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Dear Readers,

Thank you for picking up this issue of the Binghamton Law Quarterly! This issue is one that commemorates our recent successes as an organization, the growth it continues to experience, and the future accomplishments that await it under the newly elected Executive Board. As a graduating senior who has had the privilege of participating in this organization since shortly after its founding, this issue is also bittersweet. The Binghamton Law Quarterly has achieved many feats since our second issue, from our charter with the Student Association to our most recent collaboration with the Human Rights Institute's Source Project; we continue to grow and improve at an exceptional pace. There are many individuals to thank for assisting in our publications, and as always, we are bound to miss a few.

With that said, our commitment to disseminating interesting topics within the law to the general public would not be possible without the kind and continued support of the Philosophy, Politics, and Law department. We must also thank the Pre-Law office and the Harpur Law Council for their assistance in our recruiting efforts and events. Their continued aid in our operations allows us to serve Binghamton University as a space for the discussion of legal issues and provides the opportunity to insert these findings into the public discourse. This publication also features some of the work of contributors to the Human Rights Institute's Source Project, who were kind enough to collaborate with us in our mission to bring legal issues to the forefront of public discussion at Binghamton University.

With regard to the content in this issue, we are excited to include articles ranging from law in Guantánamo Bay to legal issues regarding college

athletics. Our collaboration with the Human Rights Institute also influenced our theme for this cycle. We received many exceptional articles, but ultimately chose those representing the rights of various groups. Some specific highlights are intellectual property rights, the rights of convicted felons, and the future of welfare through initiatives such as Universal Basic Income. Overall, we are hopeful that you enjoy this issue as much as we relished the opportunity to assemble it.

For all readers, whether you are intent on attending law school or are simply interested in the topics we have chosen to discuss, I welcome you to the content inside and hope that you can gain a better understanding of the law and its relation to the world around you. The law reflects and affects the world we live in, and it is our hope that the content we produce inspires in you an interest in this interplay. Thus, we must thank our talented writers and hard-working editorial staff, without whom this issue would not be sitting before you. We are always searching for more writers, editors, and designers to help make our publications the best they possibly can be. If you are interested in joining our team, please contact us at Quarterly@BinghamtonSA.org and mention the capacity in which you would like to become involved. With this, our eighth issue published, we are extremely proud of what we have accomplished, and are excited about what the future entails for our organization. We hope that you continue to join us on our journey and in our further engagement with the law.

Sincerely,

Mathew Anekstein,

Chief Editor

HUMAN TRAFFICKING IN THAILAND

By Kripa Mathew

The conditions in Thailand increase the vulnerability of migrant workers and foster an environment for forced labor, particularly within the fishing industry. In Thailand's fishing industry, migrant fishers from neighboring countries in Southeast Asia are trafficked into fishing work by unscrupulous labor brokers on behalf of employers due to the high demand for cheap labor in the Thai economy.¹

In the study "Thailand: Forced Labor, Trafficking Persist in Fishing Fleets," Human Rights Watch interviewed current and former fishers from Burma and Cambodia along with Thai government officials, boat owners and captains, civil society activists, fishing association representatives, and United Nations agency staff to find that at least 95 former fishers experienced documented incidents of human trafficking.² The report documents how poor working conditions, recruitment processes, terms of employment, and industry practices put vulnerable migrant workers into abusive

situations that lead to forced labor.³ The pattern of abuse that results in forced labor for migrant workers is primarily due to the lack of protection from labor laws and legislation to combat trafficking in the fishing industry. Although Thai government ratified the International Labour Organization (ILO) Convention No. 29 on forced labor in which they are required to stop the use of forced labor and passed the Anti-Trafficking in Persons Act B.E. 2551, there is weak enforcement of these laws.⁴

The existing policies are intended to guarantee rights to migrant workers to prevent human trafficking but the policies' failure to be ensured leaves migrants subject to increased vulnerability and abuse. Poverty and the relatively poor economic situation migrants face contributes to their high vulnerability to violations. Undocumented migrants are particularly vulnerable due to unregistered, unscrupulous brokers, lack of valid travel documents, fear of authorities, and limited information about

their rights and how to get help.⁵ The report establishes that Article 38 of the Constitution of Thailand, ICCPR, ICESCR, and the Convention on the Rights of the Child all prohibit forced labor, demonstrating trafficking as a violation of Thai national law and points out the numerous violations of Thailand's Labor Protection Act of 1998 in which employers pay sub-minimum wages.⁶

Within international law, the International Covenant on Civil and Political Rights, which Thailand is party to, explicitly states that rights apply to everyone, including migrant workers and victims of international trafficking, regardless of legal status and documentation.⁷ But a significant issue is that these laws and regulations fail to be properly enforced to effect real change within Thailand.

The shortcomings within law enforcement to prevent forced labor occurs particularly in the fishing industry. For instance, the government's "pink card" registration scheme, which was introduced in 2014 and intended to reduce the number of undocumented migrants working in Thailand, "has tied fishers' legal status to

specific locations and employers whose permission is needed to change jobs, creating an environment ripe for abuse. The pink card scheme, as well as practices where migrant workers are not informed about or provided copies of required employment contracts, have become means through which unscrupulous ship owners and skippers conceal coercion."⁸ This legislation increases the vulnerability of migrant workers to labor trafficking by creating an environment in which a pattern of abuse continues without effective interference. With increased media attention, the European Union demanded that Thai fishing fleet stop abusing the rights of undocumented trafficked migrants and US Trafficking in Persons programs have pressured Thailand by keeping it on the Tier 2 Watch List, indicating Thailand government's failure to implement effective legislation.⁹

In response to increasing pressure for reform, the Thai government issued a new ordinance to regulate the fishing industry and extended labor law provisions to fishing vessels.¹⁰ Additionally, the Thai government adopted the 2014 Ministerial Regulation concerning Labour Protection in Sea Fishery Work in which migrant fishers were required to have legal documents

and be accounted for on crew lists as boats departed and returned to port along with the creation of the Port-In, Port-out (PIPO) system that requires boats to report for inspection at return and departure.¹¹ The vessel monitoring systems and limiting time at sea to 30 days has greatly improved conditions for fishers.¹² It is an effort to prevent abuses from continuing to go unchecked.

Despite these measures, there is still a long way to go in the provision of migrants workers' rights and prevention of forced labor in Thailand. Officials rarely conduct interviews with migrant fishers and the fear of abuse prevents trafficked victims from coming forward. Thus, more proactive measures need to be taken to enforce real change with Thailand's fishing industry.

CITATIONS

- 1 "Thailand: Forced Labor, Trafficking Persist in Fishing Fleets." Human Rights Watch. August 21, 2018. Accessed April 02, 2019. <https://www.hrw.org/news/2018/01/23/thailand-forced-labor-trafficking-persist-fishing-fleets>.
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- 4 Robertson, Phil. "From the Tiger to the Crocodile | Abuse of Migrant Workers in Thailand." Human Rights Watch. April 29, 2015. Accessed April 02, 2019. <https://www.hrw.org/report/2010/02/23/tiger-crocodile/abuse-migrant-workers-thailand>.
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- 8 "Thailand: Forced Labor, Trafficking Persist in Fishing Fleets."
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- 10 *ibid*
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