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The threat of human rights violations by corporations in Indonesia does not only apply on land. The Indonesian Sea, which covers 76.94% of the total area of Indonesia, is the operating place for many corporations. This is because Indonesia is a Maritime country which has so much diversity of marine wealth and its potential. Such natural wealth attracts corporations to run their business in the Indonesian fisheries sector. However, behind the beauty of Indonesia's marine wealth, there is sadness about the conditions of workers in the Indonesian fisheries sector. The working hours of workers in the fisheries sector tend to be inhuman (Nowak, 2003: 20).
IMPLEMENTATION OF HUMAN RIGHTS CERTIFICATION AS A REQUEST FOR HUMAN RIGHTS PROTECTION TO WORKERS IN THE FISHERY INDUSTRY

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Abstract

The responsibility of the state is one of the important keys in the life of the state, one of which is in labor matters. In its implementation there are several records of violations of human rights in the Indonesian Sea, namely Trafficking in Persons, Forced / Slavery Labor, Child Labor, Overtime and the absence of health insurance. Research Objectives To analyze regulations in Indonesia regulating the protection of human rights for workers in the fishing industry in Indonesia and Fisheries Human Rights Certification contained in the Minister of Maritime Affairs and Fisheries Regulation No. 35 of 2015 has effectively provided human rights protection to workers in the field of the fishing industry in Indonesia. The benefits of this research consist of theoretical and practical benefits. Theoretically: The research method used is juridical-normative. The results showed that Human Rights Certification in the Fisheries Sector is one of the solutions so that fisheries companies comply with the Human Rights criteria set by the Government but still need improvements in the context and implementation. Conclusion Fisheries Human Rights Certification research has not effectively provided protection for workers in the fishing industry in terms of technical aspects and concepts. Effectiveness can be improved if there is an evaluation of problems in the form of overlapping authorities between agencies, the seriousness of the Fisheries Human Rights Team in exercising their authority.

Keywords: Certification, Human Rights, Workers, Fisheries Industry.

I. BACKGROUND

The threat of human rights violations by corporations in Indonesia does not only apply on land. The Indonesian Sea, which covers 76.94% of the total area of Indonesia, is the operating place for many corporations. This is because Indonesia is a Maritime country which has so much diversity of marine wealth and its potential. Such natural wealth attracts corporations to run their business in the Indonesian fisheries sector. However, behind the beauty of Indonesia’s marine wealth, there is sadness about the conditions of workers in the Indonesian fisheries sector. The working hours of workers in the fisheries sector tend to be inhuman (Nowak, 2003: 20). The pressure to work up to 22 hours a day for 7 days per week with rest time of only about 2-4 hours per day, coupled with tiring physical labor is not in accordance with the prevailing labor regulations (Dirjen Perikanan, 2016). The working hours are so tight and the hard physical work that many workers often fall ill. However, they did not receive adequate medical care. Not infrequently, some workers die because they don’t get...
treatment. Salaries and overtime pay are rarely paid to workers on time, even for years. This left them with no other choice but to keep working on the ship, because they had no money in their hands. Things that are important for workers to obtain, such as health insurance and adequate facilities, are never provided because they are considered insufficient and are not seen as things that should be provided for workers (Dirjen Perikanan, 2016).

Responding to the fact that the human rights violations experienced by workers in the Indonesian marine fisheries sector are serious, the Government of Indonesia through the Ministry of Marine Affairs and Fisheries enacted the Minister of Marine Affairs and Fisheries Regulation Number 35 of 2015 concerning Fisheries Human Rights Systems and Certification (Permen KP HAM Perikanan). Its enactment was announced on December 10, 2015 to coincide with the commemoration of International Human Rights Day by Susi Pudjiastu as Minister of Maritime Affairs and Fisheries of the Republic of Indonesia for the 2014-2019 period, this Permen is the first rule issued by the government for the protection of human rights in the fisheries sector, as well as the first rule in Indonesia, which encourages the implementation of respect for human rights by corporations as stipulated in the United Naons Guiding Principles on Business and Human Rights (UNGP).

The International Labor Organization (ILO) states that the fisheries sector is the most vulnerable sectors to human rights violations for its workers, especially in fisheries. If we look at the conditions of workers in the Indonesian fisheries sector, this statement is true (Darulzain, 2017:135). There are various types of human rights violations experienced by workers in the fishing sector in Indonesia, especially slavery. The Benjina case is a case of slavery that occurred in the Arafura Sea, where hundreds of crew members (crew members) from various countries from Myanmar and Cambodia became victims. The definition of slavery itself can be found in the general explanation of Law Number 21 of 2007 concerning the Crime of Trafficking in Persons. In this law, the definition of slavery is as follows:

"Slavery is a condition of a person under the ownership of another. A practice similar to slavery is the act of placing a person in the power of another so that that person is unable to refuse a job that is illegally ordered by that other person, even though that person does not want it."

Slavery / trafficking in persons is one of the worst forms of treatment in violation of human dignity. The prohibition on slavery / trafficking in persons is regulated in Article 2 of Law Number 21 of 2007 concerning the Crime of Human Trafficking and Article 4 and Article 20 of Law Number 39 of 1999 concerning Human Rights (Darulzain, 2015:67). One of the civil and political rights listed in the ICCPR as an international instrument regarding civil and political rights is the right to be free from slavery. In article 8 of the ICCPR, it is explained that no one can be enslaved (Darulzain, 2015:67).

Potential human rights violations against workers in the fisheries sector at least occur due to 2 (two) factors, such as ignorance and the necessities of life. The history of the birth of the PKWT or the contract system is based on an agreement whose types and nature of activities are only temporary. Unfortunately, there are relatively many workers in the fisheries sector and entrepreneurs who have not known about the contents or clauses in the PKWT and the consequences that occur if there is any intention of bad faith from the Entrepreneur. The general ignorance is usually related to the provisions contained in Article 56 paragraph (2) and 59 paragraph (2) of Law Number 13 of 2003 concerning Manpower regarding its temporary nature.

Apart from ignorance, reasons for the necessities of life are also no less important factors. Globally, workers and ship beginners are faced with difficult jobs and competition for jobs. Monotonous skills or soft skills also narrow down the options for choosing types of work
in other fields. Especially anthropologically fisheries workers come from coastal areas who tend to have expertise in matters relating to the sea and fisheries (Imron dkk, 2017:99).

In reality, working relations which based on non-permanent contracts showing that contracts and verbal give a weak bargaining position to workers in the fisheries sector. According to data released by the Directorate General of Capture Fisheries at the National Symposium of the Ministry of Foreign Affairs and the Faculty of Law, Airlangga University in Surabaya in April 2016, it is illustrated that there are sad facts about the conditions of workers in the fisheries sector in Indonesia. The working hours of workers in the fisheries sector tend to be inhuman. The pressure to work up to 22 hours a day for 7 days per week with a break time of only 2 - 4 hours per day, coupled with tiring physical work is not in accordance with the applicable labor regulations (Darul'Izain, 2017:133).

The causes of accidents on fishing vessels, such as low awareness of ship crews about work safety on shipping and fishing activities, low mastery of shipping and fishing safety competencies, ships not equipped with safety equipment as they should, bad weather such as big waves and suffering from serious illness during shipping. Therefore, the knowledge and skills of the crew as well as the safety equipment and the feasibility of the ship should be a concern for fishing boat crews and entrepreneurs. Knowledge and skills about the work safety of the crew can minimize the risk of premature accidents and accidents that have occurred, so that they can avoid unwanted fatal consequences (Suwardjo dkk, 2010: 55).

According to the Food and Agriculture Organization through The State of World Fisheries and Aquaculture, work in the fisheries sector is categorized as a dangerous profession compared to other jobs. So this profession is categorized as a "3D" job, namely, dangerous (dangerous), dirty (dirty) and difficult (difficult) especially the erratic weather conditions increase the risk of danger in the fisheries sector. Equipped with data from the International Maritime Organization, the percentage of the causes of fishing boat accidents according to human error factors is 43.06%, natural factors 33.57%, and technical factors 23.35% (IMO, 2007).

Fishing is one of the most challenging and dangerous jobs that the International Labor Organization (ILO) is working on to ensure decent work for all fishermen. The ILO's international labor standard that specifically relates to work in fisheries is Work in Fishing Convention No. 188 of 2017. This convention demonstrates the ILO's new commitment to ensuring decent work in fishing. It aims to ensure decent working conditions in relation to the minimum requirements for working on ships; service conditions; accommodation and food; protection of occupational safety and health; medical care and social security. Great efforts are being made at the ILO to achieve ratification and broad implementation of the Convention. Convention No. 188 is a valuable tool for addressing issues relating to migrant fishermen and eliminating forced and child labor in the fisheries sector.

What do human rights have to do with maintaining fish stocks, the flow of economic and nutritional benefits from fisheries, or supporting communities and cultures that depend on fish? These questions often precede attempts to explain why the human rights approach has something useful to offer in current policy reforms aimed at conserving viable fisheries and enhancing their contribution to human well-being. For many, the mention of human rights conjures images of struggling for the right to speak freely without fear of arrest or torture, the right to a fair trial, or the rights of minorities. Human rights, however, are more than just political and civil rights, they also include a set of "economic, social and cultural rights" which include the rights to food, water, housing, and decentralized work, and the rights of children, migrants and women. Each of these rights has a supporting legal framework that forms the architecture of international human rights law (Lewis, 2017:379). Therefore, countries that have signed and ratified this international treaty are bound to do their best to uphold the rights of
their citizens, to whom they are responsible as duty bearers, including working time which is a reflection of human rights, in the manpower sector, which in this case is in the fisheries sector.

Heavy working hours and heavy physical work often make workers fall sick, however employers do not provide adequate medical care or insurance. Therefore, it is not uncommon for workers to die because they do not get proper treatment and health services. This condition causes the workers to have no other choice but to work on ships because they do not have spare money to live on. In Law Number 13 of 2003 concerning Manpower (Labor Law) Article 77 paragraph (2), it has been stipulated regarding the regulation of 7 (seven) hours of work in 1 (one) day, and 8 (eight) hours of work in 1 (one) days or 40 (forty) working hours in a week.

According to Soepomo in Asikin quoted by Abdul Hakim, labor protection can be divided into three types, namely (Hakim, 2003: 61-62): 1) Economical Protection; 2) Social Protection; and 3) Technical Protection. The “rights-based approach” which is a reflection of the form of protection proposed by Soepomo for development argues that human rights are an integral part of development outcomes, because international human rights norms highlight the freedom and abilities of each individual, an important component of the development side human. Realizing the rights of the poor to an adequate standard of living, to work, health care and education, also establishes the legal and moral basis for development efforts and allows for alternative investment priorities or policy choices based on how effectively they contribute to the fulfillment of human rights. In addition, a civil and political rights analysis offers an opportunity to assess the power relations that influence people's livelihood choices and which may hinder sustainable development. In its application to natural resource management, a human rights-based framework draws attention to the institutions and structures of power that determine the allocation and access of resources. Human rights advocacy to establish access rights to natural resources for the poor, as part of their right to livelihoods, is a legal and moral claim that cannot be easily dismissed (Ratner, 2014: 120-130).

The status quo as outlined above ultimately requires government attention to workers in the fishing industry. Moreover, the decline in productivity in the fisheries sector as well as intense competition in the global arena has increasingly made the fishing industry complex. Therefore, real intervention from the Government is needed to help improve the welfare of workers in the fishing industry.

On 10 December 2015 to coincide with International Human Rights Day there is a hope for the workers in the fishing industry in Indonesia. This is because the Indonesian Government through the Ministry of Marine Affairs and Fisheries has made regulation Number 35 of 2015 concerning Fisheries Ham System and Certification by Susi Pudjiastuti. This provision is the first rule in Indonesia that encourages the implementation of respect for human rights by employers as regulated in the United Nations Guiding Principles on Business and Human Rights (UNGP) (Alimuddin, 2001: 2).

In general, through the Minister of Marine Affairs and Fisheries Regulation Number 35 of 2015, there are obligations that must be fulfilled by entrepreneurs in the fishery industry, namely the human rights system and fisheries human rights certification. This provision is also accompanied by detailed standards and categories regarding human rights aspects that must be met by fishery entrepreneurs.

Based on the explanation described above, therefore the author is interested in discussing it further in this study regarding the protection of human rights for workers in the fisheries sector through the Human Rights Certification mechanism which has been regulated in the Regulation of the Minister of Marine Affairs and Fisheries Number 35 of 2015 concerning Systems and Fisheries Ham Certification.

This research raises the main problem, namely: How do regulations in Indonesia
regulate the protection of human rights for workers in the fishing industry in Indonesia? And Is the Fisheries Human Rights Certification contained in the Minister of Marine Affairs and Fisheries Regulation Number 35 of 2015 effective in providing protection of human rights to workers in the fishing industry in Indonesia?

In order to clarify the direction of the research, the purpose of this research is formulated, which is to analyze the regulations in Indonesia regulating the protection of human rights for workers in the fishery industry in Indonesia and the certification of human rights in fisheries contained in the Regulation of the Minister of Marine Affairs and Fisheries Number 35 of 2015 has been effective in providing protection of human rights to workers in the fishing industry in Indonesia (Allison, 2011: 95-116).

The benefits of this research consist of benefits. Theoretically, the results of this study are expected to provide suggestions in the form of practical knowledge related to the protection of human rights for workers in the fishing industry in Indonesia. Practically: Practically, the results of this research are expected to contribute to society, especially legal actors related to Fisheries Human Rights Certification contained in the Minister of Marine Affairs and Fisheries Regulation Number 35 of 2015.

This research on the implementation of human rights certification as a form of protection of human rights for workers in the fishing industry is a juridical-normative research or better known as literature law research. In addition, this research is also complemented by using a statutory approach, a case approach and a comparative approach so that this research is not limited to research on applicable law (normative), but more than that is how the law should be applied.

II. DISCUSSION
A. Regulation and Implementation of the Concept of Human Rights in the Fishery Business Sector in Indonesia

In order to carry out its obligations to protect human rights specifically in the fisheries sector, the Government through the Ministry of Marine Affairs and Fisheries issued a Regulation of the Minister of Marine Affairs and Fisheries No. 35 / PERMEN-KP / 2015 concerning Systems and Certification of Human Rights in Fisheries Business (Permen KP 35/2015). In connection with the requirements and the certification mechanism regulated by the Minister of Marine Affairs and Fisheries Regulation Number 2 / PERMEN-KP / 2017 concerning Requirements and Mechanisms for Fisheries Human Rights Certification. The background behind this regulation is as follows (Rahmatullah, 2017: 60): 1) Evidence of serious human rights violations in Indonesian fisheries business in Benjina and Ambon, Indonesia; 2) United Nations Guiding Principles on Business and Human Rights (2011) and ILO Convention No. 188 of 2007 which provides international guidance for countries to implement responsible business and human rights & fisheries practices; and 3) Indonesia actually ratified two major rights treaties: ICCPR and ECOSOC.

Being controlled by the state must be interpreted as covering the meaning of control by the state in a broad sense derived from and derived from the conception of the sovereignty of the Indonesian people over all sources of wealth "earth, water and natural resources contained therein", including the definition of public ownership by the collectivity of the people over resources. - the source of the wealth referred to. The people collectively constructed by the 1945 Constitution mandates the state to carry out 5 things, namely:

1. Policy function (beleid).
2. Management function (bestuursdaad).
3. This function is performed by the Government with the authority to issue and revoke licensing (vergunning), license (licentie), and concession (consessie) facilities.

4. Setting function (regelendaad). This function is carried out through the legislative authority by the DPR together with the Government, and regulation by the Government.

5. Management function (beheersdaad). This function is carried out through the mechanism of shareholding and / or as an institutional instrument, through which the state, in this case the Government, makes full use of its control over these resources to be used for the greatest prosperity of the people.

6. The supervisory function (toezichthoudensdaad) for the purpose of the greatest prosperity of the people. This function is carried out by the State, in this case the Government, in the framework of supervising and controlling so that the exercise of control by the state over the said assets is truly carried out for the greatest possible prosperity of the entire people.

The five forms of state control, namely the function of policy and administration, regulation, management and supervision are placed in the same position. If the Government only performs one of the four functions of state control, for example, only carries out the function of regulating, even though the function of regulating is a general function of the state in any country without the need for Article 33 of the 1945 Constitution, it does not mean that the state has exercised control over natural resources because state control does not achieve the maximum goal for the prosperity of the people as meant in Article 33 of the 1945 Constitution (Ferguson, 1995: 125). This shows the desire of the Indonesian nation to exploit its potential for the benefit of the prosperity and welfare of its people. One of the potentials that can capitalize on national development is the natural wealth found in the Indonesian sea. Indonesia is the largest archipelagic state in the world, which has 17,504 islands spread from Sabang to Merauke, with a coast length of 99,093 km which ranks 4th in the world after Canada (265,523 km), United States (133,312 km) and Russia (110,310 km) (KKP, 2014). Therefore, it is very natural that the Indonesian constitution states that Indonesia is an archipelagic country. This is as stated in Article 25 of the 2nd Amendment of the 1945 Constitution that "The Unitary State of the Republic of Indonesia is an archipelago country characterized by an archipelago with an area whose boundaries and rights are determined by law". Therefore, as a country, geographically and legally, Indonesia has been recognized and has become an archipelago.

If it can show its ability to uphold sovereignty in its own territorial waters and fight for authority at sea and play an active role in fighting for its interests in marine resources in international seas, then apart from being the largest archipelagic country in the world, Indonesia can also be called a maritime country. At least 3 (three) main things, namely enforcement of sovereignty, exercising authority and exercising interests are the keys to making Indonesia a maritime country or maritime axis. 3 To realize this, there are five pillars that must be considered, namely: 1) Indonesia will rebuild Indonesian maritime culture, 2) Indonesia will maintain and manage marine resources, 3) Indonesia will give priority to infrastructure development and maritime connectivity, by building a sea highway, deep seaport, logistics, shipping industry, and maritime tourism, 3) through maritime diplomacy, Indonesia will invite all of its partners to work together in the maritime sector, and 5) as a country that is the fulcrum of two oceans, Indonesia has the obligation to build a maritime defense force.

Permen KP 35/2015 requires Entrepreneurs to implement a fisheries human rights system, which consists of a human rights policy, human rights due diligence and human rights restoration. Human rights policy is made in the form of a commitment statement to comply with all statutory regulations. Meanwhile, human rights due diligence is a process carried out by fishery entrepreneurs to identify, assess, prevent, mitigate and overcome the impact of human
rights violations arising from the activities, operations and business relationships of fishery entrepreneurs (Ferguson, 1995: 125). Furthermore, human rights restoration is a process that aims to resolve the impact of human rights violations caused or participated by fishery entrepreneurs through an effective judicial and non-judicial complaint mechanism.

In the implementation of Human Rights Due Diligence, Fishery Entrepreneurs must meet the following criteria for fisheries human rights compliance:

a. occupational safety and health of fishery business, in the form of:
   1) availability of procedures to ensure occupational safety and health;
   2) availability of occupational safety and health experts;
   3) availability of adequate accommodation and adequate nutrition for workers and crew of fishing boats;
   4) fulfillment of work equipment and equipment requirements for fishery entrepreneurs to ensure occupational safety and health; and
   5) implementation of safety and health training for workers and crew of fishing boats;

b. the recruitment system for Fishing Boat Workers and Crew, in the form of:
   1) procedures ensuring the recruitment of Fishing Boat Workers and Crew;
   2) fulfillment of minimum age and competency requirements for Fishing Boat Workers and Crew; and
   3) application of work agreements and sea work agreements.

c. manpower system, in the form of:
   1) fulfillment of the requirements of collective labor agreements or company regulations;
   2) fulfillment of health insurance and occupational accidents for workers; and
   3) fulfillment of social security requirements, pemenuhan persyaratan perjanjian kerja bersama atau peraturan perusahaan;

d. responsibility for sustainable community development, in the form of:
   1) creating employment opportunities for the surrounding community; and
   2) increasing the standard of living of the surrounding community.

e. security system, in the form of:
   1) conducting human rights training for security personnel; and
   2) integration of human rights elements into security work procedures.

f. environmental management system, in the form of:
   1) prevention of environmental pollution; and
   2) maintenance of biodiversity.

g. land acquisition system, in the form of:
   1) fulfillment of requirements to avoid forced land acquisition; and
   2) fulfillment of the requirements for a reasonable replacement.

This human rights system is expected to be a form of human rights protection from the government and proof of respect for human rights by fishery entrepreneurs. Through Permen 35/2015, every fishery entrepreneur must comply with the Human Rights System not only on paper, but actually implement it. After the fishery entrepreneur implements the entire fishery human rights system and is declared to have passed the human rights certification, the minister will issue a human rights certificate to the fishery entrepreneur (Kirchner, 2019: 157).

This fisheries human rights certificate is valid for a period of 3 (three) years. Based on the delegation of authority from the Minister, the Head of the Fisheries Human Rights Team will issue a Human Rights certificate (Allison, 2011: 95). This certification procedure begins with the fulfillment of the Fisheries Human Rights System by the Fishery Entrepreneur, who then makes a letter requesting the implementation of the HJAM Fishery certification assessment to the Head of the Fisheries Human Rights Team. After that, the head of the Fisheries Human
Rights Team will appoint an Assessment Agency, but if it is not there then the assessment will be carried out by the Fisheries Human Rights Team.

The Application Letter is then verified by the Head of the Fisheries Human Rights Team no later than 7 (seven) working days since the documents are complete. After that, it will be determined whether the application is rejected because it is incorrect, returned because it is incomplete, or a human rights certification assessment can be carried out (Allison, 2011: 95). If an assessment can be carried out, the Fishery Entrepreneur makes a work contract with the Appraisal Agency, then the Assessment Agency will carry out its duties. The assessment is carried out based on the documentation of the results of the Fisheries Human Rights System, field monitoring, and interviews. The final results of the report are conformity and non-conformity. If the result is conformity, the Assessment Agency will recommend issuing a fisheries human rights certificate to the Head of the Fisheries Human Rights Team. After that the Fisheries Human Rights Team will verify and if it is complete and correct, a Human Rights Certificate will be issued.

When compared, this Human Rights Certificate is the same as the program concept of The Marine Stewardship Council which is one of the international non-profit organizations engaged in the field of human rights in fisheries which provides a Human Rights Certificate in the form of a Human Rights Report at sea. This report focuses on the tragic death of Eritara Aati Kairaera, a Kiribati observer of the Taiwan-flagged and registered tuna ring trawler Win Far 636, who was on a journey to catch tuna from MSC certified PNA skipjack and yellowfin tuna fisheries in the Western and Central Pacific Ocean. The death of Eritrea Aati Kairaera was a tragic and shocking event. This is the first death of an observer on a ship authorized under the PNA vessel day scheme to catch an eligible MSC-certified catch. And now it's under an ongoing police investigation.

Two companies operating in the region hold fisheries certificates and the MSC Group Chain of Custody Certificate for the PNA tuna fisheries - the Western Pacific Sustainable Tuna Alliance (WPSTA) and the PNA Office. As soon as they learned of Eritara Aati Kairaera’s death, both companies halted the Win Far 636 program and took steps to ensure no catch from ships that later entered the supply chain as MSC certified catch (Hidayatullah, 2017: 60-63). This shows that the existence of a Human Rights Certificate plays an important role in the world of fisheries, especially in guaranteeing human rights from the fisheries sector itself. Some reports highlight that some sectors of the fishing industry continue to use forced labor and corporal punishment, even deliberately killing workers. Fishermen can be particularly vulnerable at sea, away from the sight of law enforcement agencies or the help of friends and family. Changes in the industry have exacerbated the problem. Factory ships, first seen in the whaling industry, are now commonly seen processing fish in the waters of many states. Smaller fishing vessels now visit them to unload their catches rather than return to shore themselves. The result is that some fishermen now spend weeks or months on board, isolated from the support network on land.

Forced labor has even been reported in the coastal waters of countries considered to have much stronger worker protections, such as the UK and New Zealand. These violations are still largely invisible to people buying seafood or fish-based products, including dietary supplements and pet food. Most people will be surprised to learn that their purchases are helping to keep an unscrupulous business going.

In the Indonesian context, the general rule applies that the work agreement between the employer and the worker / laborer is based on a work agreement that contains the terms of employment, rights and obligations of the parties that meet the legal conditions of the agreement as stipulated in Article 1320 of the Book of Law. Civil. In addition, the manpower regulations in Law Number 13 of 2003 concerning Manpower are general in nature so they also
apply to workers at sea. Article 145 of the Shipping Law provides a limitation that every person is prohibited from employing someone on a ship in any position without permission and without having the required competence and skills as well as the required seafarers' documents. In addition, Article 337 of the Shipping Law itself also confirms that the provisions of manpower in the shipping sector are implemented in accordance with the laws and regulations in the manpower sector. Thus, this provision supports our previous statement regarding the application of the Manpower Act for workers at sea / on boats. Thus, the rights and obligations of work in the fisheries sector are also reflected in the Manpower Law. Meanwhile, it is reaffirmed that the working hours recognized in the Manpower Law are 40 hours per week (Braam, 2019: 15).

The lack of State attention in the fisheries sector makes fishermen or sailors exceed the working hours stipulated by the Manpower Law. This is caused by several factors, which are dominated by the needs of the seafarers themselves. In addition, another factor that causes it is the existence of Sea Work Agreement (PKL) which does not reflect the welfare of seafarers. However, what needs to be emphasized is that the purpose of the formulation of street vendors is to ensure the fulfillment of work conditions, working conditions, wages, health insurance, accident, accident, death insurance, legal guarantees, and security guarantees for fishing boat crews and to ensure:

a. protection and welfare for fishing boat crews; and
b. Fishery boat crew employed have competence, fishing boat crew documents, and are willing to work.

The Permen KP HAM Perikanan is the first regulation that forces and requires fisheries entrepreneurs to respect the human rights of crew members in fishery business activities, where sanctions for human rights violations committed by fishery entrepreneurs against their crew can have a direct impact on their business activities, namely:

a. Freezing of fishery business permits, fishing permits and / or fish transporting boat licenses;
b. Revocation of fishery business permits, fish catching permits and / or fish carrier vessel licenses; and / or

c. Recommendation for the revocation of workforce utilization permits to the Ministry of Manpower. This regulation supports one of the programs in the government's Nawa Cita, namely "Bringing back the state to protect the entire nation and providing a sense of security to all citizens, through an active foreign policy, reliable national security and the development of an integrated Tri Matra national defense based on the interests of nationwide and strengthen its identity as a marim country". In addition, this Permen was drafted with reference to the UNGP. The UNGP is a global standard developed by John Ruggie, the UN Secretary General's special representative in Business and Human Rights, who is authorized to prevent and address the risks of adverse impacts on human rights associated with business activities. The UNGP also contains a set of guidelines that non-state actors, especially corporations, can use as a progressive step towards their responsibilities in respecting human rights (Braam, 2019: 15).

The scope of this Permen includes the Fisheries Human Rights System and Fisheries Human Rights Certification. The main implementer of this regulation is the Fisheries Human Rights Team formed by the Ministry of Marine Affairs and Fisheries. The Fisheries Human Rights Team is tasked with accrediting certain institutions to become Institutions and Assessment Bodies. The Pagian Agency is tasked with providing guidance to corporations regarding the implementation of the fisheries human rights system in corporate operations, while the Assessment Agency is in charge of assessing whether a corporation has succeeded in implementing the fisheries human rights system and is worthy of receiving a fisheries human rights certification.
B. Critical Analysis of Fisheries Human Rights Certification contained in the Minister of Marine Affairs and Fisheries Regulation Number 35 of 2015 has effectively provided protection of human rights to workers in the fishing industry in Indonesia

In the fisheries industry, there are three agencies that play an important role, namely the Ministry of Marine Affairs and Fisheries (KKP), the Ministry of Manpower (Kemenaker) and the Ministry of Transportation (Kemenhub). Article 9 PERMEN KP Number 35 of 2015 states that Fisheries Human Rights Certification is given to Fishery Entrepreneurs by the Fisheries Human Rights Team. The Fisheries Human Rights Team was formed by the Minister, but the Minister who formed it is not explained in detail in this regulation. PERMEN KP Number 35 of 2015 is a technical regulation that should describe in detail what, who, why, when and how the spirit of protecting human rights in fisheries can be implemented (Getchell, 2017: 88).

The still tentative role of the Fisheries Human Rights Team coordinator has an impact on the overall performance of the Fisheries Human Rights Team. This is because the Fisheries Human Rights Team does not only consist of one agency, but is an inter-agency consisting of elements from the ministry, non-ministerial government agencies and non-governmental organizations.

In addition, Article 5 of PERMEN KP Number 2 of 2017 states that the technicality for granting Fisheries Human Rights Certificates is again delegated to an Assessment Agency. Thus, it can be concluded that there is a complicated delegation bureaucratic mechanism, starting from the Minister to the Fisheries Human Rights Team to verify the required documents, then delegating it to the Appraisal Agency to be audited externally regarding the application of Human Rights, so that in its implementation it creates the potential for overlapping.

The Fisheries Human Rights Team is a form of protection and respect for human rights from the state through the Minister for the fisheries industry. The Fisheries Human Rights Team is a team consisting of various agencies, namely elements from the ministry, non-ministerial government agencies, and related non-governmental organizations that are formed in a transparent, participatory and accountable manner. The Fisheries Human Rights Team should also come from representatives of workers and representatives of employers so that they can provide a real picture of the problems faced in the fishing industry. However, the regulation does not provide clear space for the two representatives as part of the structure of the Fisheries Human Rights Team.

The Fisheries Human Rights Team as a whole is the forefront of human rights protection in the fisheries sector because it is authorized by regulations, namely: Determining the requirements and criteria for the implementation and supervision of fisheries human rights certification; Accrediting assessment bodies to carry out assessment tasks in fisheries human rights certification, human rights training institutions to conduct training on fisheries human rights certification for assessment agencies, and other supporting institutions; Give, reject, suspend and revoke fisheries human rights certificates to fishery entrepreneurs; and Carrying out other duties and functions assigned by the Minister in the framework of protecting and respecting fisheries human rights (Syaputra, 2019: 1-12).

Then since PERMEN KP No. 35/2015 was promulgated on December 8, 2015 and further regulations were made through PERMEN KP No. 2 of 2017 on January 23, 2017, the fact is that the Fisheries Human Rights Team has only been active in mid-2019. With the new establishment of the Fisheries Human Rights Team, it means that the selected Assessment Agency in collaboration with the Fisheries Human Rights Team is still at a conceptual level.
From the legal substance point of view, efforts have been made to improve regulations to achieve high safety standards for PPAs on fishing boats. Currently, two pillars have been completed and ratified, namely the Port State Measures Agreement to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing; and the Convention on Standard on Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F). Meanwhile, two other pillars are currently being finalized by the Government of Indonesia, namely the Cape Town Agreement on Safety of Fishing Vessel Convention; and ILO Convention No. 188 on Work in Fishing.

With the re-delegation of the Assessment from the Fisheries Human Rights Team to the Assessment Institution, the bureaucratic flow of Human Rights Certification becomes complicated and convoluted. Whereas the initial concept for the establishment of the Fisheries Human Rights Team was to assess the human rights criteria of fishery entrepreneurs themselves. In the end, the Fisheries Human Rights Team only provides document validation to fisheries entrepreneurs, even though the Fisheries Human Rights Team consists of people who have experience in legal, maritime and fishery aspects. It even seems that the Fisheries Human Rights Team is lazy to work because it has handed over its main authority to an independent Assessment Agency and only confirms recommendations from an appointed Appraisal Agency.

Apart from that, there are not many Appraisal Agencies that focus on marine and fisheries in Indonesia and are not yet competent. Assessment agencies in Indonesia focus on Audit and Management Institutions in general, even though the assessment bodies for Fisheries Human Rights Certification must fully understand the core business of the fisheries industry so that they can fully understand the challenges and problems faced by workers and employers.

Referring to the provisions of Article 5 Paragraph (1) PERMEN KP No.2 of 2017, it is said that in order to obtain a fisheries human rights certificate, fishery entrepreneurs must first apply a human rights system to fisheries business. The provisions of this Article seem to impose fish entrepreneurs to understand standardized human rights criteria (Syaputra, 2019: 1-12). Whereas for fish entrepreneurs, the term Human Rights is a term that is rarely heard, more so how is it implemented in fisheries business.

Before being directed to obtain Human Rights Certification, both Workers and Entrepreneurs in the fisheries sector are given education about the basics of a person's human rights in working and hiring people. The concept of Human Rights which has been understood has made the policy direction regarding Human Rights Certification easier for all parties to understand and not just examination of legalistic documents.

However, in organizing the event there are several critical notes from the author as evaluation material. First, training is only aimed at fish entrepreneurs in the format of preparing documents and requirements in applying for fisheries human rights certification. That means, workers in the fisheries sector are not included in the training event. Whereas the initial aim of the Fisheries Human Rights Certification is more than just standard human rights documents, but must be implemented so that there is protection for workers in the fishery sector. Workers should be involved massively in this training so that workers also know their rights as workers in the fishing industry (Getchell, 2017: 88).

Second, the training was carried out partially in several regions in Indonesia. The implementation of this training should be carried out massively for employers and workers throughout Indonesia, so that the initial goal of educating all entrepreneurs in the fisheries sector can be achieved.

Supervision aims so that the results of the implementation of activities are obtained in an efficient and effective manner, in accordance with a predetermined plan, this is in accordance
with the opinion of Handayaningrat who said that "Supervision aims so that the results of the implementation of work are obtained in an efficient and effective manner, according to a predetermined plan ". Supervision aims to determine whether the implementation of work is as planned, whether all instructions have been carried out and to find out what difficulties are faced (Soekarno, 1985: 105).

According to Soekarno, there are several objectives in conducting supervision, namely:
1) To find out whether something is going according to the plan outlined; 2) To find out whether everything is carried out according to the instructions and principles that have been instructed; 3) To find out the difficulties, weaknesses, weaknesses in work; 4) To find out whether everything is running efficiently; and 5) To find a way out, if difficulties are found, difficulties, weaknesses or failures lead to improvement “.

In general, supervision of marine aspects in Indonesia is still not optimal. The number of patrol boats that are very minimal and the ship surveillance technology called the Vessel Monitoring System (VMS) which is somewhat less modern is not comparable to the Indonesian sea which covers 76.94% of the total area of Indonesia (Hadinanta, 2010: 19).

Oversight of Human Rights Certification also has a similar fate. Referring to the PERMEN KP 35/2015, it is known that Human Rights Certification was discovered after passing the standardized legal document due diligence process and field monitoring. Fish entrepreneurs who have passed the Human Rights Certification can use the Human Rights Certification for 3 (three) years. After obtaining Human Rights Certification, the provisions in PERMEN KP 35/2015 do not explain the periodic monitoring mechanism regarding the compliance development of the Fishery Entrepreneur. Supervision mechanisms are only regulated in Chapter V PERMEN KP 35/2015 which is carried out incidentally. It means that there is no specially appointed supervision in monitoring the level of compliance of fishery entrepreneurs to continue implementing the established human rights standards. Supervision is entrusted to regular fisheries supervisors, porters or other officials. Then the results of the supervision are submitted to the Fisheries Human Rights Team for follow-up. Such monitoring mechanisms are vulnerable to a violation. This happens because regular supervisors have their own daily duties that are not focused on the human rights aspects of the fishing industry. In addition, fishery entrepreneurs should be obliged to report every 1 (one) year to be able to assess whether the human rights standards that have been set continue to be implemented or are ignored.

III. CONCLUSION

Based on the descriptions in the previous chapters regarding the Implementation of Human Rights Certification as a Form of Human Rights Protection for Workers in the Fishery Industry, the authors can conclude that Indonesia has regulated the protection of human rights for workers in the fishing industry in Indonesia through Law Number 13 of the Year. 2003 concerning Manpower, Regulation of the Minister of Marine Affairs and Fisheries Number 35 / PERMENKP / 2015 concerning Systems and Certification of Human Rights in Fisheries Enterprises, and Regulation of the Minister of Marine Affairs and Fisheries Number 35 / PERMENKP / 2015 concerning Systems and Certification of Human Rights in Fisheries Business Number 2 / PERMENKP / 2017. However, the existence of this regulation is not able to provide protection and welfare for workers in the fishing industry, because in practice, these workers often use street vendors as a basis for working beyond the time stipulated by the Manpower Act.

Fisheries Human Rights Certification has not effectively provided protection for workers in the fishing industry in terms of technical and conceptual aspects.
As for suggestions that need to be conveyed related to the theme of writing raised that the Ministry that is responsible for Human Rights Certification must evaluate the implementation and concept. Entrepreneurs in the fishing industry must implement the criteria for human rights that have been regulated by regulations in Indonesia. And lastly for workers to actively supervise the implementation of human rights certification. Effectiveness can be increased if there is an evaluation of problems in the form of overlapping authority between agencies, the seriousness of the Fisheries Human Rights Team in exercising its authority, Human Rights Certification accompanied by education to workers, the existence of a periodic monitoring mechanism.

References


