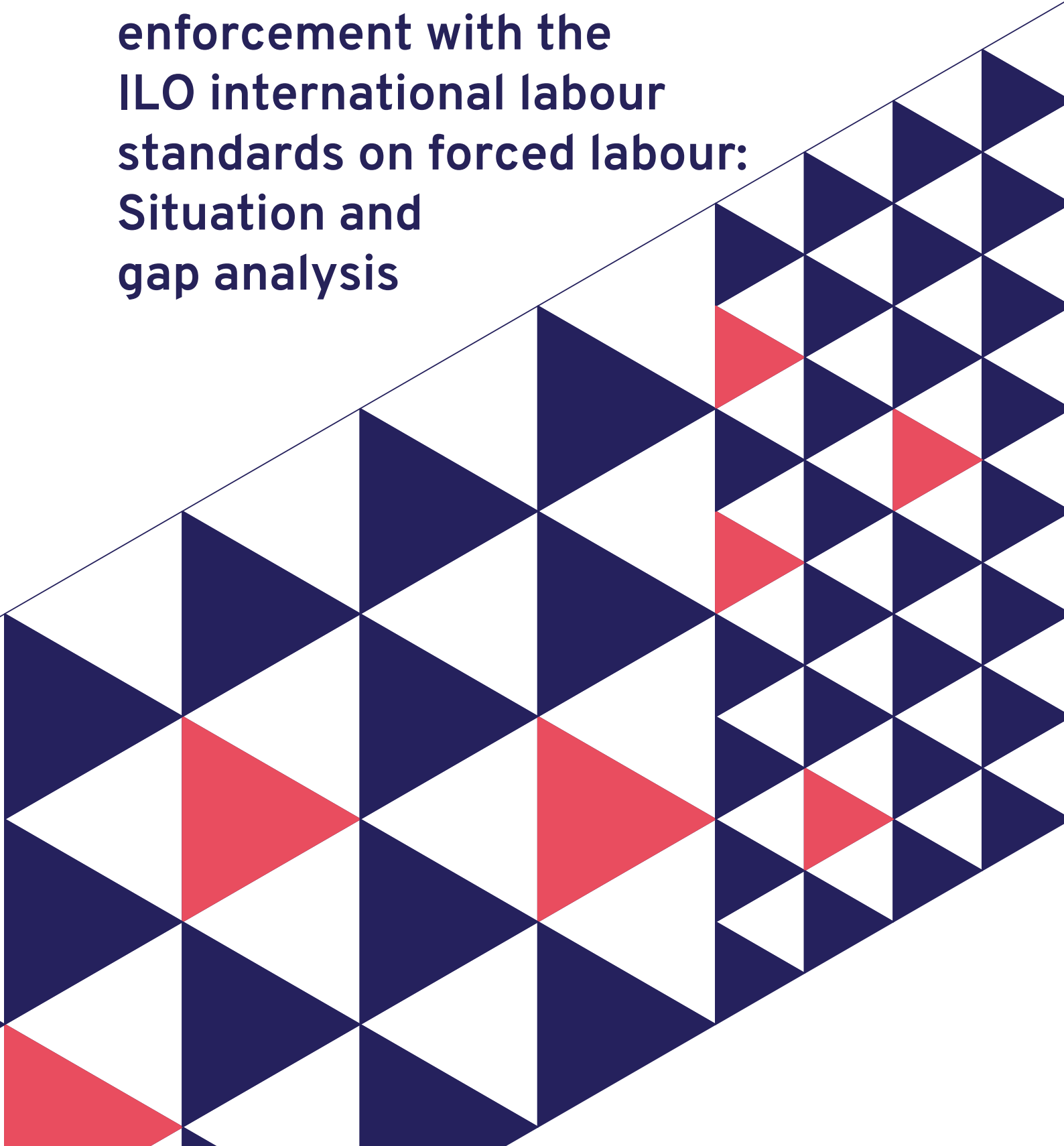




International
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► **The alignment of Indonesian laws, policies, and their enforcement with the ILO international labour standards on forced labour: Situation and gap analysis**



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This document was prepared by an inter-disciplinary team of consultants, including staff of the Multi-Partner Fund of the 8.7 Accelerator Lab Project, following extensive consultations conducted by the ILO with the social partners in the period of December 2022 to March 2023. Funding is provided by the Norwegian Agency for Development Cooperation (Norad) under cooperative agreement number (GLO/20/41/MUL).

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First published 2024



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ISBN 9789220401705 (web PDF)

Also available in Bahasa Indonesia: *Penyelarasan hukum, kebijakan, dan penegakannya dengan standar perburuhan internasional ILO tentang kerja paksa: Analisis situasi dan kesenjangan*, ISBN 9789220401712 (web PDF).

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Acknowledgements

This gap analysis report was prepared by a team of consultants comprised of Wayne Palmer, Michele Ford, and Benni Yusriza Hasbiyalloh under the supervision of Muhamad Nour of the International Labour Organization (ILO) Multi-Partner Fund of 8.7 Accelerator Lab Project. Additional technical support and comments were provided by Alix Nasri, Jajoon Coue, Bharati Pflug, Alison Potter and Jodelen Mitra. Copy-editing and layout design were done by Gita Lingga and Budi Setiawati.

Sincere thanks to the Coordinating Ministry for Maritime Affairs and Investment, the Supreme Court, the Ministry of Transport, the Ministry of Foreign Affairs, the Ministry of Women Empowerment and Children Protection, the Ministry of Manpower, the Ministry of Marine Affairs and Fisheries, BP2MI, workers' organizations (KSBSI, KSPI, KSPSI, KPI, SAKTI, SPPI), employers' organizations (APINDO, ISMAA, and IFMA), and the civil society organizations (SBMI, Green Peace Indonesia, Human Rights Watch Group, Indonesian Ocean Justice Initiative), for providing inputs during the data collection and validation workshop.

This study was made possible with the generous funding support of the Norwegian Agency for Development Cooperation (Norad). The opinions, findings and conclusions stated herein are those of the authors and do not necessarily represent those of the funder or those of the ILO. Any errors are the sole responsibility of the authors.

Executive summary

In June 2014, the ILO adopted the Protocol to the Forced Labour Convention, 1930 (PO29) and Forced Labour (Supplementary Measures), Recommendation, 2014 (R203) which provides nonbinding practical guidelines for its implementation. PO29 and R203 strengthened the protection provided under the Forced Labour Convention, 1930 (C29) and the Abolition of Forced Labour Convention, 1957 (C105) by providing measures of prevention, protection, and remedies, such as compensation and rehabilitation, as well as a framework for international cooperation. This gap analysis documents the extent to which the requirements of PO29 are represented in the Government of Indonesia's existing laws, norms and practices, with special reference to Indonesia's catch fisheries sector and local fishers, who are one of the groups identified to be at risk of forced labour in Indonesia.

Recommendations

The following recommendations identify ways to address the significant gaps in Indonesia's regulatory framework in terms of prevention, protection, access to remedies, enforcement, and international cooperation within the fisheries sector.

Prevention

1. The Government of Indonesia should take steps to formalise a greater proportion of employment, thus giving them access to protections stipulated in existing legislation. A key challenge for preventing forced labour situations in Indonesia is informality. For example, most local fishers lack a sea-based employment contract, putting them at greater risk of debt bondage and excessive working hours. Marine Affairs and Fisheries Ministerial Regulation No.33/2021 provides minimum standards for local fishers' employment, but it is poorly implemented.
2. The Government of Indonesia should take steps to support the better integration of trade unions at the workplace level in different sectors in order to improve workers' capacity to prevent forced labour-like practices from emerging in those workplaces and to raise expectations more generally that workers have a right to have a voice.
3. The Government of Indonesia should improve socialisation and education for local workers, drawing on the same standards they use for migrant workers, including with regard to employment standards, social benefits, fair recruitment, freedom of associations and collective bargaining. It should also be encouraged to involve trade unions and other civil society organisations in such socialisation and education activities.
4. The Government of Indonesia should also evaluate its legal and institutional frameworks, and then make the necessary amendments to require labour inspection and labour disputes settlement, and deal with overlapping jurisdictions that prevent institutional intervention in all sectors (for example, with respect to employment in the catch fisheries, there are overlapping jurisdictions between the Ministries of Manpower, Marine Affairs and Fisheries and Transportation).

Protection

5. Indonesia should strengthen the protection mechanisms for fishers in Indonesia waters and also fishers in Indonesia flag vessels. Indonesia has issued several regulations to ensure the protection of victims of forced labour in relation to human trafficking. However, these regulations are primarily focused on migrant workers. In the catch fisheries, for example, Marine Affairs and Fisheries Ministerial Regulation No.33/2021 does not make provision for sanctions on violations of sea-based employment agreements, whereas Government Regulation No.22/2022 on Placement and Protection of Migrant Seafarers and Migrant Fisher stipulates sanctions for violations during the recruitment and contracting phase of the migration process for migrant fishers.

Access to remedies

6. Indonesia should review its legislation to ensure that all victims of forced labour are able to access legal remedies with penal sanctions for perpetrators. Law No.21/2007 on the Criminal Act of Trafficking in Persons includes mechanisms for victims to seek remedies. However, access to those mechanisms is limited by two factors: 1) the negligible number of at-risk local workers being recognised as victims of human trafficking in the criminal justice system, and 2) the fact that not all forced labour affecting them is tantamount to human trafficking. There are two

additional evidentiary requirements to prove human trafficking that may not have been part of their journey into their forced labour situation.

Enforcement

7. Indonesian labour standards need to be applied to all employment. Currently this is not the case. For example, in catch fisheries, even the legal minimum wage is not applied because in practice the income of most fishers is calculated using the Profit-Sharing System, in which income is determined each month based on the value of the catch. As a consequence, the work of fishers does not meet the legal definition of employment as it is defined in Law No.13/2003 on Manpower and so denies them access to employment and social protections that must be provided to other groups of recognised workers.

International cooperation

8. Law No.21/2007 on the Criminal Act of Trafficking in Persons is the main statute that regulates international cooperation on issues related to forced labour. Yet the regulatory focus is again on migrant workers. The government should consider ratifying P29, which could be used to not only provide increased protection for local workers, but also bolster Indonesia's international credentials for addressing forced labour situations involving local workers within its borders.

The findings are presented under the usual understanding that the International Labour Office has no authority under the Constitution of the International Labour Organization to provide interpretations of the instruments adopted by the International Labour Conference or to assess the conformity of national law and practice with these instruments, and without prejudice to comments that may be made by the competent ILO supervisory bodies.

1. Introduction

Despite ongoing efforts by international organisations, States, trade unions and non-governmental organisations (NGOs) to eradicate modern slavery and human trafficking, these issues are still far too prevalent on a global scale. According to the International Labour Organization (ILO), the International Organization for Migration and Walk Free, there were 46.6 million people living in modern slavery in 2021, of whom 27.6 million experienced forced labour and 22 million experienced forced marriage (ILO et al. 2022, 2–4).

ILO member States are required to recognise and promote efforts to eliminate all kinds of forced labour or compulsory labour under the ILO Declaration on Fundamental Principles and Rights at Work. In addition, the ILO has adopted two primary Conventions designed to prohibit the practice of forced or compulsory labour in all forms. The first of these is the Forced Labour Convention, 1930 (No. 29), and the second is the Abolition of Forced Labour Convention, 1957 (No. 105).

Recognising that C29 and C105 do not adequately deal with specific forms of forced labour, such as human trafficking for labour exploitation, the Tripartite Meeting of Experts on forced labour and trafficking for labour exploitation concluded that supplementary measures were required to address the implementation gap of the Conventions (ILO 2013). To address this, in June 2014, the ILO adopted Protocol 29 (PO29) of the Forced Labour Convention and Recommendation No. 203 (R203) on Forced Labour (Supplementary Measures), which provides nonbinding practical guidelines for the implementation of PO29 (ILO 2014). PO29 and R203 strengthened the protection provided under C29 and C105 by providing measures of prevention, protection, and remedies, such as compensation and rehabilitation.

The Government of Indonesia has made a qualified commitment to eliminate forced labour. It has ratified nine of the eleven ILO fundamental instruments, including C29 and C105. However, it has not ratified PO29, which is also fundamental to addressing forced labour. In 2021, it submitted a country baseline annual review explaining the prospect of ratification of PO29.

Indonesia's country baseline review for 2021 also included existing policies and programmes demonstrating the resolve to end forced labour and human trafficking (ILO 2022). It explicitly identified Indonesian migrant workers abroad as a vulnerable group that must be taken into account in an endeavour to eliminate forced labour and human trafficking. To a much lesser extent, it implied coverage for other vulnerable groups include children generally, and women in relation to workplace discrimination. However, the emphasis on Indonesians working abroad reveals a fundamental misunderstanding about the nature and prevalence of forced labour in Indonesia. In short, despite the Government of Indonesia's efforts to incorporate Conventions 29 and 105 into its national regulatory framework, its focus on Indonesian migrant workers abroad falls short of protecting the other vulnerable sectors and groups of workers within Indonesia itself.

Through a case study of the fisheries sector, this situation and gap analysis aims to identify conformities and gaps in Indonesia's existing laws, policies and programmes, along with their enforcement mechanisms, with PO29 and its accompanying recommendation. The analysis seeks to determine the extent to which Indonesia's current legal and regulatory mechanisms provide a foundation for eliminating forced labour. In addition, it assesses the extent to which ratification of PO29 would support, strengthen or supplement Indonesia's current regulatory mechanisms. Based on this analysis, the report concludes that – while the Government of Indonesia has incorporated most provisions into national law – its focus on Indonesian migrant workers means that workers experiencing forced labour *within* Indonesia are overlooked. The government should consider ratifying PO29, as it would help convey its seriousness in relation to dealing with forced labour both *within* and *outside* Indonesia, and a first step towards better addressing the situation of all workers experiencing forced labour.

2. International efforts to eliminate forced labour

Below are the international standards on forced labour: the Forced Labour Convention, the Abolition of Forced Labour Convention, Protocol 29 of the Forced Labour Convention and Recommendation and No. 203 on Forced Labour (Supplementary Measures) (Table 1).

Table 1. International standards on forced labour

C29 (1930)	C105 (1957)	PO29 (2014)	R203 (2014)
C29 prohibits forced or compulsory labour (Article 1(1)). It defines ‘forced or compulsory labour’ (Article 2(1)) and identifies 5 exceptions on the subject. It also requires ratifying States to make forced labour a crime with ‘really adequate and strictly enforced’ penalties (Article 25).	C105 addresses state-imposed forced labour. It complements C29 by addressing five practices that emerged after the Second World War: forced labour as punishment for (1) political views, (2) economic development, (3) strike participation, (4) racial or other discrimination and (5) labour discipline.	PO29 is a legally binding instrument that requires ratifying States to take preventive, protective and compensation measures to carry out the Convention’s responsibility to eliminate forced labour. It recognises that human trafficking for the purpose of forced labour is an international concern, and that migrant workers are particularly vulnerable. Only ILO members that have ratified C29 can ratify the Protocol.	R203 supplements the PO29 and C29. It provides non-binding practical guidance on strengthening national law and policy on forced labour in the areas of prevention, protection of the victims, access to justice and remedies, enforcement and international cooperation. It expands on the provisions of PO29 and should be read in tandem with it.

C29 addresses the use of forced labour in all forms in every sector. C29 defines forced labour or compulsory labour as ‘all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily’ (See Annex 1). This definition is applicable to every possible form of forced labour in both the public and private sectors, with several specified exceptions, such as compulsory military service. As of March 2023, 180 countries had ratified C29, including Indonesia, which ratified it on 12 June 1950.¹

C105 supplements the broad provisions of C29 and requires the immediate abolition of forced labour. It also sets out stricter principles regarding exemptions from forced labour by addressing the use of forced labour as a means of punishment for political views, methods of mobilising labour for economic development, as a means of labour discipline, as a punishment for participation in strikes and as a means of discrimination. As of March 2023, 178 countries had ratified C105, including Indonesia, which ratified it on 7 June 1999.²

In 2014, PO29 and R203 were adopted in an attempt to strengthen the existing forced labour Conventions and create the link to the elimination of human trafficking for labour exploitation (see Annexes 2 and 3).

¹ Countries that have not ratified the Convention include Afghanistan, Brunei Darussalam, Marshall Islands, Palau, Tonga, Tuvalu and the United States of America.

² Countries that have not ratified the Convention include Brunei Darussalam, Lao People’s Democratic Republic, Marshall Islands, Myanmar, Palau, Republic of Korea, Timor-Leste, Tonga and Tuvalu.

PO29 builds on the ILO's long-standing commitment to combating forced labour, the importance of prohibiting it and the need for comprehensive measures to prevent its usage. It recognises contemporary manifestations and challenges of forced and compulsory labour in many sectors of the economy and among many groups of workers and acknowledges that the nature of forced labour has evolved, emphasising the significance of technical support for countries to meet their duties to provide prevention and protection for all workers.

The emphasis in PO29 on prevention, protection, enforcement, international cooperation and access to recovery requires an active role from member States to work together to deal with labour issues. It pays special attention to migrant workers who are vulnerable to trafficking for the purpose of labour exploitation. However, it also applies to non-migrant workers, and thus should be understood as an effort to address the need for prevention and protection for all workers against forced labour.

Signatories to PO29 must establish a national action plan to ensure its implementation. PO29 calls for States to take proactive measures to protect workers from abusive and fraudulent acts during recruitment and placement processes. In addition, States must carry out inspections of sectors vulnerable to forced labour and human trafficking. As well as addressing recovery for the victim, it sets out specific obligations to provide them with access to remedies, such as compensation, as well as the provision of other forms of assistance and support. It also acknowledges that, while accessing remedies, human trafficking victims are often treated as perpetrators rather than victims and prohibits prosecution or punishment of recognised victims. As of October 2023, 60 countries had ratified PO29. This group did not include Indonesia.

R203 complements PO29 by suggesting specific measures for prevention, protection, access to remedies, enforcement and international cooperation. Member States can use R203 as a guideline in constructing intervention measures that not only criminalise and prosecute perpetrators but also take effective measures to eliminate forced labour and uphold workers' rights.

Although not part of official instruments on forced labour, the 2012 ILO Indicators of Forced Labour provides frontline officials with a guide on 'clues' to the existence of forced labour (ILO 2012) and is useful for identification of potential forced labour cases. There are eleven indicators of forced labour:

- ▶ 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

3. Research objectives

The specific research objectives of this analysis include the following:

- ▶ Mapping of laws, regulations and other measures relevant to the prevention and mitigation of forced labour and trafficking in persons, in general and with specific reference to workers employed in national catch fisheries.
- ▶ Determining if and how the provisions of PO29 are reflected in Indonesia's current laws, rules and practices.
- ▶ Identifying the gaps in Indonesian labour law and regulations, particularly in relation to national catch fisheries.
- ▶ Making policy recommendations on adjustments required to improve compliance with PO29 in Indonesia.

To achieve these aims, this study focuses on a case study of fishers employed in Indonesia's catch fisheries, who are often made invisible by dominant narratives around migrant fisher exploitation. This study's focus on institutional responses to forced labour in Indonesia's national catch fisheries reveals legal and policy gaps in at least three major policy domains, namely: labour inspection, labour dispute resolution and victim protection.

4. Methodology and limitations of the analysis

The study design consists of three main components: (i) a general discussion of forced labour in Indonesia, (ii) a comparative analysis of PO29 and Indonesia's national law, and (iii) a regulatory gap analysis of forced labour in the national catch fisheries sector.

The first component was constructed through a desk review on selected groups and sectors particularly at risk of forced labour within Indonesia. These findings were primarily drawn from secondary materials including existing reports and studies, relevant statistical data and Indonesia's country baseline annual report, as required by the ILO. The second component consists of a systematic review of Indonesia's legal and institutional frameworks for dealing with forced labour and human trafficking.

The second component of the present study relating to the fisheries sector also utilised existing documents and research for analysis. In addition, it drew on interviews with 35 individuals (see Annex 5) from various organisations in Indonesia including the Ministry of Manpower, the Ministry of Transportation, the Ministry of Foreign Affairs, the Indonesian Migrant Worker Protection Agency (BP2MI), civil society organisations (CSOs), trade unions and business associations, among others. The main objectives of the interviews were to verify the findings in the first component and to generate insights regarding the specific issue of forced labour in national catch fisheries.

The team experienced significant challenges in the interview process with regard to accessing information on government measures to support fishers working in Indonesia with some of the interviewees focusing their responses on human trafficking for labour exploitation, primarily in the context of migrant workers and hesitation to classify local fishers' vulnerabilities as forced labour or human trafficking. This hesitation is partly due to the fact that there is no official data on local fishers' complaints – a situation that contrasts starkly with the granular detail maintained in relation to complaints made by Indonesians employed overseas (hereafter Indonesian migrant workers).

5. Indonesia's institutional and legal framework for dealing with forced labour

Indonesia has a highly developed institutional and legal framework for fighting against human trafficking for forced labour. It has general institutions and laws that apply to workers, and it also has made specific interventions for certain employment sectors. However, as illustrated by our detailed study of the fisheries sector, implementation prevents these workers from being identified as victims of 1) trafficking for forced labour or just 2) forced labour.

5.1. Indonesia's institutional framework for dealing with forced labour

The table below summarises the duties of the main government institutions tasked with fighting forced labour and trafficking in Indonesia, including several directorates that have authority in setting employment standards and resolving disputes in various sectors, including the fisheries sector.

Area of responsibility	Notes
Human Trafficking Task Force	
• Coordination of efforts to prevent and handle criminal acts involving trafficking in persons • Carrying out advocacy, outreach, training and cooperation, both nationally and internationally • Monitoring the development of the implementation of victim protection, which includes rehabilitation, return and social reintegration • Monitoring the development of law enforcement implementation • Carrying out reporting and evaluation	The Task Force includes representatives of almost all ministries and agencies in Indonesia. However, its primary priority remains migrant workers. Its national action plan only lists migrant workers as a vulnerable category that requires special attention and interventions.
Directorate General of Labour Inspection and Occupational Safety and Health (Ministry of Manpower)	
• Formulation and implementation of policies in the field of labour inspection system and occupational safety and health institutions, fostering the inspection of labour norms, fostering occupational safety and health testing and fostering labour inspectors and occupational safety and health examiners • Development of norms, standards, procedures, criteria and technical guidelines in the field of occupational safety and health institutions, fostering an examination of labour norms and fostering occupational safety and health testing	The Directorate General does not inspect fishing vessels and shipping vessels because they fall under the authority of the Ministry of Marine Affairs and Fisheries and the Ministry of Transportation.

Area of responsibility	Notes
Directorate General of Industrial Relations and Social Security (Ministry of Manpower)	
- Formulation and implementation of policies in the field of employment relations and salary mechanisms, social security for workers, institutions and Prevention of Industrial Relations Disputes, Settlement of Industrial Relations Disputes and Development of Industrial Relations Mediators - Formulation of norms, standards, procedures, criteria and technical guidelines in the field of work requirements, salary, social security for workers, industrial relations institutions and cooperation, as well as the settlement of industrial relations disputes	The Directorate General does not have technical guidelines for resolving seafarer and fishers' disputes.
Directorate General of Marine Catch Fisheries (Ministry of Marine Affairs and Fisheries)	
Policy development and policy implementation in the area of fish resource management, standardisation of fishing vessels and fishing gear, certification of fishers, determining the content of sea-based employment contracts (Perjanjian Kerja Laut, PKL) for fishers, management of fishing ports, enhancement of the fishing industry and service delivery	The Directorate General's onboard monitoring is limited to inspecting the seaworthiness of the fishing vessel, not labour standards of the fishing work.
- The development of norms, rules, procedures and criteria in the area of fish resource management, standardisation of fishing boats and fishing gear, certification of fishers, port management, improvement of fishing business and service delivery - Areas covered include: - Fishing vessel crew minimum requirements - Qualifications, ranks and competence of fishing vessel crews - Fishing vessel crew certificate - Education and training for fishing vessel crews - Fishing vessel crew technical guidance - Testing of fishing vessel crew skills - Confirmation of fisheries vessel crew certificate - Fishers' seaman's book - Sea-based employment contracts - Logbook and fishing crew registration (sijil) - Social security scheme for fishing vessel crews - Compensation scheme for fishing vessel crews	The Directorate General's onboard monitoring is limited to inspecting the seaworthiness of the fishing vessel, not labour standards of the fishing work.

Area of responsibility	Notes
Directorate General of Sea Transportation (Ministry of Transportation)	
• Preparation of standards, norms, guidelines, criteria and procedures in the field of ship design and seaworthiness, measurement, registration and nationality of ships, nautical, technical and ship radio, pollution and ship safety management, tank cleaning, repair and maintenance (floating and running repair) of ships, stipulation of marine testing and seafarer certification standards • Preparation and implementation of evaluation and reporting protocols in the fields of ship design and certification, marine testing and certification standards, ship personnel recruitment and seafarer documents, ship safety and ship safety management, ship measurement and measurement certificates, ship registration and nationality markings and a compensation guarantee for sea pollution involving oil from ships	The Directorate General regulates Vessel inspection and the seafarer labour standards.

5.2. Indonesia's legal framework for dealing with forced labour

Article 27 Paragraph (2) of Indonesia's 1945 Constitution states that every citizen has the right to work and a life worthy of humanity. As such, the Constitution upholds the dignity of workers, as reflected in the fifth pillar of Pancasila, which guarantees a just and civilised humanity.

The ratification of fundamental ILO Conventions 29 and 105 demonstrates Indonesia's determination to promote and protect workers' rights, especially their right to be free from forced labour, and strengthen the protection of workers' rights from any form of forced labour. However, Indonesia has not yet ratified PO29, but it has made a qualified commitment to fighting against forced labour and human trafficking. This section analyses the gaps between the substantive provisions of PO29 and extant Indonesian legislation, policies and practice.

6. Summary of findings

Forced labour definition

Article 2

1. For the purposes of this Convention the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.
2. Nevertheless, for the purposes of this Convention, the term forced or compulsory labour shall not include--
 - (a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
 - (b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
 - (c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;
 - (d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;
 - (e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

Article 2(1) of C29 defines forced labour as 'All work or service exacted from any person under the menace of any penalty, and for which the said person has not offered himself voluntarily'. The definition of forced labour used in the Indonesian justice system can be found in Law No.21/2007 on Human Trafficking. According to Article 1 Paragraph (7), exploitation is an act that takes place with or without the victim's consent, which includes, but is not limited to, prostitution, forced labour or services, slavery or practices similar to slavery, oppression, extortion, exploitative use of physical or sexual reproductive organs, illegally removing or transplanting organs and/or body tissue or utilising one's energy or ability by another party to gain material or immaterial benefits. The explanation of this article further details the definition of slavery, which is the condition of a person under the ownership of another person. According to the Human Trafficking Law, a practice similar to slavery is an act of placing a person in the power of another person, such that they are unable to refuse a job. Under the Human Trafficking Law, forced labour can only be prosecuted if all elements of the process and purpose are met, criteria that exclude many cases of forced labour.

Penal sanctions

Article 25

The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

The Law No.21/2007 on the Criminal Act of Trafficking in Persons criminalizes forced labour that meets the elements of trafficking. However, where it is difficult to provide evidentiary requirements such as act and means of trafficking, which is the case in some forced labour situations, then prosecution of such case as a criminal offense could fail and could lead to such cases being tackled as labour exploitation cases instead. Penalties for labour exploitation cases are not adequate to remedy the crime of forced labour.

Article 1

1. In giving effect to its obligations under the Convention to suppress forced or compulsory labour, each Member shall take effective measures to prevent and eliminate its use, to provide to victims protection and access to appropriate and effective remedies, such as compensation, and to sanction the perpetrators of forced or compulsory labour.
2. Each Member shall develop a national policy and plan of action for the effective and sustained suppression of forced or compulsory labour in consultation with employers' and workers' organizations, which shall involve systematic action by the competent authorities and, as appropriate, in coordination with employers' and workers' organizations, as well as with other groups concerned.
3. The definition of forced or compulsory labour contained in the Convention is reaffirmed, and therefore the measures referred to in this Protocol shall include specific action against trafficking in persons for the purposes of forced or compulsory labour.

Law No.13/2003 on Manpower (hereafter the Manpower Law) notes that Indonesia's commitment to respect human rights in the workplace followed the ratification of C29.

The Manpower Law includes provisions from the foundation, principles and objectives of manpower development; manpower planning and employment information; fair opportunities and treatments for all workers; development trainings; proper work placement; employment of migrant workers; industrial relations and institutional development, including working agreements; workers' protection on basic rights and regarding wage and welfare; special protection for women workers, children and disabled workers; and labour inspection. However, the Manpower Law does not explicitly address forced labour.

National Action Plan

Presidential Regulation No. 22/2021 requires the Human Trafficking Task Force to develop a National Action Plan that includes a measured plan of prevention, protection, law enforcement, and international cooperation, thus meeting the requirement of PO29 and its recommendation that call for the state to develop a plan of action. The 2015–2019 Human Trafficking National Action Plan (RAN TPPO) aimed to suppress all forms of forced labour in Indonesia, is regulated under the 2007 Human Trafficking Law and Presidential Regulation No.69/2008 on the Task Force for the Prevention and Handling of Human Trafficking as amended by Presidential Regulation No.22/2021.

Under Presidential Regulation No.22/2021, the responsible institutions are as follows:

1. The Central Task Force for the Prevention and Handling of the Crime of Human Trafficking (Human Trafficking Task Force) is the institution tasked with coordinating efforts to prevent and handle the crime of human trafficking at the national level.
2. The Provincial Task Force for the Prevention and Handling of the Crime of Human Trafficking (Provincial Task Force) is the institution tasked with coordinating efforts to prevent and handle the crime of human trafficking at the provincial level.
3. The Task Force for the Prevention and Handling of the Crime of Human trafficking at the District/City (District/City Task Force) is the institution tasked with coordinating efforts to prevent and handle the crime of human trafficking at the district/city level.
4. The responsible Minister is the minister(s) administering government affairs in the field of women's empowerment and child protection.

The Human Trafficking Task Force includes representatives from the Coordinating Ministry of Human Development and Culture; the Coordinating Ministry of Political, Legal and Security Affairs; the Ministry of Women's Empowerment and Child Protection; the Ministry of Home Affairs; the Ministry of Foreign Affairs; the Ministry of Finance; the Ministry of Religious Affairs; the Ministry of Law and Human Rights; the Ministry of Transportation; the Ministry of Manpower; the Ministry of Social Affairs; the Ministry of Health; the Ministry of Education, Culture, Research and Technology; the Ministry of Tourism and Creative Economy; the National Development Planning Agency; the Ministry of Youth and Sports; the Ministry of Villages, Disadvantaged Regions and Transmigration; the Ministry of Marine Affairs and Fisheries and other related agencies; the BP2MI, the National Police, Marine Security Agency, the Witness and Protection Agency, the Indonesia Intelligence Agency; the Attorney General Office; and the Financial Transaction Reports and Analysis Centre.

Under Article 58 Paragraph (4) of the Human Trafficking Law, the Task Force is tasked with the following:

1. Coordinating efforts to prevent and deal with the criminal act of trafficking in persons.
2. Carrying out advocacy, outreach, training, and cooperation both nationally and internationally.
3. Monitoring the progress of the implementation of victim protection which includes rehabilitation, return, and social reintegration.
4. Monitoring the development of law enforcement implementation; and
5. Carrying out reporting and evaluation.

The lower-level bodies have commensurate responsibilities in the relevant jurisdiction.

In theory, the national action plan incorporates the provisions of PO29 as they relate to its five policy areas (prevention, protection, access to remedy, enforcement, international cooperation). However, in practice, its focus on Indonesian migrant workers as a vulnerable group means that it has fundamentally disregarded the situation of victims of forced labour within Indonesia itself. Moreover, given that forced labour is understood through the lens of human trafficking, cases of forced labour can only be dealt with through the criminal law system when all the elements of the process, methods and objectives have been met. It is also salient that the responsible ministry is the Ministry for Women's Empowerment and Child Protection, which implies that the problem of human trafficking is confined to women and children.

Specific measures taken to combat trafficking in persons for the purposes of forced or compulsory labour

To streamline and ensure implementation, the Human Trafficking Law mandates the formation of a Task Force consisting of representatives from the government, law enforcement, civil society organisations, NGOs, communities, workers' organisations and researchers/academics. In Paragraph (4) of the Law, the Task Force is given the authority to coordinate efforts to prevent and address human trafficking, advocating, outreaching, training and cooperation; monitor the development of the implementation of victim protection, including rehabilitation, safe return and social reintegration; stabilise the development of the implementation by law enforcement; and report and evaluate the implementation.

Article 58 Paragraph (1) of the Human Trafficking Law states that the central and regional governments are required to take the necessary steps to prevent and deal with the crime of human trafficking. Article 1 of Presidential Regulation No.69/2008 defined the Task Force as consisting of three separate agencies. The first is the Central Task Force for the Prevention and Handling of Human Trafficking, a coordinating agency that coordinates efforts to prevent and handle the crime of human trafficking at the national level. At the provincial level, the corresponding body is the Provincial Task Force for the Prevention and Handling of Human Trafficking. At the district level is the District Task Force for the Prevention and Handling of Human Trafficking.

Article 4 Paragraph (2) of Presidential Regulation No.22/2021, which amended Presidential Regulation No.69/2008, defines the function of the Central Human Trafficking Task Force as follows:

1. Formulating a national strategy and action plan for the prevention and handling of the crime of trafficking in persons.
2. Preparing, coordinating, and implementing assistance and consultation in efforts to prevent and deal with criminal acts of human trafficking for stakeholders at central and regional levels.

3. Preparing, coordinating, and implementing communication, information, and education as well as dissemination of efforts to prevent and deal with the crime of trafficking in persons for stakeholders at central and regional levels.
4. Preparing, coordinating, and implementing training in efforts to prevent and handle the criminal act of trafficking in persons for stakeholders at the central and regional levels in accordance with the provisions of laws and regulations.
4. Preparing, coordinating, and implementing networks and partnerships as well as relations between national and international institutions and the community in efforts to prevent and deal with the crime of trafficking in persons.
6. Preparing, coordinating, and implementing mapping, identification, monitoring, and evaluation of developments in the implementation of victim protection which includes rehabilitation, return, and social reintegration.
7. Preparing, coordinating, and implementing mapping, identification, monitoring, and evaluation of law enforcement.
8. Developing an integrated and up-to-date data collection and recording system for the handling of criminal cases of trafficking in persons
9. Monitoring, evaluation, and preparation of reports.

An important aspect of the prevention of human trafficking involves the provision of information. Article 1 Paragraph (2) of Presidential Regulation No.22/2021 on Human Trafficking Task Force states that one of the functions of the Human Trafficking Task Force is to prepare, coordinate and implement communication, information and education and to disseminate efforts to prevent and deal with human trafficking for stakeholders at the central and regional levels. The same function is described in Article 58 Paragraph (4) of the Human Trafficking Law, where the Task Force is defined as a coordinating agency in charge of coordinating prevention and response efforts on human trafficking; carrying out advocacy, outreach, training and cooperation; monitoring the progress of protection implementation on victims, which includes rehabilitation, safe return and social integration; monitoring the development of law enforcement implementation and reporting; and evaluating these implementations.

Socialisation, information and education on the risk of human trafficking for labour exploitation have become a part of the 2014–2019 RAN TPPO, which includes various elements in different regions. In its progress and achievement report, the Task Force mentioned four key indicators to measure achievements related to socialisation, information and education. The first was the development of technical recommendations by related agencies to promote the prevention of human trafficking. The second involves training and education on the risk of human trafficking for both government entities and other stakeholders. The third is to create and disseminate information and educational materials on the dangers of human trafficking using all accessible media. The fourth, at the village level, is to develop community watch-based management and a local human trafficking task force. Furthermore, the Task Force stated in the report that a number of programmes were to be implemented based on the criteria, such as capacity building for local governments, safe migration socialisations and the establishment of *Desmigratif*, a community watch programme to identify the risk of human trafficking in several villages (Gugus Tugas PP-TPPO 2019). However, the progress report does not mention these programmes' impact assessments, nor does it detail any efforts to highlight the risk of forced labour and human trafficking for groups other than migrant workers.

Indonesia has also issued regulations and supervision of labour recruitment and the placement process through the Manpower Law and Law No. 18/2017 on the Protection of Indonesian Migrant Workers. The Elucidation of Law No. 18/2017 mentions that Indonesian migrant workers must be protected from human trafficking, including slavery and forced or compulsory labour, violence, abuse, crimes against humanity and other treatment that violates human rights.

The Government of Indonesia is committed to disseminating information on the risk of forced labour in relation to Indonesian migrant workers, and it is further evidenced through its relative willingness to develop laws and institutions that relate to its specific understanding of human trafficking.

Article 2

The measures to be taken for the prevention of forced or compulsory labour shall include:

- (a) educating and informing people, especially those considered to be particularly vulnerable, in order to prevent their becoming victims of forced or compulsory labour;
- (b) educating and informing employers, in order to prevent their becoming involved in forced or compulsory labour practices;
- (c) undertaking efforts to ensure that:
 - (i) the coverage and enforcement of legislation relevant to the prevention of forced or compulsory labour, including labour law as appropriate, apply to all workers and all sectors of the economy; and
 - (ii) labour inspection services and other services responsible for the implementation of this legislation are strengthened;
- (d) protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process;
- (e) supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour; and
- (f) addressing the root causes and factors that heighten the risks of forced or compulsory labour.

Educating and informing vulnerable groups

In Indonesia, the likelihood of forced labour is higher in industries or sectors that employ informal workers and low- and unskilled labour. Based on interviews, the groups of workers that are particularly at risk include the following:

1. Indonesian migrant domestic workers
2. Indonesian migrant oil palm plantation workers
3. Indonesian migrant fishers
4. Indonesian domestic workers
5. Indonesian homeworkers
6. Indonesian oil palm plantation workers
7. Indonesian fishers

There are three reasons, at minimum, that put these groups of workers at greater risk of forced labour than workers in other informal sector occupations: distance from social networks, dangerous working environments and gender-based discrimination. First, these groups of workers often work in constrained areas that are less accessible for monitoring and accountability by outside parties, including the Ministry of Manpower. In addition, they may be unable to leave their workplace without authorisation, and thus their capacity to interact with the outside world may be limited.

Second, work in these sectors is dangerous. For example, fishers are often exposed to harmful surroundings, including being subjected to hazardous and life-threatening weather conditions, such as storms, strong waves and cold temperatures, which can result in accidents, injuries and death. Because of contact with polluted water or fish, as well as bad living conditions on fishing vessels, illness is also an issue among fishers.

Third, there is also a gender dimension, as women are known to suffer additional discriminatory practices and harassment at work. People in such vulnerable situations, for example a domestic worker living in an employer's home or a woman working on an isolated oil palm plantation, may acquiesce to forced labour situations. Indeed, domestic workers, who are commonly employed by private households to cook, care for children, look after the elderly and perform other essential tasks for their employers, are among the most exploited and abused groups of workers in Indonesia.

Since 2004, when the Government of Indonesia passed Law No. 39/2004 on Placement and Protection of Indonesian Workers Overseas, it has issued multiple implementing regulations and established institutions to prevent unlawful placement that, according to senior officials is responsible for putting migrant workers to forced labour situations. It has also created a special agency whose sole responsibility is to coordinate the official response to evidence of abuse and exploitation of migrant workers outside Indonesia. The Ministry of Foreign Affairs also provides support to migrant workers through its institutional objective to provide protection to Indonesian citizens abroad, generally in the case of funded repatriations in cases when migrant workers experience severe abuse.

These measures sit in stark contrast with the lack of attention to vulnerable groups of workers within Indonesia. The only ministry that focus on a particular group is the Ministry of Women's Empowerment and Child Protection, which has a strong focus on child labour. Beyond this, the Ministry of Manpower is the only ministry that focuses on local workers; it is widely known that its inspection capacity is limited and in some cases may be dealt with using 'family' (*kekeluargaan*) techniques rather than being properly investigated and pursued.

Educating and informing employers

The Government of Indonesia's main initiative to educate employers on employment rights is through labour mediators, who claim that this activity takes up most of their time. These outreach activities tend to 1) provide information that is general rather than tailored to advise and 2) encourage workers to contribute to the prosperity of the company, and deal with any matters arising at the factory level rather than registering labour disputes.

Undertaking efforts to ensure the coverage and enforcement of legislation and of labour inspections and other services

Beyond human trafficking, the Indonesian government has a number of measures in place to prevent forced labour. Law No. 23/2004 on the Abolition of Domestic Violence defines domestic violence as any act against a person, but especially women, that results in physical, sexual or psychological torture or suffering and/or neglect of the household, including threats to commit acts, coercion or unlawful deprivation of liberty within the household. This law specifically makes provisions for both family members and domestic workers, and is complemented by Manpower Ministerial Regulation No. 2/2015 on the Protection of Domestic Workers, which protects the rights of domestic workers and regulates their process of recruitment.

This regulation was considered a breakthrough in providing protection for domestic workers, considering that no regulation existed on the issue. It prioritises protection by using a scheme to implement normative rights as workers while still respecting the customs and culture that apply to the local community. It also has provisions on sanctions for recruitment agents that place domestic workers in households – known as Domestic Worker Distribution Institutions (*Lembaga Penyalur Pekerja Rumah Tangga, LPPRT*) – for employment-related violations. The sanctions vary from light sanctions in the form of written warnings and temporary suspension of part or all of an LPPRT's business activities via the revocation of its permit by the relevant provincial governor.

A major gap in the regulatory framework is the fact that domestic workers are not protected under the Manpower Law. As noted earlier, they are excluded from its protections because they are not considered to be employed by 'employers'. Since the ministerial regulation does not specify workers' rights, such as standardised wages, working hours and resting periods, weekly leave and annual leave, the right to communicate and establish an association and written and non-verbal agreements, this exclusion has serious implications including violations of the rights of domestic workers being normalised.

The Protection of Domestic Workers Bill (RUU PRT), which has been in circulation since 2004, will complement the Manpower Law and extend employment protections to domestic workers. It aims to ensure that domestic workers and employers enter into contracts in writing, sets out minimum terms and conditions of employment, such as salary and benefits, working hours, rest days and holidays, healthcare and other insurance benefits, education and training as well as sets the minimum working age at 18 years old (Adyatma 2021). The failure to date to legislate for domestic workers employed in Indonesia has had implications for domestic workers employed abroad. According to the Foreign Affairs Ministry's Director of Indonesian Citizen Protection, there is a mechanism in place to handle abuse cases involving migrant domestic workers from Indonesia, who comprise 70% of Indonesian migrant workers. However, the lack of Indonesian law enforcement to protect domestic workers has made the memorandum of understanding negotiations with foreign countries more challenging since their delegations tend to want to evaluate what has been done in Indonesia. It is hard for the government to demand rights for Indonesian citizens that the Government of Indonesia itself is not providing (Tanamal 2022).

With regard to forced labour involving children, Indonesia has ratified ILO Convention No. 138 on the Minimum Age for Admission to Employment and ILO Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. The Government of Indonesia has incorporated these provisions into the Manpower Law. Nevertheless, in 2021, 940,000 people aged 10 to 17 years were classified as child labourers, according to BPS. Children are protected from forced labour through Law No. 23/2002 on Child Protection, which prohibits the exploitation of children, whether it be economic or sexual. It has also pledged to eliminate the worst forms of child labour by producing a Roadmap towards a Child Labour-Free Indonesia in 2022 (MoM 2014). The plan includes involving families, schools, and communities in the evaluation of existing policies; mainstreaming policies to related ministries/agencies; forming partnerships; raising community awareness about the importance of schools for children; improving children's skill education; developing social security programmes for children and their families; raising community understanding of new values and norms related to child labour; and improving reporting systems (KPPA 2020). As in other areas, however, there is an absence of evidence of comprehensive implementation of these policies.

Beyond child labour and human trafficking, there is virtually no focus on preventing forced labour within Indonesia. A large part of the problem is that, as noted above, the Manpower Law does not explicitly address forced labour. There are, moreover, no regulations or policies that specifically strengthen labour regulations pertaining to the issue of forced or compulsory labour, and no regulation has been found that cites Law No. 19/1999 on the Ratification of ILO Convention No. 105 Concerning the Abolition of Forced Labour in its preamble. This means that forced labour as a specific offense beyond trafficking is not criminalised, and the crime might often be dealt with as a civil matter (i.e., through the labour disputes settlement system), which does not punish perpetrators.

Minimum standards in the Manpower Law are not adhered to in informal sector employment, where work practices are determined by personal relationships, culture and religion. Even in the formal sector, there is a serious problem with implementation when it comes to the Manpower Law. All areas of the Ministry of Manpower's operations can contribute to the prevention and protection efforts under PO29, such as inspecting employer compliance with national legislation regarding pay and working conditions and oversight of the resolution of disputes between employers and employees. In practice, however, compliance is seldom monitored, even in easily accessible worksites. For example, in its 2021 baseline report on forced labour, the Government of Indonesia asserted that it already has a robust labour inspection system in place. However, field observations suggest that this is not the case, even in relation to formal sector workers, let alone for informal sector workers.

Indonesia has ratified Convention No. 81 on Labour Inspection in Industry and Trade through Law No. 21/2003 on the Ratification of ILO Convention No. 81 Concerning Labour Inspection in Industry and Commerce. Along with Presidential Regulation No. 21/2010 on Labour Inspection, these regulations contain articles about capacity building for relevant authorities, including labour inspection services. This provision is contained in the Elucidation of Law No. 21/2003, which states that, in accordance with the requirement to become a civil servant, labour inspectors must receive the training required to carry out their tasks properly.

Furthermore, Article 17 Paragraph (1) of Presidential Regulation No. 21/2010 on Labour Inspection regulates that the quality of labour inspectors must constantly be improved to carry out inspections efficiently and effectively. Paragraph (2) explains that improvement can be carried out through education and training, here in accordance with the provisions of relevant laws and regulations. According to R203, capacity building should be carried out for labour inspectors, together with workers' organisations or other organisations and with an interest in preventing forced labour and protecting the victims of forced labour. However, neither Law No. 21/2003 nor Presidential Regulation No. 21/2010 have set a clear mechanism for whether labour inspectors should receive specific training in cases of human trafficking or forced labour.

Capacity building should be carried out for labour inspectors together with workers' organisations or other organisations with an interest in preventing forced labour and protecting victims of forced labour (R203). However, there is no clear requirement in Presidential Regulation No. 21/2010 for labour inspectors to receive specific training related to forced labour.

Protecting workers

Victims of forced labour are entitled to a range of legal protections that come in different forms, such as legal assistance. While the main law concerns witness and victim protection, the Human Trafficking Law and the law that abolishes domestic violence also have legal provisions that offer protection to workers during the recruitment process.

Legal protection is a victim-centred approach that responds to cases of forced labour. The Government of Indonesia amended Law No. 13/2006 on Witnesses and Victims Protection through Law No. 31/2014, in which protection is

defined as an effort to fulfil rights and provide assistance to give a sense of security to witnesses and/or victims, which must be administered by the Witness and Victim Protection Agency or other institutions in accordance with this law. It also mentions that witnesses and victims have the right to obtain protection for personal security, family and property and to be free from threats related to testimony that will be, is being or has been given. Protection is also dealt with through a number of other legal instruments. For example, domestic workers are entitled to limited legal protection according to Law No. 23/2004 on the Abolition of Domestic Violence. They are included as members of the domestic household and so are entitled to assistance by social workers at each level of the inspection process and to receive medical assistance. Furthermore, if they receive temporary protection, law enforcement is allowed to work together with health workers, among others, to accompany victims.

Indonesia mainly relies on the Human Trafficking Law in its efforts to ensure victim protection, especially in the identification, release, protection, recovery and rehabilitation of victims of forced labour. In Article 47, the law stipulates that the National Police is obligated to provide protection for the witnesses and/or victims and their families in the event of threats that endanger their lives and/or assets both before, during and after the case examination process, because this is considered an important aspect of law enforcement and is intended to provide basic protection to victims and/or witnesses. The Human Trafficking Law states that victims are entitled to material assistance and medical and psychological assistance. It also details protection measures for children (special court proceedings) and victims who are abroad (special assistance by diplomatic missions).

Another type of assistance that victims have the right to obtain is legal assistance. According to the same law, victims abroad have the right to be protected by the Government of Indonesia through its representatives to ensure their safe return. Furthermore, Article 51 Paragraph (1) states that victims have the right to receive health rehabilitation, social rehabilitation, return and social integration from the government if they experience both physical and psychological suffering. Nevertheless, the guarantee for long-term recovery or rehabilitation, such as adequate housing, protection of victims' privacy and identity and socio-economic assistance (e.g., access to education and proper employment), have not been included in this law. Furthermore, this regulation only applies to victims of human trafficking and not to victims of forced labour more generally.

The Abolition of Domestic Violence Law also guarantees the right for domestic workers to receive protection from their family, law enforcement, the court, social institutions or other parties, either temporarily or based on the decision of a protection order from the court.

Supporting due diligence by both the public and private sectors

In response to high-profile reporting on forced labour in Indonesia, the government has required Indonesian businesses to apply for certification that they respect the human rights of their workers. Together with the Institute for Policy Research and Advocacy (ELSAM) (2017), the National Commission on Human Rights (Komisi Nasional Hak Asasi Manusia, Komnas HAM) launched the National Action Plan on Business and Human Rights (RAN Business and HAM) in 2017, which emphasises the importance of human rights considerations in business practices. The document discusses how enterprises affect vulnerable groups such as children, women, indigenous communities, migrant workers, people with disabilities, the elderly, and migratory workers and their families and includes proposals for improving complaint handling and conflict resolution, enhancing judicial independence, and creating easily accessible avenues for redress and recovery. Under this plan, corporations should build complaint and redress systems, improve management's competence to address human rights abuses. Komnas HAM's initiative to build a framework for the National Action Plan on Business and Human Rights in Indonesia did not receive much support from ministries/agencies or business organisations (BHR Institute 2021a).

Then, in 2021, the president signed Presidential Regulations No.35/2021 on the National Action Plan for Human Rights 2021–2025. A National Committee has been established to enable the proper execution and assessment of this plan, with responsibility for overseeing the planning, implementation, and evaluation of human rights activities at various levels of government. The Human Rights Actions scheduled for 2021–2025 are closely associated with the United Nations' Sustainable Development Goals. However, there are no enforcement tools for enterprises to build their own human rights due diligence systems, making monitoring compliance with human rights due diligence challenging (BHR Institute 2021b; Wibowo et al. 2023).

Some ministries have independently established mechanisms that require some level of due diligence. For example, the Ministry of Industry also offers certification and provides standards that require adherence to human rights but this certification is not mandatory and there are no enforcement mechanisms if a certified business ceases to comply. As discussed below, Marine Affairs and Fisheries Ministerial Regulation No.35/2015 on Systems and Certification of Human Rights in Fisheries Businesses, which requires fisheries companies to develop a human rights policy committing to fair working conditions, decent salaries, avoidance of forced labour, human rights due diligence, human rights

restoration, and continuous training for workers. These measures aim to protect and promote human rights in the industry (Mustofa et al. 2022). In most cases, however, demands for due diligence are relegated to private certification mechanisms.

Addressing the root causes and factors that heighten the risks of forced or compulsory labour

A key background factor that helps create an environment in which forced labour occurs is Indonesia's soft labour market. In August 2021, Indonesia's total workforce reached 140 million people. The official unemployment rate in Indonesia in August 2021 was 6.49% (Zulfiyandi et al. 2021). Indonesia's Central Statistics Agency (Badan Pusat Statistik, BPS) defines unemployment as those who are unemployed and seeking work, those who do not have a job and plan to establish a business, those who do not have a job and are not looking for work because they believe it is impossible to find work and those who have a job but have not begun working. The official threshold required to be considered employed is low, as part-time workers employed for only one hour per week are included (BPS 2022). Therefore, official unemployment statistics underrepresent the actual rate, which is undoubtedly much higher.

Another salient aspect of the Indonesian labour market is the strength of the informal sector. The 'informal economy' comprises employees' noncontractual economic activity. Informal labour frequently involves underpaid wages, layoffs without notice or compensation, weak workplace health and safety standards and no social benefits, such as pensions, sick pay or health insurance (ILO n.d.). According to the BPS, in August 2021, as many as 58.29% of employed Indonesians were in informal work (BPS 2021). Again, the real figure may be significantly higher. The Asian Development Bank, for example, estimated that in 2010 that the proportion was 89.14% and 75.90% in two provinces, the Special Region of Yogyakarta and Banten (ADB and BPS 2011).

Although Indonesians at every education level may be employed in the informal sector, the likelihood that an individual will not have access to formal sector employment is far higher if they have not completed secondary school. In 2020, eight out of ten employees with an elementary education were employed in the informal sector (D. Rahman 2021). It is also clear that women, fishers, plantation workers and other disadvantaged groups of workers with limited choices are more likely to have informal, low-quality jobs. The Government of Indonesia has attempted to address this low level of education by requiring Indonesian citizens to undertake at least nine years of formal education. It has also invested heavily in the development of national talent that is necessary to fill labour market shortages. These interventions indicate a willingness on the part of the Government of Indonesia to provide citizens with the education and training to avoid forms of employment where the risks of forced labour are high.

Identification, protection and access to support for victims of forced or compulsory labour

Article 3

Each Member shall take effective measures for the identification, release, protection, recovery and rehabilitation of all victims of forced or compulsory labour, as well as the provision of other forms of assistance and support.

There is a relatively robust system in place for recording complaints and identifying victims of human trafficking for the purpose of forced labour for Indonesian migrant workers employed overseas. The BP2MI regularly publishes statistics on migrant worker placement, including complaints. In 2022, it recorded 1,853 violations of work rights including forced labour indicators, such as unpaid wages, illegal recruitment and the withholding of documents (BP2MI 2022, 32). Of these 1,853 complaints, 54 were classified as human trafficking cases. In the same year, BP2MI logged complaints of forced labour, including 101 unpaid wage cases, 108 illegal recruitment cases and 47 cases of document withholding (BP2MI 2022).

Identification measures can also include the training of relevant actors in the identification of forced labour, as regulated in the ratification of Convention 81 and Presidential Regulation No. 21/2010 on Labour Inspection. They mostly focus on the capacity building of competent authorities, including labour inspection services, making it one of the requirements to become a civil servant. To implement these regulations, the Manpower Ministry issued Ministerial Regulation No. 1/2020 on Labour Inspection Procedures, which changed several provisions from the previous version issued in 2016. Some of those changes include a provision on education on labour norms as a means to prevent forced labour and a detailed description of nonjudicial repressive methods.

However, in practice, virtually no attention is paid to workers who have experienced forced labour in Indonesia. Although our interviewees understood that plantation workers, domestic workers, homeworkers in Indonesia—as well as fishers in national catch fisheries—are vulnerable to forced labour, they have much less knowledge of their experiences. The National Advocacy Network for Domestic Workers (Jaringan Nasional Advokasi Pekerja Rumah Tangga, JALA PRT) found that many of Indonesia's five million domestic workers experience hostile working conditions including abusive treatment, have no health insurance, and are given no days off by their employers (Tanamal 2022). Furthermore, domestic workers are excluded from the scope of labour legislation, primarily because of the fact that their employer is not an entrepreneur. As a result, they often work 14 to 18 hours a day for wages far below the minimum wage and have no clear terms of employment (Winarni 2018).

Homeworkers are also treated poorly in Indonesia, despite being part of local and global supply chains, including for Indonesia's ready-made-garment sector. Homeworkers are extremely vulnerable to forced labour because they generally do not have formal contracts, and must endure unstable income, which fluctuates as it is commonly calculated based on piece rates, no insurance and inadequate working conditions (Oey and Eswara 2019).

Access to legal remedies

Article 4

1. Each Member shall ensure that all victims of forced or compulsory labour, irrespective of their presence or legal status in the national territory, have access to appropriate and effective remedies, such as compensation.
2. Each Member shall, in accordance with the basic principles of its legal system, take the necessary measures to ensure that competent authorities are entitled not to prosecute or impose penalties on victims of forced or compulsory labour for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour.

The Indonesian legal system provides opportunities for remedies for people who are victims of crime. However, it does not do the same for people who have been subjected to forced labour (which is not criminalised if not prosecuted as trafficking), and so treats it as a civil matter.

The Indonesian justice system defines restitution and compensation differently. According to the Human Trafficking Law; Law No. 31/2014 on Witness and Victim Protection; Law No. 12/2022 on the Crime of Sexual Violence; Government Regulation No. 7/2018 on Provision of Compensation, Restitution and Assistance to Witnesses and Victims; and Supreme Court Regulation No. 1/2022 on the Procedures for Requesting Restitution and Compensation for Victims of Criminal Acts, restitution is defined as a compensating payment charged to the perpetrator based on a court ruling that has permanent legal force for material and/or immaterial losses suffered by the victim or their heirs. Meanwhile, Article 1 Paragraph (4) of Government Regulation No. 3/2002 on Compensation, Restitution and Rehabilitation of Victims of Serious Human Rights Violations defined compensation as a compensating payment provided by the State because the perpetrator is unable to provide full compensation.

Regarding restitution, Law No. 31/2014 and Government Regulation No. 7/2018 establish that victims are entitled to restitution because of loss of wealth, suffering directly related to a criminal act and/or reimbursement of medical and/or psychological treatments. Furthermore, the Human Trafficking Law regulates that victims are entitled to restitution because of loss of wealth or income, suffering, cost of medical and/or psychological treatments and/or other losses suffered by the victim as a result of human trafficking. In the case of sexual violence, the Sexual Violence Law regulates that victims are entitled to restitution for similar reasons, such as suffering caused by sexual violence against them and other losses suffered as a result of a sexual violence act. Supreme Court Regulation No. 1/2022 also listed similar reasons and added that victims are also entitled to restitution because of material and/or immaterial losses caused by suffering due to a criminal act and other losses, such as transportation cost, legal counsel cost and/or other costs that relate to the legal procedure.

Access to compensation schemes is regulated in Law No. 13/2006 on Witness and Victim Protection, as amended by Law No. 31/2014, which entitles every victim of gross human rights violations to compensation. Cases must be submitted to the Human Rights Court through the Witness and Victim Protection Agency, and the implementation of payment

is given by the Witness and Victim Protection Agency based on the court's decision. However, a representative of the Witness and Victim Protection Agency told us that compensation is still a recurring issue, even after the court has ordered restitution, because of the uncertain disbursement scheme. The inadequacy of the distribution can result in victims losing their trust in the criminal justice system.

A request for restitution according to the Witness and Victim Protection Law can be made before or after a court decision that has obtained permanent legal force through the Witness and Victim Protection Agency. If the victim dies, restitution will be given to the victim's family. Law No. 31/2014 also stipulates that if the request for restitution is submitted before the court decision is legally binding, then the Witness and Victim Protection Agency can apply for restitution to the public prosecutor to be included in its claim. The restitution will then be given and included in the court's decision regarding human trafficking cases. However, if the request for restitution is filed after the court decision becomes legally binding, the Witness and Victim Protection Agency can apply for restitution to the court to obtain a court ruling.

Article 7A of the Witness and Victim Protection Law provides that requests for restitution before a decision has permanent legal force must be filed through the Witness and Victim Protection Agency, investigators, public prosecutors or the victims themselves. This request must be filed from the moment the victim reports the case to the local police and is handled by the investigator. Both the investigator and the Witness and Victim Protection Agency must also submit the application file to the public prosecutor accompanied by the Witness and Victim Protection Agency's decision regarding the amount of the restitution value before the case is transferred to the court or at the latest, before the prosecutor reads out the criminal charges. This is because this amount will be submitted together with the charges. If the victim does not apply for restitution, the judge must inform victims of their legal right to obtain restitution before the prosecutor reads out the charges or after the court's decision has permanent legal force. Requests for restitution can also be revoked at the latest before the judge renders a decision. Upon receiving the request, the court will grant the prosecutor permission to present additional evidence to back up the request for restitution. However, the court will also allow the defendant or their counsellor to respond to the request and the evidence presented. If the restitution is paid by a third party, they are required to be present at the trial to be asked for consent. The presiding judge will also verify the documents of request for restitution, give a legal judgement on the evidence presented at the trial and consider them in the ruling.

In addition, Article 7 Paragraph (2) of Supreme Court Regulation No. 1/2022 states that restitution can be deposited in advance at the court where the case was decided. However, in general, restitution is paid 14 days after the court has given its ruling and has obtained permanent legal force. In the event of an appeal or cassation, the judge orders in their decision that the deposited restitution money be returned to the defendant. If there is more than one defendant, the details of the amount of restitution to be paid are determined for each defendant according to their role and fault that resulted in the damage.

It is also possible that the defendant and/or third parties in human trafficking or terrorism cases have insufficient assets to pay restitution. If this happens, then Article 8 Paragraph (13) of Supreme Court Regulation No. 1/2022 states that a replacement imprisonment or confinement is carried out proportionally taking into account the amount of restitution paid by the accused and/or third parties. If the judge decides to acquit or release the defendant from the charges, the request for restitution is declared inadmissible. However, if they are found guilty, but the request for restitution is rejected in part or in whole, with or without the request of the victim, the prosecutor may submit an appeal and/or cassation.

The mechanism for requesting restitution after a court ruling becomes legally enforceable is different. According to Article 11 of Supreme Court Regulation No. 1/2022, the petition is submitted to the court of the first instance, which tries the defendant. Requests for restitution can also be submitted by victims directly to the court or through the Witness and Victim Protection Agency. If the victim is a child, the application is filed by parents, family, guardians, heirs, proxies or the Witness and Victim Protection Agency. If there is more than one victim, then a combination of requests can be made. Furthermore, the application is also filed no later than 90 days after the applicant knows that the court decision has permanent legal force. The prosecutor is a party involved in the request for restitution. The court must also come to a ruling no later than 21 days since the first hearing, and a copy of the court order must be submitted to the Witness and Victim Protection Agency or to the applicant within 7 days after the court read its ruling. If restitution is included in the verdict, then the restitution payment must be made within 14 days. If the deadline is not met, then the prosecutor must confiscate the convict's assets and auction them off for payment of restitution; if these are insufficient to fulfil the provision of restitution, then the defendant will be subject to alternative imprisonment for a maximum of 1 year.

Article 31 of Supreme Court Regulation No. 1/2022 requires the state to pay compensation in cases where the perpetrator cannot meet the full restitution award. The court must also include in its ruling a statement of (i) whether the restitution and/or compensation has been accepted (ii) its reasons regardless of the ruling (iii) the amount of restitution that must be paid by the defendant and/or third party (iv) the amount of compensation that must be paid by Witness and Victim Protection Agency (v) the amount of restitution that must be paid by the defendant and/or third party and (vi) the amount of compensation Witness and Victim Protection Agency must pay if the defendant and/or third party does not pay all or part of the restitution. In addition, the court's ruling must also include an order to the prosecutor that the decision to grant restitution is carried out prior to the implementation of the decision to grant compensation. However, this only applies if the request for both restitution and compensation has been accepted.

The law does not automatically eliminate the victims' or their family's or legal heirs' right to file a civil lawsuit if their request for restitution has been rejected because the defendant was acquitted or released from the charges, as regulated in Article 8 of Supreme Court Regulation No. 1/2022. A civil lawsuit may also be filed if the request for restitution is granted and the defendant has been sentenced, but there were losses suffered by the victim that had not been included in the request for restitution to or had been requested but not considered by the court.

However, there are no specific arrangements made for victims in the civil realm, such as mechanisms for assisting them in claiming rights in the Industrial Relations Court. In civil cases, a court decision becomes legally binding if no appeal is filed against it. According to Article 196 of the *Herzien Inlandsch Reglement* (HIR) and Article 207 of the *Rechtreglement voor de Buitengewesten* (RBg), the implementation of a court decision can be carried out voluntarily or forcefully. Voluntary execution would mean the losing party voluntarily carrying out the decision. However, a forceful execution must go through an additional court process. This execution is only an option if the defendant does not follow through with court orders (Pandiangan 2019).

Execution of civil judgements can be requested by submitting an application to the Chief Justice of the first-level court. Based on the request, the Head of the Court will summon the defendant to be given a warning to carry out the court orders within 8 days, as stipulated in Article 196 HIR/Article 207 RBg. If the defendant still has yet to carry out the order, then the Head of the Court will issue order the court clerk to carry out confiscation of assets if collateral was not previously posted. This will be followed by an order to sell the assets at an auction. The proceeds of the auction will be handed over to the applicant for execution, consistent with the amount stated in the court decision (Pandiangan 2019). In addition, victims may report non-compliance to the Indonesian National Police, who then decide whether to further investigate and recommend the prosecution to seek criminal punishment under Article 216 of the Criminal Code (KUHP), which considers a businessman's refusal to carry out a legally enforceable court ruling as conduct that obstructs orders from officials or authorities (Wibowo 2009). The maximum prison sentence is four months and two weeks, and the fine is nine thousand Rupiah (USD 60 cents).

There are no regulations related to migrant workers' access to civil administrative and criminal remedies in the country where the violations occurred. The Foreign Affairs Ministry, through the Directorate of Indonesian Citizen Protection, has a mechanism for legal assistance for citizens abroad. However, this ministry often prefers to immediately repatriate victims rather than provide that assistance to help them claim their rights abroad.

Cooperation to prevent and eliminate forced labour

Article 5

Members shall cooperate with each other to ensure the prevention and elimination of all forms of forced or compulsory labour.

Compliance with Article 5 of PO29 in Indonesia relies mostly on the Human Trafficking Law. Cooperation between and among member States to achieve the effective prevention and suppression of forced labour is regulated through Article 59 of the Human Trafficking Law, in which the Government of Indonesia is obligated to carry out international cooperation to effectively implement the prevention and eradication of human trafficking. The form of international cooperation may vary from bilateral, regional or multilateral. However, it must be carried out in the form of mutual assistance agreements in criminal matters and/or other technical cooperation in accordance with applicable laws and regulations. Penalties and international cooperation between States, as well as cooperation between States and regional and/or international organisations, are also regulated in the Human Trafficking Law.

There is no provision in Indonesian law for cooperation on other kinds of forced or compulsory labour.

Article 6

The measures taken to apply the provisions of this Protocol and of the Convention shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned.

The Manpower Law recognises unions and employer organisations as partners in social dialogue, and Ministry for Manpower consults with them through tripartite bodies and informal means. However, the Human Trafficking Law and Presidential Regulation No.22/2021—the primary regulatory tools for addressing forced labour in Indonesia—do not position employers' and workers' organisations as social dialogue partners. They only indicate the community or society in general has to be included in the effort to eliminate human trafficking.

7. Forced labour in the catch fisheries sector

In 2022, Indonesia's fisheries sector accounted for 2.8% of its national GDP (Sugandhi 2022). As of the third quarter of 2022, Indonesia's fisheries production volume reached 18.45 million tonnes, 5.97 million of which were wild-caught fish and 5.57 million tonnes from aquaculture, whereas the remaining 6.9 million tonnes were seaweed (Herman 2022). Indonesia's catch fisheries sector plays an important role in supporting national food security because fish are a main component in many Indonesians' diets. Indonesia's average fish consumption in 2021 was 55.37 kg/capita/year (KKP 2021). The industry is not only important domestically but also in terms of foreign trade, with fisheries and marine exports worth \$5.71 billion between January and November of that year. As of February 2023, Indonesia's 51,229 registered fishing boats accounted for over half of the total 101,225 ships registered (Direktorat Jenderal Perhubungan Laut 2023). The majority of Indonesian fishing vessels range in size from 5 to 30 gross tonnages and require only a low-skilled fishing crew.

In addition to being an important source of nutrition and foreign earnings, the fisheries sector is also an important source of employment. As of 2021, there were 2,925,818 fisheries workers employed in Indonesia, of whom 2,359,264 were recorded as wild catch fishers. We found no data describing the balance of formal and non-formal types of work in the sector. According to our interviewees, the risk of forced labour is significant for local fishers because of their low skill levels. However, having the right skills is not enough to guarantee decent work at sea; local fishers must also be protected through strong employment standards, including a Sea-Based Employment Contract that guarantees decent accommodation and food, medical care, regulated working time, repatriation, social protection and health and safety on the vessel.

7.1. Indonesia's legislative framework as it pertains to catch fisheries

Employment norms for fisheries industry workers are generally regulated under the Manpower Law, which is supplemented by a series of specific regulations for the fisheries industry issued by the Ministry for Marine Affairs and Fisheries. The Ministry of Manpower relies heavily on the Manpower Law to carry out its tasks and functions. However, the provisions in the Manpower Law on labour conditions are overridden by more specific regulations for the fisheries industry. Although the law applies to fishers to a certain extent, provisions that detail protection and employment standards for fishers are mostly contained within Marine Affairs and Fisheries ministerial regulations. This is because one of the functions of the Marine Affairs and Fisheries Ministry is to develop and empower human resources in the marine and fisheries sectors. Moreover, unlike workers in general whose work agreements are based on the Manpower Law, sea-based employment contracts use the Indonesian Commercial Code as their legal basis, specifically Book 2 Chapter 4 of the Commercial Code on sea-based employment contracts. Therefore, the management of Indonesian fishers falls under the authority of the Marine Affairs and Fisheries Ministry and not the Manpower Ministry, considering the principle of *lex specialis derogate legi generali*, in which the specific rule prevails over the more general rule. The Ministry of Manpower retains the authority to regulate industrial relations in the sector and to assist in the settlement of labour contract disputes for fisheries industry workers.

The Marine Affairs and Fisheries Ministerial Regulation No.33/2021 was frequently mentioned by interviewees. However, it is only one of several laws and regulations that provide the legislative basis for catch fisheries' employment standards.

1. Law No. 31/2004 as amended by Law No. 45/2009 on Fisheries
2. Presidential Regulation No.18/2019 on the Ratification of Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), 1995
3. Marine Affairs and Fisheries Ministerial Regulation No.35/2015 on Systems and Certification of Human Rights in Fisheries Businesses
4. Marine Affairs and Fisheries Ministerial Regulation No.10/2021 on Standards for Business Activities and Products in the Implementation of Licensing Risk-Based Business in the Marine and Fisheries Sector
5. Government Regulation No.7/2000 on Marine Affairs
6. Government Regulation No.27/2021 on the Administration of the Marine and Fisheries Sectors

7. Marine Affairs and Fisheries Ministerial Regulation No.33/2021 on Fishing Logbooks, Monitoring onboard Fishing Vessels and Fish Transporting Vessels, Inspection, Testing and Marking of Fishing Vessels, and Personnel Management of Fishing Vessels
8. Transportation Ministerial Regulation No.59/2021 on Provision of Services Related to Sea Transportation

Law No. 31/2004 as amended by Law No. 45/2009 addresses all sub-sectors in the fisheries sector, including both capture and aquaculture/conservation fisheries. This Law has established guidelines for fishing areas and fisheries management, as well as guidelines for fishing gear and catches and cultivation bans. Furthermore, it governs categorisation, technical requirements and competence accreditation in fishing ports. Article 42 also concerns the harbourmaster's appointment and powers, including allowing the harbourmaster the right to issue sailing licences and certify seaworthiness. This Law also governs the economic empowerment of small-scale fishers, with provisions for a financing system and counselling and training.

Presidential Regulation No.18/2019 is the regulation under which Indonesia ratified the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F). The STCW-F applies to seagoing fishing vessel employees, including skippers and deck officers of fishing vessels 24 metres or longer and engine department officials of fishing vessels powered by a main propulsion gear of 750 KW or more. It requires a certain degree of training for all fishing vessel crew members. This allows workers to move more freely between countries that have agreed to and implemented the STCW-F, thereby levelling the playing field. In ratifying the STCW-F, the Government of Indonesia was required to harmonise its current national standard of competence with the Convention's minimum provisions, including the basic safety trainings and the certification of skippers, officers, engineer officers and radio operators.

Ministerial Regulation No.35/2015 requires that every fisheries entrepreneur or business obtain a fisheries human rights certificate. The certificate is issued by the Marine Affairs and Fisheries Minister to businesses that have implemented its system and passed the standards as required by the regulation. The certificate is valid for three years. This regulation explicitly requires businesses to mitigate the risk of forced labour. Article 5 Paragraph (2d) reproduces the ILO's Forced Labour Indicators of Forced Labour as part of the official effort to prohibit the crime. This regulation provides for administrative sanctions or civil sanctions in cases that do not meet the standards outlined, and the business licences of the firms can be suspended or revoked based on the violations committed. Meanwhile, Article No. 11B of Ministerial Regulation No.10/2021 contains business operations and product requirements for the use of risk-based business licensing in the marine and fisheries sector. This regulation also specifies the essential requirements for fishers to get a license, such as the provision of a sea-based employment contract and seaman's book to workers, as well as listing the standard competencies for fishers aboard fishing vessels. Furthermore, the regulation states that the fisheries inspector should inspect the correctness of the sea-based employment contract and competency certifications based on the rank of the fisher.

The Ministry of Transportation Ministerial Regulation No.59/2021 regulates the recruitment and placement process for ship crews. The regulation regulates a minimum standard for sea-based employment contracts, the authority of the harbourmaster to authorise vessels' logbooks and to validate sea-based employment contracts. It also regulates recruitment agencies' business licences and processes to recruit and place seafarers, both for local and foreign vessels. This regulation does not specifically mention local and migrant fishers. However, the Ministry of Transportation has been the sole authority with the capacity to licence the recruitment agencies that recruit and place migrant fishers since the enactment of Transportation Ministerial Regulation No.84/2013 on the Recruitment and Placement of Seafarers. Currently, Regulation No.84/2013 has been revoked through Regulation No.59/2021, which retains the authority to licence the recruitment agencies that can place migrant fishers because of the absence of regulation under the Ministry of Marine Affairs and Fisheries. Marine Affairs and Fisheries Ministerial Regulation No.33/2021 only regulates the recruitment and placement of local fishers.

In terms of employment standards, Government Regulation No.27/2021 and Ministerial Regulation No.33/2021 govern the administration of recruiting personnel for fishing boats. These regulations include references to work requirements for fishing vessels, such as having a Seaman's Book, an age standard, competency, a sea-based employment contract and certificates of competence. Marine Affairs and Fisheries Ministerial Regulation No.33/2021 governs the qualifications of fishing boat personnel who work on decks and operate engines, such as navigational skills and basic safety training. The regulation also includes certification for fishers, which is separated into two categories: certificate of competence and certificate of skills. The certificate of competence includes fishing vessel nautical competence, fishing vessel engineering and fishing gear competence. The skill certificate relates to Basic Safety Training for Fisheries and fishing operations skills.

7.2. Thematic gap analysis in the fisheries sector

The topic of employment contracts and social benefits arose frequently during our interviews, along with the dire working conditions on fishing vessels. Interviewees also emphasised the vulnerability of local fishers, many of whom are paid according to the Profit-Sharing System (*bagi hasil*), which calculates payments based on the value of the catch (Ambari 2022).

Prevention

The Ministry of Marine Affairs and Fisheries acknowledges the risk of labour exploitation in the industry and has increased its efforts to socialise the importance of sea-based employment contracts for all fishers to both fisheries and vessel owners (KKP 2022). But the Director-General for Catch Fisheries explained that the minimum labour standards outlined in the Manpower Law were in practice ‘not relevant’ for employment in the sector, and that the law and its implementing regulations, including rules on employment contracts, need to be amended to close this legal gap (KKP 2022).

According to our interviewees, trade unions and other CSOs have focused their socialisation programmes on promoting safe and regular migration for migrant fishers from Indonesia. Campaigning through a documentary film, direct socialisation at the village level, report publications and public advocacy are all part of socialisation activities. However, few or none of our interviewees saw efforts to socialise local fishers’ employment rights and educate the public on the risk of forced labour among local fishers as a priority. Destructive Fishing Watch (DFW) and SAKTI Sulut mentioned their efforts to educate local fishers regarding employment rights and the importance of having a strong local fisher’s union but have limited resources to match the efforts of organisations that focus on Indonesian migrant workers.

An important aspect of the prevention of forced labour pertains to recruitment. The only regulatory instrument that deals with the recruitment of local fishers is Marine Affairs and Fisheries Ministerial Regulation No.33/2021 on Fishing Logbook, Monitoring onboard Fishing Vessels and Fish Transporting Vessels, Inspection, Testing and Marking of Fishing Vessels, and Personnel Management of Fishing Vessels. As required by Article 173 Paragraphs (1) to (3) of this regulation, the placement of the fishing vessel crew is carried out by the owner or operator of the fishing boat, the fishing vessel crew agents or independently. Local vessel owners generally use informal patron–client relationships to recruit local fishers and prefer not to use Sea-based Employment Contracts, instead favouring a profit-sharing mechanism, which increases the risk of debt bondage and long working hours. The debt is manifested as cash-in-advance funds that will be sent to workers’ families and used to prepare basic supplies, which in effect compels fishers to work on those boats.

Forced labour in the catch fisheries can also be prevented by improving access to the labour dispute settlement system. Marine Affairs and Fisheries Ministerial Regulation No.33/2021 delegates the disputes settlement process to the industrial relations system, which follow three steps of Industrial Relations Disputes Settlement, namely:³

1. Bipartite processes: negotiation between employers and employees.
2. Tripartite processes: mediation conducted directly by a mediator from the Ministry of Manpower or provincial/district/municipal Manpower Office.
3. Judicial processes: determination by a judge through the industrial relations court.

In a bipartite process, disputants must resolve disputes independently. In the case of fisheries, a disputant may request the harbourmaster’s presence to facilitate the dispute. Although the role of facilitating a dispute is not stated clearly in Ministerial Regulation No.33/2021, the harbourmaster has the authority to ensure the safety and security of fishing vessels, including supervising the conformity of fishers’ contracts to a standard sea-based employment contract. If a dispute occurs, the harbourmaster can act as facilitator to ensure that both parties use the contract as a basis for negotiations. The role of harbourmasters is limited to that of facilitation, as they cannot provide the disputing parties with a formal recommendation (*anjuran*) that can be used to fulfil the procedural requirements for taking a case before the Industrial Relations Court. Subsequently, fishers still need to follow the tripartite processes of the industrial relations system, including mediation and judicial determination. It should be noted here, also, that use of the Industrial Relations Court poses similar hurdles to anti-human trafficking mechanisms in that it takes time and does not guarantee clarity on unpaid wages or other disputed rights.

³ See Law No.2/2004 on Settlement of Industrial Relations Disputes.

Victim protection

To develop forced labour indicators to help in the identification of cases and victims, the government has issued Marine Affairs and Fisheries Ministerial Regulation No.35/2015, in which Article 5 Paragraph (1) states that the human rights policy is made in the form of a statement of commitment to comply with all applicable laws and regulations. It is also stated in Paragraph (2) that the statement at least contains the fisheries entrepreneur's commitment to avoiding the practice of forced labour. This is the only regulation pertaining to fishers that uses the ILO's 11 forced labour indicators. Regulatory gaps in the development of such indicators can make it difficult to identify and protect victims of forced labour exploitation.

In the case of migrant fishers, there is a need to strengthen government's capacity to collect, manage, analyse and use reliable statistics for policy-making. Greenpeace Indonesia and the Indonesian Migrant Worker Union (Serikat Buruh Migran Indonesia, SBMI) received 338 complaints of forced labour and human trafficking involving migrant fishers from Indonesia between 2014 and 2020, of which 87% were complaints about wage withholding, 82% were about abusive working and living conditions, 80% were about deception, and 67% were about abuse of vulnerability. A further 11 dealt with cases of Indonesian fishers who died on the job because of physical assault and a lack of medical care (*Greenpeace and SBMI 2021; SBMI and Greenpeace 2020*).

Although 2,925,818 domestic fishers were registered with the Ministry of Marine Affairs and Fisheries in 2021 (KKP 2023). According to one media source, as of July 2022, only 133,796 fishers were covered by the national workers' insurance scheme (*Ambari 2022*): it is reasonable to assume that fishers not covered are informal workers and may be at greater risk of forced labour and human trafficking.⁴ However, there is no data available on the proportion of the fishing workforce that holds a formal employment contract, let alone their experiences at sea.

The example case of local fishers as the victims of trafficking was not raised during the interviews, in which interviewees focused almost exclusively on migrant workers. However, when interviewed, a representative of the Ministry of Marine Affairs and Fisheries mentioned that the current framework regulating employment standards for local fishers is weak when it comes to protecting fishers' rights. He noted that Marine Affairs and Fisheries Ministerial Regulation No.33/2021, for example, does not regulate sanctions if there is a violation of the provisions of a standard sea-based employment contract. Any dispute will be directed to the industrial relations mechanisms and should progress through bipartite and tripartite mechanisms and, ultimately, if still unresolved, to the Industrial Relations Court. Thus, to protect fishers from forced labour and human trafficking sea-based employment contracts for all fishers should be enforced and the implementation of social security for fishers, such as work accident insurance, death insurance and old-age insurance strengthened.

Access to remedy

Government Regulation No.22/2022 regulates compensation schemes for Indonesian migrant commercial ship crews in the case of the loss of a ship. However, the main problem that arises is the unclear distribution of compensation because the schemes do not have a standard process through which victims can claim their rights. There are, meanwhile, no initiatives regarding access to remedies for local fishers. The main reason given by our interviewees for this was the absence of local fishers identified as victims of human trafficking or human rights violations compared with migrant fishers.

Article 12 (a) in R203 states that remedies include effective access to courts, tribunals and other dispute resolution institutions to pursue remedies, such as compensation and damages. This implies that victims can use industrial relations processes to seek compensation for any tangible damage. A judge in the Supreme Court, however, mentioned that accessing the industrial relations process will be practically difficult if the local fishers do not have a sea-based employment contract. He also said that, to date, he is unaware of a court ruling involving local fishers. This reality may be due to two possibilities: that the local fishers have a sea-based employment contract but do not have means to access the system; or that the labour disputes are settled at the bipartite stage.

Enforcement

In Indonesia, the labour inspection of fishing vessel crews has a good prospect, there is an established a memorandum of understanding between the Ministry of Marine Affairs and Fisheries and the Ministry of Manpower signed on 30 September 2022. The MoU covers 6 technical scopes, one scope that relevant with this context is the promotion of joint inspection, law enforcement to improve the protection of employment and the promotion of occupational safety and health in the fishing sector.

4 Further discussion of the risks faced by this group of workers that relate to forced labour can be found in Section 7.

According to interviews with representatives from the Ministry of Manpower, they do not have the capability to inspect employment standards on fishing vessels. The Ministry of Manpower said that it has limited authority to regulate fishers' employment standards and sea-based employment contracts since the Ministry of Marine Affairs and Fisheries has complete authority to set standards and monitor fishing vessels for local fishers under Ministerial Regulation No.33/2021. Both ministries are headed in a positive direction towards building stronger inspection protocols for fishing vessels, with the support of ILO Indonesia. They are currently involved in developing vessel inspection guidelines, with the Ministry of Manpower in charge of labour standards inspection and the Ministry of Marine Affairs and Fisheries in charge of fishing vessel standards. Currently, however, in practice, there is no supervision or law enforcement, and land-based labour inspectors have a poor understanding of the context of the work for fishing boat crews.

International cooperation

Government Regulation No.22/2022 regulates international cooperation in Article 40, where supervision of the placement and protection of migrant commercial ship crews and migrant fishing ship crews while working is carried out by representatives of Indonesia and can work together with flag state inspectors and port state control officers in the destination countries. However, cooperation with flag state or port state occurs under the auspices of a convention or international agreement that specifically addresses the issue of fishers, such as C188. If the Government of Indonesia decides to ratify C188, it could be used by the government to strengthen bilateral agreements with other States, and effective international cooperation will be more likely.

As with other aspects of PO29, our informants focused on Indonesian migrant fishers. However, there was some discussion about the need to ratify C188 to better protect local fishers. According to informants, ratification of C188 would possibly have an indirect impact on local fishers through greater market competitiveness and labour market opportunities. According to the interviewees, C188 can be used to promote the social aspects of Indonesian fisheries products, which would enable the product to access a larger market and raising the price of goods. However, Ministry of Manpower representatives said that the government preferred to accommodate the provisions of C188 in national regulations rather than ratify it in the short or medium term.

8. Conclusion

The findings of this situation and gap analysis have shown that Indonesia has laws, regulations and policies that provide at least partial prevention and protection measures against forced labour. Both the Human Trafficking Law and Presidential Regulation No.22/2021 provide detailed measures on prevention, protection, access to remedies and international cooperation, as required by PO29 and R203. However, the focus on human trafficking means that the coordinated effort by government agencies to address the issue prevents Indonesian institutions from appropriately responding to the labour dimension of forced labour situations.

Another main finding of this analysis pertains to how Indonesian legislative frameworks are implemented. Much of Indonesia's regulatory framework is focused on Indonesian migrant workers, who are one of the groups of workers most at-risk of being subjected to forced labour. There is a strong tendency among government officials to view forced labour as a crime that affects Indonesian migrant workers, even though there are Indonesian workers in forced labour situations at home, including domestic workers and homeworkers as well as commercial fishers. As a result, these groups of workers tend to be overlooked.

The present research used the national catch fisheries sector as a case study to better understand how the regulatory framework applies to one group of workers at-risk of forced labour, namely commercial fishers. The findings indicate that this group is vulnerable to forced labour partly because of the informal nature of their employment, reluctance of the government to inspect working conditions on fishing vessels and the absence of a formal mechanism to record cases of forced labour in the sector.

9. Challenges and recommendations

Presidential Regulation No.22/2021 on the Human Trafficking Task Force provides a solid basis for the institutions required to prevent forced labour within Indonesia's borders. However, government officials, civil society organisations and trade unions with an interest in the question of forced labour are overwhelmingly focused on Indonesians working overseas rather than on workers within Indonesian territory. The following recommendations identify ways to address the significant gaps in Indonesia's regulatory framework in terms of prevention, protection, access to remedies, enforcement and international cooperation.

Prevention

1. A key challenge for preventing forced labour situations in Indonesia is informality. For example, most local fishers lack a sea-based employment contract, putting them at greater risk of debt bondage and excessive working hours. Marine Affairs and Fisheries Ministerial Regulation No.33/2021 provides minimum standards for local fishers' employment, but it is poorly implemented. The Government of Indonesia should take steps to formalise a greater proportion of employment, thus giving them access to protections stipulated in existing legislation.
2. The Government of Indonesia should take steps to support the better integration of trade unions at the workplace level in different sectors in order to improve workers' capacity to prevent forced labour-like practices from emerging in those workplaces and to raise expectations more generally that workers have a right to have a voice.
3. The Government of Indonesia should improve socialisation and education for local workers, drawing on the same standards they use for migrant workers, including with regard to employment standards, social benefits, fair recruitment, freedom of associations and collective bargaining. It should also be encouraged to involve trade unions and other civil society organisations in such socialisation and education activities.
4. The Government of Indonesia should also evaluate its legal and institutional frameworks, and then make the necessary amendments to require labour inspection and labour disputes settlement, and deal with overlapping jurisdictions that prevent institutional intervention in all sectors (for example, with respect to employment in the catch fisheries, there are overlapping jurisdictions between the Ministries of Manpower, Marine Affairs and Fisheries and Transportation).

Protection

5. Indonesia has issued several regulations to ensure the protection of victims of forced labour in relation to human trafficking. However, these regulations are primarily focused on migrant workers. In the catch fisheries, for example, Marine Affairs and Fisheries Ministerial Regulation No.33/2021 does not make provision for sanctions on violations of sea-based employment agreements, whereas Government Regulation No.22/2022 on Placement and Protection of Migrant Trade Ship Crew and Migrant Fisheries Ship Crew stipulates sanctions for violations during the recruitment and contracting phase of the migration process for migrant fishers.

Access to remedies

6. Law No.21/2007 on the Criminal Act of Trafficking in Persons includes mechanisms for victims to seek remedies. However, access to those mechanisms is limited by two factors: 1) the negligible number of at-risk local workers being recognised as victims of human trafficking in the criminal justice system, and 2) the fact that not all forced labour affecting them is tantamount to human trafficking. There are two additional evidentiary requirements – act and means – to prove human trafficking that may not have been part of their journey into their forced labour situation.

Enforcement

7. Indonesian labour standards need to be applied to all employment. Currently this is not the case. For example, in catch fisheries, even the legal minimum wage is not applied because in practice the income of most fishers is calculated using the Profit-Sharing System, in which income is determined each month based on the value of the catch. As a consequence, the work of fishers does not meet the legal definition of employment as it is

defined in Law No.13/2003 on Manpower and so denies them access to employment and social protections that must be provided to other groups of recognised workers.

International cooperation

8. Law No.21/2007 on the Criminal Act of Trafficking in Persons is the main statute that regulates international cooperation on issues related to forced labour. Yet the regulatory focus is again on migrant workers. The government should consider ratifying PO29, which could be used to not only provide increased protection for local workers, but also bolster Indonesia's international credentials for addressing forced labour situations involving local workers within its borders.

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Annex 1. Forced Labour Convention, 1930 (No. 29)

Preamble

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fourteenth Session on 10 June 1930, and

Having decided upon the adoption of certain proposals with regard to forced or compulsory labour, which is included in the first item on the agenda of the Session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-eighth day of June of the year one thousand nine hundred and thirty the following Convention, which may be cited as the Forced Labour Convention, 1930, for ratification by the Members of the International Labour Organisation in accordance with the provisions of the Constitution of the International Labour Organisation.

Article 1

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.
2. [deleted pursuant to Article 7 of the Protocol of 2014 to the Forced Labour Convention, 1930]
3. [deleted pursuant to Article 7 of the Protocol of 2014 to the Forced Labour Convention, 1930]

Article 2

1. For the purposes of this Convention the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.
2. Nevertheless, for the purposes of this Convention, the term forced or compulsory labour shall not include--
 - (a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
 - (b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
 - (c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;
 - (d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;
 - (e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

Articles 3 to 24

[deleted pursuant to Article 7 of the Protocol of 2014 to the Forced Labour Convention, 1930]

Article 25

The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are

strictly enforced.

Article 26

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to apply it to the territories placed under its sovereignty, jurisdiction, protection, suzerainty, tutelage or authority, so far as it has the right to accept obligations affecting matters of internal jurisdiction; provided that, if such Member may desire to take advantage of the provisions of article 35 of the Constitution of the International Labour Organisation, it shall append to its ratification a declaration stating--
 - (1) the territories to which it intends to apply the provisions of this Convention without modification;
 - (2) the territories to which it intends to apply the provisions of this Convention with modifications, together with details of the said modifications;
 - (3) the territories in respect of which it reserves its decision.
2. The aforesaid declaration shall be deemed to be an integral part of the ratification and shall have the force of ratification. It shall be open to any Member, by a subsequent declaration, to cancel in whole or in part the reservations made, in pursuance of the provisions of subparagraphs (2) and (3) of this Article, in the original declaration.

Article 27

The formal ratifications of this Convention under the conditions set forth in the Constitution of the International Labour Organisation shall be communicated to the Director-General of the International Labour Office for registration.

Article 28

1. This Convention shall be binding only upon those Members whose ratifications have been registered with the International Labour Office.
2. It shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which the ratification has been registered.

Article 29

As soon as the ratifications of two Members of the International Labour Organisation have been registered with the International Labour Office, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

Article 30

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered with the International Labour Office.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of five years and, thereafter, may denounce this Convention at the expiration of each period of five years under the terms provided for in this Article.

Article 31

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 32

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, the ratification by a Member of the new revising Convention shall ipso jure involve denunciation of this Convention without any requirement of delay, notwithstanding the provisions of Article 30 above, if and when the new revising Convention shall have come into force.
2. As from the date of the coming into force of the new revising Convention, the present Convention shall cease to be open to ratification by the Members.
3. Nevertheless, this Convention shall remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising convention.

Article 33

The French and English texts of this Convention shall both be authentic.

Annex 2. Protocol of 2014 to the Forced Labour Convention (Protocol 29 – PO29)

Preamble

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 103rd Session on 28 May 2014, and

Recognizing that the prohibition of forced or compulsory labour forms part of the body of fundamental rights, and that forced or compulsory labour violates the human rights and dignity of millions of women and men, girls and boys, contributes to the perpetuation of poverty and stands in the way of the achievement of decent work for all, and

Recognizing the vital role played by the Forced Labour Convention, 1930 (No. 29), hereinafter referred to as “the Convention”, and the Abolition of Forced Labour Convention, 1957 (No. 105), in combating all forms of forced or compulsory labour, but that gaps in their implementation call for additional measures, and

Recalling that the definition of forced or compulsory labour under Article 2 of the Convention covers forced or compulsory labour in all its forms and manifestations and is applicable to all human beings without distinction, and

Emphasizing the urgency of eliminating forced and compulsory labour in all its forms and manifestations, and

Recalling the obligation of Members that have ratified the Convention to make forced or compulsory labour punishable as a penal offence, and to ensure that the penalties imposed by law are really adequate and are strictly enforced, and

Noting that the transitional period provided for in the Convention has expired, and the provisions of Article 1, paragraphs 2 and 3, and Articles 3 to 24 are no longer applicable, and

Recognizing that the context and forms of forced or compulsory labour have changed and trafficking in persons for the purposes of forced or compulsory labour, which may involve sexual exploitation, is the subject of growing international concern and requires urgent action for its effective elimination, and

Noting that there is an increased number of workers who are in forced or compulsory labour in the private economy, that certain sectors of the economy are particularly vulnerable, and that certain groups of workers have a higher risk of becoming victims of forced or compulsory labour, especially migrants, and

Noting that the effective and sustained suppression of forced or compulsory labour contributes to ensuring fair competition among employers as well as protection for workers, and

Recalling the relevant international labour standards, including, in particular, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Equal Remuneration Convention, 1951 (No. 100), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Minimum Age Convention, 1973 (No. 138), the Worst Forms of Child Labour Convention, 1999 (No. 182), the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Domestic Workers Convention, 2011 (No. 189), the Private Employment Agencies Convention, 1997 (No. 181), the Labour Inspection Convention, 1947 (No. 81), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), as well as the ILO Declaration on Fundamental Principles and Rights at Work (1998), and the ILO Declaration on Social Justice for a Fair Globalization (2008), and

Noting other relevant international instruments, in particular the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the Slavery Convention (1926), the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956), the United Nations Convention against Transnational Organized Crime (2000), the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000), the Protocol against the Smuggling of Migrants by Land, Sea and Air (2000), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Convention on the Elimination of All Forms of Discrimination against Women (1979), and the Convention on the Rights of Persons with Disabilities (2006), and

Having decided upon the adoption of certain proposals to address gaps in implementation of the Convention, and reaffirmed that measures of prevention, protection, and remedies, such as compensation and rehabilitation, are

necessary to achieve the effective and sustained suppression of forced or compulsory labour, pursuant to the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Protocol to the Convention;

adopts this eleventh day of June two thousand and fourteen the following Protocol, which may be cited as the Protocol of 2014 to the Forced Labour Convention, 1930.

Article 1

1. In giving effect to its obligations under the Convention to suppress forced or compulsory labour, each Member shall take effective measures to prevent and eliminate its use, to provide to victims protection and access to appropriate and effective remedies, such as compensation, and to sanction the perpetrators of forced or compulsory labour.
2. Each Member shall develop a national policy and plan of action for the effective and sustained suppression of forced or compulsory labour in consultation with employers' and workers' organizations, which shall involve systematic action by the competent authorities and, as appropriate, in coordination with employers' and workers' organizations, as well as with other groups concerned.
3. The definition of forced or compulsory labour contained in the Convention is reaffirmed, and therefore the measures referred to in this Protocol shall include specific action against trafficking in persons for the purposes of forced or compulsory labour.

Article 2

The measures to be taken for the prevention of forced or compulsory labour shall include:

- (a) educating and informing people, especially those considered to be particularly vulnerable, in order to prevent their becoming victims of forced or compulsory labour;
- (b) educating and informing employers, in order to prevent their becoming involved in forced or compulsory labour practices;
- (c) undertaking efforts to ensure that:
 - (i) the coverage and enforcement of legislation relevant to the prevention of forced or compulsory labour, including labour law as appropriate, apply to all workers and all sectors of the economy; and
 - (ii) labour inspection services and other services responsible for the implementation of this legislation are strengthened;
- (d) protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process;
- (e) supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour; and
- (f) addressing the root causes and factors that heighten the risks of forced or compulsory labour.

Article 3

Each Member shall take effective measures for the identification, release, protection, recovery and rehabilitation of all victims of forced or compulsory labour, as well as the provision of other forms of assistance and support.

Article 4

1. Each Member shall ensure that all victims of forced or compulsory labour, irrespective of their presence or legal status in the national territory, have access to appropriate and effective remedies, such as compensation.
2. Each Member shall, in accordance with the basic principles of its legal system, take the necessary measures to ensure that competent authorities are entitled not to prosecute or impose penalties on victims of forced or compulsory labour for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour.

Article 5

Members shall cooperate with each other to ensure the prevention and elimination of all forms of forced or compulsory labour.

Article 6

The measures taken to apply the provisions of this Protocol and of the Convention shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned.

Article 7

The transitional provisions of Article 1, paragraphs 2 and 3, and Articles 3 to 24 of the Convention shall be deleted.

Article 8

1. A Member may ratify this Protocol at the same time as or at any time after its ratification of the Convention, by communicating its formal ratification to the Director-General of the International Labour Office for registration.
2. The Protocol shall come into force twelve months after the date on which ratifications of two Members have been registered by the Director-General. Thereafter, this Protocol shall come into force for a Member twelve months after the date on which its ratification is registered and the Convention shall be binding on the Member concerned with the addition of Articles 1 to 7 of this Protocol.

Article 9

1. A Member which has ratified this Protocol may denounce it whenever the Convention is open to denunciation in accordance with its Article 30, by an act communicated to the Director-General of the International Labour Office for registration.
2. Denunciation of the Convention in accordance with its Articles 30 or 32 shall ipso jure involve the denunciation of this Protocol.
3. Any denunciation in accordance with paragraphs 1 or 2 of this Article shall not take effect until one year after the date on which it is registered.

Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, declarations and denunciations communicated by the Members of the Organization.
2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Protocol shall come into force.

Article 11

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications, declarations and denunciations registered by the Director-General.

Article 12

The English and French versions of the text of this Protocol are equally authoritative.

Annex 3. Forced Labour (Supplementary Measures) Recommendation No. 203

Preamble

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 103rd Session on 28 May 2014, and

Having adopted the Protocol of 2014 to the Forced Labour Convention, 1930, hereinafter referred to as “the Protocol”, and

Having decided upon the adoption of certain proposals to address gaps in implementation of the Forced Labour Convention, 1930 (No. 29), hereinafter referred to as “the Convention”, and reaffirmed that measures of prevention, protection, and remedies, such as compensation and rehabilitation, are necessary to achieve the effective and sustained suppression of forced or compulsory labour, pursuant to the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Convention and the Protocol;

adopts this eleventh day of June of the year two thousand and fourteen the following Recommendation, which may be cited as the Forced Labour (Supplementary Measures) Recommendation, 2014.

1. Members should establish or strengthen, as necessary, in consultation with employers’ and workers’ organizations as well as other groups concerned:
 - (a) national policies and plans of action with time-bound measures using a gender- and child-sensitive approach to achieve the effective and sustained suppression of forced or compulsory labour in all its forms through prevention, protection and access to remedies, such as compensation of victims, and the sanctioning of perpetrators; and
 - (b) competent authorities such as the labour inspectorates, the judiciary and national bodies or other institutional mechanisms that are concerned with forced or compulsory labour, to ensure the development, coordination, implementation, monitoring and evaluation of the national policies and plans of action.
2. (1) Members should regularly collect, analyse and make available reliable, unbiased and detailed information and statistical data, disaggregated by relevant characteristics such as sex, age and nationality, on the nature and extent of forced or compulsory labour which would allow an assessment of progress made.
- (2) The right to privacy with regard to personal data should be respected.

PREVENTION

3. Members should take preventive measures that include:
 - (a) respecting, promoting and realizing fundamental principles and rights at work;
 - (b) the promotion of freedom of association and collective bargaining to enable at-risk workers to join workers’ organizations;
 - (c) programmes to combat the discrimination that heightens vulnerability to forced or compulsory labour;
 - (d) initiatives to address child labour and promote educational opportunities for children, both boys and girls, as a safeguard against children becoming victims of forced or compulsory labour; and
 - (e) taking steps to realize the objectives of the Protocol and the Convention.
4. Taking into account their national circumstances, Members should take the most effective preventive measures, such as:
 - (a) addressing the root causes of workers’ vulnerability to forced or compulsory labour;
 - (b) targeted awareness-raising campaigns, especially for those who are most at risk of becoming victims of forced or compulsory labour, to inform them, inter alia, about how to protect themselves against fraudulent

or abusive recruitment and employment practices, their rights and responsibilities at work, and how to gain access to assistance in case of need;

- (c) targeted awareness-raising campaigns regarding sanctions for violating the prohibition on forced or compulsory labour;
- (d) skills training programmes for at-risk population groups to increase their employability and income-earning opportunities and capacity;
- (e) steps to ensure that national laws and regulations concerning the employment relationship cover all sectors of the economy and that they are effectively enforced. The relevant information on the terms and conditions of employment should be specified in an appropriate, verifiable and easily understandable manner, and preferably through written contracts in accordance with national laws, regulations or collective agreements;
- (f) basic social security guarantees forming part of the national social protection floor, as provided for in the Social Protection Floors Recommendation, 2012 (No. 202), in order to reduce vulnerability to forced or compulsory labour;
- (g) orientation and information for migrants, before departure and upon arrival, in order for them to be better prepared to work and live abroad and to create awareness and better understanding about trafficking for forced labour situations;
- (h) coherent policies, such as employment and labour migration policies, which take into account the risks faced by specific groups of migrants, including those in an irregular situation, and address circumstances that could result in forced labour situations;
- (i) promotion of coordinated efforts by relevant government agencies with those of other States to facilitate regular and safe migration and to prevent trafficking in persons, including coordinated efforts to regulate, license and monitor labour recruiters and employment agencies and eliminate the charging of recruitment fees to workers to prevent debt bondage and other forms of economic coercion; and
- (j) in giving effect to their obligations under the Convention to suppress forced or compulsory labour, providing guidance and support to employers and businesses to take effective measures to identify, prevent, mitigate and account for how they address the risks of forced or compulsory labour in their operations or in products, services or operations to which they may be directly linked.

PROTECTION

- 5. (1) Targeted efforts should be made to identify and release victims of forced or compulsory labour.
 - (2) Protective measures should be provided to victims of forced or compulsory labour. These measures should not be made conditional on the victim's willingness to cooperate in criminal or other proceedings.
 - (3) Steps may be taken to encourage the cooperation of victims for the identification and punishment of perpetrators.
- 6. Members should recognize the role and capacities of workers' organizations and other organizations concerned to support and assist victims of forced or compulsory labour.
- 7. Members should, in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent authorities are entitled not to prosecute or impose penalties on victims of forced or compulsory labour for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour.
- 8. Members should take measures to eliminate abuses and fraudulent practices by labour recruiters and employment agencies, such as:
 - (a) eliminating the charging of recruitment fees to workers;
 - (b) requiring transparent contracts that clearly explain terms of employment and conditions of work;
 - (c) establishing adequate and accessible complaint mechanisms;
 - (d) imposing adequate penalties; and

- (e) regulating or licensing these services.
- 9. Taking into account their national circumstances, Members should take the most effective protective measures to meet the needs of all victims for both immediate assistance and long-term recovery and rehabilitation, such as:
 - (a) reasonable efforts to protect the safety of victims of forced or compulsory labour as well as of family members and witnesses, as appropriate, including protection from intimidation and retaliation for exercising their rights under relevant national laws or for cooperation with legal proceedings;
 - (b) adequate and appropriate accommodation;
 - (c) health care, including both medical and psychological assistance, as well as provision of special rehabilitative measures for victims of forced or compulsory labour, including those who have also been subjected to sexual violence;
 - (d) material assistance;
 - (e) protection of privacy and identity; and
 - (f) social and economic assistance, including access to educational and training opportunities and access to decent work.
- 10. Protective measures for children subjected to forced or compulsory labour should take into account the special needs and best interests of the child, and, in addition to the protections provided for in the Worst Forms of Child Labour Convention, 1999 (No. 182), should include:
 - (a) access to education for girls and boys;
 - (b) the appointment of a guardian or other representative, where appropriate;
 - (c) when the person's age is uncertain but there are reasons to believe him or her to be less than 18 years of age, a presumption of minor status, pending age verification; and
 - (d) efforts to reunite children with their families, or, when it is in the best interests of the child, provide family-based care.
- 11. Taking into account their national circumstances, Members should take the most effective protective measures for migrants subjected to forced or compulsory labour, irrespective of their legal status in the national territory, including:
 - (a) provision of a reflection and recovery period in order to allow the person concerned to take an informed decision relating to protective measures and participation in legal proceedings, during which the person shall be authorized to remain in the territory of the member State concerned when there are reasonable grounds to believe that the person is a victim of forced or compulsory labour;
 - (b) provision of temporary or permanent residence permits and access to the labour market; and
 - (c) facilitation of safe and preferably voluntary repatriation.

REMEDIES, SUCH AS COMPENSATION AND ACCESS TO JUSTICE

- 12. Members should take measures to ensure that all victims of forced or compulsory labour have access to justice and other appropriate and effective remedies, such as compensation for personal and material damages, including by:
 - (a) ensuring, in accordance with national laws, regulations and practice, that all victims, either by themselves or through representatives, have effective access to courts, tribunals and other resolution mechanisms, to pursue remedies, such as compensation and damages;
 - (b) providing that victims can pursue compensation and damages from perpetrators, including unpaid wages and statutory contributions for social security benefits;
 - (c) ensuring access to appropriate existing compensation schemes;
 - (d) providing information and advice regarding victims' legal rights and the services available, in a language that they can understand, as well as access to legal assistance, preferably free of charge; and

- (e) providing that all victims of forced or compulsory labour that occurred in the member State, both nationals and non-nationals, can pursue appropriate administrative, civil and criminal remedies in that State, irrespective of their presence or legal status in the State, under simplified procedural requirements, when appropriate.

ENFORCEMENT

13. Members should take action to strengthen the enforcement of national laws and regulations and other measures, including by:
 - (a) giving to the relevant authorities, such as labour inspection services, the necessary mandate, resources and training to allow them to effectively enforce the law and cooperate with other organizations concerned for the prevention and protection of victims of forced or compulsory labour;
 - (b) providing for the imposition of penalties, in addition to penal sanctions, such as the confiscation of profits of forced or compulsory labour and of other assets in accordance with national laws and regulations;
 - (c) ensuring that legal persons can be held liable for the violation of the prohibition to use forced or compulsory labour in applying Article 25 of the Convention and clause (b) above; and
 - (d) strengthening efforts to identify victims, including by developing indicators of forced or compulsory labour for use by labour inspectors, law enforcement services, social workers, immigration officers, public prosecutors, employers, employers' and workers' organizations, non-governmental organizations and other relevant actors.

INTERNATIONAL COOPERATION

14. International cooperation should be strengthened between and among Members and with relevant international and regional organizations, which should assist each other in achieving the effective and sustained suppression of forced or compulsory labour, including by:
 - (a) strengthening international cooperation between labour law enforcement institutions in addition to criminal law enforcement;
 - (b) mobilizing resources for national action programmes and international technical cooperation and assistance;
 - (c) mutual legal assistance;
 - (d) cooperation to address and prevent the use of forced or compulsory labour by diplomatic personnel; and
 - (e) mutual technical assistance, including the exchange of information and the sharing of good practice and lessons learned in combating forced or compulsory labour.

Annex 4. CEACR Observations on the Application by Indonesia of C29 (2018)

Articles 1(1), 2(1) and 25 of the Convention.

1. *Trafficking in persons.*

- (a) *Prevention and law enforcement.* The Committee previously noted the adoption of Act No. 21 of 2007 on trafficking in persons and the information on court decisions handed down under this Act, according to which, three perpetrators convicted of trafficking received penalties of up to four years' imprisonment. The Committee also noted that, in 2013, the International Organization for Migration (IOM) together with the Government provided training to officials from the police, immigration, army, prosecutors and local government on people smuggling and migration issues. However, the Committee noted that, according to the 2013 report of the project entitled "Protecting and Empowering Victims of Trafficking in Indonesia" implemented in cooperation with the United Nations Trust Fund for Human Security, Indonesia remained a major source country for women, children and men who are subjected to trafficking for sexual exploitation and forced labour, with estimates on the number of victims ranging from 100,000 to 1 million persons annually.

The Committee notes the Government's information in its report that, in 2017, judicial proceedings were initiated for 233 cases of trafficking in persons. A total of 222 cases have been resolved, while 31 cases have entered into the appeal process. The Government states that measures have been taken to strengthen the capacity of officers involved in combating trafficking in persons, including prosecutors, judges, labour inspectors, police officers, immigration officers and officers from the Ministry of Maritime Affairs and Fisheries. The Government also indicates that a specialized task force, namely Task Force 115, was established to strengthen law enforcement regarding trafficking. Moreover, Law No. 18 of 2017 concerning the protection of Indonesian Migrant Workers provides for punishment for officials involved in the crime of trafficking in persons. However, the Committee notes from the 2017 concluding observations of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families of the United Nations (CMW) that, although rates of prosecution for trafficking have risen in recent times, they remain low and perpetrators are not adequately punished. Moreover, trafficking-related corruption and complicity at all levels of government remains pervasive (CMW/C/IDN/CO/1, paragraph 56). *The Committee therefore requests the Government to strengthen its efforts to ensure that all persons who engage in trafficking and related offences are subject to thorough investigations and prosecutions. It also requests the Government to continue to provide information on the application of Act No. 21 of 2007 in practice, including the number of investigations, prosecutions and convictions, as well as the specific penalties imposed. The Committee further requests the Government to continue to take measures to strengthen the capacity of law enforcement officials and to ensure that complicit officials receive adequate punishment. In this regard, it requests the Government to provide information on the activities carried out by the Task Force 115 and the application of Law No. 18 of 2017 in practice in relation to the punishment for officials involved in the crime of trafficking.*

- (b) *Protection and reintegration of victims.* In its previous comments, the Committee noted the Government's indication that an Anti-trafficking in Persons Task Force had been established in 21 provinces and 72 districts/cities, pursuant to section 4 of Presidential Decree No. 69/2008. Responsibilities of the Anti-trafficking in Persons Task Force included identifying victims of trafficking and providing them with assistance such as medical and legal assistance as well as family tracing, repatriation and social reintegration. The Government also indicated that the Ministry of Social Affairs had established 20 Protection Home and Trauma Centres, 25 Child Social Protection Homes and one Women Social Protection Home which provide social rehabilitation services to victims of trafficking.

The Committee notes the Government's information that the Anti-trafficking in Persons Task Force has been expanded to 31 out of 34 provinces and 191 out of 543 districts/cities. Services for victims of trafficking are also provided through 123 hospital-based integrated service centres, 24 citizen service centres at the Indonesian embassies and consulates general abroad and a large number of Community Health Centres around the country. The Government states that, in 2017, 505 victims of trafficking received different types of services, of which 468 were placed at the Protection Home and Trauma Centres, 31 at the Women Social Protection Home and 6 at the Children Social Protection Homes. However, the Committee notes from the 2017 concluding observations of the CMW that victims of trafficking are not adequately protected from being prosecuted, detained or punished for illegally entering or residing in Indonesia, or for the activities in which they were involved as a direct consequence of their situation as trafficked persons (CMW/C/IDN/CO/1, paragraph 56). *The Committee requests the Government to continue its efforts to improve the functioning of the Anti-Trafficking in Persons Task Force in order to provide appropriate protection and assistance to victims of trafficking, including foreign victims trafficked to Indonesia. It also requests the Government to continue to provide information on the*

specific measures taken in this regard. The Committee further requests the Government to provide information on the number of victims of trafficking who are benefiting from the services of the Task Force as well as from the protection homes and service centres established by other competent entities.

2. *Vulnerable situation of migrant workers and risk of forced labour. Law enforcement and monitoring.* The Committee previously noted from the observations of the International Trade Union Confederation (ITUC) that Indonesian migrants seeking overseas employment in domestic work were required to apply through government-approved private recruitment agencies as stipulated under section 10 of Law No. 39 of 2004 concerning the Placement and Protection of Indonesian Overseas Workers. In its observations, the ITUC, along with the Confederation of Indonesian Prosperity Trade Union (KSBSI), expressed extreme concern at the high incidence of exploitation and forced labour in the migration process and the Government's failure to properly regulate, monitor and punish both recruitment agencies and brokers working on their behalf and violating Laws No. 39 of 2004 and No. 21 of 2007. The ITUC alleged that the Government had not taken appropriate measures for the effective enforcement of the provisions of Law No. 39 of 2004 and that there was little evidence of the Indonesian authorities investigating or imposing effective sanctions against recruitment agencies for not complying with their responsibilities under the legislation. In this regard, the ITUC indicated that the only data available with regard to sanctions issued for violating Law No. 39 of 2004 was in 2011, whereby 28 recruitment agencies had their licenses revoked. The Committee noted the Government's indication that the new Regulation No.3 of 2013 on the Protection of Migrant Workers Abroad sets out a protective framework for migrant workers during pre-placement, placement and post placement periods. The Government also stated that it had imposed administrative sanctions for violations of several provisions of Law No. 39 of 2004 in the form of written warnings; the temporary termination in part or entire business activities of migrant workers' placement centres; and permit revocation. In 2015, the Ministry of Manpower revoked the operational permits of 18 placement agencies.

The Committee notes the Government's information that Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers puts emphasis on preventive measures by strengthening the role of village government and provides for heavier punishment for non-respect of procedural requirements regarding the placement of Indonesian migrant workers. Moreover, the establishment of one-stop integrated services simplifies the procedures for the placement of migrant workers abroad, leading to a faster, cheaper and safer labour migration process. The Government also indicates that it has established a monitoring system for the performance of private migrant worker placement agencies. The National Agency for the Protection and Placement of Indonesian Migrant Workers and the National Police have carried out a number of inspection activities at private placement agencies. In 2016, the operational permits of 44 private placement agencies were revoked, while the business activities of 202 agencies were suspended. In 2017, only six private placement agencies had their licenses revoked, while two had their business suspended. Currently, there are 447 private placement agencies operating in the country. Violations detected include the absence of provision of training, pre-departure briefing, electronic ID card or social security to migrant workers, violation of working conditions requirements (such as wages and working hours), and counterfeiting the identity of prospective migrant workers. Administrative sanctions were also imposed on private agencies violating the ban on the placement of Indonesian migrant workers with individual employers residing in the Middle Eastern countries. The Government further indicates that, since 2015, the competent authority has successfully prevented 4,626 workers from being recruited abroad through private agencies in violation of the relevant procedural requirements.

Furthermore, the Committee notes from the 2017 concluding observations of the CMW that Indonesian migrant workers frequently face abuse, harassment and exploitation at the workplace, including servitude, sexual harassment, physical mistreatment and the withholding of payment (CMW/C/IDN/CO/1, paragraph 50). The CMW is also concerned about reports that undocumented migrants working in Indonesia are frequently subjected to labour and sexual exploitation, including forced labour, particularly in the fisheries, construction, agriculture, mining, manufacturing, tourism and domestic work sectors (paragraph 32). While taking due note of the measures taken by the Government, the Committee once again recalls the importance of taking effective action to ensure that the system of recruitment and employment of migrant workers does not place them in a situation of increased vulnerability, particularly where they are subjected to abusive practices amounting to forced labour but have limited access to legal remedies due to their irregular status. *The Committee therefore once again urges the Government to strengthen its efforts to ensure that migrant workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour, and to provide information on the measures taken in this regard. It also requests the Government to take the necessary measures to ensure the effective application of relevant legislation, including Law No. 39 of 2004, Regulation No.3 of 2013 and Law No. 18 of 2017, and to provide information on the number of violations detected and on the specific penalties imposed.*

The Committee is raising other matters in a request addressed directly to the Government.

Annex 5. Gap Analysis Matrix for Commercial Fishers

ILO Convention No. 29		
Requirement	Indonesian legal provision	Analysis
Directorate General of Sea Transportation (Ministry of Transportation)		
Art. 2(1): Definition “All work or service exacted from any person under the menace of any penalty, and for which the said person has not offered himself voluntarily”	Law No. 21/2007 on Criminal Act of Trafficking in Persons <i>Article 1 Paragraph (7):</i> Exploitation shall mean an act committed with or without the consent of the victim which includes but is not limited to prostitution, forced labour or service, slavery or practices similar to slavery, repression, extortion, physical abuse, sexual abuse, abuse of the reproductive organs, or the illegal transfer or transplantation of body organs or the use of another persons' labour or ability for one's own material or immaterial profit. <i>Elucidation:</i> Slavery is a condition where a person is under the ownership of another person. Practices similar to slavery are actions which place a person under the control of another person causing the former to be unable to refuse an unlawful profession ordered by the latter, despite the former having no wish to perform such work.	The definition of forced labour only exists in laws that are criminal in nature, where forced labour is included as a form of exploitation. In the context of Human Trafficking Law, forced labour can only be prosecuted if all elements of the process, means and purpose are met. There is no other definition of forced labour in Indonesian legislation apart from the 11 ILO indicators adopted in Maritime Affairs and Fisheries Ministerial Regulation No. 35/2015. There is no definition of forced labour in accordance with Convention No. 29 in the Manpower Law. This can lead to gaps in the understanding and management of forced labour within the scope of the Ministry of Manpower. Maritime Affairs and Fisheries Ministerial Regulation No.35/2015 allows for businesses to be charged with administrative sanctions or civil sanctions if they are found to be using forced labour.
	Maritime Affairs and Fisheries Ministerial Regulation No. 35/2015 on Systems and Certification of Human Rights in Fishery Businesses <i>Article 5 Paragraph (2 d):</i> Avoid creating forced labour situations, which include: 1. Abuse of Vulnerability 2. Fraud 3. Restrictions on Freedom of Movement 4. Exile 5. Physical and Sexual Violence 6. Intimidation and Threats 7. Retention of Identity Documents 8. Withholding of Wages 9. Debt Bondage 10. Abusive Working and Living Conditions 11. Excessive overtime	

ILO Protocol No. 29 and Recommendation No. 203		
Requirement	Indonesian legal provision	Analysis
PO29 Art. 1(2) & R203 Par. 1(a-b): National Policy and Plan of Action for the Prevention and Handling of Human Trafficking Art. 1(2)	Law No. 21/2007 on Criminal Act of Trafficking in Persons <i>Article 58 Paragraph (1):</i> For the purpose of the eradication of the criminal act of trafficking in persons, the Government and Regional Governments have the obligation to take measures to prevent and address the criminal act of trafficking in persons. <i>Article 58 Paragraph (2):</i> To achieve effectiveness and ensure the implementation of the measures as referred to in paragraph (1), the Government shall form a task force comprised of representatives from the government, law enforcement agencies, civic organizations, non-government organizations, professional associations, and researchers/scholars. <i>Article 58 Paragraph (4):</i> The task forces as referred to in paragraphs (2) and (3) constitute a coordinating body with the duty to: a) coordinate efforts to prevent and address the criminal act of trafficking in persons; b) provide advocacy, socialization, training, and cooperation; c) monitor developments in the provision of victim protection including rehabilitation, return, and social reintegration; d) monitor law enforcement; and e) conduct reports and evaluations.	Presidential Regulation No. 22/2021 requires the Human Trafficking Task Force to develop a National Action Plan that includes a measured plan of prevention, protection, law enforcement, and international cooperation. Thus, the presidential regulation has met the requirement of Protocol 29 and its recommendation that call for the state to develop a plan of action. But, in Protocol 29, it is explained that all forms of national policies related to mitigating forced labour practices must be based on consultation with employers' and workers' organisations. The Human Trafficking Law and Presidential Regulation No. 22/2021 do not mention position employers' and workers' organizations as social dialogue partners. They only indicate the community or society in general has to be included in the effort to eliminate human trafficking.
	Presidential Regulation No. 22/2021 on the Amendments to Presidential Regulation No. 69/2008 on Task Force for the Prevention and Handling of Human Trafficking Crime Definitions in this Presidential Regulation are as follows: 1. The Central Task Force for the Prevention and Handling of the Crime of Human Trafficking, hereinafter referred to as the Central Task Force, is the coordinating institution tasked with coordinating efforts to prevent and handle the crime of human trafficking at the national level.	

Requirement	Indonesian legal provision	Analysis
	2. The Provincial Task Force for the Prevention and Handling of the Crime of Human Trafficking, hereinafter referred to as the Provincial Task Force, is the coordinating institution tasked with coordinating efforts to prevent and handle the crime of human trafficking at the provincial level. 3. The Task Force for the Prevention and Handling of the Crime of Human trafficking at the District/City, hereinafter referred to as the District/City Task Force, is a coordinating institution tasked with coordinating efforts to prevent and handle the crime of human trafficking at the district/city level. 4. Minister is the minister administering government affairs in the field of women's empowerment and government duties in the field of child protection. <i>Article 4 Paragraph (1):</i> The Central Human Trafficking Task Force has the following tasks: a. coordinate efforts to prevent and deal with the criminal act of trafficking in persons; b. carry out advocacy, outreach, training, and cooperation both nationally and internationally; c. monitor the progress of the implementation of victim protection which includes rehabilitation, return, and social reintegration; d. monitor the development of law enforcement implementation; and e. carry out reporting and evaluation. <i>Article 4 Paragraph (2):</i> In carrying out the tasks referred to in Paragraph (1), the Central Human Trafficking Task Force carries out functions: a. formulating a national strategy and action plan for the prevention and handling of the crime of trafficking in persons b. preparation, coordination, and implementation of assistance and consultation in efforts to prevent and deal with criminal acts of human trafficking for stakeholders at central and regional levels c. preparation, coordination, and implementation of communication, information, and education as well as dissemination of efforts to prevent	

Requirement	Indonesian legal provision	Analysis
	and deal with the crime of trafficking in persons for stakeholders at central and regional levels d. preparation, coordination, and implementation of training in efforts to prevent and handle the criminal act of trafficking in persons for stakeholders at the central and regional levels in accordance with the provisions of laws and regulations e. preparing, coordinating and implementing networks and partnerships as well as relations between national and international institutions and the community in efforts to prevent and deal with the crime of trafficking in persons f. preparation, coordination, and implementation of mapping, identification, monitoring, and evaluation of developments in the implementation of victim protection which includes rehabilitation, return, and social reintegration g. preparation, coordination, and implementation of mapping, identification, monitoring, and evaluation of law enforcement h. development of an integrated and up-to-date data collection and recording system for the handling of criminal cases of trafficking in persons i. monitoring, evaluation, and preparation of reports.	
PO29 Art. 2(a)-(f) & R203, Par. 3-4, and 13: Prevention measures that include information, education and awareness raising; PO29 Art. 2(a)-(f) & R203, Par. 4 and 8: Regulation and supervision of labour recruitment and placement process;	Law No. 21/2007 on the Criminal Act of Trafficking in Persons <i>Article 58 Paragraph (4):</i> The task forces as referred to in paragraphs (2) and (3) constitute a coordinating body with the duty to: a) coordinate efforts to prevent and address the criminal act of trafficking in persons; b) provide advocacy, socialization, training, and cooperation; c) monitor developments in the provision of victim protection including rehabilitation, return, and social reintegration; d) monitor law enforcement; and e) conduct reports and evaluations.	Description of the Task Force makes specific mention to prevention measures

Requirement	Indonesian legal provision	Analysis
	Presidential Regulation No. 22/2021 on the Amendments to Presidential Regulation No. 69/2008 on Task Force for the Prevention and Handling of Human Trafficking Crime <i>Article 1 Paragraph 1:</i> The provisions of Article 4 are amended so that it reads as follows [....] (2) In carrying out the tasks referred to in Paragraph (1), the Central Task Force carries out the functions of: - formulating a national strategy and action plan for the prevention and handling of the crime of trafficking in persons - preparation, coordination, and implementation of assistance and consultation in efforts to prevent and deal with criminal acts of human trafficking for stakeholders at central and regional levels preparation, coordination, and implementation of communication, information, and education as well as dissemination of efforts to prevent and deal with the crime of trafficking in persons for stakeholders at central and regional levels - preparation, coordination, and implementation of training in efforts to prevent and handle the criminal act of trafficking in persons for stakeholders at the central and regional levels in accordance with the provisions of laws and regulations - preparing, coordinating and implementing networks and partnerships as well as relations between national and international institutions and the community in efforts to prevent and deal with the crime of trafficking in persons - preparation, coordination, and implementation of mapping, identification, monitoring, and evaluation of developments in the implementation of victim protection which includes rehabilitation, return, and social reintegration - preparation, coordination, and implementation of mapping, identification, monitoring, and evaluation of law enforcement - development of an integrated and up-to-date data collection and recording system for the handling of criminal cases of trafficking in persons	In Presidential Regulation No. 22/2022, a procedure of recruitment and placement mechanism is specified, which is considered to be able to prevent forced labour. However, it is not clear how this regulation is connected with efforts to prevent criminal trafficking in persons. Capacity building should be carried out for labour inspectors together with workers' organisations or other organisations with an interest in preventing forced labour and protecting victims of forced labour (R203). However, there is no clear requirement in Presidential Regulation No.21/2010 for labour inspectors to receive specific training related to forced labour. Transportation Ministerial Regulation No. 59/2021 regulates the procedures for recruiting and placing seafarers and migrant fishers. However, recruitment and placement schemes for local workers, such as fishers or fishing boat crew, are unclear. Maritime Affairs and Fisheries Ministerial Regulation No. 33/2021 regulates recruitment and placement, but no specific procedures for recruiting local fishermen have been established. Because the Ministry of Maritime Affairs and Fisheries has primary jurisdiction for sea-based employment contracts, the industrial relations court and mechanisms located in the Ministry of Manpower as well as provincial/district/city Manpower Offices, may not fully comprehend their context. While labour inspectors employed in the Ministry of Manpower have responsibility

Requirement	Indonesian legal provision	Analysis
	i. monitoring, evaluation, and preparation of reports Presidential Regulation No. 21/2010 on Labour Inspection <i>Article 17:</i> 1. In order to meet the needs of Labour Inspectors who are efficient and effective, quality improvement is needed for labour inspectors. 2. Improving the quality of Labour Inspectors as referred in paragraph (1) is implemented through education and training in accordance with the provisions of legislation. Transportation Ministerial Regulation No. 59/2021 on Provision of Services Related to Sea Transportation <i>Article 99:</i> Ship Crew who can be recruited and placed by recruitment agencies are seafarers who: a. Are at least 18 (eighteen) years old except for those in training; b. have the qualifications and competencies in accordance with the position on the ship; c. if they are placed in the food and catering section, must have a ship's cook certificate issued by a professional certification institution in the field of tourism or maritime education; d. meet health standards to do work on the ship and especially women are not allowed when pregnant condition; e. have a certificate or maritime document and a health certificate issued by the Government of Indonesia. Maritime Affairs and Fisheries Ministerial Regulation No. 33/2021 on Fishing Logbooks, Monitoring onboard Fishing Vessels and Fish Transporting Vessels, Inspection, Testing and Marking of Fishing Vessels, and Personnel Management of Fishing Vessels <i>Article 173 Paragraph (1):</i> Placement of the fishing crew is carried out by: a. the owner or operator of the fishing boat, b. the fishing vessel crew recruitment agents or c. independently.	for sea-based employment within Indonesia's borders, the fact that they are not located in the Ministry with responsibility for those workers mitigates against their effectively undertaking those tasks.

Requirement	Indonesian legal provision	Analysis
	Government Regulation No. 22/2022 on the Placement and Protection of Migrant Trade Ship Crew and Migrant Fishery Crew <i>Article 6:</i> The stages of implementing the Placement of Migrant Trade Ship Crew by BP2MI as referred to in Article 5 are carried out through: - Providing information - Registration - Selection - Health and psychological examination - Signing of a recruitment agreement - Registration as members in a social security fund - Implementation of orientation and pre-departure - Signing of a sea-based employment contract - Departure <i>Article 23:</i> The stages of implementing the Placement of Migrant Fishing Boat Crews by BP2MI as referred to in Article 22 are carried out through: - Providing information - Registration - Selection - Health and psychological examination - Signing of a recruitment agreement - Registration as members in a social security fund - Implementation of orientation and pre-departure - Signing of a sea-based employment contract - Departure	For migrant fishers, Government Regulation No. 22/2022 has met criteria of Protocol 29 Article 2 Paragraph (d) that requires member states to prevent forced labour by “protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process” However, local fishers are not covered by that regulation. Maritime Affairs and Fisheries Ministerial Regulation No. 33/2021 does not have a similar mechanism or provision to protect local fishers from fraudulent practices during the recruitment and placement in employment.

Requirement	Indonesian legal provision	Analysis
PO29 Art. 3 & R203, Par. 5-11: Protection, Ensuring legal protection for victims, Access to compensation schemes; and Penalty	Law No. 13/2006 as amended by Law 31/2014 on Witness and Victim Protection Law No. 21/2007 on Eradication of the Criminal Act of Trafficking in Persons <i>Article 47:</i> In the event a witness and/or victim and their families receive threats which pose a risk to their wellbeing, lives, and/or assets, the Indonesian National Police is obligated to provide protection before, during, and after the court trial. <i>Article 51:</i> (1) A victim is entitled to receive medical and social rehabilitation, return assistance, and social reintegration from the government if such victim suffers physical and psychological hardship as a result of the criminal act of trafficking in persons. (2) The entitlements as referred to in paragraph (1) is to be claimed by the victim or his/her family, colleagues, the police, escorting volunteer, or social worker following the reporting of the case by the victim or any other person to the Indonesian National Police. (3) The claim as referred to in paragraph (2) shall be submitted to the government through the minister or agency in charge of medical and social issues in the respective region.	Under Law No. 13/2006, witnesses and victims have the right to obtain protection for personal security, family and property, as well as to be free from threats related to testimony that is/will/ has been given. However, the access to restitution is still a problem, even after court orders for it are issued. The restitution disbursement scheme is still an obstacle for victims, which creates ongoing vulnerability. Weak distribution of restitution can result in victims losing their trust in the criminal justice system. Indonesia mainly relies on Law No. 21/2007 in its efforts to ensure victim protection, especially in the measurement for the identification, release, protection, recovery, and rehabilitation of victims of forced labour. However, this law can only protect those identified as victims of human trafficking for labour exploitation. Until the National Police and other relevant stakeholders consider the risk of forced labour in national catch fisheries, local fishers will not be identified as victims. Maritime Affairs and Fisheries Ministerial Regulation No. 35/2015 incorporates the ILO's 11 forced labour indicators.
	Maritime Affairs and Fisheries Ministerial Regulation No. 35/2015 on Systems and Certification of Human Rights for Fisheries Businesses <i>Article 5:</i> (1) Human rights policy as intended in Article 4 Paragraph (2) letter a is made through A commitment statement to obey all valid legislation (2) A commitment statement as intended in Paragraph (1) must contain at least a commitment of fishery businesses to: - respect the human rights of the parties impacted by human rights violations related to the fishery business; - respect the right to fair and decent working conditions, which include: - Remuneration and rest that is adequate and decent	

Requirement	Indonesian legal provision	Analysis
	2. Decent living standards, including accommodation, food and drink; 3. Receive medication; 4. Receive social security insurance; 5. Be protected from work risks; and 6. The right of women, children, and people with disabilities. c. use sea-based employment contracts for workers and fishing crew with a decent wage; d. Avoid creating forced labour situations, which include: 1. Abuse of Vulnerability 2. Fraud 3. Restrictions on Freedom of Movement 4. Exile 5. Physical and Sexual Violence 6. Intimidation and Threats 7. Retention of Identity Documents 8. Withholding of Wages 9. Debt Bondage 10. Abusive Working and Living Conditions 11. Excessive overtime e. Implement human rights due diligence; f. Practise human rights recovery; and g. Provide ongoing training about the fishery human rights system to workers and fishing crew (3) The commitment statement as intended in Paragraph (1) and Paragraph (2) must: a. be signed by the fishery business owner or representative with authority; b. be disseminated to and be available for the general public; and c. become guidance when preparing company policy or standard operating procedures.	

Requirement	Indonesian legal provision	Analysis
PO29 Art. 5 & R203 Par. 14: International Cooperation	Law No. 21/2007 on the Criminal Act of Trafficking in Persons <i>Article 59:</i> (1) In order to ensure effectiveness of the prevention and the eradication of the criminal act of trafficking in persons, the Government of the Republic of Indonesia has the obligation to seek out international cooperation, whether bilaterally, regionally, or multilaterally. (2) The cooperation as referred to in paragraph (1) may be effected through an agreement on the mutual assistance in criminal matters and/or other technical cooperation in accordance with prevailing laws.	The Indonesian government is obligated to carry out international cooperation to effectively prevention and eradication of the human trafficking. However, there has been no further explanation regarding the achievements and results of existing bilateral cooperation. In the context of national catch fisheries industry related regulations, there are no provisions on international cooperation. Government Regulation No. 22/2022 regulates international cooperation in Article 40, whereby the supervision of the placement and protection of migrant trade ship crew and migrant fishing ship crew while working is carried out by representatives of Indonesia, who can work together with flag state inspectors and port state control officers in destination countries. However, effective cooperation with flag state or port state countries may necessitate a convention or international agreement that particularly addresses the issue of fishers, such as the 2007 ILO Work in Fishing Convention (C188).
	Government Regulation No. 22/2022 Placement and Protection of Migrant Trade Ship Crew and Migrant Fishery Ship Crew <i>Article 40:</i> (1) Monitoring of placement and protection of migrant trade ship crew and migrant fishing ship crew before and after working is carried out by the labour inspector and can involve the marine inspector or fishery inspector according to their respective authorities (2) Monitoring placement and protection of migrant trade ship crew and migrant fishing ship crew whilst working is carried out by representatives of the Republic of Indonesia and can cooperate with flag state inspectors and port state control officers in the destination country (3) Monitoring of placement and protection of migrant trade ship crew and migrant fishing ship crew as intended in Paragraph (1) and Paragraph (2) is carried out in line with legislation	

Annex 6. List of interviewees

No.	Interviewee	Title	Institution
Government organizations			
1	Fritz Simon	Coordinator for Prevention of Industrial Relations Disputes	Ministry of Manpower
2	Olivia	Sub-coordinator of the Section for Business Closure and Strikes	Ministry of Manpower
3	Siti Umi Salamah	Director for Guidance of the Labour Inspection System	Ministry of Manpower
4	Diah Hartanti	Coordinator in the Inspection Section for the Substance and Procedure	Ministry of Manpower
5	Yuli Adiratna	Director for Guidance of Investigation of Labour Norms	Ministry of Manpower
6	Edwin Partogi Pasaribu	Deputy Chairperson	Witness and Victim Protection Agency
7	Sri Andayani	Director for Non-Governmental Placements in Asia and Africa	Agency for the Protection of Indonesian Migrant Workers
8	Rizky Mandalika	Evaluation of International Conventions in the Legal Bureau	Ministry of Manpower
9	Nurhayadi	Director for Marine Security and Resilience	Coordinating Ministry for Marine Affairs and Investment
10	Anonymous	Anonymous	Ministry of Marine Affairs and Fisheries
11	Rajuman Sibarani	Head of the Sub-directorate for Shipping and Marine Affairs	Ministry of Transportation
12	Sugeng Santoso	Ad hoc judge at the Industrial Relations Court	Supreme Court
13	Aresi Arminuksmono	Assistant Deputy for the Protection of Women's Rights	Ministry of Women's Empowerment and Child Protection
14	Budi Rahardjo	Section Head for Placement and Job Expansion	Provincial Manpower Office (East Java)
15	Yuntarti Panca Puspita	Section Head for Industrial Relations	Provincial Manpower Office (East Java)
16	Marieta Kristyarini Prabowo	Industrial Relations Mediator	Provincial Manpower Office (East Java)
17	F. Jaya Ginting	Unit Head	Protection of Indonesian Migrant Workers Unit (Nunukan)
18	Tri Aris Wibowo	Director for Fisheries Ports	Ministry of Marine Affairs and Fisheries

No.	Interviewee	Title	Institution
Government organizations			
19	Judha Nugraha	Director for Indonesian Citizen Protection	Ministry of Foreign Affairs
20	Isra Wira	Head of Section for the Guidance of Placement and Expansion of Employment Opportunities	Batam City Manpower Office
21	Angga	Harbourmaster	Ministry of Marine Affairs and Fisheries, Bareleng Fisheries Port
Employer organizations			
22	Zaenal A. Hasibuan	Head of Organizational Affairs and Membership	Indonesian National Shipowners' Association
23	Ilham Alhaq	Communication and Liaison Coordinator	Indonesian Pole and Line and Handline Fisheries Association
24	Sonny Pattiselanno	Secretary General	Indonesian Fisherman Manning Agents Association
25	Dipl T. Peratikno Rz, SE.	Association Chairperson	Indonesian Fisherman Manning Agents Association
26	Thomas Darmawan	Section Chairperson for Fisheries Affairs	Indonesian Employers Association
Civil society organizations			
27	Hariyanto Suwarno	Union Chairperson	Indonesian Migrant Workers Union
28	Afdillah	Ocean Campaigner	Greenpeace Indonesia
29	Siti Badriyah	Head of Advocacy	Migrant Care
30	Arnon Hiborang	Secretary General	North Sulawesi United Fishers Union
31	Budi Laksana	Secretary General	Indonesian Fisher Union
32	Imam Trihatmadja	Coordinator for the Freedom Fund Hotspot Project	Destructive Fishing Watch
33	Daniel Awigra	Executive Director	Human Rights Watch Group
34	Genta Sumarlan	Head of the Fisheries Section	Indonesian Seafarers
35	Sofyan	Secretary General	Indonesian Transportation Seafarer Union

