

**Comments Concerning the Human Trafficking in Republic of Korea to the United States Department of State,
by Advocates for Public Interest Law, January 2013**

Introduction

Advocates for Public Interest Law (APIL) is a non-profit public interest lawyers' organization founded in 2011 focusing on advocating vulnerable migrants and monitoring human rights violations of Korean companies overseas. The issue in this submission relates to **the forced labor abuses and unpaid and underpayment of wages on South Korean-flagged fishing vessels in New Zealand waters.**

In the *2012 Trafficking in Persons Report* on Republic of Korea, the US Department of State wrote,

*“Since April 2011, there were allegations of forced labor abuses and unpaid and underpayment of wages on South Korean-flagged fishing vessels in New Zealand waters. At the end of the reporting period, these allegations remained under investigation. The government’s National Human Rights Commission launched an investigation into allegations of forced labor on these South Korean flagged fishing vessels.”*¹

On this comment, we would like to highlight Korean government's failure to redress the forced labor abuses and unpaid and underpayment of wages for the victims after the reporting period.

Background

On June 21, 2012, 32 Indonesian crew members who were used to work for the company Sajo-Oyang 75 fled from their fishing vessel due to serious human rights abuse and an inhumane working environment. The incident turned out to be a flashpoint exposing human rights violations in deep-sea fishing vessels of Korea that has been problematic for a long time.

During December 11, 2012 to December 14, 2012, Jong-chul Kim (Advocates for Public Interest Law), Shin Young Chung (Advocates for Public Interest Law), Hyun-phil Na (Korean House for International Solidarity), visited Indonesia to meet Sugito and Trismanto, the former crews of Oyang 75 and interviewed them in person. Through the interviews, the team was able to confirm the allegations for human trafficking, battery and assault, sexual

¹ Department of State, United States of America, *Trafficking in Persons Report, June 2012* “Republic of Korea (Tier 1),” p 210.

harassment, forced labor, labor exploitation, unpaid wages, underpaid wages and forgery of documents.

After the interview, the team filed the complaint representing two crews they interviewed to National Human Rights Commission for battery and assault, sexual harassment, and wage discrimination. However, May 14, 2012, National Human Rights Commission dismissed all the claims: battery and assault and wage discrimination were dismissed on the basis that National Human Rights Commission does not have jurisdiction over the disputes between private parties. Sexual harassment claim was dismissed due to the lack of evidence.

Meanwhile, the government of Korea after recognizing its seriousness formed a joint inquiry team composed of relevant authorities under the Office of the Prime Minister in late May.

Later, crews themselves visited Korea during June 11, 2012 to June 18, 2012, and met related persons from the government and participated in activities for raising awareness in this matter. On June 12, 2012, Sugito, Sisworo and Trismanto who were used to work on a vessel, Oyang 75, represented by Kim, Jong-chul of Advocates for Public Interest Law, lodged a complaint about physical abuse, sexual assault, forgery of documents and delay of wages to the Korea Coast Guard and Pusan Regional Maritime Affairs & Port Office.

Non-prosecution of the Alleged Crimes

On September 28, the government inquiry team released its concluding report clarifying that all the allegations upon Sajo-Oyang such as human rights abuses, delay of wages, counterfeiting, and breaches of Seamen Act were factual. Subsequently, the Korea Coast Guard and Pusan Regional Maritime Affairs & Port Office transferred the cases on five Korean crew members who were involved in physical abuse and sexual assault against Indonesian crews and another five staffs of Sajo-Oyang who were involved in delay of wages and forgery of documents of employment contract and for payment to the District Prosecutors' Office of Busan with opinions that the accused need to be prosecuted (*See* Appendix 1. Korea Coast Guard Notice of the Proceeded Result of the Accusations).

However, on November 27, in regard to the complaint of physical abuse, sexual assault, delay of wages, counterfeit documents, and breaches of the Seamen Act, the District Prosecutors' Office of Busan gave the lawyers notice of the decision of non-prosecution. This was based on a document which said that the complainant crew members did not want Sajo-Oyang and the accused Korean staffs to be punished. The document was submitted by Sajo-Oyang, which claimed to have received it from the crew members (*See* Appendix 2. Decision by the District Prosecutors' Office of Busan).

Through the interview with Indonesian crews, it was clearly stated that crews who had been financially desperate for the delay of the wages did not understand clearly what they were signing on, and they were told that the document that they were signing on was only about

the wage settlement and was not related to criminal prosecution in Korea (*See* Appendix 3. Statements from the Crews). With these statements from the crews, Jong-chul Kim, representing crews, has appealed against the decision of non-prosecution and now case is being reinvestigated at the High Prosecutors' Office in Busan.

Recommendation

Korean government has failed to comply with the international standard on human trafficking by non-prosecution of physical abuse, sexual assault, delay of wages, counterfeit documents, and breaches of the Seamen Act. In fact, most offenders of human trafficking of foreigners have been enjoying impunities due to lack of legislation of anti human-trafficking law which includes comprehensive definition of human trafficking (for more general information on human trafficking in Republic of Korea, *See* Appendix 4. APIL NGO Submission for Trafficking In persons (TIP) Report on the Republic of Korea).

Therefore, we urge the US Department of State to adequately address this issue in the coming 2013 TIP report, and downgrade the tier of Republic of Korea to raise awareness for her failure to meet international standard.