



Forced Indonesian Labor on Board PRC-Flagged Vessels

Kerja paksa ABK Indonesia di kapal berbendera RRT

English and Bahasa Indonesian Translation

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Abstract

This document contains the original English-language version and a Bahasa Indonesian translation of CNA's case study examining a series of incidents since 2019 in which PRC-flagged fishing vessels reportedly exploited dozens of Indonesian crewmembers, many of whom have died from illness, beatings, unsafe working conditions, or lack of food and water.

Abstrak

Dokumen ini bersisi versi asli bahasa Inggris serta terjemahan bahasa Indonesia dari studi kasus CNA yang memeriksa serangkaian insiden sejak tahun 2019 di mana kapal penangkap ikan berbendera RRT dilaporkan mengeksploitasi puluhan anak buah kapal (ABK) Indonesia, banyak diantaranya meninggal karena sakit, akibat pemukulan, kondisi bekerja yang tidak aman, atau kekurangan makanan dan minuman.

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Introduction

In recent years, persons, vessels, and corporations based in or tied to the People's Republic of China (PRC) have reportedly engaged in illicit maritime activities around the globe. The reported illicit maritime activities of PRC actors are often at odds with Beijing's rhetoric expressing support for international maritime laws (including the United Nations Convention on the Law of the Sea, or UNCLOS), rules, and norms. Unless it is addressed, this gap between Beijing's rhetoric and the behavior of PRC actors has the potential to undermine the global system of international laws, norms, and conventions that govern the maritime domain.

To examine possible contradictions between the PRC's official rhetoric and the illicit transnational maritime activities reportedly carried out by PRC-based actors, CNA examined 15 cases in which PRC actors have been accused of illegal behavior in the maritime domain between 2018 and 2021. For each case, we examined the following:

- The alleged illegal PRC activity and the types of PRC actors involved
- PRC official policies and narratives about that type of activity (e.g., illegal, unregulated, and unreported (IUU) fishing or human trafficking)
- International, local, and PRC laws, policies, and norms at risk of subversion by the alleged activity
- PRC officials' and media responses to these incidents

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Pengantar

Dalam beberapa tahun terakhir, orang, kapal, dan perusahaan yang berbasis di atau terkait dengan Republik Rakyat Tiongkok (RRT) dilaporkan terlibat dalam aktivitas maritim terlarang di seluruh dunia. Aktivitas maritim terlarang yang dilaporkan mengenai pelaku RRT ini sering kali bertentangan dengan retorika Beijing yang menyatakan dukungannya terhadap hukum maritim internasional (termasuk Konvensi PBB mengenai Hukum Laut atau dikenal sebagai United Nations Convention on the Law of the Sea atau UNCLOS), peraturan, serta norma maritim internasional. Jika tidak diatasi, kesenjangan antara retorika Beijing dan perilaku pelaku RRT berpotensi merusak sistem global hukum internasional, norma, dan konvensi yang mengatur wilayah maritim internasional.

Untuk memeriksa kemungkinan kontradiksi antara retorika resmi RRT dengan aktivitas maritim transnasional terlarang yang dilaporkan dilakukan oleh pelaku berbasis RRT, CNA memeriksa 15 kasus di mana pelaku RRT tertuduh melakukan perilaku ilegal di wilayah maritim tersebut antara tahun 2018 dan 2021. Untuk tiap kasus, kami memeriksa hal berikut:

- Dugaan aktivitas ilegal dan jenis pelaku RRT yang terlibat
- Kebijakan dan narasi resmi RRT mengenai jenis aktivitas tersebut (cth. penangkapan ikan ilegal, tidak teratur, dan tidak dilaporkan (illegal, unregulated, and unreported, IUU) atau perdagangan manusia)
- Hukum internasional, setempat, dan RRT, kebijakan serta norma terancam dilanggar dugaan aktivitas tersebut
- Tanggapan pejabat dan media RRT terhadap insiden tersebut

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English: Forced Indonesian labor on board PRC-flagged vessels



Image source: *South China Sea Morning Post*.

This image is a still from May 2020 video footage appearing to show the burial at sea of an Indonesian crewmember of the PRC-flagged fishing vessel Long Xing 629. Four Indonesian crew died aboard the vessel, as have dozens of crewmembers working aboard other PRC-flagged vessels in recent years, reportedly under unsafe or forced labor conditions.

Alleged PRC activity	What the PRC says about the activity
<p>According to reports by non-governmental organization (NGOs) based in Indonesia, Germany, and the US, between late 2019 and mid-2021, PRC-flagged fishing vessels exploited dozens of Indonesian crewmembers, many of whom have died from illness, beatings, unsafe working conditions, and/or lack of food and water.¹ In April 2020, Indonesian officials began to address the issue publicly, when they acknowledged the deaths of four Indonesian crewmembers on the PRC-flagged <i>Long Xin 629</i>.² Since then, Indonesian authorities have announced additional cases of human trafficking, abuse, and death of Indonesians aboard PRC-flagged vessels. Subsequently, in May 2021, US Customs and Border Protection (CBP) issued an entry ban for all goods produced by the fleet of China's Dalian Ocean Fishing Co., Ltd. "based on information that reasonably indicates the use of forced labor in the entity's fishing operations."³ Dalian is the owner of at least two ships implicated in the forced labor of Indonesian crewmembers.⁴</p>	<ul style="list-style-type: none"> • PRC officials and media portray China as a "responsible fishing nation" that would not commit such crimes.⁵ • Initially, PRC officials acknowledged Indonesia's concerns about the reported abuses by PRC-flagged vessels and offered to cooperate on investigations.⁶ • However, by 2021, PRC officials had changed their tune and dismissed reports of abuses as politically motivated false accusations.⁷ • Following the US CBP's blacklisting of Dalian Ocean Fishing Co., Ltd, PRC media began to dismiss accusations of abuses by PRC-flagged vessels as US lies designed to "create contradiction" between Indonesia and China.⁸

Laws, rules, and norms at risk

Based on these reports, the following laws and conventions may be at risk of subversion by PRC-based actors:

International Conventions	<ul style="list-style-type: none"> • International Labour Organization (ILO) Work in Fishing Convention No. 188 (2007)⁹ • ILO Forced Labour Convention, 1930 (No. 29)¹⁰ • ILO Abolition of Forced Labour Convention, 1957 (No. 105)¹¹
Regional Fishery Provisions	<ul style="list-style-type: none"> • A non-binding resolution on labor standards for crewmembers in the Convention Area is in effect, and a draft binding resolution is under review¹²
Indonesian Laws	<ul style="list-style-type: none"> • Manpower Law (2003)¹³
PRC Laws, Policy¹⁴	<ul style="list-style-type: none"> • Ministry of Agriculture Notice on Continued Pilot Program Introducing Foreign Crews to the Ocean Fishing Industry, Section 1 (2017)¹⁵

Bahasa Indonesian: Kerja paksa ABK Indonesia di kapal berbendera RRT



Sumber gambar: *South China Sea Morning Post*.

Gambar ini adalah foto cuplikan dari rekaman video bulan Mei 2020 yang tampak menunjukkan penguburan seorang ABK Indonesia di laut yang berada di atas kapal penangkap ikan berbendera RRT, Long Xing 629. Empat ABK Indonesia meninggal di kapal, seperti halnya puluhan ABK yang bekerja di kapal berbendera RRT lainnya dalam beberapa tahun terakhir, dikabarkan dalam kondisi kerja paksa atau tidak aman.

Dugaan aktivitas RRT

Menurut laporan lembaga swadaya masyarakat (LSM) di Indonesia, Jerman, dan AS, antara akhir tahun 2019 dan pertengahan tahun 2021, kapal penangkap ikan berbendera RRT mengeksploitasi puluhan ABK Indonesia, banyak di antara mereka yang meninggal karena sakit, pemukulan, kondisi kerja yang tidak aman, dan/atau kekurangan makanan dan air.¹ Pada bulan April 2020, pejabat Indonesia mulai menangani masalah ini secara terbuka, setelah mengakui kematian empat ABK Indonesia di kapal berbendera RRT *Long Xin 629*.² Sejak itu, pihak berwenang Indonesia telah mengumumkan tambahan kasus perdagangan manusia, penyiksaan, dan kematian warga negara Indonesia di kapal-kapal berbendera RRT. Selanjutnya, pada bulan Mei 2021, Perlindungan Bea Cukai dan Perbatasan (Customs and Border Protection, CBP) AS mengeluarkan larangan masuk untuk semua barang yang diproduksi oleh armada Tiongkok Dalian Ocean Fishing Co., Ltd. “berdasarkan informasi yang secara wajar mengindikasikan kerja paksa dalam operasi penangkapan ikan entitas ini.”³ Dalian merupakan pemilik dari setidaknya dua kapal yang terlibat dalam kerja paksa ABK Indonesia.⁴

Pernyataan RRT mengenai aktivitas tersebut

- Pejabat dan media RRT menggambarkan Tiongkok sebagai “negara nelayan yang bertanggung jawab” yang tidak akan melakukan kejahatan sejenis itu.⁵
- Awalnya, pejabat RRT mengakui kekhawatiran Indonesia tentang laporan penganiayaan oleh kapal-kapal berbendera RRT dan menawarkan untuk bekerja sama dalam penyelidikan.⁶
- Namun, pada tahun 2021, pejabat RRT berganti haluan dan menepis laporan penganiayaan tersebut sebagai tuduhan palsu bermotif politik.⁷
- Setelah CBP AS memasukkan Dalian Ocean Fishing Co., Ltd ke daftar hitam, media RRT mulai menepis tuduhan penganiayaan oleh kapal-kapal berbendera RRT sebagai kebohongan AS yang dirancang untuk “menciptakan kontradiksi” antara Indonesia dengan Tiongkok.⁸

Hukum, peraturan, dan norma-norma yang terancam

Berdasarkan laporan-laporan ini, hukum dan konvensi berikut mungkin berisiko dilanggar oleh aktor-aktor dari RRT:

<i>Konvensi Internasional</i>	<ul style="list-style-type: none">• Konvensi Pekerjaan dalam Penangkapan Ikan Organisasi Perburuhan Internasional (International Labour Organization, ILO) No. 188 (2007)⁹• Konvensi Kerja Paksa ILO, 1930 (No. 29)¹⁰• Konvensi Penghapusan Kerja Paksa ILO, 1957 (No. 105)¹¹
<i>Ketentuan Perikanan Daerah</i>	<ul style="list-style-type: none">• Sebuah resolusi yang tidak mengikat tentang standar perburuhan ABK di Area Konvensi sudah diberlakukan, dan rancangan resolusi yang mengikat sedang ditinjau¹²
<i>Hukum Indonesia</i>	<ul style="list-style-type: none">• UU Ketenagakerjaan (2003)¹³
<i>Kebijakan Hukum RRT¹⁴</i>	<ul style="list-style-type: none">• Pemberitahuan Kementerian Pertanian tentang Program Percontohan Lanjutan yang Memperkenalkan ABK Asing ke Industri Perikanan Laut, Bagian 1 (2017)¹⁵

Endnotes

¹ “DFW: 35 Indonesian Migrant Fishing Vessel Crew Die Abroad,” Destructive Fishing Watch, June 28, 2021, <https://dfw.or.id/35-indonesian-migrant/>; *Forced Labor at Sea: The Case of Indonesian Migrant Fishers*, Greenpeace with Serikat Buruh Migran Indonesia (SBMI), 2021, accessed Aug. 18, 2021, https://www.greenpeace.org/static/planet4-southeastasia-stateless/2021/05/ef65bfe1-greenpeace-2021-forced-labour-at-sea-digital_final.pdf.

² “China Responds ‘Positively’ to Indonesian Request on Human Trafficking,” *Radio Free Asia*, Aug. 20, 2020, <https://www.rfa.org/english/news/china/responds-08202020190246.html>.

³ “CBP Issues Withhold Release Order on Chinese Fishing Fleet,” U.S. Customs and Border Protection, May 28, 2021, <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-withhold-release-order-chinese-fishing-fleet>.

⁴ *Forced Labor at Sea: The Case of Indonesian Migrant Fishers*.

⁵ “China Is a Responsible Fishing Country,” *Tiongkok Adalah Negara Perikanan Yang Bertanggung Jawab*, *CRI Indonesian*, Dec. 26, 2020, <http://indonesian.cri.cn/20201226/f3edcb1f-c4cf-af20-8f82-541a8329c810.html&prev=search&pto=aue>.

⁶ For example, during a PRC embassy press conference in Jakarta, a Spokesperson of the Chinese Embassy to Indonesia answers reporters' question regarding deaths of Indonesian crew members aboard PRC fishing vessels. The Spokesperson's response at the time conveyed concern over the reported deaths and assurances of cooperation with Indonesian authorities regarding investigations. “Spokesperson of Chinese Embassy to Indonesia Answers Reporters' Question Regarding Indonesian Crew Members Who Passed Away on a Chinese Fishing Vessel and Relevant Issues [Juru Bicara Kedutaan Tiongkok untuk Indonesia kembali menjawab pertanyaan wartawan mengenai masalah yang melibatkan ABK WNI di sebuah kapal perikanan],” May 20, accessed Aug. 19, 2021, <http://id.china-embassy.org/indo/xwdt/t1780830.htm>.

⁷ See, for example, Ma Jingjing, “US Mounts ‘Forced Labor’ Lies on Fishing Firm to Serve Strategy of Containing China Following Attack on Xinjiang Industries,” *Global Times*, May 29, 2021, <https://www.globaltimes.cn/page/202105/1224800.shtml>. Wang Wenbin, Foreign Ministry Spokesperson Wang Wenbin's Regular Press Conference on May 31, 2021, Subject, <http://id.china-embassy.org/eng/fyrth/t1880105.htm>; “China's Ministry of Foreign Affairs: Alleged Forced Labor Is a Conspiracy,” *Kemenlu Tiongkok: Tuduhan Kerja Paksa Sepenuhnya Adalah Rekayasa*, *CRI Indonesian*, June 1, 2021, <http://indonesian.cri.cn/20210601/9a26ce57-d145-8f4a-acce-c7b2a22fbc8a.html&prev=search&pto=aue>.

⁸ “US Issues Withhold Release Orders to Chinese Companies Under the Pretext of ‘Forced Labor’,” *AS Keluarkan Withhold Release Order Kepada Perusahaan Tiongkok Dengan Dalih ‘Kerja Paksa’*, *CRI Indonesian*, May 30, 2021, <http://indonesian.cri.cn/20210530/2537d8b0-47ea-4138-6e1a-4b7262d5dd13.html>.

⁹ *C188 - Work in Fishing Convention, 2007 (No. 188)*, International Labour Organization, (2007), ILO, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C188.

¹⁰ *C029 - Forced Labour Convention, 1930 (No. 29)*, International Labour Organization, (1930), ILO, https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C029.

¹¹ *C105 - Abolition of Forced Labour Convention, 1957 (No. 105)*, International Labour Organization, (1957), ILO, https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C105.

¹² “Intersessional Work on Improving Labour Standards for Crew on Fishing Vessels (2021),” Western & Central Pacific Fisheries Commission, Aug. 1, 2021, https://www.wcpfc.int/labour_standards.

¹³ *Act of the Republic of Indonesia Number 13 Year 2003 Concerning Manpower*, State Gazette of the Republic of Indonesia, (2003), ILO-NATLEX,
<https://www.ilo.org/dyn/travail/docs/760/Indonesian+Labour+Law+-+Act+13+of+2003.pdf>.

¹⁴ Including laws, policies, regulations, and proposed regulations that prohibit the alleged activity within the PRC territorial waters and EEZ.

¹⁵ *Notice of the Ministry of Agriculture, the Ministry of Foreign Affairs, the Ministry of Public Security, and the Ministry of Human Resources and Social Security on Continuing the Zhoushan, Zhejiang Pilot Work of Introducing Foreign Crews in the Ocean Fishing Industry* [农业部 外交部 公安部 人力资源社会 保障部 关于继续在舟山市开展远洋捕捞行业 引进外籍船员试点工作的通知], (Dec. 4, 2017), PRC Ministry of Agriculture, http://www.moa.gov.cn/nybgb/2014/derq/201712/t20171219_6104794.htm.

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