

Press Release

ALLEGATIONS OF HUMAN RIGHTS VIOLATIONS RESULTED IN THE DEATH OF INDONESIAN MIGRANT WORKERS IN FOREIGN FISHING VESSEL: TIME FOR US TO IMPROVE AND STRENGTHEN GOVERNANCE AND PROTECTION OF INDONESIAN MIGRANT WORKER RIGHTS

7 MAY 2020



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Regarding the allegations of human rights violations and the death of several Indonesian migrant workers who work as crew members on Chinese-flagged fishing vessels named Long Xing 629, Long Xing 605, Long Xing 802, and Tian Yu 8, Indonesia Ocean Justice Initiative (IOJI) hereby convey the following statements and recommendations:

1. Based on the information gathered, it is known that 18 Indonesian migrant fishers are suspected victims in this incident, in which 4 of them died. 3 bodies of the Indonesian migrant fishers were buried at sea and 1 Indonesian migrant fisher, with the initial EP, died at Busan Medical Center on April 27, 2020, at 7 am local time. 14 other crew members experienced various forms of human rights violations including:
 - a. Forced labour;
 - b. Unpaid salary;
 - c. Violence; and
 - d. Inadequate accommodation, food and drinks.
2. The incident of human rights violations that led to the loss of lives of several Indonesian migrant fishers is not the first case that has occurred. This event is a momentum for the Indonesian government to strengthen the system and institutional protection of the Indonesian migrant fishers, which includes international cooperation in law enforcement, so that this event does not recur in the future.

A. Recommendations for Related Agencies

With regard to the above, we encourage the Indonesian government to:

1. Ensure the safety of the remaining Indonesian crews who, based on some information, are still at sea and some already at ports.
2. Ensure the fulfillment of the rights of the Indonesian migrant fishers survivors and the deceased, namely unpaid salaries or other benefits to the families of the victims. The Ministry of Manpower together with the Indonesian Migrant Workers Protection Agency (Badan Perlindungan Pekerja Migran Indonesia/BP2MI) and the Ministry of Foreign Affairs can form a joint task force to pursue this by involving 3 (three) recruitment companies that sent them to work, namely PT. Lakemba Perkasa Bahari, PT. Alfira Perdana Jaya and PT. Karunia Bahari.
3. Conducting investigations, led by the National Police and/or the Ministry of Manpower, of 3 (three) manning agencies that sent the Indonesian migrant fishers to work on Chinese vessels named Long Xing 629, Long Xing 605, Long, Long Xing 802 and Tian Yu 8, namely: PT. Lakemba Perkasa Bahari, PT. Alfira Perdana Jaya and PT. Karunia Bahari, to find out the possibility of human trafficking and/or other criminal acts.

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4. The investigation of the companies should be thorough that not only involves the physical perpetrators, but also the persons in control and beneficial owners of the companies, which is in accordance with Article 87 of Law No. 18 of 2017 concerning Protection of Indonesian Migrant Workers, Article 13 of Law No. 21 of 2007 concerning Eradication of the Criminal Act of Trafficking in Persons and/or various other statutory provisions.
5. Conducting compliance inspection and evaluation, by the Ministry of Manpower, of the 3 (three) manning agencies mentioned above and imposing administrative sanctions immediately if violations of Article 19 paragraph (1), Article 25 paragraph (3), Article 27 paragraph (2), and Article 62 of Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers are found.
6. In the event that the Manning Agency has a Business License for Recruitment and Crew Placement (Surat Izin Usaha Perekrutan dan Penempatan Awak Kapal/SIUPPAK), the Ministry of Transportation needs to immediately carry out inspection and evaluation of compliance and impose administrative sanctions in the form of revocation of manning agencies licenses, in accordance with Article 33 paragraph (2) Minister of Transportation Regulation No. 84 of 2013 regarding Recruitment and Placement of Crews, for violations of, among others, the provisions contained in the working agreement, forgery of documents and collection of recruitment and placement fees from Indonesian Migrant Workers.
7. Sending diplomatic notes, through the Ministry of Foreign Affairs, to the Chinese Government which in essence urges:
 - a. The Chinese government to cooperate in fulfilling the rights of the migrant workers owed by Dalian Ocean Fishing Co., Ltd. as shipowners of Long Xing 629, Long Xing 605, Long Xing 802, and Tian Yu 8 fishing vessels;
 - b. The Chinese government, with maximum efforts, to conduct law enforcement actions against Dalian Ocean Fishing Co., Ltd. and captains of Long Xing 629, Long Xing 605, Long Xing 802, and Tian Yu 8.
8. Reporting this event, by the Ministry of Marine Affairs and Fisheries (MMAF), to several Regional Fisheries Management Organization (RFMO), especially with regards to the alleged capture of forbidden shark species done by several vessels:
 - a. Long Xing 629, Long Xing 802, Long Xing 605, and Tian Yu 8 which are registered at Western & Central Pacific Fisheries Commission; and
 - b. Long Xing 630 which is registered at the Inter-American Tropical Tuna Commission;so that inspection can be conducted against those vessels and subsequently followed up by the inclusion of these vessels in the IUU Vessel List.

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B. Recommendations on strengthening the governance of recruitment, placement, and protection of Indonesian migrant fishers

1. The government needs to immediately establish a Government Regulation on Placement and Protection of Seafarers and Fishers, which is mandated by Article 64 Regulation Number 18 of 2017 on Protection of Indonesian Migrant Workers. This Government Regulation should have been established on 22nd November 2019 (2 years since the promulgation of Regulation Number 18 of 2017 on Protection of Indonesian Migrant Workers, 22nd November 2017). The draft of this government regulation has been discussed several times but has yet to be completed.
2. The Government Regulation, referred to point 1, should at least regulate the following things:
 - a. Recruitment phase: the minimum age limit to work on a vessel, standards of working hours with rest periods no less than 10 hours/day, medical examination of fishers working on foreign vessels, standards of Fishers Employment Agreement in accordance with the principles of human rights, alongside the obligation to prepare the agreement in easily understood Bahasa, standards of fishers' wage, trainings as well as certifications related to skills and safety of working onboard for fishers, obligation to provide health insurance and social security against the risk of illness, work accident or death.
 - b. Working phase: surveillance and inspection mechanism on the fulfillment of the rights related to decent accommodation, halal, nutritious, and high-quality food, high-quality drinking water, proper sanitation facility, health and medical facility and sufficient health care.
 - c. The post-working phase: provision that the return cost will be borne by the employer, and also surveillance mechanism on the fulfillment of fishers' rights by the employer which were arranged in the Fishers Employment Agreement.
3. The government should immediately ratify the International Labour Organization (ILO) Convention C-188 on Work in Fishing Convention and Recommendation. ILO C-188 is an international instrument that regulates forms of protection for fishers and mechanism to ensure that fishing vessels employ fishers in proper conditions. C-188 also prescribes specific protection for very high-risk fisheries industries. Provisions arranged in C-188 are, inter alia, the minimum age for working, the standards of the employment agreement, protection of fishers, the obligation of social security and health insurance. Even though in 2016 Indonesia has ratified the ILO Convention on Maritime Labour 2006 (MLC) through Law Number 15 of 2016, which regulates social security for workers, workers' rights, as well as a fair employment opportunity for fishers. However MLC 2006 explicitly excludes such provisions for workers on fishing vessels (see Article 2 Paragraph 4 of MLC 2006 which stated that "Except as expressly provided otherwise, this Convention applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or similar pursuit

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and ships of traditional build such as dhows and junks. This convention does not apply to warships or naval auxiliaries”).

4. Ministry of Manpower and Ministry of Transportation should immediately carry out thorough evaluation against all manning agencies or fishers recruitment agencies to assure compliance level of those agencies toward provisions on placement and recruitment of fishers, human rights protection, the fulfillment of fishers rights according to the fishers employment agreement, as well as the standard according to provisions of relevant regulations.
5. Ministry of Manpower and Ministry of Transportation should coordinate with local governments of provinces that supply most of Indonesian workers (for example, but not limited to, East Java and West Java) to conduct socialization and training for migrant worker candidates so that they are equipped with knowledge and skill to avoid manning agencies with bad track records and to deal with indecent working condition.

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