

THE ROLE AND STRATEGY OF THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN) IN PROTECTING MIGRANT FISHERS IN SOUTHEAST ASIA AGAINST MODERN SLAVERY

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ABSTRACT

The issue of contemporary slavery within the fishing sector has afflicted the region for decades. The situation is difficult due to the cross-territorial jurisdiction of other nations. Nonetheless, this has not been regarded with due seriousness at the regional level, particularly by the Association of Southeast Asian Nations (ASEAN). This research intends to examine the role and strategy of the Association of Southeast Asian Nations (ASEAN) in safeguarding migrant fishers in Southeast Asia against modern slavery. This research employed normative legal analysis. The contribution of this research lies in the authors' recommendations for policy reforms within ASEAN aimed at enhancing the protection of migrant fishermen in Southeast Asia from modern slavery, along with the proposal of innovative strategies to effectively address this issue. The research indicated that ASEAN played multiple roles in establishing legislation and enabling ASEAN agencies to safeguard migrant fishers in Southeast Asia against modern slavery. The authors' analysis indicate that ASEAN requires reforms in order to further enhance the protection of migrant fishers in Southeast Asia from modern slavery. To this end, ASEAN needs effective and comprehensive measures to address this issue. These may include enhancing its recruitment systems and migrant fishers' contracts, providing training and certification for migrant fishers, implementing proper supervision in recruitment processes, drafting clear employment agreements and regulations for working at sea, and establishing complaints mechanisms to ensure equality and fair opportunities for migrant fishers. These efforts can be achieved, *inter alia*, by collaborating with ASEAN Member States and relevant stakeholders, ratifying the ILO Convention C-188 and other related agreements, and re-evaluating the interpretation of the ASEAN Way in relation to migrant fishers. Key areas of focus should include: recruitment systems and migrant fishers' contracts; training and certification for migrant fishers; implementation of supervision and complaints mechanisms; collaboration with Member States and stakeholders; ratification of ILO C-188 and related agreements; and reevaluation of the ASEAN Way's interpretation.

Introduction

The Association of Southeast Asian Nations (ASEAN) was founded on 8 August 1967 in Bangkok, Thailand, through the signing of the ASEAN Declaration (Bangkok Declaration) by its founding members: Indonesia, Malaysia, the Philippines, Singapore, and Thailand. Brunei Darussalam became a member of ASEAN on 7 January 1984, followed by Vietnam on 28 July 1995, Laos PDR and Myanmar on 23 July 1997, Cambodia on 30 April 1999, and Timor Leste on 11 November 2022, culminating in the current eleven Member States of ASEAN (ASEAN.org, 2024). All member countries of the Association of Southeast Asian Nations (ASEAN), with the exception of Laos, possess coastal regions. Indonesia and the Philippines are both archipelagic nations with prospective economic advancement in the marine fisheries industry. The fishing business significantly enhances global food security, human well-being, and economic prosperity. Moreover, it holds significant importance for coastal communities in numerous developing nations (Yuliantiningsih & Barkhuizen, 2021). Participants in the marine fishing sector within ASEAN nations employ both native workforce and foreign workers. Workers may be sourced from other ASEAN member nations or from countries beyond Southeast Asia. ASEAN nations that dispatch their labour force to engage in the marine fisheries sector internationally, including both other ASEAN countries and non-ASEAN regions (Witono & Nuzula, 2019). These individuals are referred to as migrant workers.

The International Labour Organisation (ILO) characterises migrant workers as those who are engaged or actively pursuing employment in a nation of which they are not citizens. This definition includes both documented and undocumented workers (International Labour Organization, 2024). Migrant workers represent one of the most vulnerable demographics in society and possess the least protection. They often take jobs in host countries that natives no longer desire, such as those in the fishery sector (Abella, 2002). Migrant workers in the fishery sector are known as migrant fishery workers. These individuals work for economic reasons and often find themselves vulnerable to adverse situations, including forced labour, human trafficking, and modern slavery (The Jakarta, 2021). Southeast Asian countries are often referred to as seafaring nations, given their geographical position surrounded by oceans, which means many work as fishermen (Hamilton et al., 2011). The majority of migrants are subjected to prolonged working hours, inadequate housing, and restricted access to potable water and nutritious food. They also face the risk of injury and accidents due to insufficient safety equipment in workplaces that fail to comply with international labour norms.

Reports of mistreatment and even homicide were also documented (International Labour Organization, 2021). The matter of fishing migrant workers is a multifaceted issue due to the cross-border jurisdiction of several nations. Nevertheless, this has not been regarded with seriousness at the regional level, particularly by the Association of Southeast Asian Nations (ASEAN). ASEAN is the most infamous region for this sector, characterised as a nexus for the host, source, and transit phases of these crimes (Shelley, 2010). Moreover, labourers from Southeast Asia are amenable to receiving lower wages, which correlates with the prevailing poverty and unemployment in these nations. Moreover, they have lower level of education thus they readily fall prey to this fishing enterprise (Hamilton et al., 2011).

Moreover, the intricacy of this matter constitutes a challenge, given that the numerous instances involve multiple stakeholders from different nations and the occurrences transpire across various state jurisdictions. Infringements of the rights of migrant seafarers are very probable to be subject to the jurisdiction of many nations, also known as concurrent jurisdiction. The primary concern is the capacity and willingness of these governments to safeguard these rights, especially through collaboration with other nations that possess jurisdiction over the matter (Greenpeace, 2022). The matter of rights protection for Migrant Seafarers is more intricate than that of safeguarding migrant workers on land. This arises from specific provisions concerning maritime jurisdiction within the international law of the sea framework established by UNCLOS 1982, often referred to as the constitution of the ocean (LOKE et al., 2019). UNCLOS 1982 categorises the sea into zones, which are primarily separated into (i) jurisdictional zones and (ii) international zones or areas beyond jurisdiction (Tanaka, 2013). The area under the state's control is subdivided into sovereignty zones (territorial sea, archipelagic seas, internal waters) and zones of sovereign rights (contiguous zone, exclusive economic zone, and continental shelf).

Simultaneously, the regions outside the state's jurisdiction encompass the high seas and the area (Jaya & Lutfi, 2020). The discrepancies in the UNCLOS 1982 regulations confer diverse authorities upon coastal states. Each maritime zone possesses distinct legislation to protect various aspects of the fisheries sector. ASEAN member nations acknowledge the significance of safeguarding migrant workers in the marine fisheries sector, as it is very susceptible to human trafficking practices (Danial et al., 2024). For the last 35 years, we have utilised the term “human trafficking” to denote what is currently referred to as modern slavery. The phrase “the recruitment, transport, receipt, and harbouring of individuals to exploit their labour” was articulated in November 2000 at the United Nations Convention against Transnational Organised Crime in Palermo, Italy (Friedman, 2021). The terms “Human trafficking” and “modern slavery” are used interchangeably to denote illicit behaviours related to the exploitation of individuals (Burke, 2013).

The Environmental Justice Foundation (EJF), in a report entitled *All at Sea*, stated the prevalence of forced labour and human trafficking on board fishing boats in West Africa and Asia. Subsequently, a study entitled *Caught at Sea*, authored by the ILO, reported the prevalence of modern slavery within the fishing industry (Yuliantiningsih & Barkhuizen, 2021). The regional heads of state have not prioritised contemporary slavery (Asian Human Right Commission, 2015). The issue of modern slavery within the fishery industry has plagued the region for decades, with no adequate investigation or alteration in the dire circumstances that have ensnared numerous impoverished individuals (Asian Human Right Commission, 2015). The problem of contemporary slavery within the fishery sector has both legal substance and institutional challenges (Walkfree, 2024). Consequently, the function of ASEAN is essential as a regional organisation aimed at fostering collaboration and camaraderie among Southeast Asian nations. They safeguard their populace while professing peace, liberty, and prosperity (ASEAN, 2007). ASEAN states must collaborate to safeguard migrant fishing workers in Southeast Asia against modern slavery. ASEAN member nations require a suitable plan to tackle the problem of modern slavery. The study topic is: What is the function of the Association of Southeast Asian Nations (ASEAN) in safeguarding migrant fishers in Southeast Asia against modern slavery? What is the approach of the Association of Southeast Asian Nations (ASEAN) in safeguarding migrant fishers in Southeast Asia against modern slavery?

Literature Review

Modern Slavery

Modern slavery refers to the exploitation of labour involving children and adults, either within their native nation or as migrant labourers abroad. Multiple labour sectors exhibit elevated prevalence rates of contemporary slavery, particularly in fisheries (Farsight, 2016). defines modern slavery as the exploitation of an individual by others for personal or commercial benefit. Regardless of being deceived, compelled, or constrained, they forfeit their autonomy. This encompasses coerced labour by migratory workers (Antislavery, 2024). The World Slavery Index defines modern slavery as a condition wherein an individual treats another as property, thereby depriving the enslaved person's freedom and exploiting them for the benefit of the enslavement; individuals can be employed and discarded like commodities (Center, 2018).

Unlike the overtly brutal and arbitrary nature of slavery under imperialism and colonialism, modern slavery, while equally terrible, remains obscured from both offenders and victims, as exemplified in the fishing industry. Contemporary slavery is a multifaceted crime that transcends borders, sectors, and jurisdictions. Contemporary slavery is overtly concealed and intricately linked to existence in every region of the globe (Irawan et al., 2024). Migrant fishery workers were unaware that they would fall prey to contemporary slavery. Migrant fishing workers were assured substantial salaries (Indonesian Migrant Worker's Union, 2014) and appealing positions on foreign vessels (Indira et al., 2021). Nonetheless, they were sent to vessels that violated their contracts, exhibited terrible working conditions, and faced discrimination from the captain and other foreign crew members (Pudjiastuti, 2017).

In principle, it can be addressed using existing legal frameworks, instruments, and methods that detect and combat modern slavery (David Tickler, Jessica J. Meeuwig, 2018). According to the research conducted by Rapeepong Suphanchaimat et al., titled “Extreme Exploitation in Southeast Asia Waters: Challenges in Progressing Towards Universal Health Coverage for Migrant Workers”, effectively addressing extreme labour exploitation and modern slavery necessitates a concerted effort from all relevant stakeholders, cohesive collaboration among nations, and enduring comprehensive strategies to avert further abusive practices; this is especially pertinent for a highly mobile demographic such as migrant seafarers (Suphanchaimat et al., 2017). International collaboration and enduring comprehensive procedures can initiate from regional cooperation, exemplified by ASEAN.

The Association of Southeast Asian Nations (ASEAN)

The ASEAN Declaration states that the aims and purposes of the Association are (1) to expedite economic growth, social advancement, and cultural development within the region and (2) to foster regional peace and stability through a steadfast commitment to justice and the rule of law in inter-country relations, alongside adherence to the principles of the United Nations Charter (ASEAN.org, 2024). The ASEAN Vision 2020, ratified by the ASEAN Leaders on the 30th Anniversary of ASEAN, established a collective vision of ASEAN as a coalition of Southeast Asian nations, outwardly orientated, existing in peace, stability, and prosperity, united in partnership for dynamic development and a community of compassionate societies (Europa Parliament, 2024). The ASEAN Member States have embraced fundamental principles in their interactions, as outlined in the Treaty of Amity and Cooperation in Southeast Asia (TAC) of 1976, including the renunciation of the threat or use of force and the promotion of effective cooperation among themselves (ASEAN.org, 2024).

According to Marianna Dong's prior research titled “The Face of Modern Slavery in East Asian and ASEAN Countries” the primary objective of ASEAN is to facilitate cooperation, camaraderie, and the security of its citizens among Southeast Asian nations, while advocating for peace, freedom, and prosperity. This organisation is endeavouring to establish more binding and institutionalised legislation through the adoption of voluntary and informal agreements. Following the adoption of the Bangkok Declaration, ASEAN has enacted further formal and legally binding treaties (Dong, 2018).

Methodology

ASEAN serves as a platform for the integration of Southeast Asian nations. ASEAN must cultivate and uphold regional security, particularly concerning instances of modern slavery. ASEAN has undertaken numerous initiatives to eliminate it through various declarations, treaties, and the foreign policies of its member states; yet substantial results have yet to be realised (Khairi, 2021). This research will examine ASEAN's deficiencies in addressing contemporary slavery and critique the organization's roles and measures that should be implemented.

This study employed normative legal research methods. This research was conducted through a literature review (Mucharom et al., 2024), to identify the philosophical framework for analysing thought processes, official standards, and structures that will subsequently govern specific issues (Ridwan et al., 2022). Normative legal research entails the examination of law as its primary subject, excluding any non-legal content from the research scope. The normative legal research in this study is predicated on the notion that science is prescriptive and used in a legal context, with jurisprudence consistently pertaining to what ought to be or what it should be (Christiani, 2015). The primary attributes of normative legal research in legal studies are found in the data source, namely, secondary data sources. It comprised primary legal materials, secondary legal materials, and tertiary legal materials (Jaya et al., 2024).

Findings and Discussion

ASEAN's Role Through Regulations and Bodies in Protecting Migrant Fishers in Southeast Asia Against Modern Slavery

ASEAN, a regional organisation that advocates peace, security, stability, and prosperity in Southeast Asia, plays an important role in safeguarding migrant fishers in the region from modern slavery.

ASEAN Regulations

Since the 1990s, the ASEAN member states have acknowledged the peril of human trafficking. In 1997, three years prior to the ratification of the Palermo Protocol, the ASEAN member states signed the ASEAN Declaration on Transnational Crime (ASEAN Declaration on Transnational Crime). This non-binding instrument has prompted its members to improve regional cooperation through bilateral and multilateral avenues to address transnational crimes, including human trafficking (Lee, 2021). In 1999, ASEAN formulated the Action Plan on Immigration Matters, subsequently succeeded by the Bangkok Declaration on Irregular Migration, which was signed by the leaders of not only ASEAN Member States as well as nations including Australia, Bangladesh, China, Japan, the Republic of Korea, New Zealand, Papua New Guinea, Sri Lanka, and Hong Kong SAR. This declaration highlighted the good faith and commitment of the pertinent countries to address migration concerns, particularly illegal migration, within the greater area (Sundrijo & Safitri, 2023).

In 2004, subsequent to the Palermo Protocol, the ASEAN countries ratified the ASEAN Declaration against Trafficking in Persons, Particularly Women and Children. was acknowledged as the main legal instrument, albeit non-binding, for member states to collaborate in the fight human trafficking (Mutaqin, 2018). The Heads of State/Government of ASEAN acknowledge the immorality and inhumanity of this shared issue necessitate the enhancement of legislative, law enforcement, and judicial measures to ensure deterrent actions against individuals or syndicates involved in human trafficking (ASEAN Declaration against Trafficking in Persons Particularly Women and Children) the Heads of State/Government of ASEAN Reaffirming ASEAN's unwavering desire to embrace the spirit behind the United Nations Convention against Transnational Organized Crime and its relevant protocols as it reflects the commitment of the Member States of the United Nations to prevent and combat transnational organized crime (United Nations Convention against Transnational Organized Crime). Furthermore, the Heads of State/Government of ASEAN Declare, within the confines of their respective domestic laws and policies, their commitment to collaboratively tackle an emerging regional issue, specifically the trafficking of persons, particularly women and children, through the following measures:

- (a) To establish a regional focal network to prevent and combat trafficking in persons, particularly women and children, in the ASEAN region;
- (b) To adopt measures to protect the integrity of their respective passports, official travel documents, identity and other official travel documents from fraud;
- (c) To undertake regular exchange of views, information sharing on relevant migratory flows, trends and pattern, strengthening of border controls and monitoring mechanisms, and the enactment of applicable and necessary legislations;
- (d) To intensify cooperation among our respective immigration and other laws enforcement authorities;
- (e) To distinguish victims of trafficking in persons from the perpetrators, and identify the countries of origin and nationalities of such victims and after that ensure that such victims are treated humanely and provided with such essential medical and other forms of assistance deemed appropriate by the respective receiving/ recipient country, including prompt repatriation to their respective countries of origin;
- (f) To undertake actions to respect and safeguard the dignity and human rights of genuine victims of trafficking in persons;

- (g) To undertake coercive actions/measures against individual and/or syndicate engaged in trafficking in persons and shall offer one another the widest possible assistance to punish such activities; and
- (h) To take measures to strengthen regional and international cooperation to prevent and combat trafficking in persons.

In 2007, ASEAN promulgated the Declaration on the Protection and Promotion of the Rights of Migrant Workers, referred to as the Cebu Declaration, which was ratified in the same year. The Cebu Declaration, pertaining to the Protection and Promotion of the Rights of Migrant Workers, was ratified on January 13, 2007, at the 12th ASEAN Summit in Cebu, Philippines (Declaration on the Protection and Promotion of the Rights of Migrant Workers). Despite lack of legal authority or binding impact on member states, the proclamation illustrates the determination of ASEAN member states to enhance employment conditions and ensure equitable, humane, productive, and dignified salaries for migrant workers (ASEAN, 2007). The Cebu Declaration aims to strengthen ASEAN mechanisms for the rights of migrant workers and to act as a spur for the swift formation of the ASEAN Community 2015 (ASEAN, 2007).

According to Daniel Awigra, Deputy Director of the Human Rights Working Group (HRWG), states that the Cebu Declaration encompasses three mandates as part of ASEAN's initiatives to implement the declaration. The initial step involves the formation of a dedicated entity to execute the declaration, designated as the ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers, henceforth referred to as the ASEAN Committee on Migrant Workers (ACMW). The ASEAN Instrument on the Protection and Promotion of the Rights of Migrant Workers was established and developed as a descendant of the ACMW's creation. This instrument would ultimately function as a framework or law that enriches the content of the Cebu Declaration and embodies the shared moral ideals of ASEAN member nations, henceforth termed the ASEAN Consensus. Third, the creation of a forum, henceforth designated as The ASEAN Forum on Migrant Labour (AFML), which convenes regularly to address issues pertaining to migrant workers in ASEAN. As of now, ASEAN has conducted the AFML thirteen times, with the latest session being virtually on November 10 and 12, 2020, in Hanoi, Vietnam, themed "Supporting Migrant Workers During the Pandemic for a Cohesive and Responsive ASEAN Community" (Putri & Sari, 2021).

Next, in 2012, ASEAN adopted the ASEAN Human Rights Declaration (AHRD). In this declaration, the Heads of State/Government of ASEAN Reaffirm their adherence to the purposes and principles of ASEAN as enshrined in the ASEAN Charter (ASEAN Human Rights Declaration), in particular the respect for and promotion and protection of human rights and fundamental freedoms, also their commitment to the Universal Declaration of Human Rights, the Charter of the United Nations, the Vienna Declaration and Programme of Action, and other international human rights instruments to which ASEAN Member States are parties. ASEAN Member States affirm all the civil and political rights in the Universal Declaration of Human Rights. Specifically, ASEAN Member States affirm the following rights and fundamental freedoms: No person shall be held in servitude or slavery in any of its forms or be subject to human smuggling or trafficking in persons; No person shall be subject to torture or to cruel, inhuman or degrading treatment or punishment (IOM, 2023).

ASEAN Member States affirm all the economic, social and cultural rights in the Universal Declaration of Human Rights. Specifically, ASEAN Member States affirm the following: Every person has the right to an adequate standard of living for themselves and their family including The right to adequate and affordable food, freedom from hunger and access to safe and nutritious food, The right to medical care and necessary social services, The right to safe drinking water and sanitation; The right to a safe, clean and sustainable environment; Every person has the right to the enjoyment of the highest attainable standard of physical, mental and reproductive health, to basic and affordable health-care services, and to have access to medical facilities. ASEAN Member States share a common interest in and commitment to the promotion and protection of human rights and fundamental freedoms, which shall be achieved through, inter alia, cooperation with one another as well as with relevant national, regional and international institutions/organisations, by the ASEAN Charter (ASEAN, 2007).

Then, in November 2015, the ASEAN member states made a significant advancement by establishing the historic ASEAN Convention and Plan of Action against Trafficking in Persons, Especially in Women and Children (ACTIP)(ASEAN, 2015). The leaders of the member states finally realized that they would not be able to combat trafficking individually, but collective action was needed. As opposed to the 2004 and 2012 Declaration, which were non-binding, ACTIP is a binding mechanism as a guideline for a regional effort to combat human trafficking (ASEAN Convention and Plan of Action against Trafficking in Persons Especially in Women and Children). Following the Palermo protocol's '3P' approach, ACTIP aims to combat and punish traffickers effectively, protect and assist the victims with full respect for their human rights, and promote cooperation among the ASEAN member states to meet these objectives. Article 24 of ACTIP stipulates a monitoring, reviewing, and reporting mechanism, authorized by the ASEAN Senior Officials Meeting on Transnational Crime (SOMT) (Mutaqin, 2018). ASEAN Convention Against Trafficking in Persons Especially Women and Children (ACTIP) as an instrument that binds and becomes the basis for eradicating human trafficking in ASEAN, as well as with dialogue partners (Jaya et al., 2023).

To advance the implementation of both ACTIP and ASEAN Plan of Action against Trafficking in Persons, Especially Women and Children (APA), the ASEAN Multi-Sectoral Work Plan, known as the "Bohol TIP Work Plan" was formulated by SOMTC Philippines in November 2016 through the collaborative efforts of pertinent ASEAN Sectoral Bodies and Organs dedicated to combating human trafficking. The Work Plan aims to guide ASEAN's efforts on human trafficking from 2017 to 2020, in alignment with the APA timeframe. The Bohol TIP aims to advance ASEAN's initiatives on human trafficking, intended for execution within the 2017-2020 period. This Work Plan outlines the measures that ASEAN members must undertake to fight Trafficking in Persons (TIP), as stated in ASEAN (2017)::

- (a) Increase awareness campaigns to educate all levels of society on trafficking in persons and its linkage to violation of human rights, targeting those most at risk with effective involvement of mass media, relevant nongovernmental organizations, private sectors, and community leaders;
- (b) Continue capacity building of law enforcement, immigration, education, social welfare, labour and other relevant officials in the prevention of trafficking in persons, taking into account the need to respect human rights, child and gender-sensitive issues, and encourage cooperation, where appropriate, with civil society, non-governmental organizations and other relevant organizations;
- (c) Put in place effective mechanisms and ensure their proper implementation to effectively prevent the movement of traffickers and victims of trafficking in persons through appropriate border control systems, issuance of identity papers and travel documents, and measures that prevent counterfeiting, forgery or fraudulent use of identity papers and travel documents;
- (d) Adopt and implement appropriate labour laws or other mechanisms that promote and protect the interests and rights of workers to reduce their risk of being trafficked;
- (e) Adopt and ensure implementation of national action plans, where applicable, to identify and prioritize key policies and programmes aimed at preventing trafficking in persons and strengthen the implementation, coordination and monitoring mechanisms of such plans;
- (f) Strengthen prevention measures to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking, including protecting victims of trafficking in persons, especially women and children, from revictimization.

The other role of ASEAN in combating modern slavery was formalised through the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers (ACPPMW) in 2017. The ASEAN member governments are satisfied that this Consensus will facilitate the establishment of a cooperative framework for migrant workers in the area and contribute to the process of developing the ASEAN Community. The Consensus asserts that migrant workers are entitled to appropriate or reasonable accommodation in accordance with the national laws, rules, and policies of the Receiving State (Preamble

ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers). The execution of ACPPMW was evaluated by the ASEAN Committee on Migrant Workers (ACMW) in accordance with Article 24, paragraph 1 of the ASEAN Convention against Trafficking in Persons (Article 24 paragraph 1 ASEAN Convention on Trafficking in Person).

In promoting and protecting the rights of migrant workers, the declaration stipulates that ASEAN member states, in accordance with their respective national laws, regulations, and policies, shall: (Chapter 7, Commitments of ASEAN Member States, ACPPMW):

- (a) Engage in consultation and collaboration to advance decent, compassionate, productive, dignified, and adequately compensated employment for migrant workers;
- (b) Implement laws, regulations, and policies pertaining to the safeguarding of migrant workers, especially those concerning labour intermediaries, within the jurisdiction of each ASEAN Member State;
- (c) Licence, regulate, and oversee public and private recruitment agencies to eradicate recruitment malpractices and ensure adherence to the laws, regulations, and policies of the respective ASEAN Member States. Consequently, ASEAN Member States would implement effective strategies to eradicate malpractices within the recruiting system;
- (d) Implement strategies to ensure the effective prevention and repression of smuggling and human trafficking, design and execute mechanisms for victim identification, impose harsher penalties on perpetrators, and provide support for victims;
- (e) Augment collaboration with the objective of:
 - i. Enhancing ability and disseminating information regarding laws, regulations, policies, and practices pertinent to the safeguarding and advancement of migrant workers' rights and welfare;
 - ii. Promoting constructive discourse, consultation, collaboration, and consistent information exchange for the efficient implementation of policies and programs related to migrant workers;
- (f) Implement strategies to prevent and restrict the influx of undocumented migrant workers and investigate collaboration and coordination across ASEAN Member States in providing assistance to those requiring protection, in accordance with the existing national laws, rules, and policies of ASEAN Member States;
- (g) Promote engagement with ASEAN Dialogue Partners, other nations, international organisations, and relevant stakeholders to uphold the values and implement actions that safeguard and advance the rights of migrant workers as outlined in this Consensus

The instruments of AHRD, ACPPMW, and ACTIP exhibit three deficiencies concerning the protection of migrant fishermen. Initially, ACTIP lacks protections for corporate liability (Yusran, 2018). The second aspect is the non-binding character of AHRD and ACPPMW. Third, the absence of clear acknowledgement of migrant fishers as migratory workers within ACPPMW (Greenpeace, 2021). The governance of corporate liability for human trafficking is essential for all ASEAN nations, given the substantial involvement of corporations in instances of slavery and trafficking of migrant fishermen in Southeast Asia (Stringer, Kartikasari, et al., 2021). The failure to acknowledge migrant fishermen as migrant workers consequently led to less rights and protections afforded to them compared to other migrant workers within ASEAN. In this regard, only Thailand has ratified the ILO Convention C-188 among ASEAN nations. Additionally, there is no ASEAN mechanism explicitly focused on the protection of migrant fishermen. This circumstance results in disparities in the norms of rights and protections for migrant fishers within ASEAN. An equitable framework for the rights and protections of migrant fisherman within ASEAN is crucial to strengthen the negotiating power of ASEAN nations in lobbying for these rights with countries that receive migrant workers (Indonesian Ocean Justice, 2023).

In early February 2023, the foreign ministers of ASEAN member nations convened and reached a consensus on several issues. A press statement from the meeting indicated: (ASEAN, 2023) “We reaffirmed our regional commitment to protect migrant workers in the entire migration cycle as enshrined in the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers. We agreed to strengthen the protection of migrant workers by adopting an ASEAN Leaders concerning the protection of migrants working in fishing vessels.” (Greenpeace, 2023). At the Multi-Stakeholders Consultation Workshop on the Development of the ASEAN Declaration on the Protection of Migrant Workers on Board Fishing Vessels on 16-17 March 2023 in Bali, civil society groups, including Indonesia Ocean Justice Initiative (IOJI), submitted written input to the leaders of the Senior Labor Officials Meeting (SLOM) related to the provisions of migrant fishers’ protection that must be included in this Declaration. These inputs are adjusted to the vulnerabilities of migrant fishers from ASEAN, such as layered and unmonitored recruitment, isolation in the middle of the sea without access, unrecorded transit processes, impunity for corporations that commit human rights violations and labour against migrant fishers, debt trap, and low access to justice. Some of the inputs submitted were related to (i) the affirmation of equal human and labour rights for migrant fishers and other migrant workers; (ii) enhancing the protection of migrant fishers throughout all migration phases, including recruitment and placement, social security, and the establishment of decent work standards on fishing vessels; (iii) the recognition of migrant fishers’ rights to communication and immediate emergency response; (iv) access to justice and assistance; (v) the commitment to identify, address, and penalise all forms of violence and exploitation, including human trafficking against migrant fishers; and (vi) the necessity for accountability regarding the roles and responsibilities of flag states, port countries, coastal countries, and transit countries in safeguarding migrant fishers. The aforementioned six measures can enhance the protection of migrant fishers from ASEAN (Ocean Justice Initiative, 2023).

On May 8, 2023, ASEAN members ratified the ASEAN Declaration on the Placement and Protection of Migrant Fishers during the 42nd ASEAN Leaders Summit in Labuan Bajo, East Nusa Tenggara, Indonesia. The proclamation is a commendable initial measure to safeguard migrant fishers and will serve as the inaugural ASEAN instrument governing the safety of migratory fishery workers. ASEAN Declaration on the Employment and Safeguarding of Migrant Fishers. Migrant fishers have not been openly addressed in current ASEAN conferences. There exists no framework for collaboration among ASEAN Member States in addressing instances of exploitation and human trafficking affecting Migrant Fishers from ASEAN. The existing ASEAN tools, like the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers and the ASEAN Declaration of Human Rights, primarily focus on land-based workers and fail to address the vulnerabilities of Migrant Fishers. This Declaration, while not legally enforceable, would promote the incorporation of protection programs for Migrant Fishers into the policies and operational frameworks of ASEAN and its member states concerning migration and human rights. The declaration states that ASEAN would confront and penalise all instances of violence, harassment, and exploitation of migrant fishing workers (Antaranews, 2023).

This declaration represents the initial measure for ASEAN to bolster collaboration among Member States in safeguarding migratory fishers throughout the region. This is a significant declaration acknowledging that the fishing business is especially susceptible to exploitation and abuse, a challenging sector, and a perilous career fraught with several work-related hazards. Through this Declaration, ASEAN seeks to advance the human rights and basic freedoms of migrant fishers. The Declaration recognises that migrant protection is a complex issue necessitating the involvement of several ASEAN entities and coordinated state responses (Trafficking, 2023) Priority cooperation should focus on (i) supervision and law enforcement, (ii) the exchange of information concerning migrant fishers, including human trafficking cases while considering privacy, (iii) establishing decent work standards and occupational health and safety on fishing vessels, (iv) ensuring access to justice and the restoration of rights for migrant fishers, (v) facilitating the repatriation and reintegration of migrant fishers, and (vi) certifying and recognising the skills of migrant fishers (Ocean Justice Initiative, 2023).

Following the declaration, ASEAN Member States are required to formulate common guidelines to assist in the implementation of this Declaration, thereby facilitating collective action at both national and regional levels (Ocean Justice Initiative, 2023). ASEAN leaders announced their intention to assign the ASEAN Labour Ministers Meeting (ALMM) the responsibility of mobilising resources, executing the

declaration, and formulating ASEAN Guidelines on the Placement and Protection of Migrant Fishermen. The significance of these developments lies in ASEAN's concerted endeavour to establish several regional accords or declarations addressing migrant worker issues.

On 1 March 2024, more than 90 people convened in Bangkok and online from governmental, business, and non-governmental organisations to examine the systemic determinants of modern slavery in Thailand and to collaboratively develop responses to this multifaceted situation. The issue of 'modern slavery' in Thailand's fishing sector has garnered international attention, as media and NGOs have revealed slavery-like behaviours among migrant fish workers (Kadfak & Linke, 2021). The Office of the Attorney General of Thailand organised a modern slavery conference in collaboration with the Australian Government-funded ASEAN Australia Counter Trafficking program (ASEAN-ACT), International Justice Mission (IJM), and A21. Thailand has demonstrated leadership by hosting the inaugural modern slavery conference in Southeast Asia and instituting state-funded compensation for victims of trafficking and forced labour. At the conference, a new ethical recruitment toolkit, created by the NGO Dignity in Work for All and supported by ASEAN-ACT, was introduced, specifically designed for Thai companies recruiting migrant workers already residing in Thailand. The significance of cross-sector and cross-border collaborations was a prominent theme during the conference. The meeting concluded with a robust consensus that collaborative effort is essential to eradicate modern slavery in Thailand, the region, and worldwide (Trafficking, 2023).

ASEAN Bodies

The ASEAN Community Councils shall comprise the ASEAN Political-Security Community, ASEAN Economic Community, and ASEAN Socio-Cultural Community (ASEAN Charter). In 2009, the ASEAN Political-Security Community Council established a blueprint on the issue of human trafficking. This is contained in the point of non-traditional security issues, and in the sub-point of strengthening cooperation in non-traditional security, especially in combating transnational crime and other challenges. This blueprint explains that it will encourage the strengthening of responses to human trafficking crimes, which also protects victims of human trafficking in accordance with the ASEAN Declaration Against Trafficking in Persons Particularly Women and Children, and from international conventions and protocols related to human trafficking crimes (The ASEAN Secretariat, 2009). Subsequently, the blueprint was completed in 2015 which stipulated the following: 1) Ensure the ratification of the ASEAN declaration against human trafficking in 2014 is effectively implemented, and strengthen the declaration by establishing The ASEAN Convention Against Human Trafficking in Persons, Especially Women and Children (ACTIP); 2) Promote the ratification and implementation of the UN Convention Against Transnational Organized Crimes, and the Protocol Against Smuggling of Migrants by Land, Sea and Air; 3) Strengthen criminal justice measures and strengthen prevention measures against human trafficking; and 4) Enhance cooperation in combating human trafficking and smuggling with other countries (The ASEAN Secretariat, 2009).

ASEAN Economic Community undertake to achieve a highly integrated and cohesive regional economy that supports sustained high economic growth by increasing skilled labour. Furthermore, the ASEAN Socio-Cultural Community Council is the ASEAN Community Council that is most relevant in eradicating migrant fishing vessel crew members. ASEAN Socio-Cultural Community (ASCC), therefore, undertake to realize An inclusive community that promotes high quality of life, equitable access to opportunities for all and promotes and protects the human rights of women, children, youth, the elderly/older persons, persons with disabilities, migrant workers, and vulnerable and marginalized groups (Article 12.2. ASEAN Community Vision 2025) One of the elements contained within the ASCC blueprint stipulates that ASEAN must ensure fair and comprehensive migration policies and adequate protection for all migrant workers under the laws, regulations, and policies of each ASEAN member state, as well as implement the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (Akbar, 2014).

ASEAN also had the ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers 2007 (ACMW). ACMW has divided its work into four "thrust areas": Step up protection and promotion of the rights of migrant workers against exploitation and mistreatment, Strengthen protection and promotion of the rights of migrant workers by enhancing labour

migration governance in ASEAN countries, Regional cooperation to fight human trafficking in ASEAN, Develop an ASEAN Instrument on the Protection and Promotion of the Rights of Migrant Workers Human Rights in ASEAN (ASEAN, 2020). As a follow-up to the ASEAN Consensus, ASEAN through ACMW, established an Action Plan (2018-2025) to Implement the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers. Then, in 2020, ASEAN issued a new Action Plan document containing various developments from each point. The Action Plan table shows programs or agendas that have been held, are being held, and planned, along with the countries responsible for their implementation (ASEAN, 2020).

Furthermore, supervision of the implementation of ACTIP is conducted by the ASEAN Senior Officials Meeting on Transnational Crime (SOMTC) (Article 24 paragraph 1 ASEAN Convention on Trafficking in Person). SOMTC shall initiate, plan, coordinate and execute strategies, programmes and activities in preventing and combating existing and emerging transnational crimes, including modern slavery in the fishery industry; in strengthening and improving cross-sectoral coordination; and in enhancing cooperation with ASEAN Dialogue Partners and relevant stakeholders (ASEAN.org, 2022). SOMTC may expand its areas of cooperation to deal effectively with new transnational crimes where necessary and mutually agreed. The proposed transnational crime area should also be of major concern to the ASEAN Member States, ensuring SOMTC can effectively channel its resources to the most pressing areas (ASEAN.org, 2022).

In promoting and protecting Human Rights, ASEAN established the ASEAN Intergovernmental Commission on Human Rights (AICHR) during the 15th ASEAN Summit in Cha-Am Hua Hin, Thailand, on October 23, 2009. AICHR is a consultative intergovernmental body and an integral part of the ASEAN organizational structure. It is a comprehensive human rights institution responsible for promoting and protecting human rights in ASEAN. AICHR is mandated to collaborate with other ASEAN bodies related to human rights to ensure coordination and synergy in this field. In alignment with the goals and principles of the ASEAN Charter concerning the advancement and protection of human rights and fundamental freedoms, this ASEAN human rights body operates according to the terms of reference to be determined by the ASEAN Foreign Ministers' Meeting (Article 14 ASEAN Charter). The ASEAN Intergovernmental Commission on Human Rights (AICHR) was established as a consultative body concerned with promoting and protecting human rights, including monitoring the implementation of ASEAN human rights instruments (ASEAN, Terms of Reference of the ASEAN Intergovernmental Commission on Human Rights). AICHR is also tasked with receiving complaints of human rights violations within the ASEAN region, which will be discussed at AICHR meetings and forwarded to the relevant ASEAN member states for further action (Wahyuningrum, 2021). Unfortunately, the coordination between ACMW and AICHR is considered weak, rendering the work of both committees ineffective, particularly regarding the protection of Migrant Fishers (Duxbury & Tan, 2019; Greenpeace Southeast Asia, 2021).

AICHR should not serve only as an extension body but as an authorized intergovernmental institution that can investigate human rights violations related to each member state. AICHR needs to step up its game to ensure that the rights of informal and low-skill workers will be protected. While the AICHR is currently still in the "promotional" stage of human rights development with limited authority granted by the ASEAN members, she would argue that only by committing to the implementation regime in managing human rights and labor issues (Dipanandam, 2019). In the fisheries sector, ASEAN established the Southeast Asian Fisheries Development Center (SEAFDEC). SEAFDEC successfully convened the first Regional Technical Consultation (RTC) on employment aspects within the fisheries industry in ASEAN from February 25-27, 2016, in Bangkok, Thailand. This regional forum provided Southeast Asian countries with an opportunity to discuss employment issues in the fisheries sector and to develop strategies to address these challenges. The RTC forum identified several employment issues within the fisheries sector, such as low wages and inadequate social security. The RTC also recognized the relevant link between the fisheries sector and the commitments made by ASEAN member states to support the welfare of Southeast Asian communities, as expressed in the "ASEAN Socio-Cultural Community Blueprint," the ASEAN Human Rights Declaration, and the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ASEAN, 2017). The final recommendation from the RTC was the development of ASEAN Guidelines on the Implementation of Labor Standards for the Fisheries Sector, which should align with international standards and involve relevant stakeholders and international and regional

organizations (ASEAN, 2016). The SEA Forum for Fishers urged the Flag States to protect fishers and migrant workers working on vessels flying their flags, especially those engaged in high-seas fishing. Another recommendation was encouraging ASEAN governments and other Flag States to expedite efforts to ratify and effectively implement the Work in Fishing Convention, 2007 (No. 188), through tripartite consultations involving the government, employers, and workers (Witono & Nuzula, 2019).

The Association of Southeast Asian Nations (ASEAN) Strategy in Protecting Migrant Fishers in Southeast Asia Against Modern Slavery

ASEAN might assume a more significant role in combating modern slavery in Southeast Asia and offering legal protection to its victims. The author's analysis indicates that ASEAN requires reforms to enhance the protection of migrant fishers in Southeast Asia from modern slavery. ASEAN are in dire need of strategies to address this issue. The following are some of these strategies:

Enhancing the Recruitment System and Migrant Fishers' Contracts

The issue of modern slavery in the fishery industry has emerged from the recruitment process, as there is a lack of legal clarity concerning the rights and obligations of migrant fishery workers and their employment contracts. Hariyanto Suwarno, Chairman of the Indonesian Migrant Workers Union, stated that the companies responsible for recruiting and placement are accused of conducting the process without adhering to necessary protocols and legal rules (Mongabay.co.id, 2020). The recruitment of migrant fishers is deficient in training and certification programs (Mongabay.co.id, 2022). Prospective Migrant Fishers are required to pay a fee to cover the expenses of processing departure documentation. This was articulated by Tamrin, an Indonesian migrant fisher who fell prey to contemporary slavery aboard a foreign vessel from Taiwan (Kompas.com, 2022).

Moreover, job contracts are arbitrarily established without comprehension by prospective migrant fishers. Contracts are drafted in languages incomprehensible to migrant fishers, such as Chinese. This was articulated by Wahyu, an Indonesian migrant fisherman who fell prey to contemporary slavery aboard a Ning Tai 95 squid fishing vessel operated by a Chinese corporation (Mongabay.co.id, 2022). Despite the recruitment process being conducted without adherence to correct procedures and legal rules, workers are compelled to accept employment relationships with employers due to a lack of other job opportunities (Khadaifi, 2016). Due to the deficiencies in the recruitment system's mechanism, ASEAN should formulate guidelines to enhance the recruiting process and facilitate access to employment contracts.

The International Organization for Migration (IOM) has established the International Recruitment Integrity System (IRIS) Standards, which serve as guidelines for recruiting migrant workers. It was established by IOM and a coalition of partners from the government, civil society, and the private sector. IRIS is a global multi-stakeholder initiative that supports governments, civil society, the private sector, and recruiters in establishing ethical recruitment as a norm in cross-border labour migration. IRIS aims to transform the international recruitment industry to make it fair for workers, recruiters, and employers. The IRIS guidelines are based on seven principles: Respect for Law, Principles, and Fundamental Rights at the Workplace; Respect for Ethical and Professional Behavior; Prohibition of Recruitment Costs; Respect for Freedom of Movement; Respect for Transparency of Terms and Conditions of Employment; Respect for Confidentiality and Data Protection; Respect for Access to Remedies. These rules can be implemented for Migrant Fishers in the recruitment process to guarantee that it is executed appropriately and legally. Furthermore, the application of these principles can enable the home countries of migrant fishers to monitor and oversee their citizens.

Moreover, Migrant Fishers must exercise caution and thoroughly understand the employment contracts to be executed. Employment contract entered made by Migrant Fishers and vessel owners or companies must ensure the clarity and legality of their contents or clauses, thereby averting contracts that contravene the law and violate human rights. Furthermore, the language used in these agreements should be straightforward and comprehensible. Employment contracts are the primary framework for establishing employment relationships and form the basis for workers and/or labourers to assert their rights (Muhiddin, 2016). According to the Republic of Indonesia Government Regulation No. 7 Year 2000 on Maritime Affairs, a maritime employment agreement shall include, at minimum: (Republic of Indonesia Government Regulation No. 7 Year 2000 on Maritime Affairs, 2000) the full name of the seafarer along

with their place and date of birth; the place and date of the agreement; the name of the vessel or vessels where the seafarer will be employed; the sailing area of the vessel where the seafarer will be employed; salary, wages, overtime pay, and other allowances; the duration of the seafarer's employment; termination of employment; insurance and repatriation, leave, job security, and severance pay; dispute resolution; and must specify the applicable law in the event of disputes arising from the implementation of the employment contract.

According to Article 18 paragraph 3 Republic of Indonesia Government Regulation No. 7 Year 2000 on Maritime Affairs, the Migrant Fishers Contract must delineate the rights and obligations of each party and comply with relevant laws and regulations. The rights encompass, at a minimum, remuneration, overtime compensation, holiday pay, delegation fees, transportation expenses, and wages upon completion of work, as well as coverage for personal belongings and accidents, along with winter apparel and equipment for individuals employed in frigid climates, specifically in areas where temperatures are 15 degrees Celsius or lower. The Migrant Fishers Contract must encompass the safeguarding of the following rights: stipulations concerning work duration, working hours and rest intervals, leave entitlements, posting procedures, compensation rights for vessel loss, manning levels, professional development opportunities, access to accommodation, recreational amenities, food, beverages, and potable water, health services both onboard and on land, occupational safety and health measures, accident prevention, access to welfare facilities at the port, and social security and insurance (Putrazta et al., 2023).

According to Article 18, paragraph 4 Republic of Indonesia Government Regulation No. 7 Year 2000 on Maritime Affairs, the Migrant Fishers Contract shall be recognised by the relevant governmental agencies responsible for ensuring adherence to its requirements. Moreover, the employment contract shall exclude assurances in the form of monetary compensation or valuable papers, such as land certificates, as these may be utilised by the subcontracting firm to undermine the standing of the Migrant Fishers (Hoesin, 2023). The employment agreement must also delineate procedures for grievances for Migrant Fishers in instances of adverse occurrences or the violation of migrant fishers' workers' rights during employment.

Training and Certification for Migrant Fishers

A contributing factor to contemporary slavery among Migrant Fishery Crews is their lack of skills and expertise. The International Labour Organisation (ILO) indicates that crew members without competence, who are compelled to learn on the job aboard the vessel, exhibit heightened vulnerability, rendering them susceptible to violence and intimidation (Rosida et al., 2022). The ILO mandates that a country formulate a national policy to enhance employment in the maritime sector and foster the advancement of seafarers' careers, skills, and job prospects to bolster workers' competencies and qualifications through sustainable training (Greenpeace Southeast Asia, 2021). Consequently, ASEAN must establish provisions to mandate and support training for potential Migrant Fishery Crews in member nations. ASEAN nations must guarantee that every crew member assigned to foreign vessels undergoes education and training to master requisite competencies, ensuring that all crew members can perform effectively aboard the ship with their acquired skills (Oktariani & Fitra Suhermanto, 2022).

Numerous ASEAN nations, such as the Philippines, Singapore and Indonesia, have conducted training for crew members of foreign vessels. The Philippines has various maritime institutions that provide training for crew members, such as the Philippine Merchant Marine Academy (PMMA), Maritime Academy of Asia and the Pacific (MAAP), and several other sailing schools. Singapore has the Singapore Maritime Academy (SMA), which offers various training programs for crew members and other fields in the maritime industry. Indonesia has adopted multiple laws and regulations mandating the government's responsibility to provide authorised training schools for crew personnel.

Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers stipulates the enhancement of education and vocational training quality through the standardisation of training competencies. Additionally, Article 39 O mandates that the Government is required to provide and facilitate vocational training for prospective Indonesian migrant workers, with funding sourced from the education function. Unfortunately, there are no additional regulations related to clear competency standards that must be possessed by children with disabilities in the form of knowledge or skills. The technical regulations in the law allow prospective crew members to sail with only a Basic Safety Training (BST) certificate and a

seaman's book. This is regulated in Presidential Regulation No 18 of 2019 concerning the Ratification of the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995, which contains basic level safety training for all fishing vessel crew members, stating that crew members who wish to sail only need a few basic certificates, such as Basic Safety Training (BST), and a seaman's book. This non-specific regulation has caused several problems in its implementation.

the first problem is the training standards that only require basic training standards. In this context, BT is a training session that prepares novice seafarers with different skills of importance in helping them cope with their assigned duties and responsibilities. The training also equips these individuals with the necessary knowledge related to health and safety while on board (Kamis et al, 2020). Based on statements from several Indonesian crew members who have worked on foreign vessels, more specific advanced training is required (Irsyadiah et al., 2022). The current study also points to the need for soft skills among them as they can improve their safety on board oil (Oil Companies International Marine Forum, 2018). The study positions a recommendation to training institutions that provide BT courses and any shipboard safety education programmes in general. The seven domains of "Learn and Develop," "Leadership and Managerial Skill," "Situational Awareness," "Result Focus," "Decision-making," "Team Working," and "Communication and Influencing" can be highlighted during training to cultivate the appropriate mindset among seafarers, subsequently enhancing their safety behaviour on board (Kamis et al, 2020). The current study also points to the need for soft skills among them as they can improve their safety on board (Oil Companies International Marine Forum, 2018). Other competencies such as language, are also needed. Zulham, one of the modern slavery victims from Indonesia, stated that he often received reprimands from the captain, and several times he even received physical beatings because he did not understand and could not carry out the orders given. Zulham has no technical work skills because he has no experience on a vessel (Mongabay.co.id, 2017, 2022).

Second, Migrant Fishers do not have Migrant Fishers Training and Certification but are still accepted. Based on information from Migrant Fisher from Indonesia (Andy) explained that it is not difficult to become a Migrant Fisher. He just has an Identity Card, Family Card, Birth Certificate, and Police Record Certificate, Migrant Fisher candidates can apply for a sailor's book and a sailor's passport (Mongabay.co.id, 2022). The third issue is the duration of training. The absence of minimum standards related to training means that the Indonesian government and training institutions do not have good standards for conducting training. There are Migrant Fishers certification trainings that only last 3 - 7 days. This duration is even the standard set by the Indonesian government for certification training. As a result of the short duration of the training, some Migrant Fishers have become victims of modern slavery on foreign vessels (Detik.com, 2022). The last problem is the emergence of unofficial and non-credible training institutions, resulting in unskilled and incompetent crew members (Inanews.co.id, 2020).

Based on these problems, ASEAN standards are needed to implement training for prospective fishing crew members who work abroad. In international law, IMO has Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F). The STCW-F Convention is a binding treaty that establishes certification and minimum training standards for crews of seagoing fishing vessels, aimed at enhancing safety at sea and safeguarding the marine environment, while considering the distinctive characteristics of the fishing industry and its working conditions. This Convention primarily pertains to personnel aboard seagoing fishing vessels, specifically skippers and deck department officers of vessels measuring 24 meters or more in length, as well as engine department officers of vessels powered by main propulsion machinery with a capacity of 750 kW or greater. The 1995 STCW-F Convention is a key building block in the promotion of the safety of life at sea by setting the necessary framework to ensure the provision of duly skilled personnel in the fisheries sector. Better skilled and trained personnel will decrease the likelihood of fatal accidents, decrease the loss of lives at sea, and improve the general safety of fishing operations. The STCW-F Convention supports harmonization of qualifications by introducing a minimum level of training for everyone working on fishing vessels to which the Convention applies (Puspitawati & Vandy, 2022).

While the efforts by IMO are well-intentioned and commendable, the reality is that the training standards in different countries are not the same (Capt, 2016). All ASEAN Members should ratify the STCW-F convention. Indonesia is the only country to become parties to the convention, but in practice it has not been implemented properly. In author perspective, ASEAN needs to adopt the STCW-F Convention. In the author's opinion, ASEAN needs to adopt the STCW-F Convention arrangements in the ASEAN treaty for more effective training implementation. ASEAN can significantly contribute to improving the safety, welfare and sustainability of the fisheries sector in the region by adopting regulations that strengthen Migrant Fishers training. Furthermore, it is necessary to add regulations that need to be regulated according to the needs of Southeast Asian countries, such as regulations regarding government supervision of the implementation of training for fishery crew members who sail internationally. The government of each ASEAN Member also needs to ensure and supervise that the training is carried out according to standards. For example, the Government of Indonesia has encouraged the formation of a national committee to conduct quality assurance on every official who accredits training institutions throughout Indonesia, including crew members migrant fishery workers.

This committee will be tasked with verifying and, auditing and ensuring that the training program of a training institution has implemented a quality standard system (QSS) and a quality management system (QMS) which includes eight aspects of training standards in accordance with the STCW-F 1995 convention in producing competent seafarers. The formation of the Endorsement Committee will be evidence to the international community that the process of organizing training, examinations, and certification of Migrant Fishers in Indonesia is in accordance with the STCW-F 1995 convention (Puspitawati & Vandy, 2022).

Supervision and Complaint Mechanisms

Following the establishment of regulations regarding recruitment and employment agreements, ASEAN must now implement supervision and complaint mechanisms. This supervision encompasses monitoring during recruitment, drafting employment agreements, and working at sea. The AICHR Consultation Forum highlights the vulnerability of Migrant Fishers from ASEAN. Factors such as isolation and jurisdiction have placed Migrant Fishers in "3D" jobs (Dirty, Dangerous, and Difficult). The forum underscores the difficulty of monitoring the fulfilment of fishery workers' rights while at sea. ASEAN can collaborate with the respective countries' flag state inspectors and port state control officers (Ministry of Manpower of the Republic of Indonesia, 2023). This supervision is crucial to prevent modern slavery. ASEAN member states must commit to and cooperate in supervising Migrant Fishers within their territories. The obligation of supervision is not solely imposed on the government or the home country of the migrant fishery workers. International law imposes an obligation not only on the Government but also ship captain (Papanicolopulu, 2022). At least until the boat people can be docked on the nearest land, they shall give protection (Puspitawati & Susanto, 2023). Therefore, ship captains are also responsible for everything that happens to their Migrant Fishers because they directly oversee them. Ship captains must ensure that Migrant Fishers receive their rights.

In addition to the challenges in oversight, SEAFish for Justice highlights that the injustices faced by fishermen are also attributable to a lack of access to grievance mechanisms (Mongabay.co.id, 2017). Complaint mechanisms are lacking, and where complaints are made, they may be discounted as merely workplace employment issues (Ridings, 2021). One of the principles of social responsibility in fishing activities is to guarantee equality and fair opportunity for all parties involved by providing a complaint mechanism and access to the recovery of victims' workers. In this context, Indonesia through Destructive Fishing Watch Indonesia initiated the National Fisher Center (NFC). The National Fishers Center is an alternative for Migrant Fishers complaints to complement the existing complaint services. Apart from being a complaint service, it provides educational services, referrals and data management related to fishing vessel crews by providing a complaint mechanism and access to recovery for workers who are victims (Ministry of Manpower of the Republic of Indonesia, 2023). Destructive Fishing Watch Indonesia initiated the National Fisher Center (NFC) to optimize and promote the National Fishers Center's services to the wider community, NFC is a platform that connects fishing boat crews and fishermen with other parties related to fishing activities at home and abroad," said Moh Abdi Suhufan, Coordinator of National Destructive Fishing Watch Indonesia (Indonesia, 2022). This Indonesian initiative represents a

commendable endeavour that could be adopted by other ASEAN member states. It necessitates formulating national policies and regulations to mandate the implementation of such complaint systems across the fishing industry.

Collaborate With Member Countries and Stakeholders

All Member States should reaffirm their commitment to protect migrant fishing crews from modern slavery through appropriate instruments where necessary and consistent with their respective national laws and policies. This step will be accompanied by efforts to strengthen institutional capacity, the labor inspection system, and complaint mechanisms. ASEAN needs to employ a multi-stakeholder approach. In remaining committed to doing its part not only in promoting sustainable fishing practices that use safe and legal labor, but also to eradicate slavery genuinely, ASEAN must coordinate, collaborate and cooperate with the entire industry and global community, including businesses, governments, civil societies and consumers to participate and accelerate the pace of reform (Erou & Shahrin, 2021). According to the President of Indonesia, Jokowi, cooperation that needs to be prioritized includes (i) supervision and enforcement of the law, (ii) exchange of information regarding cases of migrant fishermen, including cases of human trafficking, taking into account privacy aspects, (iii) establishment of decent work standards on fishing vessels and occupational health and safety on fishing vessels, (iv) access to justice, including the restoration of rights for migrant fishermen, (v) repatriation and reintegration of migrant fishermen, and (vi) certification and recognition of the skills of migrant fishery workers. (Indonesia Ocean Justice Initiative, 2022).

ASEAN also can collaborate with the International Labour Organization (ILO) and the International Organization for Migration (IOM). ASEAN collaborates with the ILO to safeguard seafarers. ASEAN's regional cooperation in safeguarding migrant fishermen materialized with the assistance facilitation of the ILO through the ILO's SEA Fisheries Project: Strengthened Coordination to Combat Labour Exploitation and Trafficking in Fisheries in Southeast Asia in April 2017. This endeavour aims to reduce Trafficking in Persons (TIP) and exploitation of workers in the fisheries sector by enhancing coordination at the regional and national levels and acting as an incubator for a Regional Coordination Body (RCB). The project is based in Jakarta but encompasses the entire Southeast Asian region. The initiative by the ILO was subsequently carried forward in a forum, namely the Consultative Forum on Regional Cooperation against Human Trafficking, Labour Exploitation and Slavery at Sea (the Bali Forum), held in Bali on the 27th and 28th of March 2018, in collaboration with the Indonesian Coordinating Ministry for Maritime Affairs. The Bali Forum convened various stakeholders in ASEAN to discuss issues of Trafficking in Persons (TIP), labour exploitation, and human rights violations in the marine fisheries sector. Conclusions drawn at the Bali Forum included recommendations to establish a regional coordination focused on addressing TIP and labour exploitation in the marine fisheries sector within the Southeast Asian region.

In November 2018, the International Labour Organization (ILO) organized the Southeast Asia Conference on Regional Coordination and Action to Combat Trafficking and Labour Exploitation in Fisheries, comprising two workshops: the Workshop on Strengthened Regional Coordination to Combat Trafficking and Labour Exploitation in Fisheries, and the Workshop to Promote Decent Work for Fisheries in Southeast Asia (SEA Forum for Fishers). This conference agreed upon establishing the Southeast Asia Forum to End Human Trafficking and Forced Labour in Fisheries (SEA Forum for Fishers). This forum will be designed as a non-binding multi-stakeholder initiative to strengthen coordination among member states to combat Trafficking in Persons for Exploitation (TPPO), forced labour, modern slavery, and worker exploitation in the maritime fisheries sector through an integrated, holistic approach under human rights (International Labour Organization, 2024).

Afterwards, ASEAN's collaboration with the International Maritime Organization (IMO) aims to foster secure migration and advocate for the rights of migrant workers. IMO is an international organization responsible for the safety, and security of shipping activities and the prevention of marine and atmospheric pollution by ships (Puspitawati & Vandy, 2022). Collaborating with the Intergovernmental Commission on Human Rights (AICHR), supported by the Indonesian Ocean Justice Initiative (IOJI) and the International Justice Mission (IJM), in hosting the ASEAN Forum on Human Rights at Sea: Ensuring Decent Work for Migrant Fishers (MWFs) on December 14-15, 2023, in Jakarta. This forum was attended

by over 60 physically and virtually participants, representing governmental and non-governmental organizations from the ASEAN Member States, including civil society organizations, universities, migrant fishers, fisher unions, and the private sector (IOM, 2023). Among the recommendations put forth by the participants to enhance migrant fishers' protection in ASEAN were the following (IOM, 2023):

- (a) To examine and revise national and regional policies and regulations to uphold the principles of non-discrimination, gender sensitivity, and responsiveness, identify vulnerabilities, and ensure rights-based approaches are in line with international standards and ASEAN standards.
- (b) To strengthen access to information and education and enhance the participation, representation, and voices of victims, survivors, and Migrant Fishers (AKP).
- (c) To improve data collection, promising practices, and evidence-based discussions.
- (d) To ensure the establishment of complaint mechanisms for Migrant Fishers on fishing vessels, guided by principles that are lawful, accessible, predictable, fair, transparent, rights-based, enable continuous learning, and are based on engagement and dialogue.
- (e) To develop technical guidelines on cross-border law enforcement, emphasizing international cooperation at bilateral, regional, and multilateral levels.
- (f) Assisting victims on fishing vessels following international standards, including rescue, rehabilitation, restitution, and reintegration, as well as providing services such as trained interpreters to assist victims and their families.
- (g) To build the capacity of law enforcement agencies at national and regional levels on issues of human trafficking, forced labour, and maritime violations, and how to address such cases using rights-based approaches.

The representative of the International Organization for Migration (IOM), Among Resi, stated that IOM's recommendation to ASEAN member states is to review and revise their policies and regulations while upholding the principles of non-discrimination, gender sensitivity, and responsiveness. This includes recognizing the vulnerabilities of migrant persons in situations of human trafficking, as well as improving the collection and management of data related to migrant persons and their families. Furthermore, IOM underscores that for the ASEAN Guidelines to be effectively implemented, intersectional issues regarding the protection of migrant persons and cross-sectoral cooperation at both national and regional levels must be strengthened. This includes implementing feasible regional referral mechanisms and cross-regional cooperation to protect migrant persons. IOM's support is manifested through the Ship to Shore Rights Southeast Asia Project, funded by the European Union (IOM, 2023).

ILO C-188 and the Other Agreements Ratification

International legal instruments have inherently been crafted to provide and strive for forms of protection that are favourable and humane towards Migrant Fishers (Rosida et al., 2022). ASEAN sectoral bodies such as the Senior Officials Meeting on Transnational Crime (SOMTC), the ASEAN Committee on Migrant Workers (ACMW) and the ASEAN Intergovernmental Commission on Human Rights (AICHR) are key stakeholders whose mandates center on upholding commitments of protecting the rights and welfare of migrant workers and Southeast Asian fishers alike. They are obligated to be at the forefront of empowering and facilitating the entry into force of ILO C-188 in ASEAN member states (AMS) (Erou & Shahrin, 2021). Issues arising from the non-ratification of international conventions related to the protection of workers in the fisheries sector, one of which is ILO Convention No. 188 of 2007 concerning Work in Fishing, as previously mentioned, regulate protection following international standards. ILO Convention 188 sets an international norm to ensure that fishing vessel crew members have decent working conditions on board, taking into account minimum requirements for working on ships; service conditions; accommodation and food; occupational safety and health protection; medical care; and social security. ILO Convention 188 is established as a recognition that globalization has a significant impact on the fishing industry and is based on the provisions of the ILO Declaration of 1998 on Fundamental

Principles and Rights at Work (Rosida et al., 2022). However, the only country that has ratified ILO 188 is Thailand.

ASEAN member states should follow Thailand, which ratified the ILO Convention 188 of 2007 in 2019. Thailand's decision to take this step stemmed from strong pressure following the revelation of cases of slavery aboard ships, prompting the Thai government to reform regulations for its workers in the fisheries sector promptly. Previously, Thailand had received the lowest ranking, level three, in a 2016 annual report on human trafficking, resulting in the issuance of a yellow card by the European Union (EU) as a stern warning to Thailand (Rosida et al., 2022). The outcome of this commitment propelled Thailand's efforts in fisheries improvement, elevating Thailand to the second position and leading to the withdrawal of the yellow card issued by the EU in 2019 (ILO, 2021). The regulations outlined in Thailand's ratified ILO 188 of 2007 have yielded significant advancements in enhancing protection in the fisheries sector, particularly for fishers. Thailand's ratification efforts have resulted in measures to enhance its fisheries sector. Recommendations for fishers' protection include the involvement of labour unions in policy formation and implementation, detailed legislative regulation, enhanced collaboration among institutions, and increased labour inspection capacity (Greenpeace Southeast Asia, 2021). In addition to ratifying ILO Convention 188, ASEAN Member States also need to ratify the Port State Measurement Agreement (PSMA) regarding the management of fisheries to prevent unreported, unregulated, and illegal fishing (IUU-Fishing), the Cape Town Agreement (CTA) concerning the stability and construction of fishing vessels fit for purpose and the STCW-F on Training, Certification and Watchkeeping for Fishing Vessel Personnel (International Maritime Organization, 2024).

Changes in the meaning of the ASEAN Way

ASEAN has a set of rules of the game in relations between countries in the Southeast Asian region, often referred to as the ASEAN Way. The ASEAN Way is the norms inherent in the institution by emphasizing the principle of non-intervention that respects the sovereignty of other countries and uses consultation and consensus approaches in the interaction of resolving issues in the region, rather than the use of confrontation/violence (Darmawan & Kuncoro, 2019). The main challenge is the strong state-centric nature of policy-making processes in ASEAN and within the ASEAN Member States (AMS). This character has become the stumbling block to any external actors willing to participate in the processes in order to influence the outcome (Dipanandam, 2019). ASEAN Way focuses more on the concept of state security directly rather than on the concept of human security (Puspita, 2019).

At the centre of the ASEAN Way are non-interference norms, which are so dominant that they have a strong regulative effect, influencing states in their interstate relations in ASEAN. These norms highlight the narrow, elite-centred and sovereign framework of cooperation, providing limited space and scope for collaboration in addressing transnational issues, including migration (Sundrijo & Safitri, 2023). ASEAN needs to review its deep-rooted principle of non-interference to show its relevance as a regional group with significant existence. The state sovereignty and non-intervention principle made the stakeholders reluctant to discuss human rights issues, including modern slavery on a regional level (Dipanandam, 2019). Meanwhile, Nischalke, Sharpe, and Horn argued that though many within and outside of ASEAN emphasized the ASEAN way of non-interference and consensus-based decision-making process, ASEAN decision-makers violate it when necessary (Howe & Park, 2017). Modern slavery in Southeast Asia is not an internal problem of a country but a common enemy of the ASEAN community. ASEAN member countries must view this problem in a spirit of togetherness. When there is a case of modern slavery in one of the ASEAN member countries, it should also have a painful impact on the entire ASEAN community. This is an important start in the mission to eradicate modern slavery in Southeast Asia.

Those strategic steps are long-term steps that need to be taken slowly by ASEAN member countries. ASEAN member countries must have the same vision to overcome modern slavery. These strategic steps are indeed not easy and unusual/extraordinary. It requires more attention and commitment from each ASEAN member country.

Conclusion

ASEAN has played various roles, both in forming regulations and having ASEAN bodies to protect migrant Fishers in Southeast Asia Against Modern Slavery. Based on the author's analysis, ASEAN needs some changes in protecting Migrant Fishers in Southeast Asia Against Modern Slavery. On May 8, 2023, ASEAN members adopted the ASEAN Declaration on the Placement and Protection of Migrant Fishers at the 42nd ASEAN Leaders Summit in Labuan Bajo, East Nusa Tenggara, Indonesia. That declaration is a good first step to protect migrant fishers and will be the first ASEAN instrument that regulates the protection of migrant fishery workers. ASEAN also needs some extraordinary strategies to solve the modern slavery problem. Some of these strategies are as follows: Improvement of Recruitment Systems and Migrant Fishers Contract; Migrant Fishers Training and Certification; Supervision and Complaints Mechanism; Collaboration with Member Countries and Stakeholders; Ratification of ILO C-188 and Other Agreements; and Changes in the meaning of the ASEAN Way.

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