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Protection for Indonesian Migrant Fishers on Taiwanese Fishing Vessels

Mella Anggia Sari¹

¹Universitas Indonesia, Depok, Indonesia, mellaanggiasari31@gmail.com

Corresponding Author: mellaanggiasari31@gmail.com¹

Abstract: The exploitation and trafficking of Indonesian migrant fishers on Taiwanese fishing vessels remain a persistent challenge in the global fisheries industry. Although Indonesia and Taiwan have implemented various protection measures, these efforts have not yielded effective results. This study analyses why the protection of Indonesian migrant fishers on Taiwanese vessels remains inadequate. Using a deductive qualitative approach and the theory of diplomatic protection as the analytical framework, three key variables are examined: an international wrong, link of nationality, and exhaustion of local remedies. The findings reveal that Indonesia has not effectively exercised diplomatic protection due to fragmented domestic regulations and the lack of structured cooperation with Taiwan. Strengthening national legal frameworks and fostering South-South partnerships are essential to enhance legal protection and advance the implementation of the Sustainable Development Goals (SDGs) in the fisheries sector.

Keywords: Exploitation, Trafficking, Migrant Fishers, Fishing Vessels, Protection.

INTRODUCTION

Achieving the Sustainable Development Goals (SDGs) requires serious attention to the social, economic, and legal dimensions of cross-border labour mobility. One of the important targets of SDG 8 (Decent Work and Economic Growth) is to ensure decent work for all workers, including migrant workers in the fisheries sector, while SDG 16 (Peace, Justice, and Strong Institutions) emphasizes the importance of law enforcement and the protection of human rights. In this context, the protection of migrant fishing crews (AKP) is a crucial issue that reflects the extent to which countries are able to fulfil their SDG commitments through international policies and legal instruments (International Labour Organization, 2017).

International labour mobility is one of the main dimensions in achieving the SDGs, as it is directly related to economic welfare, social justice, and safe and humane migration governance (Castles, Haas, & Miller, 2020). The globalization process has intensified cross-border migration flows, facilitated the exchange of labour and skills, and simultaneously heightened the risk of exploitation in sectors heavily reliant on migrant workers, such as fisheries, manufacturing, and agriculture (International Labour Organization, 2013). Thus, while globalization generates economic opportunities, it also presents complex challenges for

states in protecting their citizens abroad in accordance with the principles of sustainable development (United Nations, 2015).

Globalization and its impact on migrant mobility is one of the important phenomena in the study of international relations. The United Nations (UN) estimates that the number of international migrants continues to increase. From 173 million people in 2000 to 222 million in 2010, and rising to 244 million people in 2015, this increase represents a rise of around 41% over a period of 15 years (United Nations, 2015). This trend shows that globalization strengthens the link between cross-border labour demand and global economic development.

The increasing number of international migrants is related to the growing demand for workers abroad, including the sending of workers from Indonesia to other countries. Indonesia began sending migrant workers during the colonial period around 1887 and has continued to grow to the point where Indonesia is now the second largest contributor of migrant workers in Southeast Asia (Irewati, 2003). Indonesian migrant workers (TKI) are placed in several sectors of life, and one sector that has attracted attention in recent years is the dispatch of fishing vessel crews from Indonesia to foreign fishing vessels abroad. The Ministry of Manpower of the Republic of Indonesia stated that in the last decade there has been an increase in public interest in working as migrant fishing vessel crew on foreign fishing vessels (Sawengi & Rijal, 2022).

According to Government Regulation of the Republic of Indonesia Number 22 of 2022, fishing vessel crew members are Indonesian migrant workers who work on foreign-flagged fishing vessels employed by the vessel owner or operator in accordance with their position in the certificate book. Based on data from the Directorate for the Protection of Indonesian Citizens and Legal Entities, the Indonesian Ministry of Foreign Affairs stated that there were more than 200,000 Indonesian AKP working on foreign fishing vessels in the 2013–2015 period. The highest number of placements was in Taiwan with 217,655 people, followed by South Korea with 31,792 people (Indonesia Ocean Justice Initiative, 2020).

Taiwan has been the main destination for Indonesian migrant workers since the early 1990s (Maksum, Tsay, & Muhammad, 2020). This is because Taiwan has one of the largest distant-water fishing (DWF) fleets in the world and serves as a major transit point for international labour migration. Approximately 60% of Indonesian migrant workers in Taiwan work in the fisheries sector, particularly on distant-water fishing vessels (Yen & Liuhuang, 2021). Data from the Taiwanese Ministry of Labour in 2016 shows that Indonesian migrant workers dominate the fishing sector, accounting for 64.03% of the total foreign crew working on Taiwanese fishing vessels (Indonesia Ocean Justice Initiative, 2020).

However, the increase in the number of workers has been accompanied by an increase in complaints and violations that are detrimental to migrant fishing crew members. The Indonesian Ministry of Foreign Affairs reported that in the period 2014–2017, there were 2,198 cases involving migrant workers, with human trafficking (538 cases) ranking second after labour cases (857 instances), such as unpaid wages, excessive working hours, and workplace accidents (Aziz & Wahyudi, 2020). Meanwhile, the agency for the protection of Indonesian Migrant Workers (BP2MI) recorded 128 reports of exploitation of Indonesian migrant fishing crew members on Taiwanese fishing boats throughout 2018 (Sawengi & Rijal, 2022). Taiwanese fishing vessels operating in distant waters often sail for months or even years on the high seas, leading to labour violations, forced labour, human smuggling, and human trafficking. The ILO (2022) asserts that the distant-water fishing industry is one of the sectors with the highest risk of exploitation and human rights violations globally.

The persistence of these cases demonstrates that the problem extends beyond isolated incidents and has become a structural challenge requiring deeper scholarly examination. Accordingly, previous studies on this issue can be categorized into four major strands of research, which are discussed below. Studies on the protection of Indonesian migrant fishers working on Taiwanese fishing vessels are not new. Previous research on this issue can be

categorized into four groups. The first category discusses the issues of forced labor and human trafficking involving Indonesian migrant fishers on Taiwanese fishing vessels. The second category examines Indonesia's efforts to address these issues. The third category analyzes Taiwan's initiatives in resolving the problems of forced labor and human trafficking against Indonesian migrant fishers aboard Taiwanese vessels. The fourth category focuses on the relationship between Indonesia and Taiwan.

The first category highlights the issues of forced labour and human trafficking experienced by Indonesian migrant fishers on Taiwanese fishing vessels. Researchers such as Karthikeyan, Pratap, Chu, & Pao (2023), Mileski, Galvao, & Forester (2020), Parhusip (2023), and Aziz & Wahyudi (2020) agree that such exploitation has indeed occurred. Indonesian migrant fishers have been subjected to prolonged exploitation, working in conditions of minimal protection, excessive working hours, unpaid wages, and poor living standards aboard vessels.

The second category discusses Indonesia's efforts to address the problems of forced labour and human trafficking involving Indonesian migrant fishers on Taiwanese vessels. Several scholars, including Soulina & Yovani (2020) and Adha, (2022) argue that protecting Indonesian migrant fishers working on foreign fishing vessels poses unique challenges. State supervision is difficult to conduct since their workplaces are located at sea, making it hard for authorities to monitor or enforce labour standards. The main obstacle to effective protection lies in the absence or weakness of regulatory frameworks. Wayne & Piper (2023) point out that Indonesia's migration and labour regulation systems are fragmented, making it difficult for migrant fishers to report grievances or exercise their labour rights. Meanwhile, Kumala, Vinata, Suharti, & Setyowati (2023) emphasize that the protection of Indonesian migrant fishers' human rights in Taiwanese fisheries cannot be achieved without international cooperation.

The third category examines Taiwan's efforts to respond to and address the issues of forced labour and human trafficking involving Indonesian migrant fishers. Cheng & Momesso (2017) argue that the Taiwanese government recognizes its responsibility for the human rights violations experienced by Indonesian fishers. Yen & Liuhuang (2021) and Mileski, Galvao, & Forester (2020) explain that, as a form of accountability, Taiwan has revised and introduced new regulations, including those governing minimum wages, employment contracts, allowances, and other technical arrangements. In addition to regulatory reforms, Karthikeyan & Hsiung (2022) and Karthikeyan, Pratap, Chu, & Pao (2023) note that Taiwan has developed technological innovations such as installing CCTV systems on fishing vessels and employing activity-recognition and statistical assessment methods to detect potential labour exploitation at sea.

The fourth category explores the relationship between Indonesia and Taiwan. Deng, Wahyuni, & Yulianto (2021) note that relations between the two parties are generally positive, particularly in the field of labour cooperation, as such collaboration benefits both Indonesia and Taiwan. However, despite this productive partnership, the two entities do not maintain formal diplomatic relations (Etania & Indriawati, 2023).

From these four categories of previous research, it can be concluded that the problems of forced labour and human trafficking involving Indonesian migrant fishers on Taiwanese fishing vessels are real and ongoing. Indonesian migrant fishers continue to work under inadequate protection, long working hours, unpaid wages, and unsafe working conditions. This situation has attracted international attention and demands urgent action from both Indonesia and Taiwan. Based on previous studies, it appears that the two parties have taken different approaches. Indonesia and Taiwan have each attempted to address the problem through regulatory reforms on migrant worker protection in the fisheries sector, while Taiwan has also adopted technological innovations to monitor potential forced labour aboard vessels. However, Indonesia continues to face challenges due to weak and fragmented domestic regulations.

Moreover, research on the bilateral relationship between Indonesia and Taiwan remains limited, particularly concerning non-diplomatic labour cooperation. Since the 1980s, labour cooperation between the two sides has continued to expand, bringing mutual benefits despite the absence of formal diplomatic ties.

Based on previous studies that generally focused on empirical and policy aspects, this research seeks to deepen the discussion by using the theory of diplomatic protection as an analytical framework. This approach is used to understand how states, through international legal mechanisms, carry out their responsibilities in protecting the rights of citizens working abroad. By examining Indonesia's protection efforts through the lens of diplomatic protection, this study aims to contribute to the literature on Indonesian diplomacy and the protection of migrant fishers working on foreign fishing vessels.

In international relations, diplomatic protection is a mechanism through which a state safeguards its nationals abroad from violations of human rights. It serves as an instrument for the protection and enforcement of human rights at the international level (Künzli, 2007). The concept of diplomatic protection has deep historical roots in international law. In 1758, the Swiss jurist Emmerich de Vattel argued that harm done to a citizen constitutes indirect injury to the state, thereby granting the state the right to protect its nationals. This principle became a hallmark of relations between Western European states, the United States, and Latin America during the nineteenth and early twentieth centuries. Western nationals who migrated to Latin America to exploit natural resources and participate in industrial development often faced disputes concerning their private rights and property. These individuals sought protection from their home states, which at times responded through arbitration or even the use of force (Forcese, 2006).

Subsequent efforts were made to codify the legal aspects governing the treatment of foreigners and the principles of diplomatic protection, particularly during the Codification Conference in The Hague in 1930. Around the same period, Edwin Burchard published an influential work entitled *The Diplomatic Protection of Citizens Abroad* (1919), which became a foundational reference in the field (Forcese, 2006). Following World War II, two significant developments influenced the evolution of diplomatic protection. First, the adoption of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1965 and the proliferation of Bilateral Investment Treaties (BITs) provided mechanisms for safeguarding foreign investments. Second, the emergence of international human rights treaties granted individuals the right to assert their claims both against their own state and other states (Dugard, 2013).

Conceptually, diplomatic protection is defined as “action taken by a state against another state in respect of injury to the person or property of its national caused by an internationally wrongful act or omission attributable to the latter state”. According to Craig Forces, three essential conditions must be met to exercise diplomatic protection. The requirements for diplomatic protection include three main elements. First, an international wrong, which is the obligation of a state to protect its citizens when a violation of international law occurs against them, as stipulated in Article 3 of the Vienna Convention on Diplomatic Relations (1961). Second, exhaustion of local remedies, which means diplomatic protection can only be provided after the injured individual has exhausted all available legal remedies in the receiving country but has not obtained an adequate resolution. Third, the link of nationality, which stipulates that only the victim's country of citizenship has the right to implement diplomatic protection, in accordance with Article 3(1) of the International Law Commission Draft Articles on Diplomatic Protection (2006), which emphasizes that citizenship can be acquired through birth, descent, succession to a state, naturalization, or other legitimate means under international law (Forcese, 2006).

This principle aligns with the notion of passive nationality jurisdiction, under which a state has the right to exercise jurisdiction over offenses committed abroad that cause harm to its nationals. If the host state fails or refuses to prosecute such offenses, the injured national's state retains the right to seek accountability. Thus, the responsibility and obligation to protect nationals abroad fall within the scope of a state's diplomatic and consular functions (Forcese, 2006).

In this study, the framework of diplomatic protection is used to classify and analyse the factors that have hindered Indonesia's efforts to effectively protect its migrant fishers working on Taiwanese fishing vessels. By applying Forcese's framework, this research aims to explain the gap between Indonesia's legal commitments and the actual implementation of protection mechanisms for Indonesian migrant fishers, thereby providing insights into the state's role and accountability under international law.

METHOD

This research analyses why the protection efforts for Indonesian migrant fishers working on Taiwanese fishing vessels have not been effective. Employing the theory of diplomatic protection as previously outlined, this study seeks to identify the factors underlying the inadequacy of such protection. To achieve this objective, the research adopts a qualitative method with a deductive approach. According to Neuman (2014), qualitative research enables an in-depth understanding of events, group behaviours, facts, or subjects to generate concepts that help explain social phenomena. Its primary focus lies in words and narratives rather than numerical quantification in data collection and analysis.

Data is information about an object that is known or assumed to be a state expressed in the form of numbers, symbols, codes, and other elements (Hasan, 2002). Based on the source, the data used in this study are primary data and secondary data. Primary data is data collected directly from the first or original source, such as surveys, interviews, direct observation and so on. Meanwhile, secondary data is data that has been collected and processed by another party for a different purpose. Secondary data can be data from government agencies, organizations, scientific journals, or other sources (Azwar, 2013).

In this study, primary data originate from official documents issued by Indonesian governmental bodies, including the Ministry of Foreign Affairs, the Ministry of Manpower, the Ministry of Transportation, and the Agency for the Protection of Indonesian Migrant Workers (BP2MI). These documents include data on the number of Indonesian migrant fishers deployed on Taiwanese vessels as well as records of complaints related to labour violations, forced labour, human smuggling, and human trafficking. Secondary data are gathered from books, academic journals, policy briefs, newsletters, mass media articles, online sources, and other printed or digital documents.

The data range begins in 2015, when two Indonesian migrant fishers that is, Supriyanto and Urip, died aboard Taiwanese fishing vessels. Their deaths drew significant international attention and highlighted urgent concerns regarding forced labour and human trafficking involving Indonesian migrant fishers (BBC Indonesia, 2016). The study period concludes in 2023, marked by the adoption of the ASEAN Declaration on the Protection of Migrant Fishers during the 2023 ASEAN Summit, the first ASEAN instrument specifically addressing the protection of migrant fishers (ASEAN, 2023). The declaration reflects Indonesia's initiative to strengthen ASEAN's collective bargaining power in ensuring stronger protection for migrant fishers.

Data collection was performed through the desk research, a method that utilizes existing sources. After gathering the data, it was processed using categorization techniques, which group information into thematic classifications. This approach simplifies qualitative data and

facilitates interpretation. The analysis involved comparing the actual conditions with the ideal conditions.

RESULTS AND DISCUSSION

The exploitation to Indonesian migrant fisher phenomenon has garnered international attention because it highlights the contradiction between global economic expansion and the protection of human rights within the international fishing supply chain. Various international organizations, including the ILO, IOM, and Greenpeace, have highlighted cases of forced labour on Taiwanese-flagged vessels and urged the countries concerned to improve legal protection for migrant workers. Indonesia and Taiwan have implemented various protective measures, ranging from regulatory improvements and bilateral labour agreements to technological innovations aimed at monitoring forced labour practices. However, these efforts have not yet resulted in significant change. In fact, during the COVID-19 pandemic, the number of complaints reportedly doubled Fadhlurrahman (2021). This situation has a direct impact on the achievement of SDG 8 and SDG 16, where the right to decent work and justice for migrant workers has not been fully guaranteed. Based on this description, this study attempts to answer the main question of why efforts to protect Indonesian migrant crew members on Taiwanese fishing vessels have not been effective. This study aims to examine the effectiveness of international legal protection for Indonesian migrant fishers working on Taiwanese fishing vessels, particularly by identifying the key factors behind the inadequacy of current protection efforts.

To analyse why these protection efforts remain ineffective, this study applies the framework of diplomatic protection. This analytical approach identifies three essential requirements that determine whether a state may invoke diplomatic protection. Diplomatic protection, as an instrument or mechanism for safeguarding the human rights of Indonesian migrant fishers, may be invoked only when the three requirements outlined by Craig Forcese are fulfilled: *an international wrong*, *exhaustion of local remedies*, and *a link of nationality*. This section discusses the first requirement, namely *an international wrong*.

An International Wrong

Forcese (2006) defines an *international wrong* as an act or omission by a state that violates an international obligation and causes injury to the nationals or interests of another state. This concept serves as the legal foundation for a state to lodge a diplomatic protection claim on behalf of its injured nationals when harm is attributable to another state or entities acting on its behalf.

In the context of Indonesian migrant fishers working on Taiwanese fishing vessels, diplomatic protection may be exercised if there is a violation of international law that adversely affects the rights of these fishers. Such violations may include breaches of human rights, unfair treatment, forced labour, or any other conduct inconsistent with international standards. Accordingly, Indonesia must be able to demonstrate that the harmful practices experienced by its migrant fishers result from Taiwan's failure to comply with its international obligations. Strong evidence and adequate documentation are therefore essential in substantiating such a claim.

The forced labour and human trafficking experienced by Indonesian migrant fishers aboard Taiwanese vessels constitute serious violations of multiple international obligations, including those under ILO conventions on forced labour. The ILO identifies 11 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, and excessive overtime. The

following table presents reported cases that demonstrate the presence of forced labour based on these ILO indicators.

Table. 1 Cases of complaints regarding indicators of forced labour submitted to the Indonesian Migrant Workers Union (SBMI) from 2014-2017

No	Vessel Name RFMO Registry Vessel Type	Owner- Company/ Where the Company Registered / Fishing Entity	Complaints	● Number refer to ILO Forced Labour indicator												
				1	2	3	4	5	6	7	8	9	10	11		
1	Chin chun No.12 Tuna Longliner	Shenng-Sheng Fishery Co., Ltd., Taiwan/Vanuatu (FoC)	1		●							●				
2	Da Wang Tuna Longliner	Yong Feng Fishery Co., Ltd./ Taiwab / Vanuatu (FoC)	1	●	●			●				●		●	●	
3	Fu Yuan Yu N.054 Purse Seiner	China Mainland	10		●							●				●
4	Fu Yuan Yu N.055 Purse Seiner	China Mainland	3		●			●	●					●	●	
5	Fu Yuan Yu N.056 Purse Seiner	China Mainland	2		●			●	●							●
6	Fu Yuan Yu N.062 Purse Seiner	China Mainland	4			●	●					●				●
7	Fwu Maan No.88 Tuna Longliner	Wu, Bor-Shyan / Taiwan/ Taiwan	3	●				●			●					
8	Han Rong 353 Cargo Ship	China Mainland	4		●			●	●			●		●	●	
9	Hangton No.112 Tuna Logliner	Hangton Pacific Company PTE Ltd./ Fiji	1	●	●					●		●	●	●	●	
10	Lien Yi Hsing No.12 Tuna Longliner	Chai, Maung-Jian/ Taiwan / Taiwan	2		●							●				
11	Lu Rong Yuan Yu No.30 Tuna Longliner	Shandong Lidao Oceanic Technoogy Co.Ltd./ China Mailand	1		●			●	●	●	●	●	●			
12	Shin Jaan Shin Tuna Longliner	Chen, Shin-Dean/ Taiwan/ Taiwan	1		●											
13	Zhong Da No.2 Tuna Longlier	Zhong Da Co. Ltd/ China Mainland/ Fiji	1	●	●			●	●	●	●			●	●	
Total			34	4	11	1	1	7	6	3	9	2	5	8		

Source: Processed by the researcher, (Indonesia Ocean Justice Initiative, 2022)

Based on the table above, a total of 34 complaints were recorded by the Indonesian Migrant Workers Union (SBMI) between 2014 and 2017. All of these complaints were filed by Indonesian migrant fishers working aboard Taiwanese fishing vessels. Each report contained at least one forced labour indicator, with some cases presenting up to eight indicators. This evidence clearly demonstrates the presence of forced labour practices involving Indonesian migrant fishers on Taiwanese vessels, as the complaints meet various forced labour indicators established by the ILO. Accordingly, this fulfils the initial requirement of an international wrong necessary to invoke diplomatic protection.

ILO further highlights that the fishing industry is among the most hazardous and least regulated sectors globally. High rates of accidents and fatalities particularly within distant-

water fishing fleets have resulted in numerous human rights complaints. These risks are exacerbated by the prolonged duration of operations at sea, which can last for months or even years, facilitated by the transshipment of fuel and supplies. Such conditions significantly increase the likelihood of labour violations (Witono & Nuzula, 2019). In the case of Indonesian migrant fishers deployed on Taiwanese distant-water vessels, the level of exploitation is reportedly higher than that found on South Korean or Japanese fishing vessels (Sawengi & Rijal, 2022).

Link of Nationality

The link of nationality in the context of diplomatic protection refers to the lawful citizenship relationship between an individual who submits a claim and the state that provides such protection. It constitutes one of the essential requirements for a state to exercise diplomatic protection on behalf of its nationals. The link of nationality is a key concept in diplomatic protection as it ensures that the state has a legitimate legal basis to protect its citizens abroad. This nationality relationship must be genuine and effective, forming the foundation for a state to demand protection or remedies for its nationals who experience human rights violations in another country (Forcese, 2006).

The definition of the link of nationality itself is a legal bond that ties an individual to a state, allowing that state to extend diplomatic protection. Such nationality must be lawful and officially recognized by the state. Lawful nationality means that an individual must be formally acknowledged as a citizen of the state providing protection (formal nationality), and the relationship must also be genuine and effective, indicating that the individual has substantial ties to the state (for example, residence, family, or employment) (Forcese, 2006).

Based on the explanation above, one of the requirements of the link of nationality is that Indonesian migrant fishers working on Taiwanese fishing vessels who show indicators of forced labour must be officially recognized as Indonesian citizens and possess substantial and genuine ties to Indonesia, such as family or residence. To demonstrate this, Indonesian migrant fishers may present one or more identification documents, including the National Identity Card (KTP), Family Card (KK), Driver's License (SIM), or Indonesian passport. If each Indonesian migrant fisher in Taiwan holds these identity documents, their legal status as Indonesian citizens (WNI) can be verified.

In addition, to ensure that Indonesian migrant fishers on Taiwanese vessels are indeed Indonesian nationals, verification can be conducted through the documents submitted during the registration process as prospective migrant fishers. According to Government Regulation No. 22 of 2022 concerning the requirements for migrant fisher registration, several documents must be attached, including a passport, seafarer's book (sijil), Seafarer Employment Agreement (PKL), proof of enrolment in a social security program, medical certificate, visa, seafarer identity document, and competency, proficiency, and/or skill certificates.

Thus, the task of the Indonesian government is to ensure that migrant fishers possess valid identity documents and to verify these documents against governmental databases. This verification process facilitates the fulfilment of the second requirement for invoking diplomatic protection, namely the link of nationality.

Exhaustion of Local Remedies

The principle of exhaustion of local remedies originally derives from customary international law. It requires that individuals who allege human rights violations or unfair treatment in a foreign country must first pursue all available legal remedies within the jurisdiction where the violation occurred. Only if those local remedies fail or prove inadequate may the individual's home state invoke diplomatic protection and bring an international claim on their behalf (Forcese, 2006).

In the context of Indonesian migrant fishers working on foreign fishing vessels, including Taiwanese vessels, those who experience forced labour or other human rights abuses are, in principle, expected to seek redress through Taiwan's local legal mechanisms. However, in practice, Indonesian migrant fishers have already attempted to voice their grievances to vessel operators, owners, and recruitment agents in Taiwan, but their reports are often ignored. The Chairperson of the Indonesian Migrant Workers Union (SBMI), Hariyanto Suwarno, has urged Taiwanese fisheries industry actors to take these complaints seriously, citing forced labour, physical violence, wage deductions, deaths and disappearances at sea, and prolonged communication isolation experienced by the fishers (Ambari, 2024).

The situation is even more challenging for Indonesian migrant fishers employed through non-procedural channels who do not possess work visas and rely solely on seafarers' visas. Because they are not registered in Taiwan's immigration records, they cannot access official assistance mechanisms when problems arise (Soulina & Yovani, 2020). Based on these conditions, it is evident that Indonesian migrant fishers encounter significant obstacles in exhausting local remedies, thereby necessitating intervention from their home state (Indonesia) through diplomatic protection.

On the other hand, Indonesia has attempted to establish a protective regulatory framework for migrant fishers. Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers (Undang-Undang PPMI) formally recognizes fishers as migrant workers. However, the regulation provides only a single article addressing fishers, which is insufficient given the unique nature of offshore fishing work. Additionally, overlapping authority between the Ministry of Transportation and the Ministry of Manpower regarding recruitment and placement processes further complicates implementation. This regulatory gap persisted until 2022 due to the delayed issuance of implementing regulations, particularly the Government Regulation on the placement and protection of migrant fishers mandated by the UU PPMI. The Government Regulation No. 22 of 2022 on the Placement and Protection of Migrant Seafarers and Migrant Fishers was eventually issued, partially filling the legal vacuum. Nevertheless, the regulation's delayed adoption allowed problems to accumulate in practice, and its effectiveness has yet to be demonstrated (Indonesia Ocean Justice Initiative, 2022).

Based on the above, Indonesia has technically met all requirements to invoke diplomatic protection. However, two major impediments hinder its effectiveness. First, despite having the legal basis to file diplomatic protection claims for Indonesian migrant fishers on Taiwanese vessels, Indonesia has not fully utilized this mechanism, as evidenced by the absence of bilateral negotiations or formal dialogue with Taiwan up to 2023. Second, domestic regulations concerning migrant fishers remain inadequately integrated, marked by overlapping licensing procedures and structural gaps in legal protection, further complicating Indonesia's efforts to safeguard its migrant fishers abroad (Sawengi and Rijal, 2022).

CONCLUSION

The deployment of Indonesian migrant fishers to work on Taiwanese fishing vessels is not a new phenomenon. The deployment of these fishers is highly beneficial and profitable for both Indonesia and Taiwan. Its implementation has seen year-on-year increases, making Indonesia the country with the largest number of migrant fishers sent to Taiwan. Along with the increasing number of Indonesian migrant fishers working on Taiwanese fishing vessels, there are also increasing complaints and irregularities that are detrimental to Indonesian migrant fishers, namely, forced labour and human trafficking on these Taiwanese fishing vessels. The issue of forced labour and trafficking of Indonesian migrant fishers is a real experience. Migrant fishers have been exploited for years, carrying out their work in situations of minimal protection, long working hours, unpaid wages, and living conditions such as

inadequate clothing and food. Both Indonesia and Taiwan have made various efforts to resolve this issue, but have not yet been able to fix it completely.

Based on Craig Forcese's analysis of the three prerequisites for diplomatic protection, it can be concluded that Indonesia has actually fulfilled all substantive requirements to apply for diplomatic protection for Indonesian migrant fishing crew members working on Taiwanese fishing vessels. First, strong evidence of forced labour practices, human rights violations, and exploitative working conditions experienced by Indonesian migrant fishing crew members indicates an international wrong committed by actors in the Taiwanese fishing industry. Second, the citizenship identities of Indonesian migrant fishing crew members are proven valid and can be verified through formal documents and administrative placement requirements, thus fulfilling the element of link of nationality. Third, fishing crew members face significant obstacles in accessing local legal mechanisms in Taiwan, often due to complaints being ignored or a non-procedural status that prevents them from being recorded in the immigration system. This condition indicates that the requirement for exhaustion of local remedies has been met because local efforts are ineffective or inaccessible.

However, the effectiveness of Indonesia's protection remains hampered by two main factors. First, the suboptimal utilisation of diplomatic protection mechanisms to negotiate or formally claim against Taiwan. Second, the national legal framework for the protection of Indonesian migrant fishers on Taiwanese fishing vessels remains incompletely integrated, including overlapping authority between ministries and the slow issuance of implementing regulations. As a result, protection for Indonesian migrant fishers on Taiwanese fishing vessels remains partial, reactive, and ineffective in reducing the structural vulnerability of these workers

Recommendation

To improve the effectiveness of protection for Indonesian migrant fishers on Taiwanese fishing vessels, this study recommends several strategic steps.

1. Indonesia needs to proactively utilise diplomatic protection mechanisms to negotiate stronger protection, including the delivery of formal diplomatic notes and the establishment of regular bilateral communication with Taiwanese authorities.
2. The government should strengthen and harmonise the national regulatory framework, particularly by eliminating overlapping authority between ministries and accelerating the issuance of technical regulations derived from Government Regulation No. 22 of 2022 for more effective implementation.
3. Indonesia needs to develop an integrated database of Indonesian migrant fishers containing identity, placement history, and complaint records to facilitate citizenship verification and cross-agency coordination.
4. Indonesian missions in Taiwan need to improve protection services, including facilitating legal assistance, accessible reporting mechanisms, and collaboration with local and international organizations.
5. Indonesia needs to lead the implementation of the ASEAN Declaration on the Protection of Migrant Fishers (2023) by encouraging the development of regional guidelines and establishing functional engagement with Taiwan on the issue of Indonesian migrant fishers' protection.

REFERENCE

- Adha, L. H. (2022). Perlindungan Hukum Pekerja Migran Indonesia yang Bekerja Sebagai Awak Kapal Perikanan (AKP) Asing. *Jurnal Private Law Fakultas Hukum Universitas Mataram*, 796-815.
- Ambari, M. (2024, May 21). *Tanpa Perlindungan Penuh, Nasib Awak Kapal Perikanan Semakin Terpuruk*. Diambil kembali dari mongabay.co.id: <https://www.mongabay.co.id/2024/05/21/tanpa-perlindungan-penuh-nasib-awak-kapal-perikanan-semakin-terpuruk/>
- ASEAN. (2023, May 10). *ASEAN DECLARATION ON THE PLACEMENT AND PROTECTION*. Diambil kembali dari asean.org: https://asean.org/wp-content/uploads/2023/05/10-ASEAN-Declaration-on-Protection-and-Promotion-of-the-Rights-of-Migrant-Fishers_adopted-1.pdf
- Aziz, A., & Wahyudi, R. (2020). Imperfect Victims and an Imperfect Protocol: Reflecting on the Trafficking Experiences of Indonesian Migrant Fishermen. *Journal of Human Trafficking*, 156-167.
- Azwar, S. (2013). *Metode Penelitian*. Yogyakarta: Pustaka Pelajar.
- BBC Indonesia. (2016, August 19). *Kisah Supriyanto, nelayan Indonesia yang tewas akibat disiksa di kapal Taiwan*. Diambil kembali dari [www.bbc.com](https://www.bbc.com/indonesia/berita_indonesia/2016/08/160816_indonesia_kisah_supriyatno): https://www.bbc.com/indonesia/berita_indonesia/2016/08/160816_indonesia_kisah_supriyatno
- Castles, S., Haas, H. D., & Miller, M. J. (2020). *The Age of Migration. International Population Movements in the Modern World*. New York: Guilford Press.
- Cheng, I., & Momesso, L. (2017). Look, the World is Watching How We Treat Migrants! The Making of the Anti-Trafficking Legislation during the Ma Administration. *Journal of Current Chinese Affairs*, 61-99.
- Deng, J. B., Wahyuni, H. I., & Yulianto, V. I. (2021). Labor migration from Southeast Asia to Taiwan: issues, public responses and future development. *Asian Education and Development Studies*, 69-81.
- Dugard, J. (2013). *ARTICLES ON DIPLOMATIC PROTECTION*. Diambil kembali dari [legal.un.org](https://legal.un.org/avl/ha/adp/adp.html): <https://legal.un.org/avl/ha/adp/adp.html>
- Etania, R. B., & Indriawati, T. (2023, October 2024). *Negara-negara yang Tidak Menjalin Hubungan Diplomatik dengan Indonesia*. Diambil kembali dari [www.kompas.com](https://www.kompas.com/stori/read/2023/10/24/140000779/negara-negara-yang-tidak-menjalin-hubungan-diplomatik-dengan-indonesia?page=all): <https://www.kompas.com/stori/read/2023/10/24/140000779/negara-negara-yang-tidak-menjalin-hubungan-diplomatik-dengan-indonesia?page=all>
- Fadhurrahman, M. I. (2021, June 4). *Pemerintah Lamban Bertindak Tepat, Perbudakan Modern Di Laut Semakin Meningkat*. Diambil kembali dari [greenpeace.org](https://www.greenpeace.org/indonesia/cerita/44969/pemerintah-lamban-bertindak-tepat-perbudakan-modern-di-laut-semakin-meningkat/): <https://www.greenpeace.org/indonesia/cerita/44969/pemerintah-lamban-bertindak-tepat-perbudakan-modern-di-laut-semakin-meningkat/>
- Force, C. (2006). The Capacity to Protect: Diplomatic Protection of Dual Nationals in the 'War on Terror'. *The European Journal of International Law*, 374-384.
- Hasan, M. I. (2002). *Pokok-Pokok Materi Metodologi Penelitian dan Aplikasinya*. Jakarta: Ghalia Indonesia.
- Indonesia Ocean Justice Initiative. (2020). *Perbaikan Tata Kelola Perlindungan ABK Indonesia di Kapal Ikan Asing*. Jakarta: Indonesia Ocean Justice Initiative.
- Indonesia Ocean Justice Initiative. (2022, September 25). *Potret Kerawanan Pekerja Migran Indonesia Pelaut Perikanan*. Diambil kembali dari [oceanjusticeinitiative.org](https://oceanjusticeinitiative.org/2022/09/25/potret-kerawanan-pekerja-migran-indonesia-pelaut-perikanan/#:~:text=Dalam%20studi%20%E2%80%9CPotret%20Kerawanan%20Ke): <https://oceanjusticeinitiative.org/2022/09/25/potret-kerawanan-pekerja-migran-indonesia-pelaut-perikanan/#:~:text=Dalam%20studi%20%E2%80%9CPotret%20Kerawanan%20Ke>

- rja%20Pelaut%20Perikanan%20di,internasional%2C%20regional%20dan%20nasional%20yang%20tak%20sal
- International Labour Organization. (2013). *Caught at Sea: Forced Labour and Trafficking in Fisheries*. Geneva: International Labour Organization.
- International Labour Organization. (2017, September 18). *Decent work for migrant fishers*. Diambil kembali dari www.ilo.org: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_dialogue/%40sector/documents/publication/wcms_569895.pdf
- Irewati, A. (2003). *Kebijakan Luar Negeri Indonesia Terhadap Masalah TKI ilegal di Negara ASEAN*. Jakarta: Pusat Penelitian Politik LIPI.
- Karhikeyan, P., & Hsiung, P. A. (2022). Labour Exploitation Investigation using Satellite based Vessel Monitoring Systems. *IEEE Transactions on Pattern Analysis and Machine Intelligence*, 1-5.
- Karhikeyan, P., Pratap, A., Chu, W. C., & Pao, A. H. (2023). Analysis of Fisherman Exploitation in Taiwan Distant Water Fishing. *IEEE Technology and Society Magazine*, 88-87.
- Kumala, M. T., Vinata, R. T., Suharti, T., & Setyowati, P. J. (2023). Fishermen Human Rights Protection and Sustainable Development in the Indonesian Marine Sector. *Lex Portus*, 16-27.
- Künzli, V. (2007). *The protection of individuals by means of diplomatic protection: diplomatic protection as a human rights instrument*. Leiden: PrintPartners Ipskamp.
- Maksum, A., Tsay, C. L., & Muhammad, A. (2020). Indonesian Migrant Workers in Taiwan: The State Dilemma and People's Realities. *Jurnal Ilmu Sosial dan Ilmu Politik*, 80-96.
- Mileski, J. P., Galvao, C. B., & Forester, Z. D. (2020). Human trafficking in the commercial fishing industry: A multiple case study analysis. *Marine Policy*, 1-10.
- Neuman, W. L. (2014). *Social Research Methods: Qualitative and Quantitative Approaches*. Edinburgh: Pearson Education Limited.
- Parhusip, J. (2023). Emerging port infrastructure and advocacy networks for migrant fishers in Taiwan. *Asian and Pacific Migration Journal*, 371-383.
- Sawengi, I. H., & Rijal, N. K. (2022). International Cooperation in the Protection of the Indonesian Migrant Fishing Vessels Crew on Taiwan-Flagged Ships. *Jurnal Ilmu Sosial dan Ilmu Politik Malikussaleh (JSPM)*, 66-78.
- Soulina, F., & Yovani, N. (2020). Forced labor practices of Indonesian migrant fishing vessels crew on Taiwan-Flagged Ships? A need for cognitive Framework Transformatio. *Journal of Social Studies (JSS)*, 157-182.
- United Nations. (2015, September 25). *Transforming our world: the 2030 Agenda for Sustainable Development*. Diambil kembali dari www.sdgs.un.org: <https://sdgs.un.org/2030agenda>
- United Nations. (2015, December). *Trends in International Migrants Stock: The 2015 Revision*. Diambil kembali dari www.un.org: https://www.un.org/en/development/desa/population/migration/data/estimates2/docs/MigrationStockDocumentation_2015.pdf
- Wayne, P., & Piper, N. (2023). Regulatory (Mal)Integration: Its Implications for Migrant Workers' Ability to Access Employment Rights in Indonesia. *Journal of Immigrant & Refugee Studies*, 203-216.
- Witono, N. B., & Nuzula, F. (2019). Sea Forum For Fishers Sebagai Sarana Peningkatan Perlindungan Nelayan. *Jurnal Ketenagakerjaan*, 112-125.

Yen, K. -W., & Liu Huang, L. -C. (2021). A review of migrant labour rights protection in distant water fishing in Taiwan: From laissez-faire to regulation and challenges behind. *Marine Policy*, 1-11.