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**ANALYSIS OF EMPLOYMENT OF INDONESIAN CITIZENS IN THE DISTANT WATER  
FLEET TUNA FISHERIES OF THE WCPO**

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## **ANALYSIS OF EMPLOYMENT OF INDONESIAN CITIZENS IN THE DISTANT WATER FLEET TUNA FISHERIES OF THE WESTERN AND CENTRAL PACIFIC OCEAN**

**Prepared by:**  
Achmad Mustofa - Yayasan WWF Indonesia  
Ahmad Solikhin - IPB University

**Analysis of Employment of Indonesian Citizens in the Distant Water Fleet Tuna  
Fisheries of the Western and Central Pacific Ocean**

*Prepared by:*

**Achmad Mustofa – Yayasan WWF Indonesia**

**Ahmad Solikhin – IPB University**

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# 1. Introduction

## 1.1 Background

Protection for Indonesian Workers in foreign waters, has become a part of the implementation of Indonesia free and active foreign policy. President Joko Widodo through the vision and mission of Nawa Cita has put efforts in bring back the country to protect the whole nation for all citizens through. Ministry of Foreign Affairs has been strengthening the institutional system, optimizing legal instruments and appropriate mechanisms, improve quality, provide accurate and accountable services and protection, strengthen coordination with all stakeholders, as well as encouraging protection diplomacy at the bilateral, regional, and multilateral level.

Handling of shipping crew (ABK) is an important part of the effort in improving services and protection for Indonesian workers abroad. Indonesian workers placement data is managed by the National Agency for Placement and Protection of Indonesian Workers (BNP2TKI), which states that Indonesia is the third largest contributor to maritime workers in the world, with the number of crew of about 254. 186 people who are currently working on flagged foreign ships. Based on data from the Directorate of Protection of Indonesian Citizens and Agencies Indonesian Law (Dit. PWNIBHI), until October 2015, there are around 463 cases related to ABK that have been handled by Dit. PWNIBHI. Approximately 221 Indonesia crew members (from 201-2205) is indicated to be a victim of human trafficking crime (TPPO). Further, the data were obtained from the International Organization for Migration (IOM), there were 283 cases of Indonesian crew members who were classified as fishermen are traded (human trafficking) until 2015<sup>1</sup>.

According to Indonesian government sources, there were 186,430 Indonesian migrant fishers aboard Malaysian fishing vessels, 12,278 in Taiwanese fishing vessels, and 4,885 in South Korean fishing vessels in 2018. However, these figures were rough estimates because overseas recruitment (and migrant fishers'

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<sup>1</sup> Strategi Perlindungan ABK di Kapal Asing (2016)

documentation for this purpose) is currently split across several government authorities.

The Philippines, on the other hand, does not differentiate fishers and mariner in their statistics. Philippine Overseas Employment Administration (POEA) 2017 data reveals that at least 378,072 works at sea. However, undocumented workers are common practice. There were 10 Filipino fishers, including one minor, who were arrested by Indonesian authorities for various violations including illegal fishing, poaching, smuggling and illegal entry into Indonesia. In any case, it is safe to conclude that most the Indonesian and Filipino migrant fishers end up working on Taiwanese distant water fishing vessels.<sup>2</sup>

WWF Indonesia has communicated with the Ministry of Marine Affairs and Fisheries of the Republic of Indonesia regarding the employment analysis studies. Some of the parties that have been contacted include the Sub-Directorate of EEZ, the Directorate of Fish Resources Management and the Sub-Directorate of Manning, the Directorate of Ships and Fishing Equipment, both of which are under the Directorate General of Capture Fisheries. Based on the communication, information was obtained that for the benefit of Indonesia's advocacy at the RFMO level (for tuna fisheries) is under the responsibility of the EEZ Sub-Directorate. Meanwhile, for regulatory purposes (including regulations) regarding crewing (boat crew) is under the responsibility of the Sub-Directorate in collaboration with the Ministry of Foreign Affairs, the Ministry of Manpower and Transmission, and BP2MI.

## 1.2 Objective

The objectives of the research are as follows:

1. To understand the hiring practices of Indonesia Migrant Fishers and employment condition as well as recommendations to improve the situation

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<sup>2</sup> SEABOUND: THE JOURNEY TO MODERN SLAVERY ON THE HIGH SEAS

2. To analyze the substance of international and national law related to labor regulation, including the implementation of human rights on fishing vessels as well as the implementation gaps
3. To provide a brief overview of Indonesian employment in the WCPFC

### 1.3 Methodology

This study was conducted in sequence as shown in Figure 1. First phase output was being used as input to the second phase of the study. Then, second phase output was being used as input to the third phase of the study.

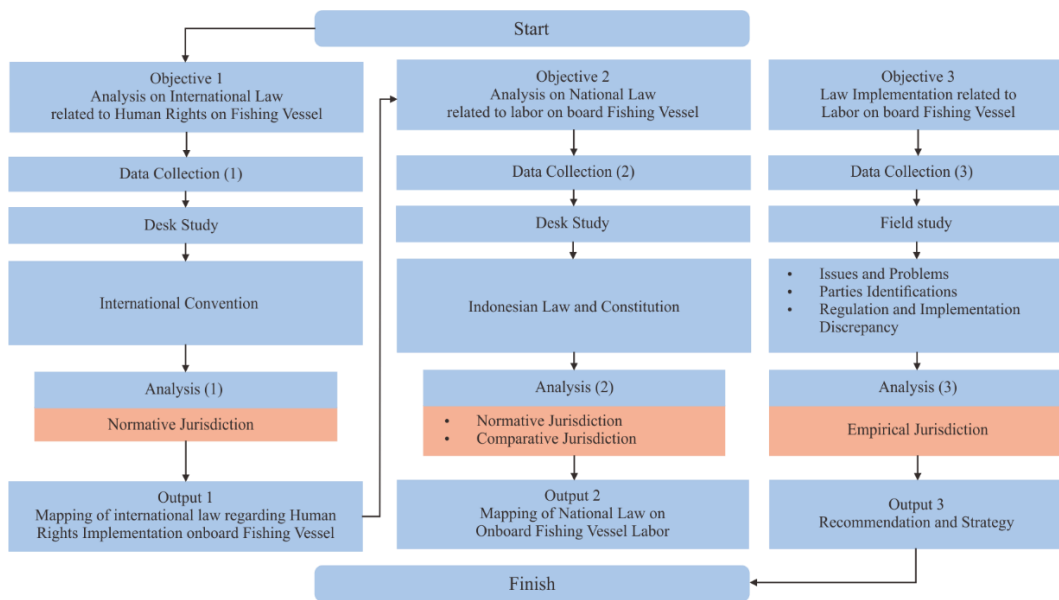


Figure 1. Assessment Approach

First step of the study was conducted by performing inventory of international laws related in human rights implementation on board fishing vessels. Data and information accumulation in Step 1 which was acquired from Online Research Method (ORMs). During first step of the research, normative juridical method is being applied. Normative juridical method is a method used to study law using literature, and secondary sources as materials (Soekanto dan Mahmudi, 1994; Sumitro, 1994; Amirudin dan Asikin, 2004). In this study, normative juridical method is used to observe the substance of international law regarding human rights regulations for seafarers in a fishing vessel.



Data collection method used in second phase of the study is similar the first step of the study. However, national laws and regulations are the only data and information collected during this phase. Studying documents of each ministry/institution on their respective networking. During this phase, comparative juridical method is also being used in addition to the normative juridical method, to compare the substance of international laws and that of national laws. Comparative juridical method is also applied to create a comparison between international and national regulations in regard to human rights implementations in a fishing vessel.

Third step is strategy formulation and recommendations. During this step, data and information collection will be conducted by purposive sampling. Sugiono (2008) stated that purposive sampling is a sample collection method by determining certain criteria. For this study, respondents are policy maker, fisherman who were once seafarers in foreign vessels, human rights NGO, and agent company and its associations. Data was collected by in depth interview to the respective respondents. Empirical juridical method is used in this last stage of the study. Empirical approach (law, such as a social, cultural, and *das sein* reality), because this study uses primary data obtained from field observation. Empirical research study applicable law and what is occurring in real time inside community (Arikunto, 2012). Meanwhile, Muhammad (2004) mentioned that empirical juridical method is a study of law in regard to application or implementation of certain normative law in action in every law occasion occurring in public (Muhammad, 2004). Therefore, empirical approach is studying about Indonesian seafarers' working for foreign fishing vessels human rights violations.

## 2 Regulation on Fisheries Human Rights

### 2.1 International Regulation

Several international laws related to manning fishing vessels, namely:

## **1. International Convention on Standards of Training Certification and Watchkeeping for Fishing Vessel Personnel, 1995**

The 1995 STCW is the result of the IMO Conference on 7 July 1995. The Government of Indonesia ratified the Convention through Presidential Regulation No. 18 of 2019. Based on this Convention, every fishing vessel crew must be certified in accordance with the provisions in the Annex to this Convention. Some of the obligations under concerns of Government of Indonesia as a ratifying country are as follows:

- (1) Prescribe a thorough investigation process and procedure of any report of irregularities, any action or negligence, which may result in a direct threat to the safety of life or property at sea, or the marine environment by certificate holders. Included in this is the imposition of fines or sanctions imposed on the flag state of the vessel and the crew of the fishing vessel.
- (2) Develop consultations with the assistance of an Organization to support countries requiring technical assistance to:
  - a) Training of administrative and technical personnel;
  - b) establishment of training institutes for fishing vessel personnel;
  - c) supply the provision of provision of fishing supplies to support personnel's work;
  - d) develop a training program including adequate practical training on sea-going fishing vessels; and
  - e) arrange for facilities and other means to improve the qualification of fishing vessel personnel.

## **2. The Cape Town Agreement of 2012 on the Implementation of the Provisions of the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessel (CTA 2012).**

This protocol is the result of a diplomatic conference in Cape Town, South Africa which agreed to the Cape Town Agreement of 2012 on the Implementation of the Provisions of 1993 Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977. Until now, the Government of

Indonesia has not ratified this Protocol. The 2012 CTA regulates the standard of seaworthiness of fishing vessels for the purpose of safety and reducing casualties. Subjects regulated in the 2012 CTA include: ship construction, watertight equipment, electrical installations, fishing vessel safety equipment. In relation to the protection of crew members, the 2012 CTA is more specific in regulating ship construction standards to ensure the safety of crew members (IOJI, 2020).

### **3. ILO Convention C-188 – Work in Fishing Convention 2007 (C-188 2007).**

The 2007 C-188 sets standards to ensure crew members have decent working conditions when working on board ships. Social issues regulated in C-188 2007 include: mandatory medical tests, minimum age limit, standard sea work agreements, accommodation and meals. The Indonesian government has not ratified the Convention. The legal substance regulated in C-188 2007 related to crew members are fundamental rights related to forced labour, freedom of association and protection of the right to organize, the right to organize and bargain collectively, equal pay, the abolition of forced labour, and discrimination.

Indonesia is considering to ratifying C188 in relation to aspiration to increase the protection of Indonesian fishing vessel crews at home country and abroad. Indonesia also needs to build national capacity readiness through the preparation of a national roadmap towards the ratification of the ILO Convention C188 involving all stakeholders and strengthening international cooperation.

Indonesia has a great interest in the issue of protecting fishing vessel crews. Based on data from the Food and Agriculture Organization, Indonesia is one of the largest countries in sending fishery crews for work on foreign fishing vessels. To date, ILO Convention C188 is the only international convention that specifically regulates the protection and standards of decent working conditions for workers on fishing vessels. Ratification of C188 is important to encourage international cooperation, particularly through the ILO, and to strengthen efforts to protect Indonesian fishing crews.

Based on the description above there are three types of international law protection for crew members, they are:

- a) STCW 1995, protects crew safety related to certification standards and training standards.
- b) CTA 2012, protects crew safety related to ship construction standards.
- c) C-188 2017, protects crew members regarding decent working conditions standards.

## 2.2 National Regulation

There are several Indonesian laws and regulations related to crew members, namely:

### 1. Law No. 13 Number 2003 concerning Manpower

This law only applies to workers in Indonesia. Article 34 explain the provisions regarding placement of workers abroad are regulated by law. Thus, all matters relating to Indonesian workers residing abroad, including crew members of fishing vessels abroad.

This law mandates that manpower planning as contained in Article 8 paragraph (1) is prepared on the basis of manpower information which includes: (a) population and workforce; (b) employment opportunities; (c) job training including job competence; (d) labour productivity; (e) industrial relations; (f) working environment conditions; (g) remuneration and welfare of workers; and (h) labour social security. Based on this article, there are several important things that must be fulfilled in the world of labor, including fishery workers (fishermen), consist of:

#### a. Work Training

Job training held must refer to work competency standards. In addition, job training should include talents, interests, and abilities (Article 10).

#### b. Working hours

Every company is obliged to implement the provisions of working time. The working hours include: (a) 7 hours 1 day and 40 hours 1 week for 6 working days in 1 week; or (b) 8 hours 1 day and 40 hours 1 week for 5

working days in 1 week. This working time provision does not apply to certain business sectors or occupations. The latter appears to include crew members on fishing vessels in Indonesia (Article 77).

c. Wages and welfare of workers

Every worker/laborer has the right to obtain protection for: (a) occupational safety and health; (b) morals and decency; and (c) treatment in accordance with human dignity and worth as well as religious values (Article 86 paragraph 1).

Every worker/laborer has the right to earn an income that meets a decent living for humanity (Article 88).

d. Labor Social Security

Every worker/laborer and his family have the right to obtain social security of labor (Article 99).

## **2. Law Number 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers Abroad**

This law governs Indonesian workers working abroad. As such, this law also regulates ABKs working on foreign fishing vessels operating in waters outside Indonesia. As for some rights related to ABK, among others, namely:

a. Pre-placement activities

Pre-placement activities for Indonesian Migrant Workers abroad include: education and job training; health and psychological examinations; competency test, and final departure briefing (PAP).

b. Work Training

Prospective Indonesia Migrant Workers must have a certificate of work competence in accordance with the requirements of the position. Based on this, the executor of the placement of private Indonesia Migrant Workers is obliged to carry out education and training in accordance with the work to be carried out.

c. Protection

Every Indonesia Migrant Workers/candidate has the right to obtain protection in accordance with the law. Protection should be implemented from pre -placement, placement period, to post -placement.

In addition to the abovementioned rights, this law also mandates the right to receive wages in accordance with the wage standards in force in the destination country; obtain the same rights, opportunities, and treatment obtained by other foreign workers in accordance with the laws and regulations of the destination country; obtain legal protection in accordance with the legislation for actions that may degrade his dignity and prestige as well as violations of the rights established in accordance with the legislation during the placement abroad.

**3. 3. Law Number 15 of 2016 concerning Ratification of the 2006 Maritime Labor Convention (Maritime Labor Convention)**

This Convention applies to all publicly owned and privately owned vessels, which are commonly used in commercial activities other than vessels used in fishing or carrying out similar activities and traditionally constructed vessels such as dhows and junks. This Convention does not apply to warships or naval ships.

In order to provide protection to seafarers and crew related to the fulfillment of basic rights including wages, working conditions including worktime and rest-time, medical care, health insurance, recruitment and placement, training, and supervision, the Government is obliged to prepare guidelines that will become guidance for shipowners as well as crew and seafarers. These guidelines include: Guidelines for the Protection of Terms and Conditions of Work; Recruitment and Placement Guidelines; Guidelines for Training and Work Competence; and Law Enforcement Guidelines.

Everyone who works as a seafarer and crew member and works on a ship that sails through international waters has the same rights as workers/laborers who work on land. These rights are as stated in 8 (eight) ILO Basic Conventions and have been accommodated in the provisions of national laws and regulations.

These rights include, among others, right to be free from slavery, right to avoid discrimination, right to receive equal pay for the type of work of equal value, right to collective bargaining and association, right not to employ children in the worst types of work. In addition to the basic rights, seafarers and crew members are also entitled to have work and social protection, including right to a safe workplace, right to protection against occupational safety and health, right to receive social security, and right to receive medical care, facilities and accommodation including recreation.

#### **4. PP Number 7 of 2000 concerning Marine Affairs**

Each crew member must have marine certificates, which consists of: Certificate of Basic Seafaring Skills and Certificate of Special Skills. One of the main certificates for crew on fishing vessels is the Basic Safety Training (BST) Certificate.

Meanwhile, one form of protection for fish crew members is a seaman's book. Based on Article 15 paragraph (1), every seafarer who works on a ship with a size of less than 35 GT for a certain type of ship, the size of 35 GT or more for ships with engine propulsion, and the size of 105 GT or more for ships without engine propulsion, must be certified by a government official appointed by the Minister.

Coverage of issues for protection are:

a. Working Hours

Working hours for crew members are set at 8 hours per day with 1 day off every week and official holidays (Article 21 paragraph 1).

b. Wages

The calculation of the hourly wage for the crew is set at 44 hours per week.

The minimum wage for the crew with the lowest position is set by the Minister responsible for manpower (Article 22 paragraph 1).

#### **5. Permenhub No. 84 of 2013 concerning Recruitment and Placement of Crews**

Based on Article 11 paragraph (1), agency companies for crew members are required to have a standardized quality management system and to implement it

in the company's organization. The minimum quality management system includes: (a) licensing; (b) organization; (c) expert requirements; (d) agency business management responsibilities; (e) crew selection and acceptance system; (f) the program of debriefing and developing knowledge of seafarers to be placed; (g) monitoring of employed seafarers; (h) verification, internal audit, and management review; (i) readiness to handle emergencies; (j) reporting and analysis of non-conformities and disputes arising; (k) procedures for submitting seafarers' complaints and handling them; (l) establishment of a system of protection against health, treatment, welfare and social security; and (m) documentation.

There are several concerns should be adhered to agent companies related to the crew of fishing vessels, namely:

a. Payment settlement obligations

Crew agency companies are required to settle all late payments of seafarers' salaries/wages, bonuses, and others in accordance with the contents of the sea work agreement signed by the parties.

b. Management of the return of the remains

The agency company for the crew must take care of the repatriation of the body to the family of the heirs, if the seafarer dies during the validity period of the street vendor according to an agreement with the family of the heirs after the cause of death is determined based on the results of the doctor's post-mortem.

c. The obligation to help manage the rights of seafarers who died

The agency company for the crew is obliged to assist in the management of the rights of the deceased seafarers and provide compensation to the heirs in accordance with applicable regulations after ascertaining the cause of death based on the results of the doctor's post-mortem.

d. Labour union

Ship owners and/or operators with legal domicile outside Indonesia who will recruit and place Indonesian seafarers on board must have an



agreement with a labour union before appointing a crew agency company to carry out activities.

e. Additional payment compensation obligation

If the crew agency company places seafarers on ships sailing through conflict-prone areas, the ship owners and operators through the crew 's agency companies are required to provide additional compensation in the amount as stipulated in the collective labour agreement between the ship operator owner and the labour union.

**6. Permen KP Number 35/Permen-KP/2015 concerning Human Rights Certification in the fisheries sector**

Based on Article 4 paragraph (1), every Fisheries Entrepreneur/company must implement the Fisheries Human Rights system which includes:

a. Human Right Policy

The Human Rights Policy in the form of a statement of commitment shall at least contain the commitment of Fisheries Entrepreneurs to:

- (a) respect the human rights of parties affected by human rights violations related to fishery business activities;
- (b) respect the right to fair and decent working conditions, including the right to: (1) adequate and adequate remuneration and rest time; (2) a decent standard of living, including accommodation, food and drink; (3) getting treatment; (4) obtain social security insurance; (5) get protection from work risks; and (6) the special rights of women, children, and persons with disabilities.
- (c) implement sea work agreements for Workers and sea work agreements for Fishing Vessel Crews with proper wage standards.
- (d) avoid forced labour, among others in the form of: abuse of vulnerability, fraud, restrictions on movement, exile, physical and sexual violence, intimidation and threats, detention of identity

documents, withholding of wages, debt bondage, abusive working and living conditions, and overtime work too much.

(e) carry out the Human Rights Due Diligence

(f) perform Human Rights Restoration

(g) provide training on the Fisheries Human Rights System to Fisheries Workers and Crews on an ongoing basis

b. Human Rights Due Diligence

Human Rights Due Diligence must be carried out by Fisheries Entrepreneurs by identifying and assessing any impacts of Human Rights Violations that have occurred and may occur which may be caused or contributed to or by Fisheries Entrepreneurs related to fishery business activities. In addition, due diligence should also take effective action against the results of the identification and assessment of the impact of human rights violations.

In carrying out the Human Rights Due Diligence, Fishery Entrepreneurs are required to meet the criteria for compliance with fisheries human rights.

The criteria for compliance with fisheries human rights include:

- 1) work safety and health in fishery business, at least in the form of: (1) availability of procedures to ensure occupational safety and health; (2) availability of occupational safety and health experts; (3) the availability of adequate accommodation and adequate nutrition for workers and crew of fishing vessels; (4) fulfillment of requirements for equipment and work equipment by Fishery Entrepreneurs to ensure occupational safety and health; and (5) the implementation of safety and health training for workers and crew on fishing vessels;
- 2) the system in recruitment of Fisheries Workers and Crew, at a minimum of: (1) procedures that ensure the recruitment of Fisheries Workers and Crew; (2) fulfillment of competency requirements and minimum age for Fisheries Workers and Crew; and (3) the application of employment agreements and marine employment agreements

- 3) employment system, at least in the form of: (1) fulfillment of the requirements of collective labor agreements or company regulations; (2) fulfillment of occupational health and accident insurance for workers; and (3) fulfillment of social security requirements
  - 4) responsibility for sustainable community development, at least in the form of: (1) job creation for the surrounding community; and (2) improvement of the living standards of the surrounding community.
  - 5) security system, at least in the form of: (1) implementation of human rights training for security personnel; and (2) integration of human rights elements in work security procedures.
  - 6) an environmental management system, at least in the form of: (1) prevention of environmental pollution; and (2) protection of biodiversity.
  - 7) land acquisition system, at least in the form of: (1) fulfillment of requirements to avoid forced land acquisition; and (2) fulfillment of requirements for reasonable reimbursement
- c. Human Right Restoration

Human rights recovery is a process that aims to resolve the impact of human rights violations caused or contributed by Fisheries Entrepreneurs through an effective judicial and non-judicial complaint mechanism. In the process of Human Rights Recovery as referred to in Article 4 paragraph (1) letter c, Fishery Entrepreneurs are obliged to carry out an effective mechanism and cooperate in other legal processes to ensure the settlement of the impact of human rights violations from the operations and business relationships of Fisheries Entrepreneurs.

**7. Permen KP No.42/Permen-KP/2016 on Marine Work Agreement for Fishery Crew**

PKL is structured with the aim of ensuring the fulfillment of work requirements, working conditions, wages, health insurance, accident, death insurance, legal guarantees, and security guarantees for fishing vessel crews.

therefore, street vendors are structured with the aim of ensuring: (a) protection and welfare for fishing vessel crews; and (b) the employed fishing crew have competence, fishing crew documents, and are willing to work.

The preparation of a Marine Work Agreement in order to provide protection for the Crew of a Fishing Vessel from occupational risk and for the owner of a Fishing Vessel, an Operator of a Fishing Vessel, an Agent of a Crew of a Fishing Vessel, or a Master of a Fishing Vessel from business risk. The employment risk and business risk include:

- (a) erratic working hours and tend to be longer;
- (b) no standard working hours and/or rest hours;
- (c) the fishing season requires the crew of the fishing vessel to work continuously;
- (d) the fishing operation area has big waves and dangerous weather;
- (e) limited food and drink supplies on fishing vessels;
- (f) work accident;
- (g) uncertainty of fishing results

The legal area of the Sea Work Agreement for Crews of Fishing Vessels includes Fisheries management area of the Republic of Indonesia (WPPNRI), the high seas; and and waters of other countries. Based on this scope, the Sea Work Agreement for the Crew of Fishing Vessels as referred to in paragraph (1) is carried out for:

- a. Fishing Vessel Crews working on Indonesian-flagged Fishing Vessels operating at WPPNRI;
- b. Fishing Vessel Crews working on Indonesian-flagged Fishing Vessels operating on the high seas;
- c. Fishing Vessel Crews working on foreign-flagged fishing vessels operating in the waters of the ship's flag state and on the high seas; and
- d. Fishing Vessel Crews who work on foreign-flagged fishing vessels operating in the waters of other countries.

**8. KP Regulation No. 2/Permen-KP/2017 concerning Requirements and Mechanisms for Fisheries Human Rights Certification**

Based on this Ministerial regulation, the Minister of Marine Affairs and Fisheries is authorized to issue a fishery human rights certificate to fisheries entrepreneurs who have implemented a fisheries human rights system and are declared to have passed the fisheries human rights certification.

Based on the description above, a summary of Indonesian regulations is presented in Table 1. In this table, issues which has been regulated and required by the Government of Indonesia is in accordance with international law. The void only occurs in standard ship construction as stated in CTA 2012.

Table 1. Indonesian Regulatory Matrix related to the implementation of human rights on fishing vessels

No.	Regulations	Enforceability		Work Facilities					Another Obligations		
		Domestic	Abroad	Work Training	Working Hours	Wages and Welfare	Social Security	Health Insurance	Returns of remains	The rights of the deceased sailor	Labour Union
1	Law No. 13 No. 2003 concerning Manpower	√		√	√	√	√	√			
2	Law Number 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers Abroad		√	√	√	√	√	√			
3	Law Number 15 of 2016	√	√	√	√	√	√	√			

	concerning Ratification of the 2006 Maritime Labor Convention										
4	Government Regulation Number 7 of 2000 concerning Marine Affairs	√	√	√	√	√					
5	Permenhub No. 84 of 2013 concerning Recruitment and Placement of Crews	√	√						√	√	√
6	Permen KP Number 35/Permen- KP/2015	√		√	√	√	√	√			

	concerning Human Rights Certification in the fisheries sector											
7	Permen KP No.42/Permen- KP/2016 concerning Sea Work Agreements for Crews of Fishing Vessels	√	√	√	√	√	√	√	√			
8	KP Regulation No. 2/Permen- KP/2017 concerning Requirements and Mechanisms for Fisheries	√	√	√	√	√	√	√	√			



	Human Rights Certification										
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## 3 Profile of Tuna Fishery Workforce

### 3.1 WCPFC area

Purse seiners are super large nets, resembling a large purse when full. They are used to encircle schools of tuna, often attracted by fish aggregating devices, which catch mostly juvenile fish.

Longlines, as the name implies, is a method consisting of a line which stretches up to 100 km long and uses bait placed on hooks at every few metres to attract tuna. In terms of workforce, longlines are more labour intensive compared with purse seiners as workers are required to place the bait on each hook. Besides, hauling of the catch entails another physically draining challenges as migrant fishers have to remove the tuna from the line one by one.

Purse seines are less manual, using mechanised nets (e.g. winches) which haul in the catch. Illegal fishing not only deprives nations of their fisheries resources, but ultimately results in the collapse of fish stocks and other important marine species. Globally, around 33% of fish stocks are already overfished beyond sustainable limits while 60% are on the edge of collapse or fished to maximum sustainable limits.

Tuna longline fleets operate in all four oceans – the Western and Central Pacific Ocean (WCPO), Eastern Pacific Ocean (EPO), Atlantic Ocean (AO), and Indian Ocean (IO). According to Campling et al. (2017), total number of all sizes of longliners currently registered on the four Regional Fisheries Management Organisation's (RFMO) recorded fishing vessels is 17,494. China Mainland, Taiwan, South Korea, and Japan operate significant distant water longline fleets in WCPO and EPO. On the high seas 86% of fishing effort has been attributed to only five fishing entities: China Mainland, Taiwan, Japan, South Korea, and Spain<sup>3</sup>.

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<sup>3</sup> SEABOUND: THE JOURNEY TO MODERN SLAVERY ON THE HIGH SEAS

### 3.2 General Condition for Tuna Fishing Crew

The critical point in the recruitment and placement of fisheries crew abroad, according to resource person from MMAF, is the work contract where the problem usually is that there is no contract or the contract is not legalized by the government, the contents of the contract are detrimental to the crew or only signed by the crew (unilateral), and the crew members were forced to sign a contract. Other problems found include:

- Competence: crew members do not have the competence to work on fishing boats, there is no basic training (Basic Safety Training/BST), and there is no fishing technical training
- Recruitment: there are many recruitment channels (multi-channel) which are not integrated, the tendency for crew members to choose the easiest route, there is a fee charged by agents
- Fulfillment of rights: no insurance, wages are not paid, salaries are deducted for agents, agents are not responsible for repatriation
- Documents: there are fake documents (which are BST certificate and Seaman's Book), the documents are controlled by the captain/agent
- Placement: not consistent to the contents of the contract/agreement, bad working conditions, fraud

### 3.3 Indonesia Position in WCPFC related to Labor issues

Based on the Letter from MMAF to WCPFC executive director No. Ref: B.22375/DJPT/TU.210.D1/XI/2020, Indonesia acknowledge that fishing crews are inclined to forced work and human trafficking because the absence of proper training, insufficient language aptitudes, and furthermore absence of authorization of wellbeing and work benchmarks. Forced work and human dealing in fisheries segments are much of the time connected to different types of wrongdoing, for example, transnational sorted out fisheries wrongdoing and corruption. Another labour abuse factor is the expanding worldwide interest for fish and a quick development of modern fishing fleets alongside overexploitation.

Fishing operators are found to have a competitive benefit by crewing their vessel with under-qualified and cheap members.

In the spirit of responsible fisheries management, an issue of labour abuse needs to be addressed properly and regulated accordingly, including within the convention area of WCPFC through the implementation of conservation and management measures for labour rights.

Within the proposal submitted to WCPFC, Indonesia emphasized that CCMs shall make every effort to ensure that their relevant national legislation fully extends to all crews working on fishing vessels flying their flag in the WCPF Convention Area and, where appropriate and applicable, CCMs shall adopt measures into their national legislation to establish minimum standards regulating crew labour conditions. CCMs shall ensure the adequate enforcement of all relevant legislation, including by identifying and prosecuting breaches of relevant national and international laws relating to the treatment of crew by people in the fishing industry including the skipper, fishing master, crewmates, vessel owner, and vessel operators which landing fish in their ports or operating in their waters, by publicly reporting prosecutions to act as a deterrent.

## 4 Occupational Standards/Qualification for Fishermen

### 4.1 Indonesian Fisheries Workers Association (Asosiasi Pekerja Perikanan Indonesia/AP2I)

There are 3 permits which are usually become reference for manning agents in the practice of recruiting and placing Indonesian migrant crew members, namely:

1. Trading Licence (Surat Izin Usaha Perdagangan/SIUP) issued by the Regional Government,
2. Business License for Recruitment and Placement of Crews/Surat Izin Usaha Perekrutan Dan Penempatan Awak Kapal (Siuppak) issued by Ministry of Transportation (Sea Transportation),
3. Indonesian Migrant Worker Placement Company Permit (Surat Izin Perusahaan Penempatan Pekerja Migran Indonesia/SIP3MI) issued by the Ministry of Manpower.

According to AP2I, the existence of 3 different permits potentially become a loophole for violations, so it is deemed necessary to have 1 regulation that covers all interests.

Manning agency companies for migrant crew members tend to choose to take care of SIUPPAK compared to SIP3MI because it is considered to be more protective for the needs of seafarers.

In 2000 the government issued Government Regulation (PP) no. 7 of 2000 on maritime affairs. Article 19 paragraph 6 explain that the procedure for placing seafarers on Indonesian-flagged vessels and foreign-flagged vessels abroad is regulated by a decision of the Minister of Manpower after receiving direction from the relevant Minister (Transportation). However, until now there has been no derivative of this regulation.

There are still mark-ups practice on prices in making certificates needed by crew members who will work on ships such as BST (Basic Safety Training) and

Seaman's Book. This practice is usually carried out by agency personnel who will dispatch migrant crew members with a pay cut system.

In the field, the case where KTKLN (Kartu Tenaga Kerja Luar Negeri/Overseas Worker Cards) are used as an excuse are frequently happen, which create difficulties for Migrant ABK in departure. ABK Migrants feel that they have had enough of a seaman's book, passport, and visa as a condition for departure, but Immigration requires KTKLN. As a result, migrant crew members process at the airport has been unwillingly at a fairly high cost (IDR 2-3 million). For seafarers, there is actually proof of identity that is commonly used, namely the seafarer's book and SID (Seafarer Identity Document) issued by Transportation for several countries in Europe. The existence of this KTKLN is actually good because it's purpose is to collect data from TKI. However, the practice in the field is prone to extortion.

There is no government standard scheme for fishing seafarers' salaries. Currently the prevailing wage is the UMP (Minimum provincial wages). And in the field there are still violations where salaries below the UMP for domestic ships are still being applied.

From the reports of AP2I members, bribery practices related to seafarers' certificates occurred. There are individuals who pay related officials to get an ANT 1 diploma and work on foreign ships. This practice has been set Indonesian seafarers in a bad or incompetent image. This should be overcome by having a third party national LKS Institution in charge of supervising the practice of recruiting and placing seafarers.

Most fishing seafarers do not have adequate education, they are mostly elementary school graduates. This has made it difficult for them to be aware of workers' rights. Besides, there is a dilemma related to education, because the requirement to be able to get a BST certificate at this time is a junior high school diploma. Meanwhile, there are also many sailors who did not finishing junior high school but have high sea experience.

## 4.2 Hiring Practices

Legally, the guidelines for the recruitment of crew members are regulated in Permenhub No. 84 of 2013 concerning Recruitment and Placement of Crew, which regulates the obligation to settle payments according to the contract, the management of repatriation of bodies, the obligation to assist in the management of the rights of deceased seafarers, trade unions, and payment of additional compensation. Meanwhile, Permen KP Number 35/Permen-KP/2015 concerning Human Rights Certification in the fisheries sector which underlines several points related to the recruitment system for Fishing Vessel Workers and Crews, at least in the form of: (1) procedures that ensure the recruitment of Fishing Vessel Workers and Crews; (2) fulfillment of minimum age and competency requirements for Fishery Vessel Workers and Crews; and (3) the application of work agreements and sea work agreements.

The Indonesian Fisheries Workers Association (AP2I) said that many prospective migrant crew members observed job vacancies from social media. The problem is that prospective migrant crew members do not check the background of the placement company or ship owner company. In fact, by joining the Association or if the prospective migrant crew members want to associate, they can reduce the possibility of contract violations and other violations against them. Most of the new crew members contacted the Association only when they face a problem.

Other information obtained based on interviews with former crew members of foreign ships and currently chairman of the association (AP2I) is as follows:

### a) Ages

There are no crew members under 18 years of age. The average age of applicant is adult or >18 years old. Meanwhile, based on the results of web searches, cases of child trafficking under the guise of distributing labour were found in 2014 but for fishing vessels operating domestically. They formed an association of crew members (ABK) named Bina Jasa Mina, which manipulated the age data of the

children. The ship was operating in the eastern part of Indonesia which did require a lot of crews at that time. Eventhough it happens to ships operating domestically, it is worth noting that child trafficking practices can be a latent danger that may arise in the future.

b) Gender

The crew of fishing boats are dominated by male workers.

c) Origin

The results of the interview stated that the workers who applied as crew members mostly came from the provinces of West Java, Central Java, East Java in 2011-2015, but at present years almost all provinces are present, even people who live in mountainous areas were also interested to become fishing vessels crews because the difficulty to find jobs.

d) Type of work on the ship

Most Indonesian crew members work as subordinates on fishing vessels. Usually, they become ordinary crew members with the main task of removing fishing rods, installing bait, pulling buoy balls (hauling setting process). There is an opportunity to work at a higher level for these crew members depending on their competencies, for example in the engine section for those who understand machinery or in the kitchen for those who can cook.

#### 4.3 Manning Agent

Several agents that were met in this study were PT. RNT Utama Indonesia, PT. Maju Jaya Bersama, PT. Marine Service Pearl. The meeting were held in Tegal, 10-12 June 2021.

According to them, fishing sailors stationed on foreign-flagged vessels are usually divided into 2 types, namely experienced and inexperienced crew members. Inexperienced crew members are seafarers who have never work on a ship or never work on a ship that uses the fishing gear . While the experienced crew is the opposite. The standard salary for non-experienced is 300-350 USD while experienced is 350-450 USD/Month. The main destination countries for the



placement of migrant crew members by these 3 manning agencies are Japan, Korea, Taiwan, and China. In accordance with government regulations, these 3 manning agents already have SIUPAK for proof of licensing.

(a) Training

There is no training mechanism or briefing for prospective migrant crew members related to fishing gear operations before leaving for the ship. So far, Manning's agent has only been given an introduction video related to fishing technique. Even if training is given in Indonesia, there is no practical tool that resembles the fishing gear on the ship's destination, for example the squid boat in Taiwan. This inferred that most of the crew learned directly on the ship. There are also fishing boats that recruit non-experienced crew members, because of cheaper wages and it is expected they will become experienced from time to time. Usually, non-experienced crew members will be placed on large ships where the work is not too heavy.

According to the agents, Government and the company for the placement destination do not require competence for the prospective fishery migrant crew members. Ankapin and master of fishing certificates issued by the government are only valid in some countries that acknowledge them, such as Brunei Darussalam.

If these prospective migrant fishery crew members want to be trained, the costs required are not cheap. Approximately per person can reach IDR 5 million. The amount of costs has caused the company to be unable to bear it and prospective crew members objected to being deducted from their salaries. Meanwhile, for BST (Basic Safety Training) ABK candidates are usually bailed out by a Manning agent and will later deduct salaries with the approval of the ABK candidates.

(b) Seaman's book

Government Regulation no. 27 of 2021 states that fishing seafarers' books are different from commercial seafarers' books. Implementation in the field becomes a loophole for extortion by unscrupulous persons, where migrant crew members cannot leave when using the fishery sailor's book. The reason is that the

fisherman's book can only be used in ZEEI. Therefore, now the manning agent uses the regular seaman's book for prospective crew members to be able to work on the ship.

(c) Grievance mechanism

Until now, if there are migrant crew members who have problems on board, they prefer to complain to their manning agency. This is due to a faster response as compared to complaints to the Indonesian Embassy. There is no compliance scheme to help in evaluation and selection of a ship owner company that has no problems. So far, what the manning agencies have done is to check the history of ship owners with their colleagues. There should be a list of companies that are recommended and not by the Indonesian Embassy in the country of placement.

Manning agents also have a monitoring agenda, they cooperate with agencies in Taiwan. Routine communication mechanisms with crew members are directly being carried out every 3 months. That is the medium for migrant crew members to submit their complaints. Most crew members prefer to channel their complaint to the manning agent rather than contact the hotline provided by the government. There are only a few embassies that display their hotline WA numbers on their website. Most contact provided are email and telephone addresses (overseas) so that the response might take long time. In addition, which is not less important eventhough there is a hotline, there is however no internet access on board.

(d) Vaccine Certificate

With the condition of the COVID-19 pandemic, it is actually critical for migrant crew members to be vaccinated and get a certificate that they have been vaccinated. Because some countries of placement ask for the certificate.

(e) Business License Recruitment and Placement Of Ship Crew (Surat Izin Usaha Perekrutan Dan Penempatan Awak Kapal/SIUPPAK)

Manning agents who already have SIUPPAK usually have a deposited data of their Migrant ABK to the sea transportation service. Information that is deposited via SIUPPAK includes the origin of the migrant crew, the fishing ground, and the vessel for placing the migrant crew. However, these data cannot be freely

accessed by public. For SIUPPAK holders, they are required to make semester and annual reports to sea transportation department. Usually for the annual report along with the annual audit.

(f) Manning Agent Losses

So far, what has been widely discussed is protection for crew members, while protection for manning agents has not been available. There are many cases where crew members escape while in the destination country of placement and this has caused loss because the Manning Agent must pay for it. The loss incurred to manning agent per person can be up to 65 million rupiah.

An example is the case at PT. RNT Utama Indonesia, in the vulnerable period of December 2020 - May 2021, there were 18 crew members who escaped. The crew fled after just arriving at the destination country and quarantined. After quarantine they fled to further work on land. There are also crew members who have boarded the ship for 1 trip and when after docking they run away to work on landbase.

The fleeing crew members are the result of Taiwan's own policy of stopping Indonesian migrant workers from coming to Taiwan. Finally, some sectors in Taiwan are short of workers. The agents in Taiwan then came to the ships where the Indonesian Migrant crew work and offered them to work on land such as at factories, etc. with a fairly large salary.

According to the agents, there should be a punishment scheme for crew members who practicing escape like this. For example, their BSTN and certificates are frozen so that they can no longer go to work abroad.

The PP31 Job Creation Constitution of 2021, accommodates SIUPPAK holders to be able to carry out efforts to recruit migrant crew members. So far, if there is a violation on board, only the manning agent need to be responsible for the violation on board. Whereas the manning agent has no authority on board the ship, while on another hand the ship owner is not being processed.

In Taiwan, workers on fishing boats (ABK Migrant fishing boats) are not registered with the Taiwan Ministry of Manpower but the Ministry of Maritime

Affairs and Agriculture of Taiwan only. No insurance obtained from the government, and only got a transit visa. This is because working on a ship is different from working on land.

#### 4.4 Education, Certification, and Training

Based on information from crew members who have sailed on foreign fishing vessels and information from agencies/associations, one of the mandatory documents is basic safety training fisheries (BST-F). Having a BST-F certificate is very important for ABK as a form of protection at work. Some of the materials taught are: (1) Personal Survival Technique, which demonstrates and explains each type of safety equipment on board and its functions; (2) Fire Prevention and Fire Fighting, materials taught with the aim of preventing the occurrence of fire hazards on the head and their prevention. This material aims to extinguish fires using a Light Fire Extinguisher (APAR) in the form of CO gas, foam, dry chemical and water in order to distinguish the types of fires and the techniques used to extinguish them; and (3) Elementary First Aid, to provide an overview and first aid when health problems/accidents occur on board the ship.

In addition, crew members who work on foreign fishing vessels need skills in operating fishing gear. However, many of the crew members who were dispatched on-board do not have basic fishing skills. Especially for certain fishing gear, such as longlines. Therefore, the agencies hope that there will be special training on the use of fishing gear that is accompanied by a dissertation with simulation. This is vital because prospective crew members do not have knowledge of fishing. The high interest in becoming a potential crew member is only tempted by information of large salaries received from friends or neighbours who have worked on foreign fishing boats.

Meanwhile, other documents needed are a seaman's book and a certificate. The Seaman's Book is an official state document in the form of a book containing the records or track record of a sailor (a sailor's sailing experience). The Seaman's Book is also known as the Seaman Book, because it can also be used for

international seafarers. The provisions of the seafarer's book are contained in the Minister of Transportation Regulation No. KM.30 of 2008 concerning Seafarers' Identity Documents. Article 3 paragraph (1) states that every seafarer who works as a crew on a commercial ship measuring 35 GT or more for motorized ships and 105 GT or more for traditional ships with simple construction or fishing vessels measuring 12 meters or more in length is obliged to have the Seaman's Book. Whereas in paragraph (2) it is added that the seafarer's book is given to seafarers who have certificates of seafaring expertise and/or certificates of seafarers' skills and cadets who will carry out sailing practices on ships. Thus, the seaman's book is very important and a must-have. Because apart from being an official State document, it also records the identity of the owner of the seafarer's book, special records for the owner of the seafarer's book, the health record of the owner of the seafarer's book, a list of certificates for the owner of the seafarer's book, and sea service experience.

#### 4.5 Health Services

Each fishing boat is equipped with medicine. In other words, the first treatment on board the ship is by taking the medicine available on the ship, which is managed by the captain. However, if a referral is needed, a sick crew members will be transported by fish carriers or when fish land at the nearest port.

#### 4.6 Crew Welfare

In relation to the welfare of the crew, two main issues were found, namely: First, the issue of salary. Sometimes the salary received is not in accordance with the contract. This is caused by two parties, namely: (1) mischief agents abroad, where the salary submitted by the owner/fishing vessel company is not submitted in full according to the agreement by the agent abroad; and/or (2) domestic agents, which have the potential to do the same thing with agents abroad.

Second, the problem of working hours. Fishing vessels from China do not recognize working hours. Working hours of crew is dependent on the length of

setting (placement of fishing gear) to hauling (removal of fishing gear). Crew members working on Chinese fishing vessels have the potential to exceed their proper working hours. However, the excess working hours on Chinese fishing vessels has not compensate for additional salary. This additional working hours is however, only mentioned by crew members who work on Korean and Japanese fishing vessels.

#### 4.7 Counselling / Grievance Mechanism

When going to work or before leaving for work, ABK is not given special briefing by the agency. So far, the provision of crew members has been carried out by NGOs who pay attention and care for the fate of crew members on foreign fishing vessels. Meanwhile, at the time the crew already working in a foreign country, each Consulate General of the Republic of Indonesia has a communication channel for complaints submitted. However, the problem is the absence of communication channel/media such as WIFI on board fishing boats, so that every time a complaint occurs, it will be submitted when getting a signal as ship arriving at the ports. This difficulty is also felt by the crew when they try to contact their family.

#### 4.8 Other rights

Complaints so far have only been made by crew members. In fact, the agency also suffered losses by unscrupulous crew members. This is because, the number of crew members run away when they arrive abroad (destination countries) are considered high. These crew were “hijacked” by another agency, by being employed on the mainland. Therefore, the agency expects an instrument to control the violations of the crew members who have run away.

#### 4.9 Human Rights Violations

Based on the information during the observation in this study, several cases of human rights violations related to workers working on foreign fishing vessels are identified. The informant mentioned some information that he had directly

experienced, namely the discrepancy in salary payments with the contract stated both in terms of value and payment method. The value of the salary received is less than stated in the work contract for the reason that there is a pre-departure preparation which cause fee deduction. Another violation is that the payment method that is supposed to be given when the ship is docked and partially transferred has not being made. Once confirmed to the family, there is no incoming funds received.

Several cases related to migrant workers were found, which are:

1. The incident that happened to the Indonesian crew of the fishing boat Long Xing 629<sup>4</sup>

Long Xing 629 has been operating since February 15, 2019, and for more than 13 months operating in the Waters of Samoa (in the RFMO Western & Central Pacific Fisheries Commission area to be precise). The ship continues to be in the middle of the sea without ever docking on land or islands in the 13 months duration.

In December 2019, two crew members named Sepri, Alfatah died due to a mysterious disease that had the same characteristics, namely swollen bodies, chest pain, and shortness of breath. Sepri and Alfatah had been sick for 45 days before dying. Then in March 2020, Ari experienced the same illness for 17 days before finally passed away on March 30, 2020.

During his illness, the captain of the ship only provided medicines that the Indonesian crew could not understand because they were written in Chinese, and it was also suspected that the medicines had expired. The captain also refused the request of the Indonesian crew to take his sick friend to a hospital in Samoa. At that critical time, Alfatih was transferred to Long Xing 802, and Sepri to Long Xing 629. They died on both ships.

The Indonesian crew members have requested that the bodies of their comrades be stored in a cooler so that they can be brought back to Indonesia.

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<sup>4</sup> <https://nasional.kompas.com/read/2020/08/29/10080611/kemenlu-fasilitasi-pemenuhan-hak-hak-ketenagakerjaan-abk-wni-kapal-long-xing>

But the captain of the ship refused and instead threw the body into the middle of the sea.<sup>5</sup>

In addition to the death of four crew members with mysterious illnesses, Indonesian crew members on the Long Xing 629 also experienced exploitation and became victims of human trafficking with details as follows: <sup>6</sup>

- a) Working hours that require crew members to work 18 hours per day. If by chance at that time the catch of fish was abundant, the crew had to work continuously for 48 hours without rest.
- b) For 13 months, the ship continued to be in the middle of the sea without ever docking or seeing land. This has become suspected because the ship is carrying out illegal activities so as to avoid inspection by officers at the port. It is also suspected to limit the access of crew members to be able to channel their complaint to other parties about the inhumane conditions on board of the ship.
- c) Indonesian crew members are only given distilled water from sea water which is still very salty, while Chinese crew members drink bottled mineral water. Several studies have shown that drinking too much salt can cause hypertension and heart disease.
- d) Two Indonesian crew members were physically abused by the vice captain and senior Chinese crew members.
- e) Salaries for the first three months are not given in full due to administrative costs. In fact, according to the provisions of the Law on the Protection of Indonesian Migrant Workers, the imposition of recruitment fees on workers is a criminal act.
- f) Payment of salaries is not in accordance with the contract. The crew did not get their rights according to the agreement. There are crew members who only get USD 120 or Rp 1.7 million after working for 13

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<sup>5</sup> <https://dntlawyers.com/press-release-keadilan-untuk-abk-long-xing-629/>

<sup>6</sup> <https://dntlawyers.com/press-release-keadilan-untuk-abk-long-xing-629/>



months. Whereas the crew should be entitled to a minimum of 300 USD every month.

- g) ABK is often given food made of fish bait that smells so that they experience itching and food poisoning.
- h) Indonesian crew members are given food in the form of vegetables and chicken meat that have been in the freezer for 13 months, while Chinese crew members always eat fresh ingredients supplied from other ships in the same group.
- i) Chinese chefs make 2 distributions of dishes, namely special food for Chinese crew members which are all more fresh and drink from bottled drinking water, and special food for Indonesian crew members with old food that is not fresh and smells bad.
- j) The work contract (Sea Work Agreement) contains elements that make the crew in a vulnerable condition, including unlimited working hours, all of which are determined by the captain. This includes clauses regarding disobedient to any orders from the captain, should not escape from the ship, etc.
- k) The employment contract contains incorrect information, for example in the contract it is called a South Korean-flagged ship, in fact it is a Chinese-flagged ship.

2. The Ministry of Foreign Affairs together with the relevant Ministries/Institutions on May 18, 2020 has facilitated a virtual meeting of relevant parties to follow up on the case of the burial of the deceased's body, a victim with initials H. H is an Indonesian citizen/ABK Ship Lu Qing Yuan Yu 623, the meeting was attended by representatives from the company which sending the crew and their families<sup>7</sup>.

Some of the information obtained based on facts from a copy of the document is as follows:

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<sup>7</sup> [https://kemlu.go.id/portal/id/read/1309/siaran\\_pers/penanganan-kasus-pelarungan-jenazah-alm-h-wniabk-kapal-lu-qing-yuan-yu-623](https://kemlu.go.id/portal/id/read/1309/siaran_pers/penanganan-kasus-pelarungan-jenazah-alm-h-wniabk-kapal-lu-qing-yuan-yu-623)

- January 16, 2020, H (victim) died aboard the ship LQYY623. Victim was found dead while being woken up for work.
- January 23, 2020, the body of the victim (H) was thrown into the sea based on the information on the Death Certificate issued by the MTB of the sending company that dispatched the victim (H).

MTB said it had sent a Certificate of Death and Burial at sea dated January 23, 2020 with a copy to the Ministry of Foreign Affairs, Ministry of Manpower and BP2MI. However, in the correspondence system both the Ministry of Foreign Affairs, the Ministry of Manpower, and BP2MI have never received the said Death Certificate.

The Ministry of Transportation informed that MTB is not registered in the Business License for Recruitment and Placement of Crews (SIUPPAK). The Ministry of Manpower also informed that MTB does not have an official permit as a placement company for Indonesian migrant workers (SP3MI).

3. A total of 105 Indonesian crew members who were detained in Taiwanese waters were successfully repatriated to the country by using a special flight facilitated by the Ministry of Foreign Affairs and IETO Taipei. The Batik Air plane carrying the crew members departed from Kaohsiung Airport, Taiwan, and landed at Soekarno Hatta Airport on Saturday, August 21, 2021 at 03.10 am WIB.

The repatriated crew members were long detained on ships in Taiwanese waters because they were unable to sign off on mainland Taiwan. Some of them have been on hold for a year. This prohibition to get out of the ship causes the crew to be in quite a worrying condition without adequate access to health<sup>8</sup>.

Various efforts have been made by the Ministry of Foreign Affairs through the Taipei Indonesian Economic and Trade Office (IETO) to repatriate the crew

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<sup>8</sup> <https://kemlu.go.id/portal/id/read/2840/view/kemlu-fasilitasi-pemulangan-anak-buah-kapal-yang-stranded-di-taiwan>

members, including negotiations with the Taiwanese authorities. The Ministry of Foreign Affairs is proactively approaching the company so that the crew members can return home as soon as possible after completing their contracts.

The absence of a positive response from either the manning agent in Taiwan nor the ship owner has made the Indonesian government take firm steps to save the crew. Through coordination with all relevant agencies, this humanitarian mission to repatriate Indonesian crew members was successfully carried out with full funding by the state.

4. The Indonesian Embassy in Manila facilitated the repatriation of 8 Indonesian crew members on the M/V Fa Yun ship from the Philippines to Indonesia (16/05/2021). The repatriation was carried out at the request of the PMI ABK and family representatives because salaries had not been paid and had been on hold for more than 5 months on the ship because there was no concrete action for the return of the ship owner. This condition is complicated by the unfavorable pandemic situation in the Philippines in the last two months.<sup>9</sup>
5. The Indonesian Embassy in London succeeded in repatriating 14 Indonesian Migrant Workers (PMI) Crews (ABK) of the British-flagged fishing boat “Magan D” from Dublin, Ireland, at noon local time, Saturday (27/03/2021). The PMI crew arrived in Indonesia on March 28, 2021<sup>10</sup>.

Previously, Magan D made an emergency anchorage due to an engine failure at Dun Laoghaire Harbor, Dublin, Ireland on March 12, 2021. There were 17 crew members consisting of 14 PMI and 2 crew members and a Spanish captain. Inspections by the Irish Authority and the British Maritime Authority (MCA) concluded a violation of the Maritime Labor Convention (MLC) and resulted in detention and revocation of permits. Ship management tries to get away from their obligations to PMIs.

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<sup>9</sup> <https://kemlu.go.id/portal/id/read/2481/view/pemulangan-8-pekerja-migran-indonesia-terlantar-dari-filipina>

<sup>10</sup> <https://kemlu.go.id/portal/id/read/2305/view/kbri-london-berhasil-pulangkan-14-pmi-abk-kapal-ikan-magan-d-yang-berlabuh-darurat-di-irlandia>

The Indonesian Embassy in London facilitates steps to fulfill the demands of the PMI ABK to ship management, namely repatriation to Indonesia, payment of salary arrears for February - March 2021, and bonuses for each voyage carried out. The Indonesian Embassy in London has made various collaborative efforts with the International Transport Workers Federation (ITF) to encourage approaches and communication with relevant authorities in the UK, Ireland, the International Maritime Organization (IMO) and with ship owners based in Spain.

#### 4.10 Transshipment at Sea

Based on information search, it was found that the Long Xing 629 ship was joined to other groups such as Long Xing 806, Long Xing 805, Long Xing 630, Long Xing 802, Long Xing 605, and Tian Yu 8 under the flag of Dalian Ocean Fishing Co. Ltd. This group should only catch tuna because they use long line fishing gear. But in fact, they also have fishing gear to catch sharks and other protected species. The catch in the form of 20 sharks per day will usually be transferred to another ship in the middle of the sea (transshipment). In the last catch period, they had 16 boxes containing 45 kilograms of shark fin each.

This transshipment incident is vulnerable to exploitation and cases of trafficking in persons considering several cases of human rights violations on the ship.

## 5 Recommendation to Address Deficiencies and Improve Crew Welfare and Hiring Practices

Based upon the discussion with the Government, researcher, Association, and manning agents, some recommendations for better management are:

1. There should be a deposit scheme for shipowners who want to use migrant crew members from Indonesia. This is a guarantee if the crew's salary is not paid by the ship owner.
2. The Indonesian Embassy and the Indonesian Consulate General should make a list of foreign companies and provide information on the history of the company. So that manning agents and prospective migrant crew members can learn about the company they are going to board on. So far, the manning agent is looking for information on the shipowner company as a screening in the placement cooperation. There is no legal basis to maintain this Cooperation process in order to minimize the potential for violations.
3. In addition, it is better to make a policy so that ship companies are required to recruit migrant crew members or use the services of an Indonesian manning agent who already has a SIUPPAK. Thus, reducing the possibility of violations.
4. Actually, the recent incident of banning Indonesian migrant crew members on fishing boats is regulated in international law. If there is a crew who dies aboard the ship and the corpse is dangerous if it is brought ashore because it carries a virus or infectious disease, the corpse may be thrown into the sea. The condition must be in coordination with the authorities on the ground and after obtaining approval by the family. While what happened on the ship owned by Dalian Ocean Fishing Co. Ltd without the consent of the family and onshore authorities. And be an indication of slavery.
5. In SIUPPAK, there is a requirement that manning agents who wish to obtain SIUPPAK must provide data on migrant crew members who have been sent abroad. The logic is how to send the data while the business is not yet running and is taking care of SIUPPAK. This means that this is an illegal placement practice loophole.
6. MMAF has conducted counseling to prospective migrant crew members and manning agents regarding how to choose good manning agents and ship owners and how to manage their finances. This can be done regularly.

## 6 Conclusion

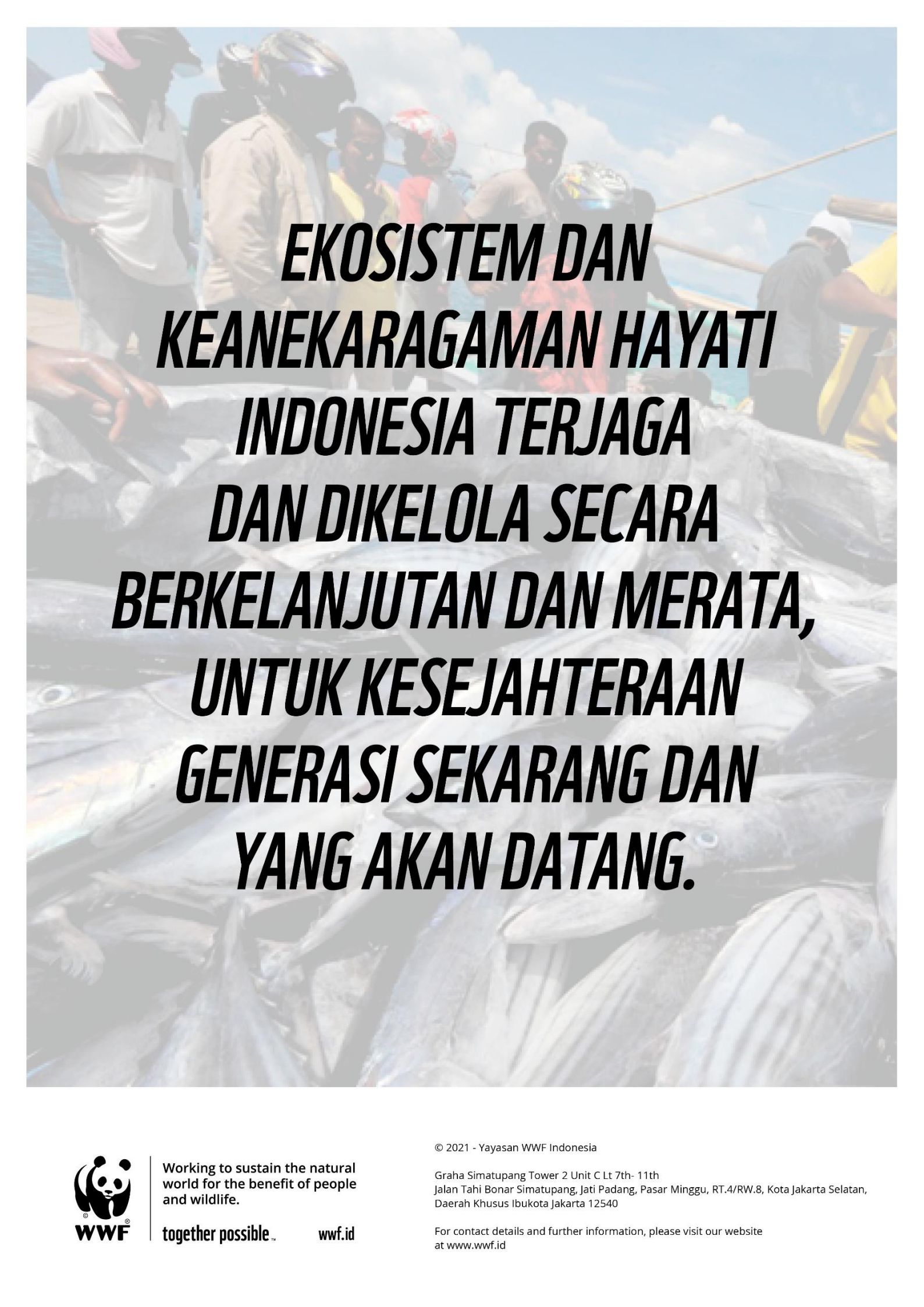
The basic principle stated by MMAF is that it is integrated in one system without reducing the role and contribution of each institution that is responsible for fostering and establishing technical norms. The role of the Ministry of Manpower is as regulator/licensee for recruitment agents for fishing boat crews; the role of the Ministry of Marine Affairs and Fisheries (MMAF) is to establish competency standards for crew members and provide technical recommendations for agent licensing (technical requirements for companies/agents that will recruit crew members, requirements for crew members to work abroad, types of competence for crew members to work abroad, and certification of fishing crew); BP2MI acts as the operator for the placement of fishing boat crews abroad and holds the crew data base. The detailed data should be made publicly available aside of only put the total number of Indonesia migrant workers.

According to the MMAF, the types of competencies for fishing boat crews include basic safety, expertise, and technical/special where the three functions are to ensure the safety and success of fishing operations.

According to the Ministry of Transportation, seaworthy competence is needed to ensure shipping safety so that ships can sail from the base port to the fishing area and return safely. Competency in fishing according to the Directorate General of Capture Fisheries-MMAF should owned by boat crew, and to also be able to operate environmentally friendly fishing gear properly and effectively as regulated by FAO. Apart from that, the competence that is suitable for storage must also be possessed to be able to handle, process, store and refrigerate fish in accordance with food safety principles.

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Graha Simatupang Tower 2 Unit C Lt 7th- 11th  
Jalan Tahi Bonar Simatupang, Jati Padang, Pasar Minggu, RT.4/RW.8, Kota Jakarta Selatan,  
Daerah Khusus Ibukota Jakarta 12540

For contact details and further information, please visit our website at [www.wwf.id](http://www.wwf.id)