

# **Fair Labor conditions and rights protection White Paper for the Republic of Indonesia**

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## **Scope of Labor Laws and enforcement in Indonesia**

The present approach from industry to assure labor law compliance of fishers and factory workers is by employing a third party social audit company. These audits mostly come from firms engaged in auditing other export sectors. The audit designs tend to fall back on local labor laws which are often unclear. This sometimes causes conflict and confusion. The auditing process is expensive, time consuming, and does not provide for ongoing system of redress between audits.

## **Current Status of Indonesia Labor in Fishery Sector**

Labor in fisheries sector has always been a poorly defined topic, especially in Asia. Recently some cases of labors violations in wild caught fisheries labor law been reported in the media and have captured the world's attention. ILO has formalized proper working standards for the fishery sector through ILO Convention Number 188/2007 regarding Work in Fishing Convention and ILO Recommendation Number 199/2007 regarding Work in Fishing Recommendations. Unfortunately, no country in Asia has ratified ILO Convention Number 188 of 2007. Even Indonesia, a country who is leading the way on controlling illegal, unreported, and unregulated fishing, has not yet ratified the convention.

To date, there is no specific section of Indonesian from the Division of Manpower for fishing and fishing related businesses. Labor regulations in the fisheries sector refers to general Manpower Law of the Republic of Indonesia Number 13 of 2003. According to recent conversations with ILO office in Jakarta, the Indonesian government plans to ratify the ILO Convention in relation to labor in the maritime and fishery sector. However, the timeline for ratification is unknown. It must pass many confusing legal hurdles including, among others, a debate in the House of Representatives before it is signed by the President.

Indonesia has written regulations at the fisheries ministry level. The Ministry Maritime of Marine Affairs (MAAF) has published Fishery Regulation Number 35 of 2015 regarding System and Certification of Human Rights in Fishery Business. Like many Indonesian government regulations there is no structured system to report any labor violations attached to this regulation. Political will and technical capacity are not available at the ministerial level for any level of enforcement.

Lack of coordination among ministries, i.e. Ministry of Manpower, MMAF, and the Ministry of Transportation to monitor and supervise labor practice offshore allows for continuing violations and exploitation of fisheries related manpower.

There many different types of vessels and fisheries in Indonesian waters. Many large vessels are in the deep sea fishery and have high mobility. The fisheries business and related industries is a complex business and consists of many types of workers involved in the process from harvesting to processing to distribution/export. This complex supply chain provides opportunities for violation and exploitation if it is not regulated clearly and supervised appropriately. Indonesia needs specific regulations effective monitoring / reporting systems for labor in fishery sector. However, these elements are not available from the top down and enforced by government.

### **Problem**

Fair treatment of labor and the elimination of “child labor” is a goal of the seafood industry. As 50% of the seafood supply is wild caught these supply chains have supply characteristics different from any other supply chain. The supply is dictated by weather and resource seasonality driving irregular employment patterns.

The irregular employment patterns create complication in the social audit process. Part time or irregular employment is not well defined within the labor laws of Indonesia. Social audits are forced to interpret vague local laws governing supply chains with intermittent labor requirements. Consequently, the uptake of social audits for this type of supply chain has been low to nonexistent depending on the emerging world country under consideration. Indonesia presently has two functioning intermittent labor current social audits. The third audit has recently been cancelled due to costs incurred by the audit process and excessive costs created by confusion around the interpretation of local part time/irregular labor laws. As the demand for fair labor seafood production increases in the western high value markets the compliance is not keeping up.

### **Potential solution**

The International Labor Organization (ILO) is an agency of the United Nations. The ILO has developed over time a clear set of fair labor standards that readily accessible on line and easily understood. The structure of the ILO standards recognize the existing laws of all countries, fill in the gaps where the law is unclear or nonexistent, organize labor sectors industry sector, and provide a uniform standard that protects workers regardless of the indigenous system of labor laws they work under.

The ILO standards are in constant review. There is ILO representation in every country. The standards defined by industry sector is public information, on line, and provides the basis for the fair treatment of labor worldwide. The difficulty is the system of enforcement is at a very high level and not easily accessible to the individual or group of workers.

## **Opportunity**

The Indonesian Seafarers Union (KesatuanPelaut Indonesia or “KPI”) is a nationally registered seafarers and fisheries workers trade union with membership numbers in the tens of thousands. Based in Jakarta, KPI has branches in major ports across the country. While the majority of the union members are employed on commercial shipping vessels including cargo, offshore oil and gas, and passenger vessels, the fisheries industry is a target for potential expanded coverage especially in the eastern part of Indonesia. KPI has reformed itself in post-Suharto era Indonesia, and the new leadership in Jakarta has targeted collective bargaining agreements (CBAs) with national and international ship owners and a focus on crew members’ welfare programs.

KPI signs CBAs with employers worldwide with attention not only to wages but onboard health and safety conditions within a highly regulated industry. While seafarers are regulated by the ILO’s Maritime Labor Convention of 2006, fisheries workers are specifically excluded. The Indonesian government’s focus on developing the fishing industry but lack of clarity on standards has presented KPI with a role in negotiating collective bargaining agreements which include the ILO recommendations, conform to local legal standards, and are endorsed and recognized by relevant government agencies.

A CBA negotiated by KPI with a company is a product of negotiation and establishment of standards on behalf of the fishers or fisheries workers in a specific company, vessel, or workplace along the supply chain. International standards (such as ILO) are used whenever possible. Due to recent events of the industry, a priority is placed on establishment of a safe reporting system for non-compliance to ensure a free, safe, and fair workplace and system to address and resolve grievances. The CBA is in its most basic form, a contract between labor and company management specifying the rights and responsibilities of both parties for a fixed length of time.

In practice, KPI negotiates CBAs in an effort to raise the minimum standards of the industry with particular focus on occupational health and safety issues which should not necessarily be at odds with the objectives of companies. Union specialists negotiate contracts on a case by case basis and provide reporting and redress systems for workers and a documented commitment from both labor and management to workplace free of exploitation and other social concerns associated with the negative side of the industry. Union dues are paid by the workers or on behalf of the workers to cover the cost of union operations and support systems such as grievance reporting and arbitration if needed.

A well negotiated and signed CBA should benefit both parties. KPI comes away with fair coverage for the workers, while a company will hold a signed and government endorsed agreement certifying that the workplace follows specific standards and has agreed to redress should it be proven otherwise after a fair investigation. Many of the social standards unable to be audited properly in countries such as Indonesia may be documented and regularly audited

by the union to ensure conformity with the CBA and therefore with any international standards as a basis for its negotiation.

The fact that Indonesian fisheries are not currently regulated to international minimum standards is recognized as a challenge for the industry but also an opportunity for KPI. While wages cannot be easily influenced beyond local market rates, the establishment of social standards is a long-term goal for the trade union movement and a starting place for prospective cooperation. A signed, documented and legally recognized commitment to ILO minimum standards surely has value at present for all stakeholders in a country not presently able to provide alternative monitoring, reporting, or social audit systems.