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# Labor Conditions in the Tuna Sector

*BITUNG, INDONESIA*

The USAID Oceans and Fisheries  
Partnership (USAID Oceans)  
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# Acronyms and Abbreviations

ACDS	ASEAN Catch Documentation Scheme
ASEAN	Association of Southeast Asian Nations
BFAR	Bureau of Fisheries and Aquatic Resources
BPJS	Indonesian Health Insurance
CDTS	Catch Documentation and Traceability System
CTI-CFF	Coral Triangle Initiative on Coral Reefs, Fisheries and Food Security
DKP	Provincial and District Level Ministry of Maritime and Fishery
DOMAFs	District Offices for Marine Affairs and Fisheries
EAFM	Ecosystem Approach to Fisheries Management
EEZ	Exclusive Economic Zone
FIS	Fisheries Information System
FMA	Fisheries Management Area
IUU	Illegal, Unreported and Unregulated (fishing)
JAMSOSTEK	Indonesian Social Security
KDE	Key Data Element
KELOLA	NGO based in Manado focused on livelihood and organizing of fisherfolk communities
KIARA	Peoples Coalition of Fisheries Justice
KKP	Kementerian Kelautan dan Perikanan (Ministry of Maritime and Fishery)
KTP	Kartu Tanda Penduduk (Indonesian National IDs)
MDPI	Yayasan Masyarakat dan Perikanan Indonesia
MMAF	Ministry of Marine Affairs and Fisheries
NGO	Non-governmental Organization
POMAFs	Provincial Offices for Marine Affairs and Fisheries
PPE	Personal Protective Equipment
PPP	Public-Private Partnership
RVIA	Web record of vessels authorized to fish within Indonesian archipelagic waters
SEAFDEC	Southeast Asian Fisheries Development Center
SFMP	Sustainable Fisheries Management Plan
SLO	Maritime and Fishery Department (Surak Laik Operasi) (Fishing Permit)
SMS	Short Message Service
SSME	Sulu-Sulawesi Marine Ecoregion
SEAFDEC	Southeast Asian Fisheries Development Center
USAID	United States Agency for International Development
USAID Oceans	USAID Oceans and Fisheries Partnership Activity
USG	United States Government

# Glossary of Local Terms

Anfrag	Logistics needed for every fishing trip
Bas	Person in charge of the engine
Katinting	Small boat with single engine
Kep	Boat captain
Koki	Cook; person assigned to prepare and provide food on boat
Pakura	Wooden dinghy boat to support the main fishing boat
Rumpon	Buoy to mark the fishing ground

# Executive Summary

## Background

The USAID Oceans and Fisheries Partnership (USAID Oceans) is a program designed to combat illegal, unregulated, and unreported (IUU) fishing and protect marine biodiversity in the Asia-Pacific region. In addition to protecting marine biodiversity and enhancing sustainability, the program's focus on related human welfare issues, such as gender equality and labor rights, addresses the multi-faceted and interrelated nature of social and environmental challenges. As part of the project, Tetra Tech ARD is working with regional partners to develop a Catch Documentation Traceability System (CDTS) that will enable at-risk species to be tracked from point of catch to market entry. The CDTS will provide a platform to collect and analyze environmental and economic data to improve fisheries management and enhance the health and resilience of Southeast Asia's marine eco-systems. Verité conducted assessments of labor conditions in pilot fisheries – the tuna sectors of General Santos City, the Philippines, and Bitung, Indonesia, and provided technical assistance to the project on approaches on integrating relevant labor data into the CDTS. The findings from the research into the tuna sector in Bitung, Indonesia are presented in the following report.

## Methodology

Verité's research in Bitung, Indonesia aimed to describe the labor supply chain and assess recruitment, hiring and working conditions in the tuna fishing sector, with a particular focus on issues that might be made visible through the development of a CDTS.

The research was carried out in three phases. First, from November 2015 to January 2016, Verité conducted desk research to gain insight to the Indonesian fisheries context and background, as well as to review labor and fisheries specific legal and regulatory frameworks. Next, from February to March 2016, Verité carried out a Rapid Appraisal to study the feasibility of conducting future research, validate desk research findings, and identify potential topics for follow-up study. Manado is an integral part of the Bitung supply chain, and Sangihe was confirmed as hosting critical work processes in the Bitung supply chain; therefore, they were both included as research sites. In October 2016, Verité conducted field investigation and validation in Manado, Bitung, and Sangihe Island, Indonesia to gather information on recruitment and employment practices in the tuna fishing industry as well as to review available data streams with relevance for CDT development.

Workers were purposively sampled to represent a wide cross section of demographics and work processes. A total of 85 interviews were conducted with workers and local community members, including spouses of workers in the fishing sector. Both sea-based (traditional and Phisang-Sapi-Filipino fishermen) and land-based workers (workers from four separate processing plants, boat owners, and traders) were interviewed. The gender breakdown of interviewees was 29 women and 56 men. Verité interviewed workers originating from Gorontalo, Sangir-Talaud, Manado, Java, and Flores in Indonesia as well as workers from the Philippines and elsewhere. In addition to interviews with workers and community members, Verité conducted expert informant interviews with government, civil society, and academia, to provide additional context and triangulation.

Due to the non-random nature of interview selection as well as the non-quantitative nature of information gathered, findings from this research cannot point to the definitive prevalence rates of findings. All interviews, in both the rapid appraisal and follow-up research were conducted in semi-structured format meant to elicit qualitative and descriptive information.

## Findings

Overall, work in the tuna industry is precarious and workers' vulnerability to exploitation is conditional upon their demographic and the characteristics of their work. While researchers did not identify individual cases of forced labor, they did find evidence that conditions for some workers are exploitative. Key findings on working conditions in the Bitung tuna sector are summarized as follows:

- Wages are highly variable, particularly for sea-based workers. While the systems used to determine earnings are culturally understood and accepted, workers do not necessarily have transparency into how their earnings are actually calculated. This is particularly true when workers' pay is based on a profit-sharing system and is compounded when deductions are taken for expenses incurred on the voyages and against advances paid to family members. As a result, some fishers do not earn the minimum wage. While payment systems for workers in processing plants tend to be more standardized, workers lack a thorough understanding of wage systems and how their earnings are calculated, particularly around issues of overtime.
- Work in processing plants tends to be precarious, particularly in light of Bitung's recent drops in production, with some previously regular workers moved to more casual employment arrangements, i.e. engaged on a daily basis. These workers experience unpredictable pay and benefits, and lack employment security.
- Work on tuna fishing vessels is highly hazardous – which is typical of the sector as a whole. Workers experience cuts, burns, and other injuries, and there is frequently a lack of appropriate emergency gear. Health and safety systems are not implemented or are inadequate to ensure worker safety while at sea. Work in processing plants is also dangerous; workers are exposed to chlorinated air, wet slippery floors, exposed electrical wiring, extreme temperatures, and harsh skin irritants.
- Child labor was identified on handline tuna fishing vessels. Interviewees discussed child labor as a culturally acceptable practice through which children can learn livelihood skills. Because of this level of cultural acceptability, there is no system in place for remediation, and limited alternative livelihood options for the children and families engaged.
- Phi-Sang fishers from the liminal area between Indonesia and the Philippines, who are considered stateless, were found to be a demographic group highly vulnerable to exploitation. Although they retain close cultural and ethnic ties to Indonesia, due to their stateless status, they may be considered “foreign” and subject to arrest or detention. Foreign crew workers are banned on vessels within Indonesian waters.
- Handline fishers in small vessels are considered self-employed and therefore outside the protection of labor laws. Formerly full-time workers now in a casual employment arrangement have diminished legal protection as a result of the fishing moratorium.
- Regulatory gaps have resulted in a lack of visibility into working and living conditions at sea.

## Recommendations

The report first provides goal labor practices that would represent significant improvement on the issues described above. These goals were developed with specific reference to national law, internationally accepted labor standards, and voluntary company standards. The report also provides suggested minimum Key Data Elements (KDEs) which would provide insight on the degree to which these goals are being achieved in the fishery.

Regulation of the fisheries sector is diffused among federal, provincial, and municipal governmental bodies, which can contribute to a lack of transparency and clarity. For example, each of the three levels of government currently has the authority to issue fishing licenses, depending on the size of the vessel. Increased

coordination among all actors who are currently gathering data is recommended. It is particularly notable that there is no labor representation in the inspection of vessels. This leads to a key recommendation that the Labor Inspectorate's inspection/auditing be expanded to include vessels. A multi-agency team could conduct checks during "port-out and port-in," thus augmenting labor inspection criteria and coverage to vessels, particularly handline operations. A simple verification of the number and names of workers returning from a fishing venture could provide critical information about workers' conditions at sea.

The technical components of the CDTS could provide increased cellular/Wi-Fi connectivity to workers on board vessels, allowing them increased communication with their families and support on shore. This presents possibilities for the implementation of a robust grievance mechanism, although it would be important to triangulate and verify information from all sources. Finally, after the collection and analysis of data from any source, leveraging that data to make meaningful improvements in workers' lives will require a coordinated multi-stakeholder effort to address the root cause issues.

# I. Methodology

## I.1 Research Objectives and Background

Verité collaborated with Tetra Tech ARD on the USAID Oceans and Fisheries Partnership (USAID Oceans), a program designed to combat illegal, unregulated, and unreported (IUU) fishing and protect marine biodiversity in the Asia-Pacific region. In addition to protecting marine biodiversity and enhancing sustainability, the program's focus on related human welfare issues, such as gender equality and labor rights, addresses the multi-faceted and interrelated nature of social and environmental challenges. USAID Oceans is working with regional partners to develop a catch documentation and traceability system (CDTS) that will enable at-risk species to be tracked from point of catch to market entry. The CDTS will provide a platform to collect and analyze environmental and economic data to improve fisheries management and enhance the health and resilience of Southeast Asia's marine ecosystems. Over years of research and work in the fishing sector, Verité has seen clearly that human welfare is directly tied to biodiversity and environmental protection and that the two must be addressed in tandem.

As decreased fishery resources push fishing vessels further off-shore, and sometimes into illegal fishing activities, fishing jobs become more isolated, dangerous and therefore undesirable to workers with other livelihood options. Financial pressures – including high fuel costs, longer time at sea and smaller catches – incentivize the use of exploited labor, including, in some cases, workers who have been trafficked. With limited governance and inconsistent enforcement, IUU fishing practices can perpetuate the challenges of unethical and illegal labor practices. A lack of access to information on rights and grievance mechanisms further compounds worker vulnerabilities, a challenge that the CDTS aims to address in bridging supply chain regulation and communication gaps. The USAID Oceans' supported CDTS will help ensure fisheries resources are legally caught and properly labeled, decreasing the financial and governance factors that incentivize and enable IUU fishing and associated labor abuses.

To support this project, Verité undertook research to shed light labor conditions in learning site fisheries and provided technical assistance to the project on approaches on integrating relevant labor data into the CDTS. Verité's research in Indonesia aimed to provide a description of common practices in the recruitment and employment of workers in the tuna fishing industry in Manado, Bitung, and Sangihe, with particular focus on issues that might be addressed through the development of a CDTS. To this end, the research priorities were to collect and/or update existing information on demographic features and livelihood strategies of workers in fisheries; to identify various types of work processes and categories of workers involved; to document relevant working conditions (such as health and safety conditions, wage/payment systems, fair treatment, child labor, hours, hiring and recruiting arrangements, loan and debt repayment arrangements, etc.) as well as any specific indicators of forced labor or human trafficking present in the sector; and to describe the factors and circumstances that create worker vulnerability to labor abuses within the fishing sector. Tracing Bitung's supply chain was added as an objective following the rapid appraisal findings.

## I.2 Research Phases

The research included three phases:

1. From November 2015 to January 2016, desk research was conducted for context and background on the Indonesian fishing industry and the tuna sector specifically. It included a review of relevant Indonesian labor and fishery laws, and existing research on labor and social conditions of Indonesian and migrant fishers.
2. The Rapid Appraisal was conducted from February to March 2016 to identify potential research sites, determine access and feasibility of conducting grounded research on the recruitment and employment of workers for the fisheries sector, validate critical information from the desk

research, refine the sampling and data gathering plan, and identify strategies to address and manage potential challenges and risks. Through the Rapid Appraisal, other human welfare and labor issues affecting the tuna supply chain emerged which require further study, such as those related to illegal foreign workers, underage/child labor, and the impact (particularly on employment and well-being of actors along the value chain) of the various laws, regulations and initiatives to combat IUU fishing and related matters.

Sangihe was added as a relevant research site in addition to Bitung and Manado due to the significant number of fishers coming from the island who conduct business in Bitung and Manado, and the fact that many undocumented Filipino fishers live on or transit from the island. Tahuna is the chief town and port for the Sangihe Islands, and, as such, the central island where Tahuna is located is the only island in the Sangihe group of islands and other neighboring islands that can viably support a fishing industry. The field investigation and validation examined whether Sangihe hosted critical tuna export business processes, making it part of the Bitung/ Manado supply chain.

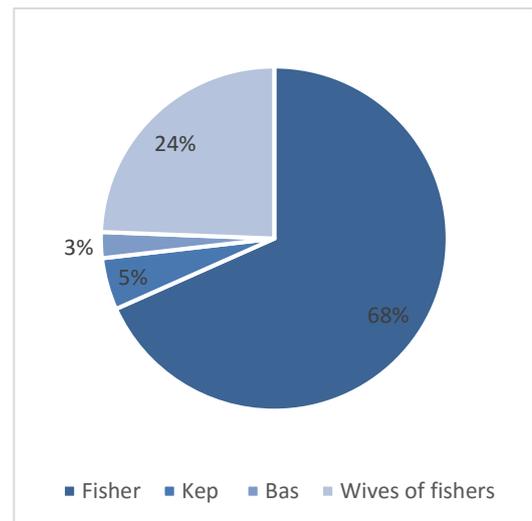
3. In October 2016, field investigation was carried out in Manado, Bitung, and Sangihe Island to validate labor risks flagged during the Rapid Appraisal. The research sought to gather data on various recruitment and employment practices, as well as the working and living conditions of tuna fishers and workers in the Bitung seafood industry. Researchers gathered field data through in-depth interviews and focused group discussions with a sampling of workers involved in different work processes in Manado, Bitung and Sangihe. Interviews were also conducted with management representatives, supervisors, and labor agents. Researchers made site observations at fishers' living quarters and areas where various work processes like grading, packing, and unloading occur. Finally, researchers conducted a review of available documentation related to worker recruitment, hiring, employment, and management.

### 1.3 Research Design and Sampling

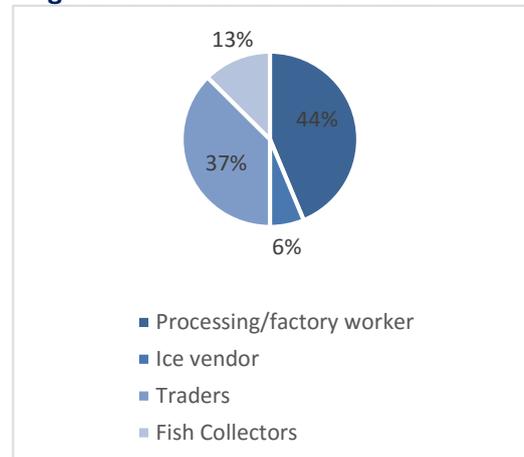
All interviews, in both the rapid appraisal and field investigation were conducted in semi-structured formats meant to elicit qualitative and descriptive information. Researchers used open-ended questions to ensure that the most relevant information from the interviewees could surface. Workers were purposively sampled to represent a wide cross section of demographics and work processes, as represented in Table I. While not statistically representative at the national and sectoral levels, the sampling was done for the purpose of identifying patterns and trends that illustrate the realities faced by workers in selected sites and work types.

A total of 85 interviews were conducted with workers and local community members, including spouses of workers in the fishing sector. Both sea- (traditional and Phisang-Sapi-Filipino fishermen) and land-based workers (workers from four separate processing plants, boat owners, and traders) were interviewed. The gender breakdown of interviewees was 29 women and 56 men.

**Figure 1: Number of Sea-based Workers Interviewed by Type**



**Figure 2: Number of Land-Based**



Researchers interviewed workers originating from Gorontalo, Sangir-Talaud, Manado, Java, and Flores in Indonesia as well as workers from the Philippines and elsewhere.

In addition to interviews with workers and community members, researchers conducted interviews with expert informants such as government, civil society and academic representatives, to provide additional context and triangulation. See Table 2.

Interviews were conducted in Bahasa Indonesia, except with the Filipino fishers who were interviewed in Bisaya or Tagalog. Phisang fishers speak a dialect that is a hybrid of Bahasa Indonesia, Bisaya, and Ilonggo, making worker interviews challenging. Access to these vulnerable workers is made more difficult due to their fear of being interviewed, as they are in danger of being deported or harassed by authorities. Given that the Phisang cross the Indonesian-Philippine sea border regularly, it is hard to estimate the number of Phisang in Sangir, Bitung, or Manado at any given time. To give an idea of scale, out of six Filipinos interviewed by Verité researchers during the field investigation, four were undocumented. The other two were married to Indonesians.

**Table 1: Local Worker/Community Informant Interview Summary**

Type of Worker	# Men (Interview %)	# Women (Interview %)
Sea-based fisher	28 (100 %)	0
Fish processing/factory workers (from 4 different plants)	3 (42.9%)	14 (57.1%)
Spouses of fishers	0	10 (100%)
Ice seller	0	1 (100%)
Traders (tuna)	3 (75%)	1 (25%)
Traders (non-tuna)	2 (100%)	0
Fish collectors	2 (100%)	0
Kep	2 (100%)	0
Bas	1 (100%)	0
Vessel owners (tuna)	3 (100%)	0
Vessel owners (non-tuna)	2 (100%)	0
Taxi driver	2 (100%)	0
Food vendor	0	1 (100%)
Other local residents	5 (71.4%)	2 (28.6%)
Port authority officer	3 (100%)	0
<b>Subtotal</b>	<b>56 (65.8%)</b>	<b>29 (34.1%)</b>
<b>Total Worker/Community Informant Interviews: 85</b>		

**Table 2: Other Stakeholder Interviews**

<b>Stakeholder Type</b>	<b>Institutions</b>	<b>Sex</b>
<b>Government</b>	Head of Bitung City Marine and Fisheries Service	F
	Surak Laik Operasi (SLO) Fishing Licensing Office	M
	Head of Marine and Fisheries Surveillance Station/Base of Bitung City	M
	Secretary of Provincial Labor Department	M
	Catch Monitoring Institution	M
<b>Civil Society</b>	Yayasan Masyarakat dan Perikanan Indonesia (MDPI)	F
	KELOLA	M
	Sam Ratulangi University	M
<b>Total Expert Informant Interviews: 8</b>		

## 1.4 Analytic Framework

In analyzing the findings, researchers relied on the framework provided by the International Labor Organization’s (ILO) Core Labor Standards (Freedom of Association and Collective Bargaining, Discrimination and Equal Pay, Child Labor, and Forced Labor) and the ILO Work in Fishing Convention (188). While the Work in Fishing Convention has not been ratified by Indonesia, it provides guidance to assess working conditions at sea including work agreements, payment and wages, hours, and occupational health and safety.

In assessing for forced labor risk specifically, Verité used the definition of forced labor in ILO Convention 29, which refers to all work or service which is exacted from any person under the menace of any penalty and for which said person has not offered himself or herself voluntarily (coercion). The coercion may take place during the worker’s recruitment process to force him or her to accept the job or, once the person is working to force him/her to do tasks that were not part of what was agreed at the time of recruitment, or to prevent him/her from leaving the job. The ILO provides significant guidance on indicators of forced labor and how they can be combined to make a diagnosis in an individual case. A full listing of indicators is provided in Annex I. For the purposes of this research, broader groups of composite indicator categories were used to assess forced labor vulnerability across the worker groups studied. These composite indicators include abuse of vulnerability; deception; restriction of movement; isolation; physical and sexual violence; intimidation and threats; retention of identity documents; withholding of wages; debt bondage; abusive working and living conditions; excessive overtime.<sup>1</sup> In general, the existence of any single indicator does not conclusively denote

the presence of forced labor, however, it can provide insight into the types of risk and vulnerability faced by workers. This research does not attempt to make a determination regarding the number of individual cases of forced labor that might be present. However, it does endeavor to present a narrative of how relevant indicators might play out in this context.

In general, researchers' approach to the qualitative data gathering was informed by the concept of vulnerability -- the diminished capacity of an individual or group to anticipate, cope with, resist or recover from adverse impacts of multiple stressors to which they are exposed, including laws, regulatory gaps, socio-economic factors, and risk exposure as a result of their social group, gender, ethnicity or other identity, and age. Vulnerability is not inherent or natural; rather, it is created through various methods, e.g., through union busting, capital-saving devices like labor casualization, insufficient laws protecting foreign workers, unaddressed misogyny that perpetuates gender-segregated work, ethnic bias that explicitly withholds from one social group their status as rights-holders or keeping workers in constant surveillance or degrading living conditions. The most insidious way of creating workers' vulnerability is by rendering them invisible from discourse and policy.

While increasing attention has been paid to issues of environmental sustainability and human trafficking in the fishing sector in recent years, groups of workers still linger in obscurity -- those fishers who may not be trafficked, but are vulnerable as a result of their statelessness or lack of documentation; handliners who work for traders but are considered to be self-employed and therefore not within the ambit of labor law; or workers in seafood processing whose employment remains casual even after working for a number of years at the same facility. Thus, this research focused on describing the common recruitment and employment practices as well as the situation and condition of various types of workers in and around the fishing industries in the selected research sites and mitigating their vulnerability by making them visible. Particular attention is placed on understanding the specific factors that create and/or compound their vulnerability, including legal and regulatory gaps, labor casualization, and exploitative working conditions, among others. CDTS is another tool to make information about worker welfare visible. The crux of the argument in this research is that *sustainability* must include ethical sourcing and production, with emphasis on the fair, just and legal treatment of workers.

## 1.5 Limitations

Due to the non-random nature of interview selection as well as the qualitative nature of information gathered, findings from this research cannot point to the definitive prevalence rates of findings. However, researchers made efforts to triangulate findings via desk research and expert informant interviews, allowing for assessments of the relative pervasiveness of issues. The process of triangulation and validation strengthens the findings and decreases the chance that any particular finding is simply the result of an anomaly or bias, but rather represents a larger systematic issue that can be confirmed by multiple sources. The qualitative information also allows researchers to provide deeper insight into the nature of labor-related risk, relationships between types of stakeholders, individual experiences as well as group norms.<sup>2</sup>

Much of the work in the supply chain is unstable and workers legitimately fear losing their jobs. While researchers made every effort to protect identity of interviewees and conduct interviews in secure location, this pervasive fear may have limited informant willingness to speak openly about their full range of experiences.

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<sup>1</sup> International Labour Organization. Indicators of Forced Labor. 2012. [http://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_203832/lang-en/index.htm](http://www.ilo.org/global/topics/forced-labour/publications/WCMS_203832/lang-en/index.htm).

<sup>2</sup> Family Health International. Qualitative Methods. <http://www.ccs.neu.edu/course/is4800sp12/resources/qualmethods.pdf>

## 1.6 Informed Consent and Confidentiality

The centerpiece of ethical fieldwork practice in any research involving human subjects is obtaining subjects' informed consent to participate in the study. To obtain informed consent, researchers explained the purpose of the study and what would happen during the interaction. The researchers noted that all identities would be kept strictly confidential and that no identifying data was being recorded. Most fundamentally, researchers clarified that consent to participate in the study was completely voluntary, and that subjects could decide not to participate, or to stop participating at any time during the research process, for any reason without penalty or explanation. Finally, researchers asked explicitly for subjects' consent to participate in the study. If, at any point during the research interaction, interviewees seem to grow uncomfortable with the research, the researchers reminded them that they have the right to withdraw from the study without consequence, and requested their consent again, again assuring that participation is not compulsory. Consent in this sense is understood to be an ongoing process, rather than a one-off achievement.

Researchers always sought safe and neutral places to conduct their interviews, worked to ensure that their research subjects felt secure and able to speak freely, took precautions to make sure that no employers, supervisors or guards could overhear their conversations, and observed appropriate cultural norms relating to gender or other factors that might have made subjects feel uncomfortable or intimidated. To protect subject confidentiality, written consent was not obtained, but, instead, interview subjects provided researchers with explicit verbal consent. Names and any potentially identifying data learned during the course of the research were not recorded; all information is presented in aggregate form. Researchers presented a scripted statement on informed consent that captured the above factors to interview subjects at the beginning of each conversation.

## 2. Overview of Indonesia's Tuna Sector

### 2.1 Economics and Supply Chain

Indonesia is one of the largest tuna-producing countries in the world, contributing roughly 12-18 percent (1.38 million tons) of the world's annual tuna production.<sup>3</sup> It contributes only slightly over four percent of global tuna exports, sending skipjack and yellowfin tuna to Japan, the United States, Qatar, Europe, and others. Indonesia is also a major producer of bigeye, albacore, and Southern Bluefin tuna.<sup>4,5</sup>

Most of Indonesia's tuna is caught within Indonesia's Exclusive Economic Zone (EEZ), as opposed to on the high seas. Its fishing grounds fall under Indian Ocean and Western Central Pacific Ocean convention areas. 77 percent of Indonesia's catch is from the Western Central Pacific Ocean, although much of its longline catch

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<sup>3</sup> Sustainable Fisheries Partnership. Indonesia Tuna. 2014. <http://www.sustainablefish.org/fisheries-improvement/tuna/indonesia-yellowfin-tuna>.

<sup>4</sup> Estimate of Global Sales Values from Tuna Fisheries Study for Pew Charitable Trusts Phase I. February 2016. <http://docplayer.net/41845135-Estimate-of-global-sales-values-from-tuna-fisheries-study-for-pew-charitable-trusts-phase-I-report-february-2016.html>

<sup>5</sup> Sustainable Fisheries Partnership. Indonesian Tuna Supply Chain Analysis. April 2010. <http://cmsdevelopment.sustainablefish.org.s3.amazonaws.com/2011/11/29/Indonesian%20Tuna%20Supply%20Chain%20Analysis-Summary-April%202010-50a9656f.pdf>.

originates in the Eastern Indian Ocean.<sup>6</sup> Most tuna catch is found in the northeast part of the country, including Sangihe-Talaud and Tomini Bay in North Sulawesi; Gorontalo, Morotai and Halmahera in Maluku Utara; Seram and Buru Island in Maluku; Sorong in West Papua; and the northern part of Bali.<sup>7</sup> Most of these regions share a sea border with the Philippines, another major supplier and exporter of tuna.

Both industrial and artisanal fishing activities are present in the Indonesian tuna sector. Overall, the sector is more reliant on artisanal or smaller scale tuna fishing than other fisheries in the region. Indonesia's tuna fisheries are multi-gear and multi-species by nature. Commercial-scale purse seine and longline vessels account for only three percent of the total number of registered inboard-powered vessels (approximately 200,000 vessels).<sup>8</sup> Commercial fisheries tend to use longline, purse seine, and pole-handline gear, which target larger types of tuna. The most common type of commercial tuna fishing uses longline gear on vessels with cold storage facilities that enable long trips out to sea. Artisanal fishers also use pole-handline, as well as trolling gears and gillnets in order to catch smaller yellowfin and skipjack.<sup>9</sup> Yellowfin tuna is usually found in deep water of at least 80 meters, as opposed to the less desired blackfin tuna, which is caught in waters less than 80 meters deep. Low quality tuna or mackerel is either thrown away for lack of boat storage or brought to local markets for domestic consumption. There has been a recent emphasis on promoting handline fishing, as it is more ecologically sustainable and can meet sustainability demands from Western importers.<sup>10</sup>

In North Sulawesi, fishers primarily use purse seine, pole-handline, handline, and troll line to catch tuna and skipjack. In Maluku, the primary fishing gear used to catch tuna and skipjack are pole-handline, long line, and troll line. Commercial fishers primarily use long line and pole-handline, while artisanal tuna fisheries primarily use troll line. Long line gear targets large tuna, such as yellowfin and bigeye. On the other hand, pole-handline targets skipjack and troll line targets skipjack, little tuna, and yellowfin.<sup>11</sup>

Tuna companies in Indonesia are primarily structured in one of three ways: cooperatives, state-owned, or joint state-private enterprises. An individual company may have catching, processing and export operations. Despite the large amounts of tuna caught in Indonesia, it has a modest tuna processing sector, with less than five percent of the world's tuna canning activity.<sup>12</sup> Greenpeace reported that in 2010, there were 13 canneries in Indonesia, all of which were heavily reliant on tuna sources from local fishing vessels. To some degree, this reflects the relatively small number of canneries in the country, but it also reflects that much of the catch is exported to the Philippines for processing. Anecdotal evidence indicates that, due to the difficulty of maintaining tuna quality at sea, many Indonesian fishers choose to sell to the nearest collector, which is usually a large Filipino fishing vessel, rather than bring the fish to port. In addition to the Philippines,

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<sup>6</sup>Jusuf, Alvon, Muhammad Ali and Maupa Haris. Study on the Development of Small-Scale Tuna Fishing Industry in Bitung City, North Sulawesi, Indonesia. *Scholars Journal of Economics, Business and Management*, 2015. <http://sasjournals.com/wp-content/uploads/2015/11/SJEBM-210B1048-1059.pdf>

<sup>7</sup> Australian Center for International Agricultural Research. Review of Eastern Indonesia Tuna Fisheries. [ftp://ftp.marine.csiro.au/pub/proctor\\_craig/EastIndonesiaTunaFisheries\\_Summary%20of%20Review%20Findings\\_Presentation\\_Proctor&Nugraha.pdf](ftp://ftp.marine.csiro.au/pub/proctor_craig/EastIndonesiaTunaFisheries_Summary%20of%20Review%20Findings_Presentation_Proctor&Nugraha.pdf)

<sup>8</sup> FFA. Market and Industry Dynamics in the Global Tuna Supply Chain. 2011. [https://www.ffa.int/system/files/Global%20Tuna%20Market%20%26%20Industry%20Dynamics\\_Part%201a.pdf](https://www.ffa.int/system/files/Global%20Tuna%20Market%20%26%20Industry%20Dynamics_Part%201a.pdf)

<sup>9</sup> Sustainable Fisheries Partnership. Indonesian Tuna Supply Chain Analysis. April 2010. <http://cmsdevelopment.sustainablefish.org.s3.amazonaws.com/2011/11/29/Indonesian%20Tuna%20Supply%20Chain%20Analysis-Summary-April%202010-50a9656f.pdf>

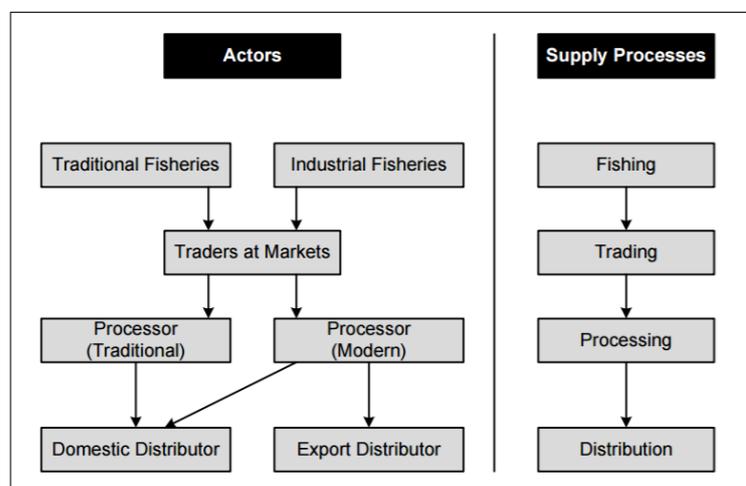
<sup>10</sup> Fishing and Living. Indonesia Fisheries Improvement Plan. <http://fishing-living.org/fip-indonesia-2/#sthash.VSRIKev9.dpbs>

<sup>11</sup> Western and Central Pacific Fisheries Management. Indonesia Tuna Fishery Profile. 2012. [https://www.wcpfc.int/system/files/PLI-IDN-03-%5BConsultancy-report-\(Y3\)-Indonesia-Tuna-Fishery-Profile-09Nov2012%5D.pdf](https://www.wcpfc.int/system/files/PLI-IDN-03-%5BConsultancy-report-(Y3)-Indonesia-Tuna-Fishery-Profile-09Nov2012%5D.pdf)

<sup>12</sup> Sustainable Fisheries Partnership. Indonesian Tuna Supply Chain Analysis. April 2010.

Indonesian catch is also exported to Thailand and Vietnam for canning.<sup>13</sup> As depicted in the table below, tuna flows from fishing operations (both traditional and industrial) via traders to processors, and finally to distributors, either for export or domestic consumption.

**Figure 3: Overview of Indonesian tuna supply chain and actors<sup>14</sup>**



## 2.2 Indonesia’s efforts to combat IUU Fishing

In 2014, President Joko Widodo put forth his vision to prioritize the Indonesian maritime sector. Subsequently, in an effort to combat IUU fishing in Indonesia waters, the Minister of Maritime Affairs and Fisheries (Kementerian Kelautan dan Perikanan or KKP), Susi Pudjiastuti, declared a moratorium on foreign fishing vessels with Ministry Regulation No.56/2014. The Ministry of Maritime Affairs and Fisheries of Indonesia estimates approximately USD 3.11 billion is lost annually to IUU fishing; the Peoples Coalition of Fisheries Justice (KIARA) estimates the cost is closer to USD 5.2 billion.<sup>15</sup> Other efforts included the banning of trawl and seine net fishing, and the establishment of a task force on preventing and combating IUU which paved the way for strengthened efforts to audit and apprehend foreign vessels. Fishing boats (both small and large) not compliant to regulations and without complete documentation were grounded. KKP stated that the moratorium was necessary in order to stop transshipment (the transfer of fish and supplies from one vessel to another in open waters) and to combat illegal fishing, smuggling, and human trafficking.

Regarding the impact to the fishing sector, KKP published an analysis and evaluation of the moratorium, conducted between March and October 2015, which stated that all foreign fishing vessels violated the regulations and laws of Indonesia by fishing in Indonesia waters without proper documentation. In total, KKP

<sup>13</sup> Greenpeace. Canned Tuna Ranking 2015. <http://www.greenpeace.org/seasia/id/PageFiles/704134/Canned%20Tuna%20Ranking%20%E2%80%93%20Release%20Date%20Version%201st%20Sep%202015%20-%20greenpeace.pdf>.

<sup>14</sup> International Food and Agribusiness Management Review. Mitigating Risk in the Tuna Supply through Traceability System Development. 2016. <https://www.ifama.org/resources/Documents/v19i1/420150012.pdf>

<sup>15</sup> Heriyanto. Pontianak Post. Illegal Fishing Costs Indonesia 3 Billion Dollars A Year. <http://www.aseannews.net/illegal-fishing-costs-indonesia-3-billion-dollars-a-year/>

caught 1,132 vessels, traced to 187 owners, in 33 base ports, in violation of the law.<sup>16</sup> In its analysis, KKP also identified the following problems relating to IUU fishing:<sup>17</sup>

- Inappropriate private commercial ports usage
- Inaccuracy in data collection on fish catch
- License issuance
- Lack of ability to detect, respond and punish lead corruption indicated by the officers
- Lack of coordination due to use of sectorial approach
- Human trafficking
- Illegal workers

## 2.3 Bitung Tuna Sector Supply Chain

### 2.3.1 Overview

Bitung, which represents a substantial share of Indonesia's tuna processing facilities, with over 50 loining and canning plants,<sup>18</sup> is located in the northern region of Sulawesi Island and is the main landing port for fish catch in North Sulawesi<sup>19</sup> and eastern Indonesia. It is located on the Lembah Strait approximately 50 km to the east of Manado, the capital city of North Sulawesi. Fishers in Bitung can access a range of fisheries including Fisheries Management Area (FMA) 715 (see map on following page), which includes the Gulf of Tomini, the Maluku, Hamahera, and Seram Seas, the Gulf of Berau, as well as FMA 716, which includes the Sulawesi Sea and waters north of Halmahera Island.<sup>20</sup> Bitung's fisheries produced roughly 160,000 tons in 2012. Fishing is a key livelihood activity,<sup>21</sup> supporting over 15 percent of the workforce in Bitung.<sup>22</sup>

Bitung's port is adjacent to Lembah Island, which protects it from high tides and waves. It is deep enough to allow medium to large vessels to dock and has cargo and container terminals for export and import ships. The navy base is also located near the port, along with other related offices such as police, immigration, and joint task force for maritime territory. The navy base has a temporary detention house for illegal immigrants. Road access from Bitung to Manado is now being expanded, including a highway (toll) road that will connect Bitung to Sam Ratulangi Airport in Manado.

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<sup>16</sup> California Environmental Associates. Prepared for The David and Lucile Packard Foundation. Indonesia Fisheries: 2015 Review. 2016. <https://www.packard.org/wp-content/uploads/2016/09/Indonesia-Fisheries-2015-Review.pdf>

<sup>17</sup> KKP. Santosa, Mas Achmad. Strategy on the Prevention and Eradication of IUU Fishing and Post-Moratorium Policies. 2015. [http://fisheriestransparency.org/wp-content/uploads/2015/11/Presentation\\_Combating\\_IUUF\\_Efforts\\_in\\_Indonesia\\_20151109.pdf](http://fisheriestransparency.org/wp-content/uploads/2015/11/Presentation_Combating_IUUF_Efforts_in_Indonesia_20151109.pdf)

<sup>18</sup> Bailey, M., Miller, A. M. M., Bush, S. R., van Zwieten, P. a. M., & Wiryawan, B.. Closing the Incentive Gap: The Role of Public and Private Actors in Governing Indonesia's Tuna Fisheries. *Journal of Environmental Policy & Planning*. 2015.

<sup>19</sup> Witomo, Cornelia M, Budi W; Potret Perikanan Tangkap Tuna, Cakalang dan Layang di Kota Bitung. *Buletin Riset Sosek Kelautan dan Perikanan*, 2012; 7 (1): 7-13 (in Indonesian); as cited in Jusuf, A., Ali, M., & Haris, M. Study on the Development of Small-scale Tuna Fishing Industry in Bitung City, North Sulawesi, Indonesia. 2015.

<sup>20</sup> Alvon Jusuf, Muhammad Ali and Maupa Haris. 'Study on the Development of Small-Scale Tuna Fishing Industry in Bitung City, North Sulawesi, Indonesia'. *Scholars Journal of Economics, Business and Management*. 2015 <http://sasjournals.com/wp-content/uploads/2015/11/SJEBM-210B1048-1059.pdf>

<sup>21</sup> Witomo, Cornelia M, Budi W; Potret Perikanan Tangkap Tuna, Cakalang dan Layang di Kota Bitung. *Buletin Riset Sosek Kelautan dan Perikanan*, 2012; 7 (1): 7-13 (in Indonesian); as cited in Jusuf, A., Ali, M., & Haris, M. Study on the Development of Small-scale Tuna Fishing Industry in Bitung City, North Sulawesi, Indonesia. 2015.

<sup>22</sup> Western and Central Pacific Fisheries Management. Indonesia Tuna Fishery Profile. 2012. [https://www.wcpfc.int/system/files/PLI-IDN-03-%5BConsultancy-report-\(Y3\)-Indonesia-Tuna-Fishery-Profile-09Nov2012%5D.pdf](https://www.wcpfc.int/system/files/PLI-IDN-03-%5BConsultancy-report-(Y3)-Indonesia-Tuna-Fishery-Profile-09Nov2012%5D.pdf)



Regional Map of Bitung, Indonesia<sup>23</sup> (left)

Bitung Port and neighbouring Lembeh Island (right)



Both small-scale and commercial fishing ventures are present in Bitung. The predominant type of small-scale tuna fishing in Bitung is handline, of which pole-handline fishing is a subset.<sup>24</sup> Pole-handline techniques are also used by the majority of commercial vessels.<sup>25</sup> The method of capture or scale of the vessel does not automatically denote whether a fishing enterprise is small-scale or commercial/industrial.

Most small-scale/traditional fishers use the handline method and small vessels under 40 gross tons (GT), considered the best way to catch pelagic fish like tuna and other high-value species. Handline fishing manages to avoid catching juvenile fish, especially as compared to longline or purse seine methods. The primary types of tuna fishing vessels in the Indonesian fleet operating in Bitung are:<sup>26</sup>

- Handline vessels under 40 GT;<sup>27</sup>
- Pole-handline vessels, including small vessels under 10 GT selling product for local consumption and larger vessels that provide product for local canneries and for export;
- Longliners (60 GT) that use “Taiwanese-style” longline gear; and
- Purse seine vessels.

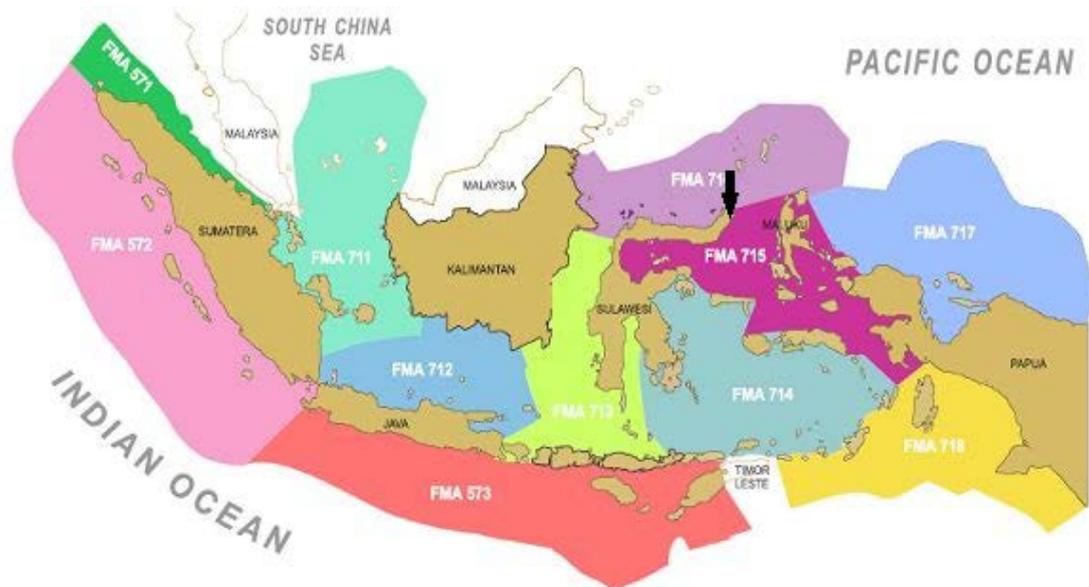
<sup>23</sup> Map via Google Maps, Accessed April 1, 2016.

<sup>24</sup> Brown, Elizabeth. “Fishing Gear 101: Handlines – Entice and Hook.” The Safina Center. June 7, 2016. <http://safinacenter.org/2016/06/fishing-gear-101-handlines-entice-hook/>

<sup>25</sup> International Food and Agribusiness Management Association. Mitigating Risk in the Tuna Supply through Traceability System Development. Volume 19 Issue 1, 2016. <https://www.ifama.org/resources/Documents/v19i1/420150012.pdf>

<sup>26</sup> Ministry of Marine Affairs and Fisheries Directorate General for Capture Fisheries and Western and Central Pacific Fisheries Commission. National Tuna Management Plan, Indonesia. 2012.

<sup>27</sup> International Food and Agribusiness Management Association. Mitigating Risk in the Tuna Supply through Traceability System Development. Volume 19 Issue 1, 2016. <https://www.ifama.org/resources/Documents/v19i1/420150012.pdf>



REMARKS :	
FMA 571 :	Malaka Strait - Andaman Sea
FMA 572 :	Indian Ocean (West of Sumatera) - Sunda Strait
FMA 573 :	Indian Ocean (South of Java) - South of Nusa Tenggara - Sawu Sea - West of Timor Sea
FMA 711 :	Karimata Strait - Natuna Island - South China Sea
FMA 712 :	Java Sea
FMA 713 :	Malassar Strait - Bone Bay - Flores Sea - Bali Sea
FMA 714 :	Tofo Bay - Banda Sea
FMA 715 :	Tomini Bay - Maluku Sea - Halmahera Sea - Seram Sea - Berau Bay
FMA 716 :	Sulawesi Sea - North of Halmahera
FMA 717 :	Candrawasih Bay - Pacific Ocean
FMA 718 :	Anu Sea - Arafuru Sea - East of Timor Sea

**Indonesian Fisheries Management Areas (FMA) Areas<sup>28</sup>**

Accurate estimates of the number of each type of vessel are difficult to come by. One study found roughly 132 pole-handline vessels larger than 30 GT. It was estimated that about 50 longliners operated in the area in 2005, although estimates at the time of the study ranged from 0-1000.<sup>29</sup>

Tuna fishing activity occurs throughout the year, but peak seasons are roughly in June and November, with low periods in January and May.<sup>30</sup> Once at sea, boat captains assign fishers to stay in a particular area marked as their specific fishing grounds, sometimes staying there for days at a time to fish. The captain’s catch will be added to the crew’s catch, and he will get paid once the boat docks.

### 2.3.2 Bitung Supply Chain

Bitung has the largest processing firms in Indonesia – both processing plants and canneries – making it an important gateway for the export of tuna and skipjack. It is one of three main export ports in Indonesia,<sup>31</sup> receiving tuna from Sangir and neighboring islands via Manado. However, capacity at the canneries was down

<sup>28</sup> Food and Agriculture Organization of the UN. Fishery and Aquaculture Country Profiles: The Republic of Indonesia. 2014. <http://www.fao.org/fishery/facp/IDN/en>

<sup>29</sup> Jusuf, Alvon, Muhammad Ali and Maupa Haris. ‘Study on the Development of Small-Scale Tuna Fishing Industry in Bitung City, North Sulawesi, Indonesia’. Scholars Journal of Economics, Business and Management. 2015. <http://saspjournals.com/wp-content/uploads/2015/11/SJEBM-210B1048-1059.pdf>

<sup>30</sup> Western and Central Pacific Fisheries Management. Indonesia Tuna Fishery Profile. 2012. [https://www.wcpfc.int/system/files/PLI-IDN-03-%5BConsultancy-report-\(Y3\)-Indonesia-Tuna-Fishery-Profile-09Nov2012%5D.pdf](https://www.wcpfc.int/system/files/PLI-IDN-03-%5BConsultancy-report-(Y3)-Indonesia-Tuna-Fishery-Profile-09Nov2012%5D.pdf)

<sup>31</sup> Pew Charitable Trusts. Estimate of Global Sales Values from Tuna Fisheries. 2016. <http://www.pewtrusts.org/~media/assets/2016/05/estimate-of-global-sales-values-from-tuna-fisheries--phase-1.pdf>

significantly in 2016 as a result of the foreign vessel ban, leading to significant job loss. Canneries were reportedly importing tuna for processing from foreign ports.<sup>32</sup>



*Local fishermen weigh a yellowfin tuna once on shore.*

In Bitung, fish is primarily offloaded at the Pelabuhan Perikanan Samudera (PPS)/Oceanic Fishing Port of Bitung, which is supervised by the Ministry of Marine Affairs and Fisheries. There is also a private jetty (Dermaga Untuk Kepentingan Sendiri – DUKS), which is under the control of the North Sulawesi Provincial Marine and Fisheries Service.<sup>33</sup> Based on anecdotal evidence, due to the difficulty in maintaining the quality of tuna, many Indonesian fishers choose to sell to the nearest collector, which is usually a large Filipino fishing vessel that can collect fish at sea,

rather than bring the fish to port. This practice is common in border islands such as Marore, Miangas or islands in North Maluku. It is different with fishers from nearby Gorontalo or Tomian Bay, who bring the fish to Bitung. The ultimate destination of the tuna is typically reliant on the grade assigned to it. For the fishers, since tuna is priced according to its grade, they always choose the highest bidder; territorial borders do not usually factor into their decision-making process. Tuna is typically landed in Bitung in ice boxes to preserve their freshness.

Once the fish is graded, it is purchased by traders who act as middlemen between vessels and processors. There are three types of traders. The first is an informal trader, typically an individual with limited resource capacity that often have long-term relationships with fishers or boat owners. The second group is slightly more formalized, with an office and greater access to capital. The third group is industrial firms representing processing companies.<sup>34</sup> Some traders finance fishing operations so that they maintain a source of product. Traders are more likely to be affiliated with small and medium processors. Larger processing companies are more likely to source tuna directly or from their own fleets.<sup>35</sup>

Companies in Bitung and Manado sometimes order directly from traders at a set price. According to respondents interviewed (one boat captain, five fishers, and one checker), the price difference from company to company is small, but a trader who does not have pre-existing arrangements will usually compare companies' offers before making a sale. However, a trader who already has an agreement with a specific company or collector in Manado will have to send the tuna through, regardless of a lower price. The arrangement is usually made through a phone call or short message service (SMS). Other companies in Bitung also receive tuna from local fishers or boat owner and directly transport the fish to their factory through the company driver or checker. For tuna that is intended (based on size and quality) for manufacturing or processing, fishers are paid according to the total weight only, either directly if they own the boat or by the boat owner who often deals with the collector or middlemen. If not, the tuna will be bought at lower price

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<sup>32</sup> Soeriaatmadja, Wahyudi. "Indonesia's Fishery Sector Loses Bite." Straits Times. October 16, 2016. <http://www.straitstimes.com/asia/se-asia/indonesias-fishery-sector-loses-bite>

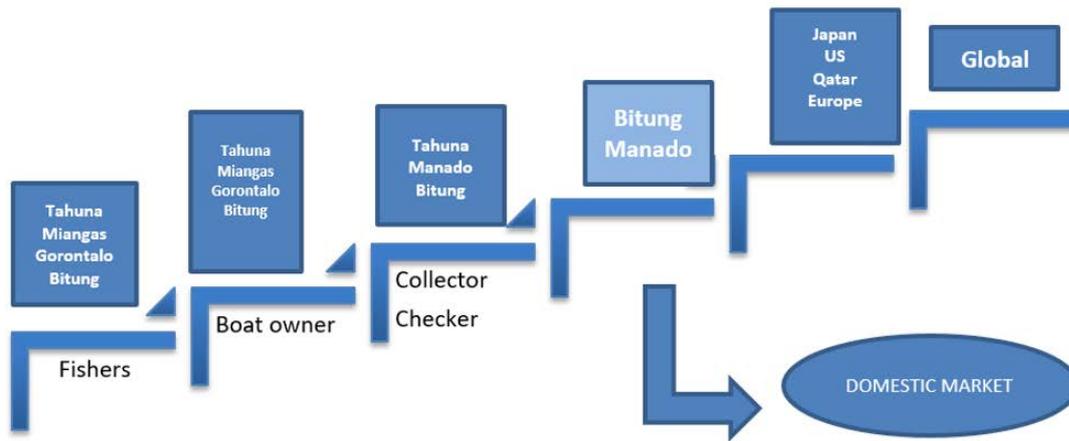
<sup>33</sup> International Food and Agribusiness Management Association. Mitigating Risk in the Tuna Supply through Traceability System Development. Volume 19 Issue 1, 2016. <https://www.ifama.org/resources/Documents/v19i1/420150012.pdf>

<sup>34</sup> International Food and Agribusiness Management Association. Mitigating Risk in the Tuna Supply through Traceability System Development. Volume 19 Issue 1, 2016.

<sup>35</sup> LEI Wageningen UR. The Indonesian seafood sector - A value chain analysis. Compiled for CBI Ministry of Foreign Affairs of the Netherlands. August 2012. <http://edepot.wur.nl/238229>

for domestic sale. Tuna that has not reached the desired grade or quality for processing is determined to be for domestic sale.

**Figure 4: Global Supply Chain**



Processing in Bitung includes fresh, frozen, and canning processes (Table 3). Significant labor is associated with all of these processes, but the most formal employment takes place in canning facilities, which is why discussion of land-based workers in this report focuses on canning facility workers.

**Table 3: Tuna Processing in Bitung**

Product	Gear	Processing
Canned	<ul style="list-style-type: none"> <li>Purse seine</li> <li>Hook-handline</li> <li>Longline</li> </ul>	<ul style="list-style-type: none"> <li>Sorted</li> <li>Cooked (typically with steam)</li> <li>Loined (head, skin, tail and bones are removed by hand)</li> <li>Packed (into cans)</li> </ul>
Frozen	<ul style="list-style-type: none"> <li>Longline</li> <li>Handline</li> </ul>	<ul style="list-style-type: none"> <li>Chilled on-board vessel</li> <li>Flash frozen</li> </ul>
Fresh	<ul style="list-style-type: none"> <li>Longline</li> <li>Handline</li> </ul>	<ul style="list-style-type: none"> <li>Chilled on-board vessel</li> <li>Transported quickly from landing site for export</li> </ul>

### 2.3.3 Implications of Infrastructure Shortcomings

While Indonesia aims to expand its fishing industry and protect its marine biodiversity, its progress is hindered by inefficiencies in its trading system, bureaucracy, infrastructure and facilities, and enforcement of territorial boundaries. For example, the only cold storage facility in Sangihe is near the airport in Naha, almost an hour from the ports of Tahuna and Petta. The time spent transporting the tuna lowers the tuna's grade and subsequently decreases its value. Money spent by fishers on



*Local fishers arrive at the Bitung port with their catch.*

ice for transport cuts into their income, and air cargo from Sangihe is unavailable because the runway only accommodates small propeller aircrafts. Rather than spend money on fuel and ice to keep the fish fresh for transport to Indonesian ports, fishers who are not under contract or informal arrangement with traders reportedly prefer to sell directly to Filipino fishing vessels that have proper ice storage systems.



*Cold storage area in Petta, Sangihe.*

### 2.3.4 Sangihe/Tahuna Segment of Bitung Supply Chain

During the field investigation, the research team determine that a portion of tuna catch was not delivered directly from the vessels to Bitung and Manado, but rather sent elsewhere. One such area was Tahuna in Sangihe Island. It became critical to document how Tahuna fits into the Bitung supply chain, as the CDTS design should take this supply chain segment into account in terms of product traceability and the workers present at worksites based in Tahuna. While there are other landing sites that feed into Bitung supply chain, researchers identified this site as one with highly vulnerable workers.

Tahuna is the capital city of Sangihe regent. It is approximately 250 km from Manado (50 minutes by small plane), and ten hours by boat to Bitung. It is one of the biggest tuna suppliers to Bitung.<sup>36</sup> Tahuna receives tuna and other fish from local fishers and collectors in other parts of the island such as T Petta, Kahuis, Tanikareng and the Tabukan islands. The fish is graded and then much of it is sent first to Manado by boat, which takes approximately eight hours, then to Bitung. The fish is packed in iceboxes labeled with the names of the receiving person or company. The ice is packed into small plastic bags that sell for IDR 1.250-1.500 per pack, and one icebox needs 20-25 packs per tuna, depending on the tuna's size.

The area where the fish is graded in Sangihe is a small community composed of Indonesians, Sangirs, Filipinos, and Pi-Sang. The grader/checker checks the quality of tuna to determine the price and where it will be sent. While Verité researchers were in the area, three pieces of tuna were docked at a nearby channel off the Tahuna port, with weights of 57, 66, and 59 kilograms apiece. At the time of Verité's field research, Grade A tuna was priced at IDR 45.000 per kilo. Grades A and B tuna were sent to Bitung for export, and lesser grades were sent to either Manado or Bitung for processing or sale at local markets. Prices are shown in Table 4 below.

**Table 4: Tuna Grading and Pricing in Sangihe**

Grade	A	B	C	Local	Asuki
Color	Red	Red	Mostly red	Mostly red	Pale Red
Texture	Intact with clear lines and a bit flexible	Intact with clear lines and flexible	Mostly intact and still flexible	Soft and somehow flexible	Soft and shredded when touched
Size	>30 kg	>30 kg	21-29 kg	21-29 kg	<25 kg
Destination	Bitung for export	Bitung for export	Bitung and Jakarta for canning	Local, Manado canning, and fish meal	Local and fish meal

The graders/checkers Verité researchers interviewed in Sangihe were all male, self-taught, and without formal certification. One checker in Kahuis used to work in a tuna factory, and a grader in Petta used to be a fishery

<sup>36</sup> For comparison, the distance between Sangihe and General Santos in the Philippines is around 270 kilometers or 29 minutes by air. Sangihe is almost equidistant to Bitung and General Santos.

agency officer and received some training from a Japanese organization. Both had an established supply chain, collecting tuna from multiple fishers, icing and boxing it for transport to Bitung or Manado. They also served as collectors who sell the catch to traders, making their profit from the tuna they sell to the traders. The grade determines at what price fisher can sell his catch and the grader-checker can purchase and then re-sell to traders/exporters. This is different from the arrangement in Bitung where the graders/checkers work for the company, are formally trained and hold a certificate. The graders in Bitung and Manado typically come from the Philippines and Vietnam.

Since it takes approximately eight hours for the tuna boxes to reach the port at Manado, the ice is usually insufficient to maintain the quality of the tuna, so upon reaching the port, it is re-graded to allow for adjustment to the price in case of a downgrade. According to Tahuna-based collectors and traders interviewed by Verité researchers, the grade of the tuna as determined in Manado dictates the price, so the collectors are not able to witness or verify the downgrade, resulting in them absorbing the potential decrease in price. Communication between fishers, collectors, traders, graders and exporters is conducted through mobile phones to document the price and coordinate the shipping. Table 4 provides information on the current average cost of goods and services to Tahuna traders.

**Table 5: Current Costs to Tahuna Traders for Common Goods**

Item	Cost
Shipping and baggage	IDR 35.000/box or IDR 50.000/box (big size)
Quarantine	IDR 30.000/shipping
Freelance helper to manage the packing	IDR 25.000/day per helper
Loading	IDR 35.000/box
Box	IDR 37.000/box
Ice	IDR 1.250 – IDR 1.500/pack
Transport to Bitung (subject to arrangement between the trader and fish collector)	IDR 500.000 per trip

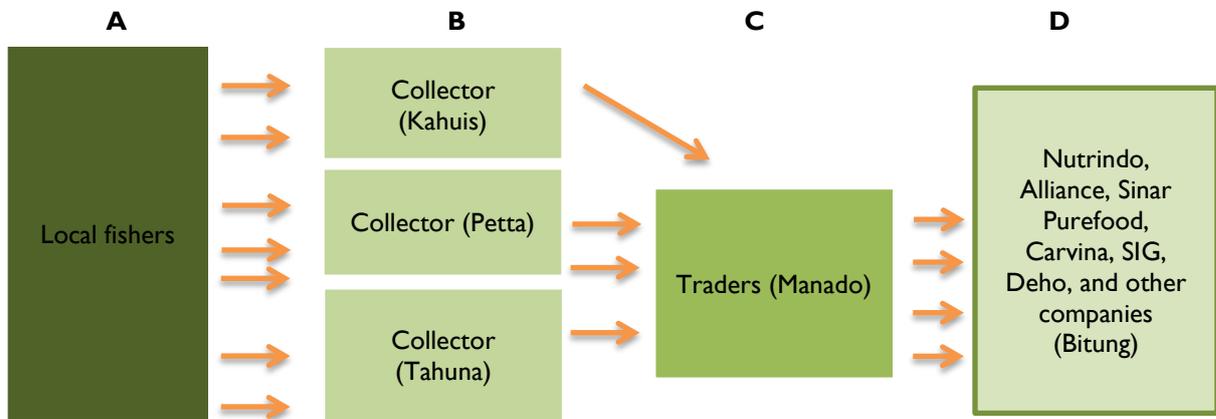
Traders usually send a minimum of five boxes of tuna (at least 200 kg) to cover the cost and make a profit. If the traders are unable to fill up five boxes, they keep the fish or sell it locally. Once the tuna arrives and is re-graded in Bitung, the receiving fish collector or trader transfers money to the sending traders. While most graders and collectors are based in Tahuna, Verité researchers also met fish collectors outside of Tahuna capable of sending the tuna straight to Manado using their own transportation via the Tahuna port,



*Tuna is packed outside of Tahuna.*

bypassing the major tuna traders. Traders in Bitung get tuna from the fishers who land tuna at the Bitung port or those who receive the iceboxes from other ports like Manado and Tahuna (Sangihe). The fishers who directly land tuna in Bitung come from the local fishing areas in Tomini bay and the southern sea of Bitung. Manado is the main destination of tuna from Sangihe Island and other surrounding areas like Marore Island, Matutuang Island, Tinakareng Island, and Kawio Island.

**Figure 5: Supply Chain from Tahuna to Bitung**



Tuna from Sangihe arrives in Manado port and is re-graded by the collector or trader there. Tuna of Grades A, B, and C then goes to Bitung for export or processing, while tuna graded as local and *asuki* (very poor quality) is sent to Pasar Jengki in Manado and other local markets. The receiving collector pays for unloading fees, weighs everything again, replenishes the ice, and packs the fish in different boxes before transporting it to Bitung. The original iceboxes are sent back to Tahuna. The collector in Manado can either be a relative of traders in Tahuna, a company representative or checker, or a middleman/fish broker.

## 3. Findings from Field Research

### 3.1 Demographics of Workers Interviewed

#### 3.1.1 Sea-based workers

The term “sea-based worker” is used in this report to describe all workers who work on vessels. The term fisher is used specifically to describe workers who are tasked with catching fish; other boat workers are those hired to work on the boat in non-fishing capacities, including as boat captain, fishing master, cook, support crew, and engine maintenance.

There are a variety of types of vessels involved in tuna fishing in Bitung, and the size of the crew typically depends on the size of the vessel.

Smaller wooden boat types include *rumpon*, *pamo* and *pumboat* (pumpboat). These boats differ in size and capacity, but most of the smaller vessels are owned by fishers who live nearby and travel to sea within a four-



*Catch is unloaded from a local pumboat.*

mile radius. Small-scale fishers use a boat called *katinting* that can only carry up to three pieces of tuna. Some boats travel with a *pakura*, a dinghy boat used to support the catching process by dragging the fish. Depending on the number of fishers, bigger boats usually bring as many *pakuras* as there are fishers.<sup>37</sup> Table 6, provides details on the size, crew, capacity and fishing duration of several common types of boats used in Bitung.

**Table 6: Specifications of Common Boat Types**

Type of Vessel	<i>Pamo</i>		<i>Pumboat</i>		<i>Pumboat Fuso</i>
	Small	Large	Small	Large	
Size/engine	8 x 2 x 0.6 m 3-8 GT with 24 HP 1-cylinder engine with outrigger	16 x 3.6 x 12 m 8-20 GT Not defined	7 x 0.7 x 0.6 m 13-16 HP Honda engine with outrigger	12 x 16 x 1m 16-22 HP with outrigger	22 x 5 x 2m >20 GT Fuso engine with <i>pakura</i> (fishing dinghy)
Crew	3-5 persons	6-9 persons	1-2 persons	4-5 persons	9-17 persons
Capacity	500 kg 1 cold storage	10-15 ton 4 cold storage	2 tons 1 cold storage	5 tons 2 cold storage	10 tons 6 cold storage
Fishing duration	1-4 days	2 weeks	1 day	4-7 days	1 month

Fishers either own their boats, operating it themselves or with another colleague, or they work for boat owners who put forth the capital needed for each trip. Boats are a significant investment, with a small *pumboat* costing approximately IDR 200,000,000 (about USD 15,000), so vessel owners tend to be relatively financially well-off.

Larger vessels have a captain, called *Kep* by locals, and an engine crew, called *Bas*. Typically, neither of these actors engage in actual fishing since they are busy maintaining the boat, especially on bigger boats. However, they may fish on occasion to earn extra money. Larger boats also have a *Koki* (cook), responsible for the food for the whole crew; on smaller boats, workers take turns cooking. Larger boats have crew responsible for maintaining the engine, cleaning, mending nets, hauling and transferring catch from smaller to bigger boats, icing and boxing the fish, and unloading. Smaller boats have one or two fishers who also perform all other tasks like buying or collecting provisions for the trip, cleaning the fish, icing and boxing, and unloading.

Field research focused on interviewing handline fishers. Handlining is a traditional passive fishing method in which a hook and line are dropped into the water to catch sashimi-grade yellowfin tuna. Handlining is considered an environmentally sensitive method for capturing tuna since it does not use large nets and therefore has a lower rate of bycatch. Handlining requires a high degree of specialized skill and knowledge on the part of the fisher such as when to throw the line; how to hold it; and how to pull and haul in the fish. Care must be taken not to damage the fish. If the fish struggles, the fisher must know how to control it or risks getting pulled overboard. Further, fishers must have knowledge about patterns and movement of fish.

<sup>37</sup> International Food and Agribusiness Management Association. Mitigating Risk in the Tuna Supply through Traceability System Development. Volume 19 Issue 1, 2016. <https://www.ifama.org/resources/Documents/v19i1/420150012.pdf>

According to interviews, this knowledge is passed on from generation to generation of fishers and acquired through years of experience.

The sea-based workers interviewed were exclusively men, reflecting the gender composition of the workforce on vessels. Workers ranged in age from 15 to 58 years old. They originated from Gorontalo, Bitung, Sangihe Islands, Nusa Tenggara Timur, and the Philippines. All 28 fishers interviewed were handline fishers, and, of those, four were from the Philippines. Out of those four fishers from the Philippines, three were undocumented. Verité's field researchers encountered Filipino fishers and workers on Indonesian boats and Indonesian fishers in Filipino boats, a long-standing mutual exchange. While all fishers interviewed were men, researchers also interviewed 10 fishers' wives.

### 3.1.2 Land-based workers

The term land-based worker is used in this report to describe workers at canning or processing facilities. Various tasks are associated with processing depending on whether the tuna is to be processed fresh or canned. In the Bitung processing sector, as is typical of seafood processing more globally,<sup>38</sup> women dominate post-harvest processing workers. Tasks in canning including receiving, sorting, filling, cooking, skinning, scrubbing, loining, packing, and canning.

Land-based workers interviewed were between 18-41 years old, from Gorontalo, Bitung, Manado, Kotamobango and Sangihe. There were 14 female and three male factory workers assigned to skinning, loining, packing, gore meat processing, and grading. The tuna collectors and ice producers were between the ages of 32 and 62, from Gorontalo, Sangihe, and Bitung. The grader-collectors who were interviewed also own fishing boats. Out of two graders interviewed, one was Indonesian, and the other was from the Philippines, married to an Indonesian woman. One land-based worker tasked with unloading, cleaning, weighing and packing the tuna was an undocumented worker from the Philippines. All the rest were Indonesian.

In factories, men are usually assigned to receiving, skinning, scrubbing and loading. Women's tasks include skinning, scrubbing, packing and loading. According to a team leader from one factory, women comprise 60 to 80 percent of factory workers, as corroborated by workers interviewed at another factory.

### 3.1.3 Gender

In general, fishing is an economic activity that tends to be dominated by men, and women are usually involved in activities related to the processing and sale of seafood. Previous research has noted that men are culturally considered to possess the appropriate strength, courage and knowledge to fish, while women's work has always been portrayed as complementary or supplementary to the main work of fishing.<sup>39</sup>

This gendered structuration characterizes the fishing industry in North Sulawesi. All fishers, fishing crew, graders, collectors and land-based support crew (engaged in weighing, cleaning, icing, and boxing) are men. The women Verité researchers encountered are traders, fish sellers, seafood processors, or land-based/factory workers. The subscription to gendered division of labor has resulted in women's exclusion from

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<sup>38</sup> FAO. The role of women in the seafood industry. May 2015. <http://www.fao.org/3/a-bc014e.pdf>

<sup>39</sup> Anette Fagertun, Gender and Moralities of Work on Jimbaran Bay, South Bali, p 100 from the book *Embedded Entrepreneurship: Market, Culture, and Micro-Business in Insular Southeast Asia*, BRILL, 9 July 2013

higher value work in fishing. A deeper study of gender arrangements in fishing communities, rooted in the understanding of their economic life, is needed to for a nuanced understanding of the value of women's work.

### 3.1.4 Sangir Ethnic Group

The Sangihe Islands are equidistant to Manado and Bitung and General Santos in the Philippines, and Filipino-owned boats of various sizes operate in these areas, especially around the border near the Sangihe and Morotai Islands. The fishing grounds around these islands and Southern Mindanao have historically been shared amongst fishing communities. Most fishers that supply to Tahuna, Manado, and Bitung come from areas like Gorontalo, the Sangihe Islands, Halmahera, and the Philippines. Sangir are the ethnic people of the Sahinge islands, and they have historical, filial, and cultural bonds with fishing communities in Southern Mindanao in the Philippines.<sup>40</sup> Currently, there are an estimated 6,000 Indonesians in Mindanao, with most of them coming from the border zones in North Sulawesi.<sup>41</sup>

There have been intermarriages between the Sangihe and Mindanao peoples throughout the centuries. Verité researchers interviewed Indonesian fishers who were born in the Philippines and moved to Indonesia only when they finished school or started to work. They identify as both Indonesian and Filipino, especially since many of their family members and friends remain in the Philippines, and they speak both languages. They are called either Pi-Sang or Sa-Pi (Filipino-Sangir); Pi-Sang means the father is Filipino and the mother is Sangir, whereas Sa-Pi means the father is Sangir and the mother is Filipina. Most of them are engaged in catching tuna, either in small fishing boats or on big vessels. They go back and forth between Indonesia and the Philippines, most often without identity or work documents. In the Philippines, they reside in General Santos and its surrounding areas, and in Sangihe, Talaud, Morotai, Halmahera, and Bitung. Most of the Filipino fishers Verité researchers interviewed are fluent in the Sangir dialect of Bahasa Indonesia.

### 3.1.5 Filipino Fishers

Filipino fishers are known for their skill in catching tuna by handline method, and according to Indonesian fishers interviewed, it is hard to compete with the skill of the Filipino handliners. Filipinos are renowned for making bait, reading the sea correctly, and handling bad weather. Indonesian fishers reported that due to demand and skill, thousands of Filipino fishers go to Indonesia to work for boat owners, since they can earn more there. They stay in Sangihe, Bitung, and other islands. Fish catch has also decreased in the Philippines, compounding this migration. Filipino fishers work either on their own boats, or as fishers on boats owned by Indonesians. Indonesian fishers, on the other hand, choose to work on Filipino boats to learn their skills. Their presence on these boats furthermore provides cover to Filipinos when stopped by the Indonesian border police, an added bonus. For centuries, this relationship has been viewed as mutually beneficial, unhindered by modern concepts of state and citizenship.

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<sup>40</sup> For more on this, see, e.g., Velasco, D. Navigating the Indonesian-Philippine Border: The Challenges of Life in the Borderzone. *Kasarinlan: Philippine Journal of Third World Studies* (25), 95-118; Talampas, R (2015). Indonesian Diaspora Identity Construction in a Southern Mindanao Border Crossing. *Asian Studies: Journal of Critical Perspectives on Asia* (51:1), 130-162.

<sup>41</sup> Pasali Philippines Foundation. Persons of Indonesian Descent in Mindanao, Philippines. [https://issuu.com/manchamancha/docs/mapping\\_indonesians\\_pasali\\_philippines\\_unhcr](https://issuu.com/manchamancha/docs/mapping_indonesians_pasali_philippines_unhcr)

## 3.2 Worker Earnings

### 3.2.1 Sea-based Worker Earning Findings

Generally, fishers are not recognized as laborers, much less as skilled workers. They do not receive a monthly salary, and their income depends on their agreement with the boat owner, who determines the payment mechanism as well as the price of tuna. They have no insurance for the risks that they take every time they go out to sea. Interviewed fishers said that there are times when they come back empty-handed, especially when fishing exclusively for tuna. Deductions are also taken from their wages for advances provided to family members while they are at sea, leaving workers vulnerable to mounting cycles of debt.

Boat owners arrange the payment system, which is usually a profit-sharing scheme. Figure 6 shows the most common basic sharing system used by boat owners and fishers. For each voyage, the boat brings ice, fuel, food, water, medicine and first aid, cigarettes, and fishing and bait tools, collectively known as *anfrag* (logistics). The *Kep*/captain proposes the *anfrag* by assessing the size of the crew and the length of the trip, and the boat owner then gives the *Kep* the money with which to stock the boat. After, the total weight of the catch is assessed, and from that, the cost of *anfrag* is deducted. 50 percent of the balance goes to the boat owner while the rest is divided amongst the fishers.

**Figure 6: Tuna Catch Sharing between Fishers and Boat Owners**

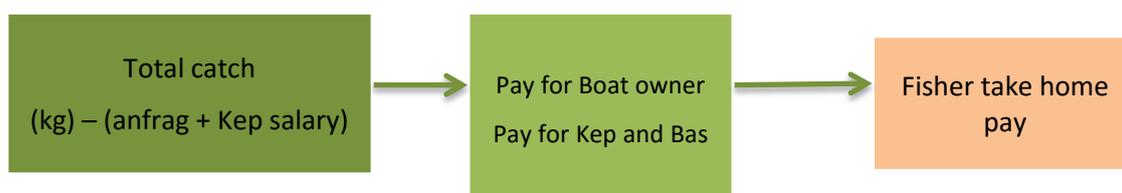


Table 7 shows examples of fishers' earnings and sample calculations of wages. The fishers do not receive payment until the tuna is sold. It is common for fishers to receive advanced payment, known as *Panjar*, an amount that varies between IDR 300.000 - 1.000.000. This advanced payment is usually given to the fisher's family while they are away and is subsequently deducted from their final payment amount.

The captain, engine crew and cook are paid differently than the fishers, but they all potentially earn a bonus based on the total catch. Boat owners in Bitung usually assign the captain to one boat, where they will stay for a specific duration. Despite working on the same boat for many years, most captains are paid daily and do not receive a monthly salary, although an annual bonus for the holidays is guaranteed. Boat owners often hire the captains to do maintenance as well, or supervise some of the crew to do it, a way for fishers to earn extra money.

The Filipino crew usually earns double the amount of the Indonesian crew, regardless of whether it is an Indonesian or Filipino boat, since the Filipino fishers tend to work alone and the Indonesian fishers work as a team.

**Table 7: Examples of Fishers' Earnings and Sample Wage Calculations**

Type of Boat	Pamo	Pumboat	Big Pamo
Size/Capacity	7-8 GT + 2 Pakura boat	25 GT	18 GT
Duration	5 days	30 days	10 days
Number of crew and origin	1 Captain and 5 catchers Captain: Gorontalo	1 Captain, 1 Engine Crew, 1 Cook	1 Captain 8 catchers Captain: Gorontalo

Type of Boat	Pamo	Pumboat	Big Pamo
	Crew: Sangir and Gorontalo	9 catchers Crew: Filipino, Pi-Sang, Sa-Pi or Sangir	Crew: Sangir, Pi-Sang, Gorontalo
<b>Total Catch</b>	1 ton/1000 kg (around 24-29 tuna)	20 tons Individual catch is different between fishers, e.g. 1500 kg	2 tons/2000 kg (around 45-55 tuna)
<b>Tuna price</b>	IDR 45.000/ kg Captain Salary IDR 1,000,000 Captain Bonus IDR 1000/kg	Average IDR 45.000/kg based on grading (Grade A-B same price, Local lower price)	IDR 45.000/kg Captain Bonus IDR 1,500,000
<b>Anfrag (Logistics) Deduction</b>	IDR 1,000,000 Water 2.5 tons Ice 110 blocks Gasoline 200 liter Fishing tools Baits Medicines Cigarettes Vegetable, rice, instant noodle, sugar, coffee Diesel fuel 800 liter Total around 2 tons	IDR 93,000,000 (provided by boat owner) Water 5 tons Ice 150-200 blocks Gasoline 200 liter Diesel fuel 1.5 tons Medicines Baits Fishing tools Rocks with bait attached Cigarettes Vegetable, rice instant noodle, chicken, sugar, coffee	IDR 18,000,000 Water 5 tons Ice 150-200 blocks Gasoline 200 liter Diesel fuel 1.5 tons Medicines Baits Fishing tools Cigarettes Vegetable, rice instant noodle, chicken, sugar, coffee
<b>Sample Calculation:</b>			
<b>Total gross catch</b>	1.000 kg x IDR 45.000 = IDR 45.000.000	20.000 kg x IDR 45.000 = IDR 900.000.000	2.000 kg x IDR 45.000 = IDR 90.000.000
<b>(-) Anfrag</b>	15.000.000	93.000.000 (to be deducted from Captain's earnings)	18.000.000
<b>Net catch</b>	30.000.000		72.000.000
<b>(-) Captain salary and bonus</b>	1.000.000 + 1.000.000 = 2.000.000	3.000.000 (fixed) + 25% of each individual catch	1.500.000
<b>(-) Boat owners' share (50%)</b>	14.000.000 (USD 1043.35)	450.000.000 (USD 33,536)	35.250.000 (USD 2627)
<b>Balance: fishers' and crew's share</b>	14.000.000/ 6 fishers = <b>2.333.000 (USD 175)</b>	450.000.000 to be divided among 9 fishers (depending on individual catch) = 50.000.000 – Captain's share (12.500.000) = <b>37.500.000 (USD 2795)</b>	35.250.000/ 9 fishers = <b>3.917.000 (USD 292)</b>

Type of Boat	Pamo	Pumboat	Big Pamo
<b>Captain's total income (salary + share + catch bonus)</b>	2.000.000 + 2.333.000 = <b>4.333.000 (USD 323)</b>	3.000.000 + (12.500.000 * 9 fishers) = <b>115.500.000 (USD 8600)</b>  *Captain pays <i>anfrag</i> and the salaries of <i>Engine Crew</i> and <i>Cook</i>	1.500.000 + 3.917.000 = <b>5.417.000 (USD 403.70)</b>

Understanding these complex calculations has implications for CDTs design. For example, to assess whether workers are earning the equivalent of minimum wage, simply looking at their gross earnings without examining *anfrag* deductions would lead to inaccurate data. It is also important to understand how divisions of catch profit are made among various types of actors and the type of share system being used.

Workers sleep whenever they can, as there are no fixed working hours while at sea. Most handline boats stay at sea anywhere from three to five days, although some voyages are up to 30 days. Fishers interviewed by Verité field researchers said that it takes between 30 minutes and three hours to catch a single tuna, depending on the fish's size and endurance.

Before the moratorium, the *pumboat* would go fishing with the mother vessel, known as the *Pumboat Fuso*. In that scenario, the mother vessel would load the fish while the smaller vessel continued fishing. Transshipment vessels used *pumboats* and *pakura* to transport the fish before taking the catch across the border; these smaller boats were easy for authorities to apprehend and take into custody due to their size. Some ships stayed out sea for weeks or even months, but during the moratorium, trips were limited to at most a week due to the sea patrols and other logistical limitations.

### 3.2.2 Land-Based Worker Earnings and Hours Findings

Factory workers interviewed for this research were assigned to skinning, loining, seasoning, packing, gore meat processing, receiving, scrubbing, canning, sanitation and loading. Workers do not choose the areas in which they work. They are usually assigned to an area where they are needed or based on their experience. Some workers from the loining and skinning areas said that if they were re-assigned that they would prefer packing because they would not have to get wet all the time and there is less pressure to meet a quota.

Canning companies pay their workers on a daily basis, and workers interviewed by Verité researchers did not know if they were being paid for their overtime, as companies reportedly only pay overtime if scheduled beforehand. Most workers reported working over seven hours each day. Because they are paid on a daily basis, their take-home pay varied, and many were unsure exactly how much they earned on a monthly basis. On average, workers at these plants earned between IDR 89,000-96,000 a month, much less than North Sulawesi's provincial monthly minimum wage of IDR 2,450,000.

A company representative of a fresh loins and products factory said that their employees are paid on a monthly basis and receive additional benefits such as transport allowance, family allowance, and free food during overtime. He reported that workers' take-home pay, including overtime, can be as high as IDR 7,000,000 during busy periods.

All workers interviewed said that their employers facilitated the provision of health insurance (BPJS) and social security (JAMSOSTEK). Workers' contributions to health insurance and social security are deducted monthly from their salary. However, workers reported difficulty in accessing these benefits during the moratorium, when they started getting paid on a daily basis or stopped working entirely. Some reported having to pay for their own treatment and medication when they become ill.

Workers at all facilities visited reported working seven hours a day on average. In most cases, they were also required to work unpaid overtime on occasion (although overtime is sometimes paid). One facility took pay

deductions of IDR 250/minute for toilet breaks or lateness. Table 8 shows the wide range of hiring and working conditions across four companies.

**Table 8: Hiring Practices, Wages, and Benefits**

Company	Company 1	Company 2	Company 3	Company 4
<b>Type of Product</b>	Canned	Canned	Canned	Fresh
<b>Hiring Practices</b>	Walk-in. Interview with documents consists of KTP and optional reference letter from previous employer.	Walk in. Interview with documents consist of KTP, police statement, photo, birth certificate, medical statement. Procedure repeats after a year.	Walk-in. Interview with documents consist of KTP, police statement, photo, birth certificate, medical statement. Procedure repeats after a year.	Generally vacancy advertised in paid advertisement.  Permanent hire after 3 months.
<b>Wages</b>	Monday - Saturday IDR 96.000/day.  Overtime: IDR 18.600/hour  Meal and transportation allowance IDR 7.000/day	Monday - Saturday IDR 96.000/day.  Overtime: IDR 18.600/hour	Monday - Saturday IDR 89.000/day.  Overtime: 1st hour IDR 12.000 2nd hour IDR 25.000  (Max 2 hours)	Monday - Saturday Minimum wage based on daily wage IDR 96.000. Monthly salary depends on the position and level (indicated by the allowance).  Overtime is IDR 25.000/hour. Meals and drink provided at the workplace.
<b>Benefits</b>  *THR is the equivalent of a 13 <sup>th</sup> month pay. It is given during Ramadan.	THR (calculated based on minimum attendance), unpaid maternity leave	THR (calculated based on minimum attendance), unpaid maternity leave	THR (calculated based on minimum attendance), paid maternity leave until the 3 <sup>rd</sup> child	Annual leave, THR (13 <sup>th</sup> salary), paid maternity leave (3 months), transport allowance and family stipend.
<b>Deductions</b>	BPJS, Jamsostek, union dues, income tax, uniform (if any)	BPJS, Jamsostek, union dues, income tax, uniform (if any). If work finished before end time, deduction in the amount of IDR 15.000/hour	BPJS, Jamsostek, union dues, income tax, uniform (if any), lunch (IDR 6.500/day)	BPJS, Jamsostek, union dues, income tax, periodic medical check-up
<b>Mode of Payment</b>	ATM	ATM	ATM	ATM

### 3.3 Health and Safety

#### 3.3.1 Sea-based Worker Health and Safety Findings

Tuna fishing is hazardous work, but this is culturally accepted. When asked by Verité researchers about injuries, fishers would typically shrug and mention the usual headaches or body pains. Few considered the nylon cuts and burns they suffer from when hauling tuna out of the sea to be ‘occupational injuries,’ because they happen so often that they do not pay attention anymore. A basic first aid kit is usually part of the *anfrag*/provisions but these are just for minor ailments and injuries. No fishers or workers interviewed used gloves or any other type of personal protection equipment (PPE). They communicated that PPE is rarely used in the sector and laughed when asked why they did not use it. A review of the *anfrag* items did not include gloves or protective equipment. When asked about other risks, the fishers sometimes mentioned poor weather conditions such as extreme rain, typhoons, or high waves, and being hit by a larger ship. None of the boats Verité researchers visited had life vests or rubber rings. When asked, the fishers said that in case of emergency, they would use empty plastic gallons as floaters.

### 3.3.2 Land-based Worker Health and Safety Findings

Each work area in the fish processing facilities has its specific risks. Before packing the tuna loins into vacuum-sealed plastic bags and freezing them in storage, the loins are constantly watered during the cutting process, leading to wet and slippery floors. In the loining/skinning/scrubbing areas, workers’ health risks include getting cut, exposure to chloric air, and fish allergies. In the sanitation area, the floors are always slippery because of the constant use of water to keep the area hygienic. In canning and seasoning areas, the machines pose most of the risks to workers.

In addition to these dangerous conditions, Verité researchers observed electrical wires in the storage room and disorganized fishing lines. Some loining platforms with sharp edges are stacked near the storage room with only a narrow path through which to pass. In Indonesian processing plants, Verité researchers observed that workers were constantly exposed to and inhaled chlorinated air while working. Chlorine is used to sterilize boots before entering the processing factory room and to wash workers’ hands. Temperatures are often extreme – either very hot or freezing. Workers are frequently denied access to the toilets. All workers interviewed from four different factories complained of skin allergies on their hands due to the constant submerging of their hands in solution used to freeze fresh tuna.

## 3.4 Forced Labor Findings

### 3.4.1 Sea-based Child Labor

Both direct observation and stakeholder interviews confirmed the presence of child labor on vessels. These young workers are still learning how to fish as skillfully as older workers, but typically participate in a wide range of tasks on the vessels. Expert interviewees and other stakeholders noted that this is a culturally acceptable practice, and that fishers generally lack awareness regarding what is considered appropriate work for children. Very few fishers finish secondary school. One Sangir fisher said that midway through secondary school in the Philippines, when he was about 14 or 15 years old, he decided to go back to Tahuna to start working. Children are expected to learn fishing as a livelihood at the relatively young age of 13. Without alternatives for families and children, this practice will continue. When foreign underage workers were found on illegal boats, the Marine and Fisheries Surveillance Station/Base reported that they were deported to their home country rather than being detained.

### 3.4.2 Forced Labor Analysis

Verité did not make any determination on the prevalence of forced labor, as the qualitative methodology used would not support this type of finding. However, several risk indicators of forced labor and human trafficking

were detected, per the ILO definition. In general, the existence of any single indicator of involuntariness does not conclusively denote the presence of forced labor, as it must be associated with an indicator of penalty or menace of penalty. However, identifying specific risk indicators as they manifest in the sector, and factoring in the mechanisms that render workers “invisible” – or beyond the pale of protective regulations - can provide insight into the types of risk and vulnerability faced by workers.

## Abuse of Vulnerability

Workers in the tuna fishing sector in Bitung faced increased vulnerability as the fishing boats they were working in were grounded due to the moratorium on foreign fishing vessels. For both sea-based and land-based workers in the sector, the ban has led to an increased precariousness of employment and fear of job loss. At the time of Verité’s field research, the moratorium on foreign vessels was still in effect, and the authorities were still monitoring, inspecting, and arresting illegal and undocumented boats and workers. Many of the seized foreign boats were docked at the Bitung port because either their license had expired or the issuance quota for licenses had been reached. Boat owners were penalized with a warning, and their licenses were either suspended or revoked. This dragnet was presented as “shock therapy”<sup>42</sup> and served as a strong warning to illegal fishers in Indonesian waters. Some crewmembers, many of whom come from distant islands like Java and Flores, returned to their hometowns, but some did not have enough money to do so and remained attached to their grounded boats; others still found work with the few remaining active boats. Many were forced to wait until the grounded boats obtained a license, during which time the boat owner paid for food, in addition to a meager salary to guard and clean the grounded boat.

Not only the workers on fishing vessels were affected by the moratorium, but also salaried factory workers on land. Some of the factory workers interviewed by Verité researchers had to stay home for months without payment. According to one factory manager, fish production dropped by more than 50 percent during the moratorium. Workers would wait for their company to call them in to work, and as a result, they were paid as daily workers. On average, they worked three or four days a week, depending on the amount of fish delivered, and they earned between IDR 89,000-96,000 a month, much less than North Sulawesi’s provincial minimum wage of IDR 2,450,000 a month. Fishers also found themselves with even less bargaining power due to the dearth of available boats compared to the number of fishers needing work. The fishing-related industry in Bitung was reportedly operating at 9.7 percent of its capacity, down from 50 percent in 2014. Nearly 10,000 workers were dismissed from work in Bitung in 2015-2016.<sup>43</sup>

## Debt and Withholding of Wages

Vessel-based workers do not receive a monthly salary. Earnings are typically structured in a profit-sharing scheme that disadvantages workers, as they lack control and visibility into both the expenses and profits. Deductions are taken for expenses while workers are at sea, as well as against advances provided to family members. This may leave workers vulnerable to mounting cycles of debt.

## Abusive Working and Living Conditions

Work on tuna fishing vessels is highly hazardous – which is typical of the sector as a whole. Workers experience cuts, burns, and other injuries and there is lack of appropriate emergency gear. Health and Safety

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<sup>42</sup> Otto, Ben. Wall Street Journal. President Jokowi Orders ‘Shock Therapy’ For Illegal Fishing Boats. December 9, 2014. <http://blogs.wsj.com/indonesiarealtime/2014/12/09/president-jokowi-orders-shock-therapy-for-illegal-fishing-boats/>

<sup>43</sup> Witalar, Rendi. Collateral Damage in the War Against Poachers. The Jakarta Post. October 4, 2016. <http://www.thejakartapost.com/longform/2016/10/04/collateral-damage-in-war-against-poachers.html>

systems are not implemented or are inadequate to ensure worker safety while at sea. Work in processing plants is also dangerous; workers are constantly exposed to chlorinated air, wet slippery floors, exposed electrical wiring, extreme temperatures, and serious skin irritants.

## Excessive Overtime and Isolation

Vessel-based workers have no fixed working hours while at sea. Before the moratorium, ships stayed out at sea for weeks or even months. At the time of Verité's research, most boats stayed at sea anywhere from three to five days due to sea patrols and other logistical limitations. If longer voyages were to resume, the longer length of time at sea would contribute to inherent conditions of isolation for sea-based workers.

# 4. Recommendations

## 4.1 Background

USAID Oceans supports the development of a transparent and financially sustainable electronic Catch Documentation and Traceability System (CDTS), to help ensure that fisheries resources from Southeast Asia are legally caught and properly labeled. The electronic CDTS will encourage the collection and analysis of ecological and economic data related to seafood products throughout the supply chain, such that they are traceable from the point of catch to import and retail. The CDTS can provide an important opportunity to support effective national fisheries monitoring, control, and surveillance (MCS), as catch documentation and traceability remains one of the most valuable and comprehensive methods for collecting fisheries statistics at a reasonable cost. Catch documentation at the point of catch can also be valuable for fisheries management, particularly stock assessment and marine spatial planning efforts. Integrating social concerns with this CDTS requires an understanding of what relevant social issues are in each fishery, what data might be useful for providing insight on these issues, and how this information could be collected. Further, the CDTS technology itself may provide associated applications that improve social welfare for workers on vessels.

Through the research, Verité explored how the CDTS could contribute to the effort of promoting and protecting workers' rights and welfare in the Indonesian industry. Verité notes that there are significant challenges to any technology-based instrument used in addressing labor risks or abuses. For instance, geographic tracking alone will not provide visibility into workers' recruitment, movement of workers between vessels, health and safety, onsite working conditions, wages, etc. Further, there is a need to triangulate and verify information received or fed into the CDTS. Given these limitations, the CDTS's significance can be in how it can help keep workers visible, for example, by mining data on workers being generated by existing documentation and traceability efforts, framing data collection to include basic information like workers' names and other identity markers, net income, or safety gear, and designing the CDTS in a way that provides verifiable and reliable information that can help buyers make responsible sourcing decisions.

## 4.2 General Guidance on Social CDTS Applications

In general, even a robustly designed and fully functioning CDTS that collects relevant social information will not automatically lead to the detection of labor abuse. The most accurate data still needs interpretation and analysis by qualified experts familiar with the context so that stakeholders understand the implications that information might have for workers. After data collection and analysis, remediation of any labor issues

unearthed will require a coordinated multi-stakeholder effort that informs the continuous improvement of government and company policies, programs and procedures.

The CDTS will provide better visibility into the location of vessels and their crew members. While data systems that enable better geographic tracking of vessels and crew over time while at sea are highly valuable, they do not necessarily provide a full, holistic picture of all potential issues arising the hiring and employment cycle. For example, they do not provide information on worker recruitment and any forced labor indicators tied to the recruitment process, which occur before the worker ever boards the vessel. Further, although it may be possible to track how many workers are on board (or reported to be on board) a vessel at a given time during the voyage, fishing workers may still be transferred between vessels, moved to “motherships” or held elsewhere. Relatedly, the workers on board the vessel may not be the same workers who were reported in the crew manifest during port-out procedures. It is also relevant to consider that while workers are on-board, it is challenging for the CDTS to gather information on working conditions such as health and safety, hours of hours of work, harassment, etc. Further, once workers have returned to shore, labor issues may continue to arise; for example, workers may not receive the wages or share of profit promised them upon return and may worry that any complaints will be met with retaliation, including blacklisting from future employment. A CDTS which captures vessel-based data will likely not capture these and “land-based” situations. That said, if paired with information from land-based investigations and grievance mechanisms, the CDTS could provide highly valuable triangulation and corroboration, in addition to the geo-spatial tracking.

Whenever possible, Verité has made efforts to recommend discrete and binary (Yes/No) KDEs that can be captured in a manner that allows for comparison. That said, given the highly complex nature of labor and social issues, some of these KDEs require a more nuanced understanding of contextual issues. Rather than relying on publicly available data sets, accurate KDEs may require gathering information directly from workers themselves. For example, an employer may provide documentation of policies stating that all workers receive at least the minimum wage. However, worker interviews may illuminate the fact that, after deductions, workers receive less than the minimum wage and do not understand how their earnings are calculated. The questions and red flags provided below provide guidance for any actors – whether labor inspectors, researchers, auditors – seeking a more thorough understanding of these issues in a given worksite.

The sections below note specific areas where gathering information from workers would be necessary for KDEs. Attention and thought should be given to the point of how various social KDEs will be collected. In Verité’s experience in other sectors, information about worker experiences is highly sensitive and is challenging to collect accurately, even with the use of trained inspectors. Workers may be under extremely heavy pressure not to speak honestly and may be unsure that their information will be protected or used to assist them. It is important to remember that workers may be in highly vulnerable situations and may be reluctant to talk openly about their work situation. In order to increase the likelihood of gaining the trust of migrant workers, specially trained local language interviewers should be used and interviews should be conducted away from the work-site, or at least with reasonable privacy from the employer or captain. Finally, although the section below provides lengthy guidance on gathering social information, ultimately it is important that buyers have access to verifiable, transparent social information so they can make responsible sourcing decisions.

**In addition to information gathered from workers and publicly available/government records, the following employer/company datasets would be helpful to integrate into CDTS, if available:**

- Company organizational charts
- Production capacity and production schedules (indicate peak, slow, and average production periods)
- Registry of all regularly employed workers
- Registry of all cooperative/agency/outsourced workers

- Registry of all juvenile or minor workers
- Company policies
- Training materials, training records
- Contracts of all categories of workers
- Payroll records and pay slips
- Attendance and work hours, including overtime, records
- Benefits remittance records
- Benefits records
- Bank books
- Grievance records
- Discipline and termination records

For sea-based workers:

- Registry of all fishing vessel and fleet owners, and their employees and agents/contractors
- Registry of all handline operators
- Registry of all handline fishers
- Registry of all “pamariles” boats, and data on capacity of each boat (maximum number of fishers it can accommodate)
- Written job description for each job item or function
- Standard contracts or fishing agreements (containing DOLE approved terms and conditions)
- Vessel registrations
- Fisher IDs, seaman’s books, passports

For land-based workers:

- Registry of all company facilities and their subcontractors, suppliers
- Registry of all labor agencies and cooperatives
- Registry of all industry workers
- Written job descriptions and job ads for each job item or function
- Standard contracts or employment agreements (containing DOLE approved terms and conditions)
- Government-issued and authenticated IDs
- Training materials and training records

Given that there are likely to be gaps in available data, regardless of source, it may be useful to consider the minimum social KDEs that should be collected to reflect accurate and useful information on social conditions in the supply chain. **The following KDEs could be considered the minimal baseline of social information to collect for each worker in each worksite:**

- Worker name
- Worker ID/passport number/work permit number
- Worker nationality
- Worker sex
- Worker age
- Verification that all crew leaving port return (for vessel-based workers)
- Length of employment (in years)
- Worker has employment contract (Yes/No)
- Average net income per trip or per pay period (to check against legal minimum wage requirement)

- Wage payment frequency (e.g., paid less than once per month, Yes/No)
- Access to potable water (Yes/No)
- One bed/mattress per person (for vessel-based workers; Yes/No)
- Appropriate safety gear provided (Yes/No)
- Confidential grievance mechanism available (Yes/No)
- Number of hours worked by worker/crewmember per work shift
- Mandatory overtime required of worker/crewmember (Yes/No)
- Recruiter/labor broker/manpower agency used (Yes/No)
- Length of voyage (for vessel-based workers; Days)

## 4.3 Potential Social Applications of CDTs by Issue

### 4.3.1 Vessel Location

**Labor Practice Goals: All vessel workers receive accurate information about the length and location of voyage. Workers return to port safely and family members can receive information on their whereabouts.**

One of the most serious findings from Verité’s field research is the possibility of workers disappearing from vessels, particularly in the Philippines. While this was not reported by workers to be common in the Indonesian context, it still merits consideration as a potential issue given the vulnerability of workers at sea. One potential use of CDTs technology is the use of vessel monitoring (whether AIS or VMS) and point-of-catch visibility to track the location of the crew through a voyage. The system could be used to establish visibility into whether terms of contracts – such as length of voyage, location of work (i.e. which fisheries to be visited) – are honored. Tracking vessels as they enter port can also be used to coordinate post-arrival debriefing of crews and verification of any grievances reported by crews during the voyage.

In addition to vessel tracking, there are several general KDEs that may be helpful in tracking workers and their movement among vessels, including:

- Date of departure
- Name of captain/master
- Names and nationalities of fishers/crew
- Date of birth of fishers/crew
- Fishing company name
- Fishing vessel owner name and contacts
- Name of fishing vessel
- Unique vessel identification
- Flag state
- Port name
- Landing date
- Transshipment logs
- Trip number
- Each worker possesses accurate identity documentation (Yes/No)
- Workers have free access to their documents (Yes/No)

While these KDEs may appear to be relatively concrete and straightforward, several issues raised in the research point to potential complicating factors. Port In/Port Out inspections could provide data on crews, but looking at the Thai example may provide some instructive lessons. The Thai Government established 28

separate Port In/Port Out centers, which were intended to provide inspections both in port and at sea in concert with VMS technology. However, it has been reported that inspectors were not able to speak privately with migrant workers. Further, weak law enforcement and gaps in data linkages and coordination meant that abusive labor practices persisted.<sup>44</sup> This points to the importance of strong, coordinated systems with robust means of gathering – and then acting on – worker information.

### 4.3.2 Worker Documentation

#### **Labor Practice Goals: Workers maintain appropriate and legally required documentation and have free access to their identity documents at all times.**

It is crucial that workers have and retain access to accurate identification documentation. Confiscating, destroying, withholding or otherwise denying access to personal documents can be a form of coercion that leaves workers highly vulnerable. When labor recruiters or company or supplier/subcontractor facilities take away workers' passports, residency or work permits, personal identity documents, or even ATM cards, this not only limits their freedom of movement and personal freedom, it effectively binds them to that employer, restricting their ability to terminate employment or leave the job without the threat of losing this valuable property. In many cases, it also means that the worker is not able to take a new job, access social benefits to which he or she may be entitled, and is vulnerable to deportation or detention by immigration authorities. Lack of documentation or use of fraudulent documentation means that reviewing identification documents for the CDTs is infeasible. In particular, in Indonesia, the vulnerable "Pi-Sang" ethnic group nearly always lacks formal documentation, and because they are considered foreign workers and therefore working illegally, are never listed on official crew lists.

#### **The following are some specific questions and corresponding red flags that can be used to assess worker risk relative to documentation:**

- Did workers submit any original copies of government-issued identification, passports or work permits to the employer or labor recruiter? If yes, what did they submit (e.g., passport, residency permit, work authorization, identity documents, ATM or bank card, or other travel documents, for example the return portion of travel tickets)? Do workers understand the reason for this?
- Are workers' personal documents being withheld due to legal requirements, or do workers request that the employer or labor recruiter hold them?
- Do workers have free and unhindered access to their documents?
- What is the procedure for getting the documents back?
- Are workers given an exact copy of the document when it is not in their possession?
- Does the employer or labor recruiter nominate a responsible person to ensure that workers have free access to their documents upon demand?
- Were workers given advance notice of these requirements and procedures?
- Have workers ever encountered lengthy or otherwise burdensome prerequisites when accessing their passport or other personal documentation?
- Do workers have free access to a locked, secure storage space for their personal documents and valuables?
- Where is the locked storage located (accommodation, work location, both)?
- Are documents withheld when in port? (for sea-based workers)

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<sup>44</sup> US Department of State. Trafficking in Persons Report. 2016. Thailand.

## Red Flags

- Workers do not have any access to personal documents.
- Workers report that their freedom of movement has been limited by inability to access documents.
- Workers report that their ability to access grievance mechanisms or other benefits has been limited by their inability to access their documents.

### 4.3.3 Earnings and Wages

**Labor Practice Goals: Workers have visibility into how their earnings are calculated and receive a pay slip that shows all earnings and deductions. All workers receive the legally mandated minimum wage.**

Salary and wage issues, both for sea and land workers, are highly complex. For sea workers, there are many permutations of wage and profit sharing schemes that factor into fisher livelihoods. Wages are highly variable, particularly for sea-based workers. While the systems used to determine earnings are culturally understood and accepted, workers do not necessarily have transparency into how their earnings are actually calculated. This is particularly true when workers' pay is based on a profit-sharing system and is compounded when deductions are taken for expenses incurred on the voyages and against advances paid to family members. These practices can lead to some fishers not earning minimum wage. While payment systems for workers in processing plants tend to be more standardized, workers lack a thorough understanding of wage systems and how their earnings are calculated, particularly around issues of overtime.

Based on all these complexities, it will be crucial to set specific indicators for wage and earnings KDEs. **The minimum recommended KDEs around earning and wages are:**

- Average net income per trip or per pay period (to check against legal minimum wage requirement);
- Wage payment frequency (e.g., paid less than once per month, Yes/No);
- Workers receive explanation of pay/earnings (Yes/No)

Further, it is likely that a simple document review will not provide all necessary information. In general, assessing wage and salary payments can be extremely challenging. The following are some questions that can be posed to workers in the fishing sector to assess earnings/wage issues, as well as corresponding red flags:

- Who pays worker wages? Are workers paid by the employer/work site or the labor recruiter?
- How are workers paid (e.g. hourly, daily or piece rate; in cash, check or direct deposit)?
- Are there discrepancies in pay rates between different types of workers?
- Do workers receive their pay on time? Have wage payments, or any portion of wages, ever been delayed or withheld? If yes, what were the circumstances?
- Do workers receive a pay slip or wage statement on payday? If yes, is this pay slip in a language workers understand, and does it clearly indicate wage calculations and any deductions that are made from workers' salaries?
- Are any deductions made from wages? If yes, how much is deducted and what for (e.g. meals, transportation, lodging, utilities, uniform, tools, other)? Were workers made aware of these deductions when they signed their contract and did they approve of them? Were workers requested to sign a document to authorize the deduction(s)?
- Do workers ever receive wages in the form of non-cash or "in-kind" payments? If yes, what percentage of their wage has been paid in this way?
- If workers participate in a "share" system, are the terms of that system agreed upon in writing before each voyage? Were the terms and manner of calculation explained to workers? Do workers have a copy of that

agreement? Are workers allowed to observe any weighing or grading of the product that affects workers' earnings?

- Do workers receive advances on wages or a loan from the employer or labor recruiter? If yes, what were the terms of this loan, including the interest rate and financing period? Have the terms of the loan ever been changed without worker consent?
- Do workers participate in a savings program sponsored by the labor recruiter or employer? If yes, is this program voluntary? Did workers sign a written consent form to authorize deductions for voluntary savings? Where are worker savings kept? If savings are kept in a bank, do workers have free access to worker bank account? When do workers get their savings back?
- Is there anyone else, apart from the worker who has access to the worker's bank account, for example through an ATM card or power of attorney? Have workers ever authorized another person to access the worker's account to make a withdrawal? If yes, who else has such access?
- Does the employer or labor recruiter in any way limit worker freedom to use their wages as they see fit?

#### Red Flags

- Workers do not receive pay slips or written calculations of share profits at all.
- Pay slips are provided but are in a language the workers do not understand.
- Pay slips are inaccurate or do not contain adequate detail of how wages or earnings are calculated.
- Workers do not understand how wages or "shares" of profits are calculated.
- Workers feel that the wage or pay system in practice was not adequately explained to them prior to beginning work
- Workers are not paid at least monthly.
- Workers (or their families) are provided with cash advances and in-kind supplies, the value of which is deducted from their pay at high interest.
- Fishers (or their families) end fishing voyages with greater debt to the captain, skipper, or boat owner than when they began.
- Workers' pay slips do not correspond to records provided by the employer.

### 4.3.4 Worker Hours

**Labor Practice Goals: Workers work no more than the total hours allowed by law or by company policy, whichever is stricter. Vessel-based workers are provided sufficient continuous rest to avoid exhaustion.**

Unless specified in the employment contract or collective bargaining agreement, compulsory overtime can create a situation of involuntary labor to which all workers can be subject. Sea-based workers are often required to work around the clock with no "normal" working hours. The work required for harvesting catch is so intense that several days may go by with little opportunity for rest. Land based workers, particularly during "high-production seasons," may also be required to work excessive overtime to meet demand. However, the latter may be at greater risk of this abuse because of their heightened vulnerability, and the many pressure points that brand or supplier facilities, or labor recruiters, may have to exploit their vulnerability.

**The recommendations for minimum KDEs for worker hours are:**

- Are there systems to record and monitor worker hours? (Yes/No)
- Number of hours worked by worker/crewmember per work shift
- Mandatory overtime required of worker/crewmember (Yes/No)

The following are examples of specific questions and corresponding red flags that may be useful in identifying issues with work hours:

- How often do workers have to work overtime, and for what reasons?
- Is overtime always voluntary? If not, what are the circumstances involving involuntary overtime?
- Are workers free to refuse overtime without threat or fear of punishment? What happens if workers refuse to work overtime?
- Are workers given advance notice by the employer or labor recruiter when overtime is required?
- Are workers allowed to take meal breaks and rest breaks?
- How many rest days do workers receive a week?
- How does the employer record hours worked?
- Do workers experience fatigue that prevents them from doing their jobs safely?
- How many consecutive rest hours do workers have for sleep? (for sea-based workers)

#### Red Flags

- Work hours exceed legal or company limits, whichever is stricter.
- Not enough workers are employed to meet production targets, quotas, or actual catch/processing volume.
- Number of workers does not increase to meet seasonal requirements.
- Workers report symptoms of fatigue (exhaustion, inability to communicate clearly, increased frustration, inability to focus on tasks, cutting corners to finish more quickly, taking unusual risks, slow response times, not noticing impending physical risks, making unusual mistakes on routine tasks).<sup>45</sup>
- Employer's records of work hours are inconsistent with hours reported by workers.
- Sea-based workers report rest hours divided into small chunks (i.e. multiple two-hour rest periods that do not allow for restorative sleep).

### 4.3.5 Recruitment, Hiring and Contracting

**Labor Practice Goals: All workers have an employment agreement with their employer and are provided a copy. Employment agreements contain, at minimum, accurate information about wages and hours. For vessel workers, employment agreements contain information about the length and location of voyage. Workers do not pay any illegal or unexplained fees in their hiring and recruitment process. Workers are not engaged through an agency or otherwise forced to accept casual employment as a means to deprive them of benefits.**

There is a wide variation in hiring, recruitment and contracting practices in the study sites. In the Bitung context, work in processing plants tends to be precarious, particularly in light of the moratorium and associated capacity decrease, with some previously regular workers moved to a more casual employment arrangement, i.e., engaged on a daily basis. Handline fishers in small vessels are treated as self-employed and therefore outside the protection of labor law. Workers whose employment was converted from full-time to on a casual basis as a result of the fishing moratorium have diminished legal protection.

**Minimum recommended KDEs for recruitment, hiring and contracting are:**

- Recruiter/labor broker/manpower agency used (Yes/No)

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<sup>45</sup> International Labor Organization. Safety and health training manual for the commercial fishing industry in Thailand. 2014. [http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_329102.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_329102.pdf)

- Length of employment (in years)
- Worker has employment contract (Yes/No)

In general, the use of recruiters or labor agents, especially unlicensed or informal ones, opens the door for abuse – deception about the nature or terms and conditions of the work, excessive fee charging. It is also important to discuss labor recruiter and employer orientation procedures to determine whether workers are aware of key policies and procedures in the workplace as well as terms and conditions of work before they start their job. All interviewers should be aware of local terms used for labor recruiters.

- How many labor recruiters are involved in recruitment?
- What is the name of each labor recruiter or agency involved?
- At the time of recruitment, are workers given accurate details about the job location, contract duration, anticipated earnings, working and employment conditions on the job, and living conditions?

#### Red Flags

- Lack of a formal, standardized recruitment and hiring policy and procedures
- Use of informal recruitment agents

Many fishing sector workers, both sea- and land-based, do not have contracts with their employer. Because of their inherent isolation, sea-based workers are particularly vulnerable to deception regarding conditions of work, because they may not be able to leave once on-board. In many fisheries, it is standard practice for written contracts not to be issued to workers, and for workers to lack any formal training or orientation. Agreements are likely to be only verbal, at best, and are subject to change at the discretion of the boss or employer.

The following are some questions that could be used to gather further information on contracting and employment relationships, along with corresponding red flags:

- Do workers sign an employment contract for the job? If yes, with whom is the contract signed: the company/employer or the labor recruiter?
- Are the terms of the employment contract explained to workers? Who explains these terms?
- When and where was the contract signed?
- In what language is the contract written and do workers understand that language?
- Are workers given a copy of the contract to review prior to signing? Once signed, are workers given a copy of the signed contract?
- Do have to sign two sets of employment contracts? If yes, were both sets the same in content and, if no, how were they different?
- Are the details contained in employment contracts consistent with the details that were provided at the time of recruitment?
- Are the actual terms and conditions on the job consistent with those that are described in the employment contract?
- Are workers pressured or threatened in any way into accepting the job or any of the terms included in the employment contract?
- Does the contract clearly describe the process for early contract termination, including the minimum notice period and any financial penalties involved?
- Under what conditions can the contract be renewed?

#### Red Flags

- Workers do not have written contracts.
- Contracts are not in a language that workers understand.

- Contracts were signed after work already undertaken or after worker embarked on vessel.
- Contracts provided by workers and employers do not correspond.
- Workers report that terms of employment are not consistent with contract.
- Workers report signing blank contracts or other contract substitution.
- Contracts do not contain all detail required by law and company policy.
- Terms of contract violate company/supplier policy.
- Terms of contract violate relevant laws of relevant states.

### 4.3.6 Housing/Living Conditions

**Labor Practice Goal: Workers have access to adequate toilets and sleeping quarters while on board vessels. Workers have access to potable water.**

Sea-based workers often live in cramped, unsanitary, and unsafe quarters on fishing vessels. They are not provided with privacy or personal space, contributing to mental stress, poor sleep, and fatigue. Most vessels do not have any beds or mattresses, and in some cases, workers take turns using the very limited available sleeping facilities. Even while docked, many workers have no option other than to sleep on the boat. There is often a lack of potable drinking water and hygienic (or any) sanitary facilities. Many vessels also have minimal space for workers to prepare and eat food.

**Minimum recommended KDEs for housing and living conditions are:**

- Access to toilet (Yes/No)
- One bed/mattress per person (for vessel-based workers; Yes/No)

The following questions and corresponding red flags can be used in assessing housing and living conditions:

- Are workers provided housing/sleeping quarters?
- Are sleeping quarters adequate?
- How much are workers charged for housing?
- Are there food preparation and dining facilities?
- Do workers always have access to potable drinking water?
- Is there adequate privacy?
- What safety or security hazards are workers subjected to?
- Are workers fully informed about living conditions before they accept their job?

Red Flags

- Workers report feeling unsafe or unsecure.
- Workers report unsanitary or dangerous conditions.
- Workers cannot effectively lodge complaints about living conditions.
- Accommodations are visibly decrepit, poorly maintained, dangerous, or unsanitary.
- Workers cannot get enough rest to safely perform their jobs due to poor conditions.
- Workers are suffering illness or injury due to poor conditions.
- Employer does not keep maintenance or inspection records, or records do not correspond with condition of accommodations (i.e. records show inspection of fire extinguishers that are not working or not present).

### 4.3.7 Grievance Mechanisms and Freedom of Association

**Labor Practice Goals: Workers have access to confidential communication channels that they can use to express grievances. Information received from grievance mechanisms is collected in a manner that allows for remediation. Any grievance mechanisms provided to worker follow UN guidance and are legitimate, accessible, predictable, equitable, transparent, rights compatible and a source of continuous learning. Workers are free to exercise their rights to organize and bargain collectively.**

An effective grievance procedure and complaints mechanism in the workplace that allows workers to confidentially raise issues about labor recruiter or worksite practices, or the conditions they face in the workplace or dormitory is an important element in taking corrective action against abuse and exploitation. It is a key first step in remediating existing problems. Grievance mechanisms are particularly important for workers who are at sea for long periods, as they likely lack any means of communicating with their family, law enforcement, or other support systems in the case of an exploitative situation. A potential benefit of CDTS is the provision of basic communication services (e.g., email, phone) to crewmembers, which could improve their safety and welfare. Access to communication mechanisms, particularly those which can be used in private, away from the supervision of the captain or supervisor, can provide a channel for grievances. Ideally, any information received, even directly from a worker, should be verified or triangulated with information from other sources, to decrease the possibility of retaliation used against workers who report violations. In other worksite contexts, Verité has seen that employers may coerce workers, even to the point of threatened or actual violence, to provide positive feedback to grievance mechanisms. In the vessel context, under a system which required crew to periodically check in with a safety monitor, a captain may threaten workers with violence to intimidate them out of accurately sharing their experiences. This could be ameliorated by following up on information received, even positive information, once workers are back on shore, as well as by providing workers with land-based venues to report their experiences. Providing information to concerned stakeholders on land (family members, NGOs and government) would enable proactive outreach to workers on vessels in cases where workers might be impeded from making contact.

To optimize remediation processes, grievance communications should be collected in a manner that allows for analysis of emerging patterns (such as repeated abuses tied to an individual captain/vessel/labor recruiter, etc.) Centralized hotlines or text-lines with staffers who speak the local languages would be necessary. Further, in this conception of CDTS as an alternative grievance channel, it would be critical to establish a network of coordinated support providers who could provide any services needed to workers and their families.

If the CDTS is envisioned as a grievance mechanism, it should follow guidance provided by the UN which states that grievance mechanisms are legitimate, accessible, predictable, equitable, transparent, rights-compatible and a source of continuous learning.<sup>46</sup>

**At minimum, the KDE around grievance mechanisms is:**

- Confidential grievance mechanism available (Yes/No)

The right to organize and bargain collectively also provide important means for workers to express grievances. The following questions can be used to assess meaningful worker access to grievance communications and freedom of association:

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<sup>46</sup> Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie. Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework.

<http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf>

- How can workers bring issues or complaints to the attention of the employer or labor recruiter?
- Is there someone available at all times to receive and process grievances and other complaints? If yes, do workers know the position of this representative (works for the company, an independent third party, etc.)? Does this person speak the workers' language? Are workers comfortable bringing their complaints to this person?
- Is there a mechanism in place for workers to raise a grievance with someone other than their direct supervisor?
- Is there an anonymous way for workers to report grievances (without giving their name)? What means are in place to protect their identity when reporting a grievance?
- Do workers have access to any type of communication mechanism (phone, text, etc.) that is private/not under the surveillance of their employer?
- If a grievance/communication method is available, are there times when that method is unavailable? (i.e. only able to use phone hotline while in port, but not while in sea).
- Are the responses to grievances and actions taken to address them communicated to the workers? If so, what is the main method of communication?
- What can workers do if they disagree with the way a grievance is resolved?
- Do workers feel that grievance process is effective? If not, why not?
- Are workers free to join or form a trade union? Has the employer done anything, including interference or penalties, to prevent workers from joining or forming a union?

#### Red Flags

- There are no documented procedures for airing worker grievance.
- Complaints and feedback are not recorded or maintained.
- Workers do not have access to grievance mechanisms that are anonymous, transparent, effective, and fair.
- Workers do not have continuous access to some form of grievance mechanism, including while they are at sea.
- Workers are prevented from organizing by threats, intimidation or other reprisals.

### 4.3.8 Health and Safety

**Labor Practice Goal: Workers receive adequate protective equipment and safety training. Workers have access to medical care in the event of an illness or injury. Workplaces follow all relevant legal standards.**

Work in the seafood sector can be highly hazardous. Sea-based workers reported common injuries and accidents, and land-based workers are similarly exposed to hazardous conditions. Workers rarely receive adequate protective equipment or training on safety topics.

Depending on the technology used, in addition to serving as a grievance mechanism as described above, the increased communication capacity provided by CDTs implementation may serve as a means for workers to radio for medical assistance.

#### The minimum recommended KDEs would be:

- Safety training provided (Yes/No)
- Protective equipment provided (List)

The following questions and corresponding red flags can be used in assessing worker health and safety:

- What hazardous tasks do workers perform?
- What common illnesses and injuries have workers experienced?
- Are workers provided with free protective equipment that is adequate for the tasks performed?
- Do workers receive training on safety measures?
- Do workers have access to treatment in the event of an illness or injury?

#### Red Flags

- Workers experience frequent illness or injury.
- Workers are not trained on safety measures.
- Workers do not receive any or adequate protective equipment.
- Workers do not have access to adequate treatment in the event of an illness or an injury.

### 4.3.9 Freedom of Movement

**Labor Practice Goal: Workers have unrestricted freedom of movement while in the work place, including access to the toilet. Vessel-based workers are allowed regular access to port and vessel operators do not deceive workers about the length of voyage.**

For workers on vessels, freedom of movement is inherently limited while at sea, but intentionally preventing workers from accessing port is particularly abusive. Workers in processing plants reported limited freedom to use toilets, potentially resulting in illness. Restrictions may result from the security environment, cultural norms or considerations, active threats, intimidation and harassment by a manager, labor recruiter, or security guard, and deceptive or hidden forms of coercion such as passport confiscation, which is addressed above. In Indonesia, stateless workers may be particularly vulnerable to restricted freedom of movement due to their lack of documentation.

**The minimum KDEs for freedom of movement are:**

- Length of voyage

To make sense of this complex issue, here are some of the topics that can be included concerning freedom of movement and personal freedom:

- Are there any restrictions on freedom of movement in the workplace during working hours? If yes, what are these restrictions?
- Do security personnel ever restrict freedom of movement in the workplace for reasons other than workplace security?
- Are workers ever restricted from or monitored when using the toilet facilities? Are workers free to get drinking water whenever they wish?
- Are workers free to leave the workplace immediately after their shift? Are workers able to get permission to leave the employer during work hours under reasonable circumstances?
- How often are sea-based workers allowed access to shore/port? Are workers allowed to exit the vessel when docked?
- How long is the typical voyage?

#### Red Flags

- Transshipment at sea is used (may greatly increase time sea-based workers spend on vessels between access to port)
- Workers do not have regular access to shore/port
- The typical voyage is longer than four months

- Workers report that their freedom of movement is restricted

#### 4.3.10 Child Labor

**Labor Practice Goal: No children below age of 15 are employed in sector. Any hazardous activities – including night work or hazardous vessel work – are restricted to those 18 years and older.**

Much of the child labor risk in the sector comes from lack of age screening mechanisms. While children may participate in some light, appropriate work that does not interfere with schooling, they should not participate in any hazardous tasks such as night work, work underwater, and most work on-board vessels.

**Minimum KDE for child labor:**

- Workers' date of birth

Key Questions for child labor screening:

- What is the age of the youngest employee in a work place?
- What mechanisms are used for age screening/verification?
- What hazardous tasks are present at the worksite? Do any workers under 18 participate in these tasks?

Red Flags

- Children under 15 are employed or age of workers is unknown
- No age screening/verification mechanisms in place
- Workers under 18 participate in hazardous tasks

### 4.3.1 | Summary of All Improved Labor Goals and Minimum KDEs

The table below summarizes the labor practice goals for each issue/finding area with reference to key standards (from national law and international frameworks). Instances are also noted where the CDTS may have an additional application pertinent to a particular issue.

**Table 9. Improved Labor Goals and Minimum KDEs**

Issue Area	Goals	Key Standard Reference Standard	Suggested Minimum KDE	Additional Use of CDTS (if applicable)
Worker Location	All vessel workers receive accurate information about the length and location of voyage. Workers return to port safely and family members can receive information on their whereabouts.	<ul style="list-style-type: none"> <li>- ILO Work in Fishing Convention (188)</li> <li>- International Maritime Organization Convention for the Safety of Life at Sea (SOLAS)</li> </ul>	<ul style="list-style-type: none"> <li>- Date of Departure</li> <li>- Name of captain/master</li> <li>- Names and nationalities of fishers/crew</li> <li>- DOB of fishers/crew</li> <li>- Fishing company name</li> <li>- Fishing vessel owner name and contacts</li> <li>- Name of fishing vessel</li> <li>- Unique vessel ID</li> <li>- Flag state</li> <li>- Port name</li> <li>- Landing date</li> <li>- Transshipment logs</li> <li>- Trip Number</li> </ul>	Use of vessel monitoring (whether AIS or VMS) and point-of-catch visibility to track the location of the crew through a voyage. The tracking of vessels as they enter port can also be used to coordinate post-arrival debriefing of crews and verification of any grievances reported by crews during the voyage.
Worker Documentation	Workers maintain appropriate and legally required documentation and have free access to their identity documents at all times.	<ul style="list-style-type: none"> <li>- ILO Seafarers' Identity Documents Convention (185)</li> </ul>	<ul style="list-style-type: none"> <li>- Each worker possesses accurate identity documentation (Yes/No)</li> <li>- Workers have free access to their documents (Yes/No)</li> </ul>	
Earnings and Wages	Workers have visibility into how their earnings are calculated and receive a pays lip that shows all earnings and deductions. Workers receive the legally mandated minimum wage. Workers are paid in regular intervals.	<ul style="list-style-type: none"> <li>- ILO Work in Fishing Convention (188)</li> <li>- District or provincial minimum wage</li> </ul>	<ul style="list-style-type: none"> <li>- Average net income per trip or per pay period</li> <li>- Wage payment frequency</li> <li>- Worker receive explanation of pay/earnings (Yes/No)</li> </ul>	
Worker Hours	Workers work no more than the total hours allowed by law or by company policy,	<ul style="list-style-type: none"> <li>- ILO Work in Fishing Convention (188)</li> </ul>	<ul style="list-style-type: none"> <li>- The # of hours worked by worker/crewmember per work shift</li> </ul>	

Issue Area	Goals	Key Standard Reference Standard	Suggested Minimum KDE	Additional Use of CDTS (if applicable)
	whichever is stricter. Vessel based workers are provided sufficient rest to avoid exhaustion (no ten hours in any 24-hour period, barring emergency).	<ul style="list-style-type: none"> <li>- Manpower Act</li> <li>- Fisheries Law No. 31/2004</li> </ul>	<ul style="list-style-type: none"> <li>- Mandatory overtime required of worker/crew member (Yes/No)</li> </ul>	
Freedom of Association and Worker Grievance	Workers have access to confidential communication channels that they can use to express grievances. Information received from grievance mechanisms is collected in a manner that allows for remediation. Any grievance mechanisms provided to worker follow UN guidance and are legitimate, accessible, predictable, equitable, transparent, rights compatible and a source of continuous learning. Workers are free to exercise their rights to organize and bargain collectively.	<ul style="list-style-type: none"> <li>- ILO Work in Fishing Convention (188)</li> <li>- Freedom of Association and Protection of the Right to Organise Convention, 87) and Right to Organise and Collective Bargaining Convention (98).</li> <li>- UN Guiding Principles on Human Rights</li> <li>- The Constitution of Indonesia</li> <li>- Labor Code</li> <li>- Act Concerning Trade Unions</li> </ul>	<ul style="list-style-type: none"> <li>- Confidential grievance mechanism available</li> </ul>	CDTs may be able to provide communication services (e.g., email, phone) to crewmembers. Access to communication mechanisms, particularly those which can be used in private, away from the supervision of the captain or other supervisor, can provide a channel for grievances. Ideally, any information received, even directly from a worker, should be verified or triangulated with information from other sources, to decrease the possibility of coercion used against reporting workers.
Recruitment, Hiring and Contracting	All workers have an employment agreement with their employer and are provided a copy. Employment agreements contain, at minimum, accurate information about wages and hours. For vessel workers, employment agreements contain information about the length and location of voyage. Workers do not pay any illegal or unexplained fees in their hiring and recruitment process. Workers are not engaged through an agency or otherwise as a means to deprive them of benefits.	<ul style="list-style-type: none"> <li>- ILO Work in Fishing Convention (188)</li> </ul>	<ul style="list-style-type: none"> <li>- Recruiter/labor broker/manpower agency used (Yes/No)</li> <li>- Worker length of employment (in years)</li> <li>- Worker has employment agreement or contract</li> </ul>	
Housing/Living Conditions	Workers have access to adequate toilets, sleeping quarters and potable water.	<ul style="list-style-type: none"> <li>- ILO Work in Fishing Convention (188)</li> <li>- Fisheries Law No. 31/2004</li> </ul>	<ul style="list-style-type: none"> <li>- Access to toilets (Yes/No)</li> <li>- Access to potable water (Yes/No)</li> <li>- For vessel workers: One bed/mattress per person (Yes/No)</li> </ul>	
Health and Safety	Workers receive adequate protective equipment, safety training and medical care in the event of an illness or accident.	<ul style="list-style-type: none"> <li>- ILO Work in Fishing Convention (188)</li> </ul>	<ul style="list-style-type: none"> <li>- Safety training provided (Yes/No)</li> <li>- Protective equipment provided (Yes/No)</li> </ul>	

Issue Area	Goals	Key Standard Reference Standard	Suggested Minimum KDE	Additional Use of CDTS (if applicable)
		<ul style="list-style-type: none"> <li>- International Maritime Organization Convention for the Safety of Life at Sea (SOLAS)</li> <li>- International Maritime Organization Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel</li> <li>- Manpower Act</li> <li>- Fisheries Law No. 31/2004</li> <li>- Regulation of the Minister of Marine Affairs and Fisheries PER.05/MEN/2008</li> </ul>		
Freedom of Movement	Workers have unrestricted freedom of movement while in the workplace, including access to the toilet. Vessel based workers are allowed regular access to port and vessel operators do not deceive workers about the length of voyage.	<ul style="list-style-type: none"> <li>- ILO Work in Fishing Convention (188)</li> </ul>	<ul style="list-style-type: none"> <li>- Length of voyage</li> </ul>	Use of vessel monitoring (whether AIS or VMS) to track length of voyage.
Child Labor	No children below age of 15 are employed in sector. Any hazardous activities – including night work or hazardous vessel work – are restricted to those 18 years and older.	<ul style="list-style-type: none"> <li>- ILO Work in Fishing Convention (188)</li> <li>- ILO Minimum Age Convention (138)</li> <li>- ILO Worst Forms of Child Labor Convention (182)</li> <li>- Child Protection Law</li> <li>- The Manpower Act</li> <li>- Decision No. Kep-235/Men/2003</li> <li>- Fisheries Law No. 31/2004</li> </ul>	<ul style="list-style-type: none"> <li>- DOB of workers</li> </ul>	

## 4.4 Current Data Availability and Recommendations for Improvement

Overall, regulatory gaps have resulted in a lack of visibility into working and living conditions at sea and much of the data that would be needed to provide or triangulate recommended KDEs may be inconsistently collected in the Indonesian context.

The primary source of vessel registration is publicly available via the System Informasi Perizinan Penangkapan Ikan (SIPEPI) at <http://www.perizinan.kkp.go.id/>.

NAMA PEMILIK	PENANGGUNG JAWAB / OWNER	JENIS PERUSAHAAN	NOMOR SIUP	REVISI SIUP	TANGGAL TERBIT SIUP	ALOKASI PELABUHAN PANGKALA
A BENG	A BENG	PERORANGAN	02.13.02.0009.6654	5	2016-09-20	PP.MERAUKE,PP.NIZAM ZACHMAN (
A BENG	A BENG	PERORANGAN	02.16.01.0230.7793	2	2016-12-01	PP.PROBOLINGGO (MAYANGAN),PU
A BIE	A BIE	PERORANGAN	02.11.02.0367.6159	2	2015-09-09	PP.PEMANGKAT,PP.TB. KARIMUN,PP
A BUNG	A BUNG	PERORANGAN	02.15.01.0140.7516	0	2015-06-03	PP.MUARA ANGKE (JAKARTA),PP.MK
A BUNG	A BUNG	PERORANGAN	02.16.01.0146.8248	1	2017-03-16	PP.NIZAM ZACHMAN (JAKARTA),PP:
A ENG	A ENG	PERORANGAN	02.11.02.0362.6148	2	2017-03-23	PP.BELAWAN
A ENG	A ENG	PERORANGAN	02.15.01.0230.7575	0	2015-09-08	PP.KUPANG,PU.AVONA,PU.KAIMANV
A GUAT	A GUAT	PERORANGAN	02.11.02.3303.6180	3	2017-02-01	PP.NIZAM ZACHMAN (JAKARTA),PU.
A HAI	A HAI	PERORANGAN	02.02.02.0319.0852	3	2012-02-03	PU.MERAUKE,PP.MAYANGAN,PU.W
A JAM	A JAM	PERORANGAN	02.02.01.0319.0292	4	2016-04-01	PP.BENJINA,PU.DOBO,PP.PROBOLI

The vessel registration database includes license holders, licensed vessels, vessel owner, name of vessel, vessel tonnage, gear type, vessel country, and base port.<sup>47</sup>

The government collects data and publishes statistics on catch and other economic indicators related to fisheries, including “production by type of fishing gear and fish species, production values by type of fishing gear and fish species, and production by type of fishing gear of fish seed and fish species,” but this data would likely not have direct application for social KDEs.<sup>48</sup> However, although vessel registration seems like a relatively straightforward issue, because of the division of vessel registration responsibilities among governmental offices, the data is reportedly segmented. It has been noted that “regional governments do not submit the data of issued vessels to the Central Government” even though it is legally mandated.<sup>49</sup>

In addition, there are several sources of information that may be useful in providing/triangulating KDEs that are not currently publicly disclosed consistently, or are not disclosed at all. These include vessel logbooks, data collected by fisheries observers, and internal company data. In 2013, less than 6 percent of vessels reported logbook data. Further, port officials currently reportedly “lack capacity” to accurately monitor

<sup>47</sup> Santosa, Mas Achmad. Transparency Policies and Initiatives in Fishery Sector of Indonesia. 2015.

<sup>48</sup> Ministry of Marine Affairs and Fisheries. Statistics of Fisheries and Aquaculture in Indonesia. 2014. [http://www.fao.org/fileadmin/templates/ess/documents/apcas25/APCAS\\_14\\_10.2\\_INDONESIA\\_\\_fisheries\\_and\\_aquaculture\\_statistic\\_in\\_Indonesia.pdf](http://www.fao.org/fileadmin/templates/ess/documents/apcas25/APCAS_14_10.2_INDONESIA__fisheries_and_aquaculture_statistic_in_Indonesia.pdf)

<sup>49</sup> Santosa, Mas Achmad. Transparency Policies and Initiatives in Fishery Sector of Indonesia. 2015.

logbooks and catch.<sup>50</sup> Therefore, the recommendation is that trainings could potentially aim to increase capacity of vessel captains/fishers to complete logbooks accurately and of port officials to verify information.

While the Indonesian Port Authority is required to record and forward catch numbers to the Ministry of Maritime Affairs and Fisheries for tracking, a majority of catch is delivered directly to private ports or to factories. It is unclear if the owners of private ports and factories have a legal obligation to report the catch to the government.

Vessel Monitoring Systems on vessels over 30 GT should provide geospatial information as well as vessel identification information, which is reportedly collected in a database, along with logbook and license information.

There is almost no visibility into the conditions of work on board vessels and no single agency is mandated to focus on vessel workers' labor rights. The Labor Office under the Ministry of Manpower has no mandate to regulate the working conditions on boats or ensure the application of relevant labor laws and protections. Other agencies such as the Port Authority, the Directorate General of Immigration, and the Department of Maritime and Fisheries have overlapping but also limited authority over boats; they cover issues such as vessel licensing, crew manifests for every port out-port in, catching permits, and foreign workers' legal statuses. The Maritime and Fisheries Monitoring Taskforce in Bitung attempts to identify trafficked labor but does not otherwise have a mandate to protect labor rights or social welfare. The lack of oversight of labor conditions on vessels extends to company supply chains. Interviewed representatives from factories, including those that have a CDTs in place, admit that they have no visibility into the working conditions on boats that supply them fish. Identifying a lead agency for worker welfare in the sector, particularly on vessels, increasing the capacity of actors to identify labor vulnerability and coordinating oversight, including data collection would provide valuable insight into vessel-based labor conditions.

In 2014, Ministry of Maritime Affairs developed a specialized form of the Kartu Tanda Penduk – the Indonesian Identity Card – for fishers. The intention of the specialized cards was to assist fishers in receiving “fishing-related aid” from the government.<sup>51</sup> The rate of distribution of these cards among fisher populations is unknown. The standard Kartu Tanda Penduk includes identification data including full name and date of birth. The card is provided to every Indonesian over age 17. The standard Indonesian identity cards could be used to determine minimum age to ensure that no workers below 18 are hired into hazardous work, per Indonesian law.

Table 10 presents a summary of potential sources for recommended minimum KDEs. It is important to note that this source list includes *potential* future sources of the KDE were recommendations improved data gathering to be fully implemented – they are not currently fully available.

**Table 10: Sources for Recommended KDEs**

Actor	Recommendation for Improved Data Gathering	Potential Training Topics
Fleet, vessel and facility owners	Maintain records on operators and fishers involved in operations, including payments to workers, loans/deductions and other key human resources information.	Improved processes for human resources/record maintenance, what information to collect and how feed into CDTs as required. Guidance on legal, buyer, and importing country labor requirements and interface with CDTs.  Guidance on developing policies and procedures for age verification of workers to avoid child labor.

<sup>50</sup> Ibid.

<sup>51</sup> Maryona, Agus. “Fishermen Get Special ID Cards to Help Aid Distribution.” November 4, 2014. The Jakarta Post.

Actor	Recommendation for Improved Data Gathering	Potential Training Topics
Grassroots civil society organizations		With funding and capacity building could develop and provide a free “safety of life at sea” (SOLAS) training and certification for all handliners, which included a course on rights awareness.
Ministry of Manpower	Expand inspection/auditing operation to include vessels, especially handline operations. A multi-agency team (such as the program recently developed in Thailand) assigned to all ports, to conduct checks during “port-out and port-in.” A simple verification of the number and names of workers returning from a fishing venture can provide critical information about the workers’ conditions at sea. Number of labor inspectors increases. Improve capacity of labor inspectors to gather information on working conditions on vessels; An interview guide that screens for forced labor, child labor and other critical issues can be developed for use by inspectors.	Improved inspection processes and systems, particularly in regard to vessel operations. Guidance on interviewing workers with a particular focus on vulnerable workers to improve inspector capacity.
Ministry of Manpower, Port Authority, the Directorate General of Immigration, and the Department of Maritime and Fisheries, Maritime and Fisheries Monitoring Taskforce.	Stronger coordination on efforts to protect workers’ rights – including rights of vessel workers – with “lead” appointed by the government. Coordination of data gathering and reporting efforts.	

## 5. Conclusion: Reflections and Lessons Learned

Tuna capture and tuna processing activities in the Indonesian tuna industry remain labor intensive, involving long hours of manual labor, by thousands of workers. For all its reliance on labor, much of the worker population in this industry remain hidden, vulnerable, or in precarious employment situations by virtue of their employment status, gaps and flaws in regulatory systems, and exploitive and unethical employment practices. This study was premised on the notion that *sustainability* must include ethical sourcing and production, with emphasis on the fair, just and legal treatment of workers. This research sought to describe the recruitment and employment practices, and the working and living conditions, of various types of workers in and around the fishing industries in the selected research sites, and to understand the factors that create and/or compound their vulnerability. One of the main contextual issues is the casual nature of employment in the sector: formal working agreements are almost entirely absent for handline fishers, and many land-based workers are hired by third-party sub-contractors, and therefore lack direct employment relationships with the management of their facility.

After describing issues of vulnerability, this report provided details on how various data sources may integrate with a future CDTs and which KDEs will be critical to illuminating issues identified. In general, KDEs relevant to social issues that can be gleaned from data sources such as logbooks, catch certificates and VMS data appear to be at least partially available, although there is certainly need for increased coordination and

transparency. The biggest current information “blind spot” relates to worker experience while on board vessels.

Currently there is no government labor inspection of vessels, and there are an insufficient number of inspectors overall. Even if companies were to provide open access to their records, a full understanding of conditions faced by workers needs to be informed by information gathered from the workers themselves. This is the basis of one of the central recommendations of this report: Government inspection/auditing should be expanded to include vessels, especially handline operations. A multi-agency team (such as the one used in the program recently developed in Thailand) should be assigned to all ports to conduct checks during “port-out and port-in.” A simple verification of the number and names of workers returning from a fishing venture could provide critical information about the workers’ conditions at sea. An interview guide that screens for forced labor, child labor and other critical issues can be developed for use by inspectors and inspectors could be trained in identifying issues. However, merely identifying the existence of these issues will not inherently improve workers’ lives.

This study posits that the systemic invisibility, isolation, exclusion, and non-documentation of workers render them vulnerable to a wide range of abuses and risks. These systemic factors not only exacerbate workers’ vulnerability, but also bar critical stakeholders from gaining visibility into the systems - recruitment, hiring, and onsite management – where risks occur. It deters stakeholders from developing the appropriate controls and measures, in order to prevent such risks or address issues. There is, therefore, a need to address the root causes or the sources of workers’ vulnerability. This is a recommendation that can be picked up and integrated into future actions by all stakeholders: civil society, academia, companies, unions, research organizations, and the government. In terms of concrete improvements to workers’ lives, the possibility that the CDTs will deliver increased connectivity/ability to communicate with family members or other support on shore seems crucial in addressing the root cause of isolation.

Data alone, even the most sophisticated and robust data, cannot identify labor abuse. Verité’s experience with data on labor/social issues in other contexts shows that, in many cases, collecting the data is more straightforward than interpreting that data and designing remediation efforts that improve worker welfare. No individual data point can provide full visibility into the range of social and labor concerns that may arise. Further, after data has been collected and analyzed, remedying abuses is a separate process unto itself. The collection and analysis of data can absolutely assist in that process, but data in and of itself will also not remedy labor abuses. Meaningful remediation requires a multi-stakeholder effort involving governments, companies and NGOs who have access to the data, are trained and coordinated, and have necessary systems and processes in place. Ultimately, worker buy-in and participation in the collection of data for the CDTs will be predicated on the degree to which they experience the CDTs providing concrete benefits and improvements.

## 5.1 CDTs Recommendations

Under the USAID Oceans Partnership, Tetra Tech ARD is working to design a CDTs that will provide a platform to collect and analyze environmental and economic data to improve fisheries management and enhance the health and resilience of Southeast Asia’s marine eco-systems. The CDTs is meant to make seafood products fully traceable, allowing consumers to select legally and sustainably sourced products. Verité conducted assessments of labor conditions in pilot fisheries – the tuna sectors of General Santos City, the Philippines, and Bitung, Indonesia – and provided guidance on approaches to integrating relevant labor data into the CDTs. In order to make these recommendations, researchers sought to understand the relevant labor conditions, which Key Data Elements (KDEs) might be relevant for shedding light on these issues, whether these KDEs are currently being captured by government, business or other stakeholders, and the feasibility of gathering this data. Given the inconsistencies and overall lack of transparency in current data gathering initiatives, making definitive recommendations on sources of relevant KDEs proved challenging. Instead, Verité’s recommendations focused on mapping potential sources of this socially-relevant data as well

as on identifying opportunities that might improve practices in the future. Further, at the time of Verité’s research and reporting, the specific technological components of the CDTS were being actively evaluated by the USAID Oceans team and complete technical capacity details had not yet been determined. This also presented challenges in making recommendations as to how the technical components of the CDTS could be leveraged to improve labor conditions. This prompted Verité to provide guidance on possible usage scenarios, such as the use of CDTS to improve access to communication channels for vessel workers.

## 5.2 Methodology: Strengths and Limitations

Research for the field studies underpinning this report was carried out with a qualitative rapid appraisal methodology, designed to provide insight into the conditions of work in the tuna sectors at the learning sites, particularly for the most vulnerable and marginalized workers. Interviews with workers and focus group discussions provided “deep” contextual information on the specificities of the way vulnerability played out in individual lives. This approach has been supported for research on sensitive topics by guidance provided by expert organizations such as the International Labor Organization.<sup>52</sup> The flexible approach was critical to researchers’ availability to gather data on highly sensitive topics among vulnerable populations. The overall precariousness of employment in the tuna sector in both research locations – driven at least in part by declining tuna stocks in the region – meant that potential interview subjects experienced heightened vulnerability, which researchers took into account when conducting interviews. Because of this sensitivity and climate of trepidation, interviewers did not record worker interviews and took notes in a manner meant to be as inconspicuous as possible. Information gathered via worker interview was triangulated with desk research and expert informant interviews to illuminate broader economic and societal trends influencing key issues and vulnerabilities identified.

The limitation of this research design, as noted in the methodology section of the report, is that the qualitative approach – in conjunction with the non-random purposive sampling – did not allow statistical meaningful quantitative estimates of the prevalence of issues identified. Another limitation preventing prevalence estimates is that due to the time intensiveness of conducting these open-ended interviews – given the need to meet subjects in secure, confidential locations – overall interview sample numbers tend to be relatively low. Researchers are confident that these limitations were counterbalanced by the strengths of the approach, particularly the richness of the information generated, particularly given the sensitive context. Researchers could follow unexpected leads in conversations and ground the analysis in the authority of interview subjects lived experiences and perceptions, providing deeper insight into root cause factors.

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<sup>52</sup> International Labour Organization. Qualitative research on employment relationship and working conditions. [http://www.ilo.org/wcmsp5/groups/public/@ed\\_protect/@protrav/@travail/documents/publication/wcms\\_248899.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_protect/@protrav/@travail/documents/publication/wcms_248899.pdf)

# Annex I. ILO Indicators of Forced Labor

Source: International Labour Organization. Hard to See, Harder to Count: Survey Guidelines to Estimate Forced Labour of Adults and Children. 2012.

Indicators of unfree recruitments of adults	
Indicators of involuntariness	Indicators of penalty (or menace of penalty)
<p>Strong indicators</p> <ul style="list-style-type: none"> <li>- Tradition, birth (birth/descent into “slave” or bonded status)</li> <li>- Coercive recruitment (abduction, confinement during the recruitment process)</li> <li>- Sale of the worker</li> <li>- Recruitment linked to debt (advance or loan)</li> <li>- Deception about the nature of the work</li> </ul>	<p>Strong Indicators</p> <ul style="list-style-type: none"> <li>- Denunciation of authorities</li> <li>- Confiscation of identity papers or travel documents</li> <li>- Sexual violence</li> <li>- Physical violence</li> <li>- Other forms of punishment</li> <li>- Removal of rights or privileges (including promotion)</li> <li>- Religious retribution</li> <li>- Withholding of assets (cash or other)</li> <li>- Threats against family members</li> </ul>
<p>Medium indicators</p> <ul style="list-style-type: none"> <li>- Deceptive recruitment (regarding working conditions, content or legality of employment contract, housing and living conditions, legal documentation or acquisition of legal migrant status, job location or employer, wages/earnings)</li> <li>- Deceptive recruitment through the promise of marriage</li> </ul>	<p>Medium indicators</p> <ul style="list-style-type: none"> <li>- Exclusion from future employment</li> <li>- Exclusion from community and social life</li> <li>- Financial penalties</li> <li>- Informing family, community or public about worker’s current situation (blackmail)</li> </ul>
Indicators of impossibility of leaving employer for adults	
Indicators of involuntariness	Indicators of penalty (or menace of penalty)
<p>Strong indicators</p> <ul style="list-style-type: none"> <li>- Reduced freedom to terminate labor contract after training or other benefit paid by employer</li> <li>- No freedom to resign in accordance with legal requirements</li> <li>- Forced to stay longer than agree while waiting for wages due</li> <li>- Forces to work for indeterminate period in order to repay outstanding debt or wage advance</li> </ul>	<p>Strong indicators</p> <ul style="list-style-type: none"> <li>- Denunciation to authorities</li> <li>- Confiscation of identity papers or travel documents</li> <li>- Imposition of worse working conditions</li> <li>- Locked in work or living quarters</li> <li>- Sexual violence</li> <li>- Physical violence</li> <li>- Other forms of punishment deprivation of food, water, sleep, etc.)</li> </ul>

	<ul style="list-style-type: none"> <li>- Removal of rights or benefits (including promotion)</li> <li>- Religious retribution</li> <li>- Under constant surveillance</li> <li>- Violence imposed on other workers in front of all workers</li> <li>- Withholding of assets (cash or other)</li> <li>- Withholding of wages</li> <li>- Threats against family members (violence or loss of land or jobs)</li> </ul>
	<p>Medium indicators</p> <ul style="list-style-type: none"> <li>- Dismissal</li> <li>- Exclusion from future employment</li> <li>- Exclusion from community and social life</li> <li>- Extra work for breaching labor discipline</li> <li>- Financial penalties</li> <li>- Informing family, community or public about worker's current situation (blackmail)</li> </ul>



## Annex III. Worker Interview Guidance Tool

**Instructions to interviewers:** These questions are intended to serve as a guide, but you should also ask relevant follow-up questions as appropriate. You can explore worker experiences and unexpected issues that surface. Always ensure that interviews are conducted in a location that offers sufficient privacy away from the worksite and where the interviewee feels comfortable.

**Informed consent:** Before the start of the interview, explain who you are and the purpose of the research. Explain what will happen during the interview, including the length of the interview and the topics to be discussed. Clarify that their participation is purely voluntary and that they can stop the interview at any point without penalty and without need for explanation. Explain what will happen to the data from each respondent, and that research will respect confidentiality and protect their identity, i.e., the data will be presented in a way that will not be traceable to individual respondents. Finally, ask for explicit consent to be interviewed. If at any point interviewees become uncomfortable, remind them that they are completely free to end the discussion.

### Demographics

- Age
- Sex
- Married (Y/N)
- Children/Ages
- Origin (“Where are you originally from?”)
- Educational Background
- Employed at (select one): Vessel      Factory      Other (Describe):
- If vessel, what type?
- Describe assigned tasks/work processes
- Department/section
- Employment start date
- Previous jobs or tasks
- Other sources of family income

### Recruitment

1. Did you get your job through a labor broker/ recruiter?  
If yes, what is the broker/ recruiter’s name?
2. How did you get this job?
3. How were the terms and conditions of employment explained to you?
4. Please describe your route from home to worksite.
5. Was your passport or identity document taken from you during your journey to the worksite?
6. Who received you at your destination?

### Hiring and Onboarding

1. What kind of document did you have to show during recruitment? For SEA-BASED workers, please enumerate the documents.
2. How was your age checked? If the worker was below 16 at the time of hire, please ask where he was assigned, work hours, wage, etc.
3. How were the terms and conditions of employment explained to you?
4. Were you asked to surrender your passport or identity document? What was the process?

5. How do you understand the resignation process? Please describe what you know of it.
6. If your passport or identity document is not with you, what is the process of getting it back?
7. What are the penalties if you quit or resign before your contract is finished? (Indicate amount for any monetary penalties)
8. What are the penalties if you are fired or terminated before your contract is finished? (Indicate amount for any monetary penalties)

### **Training**

1. What kinds of trainings have you attended? Can you remember the dates and the topics?

### **Employment Contract**

1. Were you asked to sign a different contract after hiring? Please describe that process.
2. If you signed two or more contracts, how were the terms different?
3. Were you given your own copy of the contract?

### **Onsite Working Conditions**

1. How were you oriented on your job?
2. What kind of work is assigned to you?
3. What is your employment status? If seasonal/ contractual, ask how many times s/he has been renewed? Has the worker been asked to work different jobs/ tasks?
4. Can you describe your typical workday and work week?
5. How long are you at sea every trip?
6. Are you able to return home during emergencies? How is that facilitated?
7. Do you have proper documentation/immigration papers?
8. Have you ever been questioned/ detained by immigration authorities? Please describe.
9. Do you have access to communication while at sea? How?
10. Are you able to move freely while on land? Are you required to stay on the boat/ near the dock?
11. As far as you know, are you paid for all hours that you work? If no, why not?
12. What happens when you refuse overtime?
13. How much is your target or quota per day? How are you paid?
14. What are the deductions from your salary? Please identify amount per item.
15. How is your salary computed?
16. What are your benefits?
17. When you have trouble at work, who can you tell and how is that processed/ addressed?
18. In what way do you think the company grievance mechanism allows you to remain anonymous?
19. What has the company said about protection from reprisal or the whistleblower policy?
20. Is there a union or cooperative in the factory or among fishers? Can you describe how you joined the union?
21. Have you been hurt or involved in an accident while working? Can you describe what happened?
22. Are you given personal protective equipment (PPE)? Please list:
23. How is the PPE explained to you?
24. What do you understand about your accident insurance?
25. What are the sanctions if you make a mistake/ absent/ late/ not following housing rules?
26. Do you feel discriminated against? Can you describe how?

27. Under what circumstances can you leave the factory during work hours?
28. What are the rules regarding toilet access?
29. Is there restriction on when you can drink?
30. Are you restricted from performing religious obligations inside the factory? Please describe.

**For Women Workers:**

1. Are women required to take pregnancy tests when applying for a job?
2. What is the policy on sexual harassment/ abuse/ violence?
3. What are your rights as a woman worker?
4. What are you supposed to do if you experienced sexual harassment/ abuse/ violence?
5. Are there childcare facilities here?

If yes, ask the worker to elaborate on the program.

6. Have you ever gotten pregnant while working here?

If yes, what were the benefits given to you?

7. If the worker is pregnant, is she moved to another kind of job?

**Housing/Accommodations**

1. Are you given living quarters/ housing?
2. Can you describe your living conditions?
3. Have you had problems with your living conditions?

**Concluding Questions**

1. In between contracts (if not continuous or merely seasonal work), how do you earn a living?
2. Can you borrow money from the manager or supervisor? How do you pay back the loan?

**Interviewer's Notes:**

# Annex IV. Example Base Codes of Conduct/Voluntary Company Standards

## Ethical Trade Initiative Base Code of Conduct<sup>53</sup>

1. Employment is freely chosen
  - 1.1 There is no forced, bonded or involuntary prison labour.
  - 1.2 Workers are not required to lodge "deposits" or their identity papers with their employer and are free to leave their employer after reasonable notice.
2. Freedom of association and the right to collective bargaining are respected
  - 2.1 Workers, without distinction, have the right to join or form trade unions of their own choosing and to bargain collectively.
  - 2.2 The employer adopts an open attitude towards the activities of trade unions and their organisational activities.
  - 2.3 Workers' representatives are not discriminated against and have access to carry out their representative functions in the workplace.
  - 2.4 Where the right to freedom of association and collective bargaining is restricted under law, the employer facilitates, and does not hinder, the development of parallel means for independent and free association and bargaining.
3. Working conditions are safe and hygienic
  - 3.1 A safe and hygienic working environment shall be provided, bearing in mind the prevailing knowledge of the industry and of any specific hazards. Adequate steps shall be taken to prevent accidents and injury to health arising out of, associated with, or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.
  - 3.2 Workers shall receive regular and recorded health and safety training, and such training shall be repeated for new or reassigned workers.
  - 3.3 Access to clean toilet facilities and to potable water, and, if appropriate, sanitary facilities for food storage shall be provided.
  - 3.4 Accommodation, where provided, shall be clean, safe, and meet the basic needs of the workers.
  - 3.5 The company observing the code shall assign responsibility for health and safety to a senior management representative.
4. Child labour shall not be used
  - 4.1 There shall be no new recruitment of child labour.
  - 4.2 Companies shall develop or participate in and contribute to policies and programmes which provide for the transition of any child found to be performing child labour to enable her or him

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<sup>53</sup> Ethical Trade Initiative. ETI Base Code. April 2014. [http://s3-eu-west-1.amazonaws.com/www.ethicaltrade.org/files/shared\\_resources/eti\\_base\\_code\\_english.pdf?ppXz9ivoyynrIuTT05e.Z5n.ZHaQvQfN](http://s3-eu-west-1.amazonaws.com/www.ethicaltrade.org/files/shared_resources/eti_base_code_english.pdf?ppXz9ivoyynrIuTT05e.Z5n.ZHaQvQfN)

to attend and remain in quality education until no longer a child; “child” and “child labour” being defined in the appendices.

4.3 Children and young persons under 18 shall not be employed at night or in hazardous conditions.

4.4 These policies and procedures shall conform to the provisions of the relevant ILO standards.

5. Living wages are paid

5.1 Wages and benefits paid for a standard working week meet, at a minimum, national legal standards or industry benchmark standards, whichever is higher. In any event wages should always be enough to meet basic needs and to provide some discretionary income.

5.2 All workers shall be provided with written and understandable information about their employment conditions in respect to wages before they enter employment and about the particulars of their wages for the pay period concerned each time that they are paid.

5.3 Deductions from wages as a disciplinary measure shall not be permitted nor shall any deductions from wages not provided for by national law be permitted without the expressed permission of the worker concerned. All disciplinary measures should be recorded.

6. Working hours are not excessive

6.1 Working hours must comply with national laws, collective agreements, and the provisions of 6.2 to 6.6 below, whichever affords the greater protection for workers. Sub-clauses 6.2 to 6.6 are based on international labour standards.

6.2 Working hours, excluding overtime, shall be defined by contract, and shall not exceed 48 hours per week.

6.3 All overtime shall be voluntary. Overtime shall be used responsibly, taking into account all the following: the extent, frequency and hours worked by individual workers and the workforce as a whole. It shall not be used to replace regular employment. Overtime shall always be compensated at a premium rate, which is recommended to be not less than 125% of the regular rate of pay.

6.4 The total hours worked in any seven-day period shall not exceed 60 hours, except where covered by clause 6.5 below.

6.5 Working hours may exceed 60 hours in any seven-day period only in exceptional circumstances where all of the following are met:

- this is allowed by national law;
- this is allowed by a collective agreement freely negotiated with a workers' organisation representing a significant portion of the workforce;
- appropriate safeguards are taken to protect the workers' health and safety; and
- the employer can demonstrate that exceptional circumstances apply such as unexpected production peaks, accidents or emergencies.

6.6 Workers shall be provided with at least one day off in every seven-day period or, where allowed by national law, two days off in every 14-day period. \* International standards recommend the progressive reduction of normal hours of work, when appropriate, to 40 hours per week, without any reduction in workers' wages as hours are reduced.

7. No discrimination is practised

7.1 There is no discrimination in hiring, compensation, access to training, promotion, termination or retirement based on race, caste, national origin, religion, age, disability, gender, marital status, sexual orientation, union membership or political affiliation.

8. Regular employment is provided
  - 8.1 To every extent possible work performed must be on the basis of recognised employment relationship established through national law and practice.
  - 8.2 Obligations to employees under labour or social security laws and regulations arising from the regular employment relationship shall not be avoided through the use of labour-only contracting, sub- contracting, or home-working arrangements, or through apprenticeship schemes where there is no real intent to impart skills or provide regular employment, nor shall any such obligations be avoided through the excessive use of fixed-term contracts of employment.
9. No harsh or inhumane treatment is allowed
  - 9.1 Physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation shall be prohibited.

## **Fair Labor Association Workplace Code of Conduct<sup>54</sup>**

### **Employment Relationship**

Employers shall adopt and adhere to rules and conditions of employment that respect workers and, at a minimum, safeguard their rights under national and international labor and social security laws and regulations.

### **Nondiscrimination**

No person shall be subject to any discrimination in employment, including hiring, compensation, advancement, discipline, termination or retirement, on the basis of gender, race, religion, age, disability, sexual orientation, nationality, political opinion, social group or ethnic origin.

### **Harassment or Abuse**

Every employee shall be treated with respect and dignity. No employee shall be subject to any physical, sexual, psychological or verbal harassment or abuse.

### **Forced Labor**

There shall be no use of forced labor, including prison labor, indentured labor, bonded labor or other forms of forced labor.

### **Child Labor**

No person shall be employed under the age of 15 or under the age for completion of compulsory education, whichever is higher.

### **Freedom of Association and Collective Bargaining**

Employers shall recognize and respect the right of employees to freedom of association and collective bargaining.

### **Health, Safety and Environment**

Employers shall provide a safe and healthy workplace setting to prevent accidents and injury to health arising out of, linked with, or occurring in the course of work or as a result of the operation of employers' facilities. Employers shall adopt responsible measures to mitigate negative impacts that the workplace has on the environment.

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<sup>54</sup> Fair Labor Association. Workplace Code of Conduct. <http://www.fairlabor.org/our-work/labor-standards>

### **Hours of Work**

Employers shall not require workers to work more than the regular and overtime hours allowed by the law of the country where the workers are employed. The regular work week shall not exceed 48 hours. Employers shall allow workers at least 24 consecutive hours of rest in every seven-day period. All overtime work shall be consensual. Employers shall not request overtime on a regular basis and shall compensate all overtime work at a premium rate. Other than in exceptional circumstances, the sum of regular and overtime hours in a week shall not exceed 60 hours.

### **Compensation**

Every worker has a right to compensation for a regular work week that is sufficient to meet the worker's basic needs and provide some discretionary income. Employers shall pay at least the minimum wage or the appropriate prevailing wage, whichever is higher, comply with all legal requirements on wages, and provide any fringe benefits required by law or contract. Where compensation does not meet workers' basic needs and provide some discretionary income, each employer shall work with the FLA to take appropriate actions that seek to progressively realize a level of compensation that does.

## **Social Accountability International SA8000 Standards<sup>55</sup>**

### **I. CHILD LABOUR Criteria**

- I.1 The organisation shall not engage in or support the use of child labour as defined above.
- I.2 The organisation shall establish, document, maintain and effectively communicate to personnel and other interested parties, written policies and procedures for remediation of child labourers, and shall provide adequate financial and other support to enable such children to attend and remain in school until no longer a child as defined above.
- I.3 The organisation may employ young workers, but where such young workers are subject to compulsory education laws, they shall work only outside of school hours. Under no circumstances shall any young worker's school, work and transportation time exceed a combined total of 10 hours per day, and in no case shall young workers work more than 8 hours a day. Young workers may not work during night hours.
- I.4 The organisation shall not expose children or young workers to any situations – in or outside of the workplace – that are hazardous or unsafe to their physical and mental health and development. 2.

### **2. FORCED OR COMPULSORY LABOUR Criteria:**

- 2.1 The organisation shall not engage in or support the use of forced or compulsory labour, including prison labour, as defined in Convention 29, shall not retain original identification papers and shall not require personnel to pay 'deposits' to the organisation upon commencing employment.
- 2.2 Neither the organisation nor any entity supplying labour to the organisation shall withhold any part of any personnel's salary, benefits, property or documents in order to force such personnel to continue working for the organisation.
- 2.3 The organisation shall ensure that no employment fees or costs are borne in whole or in part by workers.

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<sup>55</sup> Social Accountability International. Social Accountability 8000 International Standard. June 2014. [http://sa-intl.org/\\_data/n\\_0001/resources/live/SA8000%20Standard%202014.pdf](http://sa-intl.org/_data/n_0001/resources/live/SA8000%20Standard%202014.pdf)

2.4 Personnel shall have the right to leave the workplace premises after completing the standard workday and be free to terminate their employment provided that they give reasonable notice to their organisation.

2.5 Neither the organisation nor any entity supplying labour to the organisation shall engage in or support human trafficking.

### **3. HEALTH AND SAFETY Criteria:**

3.1 The organisation shall provide a safe and healthy workplace environment and shall take effective steps to prevent potential health and safety incidents and occupational injury or illness arising out of, associated with or occurring in the course of work. It shall minimise or eliminate, so far as is reasonably practicable, the causes of all hazards in the workplace environment, based upon the prevailing safety and health knowledge of the industry sector and of any specific hazards.

3.2 The organisation shall assess all the workplace risks to new, expectant and nursing mothers including those arising out of their work activity, to ensure that all reasonable steps are taken to remove or reduce any risks to their health and safety.

3.3 Where hazards remain after effective minimisation or elimination of the causes of all hazards in the workplace environment, the organisation shall provide personnel with appropriate personal protective equipment as needed at its own expense. In the event of a work-related injury the organisation shall provide first aid and assist the worker in obtaining follow-up medical treatment.

3.4 The organisation shall appoint a senior management representative to be responsible for ensuring a safe and healthy workplace environment for all personnel and for implementing this Standard's Health and Safety requirements.

3.5 A Health and Safety Committee, comprised of a well-balanced group of management representatives and workers, shall be established and maintained. Unless otherwise specified by law, at least one worker member(s) on the Committee shall be by recognised trade union(s) representative(s), if they choose to serve. In cases where the union(s) does not appoint a representative or the organisation is not unionised, workers shall appoint a representative(s) as they deem appropriate. Its decisions shall be effectively communicated to all personnel. The Committee shall be trained and retrained periodically in order to be competently committed to continually improving the health and safety conditions in the workplace. It shall conduct formal, periodic occupational health and safety risk assessments to identify and then address current and potential health and safety hazards. Records of these assessments and corrective and preventive actions taken shall be kept.

3.6 The organisation shall provide to personnel, on a regular basis, effective health and safety training, including on-site training and, where needed, job-specific training. Such training shall also be repeated for new and reassigned personnel, where incidents have occurred, and when changes in technology and/or the introduction of new machinery present new risks to the health and safety of personnel.

3.7 The organisation shall establish documented procedures to detect, prevent, minimise, eliminate or otherwise respond to potential risks to the health and safety of personnel. The organisation shall maintain written records of all health and safety incidents that occur in the workplace and in all residences and property provided by the organisation, whether it owns, leases or contracts the residences or property from a service provider.

3.8 The organisation shall provide, for use by all personnel, free access to: clean toilet facilities, potable water, suitable spaces for meal breaks, and, where applicable, sanitary facilities for food storage.

3.9 The organisation shall ensure that any dormitory facilities provided for personnel are clean, safe and meet their basic needs, whether it owns, leases or contracts the dormitories from a service provider.

3.10 All personnel shall have the right to remove themselves from imminent serious danger without seeking permission from the organisation.

#### **4. FREEDOM OF ASSOCIATION & RIGHT TO COLLECTIVE BARGAINING Criteria:**

4.1 All personnel shall have the right to form, join and organise trade union(s) of their choice and to bargain collectively on their behalf with the organisation. The organisation shall respect this right and shall effectively inform personnel that they are free to join a worker organisation of their choosing without any negative consequences or retaliation from the organisation. The organisation shall not interfere in any way with the establishment, functioning or administration of workers' organisation(s) or collective bargaining.

4.2 In situations where the right to freedom of association and collective bargaining are restricted under law, the organisation shall allow workers to freely elect their own representatives.

4.3 The organisation shall ensure that union members, representatives of workers and any personnel engaged in organising workers are not subjected to discrimination, harassment, intimidation or retaliation for being union members, representative(s) of workers or engaged in organising workers, and that such representatives have access to their members in the workplace.

#### **5. DISCRIMINATION Criteria:**

5.1 The organisation shall not engage in or support discrimination in hiring, remuneration, access to training, promotion, termination or retirement based on race, national or territorial or social origin, caste, birth, religion, disability, gender, sexual orientation, family responsibilities, marital status, union membership, political opinions, age or any other condition that could give rise to discrimination.

5.2 The organisation shall not interfere with the exercise of personnel's rights to observe tenets or practices or to meet needs relating to race, national or social origin, religion, disability, gender, sexual orientation, family responsibilities, union membership, political opinions or any other condition that could give rise to discrimination.

5.3 The organisation shall not allow any behaviour that is threatening, abusive, exploitative or sexually coercive, including gestures, language and physical contact, in the workplace and in all residences and property provided by the organisation, whether it owns, leases or contracts the residences or property from a service provider.

5.4 The organisation shall not subject personnel to pregnancy or virginity tests under any circumstances.

#### **6. DISCIPLINARY PRACTICES Criterion:**

6.1 The organisation shall treat all personnel with dignity and respect. The organisation shall not engage in or tolerate the use of corporal punishment, mental or physical coercion or verbal abuse of personnel. No harsh or inhumane treatment is allowed.

#### **7. WORKING HOURS Criteria:**

7.1 The organisation shall comply with applicable laws, collective bargaining agreements (where applicable) and industry standards on working hours, breaks and public holidays. The normal work week, not including overtime, shall be defined by law but shall not exceed 48 hours.

7.2 Personnel shall be provided with at least one day off following every six consecutive days of working. Exceptions to this rule apply only where both of the following conditions exist: a) National law allows work time exceeding this limit; and b) A freely negotiated collective bargaining agreement is in force that allows work time averaging, including adequate rest periods.

7.3 All overtime work shall be voluntary, except as provided in 7.4 below, shall not exceed 12 hours per week and shall not be requested on a regular basis.

7.4 In cases where overtime work is needed in order to meet short-term business demand and the organisation is party to a freely negotiated collective bargaining agreement representing a significant portion of its workforce, the organisation may require such overtime work in accordance with such agreement. Any such agreement must comply with the other requirements of this Working Hours element.

## **8. REMUNERATION Criteria:**

8.1 The organisation shall respect the right of personnel to a living wage and ensure that wages for a normal work week, not including overtime, shall always meet at least legal or industry minimum standards, or collective bargaining agreements (where applicable). Wages shall be sufficient to meet the basic needs of personnel and to provide some discretionary income.

8.2 The organisation shall not make deductions from wages for disciplinary purposes. Exception to this rule applies only when both of the following conditions exist: a) Deductions from wages for disciplinary purposes are permitted by national law; and b) A freely negotiated collective bargaining agreement is in force that permits this practice.

8.3 The organisation shall ensure that personnel's wages and benefits composition are detailed clearly and regularly to them in writing for each pay period. The organisation shall lawfully render all wages and benefits due in a manner convenient to workers, but in no circumstances in delayed or restricted forms, such as vouchers, coupons or promissory notes.

8.4 All overtime shall be reimbursed at a premium rate as defined by national law or established by a collective bargaining agreement. In countries where a premium rate for overtime is not regulated by law or there is no collective bargaining agreement, personnel shall be compensated for overtime at the organisation's premium rate or at a premium rate equal to prevailing industry standards, whichever is higher.

8.5 The organisation shall not use labour-only contracting arrangements, consecutive short-term contracts and/or false apprenticeship or other schemes to avoid meeting its obligations to personnel under applicable laws and regulations pertaining to labour and social security.

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## **9.6 Complaint Management and Resolution**

9.6.1 The organisation shall establish a written grievance procedure that is confidential, unbiased, non-retaliatory and accessible and available to personnel and interested parties to make comments, recommendations, reports or complaints concerning the workplace and/or nonconformances to the SA8000 Standard.

9.6.2 The organisation shall have procedures for investigating, following up on and communicating the outcome of complaints concerning the workplace and/or non-conformances to this Standard or of its implementing policies and procedures. These results shall be freely available to all personnel and, upon request, to interested parties.

9.6.3 The organisation shall not discipline, dismiss or otherwise discriminate against any personnel or interested party for providing information on SA8000 compliance or for making other workplace complaints.

# Annex V. Legal and Regulatory Frameworks

## Internationally Accepted Labor Standards

Before considering fishing-specific human rights standards, it is important to establish international accepted human and labor rights norms that are relevant regardless of sector. The critical sources for these standards, in terms of labor rights, are the International Labor Organization's (ILO) core standards and conventions:

### Forced Labor

#### **Forced Labour Convention, 1930 (No. 29) and Abolition of Forced Labor Convention, 1957 (No. 105).**

The ILO defines forced labor as work or service for which a person has not offered him or herself voluntarily (concept of “involuntariness”) and which is performed under a menace of penalty (concept of “coercion”) applied by an employer or a third party to the worker. The coercion may take place during the worker’s recruitment process to force him or her to accept the job or, once the person is working, to force him/her to do tasks which were not part of what was agreed at the time of recruitment, or to prevent him/her from leaving the job.

### Freedom of Association and Collective Bargaining

#### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and Right to Organise and Collective Bargaining Convention, 1949 (No. 98).**

Under these conventions workers have the right to form and join groups for the “advancement of their occupational interests,” without interference from the state, employer or others. They can bargain collectively as they determine best protects their interests. This is the means by which workers or their organizations/ representatives negotiate conditions of work such as salary.

### Child Labor

#### **Minimum Age Convention, 1973 (No. 138) and Worst Forms of Child Labour Convention, 1999 (No. 182).**

Children have the right to be protected from work that will endanger their physical or social development. Under most circumstances, children under the age of compulsory schooling, or 15 years of age (14 in some cases), should not enter into work. No child under age 18 should engage in the “Worst Forms of Child Labor,” defined as “inhumane practices as slavery, trafficking, debt bondage and other forms of forced labor; prostitution and pornography; forced recruitment of children for military purposes; and the use of children for illicit activities such as the trafficking of drugs,” and physically hazardous work.

### Discrimination and Equal Pay

#### **Equal Remuneration Convention, 1951 (No. 100) and Discrimination (Employment and Occupation) Convention, 1958 (No. 111).**

Workers should be treated equally, including in terms of equal pay for equal work, without regard for their race, skin color, national extraction, social origin, gender, political or religious affiliation.

## International Fishing-Specific Labor Instruments

There is no single, definitive source of labor and human rights standards pertaining to the fishing sector. Many nations, including Indonesia and the Philippines, do not have comprehensive legal frameworks specific to labor rights in the sector. However, there are international conventions that, even if not ratified by individual countries, can provide guidance on benchmarks. The most notable conventions in this regard are the International Maritime Organization (IMO) Standards of Training, Certification, and Watchkeeping for Fishing Vessel Personnel (STCW-F Convention), which proposes safety standards for fishing crews; the International Labor Organization (ILO) Maritime Labor Convention (MLC), which provides decent work standards for seafarers, but excludes fishers from most provisions; and the ILO's Work in Fishing Convention, which is similar to the MLC but applies specifically to commercial fishers as opposed to other types of seafarers.

**United Nations Convention on the Law of the Sea (UNCLOS)** established the legal principle of maritime exclusive economic zones (EEZs) in which the coastal state has exclusive access to resources within 200 nautical miles from shore. UNCLOS also states that flag states have jurisdiction over vessels flying their flags and are responsible for ensuring the safety and security of crews on board those vessels. However, it has been well-established that UNCLOS lacks adequate enforcement mechanisms. UNCLOS has been widely ratified, so even non-party countries recognize it as customary international law.

**International Maritime Organization Convention for the Safety of Life at Sea (SOLAS)** specifies minimum safety standards for seafarers, although fishing vessels are exempt from most requirements. That said, some countries do voluntarily apply at least some safety requirements to the fishing sector.

**International Maritime Organization Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel** provides safety standards for fishing vessels, including mandatory training standards. Flag states are responsible parties for standards specified in the convention.

**International Labor Convention Maritime Labor Convention (MLC)** details benchmarks and ILO standards for safety and working conditions of seafarers. Specifically, the convention lists minimum age requirements, contract, payment, repatriation, and living conditions among others. The convention does not apply to fishing vessels but can provide useful benchmarks for working and living conditions at sea. Selected standards of the convention include:

- **Minimum Age:** Work on a vessel for those under 16 is prohibited, and night work and other work that could be hazardous to the physical or social development of the worker is prohibited for those under 18.
- **Safety Training:** Seafarers must complete personal safety training prior to commencing work on board a ship.
- **Recruitment fees:** Seafarers should not be required to pay fees to find employment, “other than the cost of the seafarer obtaining a national statutory medical certificate, the national seafarer’s book and a passport or other similar personal travel documents, not including, however, the cost of visas, which shall be borne by the shipowner.”
- **Other recruitment standards:** Recruitment agencies supplying seafaring workers should maintain accurate registries of all seafarers placed; accurately inform seafarers of work conditions, rights and provide work agreements; verify that employment conditions are legal and in compliance with any collective bargaining agreements; respond to any complaints; ensure to a reasonable degree that vessel operator has protections against stranding seafarers in foreign ports. Recruitment agencies are also barred from using “black lists” that would inhibit seafarers for being placed in jobs for which they are otherwise qualified.
- **Wages:** All seafarers should be paid for their work, in no greater than monthly intervals, at a rate that is in accordance with laws and any collective bargaining instruments. They should be provided an accounting of payments made, including wage rates and exchange rates and any overtime pay.

Seafarers should be provided a method to transmit earnings to their families. Wages should be paid in legal tender.

- **Deductions:** Only deductions expressly permitted by national laws or collective bargaining instruments are permitted. Deductions should not be taken for the purposes of securing or maintaining employment. Deductions taken for expenses on board should be “fair and reasonable” and are subject to legal review by the relevant authority.
- **Employment Agreements:** Seafarers should be provided with employment agreements that clearly lay out terms and conditions of work, including at minimum: the seafarer’s full name, date of birth or age, and birthplace; the shipowner’s name and address; the place where and date when the seafarers’ employment agreement is entered into; the capacity in which the seafarer is to be employed; the amount of the seafarer’s wages or, where applicable, the formula used for calculating them; the amount of paid annual leave or, where applicable, the formula used for calculating it; the termination of the agreement and the conditions thereof, including: if the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the shipowner than for the seafarer; if the agreement has been made for a definite period, the date fixed for its expiry; and if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged; the health and social security protection benefits to be provided to the seafarer by the shipowner; the seafarer’s entitlement to repatriation; (j) reference to the collective bargaining agreement, if applicable; and (k) any other particulars which national law may require.
- **Equal remuneration:** Equal work should be remunerated equally on the same vessel, regardless of race, color, sex, religion, political opinion, national extraction or social origin.
- **Hours of work:** Maximum hours of work shall not exceed: “14 hours in any 24-hour period; and 72 hours in any seven-day period; or minimum hours of rest shall not be less than: ten hours in any 24-hour period; and 77 hours in any seven-day period. Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours.”
- **Manning levels:** Vessels should have adequate crew to ensure the safety and security of the ship and all personnel, taking into account the need to limit crew fatigue.
- **On-board Accommodations:** Significant detail is provided on requirements for accommodation, but the essential characteristics are that sleeping areas provide reasonable comfort; proper lighting, heating and ventilation are provided; hygienic sanitary facilities are provided; potable water is available; some source of nutritious food is available.
- **Health and Safety:** All workers have the right to live and work in a safe environment. All workers should be trained in on-board safety procedures to avoid injury and disease. Vessels should report and investigate on-board accidents and take reasonable measures for their prevention.

**ILO Work in Fishing Convention (188)** provides similar standards to the MLC, but in this case, they are specific to the fishing sector. While they apply only to commercial fishing vessels, again, they are an important source of standards, which are summarized below:

- **Minimum age:** Minimum age for vessel work is set at 16, although some light work may be appropriate for 15-year-olds. Any hazardous activities – including most night work – are restricted to those 18 years and older.
- **Work agreements:** Fishers should be provided, in advance of boarding, a work agreement that specifies: the fisher's family name and other names, date of birth or age, and birthplace; the place at which and date on which the agreement was concluded; the name of the fishing vessel or vessels and the registration number of the vessel or vessels on board which the fisher undertakes to work; the name of the employer, or fishing vessel owner, or other party to the agreement with the fisher; the

voyage or voyages to be undertaken, if this can be determined at the time of making the agreement; the capacity in which the fisher is to be employed or engaged; if possible, the place at which and date on which the fisher is required to report on board for service; the provisions to be supplied to the fisher, unless some alternative system is provided for by national law or regulation; the amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage; the termination of the agreement and the conditions thereof; the protection that will cover the fisher in the event of sickness, injury or death in connection with service; the amount of paid annual leave or the formula used for calculating leave, where applicable; the health and social security coverage and benefits to be provided to the fisher by the employer, fishing vessel owner, or other party or parties to the fisher's work agreement, as applicable; the fisher's entitlement to repatriation; a reference to the collective bargaining agreement, where applicable; the minimum periods of rest, in accordance with national laws, regulations or other measures; and any other particulars which national law or regulation may require.

- **Repatriation:** Fishers have a right to repatriation in the case that their employment agreement expires or is terminated. The cost is the responsibility of the vessel owner, unless “where the fisher has been found, in accordance with national laws, regulations or other measures, to be in serious default of his or her work agreement obligations.”
- **Recruitment:** Recruitment services providing workers to vessels should be licensed in accordance with national laws. Workers should not be charged fees for recruitment or placement. Recruitment agencies should not use any mechanisms that prevent or deter fishers from engaging in work.
- **Payment:** Fishers who are paid wages should be paid regularly (typically monthly). Workers should have a means to transmit earnings to their families.
- **Accommodations and food:** Fishers should be provided access to sanitary facilities, nutritious food, potable water, and safe, reasonably comfortable accommodation. Particular attention should be paid to ventilation, heating, cooling, lighting, vibration, noise and conditions of sleeping areas.
- **Medical care:** Vessels should carry appropriate medical supplies and have at least one individual who is trained in first aid/other medical care and is trained in the use of first aid supplies. Vessels should have the capacity to communicate with medical treatment professionals on shore and should make efforts to return to port to secure medical treatment in the case of serious injury or illness.
- **Health and Safety:** Fishers should be adequately trained on safe gear usage and other relevant procedures. Vessel operators should report and investigate any on-board accidents. For vessels over a certain size and operating for voyages longer than three days, fishers should be provided with appropriate protective clothing and equipment.
- **Social security:** Fishers are entitled to social security protections no less than other workers in their country of residence.

## Indonesian Labor Law

### Indonesian Forced Labor Law

Indonesian labor law explicitly prohibits forced and compulsory labor, and provides for prison sentences of three to 15 years and fines of IDR 120-600 million (USD 10,500-52,500) for perpetrators.<sup>56</sup> Article 32 of the Act of the Republic of Indonesia No. 13 Year 2003 Concerning Manpower stated that no person seeking employment shall be forced to work and that workers were free to choose their jobs.<sup>57</sup> The government enacted a comprehensive anti-trafficking law in March 2007, which outlawed all forms of human trafficking, as well as debt bondage. The law provides penalties ranging from three to 15 years' imprisonment for government officials and labor agents convicted of complicity in such activities.<sup>58</sup> The U.S. State Department reported in 2015 that the government had amended human trafficking laws to allow victims to receive restitution from their traffickers.<sup>59</sup> However, legislation to protect workers' rights did not fully cover domestic workers, most of whom were female, making them especially vulnerable to forced labor.<sup>60</sup>

The Criminal Code allowed compulsory prison labor. According to the ILO, articles 49 and 50 of Law 2/2008 allow for imprisonment with compulsory labor for anyone who makes donations to a political party in excess of legal limits, as well as members of the executive board of a political party that receives donations in excess of legal limits or "uses the party for adopting, developing, and disseminating 'Communism/Marxism-Leninism'."<sup>61</sup> The ILO noted that, when read in conjunction, sections 139 and 185 of the Manpower Act provide for sanctions of up to four years' imprisonment involving compulsory labor for striking in enterprises that serve the public interest, which contravenes ILO Convention 105.<sup>62</sup>

### Indonesian Child Labor Law

In April 1999, the Indonesian government set the minimum age for employment at 15 years of age. However, the legal definition of childhood was unclear, allowing children under 15 years of age to work in some cases.

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<sup>56</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. 2015 Country Reports on Human Rights Practices <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

<sup>57</sup> International Labor Organization. NATLEX: Indonesia. Act of the Republic of Indonesia Number 13 Year 2003 Concerning Manpower, 2003. <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/64764/65275/E031DN01.htm> (accessed November 22, 2011).

<sup>58</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2009: Indonesia. <http://www.state.gov/g/drl/rls/hrrpt/2009/eap/135992.htm>. (Accessed March 25, 2010).

<sup>59</sup> U.S. Department of State. Office to Monitor and Combat Trafficking in Persons. Trafficking in Persons Report 2015. <http://www.state.gov/j/tip/rls/tiprpt/2015/index.htm>.

<sup>60</sup> Amnesty International. Indonesia: Improved Legal Protections Needed for Domestic Workers. February 14, 2015. <https://www.amnesty.org/en/documents/asa21/0006/2015/en/>.

<sup>61</sup> International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Individual Direct Request concerning Abolition of Forced Labour Convention, 1957 (No. 105) Indonesia (ratification: 1999) Submitted: 2009

<http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=22908&chapter=9&query=Indonesia%40ref&highlight=&querytype=bool&context=0>

International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Individual Direct Request concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111) Indonesia (ratification: 1999). 2008.

<http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=21374&chapter=9&query=Indonesia%40ref&highlight=&querytype=bool&context=0>

<sup>62</sup> International Labour Organization. Committee of Experts on the Application of Conventions and Recommendations. Individual Direct Request concerning Abolition of Forced Labour Convention, 1957 (No. 105) Indonesia (ratification: 1999). 2005. <http://www.ilo.org/ilolex/cgi-lex/single.pl?query=092006IDN105@ref&chspec=09>

While the Child Protection Law defined children as those under 18, another law set the age of marriage at 16 for females and 19 for males. The Manpower Act prohibited the employment of “children,” defined as persons under 18, but provided that light work was allowed for children aged 13 to 15 for no more than three hours per day or 15 hours per week, as long as they had a contract and parental consent, did not work during school hours, were paid the legal minimum wage, and the job did not disrupt their physical, mental, and social development.<sup>63</sup> Children 14 years old or older were permitted to hold a job or perform piecework as part of their educational curriculum or training, provided approval by competent authorities. Working children between the ages of 15 and 17 were prohibited from working over 40 hours a week, according to the Manpower Act.<sup>64</sup> The U.S. Department of Labor reported that legislation did not extend to domestic work or to self-employed children,<sup>65</sup> and the ILO noted that it excluded children “working without a clear wage relationship.” The ILO expressed concern over the exclusion of such children from the scope of the Manpower Act, observing that they comprised over 95 percent of child workers aged 5 to 12.<sup>66</sup>

Under Decision No. Kep-235/Men/2003, individuals under the age of 18 were prohibited from performing work classified as harmful to their health, safety, or morals. Types of prohibited work included work involving chemical or biological hazards; work related to machines, engines, and other heavy equipment; work at dangerous heights or extreme temperatures; work of a hazardous nature, such as construction, working on ships, or carrying heavy objects; and work considered to be morally harmful to children, such as promoting drugs or alcohol or working in places where they are sold.<sup>67</sup> The employment of underage workers was prohibited in industries involving hazardous labor, including mining, pearl diving, offshore fishing, scavenging, explosive production, street work, domestic service, construction, cottage industries, plantations, and forestry.<sup>68</sup>

Fines for employing children in the worst forms of child labor were between IDR 200 and 500 million (USD 17,500 to 43,750) with possible prison sentences of two to five years. The Child Protection Act prohibited the economic exploitation and trafficking of children, and established severe criminal penalties, including one to four years in prison and fines of IDR 100-400 million (USD 8,750-35,000) for violations.<sup>69</sup>

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<sup>63</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2013: Indonesia. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=220196&year=2013#wrapper> (Accessed March 2015)

U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2009: Indonesia. <http://www.state.gov/j/drl/rls/hrrpt/2009/eap/135992.htm>. (Accessed March 25, 2010).

U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2006: Indonesia. March 2007. <http://www.state.gov/j/drl/rls/hrrpt/2006/78774.htm>.

U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2008: Indonesia. February 2009 <http://www.state.gov/j/drl/rls/hrrpt/2008/eap/119040.htm> (Accessed April 2009)

<sup>64</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2013: Indonesia. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=220196&year=2013#wrapper> (Accessed March 2015)

<sup>65</sup> U.S. Department of Labor. Bureau of International Labor Affairs. International Child Labor Program. 2012 Findings on the Worst Forms of Child Labor. <http://www.dol.gov/ilab/reports/child-labor/findings/> retrieved: 6/3/14

<sup>66</sup> International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Minimum Age Convention: Observation. 2015. [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:PI3100\\_COMMENT\\_ID,PI1110\\_COUNTRY\\_ID,PI1110\\_COUNTRY\\_NAME,PI1110\\_COMMENT\\_YEAR:3254614,102938](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:PI3100_COMMENT_ID,PI1110_COUNTRY_ID,PI1110_COUNTRY_NAME,PI1110_COMMENT_YEAR:3254614,102938).

<sup>67</sup> International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Individual Direct Request concerning Worst Forms of Child Labour Convention, 1999 (No. 182) Indonesia (ratification: 2000). 2009. <http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=23525&chapter=9&query=Indonesia%40ref&highlight=&querytype=bool&content=0>

<sup>68</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. 2014 Country Reports on Human Rights Practices. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>.

<sup>69</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. 2014 Country Reports on Human Rights Practices.

## Indonesian Working Conditions Law

Minimum wage is set by province, district or sector.<sup>70</sup> Though the Manpower Bill noted that workers had a right to wages sufficient for a decent life, a living wage was not applied in practice.<sup>71</sup> Penalties for violations of minimum wage laws included fines and a maximum of four years in prison.<sup>72</sup>

Provincial authorities set minimum wages that varied by province, district, and sector and were based on proposals by tripartite commissions. At the district level, minimum wages were established using provincial levels as references, and could vary by sector. Wages must be decided before the first of the year.<sup>73</sup> In 2015, the lowest minimum wage was IDR 1.2 million (USD 83) per month in Yogyakarta, and the highest minimum wage was IDR 3.3 million (USD 238) in Bekasi.<sup>74</sup> In 2013, the lowest minimum wage was in Central Java at IDR 816,000 (USD 71.42) per month and the highest was in Jakarta at IDR 2.2 million (USD 192) per month, a 44 percent increase over 2012 and a 97 percent increase over 2010. There was some evidence to suggest that the minimum wage in certain sectors and areas was inadequate. According to one survey of garment workers, the minimum wage only covered 62.4 percent of the average worker's cost of living.<sup>75</sup>

Certain workplaces were exempted from minimum wage regulations. According to the U.S. Department of State, minimum wage regulations only applied to the formal sector, which employed only 30 percent of the working population. According to the U.S. State Department, employers in certain sectors, including some small and medium-sized enterprises and "labor-intensive" industries, were not required to follow minimum wage rules.<sup>76</sup> While the Manpower Act of 2003 prohibited entrepreneurs from paying workers lower than the minimum wage, it allowed those unable to do so to postpone the payment of wages as long as they paid a fine.<sup>77</sup> A November 2008 ministerial decree discouraged local government administrations from raising minimum wage levels above what manufacturers were capable of paying.<sup>78</sup>

Indonesian law provided for a 40-hour regular workweek and required a 30-minute rest period for every four hours worked. The law required at least one day of rest per week.<sup>79</sup> Penalties for hours of work violations included fines and jail time. However, the Manpower Act of 2003 exempted certain business sectors and types of work from legal provisions governing regular work hours. The mining, quarrying, electric, water, and offshore gas sectors were excluded from these provisions.<sup>80</sup>

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<sup>70</sup> Indonesia-Investments. Indonesian Government Wants to Limit Regional Minimum Wage Increase. July, 2013. <http://www.indonesia-investments.com/news/todays-headlines/indonesian-government-wants-to-limit-regional-minimum-wage-increase/item925> Retrieved: 6/3/2014

<sup>71</sup> Tjandra, Surya and Pembayaran, Upah. Chapter, Bab-Bab Tentang Hukum Perburuhan Indonesia. Purtaka Larasan. Jakarta, 2012. <http://media.leidenuniv.nl/legacy/bbri-labour-law-final.pdf>

<sup>72</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. 2014 Country Reports on Human Rights Practices.

<sup>73</sup> U.S. Department of State. The Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2008: Indonesia. February 2009 <http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119040.htm> (Accessed April 2009)

<sup>74</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. 2015 Country Reports on Human Rights Practices. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

<sup>75</sup> Jobs With Justice Education Fund. Asia Floor Wage Alliance. New Findings on Conditions across Walmart's Garment Supplier Factories in Cambodia, India and Indonesia. May 2015. [www.jwj.org/wp-content/uploads/2015/06/150609\\_WalmartSupplyChainReport.pdf](http://www.jwj.org/wp-content/uploads/2015/06/150609_WalmartSupplyChainReport.pdf).

<sup>76</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. 2014 Country Reports on Human Rights Practices. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>.

<sup>77</sup> International Labor Organization. NATLEX: Indonesia. Act of the Republic of Indonesia Number 13 Year 2003 Concerning Manpower, 2003. <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/64764/65275/E03IDN01.htm> (accessed November 28, 2011).

<sup>78</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2009: Indonesia. <http://www.state.gov/g/drl/rls/hrrpt/2009/eap/135992.htm>. (Accessed March 25, 2010).

<sup>79</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. 2014 Country Reports on Human Rights Practices.

<sup>80</sup> International Labor Organization. Indonesia Decent Work Report. 2011.

Overtime must be limited to three hours per day and 14 hours per week. Premiums for overtime range from one and a half times the normal hourly rate for the first hour of overtime to twice the hourly rate for additional overtime. Compulsory overtime was prohibited.<sup>81</sup>

The Manpower Act of 2003 obligated that all businesses implement an “occupational safety and health management system” and provide adequate personal protective equipment to workers. Employers were required to report accidents or other health incidents within 48 hours.<sup>82</sup>

Workers had the legal right to remove themselves from hazardous work environments without jeopardizing their employment.<sup>83</sup> Workers were legally required to report hazardous working conditions, and employers were legally prohibited from retaliating against workers who filed grievances.<sup>84</sup> However, laws and regulations failed to establish a system for individual workers to report workplace safety problems.

Workers were required to register with the Workers’ Social Insurance fund, which provided protections for occupational accidents, sickness, pregnancy, pensions, and death. The penalty for non-enrollment of workers was up to six months in jail or fines of up to IDR 500 million (USD 43,000).

Although there were no laws in Indonesia that explicitly prohibited workplace sexual harassment, it was punishable under the Criminal Code, which prohibited “indecent public acts” and applied small fines and prison sentences of up to 32 months for perpetrators.<sup>85</sup> The Indonesian labor law stated that “indecent behavior” was illegal; and the Criminal Law stated that forcing women into sexual intercourse outside of marriage or threatening anyone with sexual harassment were crimes legally punishable with up to 12 years of imprisonment. The ILO encouraged the government to adopt legislative changes to explicitly define and prohibit workplace sexual harassment and ensure victim protection and complaint mechanisms.<sup>86</sup>

## Indonesian Freedom of Association Laws

The Constitution and the Labor Code protected the right to freedom of association in Indonesia. The Labor Union Law of 2000 facilitated the establishment of labor unions by allowing as few as ten workers to form a union. However, the army, police, and civil servants were excluded from the Labor Union Act of 2000. Civil servants were given the right to organize under the 2000 Act Concerning Trade Unions; however, the law states that the details of this right will be addressed in separate legislation, which had yet to be introduced as of the end of 2015.<sup>87</sup>

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<sup>81</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. 2014 Country Reports on Human Rights Practices.

<sup>82</sup> International Labor Organization. Indonesia Decent Work Report. 2011.

<sup>83</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. 2014 Country Reports on Human Rights Practices. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>.

<sup>84</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2009: Indonesia.

<sup>85</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. 2014 Country Reports on Human Rights Practices. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>.

<sup>86</sup> International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Individual Direct Request concerning Discrimination (Employment and Occupation) Convention, 1958 (No. 111) Indonesia (ratification: 1999). 2008. <http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=21374&chapter=9&query=Indonesia%40ref&highlight=&querytype=bool&context=0>

<sup>87</sup> International Trade Union Confederation. Survey of Violations of Trade Union Rights: Indonesia. 2014. <http://survey.ituc-csi.org/Indonesia.html#tabs-2> (Accessed March 2015)

Employees of state-owned enterprises were also allowed to form unions.<sup>88</sup> The Ministry of Education and Culture issued regulations in 2008 requiring that at least 25 percent of teachers in a district must be members of a union before it may be recognized. In 2013, teachers' associations reported that teachers were unfairly limited in their right to form unions.<sup>89</sup>

In 2012, laws protecting workers were strengthened by the establishment of limitations on the use of temporary and outsourced work, which had previously been used to reduce or eliminate unionized roles. The Constitutional Court ruled in decision 27/PUU – IX/ 2011 that any job that will continually exist cannot be outsourced. The same ruling stated that all outsourced workers were subject to the same labor protections as full-time workers. A Ministerial Decision in November 2012 clarified the law, limiting the types of jobs that could be outsourced to cleaning services, security, transportation, catering, and support services related to mining.<sup>90</sup>

Under Article 11 of the Act of the Republic of Indonesia Concerning Trade Union/Trade Labor, workers are granted the right to set up a “free, open, independent, democratic, responsible” labor union. All unions are required to have a constitution and bylaws.<sup>91</sup> However, workers may only organize and form a trade union provided that the union's purpose and activities are within the legal framework of the Constitution and labor laws and in line with the principles of *Pancasila* – the national ideology of unity and consensus. First articulated in 1945, *Pancasila* encompasses the five principles of nationalism, internationalism, democracy, social prosperity, and monotheism.<sup>92</sup> The 2003 Manpower Development and Protection Act (Manpower Act) allowed courts to dissolve a union if its leaders were convicted of crimes against national security or if its activities were viewed as inconsistent with the Constitution or *Pancasila*. The ILO has called for the government to repeal provisions of the law that enable such dissolution of unions to occur, deeming this sanction to be disproportionate and an extreme” form of interference by the government.<sup>93</sup> Furthermore, the law stated that, once a court had dissolved a union, the leadership of that union would be banned from organizing another union for three years.<sup>94</sup>

Unions were legally permitted to affiliate and cooperate with international trade unions and organizations. However, under sections 21, 31, and 42 of Act No. 21 of 2000, the government was legally allowed to limit unions' affiliation with international trade union organizations. The ILO considered these stipulations to constitute infringements on workers' rights to affiliate with international trade union organizations and to

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<sup>88</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2014: Indonesia. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper> (Accessed February 2016).

<sup>89</sup> Asri, Wijayanti. “Diskriminasi Pada Pembentukan Serikat Buruh Keamanan.” Media Online Gagasan Hukum. December 10, 2012. <http://gagasanhukum.wordpress.com/2012/12/10/>

<sup>90</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2014: Indonesia. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper> (Accessed February 2016).

<sup>91</sup> International Labor Organization. NATLEX: Indonesia. Act of the Republic of Indonesia Concerning Trade Union/Trade Labor, 2000. <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/57553/65205/E001 DN0 1.htm> (accessed October 27, 2011).

<sup>92</sup> Encyclopaedia Britannica. Pancasila: Indonesian Political Philosophy. The Editors of Encyclopaedia Britannica. <https://www.britannica.com/topic/Pancasila>.

<sup>93</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. 2014 Country Reports on Human Rights Practices. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>.

International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Freedom of Association and Protection of the Right to Organise Convention: Observation. 2015. [http://www.ilo.org/dyn/normlex/en/?p=1000:13100:0::NO:13100:PI3100\\_COMMENT\\_ID,PI1110\\_COUNTRY\\_ID,PI1110\\_COUNTRY\\_NAME,PI1110\\_COMMENT\\_YEAR:3253425,102938](http://www.ilo.org/dyn/normlex/en/?p=1000:13100:0::NO:13100:PI3100_COMMENT_ID,PI1110_COUNTRY_ID,PI1110_COUNTRY_NAME,PI1110_COMMENT_YEAR:3253425,102938).

<sup>94</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. 2014 Country Reports on Human Rights Practices.

benefit from such affiliation.<sup>95</sup> In 2014, the Indonesian Supreme Court abolished an article from a ministerial regulation that limited the role of federations in supporting unions during negotiations with companies. However, later that year the Ministry of Manpower then signed a new replacement regulation which ILO union federations criticized as continuing to limit the role of federations in company-level negotiations, according to in-country experts interviewed by Verité.

The government had statutory authority to interfere in the affairs of trade unions under sections 21, 31, and 42 of Act No. 21 of 2000. All unions had to register with the Ministry of Manpower and Transmigration, and unions were compelled to inform the state of nominations or any other changes to their governance, as well as any financial assistance received from overseas sources. If unions failed to do so, they faced the threat of having their registration number revoked, resulting in the suspension of their registration. Unions could only have their registration reinstated upon submission of necessary documentation detailing nominations and overseas financial assistance. The ILO considered these stipulations to constitute infringements on workers' rights to draw up constitutions and rules in full freedom.<sup>96</sup> This legislation allowed for the suspension of unions for failure to report a change in their by-laws and for failing to report funding from overseas,<sup>97</sup> in contravention of ILO Convention 87.<sup>98</sup>

In 2012, Ministerial Degree 33 of the Ministry of Home Affairs (MOHA) required labor unions to register with MOHA prior to commencing operations, creating additional procedures prior to union operations. Law 17 of 2013 on Civil Organizations included similar requirements for registration of civil society organizations, which have been extended to unions, according to in country experts. The law also required that organizations uphold *Pancasila*, preserve religious values, and maintain peace.<sup>99</sup> Further, it added limitations on the funding and activities of international groups or international funding.<sup>100</sup> Groups that violate the law may be issued three warning letters, followed by closure and disbandment.<sup>101</sup> Unions protested the act, arguing that the Ministry of Manpower already provided oversight.<sup>102</sup> Further, according to the U.S. Department of State, Indonesian law criminalizes “unpleasant acts,” which can be easily used to criminalize union activity.<sup>103</sup> The ILO has requested that the government modify this provision of the Penal Code, since it could be used to justify the arbitrary arrests of unionists.<sup>104</sup>

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<sup>95</sup> International Labour Organization. Committee of Experts on the Application of Conventions and Recommendations. Individual Direct Request concerning Convention No. 87, Freedom of Association and Protection of the Right to Organise Convention, 1948 Indonesia (ratification: 1998). 2003. <http://www.ilo.org/ilolex/cgi-lex/singlef.pl?query=0920031DN087@ref&chspec=09>

<sup>96</sup> Ibid.

<sup>97</sup> International Trade Union Confederation. 2014 Annual Survey of Violations of Trade Union Rights. <http://survey.ituc-csi.org/Indonesia.html#tabs-2>.

<sup>98</sup> International Labour Organization. Committee of Experts on the Application of Conventions and Recommendations. Individual Direct Request concerning Convention No. 87, Freedom of Association and Protection of the Right to Organise Convention, 1948 Indonesia (ratification: 1998). 2005.

<sup>99</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2014: Indonesia. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper> (Accessed February 2016).

<sup>100</sup> Library of Congress. NGO Law Monitor: Indonesia. May 2014. (accessed June 4, 2014)

<sup>101</sup> Library of Congress. 2013 Indonesia: Law on Mass Organizations. [http://www.loc.gov/lawweb/servlet/lloc\\_news?disp3\\_1205403636\\_text](http://www.loc.gov/lawweb/servlet/lloc_news?disp3_1205403636_text). (accessed June 2, 2014)

<sup>102</sup> Susilo, Nina. “Permendagri Berangus Kebebasan Buruh Berserikat”. Daily Kompas, 2013 <http://nasional.kompas.com/read/2013/05/21/19323133/Permendagri.Berangus.Kebebasan.Buruh.Berserikat>. (Accessed on April 8, 2014)

Freedom from anti-union discrimination and business interference was explicitly protected under the law, including protections against dismissal, suspension, demotion, transfers, or actions affecting wages. Penalties for discrimination and interference included imprisonment and large fines.

Collective agreements are valid for two years and may be extended for a maximum of one additional year.<sup>105</sup> The right to collective bargaining was provided for by the Manpower Act, which was written with ILO technical assistance. However, the Act was criticized for providing inadequate severance benefits and arbitrary termination protections.<sup>106</sup> Additionally, Article 118 of the Manpower Act of 2003 allowed for only one collective bargaining agreement per workplace, and stipulated that any agreement shall apply to all employees in that workplace. According to in-country labor experts interviewed, all enterprises employing at least ten workers that did not already have a collective labor agreement were obligated by Article 108 of the Manpower Act to establish company regulations subject to approval by government officials.

Article 23 of the Minister of Manpower and Transmigration Decree 48 of 2004 required collective agreements to be concluded within 30 days, after which they must be submitted to the statutory conciliation and arbitration process. The International Trade Union Confederation (ITUC) labeled this an “unreasonable procedural requirement,”<sup>107</sup> and the ILO called for a lengthening of the 30-day window.<sup>108</sup>

The ILO reported that only plant-level unions were allowed to sign collective agreements and that the ability to engage in collective bargaining should be granted to federations and confederations.<sup>109</sup> The Labor Union Law of 2000, which facilitated the establishment of labor unions by allowing as few as ten workers to form a union, reportedly resulted in the proliferation of multiple unions in the same workplace, the division and fragmentation of the union movement, and a decrease in the power of unions to demand that management engage in collective bargaining.

In 2011, the Ministry of Manpower and Transmigration issued regulations on collective labor agreements: the Preparation and Legalization of Company Regulations and the Preparation of Collective Labor Agreements. Under the regulations, when a union represented fewer than half of the workers in a workplace, a committee of employees and union leaders and the majority of workers must vote in favor of collective bargaining before negotiations can begin. In addition, the new regulations introduced a different mechanism for resolving labor disputes. If negotiations fail, the dispute may be referred to a mediator. If mediation fails to bring about an agreement, either party may bring the dispute directly to the Industrial Relations Court. The ILO has observed that the ability of either party to bring disputes to court was a form of “compulsory arbitration,”

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<sup>105</sup> International Trade Union Confederation. 2007 Annual Survey of Violations of Trade Union Rights: Indonesia. <http://survey07.ituc-csi.org/getcountry.php?IDCountry=IDN&IDLang=EN>. (Accessed July 2008).

<sup>106</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2006: Indonesia. March 2007. <http://www.state.gov/g/drl/rls/hrrpt/2006/78774.htm>.

<sup>106</sup> U.S. Department of State. The Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2008: Indonesia. February 2009 <http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119040.htm> (Accessed April 2009)

<sup>107</sup> International Trade Union Confederation. Survey of Violations of Trade Union Rights: Indonesia. 2014. <http://survey.ituc-csi.org/Indonesia.html#tabs-2> (Accessed March 2015).

<sup>108</sup> International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Freedom of Association and Protection of the Right to Organise Convention: Observation. 2015. [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:PI3100\\_COMMENT\\_ID,PI1110\\_COUNTRY\\_ID,PI1110\\_COUNTRY\\_NAME,PI1110\\_COMMENT\\_YEAR:3253425,102938](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:PI3100_COMMENT_ID,PI1110_COUNTRY_ID,PI1110_COUNTRY_NAME,PI1110_COMMENT_YEAR:3253425,102938).

<sup>109</sup> International Labour Organization. Committee of Experts on the Application of Conventions and Recommendations. Individual Observation concerning Convention No. 98, Right to Organise and Collective Bargaining, 1949 Indonesia (ratification: 1957). 2005. <http://www.ilo.org/ilolex/cgi-lex/single.pl?query=062005IDN098@ref&chspec=06>

which could hinder collective bargaining.<sup>110</sup> Previously, the Ministry of Manpower was required to attempt to settle the dispute before the dispute could be brought to court.<sup>111</sup>

All workers, including non-union members, had the right to strike, with the exception of public sector workers and workers essential to public safety, who may only carry out strikes that do not negatively affect public interests or safety. Most public servants, such as firefighters, police officers, and members of the army, as well as most employees of state-owned enterprises are prohibited from striking.<sup>112</sup> According to ministerial regulations, strikes at “enterprises that cater to the interests of the general public or at enterprises whose activities would endanger the safety of human life if discontinued” were illegal. However, the regulations did not specify which sectors or enterprises met this description, leaving specific classifications to the government’s discretion.<sup>113</sup> According to in-country labor experts interviewed by Verité, the head of police issued a letter clarifying that workers in security services were not permitted to strike or organize protests. Indonesian law allowed for mediation by local Ministry of Manpower officials, but it did not require direct government approval of strikes.<sup>114</sup>

On March 24, 2005, the Guidelines on the Conduct of the Indonesian National Police in Handling Law and Order in Industrial Disputes, written by the ILO, the Ministry of Manpower and the National Police, were officially issued, defining the role of police and limiting their power to interfere in strikes.<sup>115</sup> The ILO had previously expressed concern that police interference in strikes was institutionalized through administrative Guidance on the Conduct of Indonesian Police concerning Law Enforcement and Order in Industrial Relations Disputes. The ILO stated that police interference, especially the use of firearms, should be limited to exceptional cases of violence that constitute a genuine threat to security.<sup>116</sup>

There was significant contravening legislation impeding Indonesians’ right to strike. The Manpower Act contained legal restrictions on the right to strike, including the requirement of seven days’ advance written notice for strike activity, which must include the anticipated number of strikers and signed affidavits from workers affirming their willingness to participate in strikes,<sup>117</sup> as well as signatures of the chairperson and secretary of the union, and information on the starting and ending times of the strike, the venue for the strike, and the reasons for striking.<sup>118</sup> If such notification did not precede the strike, a strike could be deemed illegal and the company may declare a lockout. The ITUC has reported that such required pre-strike procedures enabled employers to easily declare strikes illegal, and that employers abused the provisions for

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<sup>110</sup> International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Freedom of Association and Protection of the Right to Organise Convention: Observation. 2015.

<sup>111</sup> Makarim & Taira S. Indonesia: New Regulation on Company Regulations and Collective Labour Agreements. (World Services Group, March 2012), <http://www.worldservicesgroup.com/publications.asp?action=article&artid=4373>

<sup>112</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2014: Indonesia. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper> (Accessed February 2016).

<sup>113</sup> International Trade Union Confederation. 2010 Annual Survey of Violations of Trade Union Rights: Indonesia. <http://survey.ituc-csi.org/+Indonesia-+.html>

<sup>114</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. 2006 Country Reports on Human Rights Practices. March 2007. <http://www.state.gov/g/drl/rls/hrrpt/2006/78774.htm>.

<sup>115</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2006: Indonesia. March 2007. <http://www.state.gov/g/drl/rls/hrrpt/2006/78774.htm>.

<sup>116</sup> International Labour Organization. Committee of Experts on the Application of Conventions and Recommendations. Individual Direct Request concerning Convention No. 87, Freedom of Association and Protection of the Indonesia (ratification: 1998). 2005. <http://www.ilo.org/ilolex/cgi-lex/singlef.pl?query=092004IDN087@ref&chspec=09>

<sup>117</sup> International Confederation of Free Trade Unions. Internationally Recognized Core Labour Standards in Indonesia: Report for the WTO General Council Review of Trade Policies of Indonesia. Geneva, June 27 and 30, 2003. <http://www.icftu.org/www.pdf/indesiacle2003.pdf>.

<sup>118</sup> U.S. Department of State. Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2014: Indonesia. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper> (Accessed February 2016).

lockouts to threaten workers and to block legitimate entry into workplaces.<sup>119</sup> The ILO reported that the requirement of setting an end date for strikes could limit workers' ability to strike for an indefinite period of time, and legislation on this issue was unclear.<sup>120</sup>

Indonesian law did not distinguish between strikes intended to protect workers' legal rights and those intended to advance their economic interests.<sup>121</sup> However, strikes conducted for reasons other than failed negotiations were classified as illegal,<sup>122</sup> and both sides must declare a deadlock for negotiations to be classified as failed,<sup>123</sup> giving employers the opportunity to obstruct strike efforts.<sup>124</sup> In addition, the statutory conciliation and arbitration process, through which disputes are processed, was often slow, which further hinders workers' ability to strike, according to the ITUC.<sup>125</sup>

Individual workers who participated in strikes were only granted limited protection from dismissal. If a strike was declared illegal by the government, a 2003 Ministerial regulation provided that an employer may consider a striking worker to have resigned his position if he did not respond to two written requests sent over the course of a week.<sup>126</sup>

## Indonesian Fisheries Regulation and Labor Law

### Regulatory Agencies

There are three levels of authority that regulate the fisheries sector in Indonesia. The Ministry of Marine Affairs and Fisheries (MMAF) operates at the federal level and sets country-level policies via the Directorate General for Capture Fisheries. Although the MMAF has a mandate to set policies, the Ministry does not act alone to adopt and implement policies; they instead act to facilitate adoption, implementation and coordination of policies with provincial and district officials. Every five years, the MMAF lays out fishery policies in the Fisheries Master Plan which describes marine capture production goals and promotes sustainable management of fisheries resources.<sup>127</sup>

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<sup>119</sup> International Confederation of Free Trade Unions. Internationally Recognized Core Labour Standards in Indonesia: Report for the WTO General Council Review of Trade Policies of Indonesia. Geneva, June 27 and 30, 2003. <http://www.icftu.org/www.pdf/indesiacle2003.pdf>.

<sup>120</sup> International Labor Organization. Committee of Experts on the Application of Conventions and Recommendations. Freedom of Association and Protection of the Right to Organise Convention: Direct Request. 2015. [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:PI3100\\_COMMENT\\_ID,PI1110\\_COUNTRY\\_ID,PI1110\\_COUNTRY\\_NAME,PI1110\\_COMMENT\\_YEAR:3253429,102938](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:PI3100_COMMENT_ID,PI1110_COUNTRY_ID,PI1110_COUNTRY_NAME,PI1110_COMMENT_YEAR:3253429,102938).

<sup>121</sup> International Trade Union Confederation. 2009 Annual Survey of Violations of Trade Union Rights: Indonesia. <http://survey09.ituc-csi.org/survey.php?IDContinent=3&IDCountry=IDN&Lang=EN>

<sup>122</sup> International Trade Union Confederation. 2010 Annual Survey of Violations of Trade Union Rights: Indonesia; Additional Information. [http://survey.ituc-csi.org/?page=legal&id\\_pays=81](http://survey.ituc-csi.org/?page=legal&id_pays=81)

<sup>123</sup> Ibid.

<sup>124</sup> U.S Department of State. The Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices 2008: Indonesia. February 2009 <http://www.state.gov/g/drl/rls/hrrpt/2008/eap/119040.htm> (Accessed April 2009)

<sup>125</sup> International Trade Union Confederation. Survey of Violations of Trade Union Rights: Indonesia. 2014. <http://survey.ituc-csi.org/Indonesia.html#tabs-2> (Accessed March 2015)

<sup>126</sup> International Trade Union Confederation. 2010 Annual Survey of Violations of Trade Union Rights: Indonesia; Additional Information. [http://survey.ituc-csi.org/?page=legal&id\\_pays=81](http://survey.ituc-csi.org/?page=legal&id_pays=81)

<sup>127</sup> Australian Bureau of Agricultural and Resource Economics and Sciences. Overview of Indonesian Capture Fisheries. 2014. [http://aci-ar.gov.au/files/app5\\_indonesian\\_capture\\_fisheries.pdf](http://aci-ar.gov.au/files/app5_indonesian_capture_fisheries.pdf)

The Dinas Perikanan Provinsi (DKP) operates at the provincial level and controls management rights for resources within 12 nautical miles of the coast. Resources within four nautical miles of the coast are under district/municipal government oversight.<sup>128</sup>

Maritime security more broadly is coordinated by the Maritime Security Coordinating Board (BAKORKAMLA), which was established in 2005 to coordinate between various agencies playing a role in maritime security, including the navy, police, and the Ministry of Transportation. The Marine Security Agency (BAKAMLA) was created in 2014 and is involved in combatting IUU fishing.<sup>129</sup>

Indonesia is a member of regional fisheries management structures including the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), Indian Ocean Tuna Commission (IOTC), Western and Central Pacific Fisheries Commission (WCPFC), Brunei, Indonesia, Malaysia, Philippines – East Asia Growth Area, Indian Ocean Marine Affairs Cooperation (IOMAC), Coral Triangle Initiative on Coral Reefs, Fisheries and Food Security (CTI), and Arafura and Timor Sea EA (ATSEA).<sup>130</sup> However, these focus on environmental rather than social sustainability.

According to the Provincial Labor Secretary, the labor office has no authority over boats, and therefore has no mandate to regulate the working conditions on boats or ensure the application of relevant labor laws and protections. The secretary said that his authority extends only to the land-based fishing industry, including factories and processing companies. No single agency is mandated to focus on vessel workers' labor rights. In light of this, identifying a "lead" on labor rights in the seafood sector, particularly for vessel workers would be a key recommendation to government stakeholders. Further, efforts should be made to increase coordination among agencies already active such as the Port Authority, the Directorate General of Immigration, and the Department of Maritime and Fisheries. Finally, labor inspection of vessels would provide critical insight into worker vulnerability in these worksites and ensure that applicable labor laws are enforced.

The chief of Bitung's Maritime and Fisheries Monitoring Task Force has a mandate to conduct surveillance of boats illegally fishing in Indonesian waters. As part of that mandate, they attempt to identify trafficked and/or underage workers on vessels caught fishing illegally; many of these workers are subsequently deported rather than detained. Bitung's Task Force does not otherwise have a mandate to protect labor rights, investigate working conditions, or otherwise uphold fishermen's social welfare. At the time of research, the office was detaining 27 Filipino workers.

## Fisheries Laws

The primary law regulating fisheries is Fisheries Law No. 31/2004 (2004), which is operationalized in regulation PER.05/MEN/2008 with amendments in 2009 (Law No. 45) and 2014 (Law No.46).<sup>131</sup> Under the Fisheries Law, fisheries are defined as "all activities relating to the cultivation and utilization of fish resources and the environment thereof, starting from pre-production, production, cultivation, up to marketing, implemented in a system of fishery business." The law itself primarily regulates commercial fisheries, as small-scale fishers (vessels under 5 GT) are exempt from most requirements. Specifically, the law regulates fishing

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<sup>128</sup> Australian Bureau of Agricultural and Resource Economics and Sciences. Overview of Indonesian Capture Fisheries. 2014.

<sup>129</sup> Seafish. Indonesia Ethics Profile. 2015. [http://www.seafish.org/media/publications/IndonesiaEthicsProfile\\_201509.pdf](http://www.seafish.org/media/publications/IndonesiaEthicsProfile_201509.pdf)

<sup>130</sup> Australian Bureau of Agricultural and Resource Economics and Sciences. Overview of Indonesian Capture Fisheries. 2014. [http://aci.gov.au/files/app5\\_indonesian\\_capture\\_fisheries.pdf](http://aci.gov.au/files/app5_indonesian_capture_fisheries.pdf)

<sup>131</sup> Government of Indonesia. NUMBER 46/PERMEN-KP/. <http://extwprlegs1.fao.org/docs/pdf/ins139988.pdf>  
Government of Indonesia. Amendment to Law No. 31 2004. <http://extwprlegs1.fao.org/docs/pdf/ins97600.pdf>

activities; commercial licensing; fish landing procedures; physical requirements for fishing vessels; fishing gear; and notably for social implications, the use of foreign crew vessels.<sup>132</sup>

- The law states that MMAF can allocate catches based on fisheries potential as well as sustainability concerns.<sup>133</sup>
- The law requires Indonesian vessels that fish in Indonesian waters to use local workers.
- The government is required to establish fishing inspection procedures. Fishing inspections require civil servant inspectors to monitor fishing activities, fishing husbandry, fish processing and distribution, fishing product quality, chemical products used for fish farming, conservation, pollution, research and study on fishing, biodiversity, and the genetic engineering of fish products.
- Seafarers who work on a boat need to have attained the working competency certificate, be at least 18 years old, be physically and mentally healthy (proven by medical exam), possess a seafarer passport issued by the government, and have an effective working contract with an employer.
- Standard working hours for a seafarer are eight hours per day or 44 hours per week with one day off weekly, and off days on national holidays. Work exceeding those hours should be calculated as overtime. Every seafarer should get at least ten hours of rest every day, which can be divided into two breaks with one of them lasting no less than 6 hours. Young seafarers aged 16 – 18 years old must not work more than eight hours per day and 40 hours per week. The young seafarers are also not allowed to perform work during their rest time.
- Every worker is entitled to yearly leave lasting at least 20 days for every year worked. Based on employer request, the remaining leave balance can be converted into an additional fee.
- The employer must provide sufficient supplies for the workers on his boat, food equaling 3,600 calories per worker per day, and enough mineral water, cooking equipment, and other necessities. The employer has to provide medical treatment for any ill worker and is required to pay the worker 's salary when he is not able to work due to his illness. When a worker becomes sick abroad, the employer is also required to provide transportation for his return home.
- The boat should have sufficient resting place, toilets, and washing areas. There should be at least one bathroom for every eight persons on board. There should be a medical treatment room for every 15 workers with first aid facilities and medicine.

The fisheries law has some specific relevance to data streams available for a CDT systems in that it stipulates the necessity of a license to engage in fishery business endeavors, although small-scale fishers are exempt. The specific procedures for licensing are laid out in Government Regulation No.54 of 2002 on Fisheries Business. To obtain a license, companies must submit their business plan, tax identification number, company chart, vessel documents, location of aquaculture activities if relevant and an environmental impact assessment if relevant (i.e. for aquaculture activities.) However, while local workers are registered as part of the Surak Laik Operasi (SLO) process, there is nothing that asks for information about the rest of the crew, which may or may not include foreign workers, and verification of the information is not conducted. Prior to the foreign vessel ban, foreign companies could apply for a three-year foreign vessel use permit (PPKA) to fish in Indonesia waters. In addition to an approved license, PPKA applicants were required to submit a business plan

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<sup>132</sup> Tadjudin D. 2010. National Legal Framework and Current Status of Indonesia Fisheries: Steps to Improve Small Fishers Livelihood. Regional Fisheries Livelihoods Programme for South and Southeast Asia. FAO/AECID. 31 p. <http://www.fao.org/3/a-ar473e.pdf>

<sup>133</sup> Uniconsult International Limited Report to the Asian Development Bank. Marine and Fisheries Sub Sector Strategy. <http://earth01.net/RGDudley/PDF/MASECSTU.pdf>

and an agreement between the owner of the vessel and an Indonesian company. Both PPKA and licenses can be revoked by the granting ministry.

The Ministry of Transportation requires vessels to follow safety statutes, but those only cover vessels over 100 GT. Fishing vessels under 100 GT but over 5 GT are covered by safety statutes as laid out in Regulation of the Minister of Marine Affairs and Fisheries PER.05/MEN/2008 with its amendments in 2009 and 2014.<sup>134</sup>

Indonesia has ratified the 1974 SOLAS Convention of Safety of Life at Sea (SOLAS), the SOLAS Chapter XI-2 Special Measure to Enhance Maritime Security and the United Nations Convention on the Law of the Sea 1982.

Indonesia is a signatory to UNFAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.

Recently, the Indonesian government issued Ministerial Regulation 2/2017 that created a human rights certification mechanism in the fisheries industry. It requires those involved in the Indonesian fishing industry to submit a detailed human rights audit report in order to obtain their license to operate in Indonesia. As of the writing of this report, there is no other available information regarding implementation measures, but it can be safely assumed that it would cover vessel-based workers' rights.

## Company Standards

Companies and retailers in importing are increasingly expecting their suppliers – all the way down the supply chain – comply with supplier codes of conduct. While each company has their own specific code of conduct, several organizations provide base codes or labor standards around which companies can develop their own codes of conduct.

These normative documents include, at minimum, guidance on labor issues such as: child labor, forced labor, health and safety, freedom of association, discrimination, disciplinary procedures, working hours, and remuneration. These codes are developed in alignment with the standards of the International Labor Organization (ILO) and other internationally accepted standards of good labor practice. Examples from the Ethical Trade Initiative, Fair Labor Association and Social Accountability International can be found in Annex III.

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<sup>134</sup> Government of Indonesia. NUMBER 46/PERMEN-KP/2014 <http://extwprlegs1.fao.org/docs/pdf/ins139988.pdf>