipped or well prepared to take these victims in and the very first cases where they had... over ten men that came in and they weren’t too sure really what to do with

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153 The Cambodian language is written in Khmer script, which is an alphasyllabary script – that is, a segmental writing system in which consonant–vowel sequences are written as a unit. Khmer script was adapted from the Pallava script, a variant of the Grantha alphabet descended from the Brahmi script of India.

154 Article 19 of South Africa’s 2013 Anti-Trafficking Law requires police to render assistance to all victims of trafficking, including, but not limited to, helping the victim obtain medical treatment and transporting the victim to a place of temporary safe care or an accredited organisation. These accredited organisations under the law must provide accommodation, counselling and programmes aimed at the reintegration of victims into their families and communities. Article 26 further states that accredited organisations may offer rehabilitation and therapeutic services and other provisions for education and skills development training, and may refer victims to organisations that offer such programmes. Article 32 requires that, in the case of foreign victims of trafficking, the Department of Social Development take reasonable steps to find suitable family members or an institution or organisation that renders assistance to victims of trafficking in the country to which the victim is to be repatriated and that is willing to provide assistance to the victim.
them... Accommodation for male victims of trafficking is definitely a big need here in South Africa.”

“In terms of accommodation, providing necessary services, there are shelters available that have been designated shelters for victims of trafficking. We were pushing to make sure that at least one of the shelters would accommodate men. At the moment I think that’s a big challenge and it was definitely a challenge with the Cambodian man back in 2010.”

Even when assistance is offered, trafficking assistance in South Africa is not currently comprehensive. That is, the new legislation does not require comprehensive assistance to be provided to all trafficking victims. One service provider in South Africa explained: “According to the new law, what a place of safety really has to offer is accommodation and food and just sort of the real basics. Things like drug detoxification, skills development and education, anything like that is worded as a service provider may offer these things. These things aren’t compulsory services.”

Some resources and support exist for trafficked fishers at Cape Town Port – for example, the International Transport Worker’s Federation (ITF)¹⁵⁵ and the Mission to Seafarers.¹⁵⁶ For example, the Apostleship of the Sea, which runs the Mission to Seafarers Centre at Cape Town Port, offers a facility where seafarers and fishers can come and rest, call home, use the Internet and, also, a common language permitting, speak to the staff and receive support. One staff member stressed in particular the opportunity to speak with staff: “Seafarers [and fishers] need to be informed that they can bring their troubles to the Mission to Seafarers, they can speak to staff at the Mission to Seafarers, they mustn’t keep it to themselves... They can take their problems to the Mission to Seafarers, they can ask to speak to somebody, and then we can help and assist them.” However, none of the Cambodian men interviewed spoke about having had any contact with these organisations and services. This may be because they were prevented by their captains from accessing such facilities; it may also be because they did not know about them and so did not seek them out. Access to these facilities may also be limited by their location, with some trafficked fishers confined to the customs zone and perhaps unable to visit these facilities because of visa/
security restrictions. Here again, language can also serve as a barrier, such as when signs and information are not available in the Khmer language and they may not have known that they should or could access such a facility.

In some instances, assistance is provided to fishers by the ITF. While the ITF is a seafarers’ organisation and technically fishers are outside of their mandate and jurisdiction, the organisation does get involved in assisting fishers in some situations, although this is often a function of the individual office. One service provider working with fishers described the situation in Cape Town: “Fishermen, they are not under the protection of the ITF...The ITF deals only with seafarers... Fortunately we have [one ITF inspector], he followed the case. But it was an exception, it wasn’t “normal” for the ITF.” The ITF was involved in assisting some of the Cambodian fishers in the Cape Town Port and, more recently, Indonesian fishers trafficked to South Africa.157 That being said, more than one respondent stressed the limited resources of the ITF, especially relative to the often acute, extensive and expensive needs of fishers.

What little other assistance was received by trafficked fishers was often informal. One man was assisted by local residents with food and accommodation while arrangements were made for his return home. More recently, in November 2013, 75 Indonesian fishers also went unassisted, and it was a private citizen (incidentally the wife of the Cape Town ITF Inspector) who initially fed the men and helped them with their other needs: “It’s so sad... they don’t have food and for the first few days I had to feed them myself. They don’t even have water now and their electricity was cut and nobody’s touching them (that is, attending to them). This is human slavery and the department is just entertaining it (that is, allowing it to continue).” Later, an organisation that provides food to those in need assumed the responsibility of feeding the men, who remained stranded on the fishing boats in the Cape Town harbour for months in inadequate living conditions.158

One of the constraints mentioned in terms of assistance to trafficking victims in South Africa was the cost. Large organisations like IOM no longer implement assistance programmes in South Africa; this responsibility has been assumed by the government. Nonetheless, government funds for assistance were apparently quite limited. One service provider noted that shelters received only small amounts of funds for each victim, which was not sufficient to meet their basic needs. And, until the trafficking law comes into effect, there does not seem to be a budget allocation for assisting trafficking victims, or at least not trafficked fishers.


The ITF in Cape Town has also been involved in assisting Filipino fishers who had suffered physical and verbal abuse aboard a fishing vessel and not been paid for six months ITF (2010) ‘The ITF aids crew of rogue ships docked in Cape Town’, ITF News Online, June 4. See also Info Coordination Marée Noire (2010) ‘Sea Slavery’, Info Coordination Maree Noire, September 19.

While costs for victim assistance should certainly be borne by destination countries like South Africa, there is also an important role to be played by flag states in bearing costs for assistance to trafficking victims exploited on vessels flying their flag. International law obligates flag states to assist individuals on vessels flagged to their registry.\textsuperscript{159}

**No Cambodian embassy in South Africa; bureaucratic procedures delayed intervention**

Under Cambodia’s constitution, all Cambodian citizens are entitled to receive the support of the Cambodian government through an embassy, no matter where they are.\textsuperscript{160} However, the Cambodian government does not have a diplomatic presence in Africa, which means that there are no official government relations between the Cambodian government and the South African government and no established links through which coordination of identification and return of trafficking victims can flow. The nearest embassy is in Malaysia.

In addition, there were significant bureaucratic procedures required by the Cambodian government in proceeding with assisting trafficked fishers. As one representative of the Cambodia’s Ministry of Foreign Affairs and International Cooperation (MoFAIC) explained, there were various steps involved in processing the return of Cambodians from South Africa. Because there is no South African embassy in Cambodia, MoFAIC would typically call the Cambodian embassy in Thailand, which then contacted the South African embassy in Thailand, which, in turn, would contact the appropriate representatives of the South African Government. This process required formal letters to be sent between ministries, which could take one to two weeks to process. Given that most men stayed in port only for a matter of days, delays meant potentially not reaching and rescuing the men in time.

There appears to have been a reliance on IOM to support the return of trafficked fishers from South Africa in some cases. However, even these channels could

\textsuperscript{159} For example, for seafarers, the MLC sets forth that they have a right to be repatriated at no cost to themselves and stipulates that if a ship owner fails to make arrangements for or to meet the cost of repatriation, the flag state is then responsible for arranging the repatriation of the seafarers concerned (R. Surtees, *Trapped at Sea* (2013), 140). The WIF Convention has a similar provision in Article 21, which sets forth that member states “shall ensure that fishers on a fishing vessel that flies their flag and that enters a foreign port are entitled to repatriation in the event that the fisher’s work agreement has expired or has been terminated for justified reasons by the fisher or by the fishing vessel owner, or the fisher is no longer able to carry out the duties required under the work agreement or cannot be expected to carry them out in the specific circumstances. This also applies to fishers from that vessel who are transferred for the same reasons from the vessel to the foreign port.” If a fishing vessel owner fails to provide for the repatriation, the member state whose flag the vessel flies “shall arrange for the repatriation of the fisher concerned and shall be entitled to recover the cost from the fishing vessel owner.” (WIF Convention, Article 22). However, the WIF Convention is not yet in force and as of April 2013 has only been ratified by four countries. (Notably, South Africa has ratified the WIF Convention, although Cambodia has not.)

\textsuperscript{160} The Cambodian Constitution provides that “Khmer citizens residing abroad enjoy the protection of the State.” (Kingdom of Cambodia, *The Constitution of the Kingdom of Cambodia* (Constitutional Assembly, Phnom Penh, 1993), Article 33.
be complicated, given that IOM requires a formal request from the Cambodian MoFAIC to authorise travel and repatriation, and such requests took some time to be processed through the ministry. As a consequence, Cambodian NGOs, in many cases, were most directly involved in communicating with the fishers in South Africa, as well as with South African authorities to arrange for the men’s return.

A number of trafficked fishers who faced delays and stress in getting home felt that there was a lack of intergovernmental coordination. When asked whether they had a suggestion for people working with trafficking victims to improve the situation for trafficked persons, more than one Cambodian fisher stressed the importance of having a Cambodian embassy or consulate present in South Africa to help Cambodian citizens:

“I want all organisations and government agencies to assist and provide all the necessary information to migrants. Especially, I want to have a Cambodian embassy in South Africa to assist our migrants.”

“I would like the Government to set up a Cambodian embassy there and an agreement with the country.”

Because of these cases, coordination and networking between South Africa and Cambodia did improve over time. However, this often consisted merely of informal contacts and coordination between Cambodian and South African organisations, as well as between Cambodian NGOs and individual South African authorities, rather than officially between the Governments of Cambodia and South Africa. There also continue to be gaps in communication and cooperation between fishing and anti-trafficking sectors in South Africa and Cambodia.

**Summary**

Cambodian fishers were only able to leave their trafficking situations when their vessels came to port. Some men escaped their vessels because of exploitative and abusive conditions on board. In other cases, men left after they called home from the port and learned that they had been deceived (i.e. they had not been paid and the recruitment agency had closed.) In some cases, men negotiated their “release” with the captain or the fishing company. In other cases, men contacted authorities or other individuals in the port for assistance.

While Cambodian fishers left their exploitative situations in different ways, they faced common challenges that prevented their identification and assistance as trafficking victims. There was a general failure among South African authorities to identify Cambodian fishers as trafficking victims. This was partly due to the lack of a comprehensive legal framework in South Africa, as well as a lack of recognition of men as potential trafficking victims and misconceptions or lack of
information about labour trafficking. In many cases, the men’s situations were viewed as labour disputes rather than trafficking cases. There was also a general lack of knowledge in the fishing industry about human trafficking within the sector.

Cambodian men generally did not receive assistance in South Africa. What little assistance was received by trafficked fishers was often informal. Most fishers remained on their boats, in unhealthy, unhygienic and uncomfortable living quarters, while waiting for fishing companies to return their documents and for their return travel to Cambodia to be arranged. Staying on vessels meant that the men essentially remained with their traffickers. In other cases, fishers stayed at the office of a fishing company at the port, often lacking food and basic necessities. In no case did authorities or service providers seem to have conducted a security and risk assessment of these situations, nor did authorities or service providers offer men safe accommodation elsewhere. There were limited assistance options for trafficked men in South Africa in general.

Cambodian fishers struggled to communicate their needs and understand any of the information provided to them. Language barriers between the fishers and individuals who might identify them as trafficked (or at least in need of assistance) were a significant obstacle in these cases.

Another issue faced by Cambodian men in South Africa was their legal status and inability to leave the port. There was also a general lack of experience in intervening on fishing vessels to deal with trafficking cases, as well as some confusion over jurisdiction. Further barriers included the lack of commitment and resources on the part of the South African Government, the limited time frame to intervene (i.e. while the boats were in port) and the fact that there are no Cambodian missions or embassies in South Africa and lengthy bureaucratic procedures that delayed identification and assistance.
9. The way home: Returning from trafficking

Returning home

Trafficked fishers exploited in South Africa expressed great relief and happiness when they were finally free of their trafficking situation and able to return home. One man described going home as being “reborn”: “From the taxi station, we walked back home. We did not even tell our parents that we were coming back home. My family was crying seeing me back home. They were too happy. They did not expect that. When I arrived, I was so happy, as if I was reborn!” Many had waited for some time at Cape Town Port, unsure of whether and how they would be able to return home. Some spoke of fearing that they would never make it home:

“I came to Cambodia with my [fellow] Cambodian fisherman. I was so happy to return home. It was like I was relieved from hell.”

161 Cape Town International Airport. This photograph is not of a trafficking situation. It is used to illustrate Cape Town International Airport, from which the trafficked fishers departed after leaving their trafficking situation. This photograph is available via a Creative Commons licence (https://creativecommons.org/licenses/by-sa/2.0/) through Flickr.
I was concerned when I was not sent home [for some time]. I did not know what would happen because they did not explain to us what the process was. So when they gave us passports, we were so surprised and happy.”

The men returned to Cambodia via airplane. Some travelled back home in groups, often having left the vessel and sought help together. Some men, however, travelled on their own. Some transited through a variety of countries, making the return long, tiring and stressful. One man, for example, travelled very circuitously – to Japan, then Singapore and Thailand, before arriving in Cambodia: “It took us 38 hours for the flight home. We took five flights from South Africa – South Africa, Japan, Singapore, Thailand and, finally, Cambodia! We came with just seven Cambodians.”

**Transportation costs and travel arrangements**

None of the men were required to pay for their return transportation. However, the details and arrangements surrounding the return of trafficked fishers from South Africa were not entirely clear, even to the men themselves. In a handful of instances, assistance was provided by IOM and/or Cambodian NGOs. The Cambodian Government did not fund the return of any men trafficked to South Africa.

In most cases, it appeared to have been a fishing company – perhaps affiliated with the victim’s vessel or boat captain – which arranged and paid for the trip home. However, some returns may also have been arranged and paid for by Giant Ocean before it shut down its office. It is not entirely clear from interviews with the trafficked men who arranged and paid for transportation back to Cambodia. Men themselves had not been told or had not understood this information, as the following responses illustrate about arrangements for their return:

“I don’t know. I just knew that [they] helped us manage the passport and visa. That was the company that buys the fish from the vessel.”

“I don’t know. I think only the captain paid for the travel. I stayed on the vessel for about one month. They offered meals for us as usual.”

“I had no idea who paid for our air ticket. Maybe it was the captain.”

“I did not know who was the one who helped me or paid for me to go back home. I do not know until now. I just know that my wife has filed a complaint to many places (that is, filed a complaint with many different agencies/entities) including [organisations and institutions] and the provincial police [in Cambodia]. My wife made efforts to get help for me anywhere she could think of, in order for

me to get help. [...] we do not know who exactly was the one who assisted me [to get] back [home]. But I knew that it was the boss who paid for me.”

More information about the involvement of the different companies in the recruitment, deployment and return of fishers may shed light on how trafficking of fishers takes place. For instance, the payment of return travel may have been done to camouflage the exploitation that the men suffered, as one assistance organisation in Cambodia suggested: “Companies want to cover it up, that’s why they do it, I think... The boat owner paid for them to go back, so sometimes maybe to get out of (that is, avoid) being scrutinised by organisations or [evade] legal prosecution, they just agree to send them all back and pay for it, to not stain the company[’s image] because they are recruiting people.”

It should also be mentioned that a fishing company or shipowner’s unwillingness to pay the cost of returning a trafficked fisher has led to situations where exploited and abused fishers (some of whom may also have been trafficked) are abandoned and left to languish in foreign ports. Abandoned fishers face a number of problems, including running out of food, water and fuel for generators, being threatened by the ship owner, being out of contact with their families and so on. Abandoned crew may be depressed and anxious; they may also be stressed and volatile.

Abandonment is more frequent on older or decrepit ships at the end of their sea life; in some cases, the value of the ship is worth less than the money owed to crew and other debtors, leading the ship owner to abandon the crew. While some maritime lawyers have brought claims against companies or ship owners who were unwilling to repatriate their employees (e.g. through the forced sale of vessels), in cases where the value of the vessel is low (particularly for condemned vessels used in IUU fishing), the claim is unlikely to bring enough to pay for the crew’s return travel. For example, a one-way economy ticket from Cape Town to Phnom Penh averages around USD 800. In the recent case of 75 trafficked Indonesian fishers, the estimated value of the vessels was approximately USD 6,000, whereas a one-way economy flight from Cape Town to Jakarta averages USD 700 per person.

**Immigration and departure**

All of the men were taken to the airport from the port and sent home. They were unable to provide any precise detail, however, about which officials they met and who assisted in this process. Key informants, however, noted that departure

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163 See, for example: ILO, Database on reported incidents of abandonment of seafarers, available from www.ilo.org/dyn/seafarers/seafarersbrowse.home.

164 See, for example, ILO, Database on reported incidents of abandonment of seafarers, available from www.ilo.org/dyn/seafarers/seafarersbrowse.

of fishers and seamen from a South Africa port requires processing by South African immigration in the port, as one legal expert explained:

“If their contract is over and they’re going home, they disembark from the vessel and they’ve got to go through a port of entry in South Africa. So that port of entry would be an office of the immigration authorities, Department of Home Affairs. The agent takes the off-signing crew to the local Department of Home Affairs, immigration in the harbour. The immigration then checks when this person came in to South Africa and then what happens is permission is given for the seaman to leave South Africa within X number of days... Then the passports are stamped by immigration and the seamen get taken to the airport.”

This means that the men were at this stage in contact with immigration officials who were in a position to interview them about their experiences in South Africa and on vessels operating out of its ports. Men also then passed through immigration at the airport, another potential entry point for screening. None of the men described being asked any questions by officials at either stage.

Arriving in Cambodia

Most men were not met upon their return to Cambodia and needed to make their own way home to their families and communities. Only in situations of

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166 Village in Cambodia. This photograph is not of a trafficking victim or trafficking situation. It is used to illustrate villages and communities that some trafficked fishers may come from. This photograph is available via a Creative Commons licence (https://creativecommons.org/licenses/by-nd/2.0/) through Flickr.
formal return (of which there were very few from South Africa) were men received at the airport upon their arrival.

While most men went immediately home to families upon arrival in Cambodia, some did not. In a few instances, men went immediately to the office of Giant Ocean only to find it shuttered, meaning they had no recourse for obtaining their wages:

“After getting off the plane, I took a tuk tuk167 to the company. I had not even arrived at the company yet and there were people asking us where we were from. I said we were just back from overseas and going to the recruitment company. They told us that the company already ran away. They said that we were deceived, the company ran away already. When I heard of this, I was like...nothing left, no money for my wife and children.”

**Issues and challenges in returning home**

While trafficked fishers who returned to Cambodia were relieved and happy to have left their exploitative situations in South Africa and to arrive back in their home communities, they still faced challenges that complicated their return and subsequent (re)integration. Some consistent issues were faced when Cambodian fishers returned home from South Africa. These included: the high cost of travel home; the stress of long waits to return home; no screening upon departure from South Africa; not being met in Cambodia; and going unidentified upon return to Cambodia. These are discussed in turn below.

**High costs of return transportation**

Costs of travel from South Africa are very high, far outstripping the annual salaries earned by men trafficked as fishers. Organisations and institutions in Cambodia also stressed the prohibitive costs of paying for the return travel. This was especially the case when large numbers of victims needed to be returned. Recall, for instance, the man who walked off his vessel with 74 other Cambodian fishermen. One Cambodian government official from MoFAIC noted that there were currently no funds available in his department to pay for such large scale and expensive returns/repatriations.

With large numbers of Cambodians exploited in this way, it becomes important to determine how their returns should be arranged and funded in a humane, consistent and systematic way (and in a timely fashion). It is also important to consider to what extent the cost of these returns are to be borne by destination and origin countries as well as the flag state of the vessel on which the men were exploited.

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167 A three-wheeled vehicle comprised of a motorcycle and a trailer where passengers sit. It is a motorised version of the traditional pulled rickshaw or cycle rickshaw and is commonly used as a taxi.
The costs for returning Cambodian fishers exploited in South Africa were seemingly largely borne by fishing companies (albeit arguably from men’s withheld/unpaid salaries). However, interviews with trafficked fishers, as well as key informants, reveals little about the specifics of who these companies were, as well as their possible complicity in the exploitation of the men. Their role in paying for returns raises questions about their potential complicity and more information is needed about these companies and their role in the recruitment, embarkation, exploitation and return of trafficked fishers. One legal expert speculated that while many shipping/fishing companies will claim no knowledge of the ship owners or what occurs on the vessels, this is highly unlikely to be the case. The difficulty in such situations, however, is that these agents and agencies are under no legal obligation to reveal this information unless subpoenaed by the court to do so in a criminal case, leaving a great deal of space for abuse, secrecy and complicity.

It is also worth noting that efforts are made to secure funds for fishers for their return home through compensation claims. That is, vessels are arrested and claims brought in court, the proceeds from which are used to return fishers home and, ideally, also pay outstanding wages. The reality in many cases, though, is that the value of the vessel is much lower than even the cost of transportation home. Consider the recent case of 75 Indonesian fishers whose vessels were arrested for IUU fishing and the men left to languish in the port. As one legal expert explained, a successful civil claim would not yield enough funds to pay for the men’s return home: “So we’re sitting here in a situation where we’ve got seven vessels under arrest and the value of the vessels are trifling, maybe USD 6,000. They’re scrap.”

**Delayed returns and the stress of waiting to go home**

Men often spent weeks in the port while authorities secured the release of their documents from fishing agencies and while travel arrangements were made. Often men stayed on vessels (where they were exploited) or at fishing companies in the port. Being unsure of what to do or what would happen to them was stressful for the men. They described a lack of agency in these situations and the strain of having to wait for unknown periods of time.

“At daytime we went around, just kept walking and did not go to work. At night time we went to sleep on the boat...They saw us hang around like that so they told us to get back to eat with them and stay as usual on the boat and they would manage to send us

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168 The arrest of a vessel is the process by which an admiralty court gains jurisdiction over the vessel. Arrest refers to the physical process by which the appropriate authority goes aboard a vessel and physically takes charge of it. Seizing the vessel through arrest allows the vessel to guarantee payment(s) for any claims against it (generally, the vessel itself is “responsible” for the payment of liens, mortgages or other maritime claims that arise; in other words the vessel itself is a form of security). An arrest of a vessel is the prerequisite for the court to establish jurisdiction. See, for example, Maritime Law Center, (2014) Maritime Practice & Procedure: Arrest of a Vessel, webpage at www.maritimelawcenter.com/html/arrest_of_vessel.html.
home. So we went back, but when the promised time came they still did not let us go. They told us to wait for one more week. We waited for another week. When it was time, we still could not go. It took a month until we could leave.”

Delays and gaps in the return process can make victims feel vulnerable or anxious. It can add to or exacerbate their existing anxieties and stresses. Other research has found that trafficked persons expressed negative feelings about the return process that involved not receiving adequate assurances about their safety, not feeling fully informed about the process, or not being provided with sufficient information in case they faced difficulties.169

No screening of fishers upon departure

To depart from the port in South Africa, fishers had to have their passports processed by immigration officials in the port. This marks potentially important and under-considered entry point for the screening and identification of trafficked fishers. Men were taken from the port to the airport, where again they had to pass through immigration. As none of the men described being asked any questions by immigration officials at either stage, this indicates that the screening of fishers upon their departure from South Africa likely did not occur. Based on the descriptions given by the trafficked fishers regarding the way they looked when they returned, there were arguably physical indicators that might have alerted authorities to suspicion, such as unkempt or long hair, poor clothing, skin conditions, injuries, excessive weight loss, and so on. One man described arriving home and not even being recognisable to his parents because he was in such poor physical condition:

“At first [my parents] could not recognise me, because for the time on the vessel, I did not have any haircut. My hair grew longer like a gangster. My hair turned red because I only showered with seawater for a long time and my skin was very dark.”

Trafficked fishers were not received upon their return to Cambodia

A small number of men were met at the airport upon their return to Cambodia by assistance organisations. Being met at the airport typically only occurred when the men were assisted to return by organisations/institutions in Cambodia and, therefore, agencies were informed of their return.

More commonly, travel was arranged by fishing companies and/or agents in South Africa and men were sent home unannounced. Even when authorities in South Africa were involved in securing the men’s documents and facilitating travel, there did not seem to be systematic and reliable communication with

the origin country to advise of the men’s return and travel details, to allow for reception (and, by implication, identification as trafficking victims) upon their return to Cambodia.

As a result most men interviewed were not met upon their return to Cambodia and made their own way home to their families and communities, as one man explained: “The captain went with us to the airport [in Cape Town]. He explained the ticket, and then he left. No one came to receive us at the airport. We three went home together.”

In some cases, paying travel costs home used up the very little pocket money the men had had been given prior to their departure from South Africa:

“No one come to pick us [up]. We just took a motor taxi from the airport to the taxi station. Actually, when they gave us USD 100 each [in South Africa] we shared the money amongst three of us to buy a telephone to be able to contact people at home. We still had some money left from there, so it was enough to pay for the taxi to get back home.”

Some men needed to call to their families in the village upon arrival in Cambodia, as they didn’t even have enough money to return to their homes.

**Going unidentified as trafficking victims upon their return to Cambodia**

Most trafficked men went unidentified upon their return to Cambodia. They were not identified by authorities at the airport when they arrived home and, because they’re travel was paid for by fishing companies and vessels owners, their arrival was unknown to service providers who would normally receive returned trafficking victims.

**Lack of screening at the airport.** While all men entered the country through Pochentong International airport in Phnom Penh, none were interviewed about their experiences by immigration authorities (or authorities with responsibilities for combating human trafficking). This suggests a lack of screening for TIP at the international airport in spite of this being an acknowledged entry point for returning trafficking victims. This lack of identification is especially striking in the case of men trafficked by Giant Ocean given the media attention that this case was given in 2011 and 2012, which would seemingly suggest that immigration officials were in a position to suspect and ask questions of men returning from work on fishing boats abroad, especially from South Africa.

**Victims returned “unofficially.”** Many men returned at the expense of the fishing company, vessel owner or captain. Some men may have been returned at the expense of the recruitment agency (Giant Ocean), although this is unclear. If the captain/vessel owner/fishing company pays for the men’s return, this will likely
mean that the men will not be referred to or have information about their status as trafficking victims (never having been identified as such) and, by implication, their rights and opportunities to access the anti-trafficking assistance framework upon their return home in Cambodia. It equally means that the men will return without service providers being made aware of their return, which will limit the opportunity for service providers to reach out to them and identify them upon return and, by extension, to assist them. As one service provider explained:

“In some cases the recruitment agency pays for them to be repatriated so these are cases we may not see. There’s a lot of gaps in that sense. If they got on a flight here, they would have passports and all that to return back so effectively they wouldn’t need to get in touch with any consulates for travel documents as long as they have passports.”

This raises questions about the number of men returned by companies/captains and, thus, never recognised as trafficked. It equally raises questions about the extent to which this is a strategy used by the company to avoid problems – such as compensation claims – linked to the exploitation of the fishers. According to some service providers, some men whose return was paid for by the fishing company were required to sign documents in South Africa saying they wouldn’t bring legal action against the companies, thus absolving the companies of liability. The details of these agreements and documents require further exploration and clarification. While the agreements are unlikely to be legally binding, because the trafficked fishers were not fully informed of their nature, the formality of the process may have given trafficked fishers the impression of their authenticity, thus preventing them from pursuing legal action and seeking assistance.

**Summary**

Cambodian fishers expressed great relief and happiness when they were able to return home. All returned to Cambodia via airplane from South Africa. Often they waited for lengthy periods of time in the port before their travel documents and tickets were arranged, an experience that made them feel vulnerable, stressed and anxious.

In most cases, the fishing company or captain arranged and paid for the men’s travel back to Cambodia. This meant being unidentified upon their return to Cambodia. This was partly due to a lack of screening at entry points in Cambodia and also due to the fact that the men returned at the expense of their employer.
10. Life after trafficking: Recovery and (re)integration in Cambodia

Coming home

Most of the men described happy homecomings when they initially returned to Cambodia. Their families, having lost contact with them, had often been searching for them for some time, seeking the help of the government and NGOs to bring them back. Some families feared that the men were already dead. The men described a range of emotions when coming home:

“I felt so happy when I could see my parents, my wife and my daughter.”

“I was very happy when seeing my country and my people. When I arrived in the village, my sister, mom and my neighbour came to hug me.”

170 Villagers in Cambodia. This photograph is not of a trafficking victim or family members of a trafficking victim. It is used to illustrate villages and communities that some trafficked fishers may return to. This photograph is available via a Creative Commons licence (https://creativecommons.org/licenses/by/2.0/) through Flickr.
“I was very happy to get back to meet my family and children.”

“From the taxi station, we walked back home. We did not even tell our parents that we were coming back home. My family was crying seeing me back home. They were too happy. They did not expect that. When I arrived, I was so happy as if I was reborn!”

**Challenges and issues in recovery and (re)integration**

That said, coming home was often bittersweet for the men and their families. While happy, relieved and grateful to be home, there were also significant challenges and problems that they faced as they sought to recover from their exploitation and (re)integrate into their families and communities. Men trafficked to South Africa were interviewed at different stages after coming home. Some had returned in 2010 and 2011, although the majority had returned more recently – in 2012 and 2013. In a handful of cases, men had been home only for a few months. This meant that they were at different stages of (re)integration, facing a raft of different issues and challenges including: returning to a fragile economic situation; coping with the physical and psychological impacts of trafficking; lack of assistance a for trafficked men; the assistance offered not meeting their needs or situations; challenges in (re)integrating into their families and communities; and delays and complications in the legal process.

**Fragile economic situation; trying to earn a living**

Men typically returned home to a difficult economic situation; many of their families had struggled to survive during their absence. One man described a painful return home to his family who had faced difficult economic times during the more than one year that he was away:

“When I arrive homed, I was happy and nervous. I almost cried because I arrived home, and brought nothing back. What my kids are going to eat, to survive?! My family was starving, my kids were skinny, [with] nothing to eat, and my wife was looking after a young baby so she could not work. When I was here, at least I could earn for them to eat. But when I was away, they were crying with hunger. When I left, my kids were very young and could not recognise me when they saw me again. They were scared of me when I returned. My older child could still recognise me after a while. He asked me where had I been for that long time? Why didn’t Daddy stay and help him look for fish? He said he had nothing to eat, he had been starving and crying.”
Over time, men were generally able to find work. All men interviewed for this study were working at the time of the interview – generally having returned to the work they did prior to their exploitation, commonly in construction and agriculture.

“I came to live with my family with the same address. I am now working as a labourer. I carry iron to the put on the truck. They pay me KHR 5,000 [USD 1.25] for every amount of one tonne that I carry. I do not like the job but I cannot find any work to do.”

“I came to live with my family, my wife and children. I now work as a construction worker. I earn USD 5 per day. I am responsible for my own meal.”

Nonetheless, their economic situation remained precarious – sometimes the same as before they were trafficked, sometimes having deteriorated further. Most were the primary, and sometimes the sole, income earner in their family:

“My kids and my wife rely on me. We live on a small plot of land in the community. When I get money from my work, I only spend a small amount to eat something. I give the rest to my family. I am the caretaker in the family if my wife and children are sick.”

“There is only me who supports all the people in my family. My sister looks after her kids. She has two kids. One is five years old and another is three months old. My brother-in-law [is physically disabled]...”

“It is just a farmer’s life. We are poor and just do some paid work when we are asked to. In harvest season, people pay for labour to help them to collect rice crops. I do farming on my own paddy as well but our land is too small, less than one hectare so it is not enough to eat. I work on my farmland alone because my parents are too old and should not do that anymore...When I am paid to help do farming, I receive about KHR 10,000 [about USD 2.5] per day or more. Besides that season, I collect fish, do fishing in the rice field [and pond].”
One man explained how wages, while higher than in the past, had not kept pace with the cost of living. He and his family struggled to survive on what he was able to earn:

“...I struggle to earn. However, the economic costs nowadays are very high. The food is expensive. Before I got only KHR 5,000 [USD 1.25] a day but the food was not as expensive as now. Back then, the rice was only KHR 1,200 [USD 0.30] per kilo and we could spend only KHR 500 [USD 0.12] to buy food. Now, the fee for construction work is KHR 22,000 [USD 5.50] a day, the rice is [more]... If we carry KHR 3,000 [USD 0.75] to buy food, no way... lunch and dinner as well. Even my children, when I give them KHR 500 [USD 0.12] for school, what can they buy? Although the economic situation now is improved in every means, it is modern. But it is also hard to live, the inflation!”

Two men faced serious debt before going abroad, debt that mounted while away. This translated into a very fragile situation after trafficking. One man was in debt prior to trafficking because of medical costs for his wife’s surgery. His

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171 Agricultural worker in Cambodia. This photograph is not of a trafficking victim or trafficking situation. It is used to illustrate work that some trafficked fishers may do upon return to Cambodia. This photograph is available via a Creative Commons license (https://creativecommons.org/licenses/by/2.0/) through Flickr.
debt only grew while he was trafficked as he was unable to remit any money and his wife, who was caring for two small children, was not able work to support the family, let alone repay the debt. His debt had increased exponentially and he and his family struggled to survive:

“I was in debt to three people [before I migrated]. It was about KHR 1.1–1.3 million [USD 250–325] each. By now the interest has gone up, maybe about KHR 3 million [USD 750], to each money lender... I am still in big debt and I don’t know what to do still. The interest rate is high, for example, about 10 per cent per month. If we have money, we can pay in instalments. And if we don’t, we only pay the interest monthly. So it has been like this for a long time. We could not pay it off. Then they called us to meet at village chief’s house. The chief told them we are really poor, so please let us pay step-by-step rather than nothing. So now I can only pay KHR 30,000 to 40,000 [USD 7.5–10] per month. They just take it. I do not know we can be released of the debt [pay off the debt].”

Not all men were living with their family when interviewed. One man explained that he and his wife were forced to live apart because it was the only way to earn enough money to support their four children, all of whom were in primary school. His wife lived with the children in their home province and worked in the local market as a vegetable seller while he lived in the capital Phnom Penh because he was able to earn more as a labourer: “We’d rather stay separately so that we both can earn. I don’t want to visit them often because I don’t want to spend a lot of money on travelling. I visit them once every two or three months. I also send her money via the taxi driver and pay him KHR 5,000 (USD 1.265). I know that taxi driver because he lives in the same village as I do.” This was not an entirely comfortable solution though and he spoke about the anxiety he felt at being separated from his family: “To live far away from my family, I feel scared sometimes because I’m afraid that if I get sick, who is going to take care of me? If I stay home, they will take care of me. I miss home too but now my children are grown up.”

In addition, many men exploited in South Africa have since been forced by their fragile economic situation to remigrate – sometimes to other provinces in Cambodia, sometimes abroad. One man explained how his brother, with whom he was trafficked to South Africa, had migrated on four different occasions to work on fishing boats in Thailand. Another man described the situation in his village where only old people and children remained because working age adults, including those who had been exploited in South Africa, had migrated for work:

“Now there are many people who migrated for work at factories in Phnom Penh and Thailand, but mostly in Thailand. There are not so many young people anymore in the village. Now there are only old people, children and young people who are at schools stay in the
village. The people who have been to Africa with me also migrated to Thailand now.”

Another formerly trafficked fisher described how he and his friend considered remigrating for work abroad but this time through informal channels: “My friend and I discussed that we would look for a job to do on land because we already had our passports. We thought we could do construction work. We saw the way they do it. It seemed much easier than our way. We already had some experience from here [in Cambodia] and it seemed to be easy to find those kinds of jobs.”

Remigration is a challenge faced by service providers working with trafficked persons when they try to follow-up on cases and provide support toward (re)integration, as one service provider explained:

“Sometimes the follow-up is hard, they’ve changed their number. Or we went to some of the provinces where they come from and talked to family members and try to find them and discover that they’ve gone back to Thailand. Some of the men say: “It was bad luck, I was hoping to make some money and I didn’t.” And unfortunately they go back to some of these remote province areas where they come from and face the same social-economic issues that they tried to get away from. The push factors – still without any money to return with, the debt and the economic, financial issues – that they still have to do something about. There’s not a lot of employment in those areas so some of them have returned after all that.”

One man explained how the reality of life and work in Cambodia is such that remigration is less a choice than a necessity for many Cambodians:

“In Cambodia, I used to work as a street cleaner... and I got paid only KHR 100,000 [USD 25] per month. How could that be enough? I also had to rent a house. First when I came to look for a job I got hired to be the street cleaner. When I went to Thailand, I realised: “Why do we keep saying that too many Cambodian people are going to other countries to find a job? We have no value here, in our own country.” The salary is too low, maximum of KHR 150,000 to 200,000 [USD 40–50] per month. Working in Phnom Penh, we have to pay the rent, water, and the electric bill and many other things. It is not enough to be paid USD 20 or 25 a month. It’s not enough even for one person! How can we save money to support our family?”

Another man, who was struggling to repay the debt he still had from before trafficking also noted that at some stage remigration may be his only avenue, although not his preferred choice: “If they really insist for me to pay back [the debt] and I have nothing to pay back, if anybody ask me to go anywhere, I will
want to go away again. I feel like I want to take another risk. But on the other hand I am scared because I have been deceived once already.”

He added that one of the men he was exploited alongside in South Africa had tried to migrate again but had faced additional problems, highlighting the risk that remigration can potentially entail: “There are other people who asked me to go to Thailand. But the other guy who went with me [to South Africa], he brought his passport to extend and paid USD 150 to a company to go to Thailand and after a year, he still cannot go yet. He lost this money and still doesn’t go. He borrowed money, he is in debt and still the company does not call him.”

Coping with the impact of trafficking

Trafficked fishers struggled to recover from their trafficking experience, describing both physical and psychological injuries as a consequence of their exploitation in South Africa. Indeed one man, when describing his experience in South Africa, referred to it as “physically traumatising.” Others continued to suffer from injuries inflicted by their exploiters – including chronic headaches from a fractured skull and pain from broken bones that had not healed correctly. There were also other medical ailments suffered as a consequence of trafficking including malnourishment, skin infections and irritations and lung conditions.172

“I have difficulty to breath. I usually have a headache. I often drink sugar cane to gain more power. I buy caladium medicine too.”

“At that time, my body was swelling because I had been showered with salt water and I didn’t get enough sleep.”

Trafficked men also described a range of emotional reactions and psychological impacts resulting from trafficking. One man described his rage when he learned, upon calling home, about the deception by Giant Ocean: “I was so shocked to hear that [the company had cheated us]. I was working so hard, but I did not receive pay. If the vessel was in Cambodia, I would burn it.” Another man, who had been home for a year at the time of the interview, was visibly distressed and angry when speaking about what he had suffered. He himself spoke about still feeling angry about what his exploiters had done to him while on the fishing vessel and the deception by the recruitment agency: “I still have my anger toward the people who hit me on the vessel. And I am so mad with Giant Ocean.” Others spoke about being afraid and anxious that this type of abuse and exploitation could happen to them again. One man in particular spoke about residual fear

172 Other studies have noted health issues amongst men who return from being exploited at sea. A study of trafficked fishers and seafarers from Ukraine described the medical conditions the men suffered as a consequence of their exploitation at sea, including: heart problems, liver dysfunction, problems with gums and teeth, bronchitis, kidney problems, bladder infections, gastric diseases and so on. Surtees, R. (2013) Trafficked at sea. A study of Filipino men trafficked at sea also noted the men returned with physical ailments as a consequence of their trafficking, including severe weight loss, allergic reactions and physical exhaustion. Yea, S. (2012) Troubled Waters.
as a result of what had happened, which impacted his general sense of well-being. Still others described vivid memories of and reactions to the time on the vessel and not wanting to remember this period of their lives: “Recalling the bad experience on the vessel, it was like living in the deep hell.”

Service providers also noted the stress and trauma that many of the men suffered, noting that some were unable (or unwilling) to recall details of this time due to the psychological impact of what they had suffered. One service provider described high levels of stress and, arguably, also trauma among many returned fishers:

“[With] some of them, there’s a lot of underlying psychological issues. With every repatriation [of trafficked fishers] there’s always someone who has seen another Cambodian or other nationality, another worker, getting sick or being thrown overboard when they’re too sick to work or being beaten. A few people have seen actual shootings [of co-workers on vessels], seeing the captains have firearms and shooting someone. And this is pretty much every repatriation we hear that, that they’ve seen something like that.”

The stress and trauma from isolation, being away from their homes and families, and long delays in their return may lead to and/or compound depression or other psychological conditions for trafficked fishers. Depression, stress and anxiety have been noted among fishers generally and this needs to be considered in the assistance and (re)integration response for trafficked fishers.

Lack of assistance for trafficked men; being un- or under-assisted

There is a profound dearth of assistance for trafficked males in Cambodia. Before conducting interviews with trafficked men the research team compiled a list of assistance programmes and services for men, to which men could be referred as part of the interview process. In spite of contacting a wide range of service providers, it was possible to identify only a few programmes/services that trafficked men could access, most of which was emergency-based and not focused on longer-term (re)integration. Services were not comprehensive, but focused on a few select service areas – generally, emergency medical care, vocational training and legal assistance and, in some cases, referrals for counselling. Further, there was a geographical bias in the distribution of services, with some areas of the country without any services for trafficked men and some types of services (like psychological support) available only in Phnom Penh. One

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173 For example, a three-year study of 154 seafarers who were attacked by pirates and suffered stress and trauma that required professional treatment reported triggering conditions similar to those experienced by the trafficked fishers in this study, including isolation, being held captive on vessels, physical abuse and psychological trauma. Mittelstadt, M. (2013) ‘Study: Piracy triggering mental-health ailments among mariners’, Professional Mariner, January 23.
service provider summarised the limited options for assisting trafficked men in the country:

“Most assistance is provided by NGOs and they all have different focuses in terms of what services. Some is legal assistance, some are shelters... For the males there’s nowhere to send them to, no shelter for males. There is one big NGO that does a lot of vocational training but, again, their focus is women. They’re kind of looking at males, they recognise the issue, they’re kind of working on their policy in terms of taking in males... But at this state they don’t take males, this is something they’re looking at. Other organisations do some sort of vocational training, but again it’s very piecemeal type stuff. For males it’s like teaching mechanics or fix motorbikes, fixing phones or something like that.”

This is the case in spite of recognition by the government and NGOs that Cambodian men are trafficked and have significant (re)integration assistance needs.¹⁷⁴

Men interviewed for this study identified a raft of different assistance needs, as discussed above. Nonetheless they received little to no assistance following their trafficking situation, in spite of having been identified as trafficking victims by the state and/or NGOs and international organisations.

A number of men received no assistance whatsoever after returning home. One man’s experience is illustrative: “The police asked about my work and the company that took me, and then nobody came to assist me.” Some returned fishers received only the cost of transportation to be interviewed by the NGO and/or authorities and no actual assistance to support their recovery and (re)integration. Others received one-off humanitarian assistance – i.e. food and basic needs:

“[The NGO] gave me USD 50 and other basic supports such as fish cans, noodles, sleeping mat and so on. But just one-time support. They went to receive us at the airport.”

“Yes, I received [assistance] from [the NGO]. They gave me rice, soap, fish cans, a sleeping mat.”

“[The NGO] gave me rice, sardines, blanket, detergent and travel cost back [to my home].”

¹⁷⁴ In 2009, for example, the Ministry of Social Affairs, Veterans and Youth Rehabilitation (MOSAVY) announced that it would expand its reintegration support to include trafficked men. Shay, C. (2009) ‘Government addresses trafficked men’s plight’, Phnom Penh Post, June 8. And, in 2012, IOM and MOSAVY drafted standard operating procedures on the provision of reintegration support to male victims of human trafficking. IOM & MOSAVY (2012) Standard operating procedures on the provision of reintegration support to male victims of human trafficking, Phnom Penh, Cambodia: IOM & MOSAVY.
This is consistent with (re)integration research in the Mekong region which found that trafficked men were generally underidentified and underassisted and that assistance programmes were generally not widely available to men and/or were less developed and comprehensive in terms of the (re)integration services offered.\textsuperscript{175}

A number of men described requesting assistance, even proactively seeking it out, but to no avail. One man, when asked why he agreed to be interviewed for the study, said he had done so in the hopes that this would lead to him being assisted. He had been seeking out support for some time but no organisation was able to help him with his needs: “I have tried many places and no one could support me. And I hope your organisation could help me. [The NGOs] could not assist me, so maybe [your organisation] could. I just keep trying for my luck. If I stay still I will not get any information about support. I just keep trying, maybe I can know better”.\textsuperscript{176} This is consistent with findings from (re)integration research in the Mekong region where trafficked men and boys were, in some situations, “declined” by service providers because they did not fit the criteria of their programme or were not legally recognised as trafficking victims. In some cases, this may also be a function of gender assumptions whereby males are perceived as less vulnerable than females, and thus, in less need of assistance.\textsuperscript{177}

One form of assistance that the men did receive was legal support in terms of filing a complaint against the recruitment agency Giant Ocean, as one man described:

“[The NGO] interviewed me and asked if I wanted to file a complaint. I went to the hearing, later on it was quiet. I call the lawyer often,

\textsuperscript{175} In a number of cases, trafficked males were officially recognised as trafficked but received only very limited support. In a handful of cases, men were identified but went unassisted altogether. Even when trafficked men were assisted, this assistance was generally far from comprehensive. Only 58 of 78 trafficked men and boys interviewed for the study were assisted. Of 58, 19 were ‘basically assisted’ (i.e. only return transportation and some humanitarian assistance), 29 were ‘under assisted’ (i.e. received some assistance but not all; had unmet assistance needs) and only 10 were comprehensively assisted (i.e. received the full package of services needed to meet their needs). Services were typically short term in nature or often “once off” offers of support. Commonly they were given humanitarian supplies upon return and after a short period of time some sort of economic support to help with farming (e.g. water pump, plough) or setting up a small business. Vocational training was sometimes offered, but quite rarely. Trafficked men generally did not receive services such as counselling or medical care, except in more extreme cases, and case management and monitoring was often little to non-existent. Surtees, R. (2013) After Trafficking. Lack of services to male trafficking victims was also noted as an issue amongst practitioners working on (re)integration in the GMS region. UNIAP, World Vision & NEXUS Institute (2012) (Re)Integration. Perspectives of victim service agencies on successes and challenges in trafficking victim (re)integration in the Greater Mekong Sub-region, Bangkok: UNIAP, World Vision and NEXUS Institute, 11-12. A recent study of services in Cambodia made similar observations. Mauney, R. & Srun, R. (2012) Assessment of shelter versus community based services for survivors of trafficking in persons in Cambodia, Phnom Penh: Winrock International.

\textsuperscript{176} In contacting respondents, the research team clearly explained that the interview was for the purpose of research and that researchers were not service providers and able to assist, beyond offering information about services and assisting in referring them to these organisations. Nonetheless, this respondent was very much in need of assistance and came for the interview hoping that the research team could assist him.

the lawyer said the trial was not yet done. I think it is hopeless. Even though they are arrested, but still they cannot touch them. I only hope to get USD 400–500 for me to release my debt, but maybe not! My wife has the lawyer’s number. I have no concern receiving such assistance. I put my thumbprint on the complaint at the NGO. [The NGOs] seem to try hard to get me support, but nothing is achieved yet, still no support so far. I appreciate their endeavour, but there is no result yet. The NGO people told me it depends on the court to decide. If they decide to compensate us, we could get money. If not, it means nothing.”

Moreover, none of the men interviewed said that they were receiving assistance at the time of the interview in spite of some having ongoing assistance needs and some having only just recently returned. One man, when asked why he agreed to be interviewed for the study explained that he had done so to try to push organisations and institutions to provide for more assistance for trafficked fishers like him: “I want my experience and others’ experiences to be heard by organisations and the government so that they will be able to assist us some day. Please deliver my message to all organisations and the governments within the country and outside the country to help [trafficked] Cambodians.”

**Assistance did not fit their life situation; assistance did not meet their needs**

What assistance was available was not always accessible to trafficked men. A number of men described wanting to receive vocational training but facing personal and practical barriers which prevented them from benefiting from this service. Most commonly this was because they needed to support their family and could not afford to forego earning a salary while being trained in a new profession, as one man explained:

“It is difficult, because I am uneducated. I want to learn how to cut hair [be a barber], which I think might help me earn more. But while I am training, who would earn to support my family? I can’t work as a construction worker forever. It is a hard task and I am getting older and older. It is also a heavy work. I want to learn haircutting, maybe take two months, but I don’t have money to pay for the training. If I want to study, I have to borrow other people money to study. But if I borrow the money, where can I get the money to pay them back? At the same time I won’t have time to work to earn neither. My family will struggle, too. Based on these considerations, I want to study it in Phnom Penh. If I study in the afternoon, I can work in the morning and if I study in the morning, I can go to work in the afternoon. However, if I study at my hometown, I think there might be no work to do!”
One man said that he was unable to participate in vocational training that had been offered to him because his parents were elderly and he was the one to support them: “I did not receive such skills training because I could not leave my parents alone…The NGO asked if I wanted a motorbike fixing skill to support my family but I could not leave my parents.” Of note was that in this instance his parents were pushing him to attend some training to improve his situation: “My parents say that staying here with them, I won’t have good future, what would I be?! They want me to go to learn a skill but we do not have money. They say whenever we could save money, I should learn a skill.”

Even when assistance was available, it was not always suitable for trafficked fishers. One service provider described some of the challenges in meeting the needs of beneficiaries who originated from communities where economic options were constrained:

“In the communities where they live, there are social-economic issues and they’re still there and they don’t have the clients [for a business]. The clients they have [in the village] can’t really afford anything, the businesses aren’t that successful. This is where some of them express wanting to come to Phnom Penh…some of the NGOs support some of them to come to Phnom Penh and these were the guys who got their driving licences and are working as drivers, basic truck driving, and a lot of them express there’s all the construction around, they thought that’s something they could do…They’re not really thinking bigger picture, there’s no real analysis [by NGOs] linking it to actual labour demands. A lot of them get these skills but they’re not necessarily skills that will help them get a job.”

One formerly trafficked fisher explained how he had contacted one NGO after his return from South Africa, trying to get assistance to improve his economic situation. The NGO offered him assistance that was different from what he had asked for and which also required him to fulfil certain administrative requirements that he did not have the resources or capacity for:

“I used to contact [one NGO] for assistance, but they only give me some chicks. I requested some money support to buy materials to start a small job or business but they gave me chicks instead. I think I am poor, no food to eat, and no spare rice for many chickens too. They might get sick and die as well. I filled out many forms and submitted to them, even a clearance letter from the authority to prove we are a poor family. I did not take those chicks. I prefer some money to buy a tuk tuk trailer, so I can borrow my brother in law’s motorbike and run a tuk tuk service, to carry the factory workers. I could earn better this way. But they say that they cannot give me
assistance as money. I tried very hard to fill out all of the documents but, in the end, only chicks. So I did not take them.”

Other forms of assistance can be difficult to access for practical reasons. Medical services and counselling are typically offered in the capital and, to a lesser extent, in major towns and yet this is not where most trafficked men were living after trafficking. This meant travelling to receive these services, which meant spending money for transportation and loss of income when missing work. One service provider explained this as a challenge generally in offering services to trafficked persons living in their (often rural, distant) communities. In one instance, the organisation offered to provide physical and mental health checks to beneficiaries but this meant that trafficked persons had to travel to the city, which required a great deal of convincing on the part of the service provider:

“We had to go to where they live and speak with them and try to convince them that it was important. It wasn’t until three or four months later that they realised that they had some issues so that they were willing to come. But after a really long period of time, one was even six months, she didn’t want to come until she realised: “I do have a problem, I need to talk to someone, I have trouble sleeping and so on.”

Some services – for example, counselling and psychological support – may also be less understood and valued in Cambodia. As one service provider working with trafficked fishers observed, while many of these men are badly traumatised as a result of being trafficked at sea, most will not seek psychological support because of these social norms. This, in turn, complicates their recovery and integration back into the community.178

(Re)uniting with family; coming home

Most men had reunited with their families after their exploitation at sea and were living again in their homes and communities. Said one of the men: “I am so happy that I can work near my family. I have given up to work abroad.” Another described his homecoming as profoundly emotional: “My family was crying seeing me back home. They were too happy. They did not expect that.” Some men came home after years away to find that their families had feared them dead,179 not having heard for them so long, as one man explained: “My family was so happy to see me back. Everyone in the family and the community thought I was dead already. They heard about [a natural disaster]; they thought I died of that natural disaster.”

One service provider explained that this long separation sometimes meant men returning home to find their family “broken,” wives and children having moved on with their lives in their absence:

“A couple of the men, the family had given up on them and they’d had a funeral... Because they have had no contact for three years. So a lot of them came back to these families that were just so surprised that they were still alive, as they hadn’t heard from them. They’d had a funeral and obviously were happy to see them back. A few guys had had their family move on. One of the married guys, his wife had already remarried.”

Even when reuniting with one’s family, the return home was not uncomplicated and trafficked fishers faced problems and tensions. While these tensions differed from family to family, they most commonly centred around the family’s expectations and their reactions to the man’s (failed) migration. As one service provider explained: “A lot of the men get a lot of pressure from the families. They’re going through that experience that the families have this expectation that they’ve gone away for all that time and they have nothing to show for it... And then the family doesn’t understand why you went away for two years and come away with nothing.”

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180 Siem Reap, Cambodia. This photograph is not of a trafficking victim or trafficking victim’s child. It is used to illustrate villages and communities that some trafficked fishers may return to. This photograph is available via a Creative Commons licence (https://creativecommons.org/licenses/by/2.0/) through Flickr.

181 This has been noted by service providers generally in Cambodia. And one service provider interviewed in the media stressed this issue as a complication when men returned home ‘empty-handed’, saying: “Their families expect that they will come back with money, but unfortunately, they often return with no money, and then they have to face their family.” Shay, C. (2009) ‘Government addresses trafficked men’s plight’, Phnom Penh Post, June 8. See also Surtees, R. (2013) Trafficked at sea; and Surtees, R. (2008) ‘Trafficked men as unwilling victims’, St. Antony’s International Review, 4(1), 16–36.
One man described his complicated feelings about his return home – joy to be returning home to his family but deep regret at having failed at migration: “How can we be happy when we worked so hard and didn’t get any money? Two of us cried. We didn’t even get the tip from selling the shark fin. No one told us anything about our rights or anything. We just worked and worked and when we returned, we got only USD 50... On my way back I was worried that I returned with no money.”

Indeed some men did not return home after they escaped from trafficking, opting instead to work on another boat in the hopes of earning money that they could return home with. For some men, the anxiety of returning home without money was far worse than the fear of being exploited and abused again. One man who did return home explained how four of his co-workers/compatriots did not return home, precisely for this reason:

“That two are not yet back, too. [My friend] said he doesn’t want to come back because he thought he will be embarrassed because he didn’t have any money. He was deceived by the company as well, after the long migration.... Those two didn’t receive any money and they refused to come back. I don’t know why would they like to stay! I didn’t ask them. The job was hard that is why I asked them to come back home. They also faced hard tasks but they asked to be transferred to other vessel and maybe they got money [on the new vessel].”

One man described his family having to rely on support from the community and extended family in his absence:

“The villagers pity us. They are happy to see me back. When I was away and my kids had nothing to eat, they gave my wife rice or other food. Our extended family also gave them food. My older kid, was young, but after school he goes to look for crab or fish for us to eat. He is good. The villagers praise him. They said that when his father was away that child was just over five years old but he look for food, in the mud, swamp...he could catch crab, frogs for his mom to cook. Since now I am back I do not let him do it more, I let him study.”

Another issue was that the family did not always know what had happened to the trafficking victim in terms of the full extent that they had suffered, and so were not always best positioned to appreciate and to respond compassionately to the difficulties the men faced in coming to terms with their exploitation. Some men told their family all that had happened: “I told my family everything. Whenever I say about this they all pity for me and start crying.”

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However, some men did not tell their family what they had endured (or at least not the full extent of what they had suffered). This was sometimes to avoid talking about their traumatic experiences and sometimes to shield their loved ones from what they had suffered. The end result though was that it was harder for the family to understand and support them upon their return, as one service provider explained: “They’ve also got an issue there that they, the family doesn’t understand the experience and they don’t really express to the family what happened to them [when trafficked].”

It took time to rebuild relationships within the family – certainly between spouses who had lived so long apart and may also have harboured resentments, especially when they were not fully apprised of what had happened. But this was also an issue for other family members, not least children. In some cases, children had complicated reactions to their fathers who, in their thinking, had left them behind and not sent money home. One man described coming home to children who did not recognise him, as they were still babies when he migrated: “When I left, my kids were very young, and could not recognise me when they saw me again. They were scared of me when I returned.” As mentioned above, his son also asked very painful questions about where he had been and why he had stayed away, things that are difficult to explain to a child: “He asked me where I had been for that long time? Why didn’t daddy stay and help him look for fish? He said he had nothing to eat, he had been starving and crying.” And yet not explaining could lead to hostility, confusion and/or resentment on the part of children left behind.

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184 Cambodian man on Tonle Sap Lake. This photograph is not of a trafficking victim or trafficking situation. It is used to illustrate villages and communities that some trafficked fishers may return to. This photograph is available via a Creative Commons licence (https://creativecommons.org/licenses/by/2.0/) through Flickr.
(Re)integrating in the community – pity and support; blame and shame

Men’s receptions in their home communities differed. Some men, when asked how they were received in their community after their return, described warm receptions from friends and neighbours:

“They were happy for us, for our family. They did not think we could make it back home alive. When they saw us walking across the village, they thought, where were these guys come from? With long and messy hair! I did not feel anything with that because it is normal, and of course we were like that [look strange]. Our friends still treat us as usual. The young people treat us normally and the elderly pity us even more.”

For some men, being pitied by those in the community translated into feeling supported, as one man explained: “The villagers pity us, but they cannot give us anything [only emotion, not materials]. They love us.” Others, however, struggled with this community reaction, feeling shame about their trafficking experience. According to one trafficked fisher: “The [community members] all pity me. They pity me that I could not support my whole family... I told the whole story to my family. I did not tell the story to people in my community because they did not ask me. I feel ashamed to tell them my story.”

Shame seems to have been linked in large measure with the failure to return home with money, with being a failed migrant. Many men struggled with having to come home empty-handed:

“I told everything to my family, but not all to people in my commune as I felt ashamed for my decision to work there. I could not make any money when I returned home.”

“I felt embarrassed of the villagers because of being away for two years. I should have brought lots of money home but I brought nothing.”

Feelings of shame were also likely due to having failed as a man in a culture where social codes dictate he should be able to take care of himself and support his family. One man described being criticise by another village in his community for his failure: “A villager blames me that how come you let them deceived you like that?!?”

In some cases, community members were very overt in their blame of the men. One man, when asked if he would like to migrate again said that he would not:

“No, I am afraid that it would be as difficult as when I was in South Africa. People were going because we thought we could help our
family with that high salary, but it was not like that and when we came back, people said to us that it was because we believed others too easily.”

Were there many people who said this to you?
“Yes. Many! Young people, like me, said that we were stupid, going without considering well. And the elderly people tended to pity us instead.”

In some cases, tension between the returning men and the community seemed to be as much (or more) about their (inferior) position in the community than the trafficking experience. One man and his family (who were quite poor) attributed the negative reactions to this:

**How were you treated in your community when you came home?**
“They blamed me, they said: “There are a lot of jobs in Cambodia that you can earn, why do you need to migrate to work out of the country?” I did not reply because it was my mistake. It is right to work near the family so that I can meet them morning till night. I could not earn anything from my migration…”

**How are you treated within the community now?**
“Some of them think we are poorer than them. I think they look down on me.”

**What makes you feel that they look down on you?**
“As we live near one each, we must have more or less problems. They insult us we are poor and stupid. I said: “Even though I am poor, I do not beg rice from you.”

Important to consider is the impact that shame and discrimination within the community may have on decisions about seeking out or accepting assistance. Men may not be willing to seek out assistance that is visible to those around them as it may bring censure and criticism for not being able to care for themselves or their family. Previous research on assistance to trafficked men found that many men were particularly concerned about confidentiality when first reaching out to service providers, fearing that their trafficking experience and also their need for assistance would become known to others.185

**Issues in the legal process; desire for compensation**

The main form of assistance available to trafficked men after their return to Cambodia was legal assistance – namely, assistance in lodging a complaint against the recruitment agency.186 Many men accepted this support and while,
in a handful of cases, the men spoke about a desire for justice and wanting accountability on the part of their recruiters, most were primarily interested in the legal avenue as a mechanism to receive their outstanding salary (or compensation for not having received a salary). Their observations below illustrate their interest in receiving this money:

“I also need to get back all of the salary from when I worked there. Even less than the amount they promised is fine. I could accept whatever compensation was.”

“I would like to get my salary back. I would like the organisation to help me...I am happy if I can get all the money I worked for during that hard time.”

“I felt so happy when I could see my parents, my wife and my daughter. Now I just want to get my salary!”

“I want them to compensate me for the money during [the time] I was working on the fishing vessel.”

“I want to get all the compensation during my time working on the vessel. I don’t want more than my actual wage and salary.”

“I want your organisation to arrest the facilitator who took them to work there. Pay for compensation... I want to help to get back my salary and help other Cambodians who are trapped at the sea.”

On 29 April 2014, the Phnom Penh Municipal court announced its verdict in the Giant Ocean case – finding the owner of Giant Ocean International Fishery Co. Ltd. guilty of human trafficking and sentencing her to ten years in prison, along with five others from Taiwan Province of China who were involved in the case and tried in absentia. In addition, the judge ordered the traffickers to pay civil prejudice and compensation to 154 civil parties (i.e. trafficked persons and their families).187

While a significant success, pursuing the case has been far from uncomplicated. The alleged owner of Giant Ocean, a woman from Taiwan Province of China who was living in Cambodia, fled Cambodia for some time and was only arrested in May 2013 after police found her hiding in Siem Reap Province under an alias. While she was arrested in May 2013 and charged with trafficking Cambodians onto fishing boats through Giant Ocean from 2009–2011,188 there were long delays and complications in the case. It took almost one year for the Phnom

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Penh Municipal Court to investigate and process the case before it was brought to the trial. After coming to trial, there were several delays with hearings held over a period of several months.

Moreover, the five others from Taiwan Province of China who were tried and convicted in absentia remain at large. Given the lack of diplomatic relations between Taiwan Province of China and Cambodia, it seems unlikely that these men will be held accountable in terms of jail time and being required to pay compensation.

In addition, many men interviewed for this study spoke very specifically about Cambodian nationals who also worked at the Giant Ocean recruitment agency. All men described and named the same three men who recruited them, arranged their documents, trained them and escorted them to the airport at departure. One of the men was also in touch with one of the staff members of the recruitment company upon his return to his home in Phnom Penh. At the time, the company was still operating and the man answered his call and met him and took away his documents (presumably as evidence of his exploitation). He described the encounter as follows:

“I remembered the company’s number and called, then [one staff] told us to meet him. Then he took my passport and work record book. When he took my passport and work record book already, that [recruitment company] number was not reachable anymore. When I asked about the money they said I could not get it. They said I didn’t work till the end of the contract, that’s why they didn’t give me the money. They said we have to stay there for three years in order to get paid!”

Nonetheless, no Cambodian nationals have been charged in the case against Giant Ocean.

The men involved as witnesses in the case were exposed to a great deal of stress and anxiety during the legal process, not least because of the delays. Indeed one service provider expressed concern about the legal limbo that the men were in over this period of several months and the impact this had on their psychological well-being and longer-term recovery. The men also faced practical considerations in terms of being involved in the legal case – having to travel to the Phnom Penh court from around the country which involved missing work (thus, lost income) and travel costs (not reimbursed by the court).

The enforcement of the judgement remains pending – both the criminal charges and the civil remedies. Enforcement will be complicated by the fact that the

189 Indeed, recruitment agencies and traffickers may operate in a culture of impunity in Cambodia, where recently the Cambodian Supreme Court acquitted the former chief of the Phnom Penh Municipal Anti-human Trafficking and Juvenile Protection Police Unit, who in 2011 had been sentenced to seven years in
five men from Taiwan Province of China who were tried and convicted in absentia remain at large. Further, the lawyer for Giant Ocean’s owner said that his client would appeal the sentence and stated that any compensation to victims should come from the USD 100,000 Giant Ocean paid as surety when it registered with MoLVT in 2009. Questions remain about how the victims will receive compensation. Compensation orders in trafficking cases elsewhere have been found to be underutilised and under-enforced due to issues such as inadequate assets on the part of the sentenced trafficker or lack of expertise, training and resources on the part of the police to engage in successful financial investigations resulting in the recovery of assets. It is also possible that, compared to the conviction of the perpetrator(s) of trafficking crimes, compensation to victims may be a lower priority.

Further exploration is needed into the possibility of bringing compensation claims on behalf of foreign trafficked fishers under South Africa’s new law, which sets forth that “in addition to any sentences, a court may, on its own accord or at the request of the victim of trafficking or the prosecutor, demand compensation for: (i) damage to or the loss or destruction of property, including money; (ii) physical, psychological or other injury; (iii) being infected with a life-threatening disease; or (iv) loss of income or support, suffered by the victim as a result of the commission of that offence.” Further, “in cases where the amount of the damage, injury or loss suffered exceeds an order for compensation which can be made by a magistrate’s court, a civil action may be instituted by the victim for the recovery of the excess.” While South Africa’s law was not in place when


192 South Africa’s 2013 Anti-Trafficking Law, Article 29.
the men in this study were trafficked to the country, the prosecuting authority in South Africa will now have the opportunity to bring compensation claims under the new law in the future to better assist trafficked fishers who are exploited in South Africa.

**Summary**

While nearly all of the men described happy homecomings when they returned to Cambodia, they faced challenges and issues in their recovery and (re)integration. The men returned to Cambodia between 2010 and 2013; some of the men had only been home for a few months at the time of their interview.

All of the men returned home to a difficult economic situation, most having returned to the jobs they held prior to their exploitation, in construction and agriculture (though some had obtained new work in Cambodia). Two men faced very serious debt after their return. Some men were unable to live with their families because providing financial support required them to live and work elsewhere in Cambodia.

Trafficked fishers struggled to recover from their trafficking experience and described both physical and psychological injuries as a consequence of their exploitation on fishing vessels. None of the men reported receiving medical assistance or counselling. There is a profound dearth of assistance for trafficked males in Cambodia, and the men in this study were not able to access programmes or services to help them recover or (re)integrate into their home communities. A small number of men reported receiving one-time assistance, such as small monetary amounts or (re)integration “gifts” from NGOs in Cambodia. The assistance that was available to the men did not meet their needs or situations. For example, a number of men described wanting to receive vocational training, but faced personal and practical barriers that prevented them from doing so.

Relationships with family and community members were complicated after the men returned to Cambodia from their trafficking situations. Men described feeling ashamed at returning with no money. Some men felt supported by family and community members, but others struggled when community members were unsympathetic to their situations.

Most trafficked fishers in this study were offered legal assistance in the form of lodging a complaint against Giant Ocean. Most accepted this support, particularly as they wanted to receive their outstanding salaries or be compensated in some way for the time they had worked. While the owner of Giant Ocean has been sentenced, it remains to be seen how the criminal charges and compensation are enforced.
11. Conclusion and recommendations

While the trafficking of Cambodian fishers is not a new phenomenon, recruitment and transportation of fishers through legally registered recruitment agencies and with legal documents and work permits constitutes a different modus operandi from Cambodia and one which sufficiently camouflaged the men’s intended exploitation and trafficking. Literally hundreds of Cambodian men migrating for work in the fishing industry ended up trafficked and exploited on fishing vessels operating along the South African coastline, as well as in other African and Pacific destinations. This highlights the need to pay careful attention to recruitment and migration through legal and formal channels from Cambodia, as there exist opportunities for abuse and violations even within this formalised process and regulated sector. It also highlights once again the risk of trafficking within the fishing industry, not only in South-East Asia but also in many regions of the world. This study has also sought to shed light on South Africa as a destination country for labour trafficking, a newly recognised and legislated form of trafficking in the country, and particularly within the commercial fishing sector. A better understanding of the presence of trafficking within this labour sector in South Africa is an essential starting point for combating trafficking in persons, especially in ensuring that trafficked persons receive the assistance and protection to which they are entitled.

As important as documenting the way that trafficking takes places in these cases is documenting how trafficked persons are (or are not) identified and assisted (and why). Both in South Africa and Cambodia trafficked fishers faced substantial issues and obstacles in terms of escaping their situation of abuse, making their way home and recovering from their trafficking experience. In some cases, failures and gaps in the anti-trafficking response in South Africa led to trafficked fishers being unidentified and instead being sent back to sea and suffering continued exploitation on fishing vessels for months and even years. In other cases, men remained on vessels and in the hands of their exploiters while their situation was assessed and return arrangements were made. And those who eventually returned home generally lacked the support and services to which they are legally entitled as trafficked persons and which are often central in a victim’s ability to recover and move on from trafficking. Having identified these issues and gaps, the next step is to identify how these can be remedied.
Based on the experiences of the trafficked Cambodian fishers in this study, the following recommendations aim to articulate possible ways forward for governments, NGOs, international organisations, unions and associations and local actors in addressing the trafficking of Cambodian fishers and indeed trafficked fishers generally. These recommendations are structured around the four “Ps” of anti-trafficking efforts – prevention, protection, prosecution and partnership.

I. Prevention

(a) **Enhance monitoring of recruitment agencies.** Formal labour recruitment should offer a clear and accountable framework through which recruitment and job placements for fishers take place. Crewing agencies should only offer placements that live up to the conditions offered at recruitment and that are clearly outlined in the individual contract, always in a language that the individual fisher can understand and to which the fisher fully consents after receiving complete information and the opportunity to consult a legal professional. Cambodia’s Ministry of Labour and Vocational Training (MoLVT) should improve the monitoring, oversight and, when needed, sanctioning of recruitment agencies to ensure that they live up to their obligations and responsibilities. Monitoring of recruitment agencies should be undertaken on a regular basis and information about any problems with recruitment agencies should be made publically available – to fishers, as well as vessel owners and fishing companies.

(b) **Government should enhance information available to fishers at recruitment.** Governments in countries of origin and destination should collect data and publicly promulgate information lists about violating agencies and documented risks for fishers. Monitoring of recruitment agencies should include collecting information about any problems with recruitment agencies which should be made publically available – to fishers, as well as vessel owners and fishing companies. Technology should be used to maximise access to information. Opportunities provided by social media and mobile technologies should be utilised to the fullest extent possible, to share this information with the aim of preventing repeat trafficking incidences and to help protect potential victims. Taking this step is one means by which governments can help to decrease human trafficking in this context and protect victims of this manifestation of servitude and exploitation.

(c) **Vessel owners and fishing companies should ensure ethical recruitment of crew.** While the responsibility to monitor recruitment agencies rests with governments, there is also an important role that should be played by fishing companies and ship owners in deciding which crewing agencies they will and will not use to recruit fishers for work. Fishing companies and ship owners should ensure that the
recruitment/crewing agencies they use operate legally, are certified or licensed by the competent authority in the country where they recruit and do not engage in fraudulent behaviour to place fishers at risk of trafficking. Monitoring by the fishing company and ship owners should include due diligence checks on the recruitment agency involved and implementing measures to ensure the fishing company’s legal compliance with regulations in every jurisdiction in which they operate.

(d) **Enforce existing policies and legislation on formal/legal recruitment.** Cambodia regulates recruitment agencies using Sub-Decree 190 and its accompanying Prakas. Cambodian authorities should enforce this legislation and ensure that the existing sanctions are implemented to the fullest degree. Recruitment agencies should be obligated to monitor and handle any disputes with and disappearances of migrant workers, reporting to the MoLVT. Such issues should be carefully investigated by the MoLVT and recruitment agencies that violate regulations should have their licences suspended or revoked. South African legislation on the recruitment of workers should also be applied wherever applicable and recruitment agencies in the fishing industry that engage in private employment practices in South Africa should be subject to the standards set forth in South Africa’s legislation. Authorities in all relevant countries – working individually and in cooperation -- should ensure that officials of companies found culpable are not permitted to reorganise, apply for new licences and return to practice-as-usual (i.e. exploitative and criminal conduct) under a new corporate guise.

(e) **Develop clear policy on the recruitment of migrant fishers containing adequate procedural and substantive protections.** Currently in Cambodia, Sub-Decree 190 neither prohibits nor permits the recruitment of migrant fishers. A clear policy is needed to address the recruitment of Cambodians for work in the fishing industry. If the Cambodian government decides to permit the recruitment of migrant fishers, specific guidelines are necessary to ensure safe and fair recruitment – for example, that migrant fishers are provided with fair contracts (that they understand and consent to) and that the recruitment agencies live up to the agreements set forth in such contracts (including work conditions and salaries). Recruitment agencies should only be permitted to place fishers with reputable companies. Recruitment agencies should be held liable for the well-being of and any violations of the rights of fishers whose placement aboard a vessel they arrange. If permitting the recruitment of migrant fishers, Cambodia should ensure, through Sub-Decree 190, that the pre-departure training required of recruitment agencies is effective and includes skills training that fishers will need on board, to prepare them for living and working conditions on vessels, particularly the language skills they will need. This report identified highly dubious practices that were characterised as “training.” Such practices should end immediately. Recruitment
agencies should also be required to provide information about their labour rights and immigration rules abroad. As part of pre-departure training, recruitment agencies should be required to issue migrant fishers skills certificates.

(f) **Ratify ILO conventions (No. 9 and No. 179) on the regulation of recruitment and placement agencies.** Relevant ILO conventions should be ratified. Beyond that, Cambodian and South African legislation should be brought into line with the specific international standards on regulation and liability of crewing companies for recruitment and placement of seafarers and fishers. This includes that no recruitment fees be borne by seafarers and fishers, legal and financial responsibility for violated contracts, a duty to investigate the fishing companies they make placements for, a central oversight and complaints body with public violation records and a ban on re-licencing individuals associated with companies that previously violated regulations. Attention is needed to the role potentially played by agencies in South Africa ports (and other destinations), as well as recruitment agencies with which Cambodian recruitment agencies cooperate.

(g) **Ratify the Work in Fishing Convention and work to bring it into force.** South Africa is one of four countries that have ratified the Work in Fishing (WIF) Convention. Cambodia should also ratify the WIF Convention. The WIF Convention will not come into force until it is ratified by ten International Labour Organization (ILO) member states. Therefore, both South Africa and Cambodia should advocate for global ratification and implementation of the WIF Convention to provide much needed minimum standards that protect fishers in all aspects of their work.

(h) **Monitor job advertisements for legality and reliability.** The regulation of recruitment agencies in Cambodia should include provisions on government responsibility to regulate job advertisements to ensure that advertisements are accurate, legal and in line with the clear and accountable framework through which recruitment and job placements for fishers takes place. Where such regulations exist (e.g. Sub-decree 190 and the accompanying Prakas), these should be enforced and violators sanctioned appropriately. At a minimum, even in the absence of adequate protections in human trafficking laws, national prosecutors should look for tools in other criminal provisions, such as those addressing criminal fraudulent practices, to investigate and prosecute individuals and legal entities to bolster credibility of criminal justice systems in this context and serve as meaningful deterrence against deceiving individuals into situations in which the practices described in this report exist.

(i) **Increase awareness of the risks of trafficking through legal registered crewing agencies.** Although many fishers had heard stories of
Cambodians being trafficked when migrating informally, none expressed concern about recruitment through legal recruitment agencies. There is a need to increase fishers’ awareness of the risk of trafficking through formal, legal channels and to develop tools for fishers to identify unsafe recruitment practices. This is needed in Cambodia, as well as other countries from which trafficked fishers commonly originate. There is also a need to increase awareness of the risks of being involved in IUU fishing, which can complement anti-trafficking awareness initiatives aimed at the fishing sector.

**Provide information and resources to allow fishers to check placements.** Tools or resources that allow fishers to check the legality and authenticity of placements can prevent trafficking before it occurs. Fishers should, at a minimum, be allowed to view images of the vessel where they will be placed, to be shown on a map where the vessel’s location will be, be able to ensure that the vessel’s licences are current and establish if there have been any complaints or lawsuits filed by previous crew. Additionally, fishers must be able to check the legality of their contracts and the history and reliability of the recruitment agency. Also useful would be a registry of fishing companies, vessel owners and recruitment agencies that have been vetted and are reliable and reputable (as well as a blacklist of those with a bad track record). Some tools already exist that could be incorporated into awareness raising and verification systems, including the ITF vessel registry, the Equasis project and the FAO’s Global Record of the Fishing Fleet. These tools can also be used by governments to further their monitoring efforts.

2. **Protection**

2.1. **Identification**

(a) **Improve identification of trafficked seafarers and fishers.** Given the difficulties and complexities of discovering and communicating with trafficked fishers, a robust set of approaches is needed to effectively and consistently identify victims. There is a need to develop, test and implement criteria for the identification of trafficked fishers. This will require tailoring tools to the specific issue of victim identification in the fishing industry, as the issue of trafficking is not currently captured within the standard questions asked during routine inspections. This will also need to involve screening of lower level crew members, rather than only senior officers. This needs to be done one-on-one and not in the presence of the captain or senior crew, who are likely to intimidate them from speaking openly about the problems being faced, including human trafficking. It is also worth exploring other possible barriers to the disclosure of trafficking situations (and other abuses) when being screened by foreign authorities including, for example, issues of trust,
fear of arrest and language barriers. It is also important to document how trafficked fishers may seek out identification – for example, seek assistance while in port, calling helplines or reaching out to fellow seafarers – and opportunities to access the most efficient entry points should be expanded.

(b) **Screen for trafficking within the fishing sector.** State monitoring of the fishing industry should include screening for cases of human trafficking. On-ship inspections of labour conditions, randomised port inspections, regular monitoring of flag vessel locations, screening seafarers in ports, spot checks by coast guards at sea, screening detained seafarers/fishers, vessel fitness inspections and interviews with crew members to ascertain if they are being treated fairly should all be part of state practice in their oversight of the commercial fishing industry. Due to the close relationship between fisheries crime and trafficking, efforts by governments to combat fisheries crime should also include anti-trafficking efforts as an integrated part of the fisheries authorities’ control activities at sea and in port. Screening protocols should include provisions to improve awareness about trafficking through legal channels as well as trafficking within the fishing sector generally. This should also include targeted anti-trafficking training of key actors in the fishing sector, as well as information of who to call and how to intervene if trafficking cases are suspected.

(c) **Develop protocols to intervene in trafficking in the fishing industry.** Screening protocols should clarify ways to intervene in different settings where trafficking of fishers is detected, including on fishing vessels and in ports, and establish quick forms of action to deal with the often limited timeframe for intervention in cases of trafficking at sea. Governments should establish a set of guidelines for labour inspection on-shore and the inspection of working and living conditions at sea, which include criteria and protocols for the identification of trafficked fishers. This will also require training authorities working on fishing on the issue of trafficking in persons and challenges in identifying trafficked fishers. This will require engagement between the anti-trafficking and fishing sectors, to draw on respective expertise and knowledge as to how this can best be achieved. The implementation of guidelines must take into account language barriers.

(d) **Enhance capacity of frontline actors to identify trafficked fishers.** Frontline actors and authorities (i.e. those who come into contact with trafficked fishers) should be trained in how to identify trafficked fishers (or potentially trafficked fishers) in an appropriate, sensitive and timely fashion. Identification may take place through a range of different frontline actors including anti-trafficking police, customs officials, immigration, maritime police, coast guard, navy, occupational health and safety inspectors, labour inspectors, seafarer/fisher support
organisations, fishers union or anti-trafficking organisations. All actors require tailored training in the identification of trafficked persons within this specific specialised labour sector, including best practices for (sensitive and effective) intervention. This training should take into account the possibility that trafficked fishers may not see themselves as trafficking victims and how this can be addressed.

(e) **Enhance the role of embassies and consulates in identifying trafficked fishers.** In the absence of a Cambodian embassy or consulate in the destination country, the Ministry of Foreign Affairs and International Cooperation (MoFAIC) should partner with other ASEAN countries to identify (and assist) trafficked Cambodians. Embassy and consulate staff in destination countries should be encouraged to reach out to port officials and fisher support groups to better understand the situation of fishers from their countries, including toward identifying instances of trafficking and supporting returns when needed.

(f) **Ensure fishers have contact information for assistance abroad and a means of communication.** Migrant fishers should carry information about organisations and institutions from which they can solicit assistance in case of difficulty in various destination countries. This might include the ITF, seafarers’ and fishers’ associations and unions, anti-trafficking organisations and law enforcement authorities such as coast guards and port authorities. It should also include contact information for their country’s embassy/consulate (or government contacts at home when there is no embassy). Fishers should be encouraged to travel with charged and credited mobile phones and to establish a system of regular communication with family or friends on shore, the interruption of which could serve to signal possible difficulties.

(g) **Immediately remove all suspected trafficking victims from trafficking situations.** A government’s presumption must always be in favour of protecting the individual from entering or continuing in a trafficking situation. Identification of trafficked fishers (or potentially trafficked fishers) should translate into their immediate removal from the trafficking situation – that is, the vessel on which they are exploited, the fishing company that placed them, the port of embarkation, and so on. Authorities in South Africa should be trained to assume that vulnerable persons on fishing vessels who come forward about exploitation are trafficking victims unless proven otherwise. Trafficked persons (or suspected trafficked persons) in South Africa should be provided with information about a reflection period and temporary residence options to remain in the country where they are identified, to receive assistance while their case is assessed and follow up options (e.g. legal cases against traffickers, repatriation arrangements, etc.) are determined. Trafficked persons should never be kept in detention centres or jails/prisons and should never face deportation.
(h) **Address language barriers to victim identification.** Trafficked Cambodian fishers faced many problems because they did not understand the languages spoken around them. This was not only an issue on their vessels, but also at port, where they were unable to communicate their problems and seek help. When they managed to contact authorities or negotiate their return to Cambodia, language barriers kept them from understanding what was happening. It is possible that language barriers prevented them from being identified as trafficked. Tools to allow communication across (often multiple) language barriers are needed for coast guards, immigration, port authorities and other frontline actors who board vessels, are in ports or have contact with fishers. This would involve being accompanied by interpreters when interacting with fishers. Sophisticated (and costly) responses could also include the use of audio or visual technology to reach different nationalities and address language barriers. At minimum, a list of translated phrases is needed for a preliminary screening, which would allow trafficked fishers to request assistance.

(i) **Address conceptual barriers to victim identification.** Trafficked fishers and identifying actors may not recognise their situation as trafficking because a lack of awareness of labour trafficking and that men can also be trafficking victims. Additionally, fishers and frontline actors may accept and consider the exploitative labour conditions that fishers face on fishing vessels as “normal.” Frontline actors (in both the trafficking and fishing sector) should be trained in identifying trafficked fishers and equipped with skills and information that allow them to effectively and sensitively convey to trafficked fishers their status as trafficking victims and the rights to which they are therefore entitled.

### 2.2. Assistance

(a) **Improve and expedite governmental procedures to return trafficking victims.** The governments of Cambodia and South Africa must have in place an immediate and clear process to return trafficked nationals. This needs to take into account any specific issues related to the return and assistance of trafficked of fishers. The governments of South Africa and Cambodia should review and improve their procedures for identifying and returning trafficking victims, including resources and capacity of consular staff. Government budgets should include funding for the voluntary return of trafficking victims as well as processing documents and other procedural assistance. Where funding is not available, governments should collaborate with international organisations to ensure the safe and voluntary return of trafficking victims.

(b) **Ensure adequate provision of assistance to male trafficking victims in Cambodia and South Africa.** There is a dearth of assistance options for men in both Cambodia and South Africa. This is the case in many
countries where trafficked fishers may escape or be identified and to which they return. The government of South Africa needs to ensure that all trafficked men have access to the (emergency) assistance and support in the immediate aftermath of trafficking and that these men are referred to service providers at home in Cambodia. The government of Cambodia must ensure trafficked Cambodian fishers have access to a comprehensive package of (re)integration services to meet their wide ranging needs and that state and NGO service providers undertake ongoing case management. The adequate provision of assistance includes developing community-based services that are available throughout the country. Services should also take into account the broader assistance needs of fishers’ families as decisions around migration were often triggered by the need to support family. (Re)integration support should pay attention to the complexities and challenges of trafficking victims’ return to family and community. The governments of Cambodia and South Africa must ensure that adequate resources are available for the assistance of trafficked men.

(c) **Enhance service providers’ capacity to work with male trafficking victims.** Service providers need to be trained to work with male trafficking victims and to build their capacity accordingly. Governments should ensure that accredited service providers receive training (or funding for training) to equip them to be able to serve male victims. Capacity should also be increased through dedicated funds to develop shelters for men and other assistance services aimed specifically at men. Enhancing capacity includes coordinating and networking with organisations that already serve men in a country, drawing on their expertise and working to establish referral options for male trafficking victims to participate in programmes aimed at their recovery and (re)integration. The governments of Cambodia and South Africa must ensure that assistance to trafficked men is of the highest quality.

(d) **Cooperate with service providers working with fishers.** Maximise services for trafficked fishers by cooperating with associations, unions and service providers that already support fishers. Identify gaps in the provision of services to fishers and work collaboratively to fill those gaps and avoid duplicating services. Draw on the existing expertise of these groups to enhance the skills and services available through the anti-trafficking assistance framework. Government funds should be available to support services for trafficked fishers.

(e) **Case coordination to ensure comprehensive assistance to trafficked persons.** Coordination between service providers in South Africa and service providers in Cambodia needs to be established so that returned trafficked fishers can continue to receive much-needed assistance once home. Such coordination should also ensure that trafficked fishers receive assistance in South Africa – for example, if a victim or their
family contacts a Cambodian service provider who then can refer to an assistance organisation in South Africa. The governments of Cambodia and South Africa should establish bilateral agreements to facilitate assistance in any future cases.

(f) **Create assistance funds for fishers.** Trafficked fishers often find themselves without funds to take care of themselves or to return home upon their exit from trafficking. This has translated into the delayed return of trafficked fishers (which is stressful) or their deportation (which results in limitations on future travel). An assistance fund is needed to ensure emergency assistance and return travel for trafficked fishers. Some such funds do currently exist (e.g. through the ITF, the IOM global assistance fund for trafficked persons, etc.) but these funds are not always available or adequate. Governments of origin and destination and flag states under which fishers are exploited should allocate funds to assist trafficked fishers. Efforts should also be made to create an assistance fund through monetary sanctions or the confiscation of property from exploitative ship owners or recruitment/fishing companies. Information about these funds, and how to access them, should be provided to fishers as well as to anti-trafficking activists and individuals working within the fishing sector.

(g) **Cost of assistance to be borne by flag state.** The flag state of the vessel on which fishers are trafficked should have responsibility for funding their assistance and return. States that have anti-trafficking legislation should enforce assistance obligations also to vessels on their registry. The Maritime Labour Convention sets forth that seafarers have a right to be repatriated at no cost to them and stipulates that if a ship owner fails to make arrangements for or to meet the cost of repatriation, the flag state is then responsible for arranging their repatriation. Similar provisions exist for the repatriation and assistance of fishers in the Work in Fishing (WIF) Convention and should be enforced, particularly in the case of fishers who have been exploited on vessels flagged to a country’s registry. The country that has jurisdiction over a vessel, as the flag state, should have accompanying responsibilities to care for individuals who are harmed within that jurisdiction.

3. **Prosecution**

(a) **Prosecute recruitment agencies that place fishers on vessels where they are exploited.** The case against Giant Ocean in Cambodia marks progress in terms of prosecuting a recruitment agency involved in the trafficking of fishers. Such efforts should continue and be enhanced in Cambodia. Prosecutors and judiciaries should work to avoid delays in the prosecution of such cases and explore how to expedite such cases in the future. The prosecuting authority in South Africa should communicate with prosecutors in Cambodia to determine if legal action
could be brought in South Africa against recruitment agencies and/or their affiliates involved in the trafficking of Cambodian fishers from South Africa. Extraterritorial jurisdiction could be used to reach abusive recruiters and employers operating beyond a country’s borders.

(b) **Prosecute cases against fishing companies that profit from the exploitation of fishers.** The relationship between recruitment agencies in Cambodia and the fishing companies in South Africa is unclear; connections and potential culpabilities of such companies merit exploration and investigation. Fishing companies that have been involved in the trafficking of fishers from South Africa should be prosecuted. Trafficked fishers should also be assisted to bring legal claims for compensation against fishing companies in South Africa that exploited their labour. South Africa’s anti-trafficking law establishes legal culpability for carriers and should be applied whenever possible. Vessel owners should also be held accountable for the trafficking of fishers on their boats and action taken in the country where they are registered.

(c) **Create transnational cooperation systems for anti-trafficking law enforcement and prosecutions.** Barriers between different jurisdictions and legal systems may inhibit the investigation and prosecution of trafficking cases. These barriers should be addressed with bilateral or multilateral agreements that establish means for evidence sharing, testimony, database collaboration and so on. Transnational cooperation is essential to the successful investigation and prosecution of trafficking at sea cases because multiple jurisdictions are implicated. It is also worth exploring links between trafficking and fisheries crimes and how cooperation between the fishing industry, environmental advocates and the prosecuting authority for trafficking crimes can strengthen investigation and prosecutions.

(d) **Ensure that witnesses and victims are able to testify.** Many Cambodian fishers were able to participate as victim/witnesses in the case against Giant Ocean largely because NGOs in Cambodia funded their travel. Others incurred personal costs to participate in these cases. Trafficked persons who wish to serve as victim/witnesses in legal proceedings may face barriers stemming from issues of money, geography, time, trust and security. The governments of Cambodia and South Africa should work with their respective prosecuting authorities to establish free legal support to trafficked persons, financial remuneration for participation in legal proceedings, the provision of accommodation and travel funds so that trafficked persons can testify and witness protection schemes where necessary. Interpretation services must also be made available when needed to ensure that trafficked persons can participate in legal proceedings and testify against their trafficker(s), when the proceedings are conducted in a language and/or country that is not their own.
(e) **Enforce legal responsibilities of flag States.** The United Nations Convention on the Law of the Sea (UNCLOS) establishes that flag states have jurisdiction over the vessels on their registry and, therefore, are primarily responsible for the crew on board. Flag states are obligated to identify and rescue exploited persons on vessels that fly their flag. Governments should strictly regulate their flag registry to include provisions that prevent vessels under their jurisdiction from engaging in criminal activities, such as IUU fishing and human trafficking, and apply their anti-trafficking legislation to protect fishers trafficked on vessels flying their flag.

(f) **Pursue labour trafficking cases, including fishing.** South Africa’s new anti-trafficking legislation criminalises trafficking for labour exploitation and the prosecuting authority in South Africa should pursue cases under this law. Specifically, authorities should investigate and prosecute human trafficking crimes within the fishing industry. South Africa has in place a strong legal framework to address labour disputes and this can serve as a further resource in pursuing labour trafficking cases.

(g) **Cooperate with maritime lawyers working to support abused and abandoned fishers.** Maritime lawyers and legal professionals who already work with fishers on various issues can provide knowledge and expertise to effectively represent trafficked fishers. Trafficking cases in the fishing industry may involve issues of national law, international law, the law of the sea, maritime law and labour law, and the prosecuting authority will benefit from the input and advice of specialised attorneys. Coordination with maritime lawyers and legal professionals who have experience representing fishers will also allow additional avenues for compensation to be explored. Lists of attorneys who specialise in relevant areas should be compiled and distributed to prosecutors working on trafficking cases in the fishing sector; additionally online collaboration or creating consultation forums can help to increase the links between fields of law.

(h) **Improve legislation to include violations within the fishing industry.** Governments should enact legislation that allows states to hold ship owners and operators legally accountable for human trafficking violations, including across state lines, is a vital enforcement tool. One possibility, as is the case with the new South African anti-trafficking legislation, is by including ship owners and operators as “carriers” in national anti-trafficking legislation or including provisions for the exercise of extra-territorial jurisdiction.

(i) **Explore all avenues for compensation for fishers.** Receiving unpaid wages was a priority for Cambodian fishers exploited off the South African coast and lawyers should bring compensation claims (e.g. against recruitment agencies, fishing companies and so on) on behalf of
trafficked fishers in connection with criminal cases in both destination and origin countries, including after fishers have returned home. Other avenues for compensation must also be explored and mechanisms for compensation that are not connected to trafficking cases must exist, such as separate civil claims or drawing on resources like the recruitment agency deposit required by Cambodia’s Sub-Decree 190.

4. Partnerships

(a) **Develop protocols and procedures to safely and confidentially share data about cases.** Understanding and addressing trafficking in the fishing industry may necessitate the sharing of (personal and sensitive) information and data about trafficking victims between different stakeholders and across national boundaries. However, unethical sharing of information can put trafficking victims at further jeopardy and risk and must be strictly guarded against. Therefore legal and ethical protocols and procedures must be in place in both Cambodia and South Africa so that privacy and confidentiality is protected when information and data are shared between organisations or governments to facilitate identification and assistance. This would include data protection legislation as well as more operational data protection/sharing tools. Sharing information in an ethical and confidential way can enhance organisations/institutions’ ability to act and react more effectively, not least in identifying and rescuing trafficked persons.

(b) **Establish a referral mechanism between South Africa and Cambodia to facilitate identification and return of trafficked fishers.** The Cambodian and South African governments should establish a transnational referral mechanism between their respective countries to facilitate the identification and return of trafficked fishers in a sensitively, timely and effective manner. Such procedures can be replicated in relations between South Africa and other countries from which trafficked fishers typically originate, such as Indonesia.

(c) **Establish contacts between anti-trafficking stakeholders and those working to assist fishers.** Just as there is a lack of awareness about trafficking in the fishing industry (where exploitation may be viewed as normative or the problems of trafficked fishers are seen as labour disputes), there is also a lack of information about trafficking at sea within the anti-trafficking community (where trafficking of fishers is only recently recognised). Connections must be established between those working to assist fishers and anti-trafficking stakeholders through inter-organisational dialogue, collaboration on cases and awareness-raising efforts. Contact and cooperation will facilitate identification of cases, assistance provision to trafficked fishers and the prosecution of trafficking cases at sea.
(d) **Advocacy with flags of convenience and flags of non-compliance to enhance the anti-trafficking response.** Flags of convenience (FoCs) and flags of non-compliance (FoNCs) challenge the enforcement of flag state responsibility and, by implication, the identification of trafficked fishers. Vessels flying under FoCs are, arguably, more likely to engage in IUU fishing, to employ poor labour practices and to harbour potential trafficking situations that are not likely to be monitored, identified or prosecuted. The use of FoCs should be eliminated by achieving the global acceptance of a genuine link between the flag a vessel flies and the nationality or residents of its owners, managers and operators. This can be done by working with established advocacy movements (such as the ITF’s FoC campaign) as well as developing new avenues for advocacy as a human trafficking issue. There is also a need to urge countries that are non-complaint in their flag state responsibilities to assume the responsibilities they are given in international law and combat trafficking at sea.

(e) **Enhance attention to and pressure on trafficking at sea through US TIP Report.** The US Department of State’s annual *Trafficking in Persons (TIP)* Report ranks countries in their progress in fighting human trafficking. The TIP Report exercises strong influence on the way in which countries have responded to human trafficking (through legislation, protection, prosecution of trafficking crimes and so on). The TIP Report should further highlight trafficking into the fishing industry and issues of trafficking at sea, including the importance of flag state responsibility and the need for countries to address trafficking (prevent, prosecute crimes and protect trafficked fishers) on fishing vessels flying their flag, operating in and around their waters, owned by their nationals, on which their nationals are trafficked, or docking in their ports. A country’s efforts to combat trafficking at sea should be introduced as an important criterion in its tier ranking.
12. Bibliography


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