

Reconstruction of the Recruitment And Placement Mechanism for Indonesian Ship Crews in the Development of Maritime Services Based on Fair Legal Certainty

Guntur Fitrah Phahensa^{1*}, Dhaniswara K. Harjono², Aarce Tehupeiory³, Dian Puji Simatupang⁴

^{1,2,3,4} Faculty of Law, Universitas Kristen Indonesia, Indonesia

Email: gunturfitrah.learning@gmail.com¹, aartje.tehupeiory@uki.ac.id³, dhaniswara.harjono@uki.ac.id⁴

Abstract

The maritime services industry is a strategic sector that plays a vital role in supporting national economic growth, international trade, and the development of Indonesia's maritime connectivity as an archipelagic nation. The demand for competent and professional Indonesian seafarers continues to rise alongside the growth of the shipping, fisheries, offshore oil and gas, and other maritime services industries. However, in practice, the mechanisms for recruiting and placing seafarers still face various challenges. This study employs a normative research design. Data were collected from libraries and the internet by downloading e-books and articles. To supplement the secondary data, this study conducted interviews with informants (government officials, legal experts, maritime industry practitioners, and crew agency operators). The analysis method used is descriptive qualitative analysis. The results of the study reveal fundamental weaknesses in Indonesia's seafarer recruitment and placement system, including regulatory fragmentation, overlapping authority among agencies, bureaucratic complexity, weak coordination of oversight, and unclear regulations regarding direct recruitment by foreign shipping companies. These conditions create legal uncertainty, reduce the effectiveness of seafarer protection, and hinder the development of the national maritime services industry. This study concludes that a restructuring of the crew recruitment and placement mechanisms is necessary to integrate the functions of protection, oversight, and maritime development through strengthening the position of maritime service companies, harmonizing regulations, clarifying the authorities of relevant agencies, and establishing clear regulations regarding direct recruitment based on the principles of fair legal certainty and the values of Pancasila.

Keywords: Recruitment, Crew Placement, Business Development, Maritime Services, Legal Certainty

INTRODUCTION

As economic growth accelerates across various sectors, maritime transportation particularly seagoing vessels has become a vital component in supporting the livelihood needs of all segments of society, including primary, secondary, and tertiary needs, and must be staffed by competent personnel (Swarday et al., 2025). The human resources sector is sometimes overlooked by company leaders (Lorincová et al., 2019). This is because many companies focus solely on maximizing corporate profits without allocating funds to support the company's operational activities carried out by workers. This also applies to workers employed on ships, commonly known as the ship's crew.

Just as seafarers themselves are known as ship's crew that is, individuals who work or are employed on board a vessel by the shipowner or operator to perform duties in accordance with the positions listed in their certificates. Therefore, to foster a mutually beneficial relationship between the ship's crew, the shipowner, and the shipping company, the mechanisms for recruiting and placing Indonesian crew members must be based on legal certainty and fairness in the development of the maritime services industry. In line with this, shipping is a strategic component of economic growth and development, global trade, and international relations especially for a maritime nation like Indonesia.

Law No. 66 of 2024 on the Third Amendment to Law No. 17 of 2008 on Shipping states that shipping is an integrated system comprising waterborne transportation, port operations, safety and security, and maritime

environmental protection. This definition not only reflects domestic interests but is also closely linked to the international legal framework, particularly the law of the sea as set forth in the 1982 *United Nations Convention on the Law of the Sea (UNCLOS)*. The sea itself holds immense commercial potential for the Indonesian nation. However, this potential will be meaningless if the human resources needed to harness these maritime resources are lacking.

The provisions of Law No. 66 of 2024 on the Third Amendment to Law No. 17 of 2008 on Shipping cannot be separated from the principles set forth in *UNCLOS* 1982, given that Indonesia has ratified that convention through Law No. 17 of 1985. *UNCLOS* 1982 is an international legal instrument governing various aspects of the use of the seas, including navigation, protection of the marine environment, and the rights and obligations of coastal states and flag states. In the context of shipping, *UNCLOS* 1982 stipulates the responsibility of states to ensure that vessels flying their flags comply with standards of safety, security, and environmental protection. This Convention stipulates that every State must effectively exercise its jurisdiction and control over administrative, technical, and social matters concerning ships flying its flag. Furthermore, every State must take such measures regarding ships flying its flag as are necessary to ensure safety at sea, including those related to ship manning, working conditions, and crew training. These provisions reaffirm that *UNCLOS* 1982 places the flag State in a position of responsibility to ensure that crew members working on ships flying its flag receive legal protection, occupational safety, and humane treatment. This is in line with the provisions of Law No. 17 of 2008 on Shipping, which emphasizes the importance of protecting ship crews as part of maritime safety and security. However, the implementation of these responsibilities and obligations often faces challenges, whether in terms of oversight, law enforcement, or harmonization among applicable national laws.

In 2015, Indonesia ranked third among the world's largest suppliers of seafarers, with China and the Philippines holding the first and second positions, respectively. In 2021, based on secondary data from the *United Nations Conference on Trade and Development (UNCTAD)*'s "Data on Seafarer Supply" and the *BIMCO (Baltic and International Maritime Council)* "Seafarers Workforce Report," Indonesia still ranked third as the world's largest supplier of seafarers. This data highlights the significant potential of Indonesia's maritime human resources to compete and grow within the global transportation and logistics sector. However, considering its population size with 263 million people Indonesia should have a larger seafarer workforce than the Philippines, which has a population of only 104 million. Although the number of Indonesian seafarers is not larger than that of the Philippines, Indonesian seafarers should still receive special attention from the Indonesian government as the state administrator and the entity responsible for ensuring the welfare of every Indonesian citizen, as stated in Article 27, paragraph (2) of the Constitution of the Republic of Indonesia, which declares that every citizen has the right to work and a decent standard of living (Bayu & Anugerah, 2019).

The immense potential of the maritime sector which includes seafaring as a key element and is a top priority in the "Golden Indonesia" Vision, closely linked to the development of high-quality and prosperous human resources is reflected in the Nawacita agenda of the previous administration, which affirmed Indonesia's priority to restore its identity as a maritime nation and become the world's largest maritime nation. In line with this, in 2016, the Indonesian government enacted Law No. 15 of 2016 on the Ratification of the Maritime Labor Convention, 2006 (Setiawan & Prasetyo, 2020). The ratification of the MLC into Indonesian law means that all provisions of this convention are now in effect in Indonesia. This is stipulated in Article 1 of the *General Obligations of the MLC*, which states that every member state that ratifies this Convention undertakes to give full effect to its provisions in the manner prescribed in Article VI to ensure the rights of all seafarers to decent work. States Parties must cooperate with one another to ensure the effective implementation and enforcement of this Convention.

The *Maritime Labor Convention (MLC)* is a convention on maritime labor that was adopted at the 94th International Labor Conference on February 23, 2006, in Geneva, Switzerland (Harahap & Sembiring, 2021). The MLC is a convention that comprehensively regulates seafarers internationally (Yuda & Hafidz, 2017), emphasizing the efforts of *ILO* and *IMO* member states to provide protection for ship crews and the shipping

industry. This ratification represents the government's commitment to promoting good governance in the recruitment, placement, and protection of ship crews.

Based on the definition of ship's crew as stipulated in Government Regulation No. 70 of 2000, it can be concluded that seafarers in this context are bound by an employment relationship. According to Law No. 13 of 2003 on Manpower, an employment relationship is defined as a relationship between an employer and a worker/laborer based on an employment agreement that includes the elements of work, wages, and direction. Meanwhile, regarding labor matters, the Republic of Indonesia is a member of the International Labor Organization (ILO) (Alock, 1971), which is also one of the *specialized agencies of the United Nations* (UN). Seafarers, just like other occupations that require an employment relationship, are subject to the ILO's jurisdiction in pursuit of its objectives.

Regulations governing the recruitment and placement of Indonesian seafarers are of great importance under both national and international law. In Indonesia, Law No. 17 of 2008 on Shipping and Law No. 18 of 2017 on the Protection of Migrant Workers provide the legal framework governing the rights and obligations of seafarers. In addition, ILO Convention No. 188 of 2007 concerning Work in the Fishing Sector also serves as an important reference for the protection of seafarers on foreign vessels, particularly fishing vessels (ILO, 2007). The recruitment and placement of ship crew members are governed by various laws and regulations, including Government Regulation No. 7 of 2000 and Minister of Transportation Regulation No. 59 of 2021. The background to the issuance of the Government Regulation on Maritime Affairs can be found in the general explanation of Government Regulation No. 7 of 2000, namely that the training and development of maritime human resources are intended to produce professional seafarers that is, competent and skilled individuals of good character who are self-reliant and capable of meeting the needs of national or international shipping whose training must take into account technical maritime aspects, labor issues, and general education in accordance with applicable laws and regulations. Meanwhile, Minister of Transportation Regulation of the Republic of Indonesia No. 59 of 2021 concerning the Operation of Services Related to Water Transportation, as stipulated in Articles 94, 100, 101, 103, 104, 105, 112, 113, and 114, sets forth provisions regarding the obligations and responsibilities of crew agency companies as parties authorized by shipowners in ensuring the welfare and protection of the crew.

Furthermore, *Regulation 1.4 of the MLC* sets forth provisions for the recruitment and placement of seafarers, which can be carried out through several models—ranging from *Public Employment Services and Private Recruitment and Placement Services* to *Direct Recruitment* (ILO, 2006). However, this *Direct Recruitment* or *Direct Hiring* model is viewed as potentially causing several problems, including:

1. For seafarer recruitment agencies: business sustainability is threatened, as seafarers are recruited directly by shipowners abroad. Government revenue from taxes and non-tax sources will inevitably decrease as a result (International Chamber of Shipping, 2021).
2. For supplier countries: they lack a database and are unable to optimally carry out *compliance, monitoring, and enforcement* functions under ratified international agreements. And because there is no annual verification mechanism—which is typically conducted for seafarer agency businesses—the Indonesian government cannot ensure that crew requirements (seafarer certificates, health status, insurance details, and shipping company liability) are met (Indonesia Ocean Justice Initiative, 2024).
3. For seafarers: they lack legal protection, face difficulties in accessing consular services, and their welfare cannot be verified by the Government of Indonesia due to the absence of monitoring mechanisms (The Jakarta Post, 2020).

The implementation of regulations regarding the recruitment and placement of ship crew members (ABK) often falls short due to a lack of oversight and coordination among relevant agencies. This results in weak legal protection for ship crew members, particularly those working on foreign-flagged vessels. Furthermore, numerous cases of violations of seafarers' rights indicate legal uncertainty and inadequate protection (Fitria & Rahmawati, 2023). From a sociological perspective, the long history of Indonesia's fishing industry shows that many seafarers face inhumane working conditions. Illegal and non-transparent recruitment practices often result in exploitation, such as unpaid wages and poor working conditions (Aditya & Sari, 2019).

Furthermore, the increasing number of unregistered crew recruitment agencies has made it difficult to monitor and provide legal protection for seafarers (Basuki & Lestari, 2020). From a social and economic perspective, illegal and non-transparent recruitment practices, unclear employment status, and weak legal protections often leave Indonesian seafarers in a position of weak bargaining power, both domestically and abroad. In many cases, seafarers who encounter problems abroad have difficulty obtaining legal assistance or repatriation because they are not officially registered in the government system. This has significant economic repercussions, not only for the seafarers themselves but also for their families and communities in their home regions.

Meanwhile, in today's globalized era, competition in the maritime services sector is becoming increasingly intense, making it crucial for Indonesia to have regulations that not only comply with international standards but also effectively protect workers' rights. Several studies on issues related to the protection of seafarers and the implementation of international conventions—such as analyses of the implementation of the *Maritime Labor Convention (MLC) 2006* and *ILO Convention No. 188 of 2007*—generally limit themselves to analyzing the alignment of national regulations with international instruments through a purely normative-legal approach, without empirically examining actual cases of violations in the field that reflect the gap between “*das sollen*” and “*das sein*”; furthermore, these studies have not conducted comparative analyses of implementation mechanisms among *MLC contracting parties* to identify more effective and adaptive governance models, nor have they addressed crucial dimensions such as information system integration, institutional harmonization, and oversight of *direct recruitment* practices which are, in fact, the root cause of Indonesian seafarers' structural vulnerabilities. Thus, this study aims to fill this gap by offering a comprehensive reconstruction of the mechanisms for the recruitment and placement of seafarers that is grounded not only in normative compliance but also in the establishment of equitable legal certainty.

Furthermore, although there are numerous national laws and regulations governing the welfare and protection of ship crews, the government still faces various challenges regarding seafarers' welfare, particularly concerning the governance of recruitment and placement. The implementation of shipowners' responsibilities and obligations toward their crews often faces challenges, whether in terms of oversight, law enforcement, or harmonization with applicable national laws. The significant potential in the area of seafarer human resources has not yet been fully supported by comprehensive protection mechanisms. Consequently, various issues concerning seafarers frequently arise and are highlighted in the national media.

Various issues and cases involving Indonesian crew members, based on data on crew-related issues from the Ministry of Transportation, include the following: In 2019, five Indonesian crew members aboard the Curacao-flagged vessels *Miss Gaunt* and *Northwind*, owned by Nordav BV, were found to have been abandoned in India because they were denied the right to return home and did not receive wages in accordance with their maritime employment agreements. These crew members were dispatched through PT. Moersindo Anugrah Sukses, which did not hold a government license as a seafarer agency (Antara News, 2019). In another case at the end of 2023, it was discovered that 11 Indonesian seafarers working aboard the Sierra Leone-flagged MV *Grand Sunny* had not received wages for 3 months, were provided with inadequate food and drink supplies, and were denied the right to return home. The vessel was declared an *abandoned vessel* (Info Publik, 2023). During the same year, the Ministry of Foreign Affairs, through the Indonesian Embassy in Seoul, received a report that 12 (twelve) Indonesian seafarers were being neglected aboard the MV *Haitong*. They complained about unpaid wages, a lack of food and drink supplies, and a shortage of fuel on the ship. The vessel was declared an *abandoned vessel*. The 12 (twelve) crew members had boarded the vessel without going through a crew agency licensed by the government (IDN Times, 2024). Furthermore, in February 2024, there was a case involving PT. Hanza Tirta Segara, which lacked the necessary licensing as a crew agency; the company had failed to pay the wages and premiums of crew members working aboard the MT. *Ozu* for 3 (three) months, totaling Rp. 262,113,000. A similar case occurred in April 2024, where it was discovered that PT. Aldebaran Samudera Jaya which was established and has been operating since 2021 had dispatched crew members without valid employment contracts and lacked a license as a crew agency.

The various cases mentioned above, along with fundamental issues regarding seafarers' welfare in Indonesia, must certainly be addressed seriously. Progressive and sustainable measures need to be implemented to resolve these issues and address potential future challenges. Overlapping licensing requirements for crew recruitment and placement businesses in Indonesia often hinder the efficiency and effectiveness of oversight. Furthermore, the lack of a single, integrated source of information regarding the number, qualifications, and capacity of Indonesian seafarers poses a barrier to data-driven planning and policymaking. Additionally, there are inconsistencies in seafarer protection mechanisms whether before, during, or after working aboard a vessel. This is exacerbated by the absence of effective, efficient, and collaborative procedures for handling seafarer issues among ministries or state agencies, which leads to legal uncertainty and injustice. Therefore, a revision and refinement of regulations are needed to better align with the needs of the shipping industry and provide legal certainty for seafarers.

The focus of this study is to explore the role of Crew Agency Service Providers as one of the oversight elements in the recruitment and placement of Indonesian seafarers on ships sailing abroad. This necessitates the existence and optimization of the role of Crew Agency Service Providers to serve as part of the solution to the challenges and issues outlined above, as referenced in the findings of the "Study on the Implementation of the Maritime Labor Convention (MLC), 2006 in ASEAN Countries: Key Findings." According to the "Focus on MLC Regulation 1.4: Recruitment and Placement" report dated January 19, 2024, the countries that explicitly reject the "Direct Recruitment" model are the Philippines, Malaysia, and Thailand. However, in Indonesia, there are currently no regulations or laws that explicitly prohibit the practice of direct recruitment of seafarers by foreign shipowners. The increasing prevalence of *direct hiring* by shipowners abroad has also contributed to weak oversight of seafarer documentation. This can lead to government failure in carrying out *compliance, monitoring, and enforcement* functions, which ultimately weakens seafarers' position when facing legal and administrative issues in other countries.

The phenomenon of an increasing number of seafarer recruitment agencies is also a focus of this study, as many of these companies operate without official permits, resulting in weak oversight and accountability in the recruitment process. The Indonesian government has indeed demonstrated a commitment to enhancing professionalism in this sector through stricter regulations; however, implementation on the ground still requires further attention. Therefore, this study aims to explore how regulations can be strengthened to ensure that only companies meeting the standards are permitted to operate.

The immense potential of Indonesia's maritime sector, coupled with the complex challenges in the maritime labor sector, has motivated the author to examine, analyze, and identify models and mechanisms for the recruitment and placement of Indonesian crew members that uphold the principles of fair legal certainty as stipulated in Article 28D(1) of the Constitution of 1945, which states, "Every person has the right to recognition, guarantees, protection, and fair legal certainty, as well as equal treatment before the law," and to contribute positively to the development of the maritime services industry in Indonesia.

This study is important because it highlights *the gap* between "das sollen" and "das sein" due to *the discrepancy* between existing legal regulations and on-the-ground practices. On the one hand, regulations regarding the recruitment and placement of ship crew members, as set forth in various laws and regulations, are certainly intended to create legal certainty. However, in practice, non-compliance with these regulations is often observed, leading to issues regarding the " " of seafarers. In other words, although Indonesia has ratified *the Maritime Labor Convention (MLC)*, legal uncertainty and inconsistencies in implementation procedures still persist within the seafarer protection mechanism. Therefore, the author will examine the integration of information systems and institutional bureaucracy to bridge *the gap* between "das sollen" and "das sein" regarding the recruitment and placement of seafarers, with the aim of establishing a seafarer protection mechanism that is both legally certain and equitable.

Strengthening regulations and harmonizing laws and regulations have become an urgent necessity. Indonesia already possesses various legal instruments both national and international that govern seafarer protection; however, overlaps and inconsistencies in implementation have weakened the effectiveness of such protections. Efforts to restructure the regulations governing the recruitment and placement of seafarers must be directed

toward creating mechanisms that are more integrated, transparent, and accountable, ensuring that only seafarer recruitment agencies that meet the standards are permitted to operate. Additionally, there must be a clear prohibition on *direct recruitment* practices, the strengthening of seafarer information systems and databases, and the enhancement of oversight and law enforcement capabilities.

Optimizing the role of crew agency service providers that have obtained official government licenses is crucial in addressing these challenges. The presence of professional and verified crew agencies can serve as intermediaries in overseeing the recruitment and placement of seafarers, ensuring compliance with national and international standards while providing legal protection and welfare for Indonesian seafarers. In the long term, reforming the governance of seafarer recruitment and placement will not only enhance the competitiveness of Indonesia's maritime services industry in the global market but also strengthen Indonesia's position as a sovereign, just, and prosperous maritime nation. Thus, this study is highly relevant for identifying weaknesses in the current legal system and offering fairer and more effective solutions to achieve sustainable protection and welfare for Indonesian seafarers. By reconstructing the regulations governing the recruitment and placement of seafarers, this study can help Indonesia enhance its competitiveness in the global market while upholding the principles of justice. This study aims to analyze and reconstruct these regulations to better align them with the realities of the maritime services industry. By analyzing the differences between *das sollen* and *das sein*, this study can provide new insights into how the law should function for the maritime industry. This is crucial for identifying weaknesses in the current legal system and proposing fairer and more effective solutions. Thus, the results of this study are expected to provide solutions for improving the mechanisms for recruiting and placing ship crews, with the goal of supporting seafarers' welfare and the development of the maritime services industry.

RESEARCH METHOD

The type of research used in this study is normative research. Normative research is a legal research activity that involves a review of literature and secondary legal sources (Tahir et al., 2023). The approaches used in this study include *the statutory approach*, case studies, and *the comparative approach* (ASEAN countries, MLC contracting parties) to address the first, second, and third research questions. The data collection technique used in this study is *library research*, which involves obtaining and sorting data from library literature, legislation, magazines, newspapers, articles, and other sources, then grouping them according to topics relevant to the research.

Data were collected from libraries and the internet by downloading e-books and articles. The data collection method used in this study involves a document review, which entails searching legal references such as books, magazines, and other scholarly works, as well as reviewing laws and regulations particularly archives and including books on opinions, theories, principles, or legal provisions related to the issues under investigation. To supplement the secondary data, this study utilized interviews with informants (government officials, legal experts, maritime industry practitioners, and ship crew agency operators). The research will be conducted at several locations, namely:

1. The Directorate of Shipping and Maritime Affairs of the Ministry of Transportation, located at Jl. Medan Merdeka Barat No. 8, RT.2/RW.3, Gambir, Gambir Subdistrict, Central Jakarta City, Special Capital Region of Jakarta 10110
2. The Jakarta Regional Industrial Relations Court, located at Jl. Bungur Besar Raya, RT.2/RW.1, Gn. Sahari Sel., Kemayoran Subdistrict, Central Jakarta City, Special Capital Region of Jakarta 10610
3. Ship Crew Agency Businesses in the Jakarta and Bali Regions

The research was conducted from October 2025 to May 2026. The analytical method used was a qualitative descriptive analysis, which described the conditions of the research subjects and analyzed them in light of various laws, theories, and expert opinions, with the aim of finding answers to the issues to be discussed further. Drawing on various legal sources, the author sought to understand the meaning and intent of legal principles and how the law is applied in practice. The data were analyzed with consideration of principles of

justice and other relevant factors; the author then sought to determine whether these legal norms align with the intended legal objectives.

RESULTS AND DISCUSSION

National Regulatory Framework Regarding the Recruitment and Placement of Ship Crew Members

The national regulatory framework governing the recruitment and placement of seafarers in Indonesia is established through various interrelated legal instruments, ranging from regulations in the fields of shipping, labor, and the protection of migrant workers to various technical regulations serving as implementing rules. Conceptually, recruitment is the process of searching for, attracting, and securing workers whose competencies align with the organization's needs (Rivai, 2006; Schuler, 1997; Siswanto, 2022). Hasibuan (2007) emphasizes that recruitment is a critical stage in securing high-quality human resources.

The recruitment process for ship crew cannot be separated from human resource management principles that emphasize the alignment between workforce competencies and job requirements. According to Schuler et al. (1997), the primary objective of recruitment is to provide a pool of qualified applicants so that the company has the opportunity to select the best candidates. Companies can use both internal and external recruitment methods, as noted by Mangkunegara (2011), through mechanisms such as job postings, skills inventories, employee referrals, educational institutions, government agencies, and professional staffing firms.

In addition to recruitment, crew placement is a stage that plays a crucial role in ensuring effective performance and maritime safety. Rivai (2009) defines placement as the process of assigning or reassigning employees to specific positions, while Siswanto (2002) states that placement involves assigning tasks to employees who have passed the selection process in accordance with the defined scope of work. From a human resource management perspective, the principle of "*the right man in the right job*" serves as the primary foundation for the placement process. Therefore, factors such as education, job knowledge, skills, work experience, and age must be primary considerations in determining crew positions to ensure work effectiveness and efficiency onboard.

The legal framework governing the recruitment and placement of ship crew members in Indonesia consists of various complementary regulations. Law No. 17 of 2008 on Shipping, as *lex specialis*, regulates the status of ship crew members, the obligation to meet competency and certification requirements, and the responsibility of shipping companies to provide legal protection to ship crew members. These provisions indicate that the recruitment of crew members is not merely an employment relationship but also part of the state's efforts to ensure maritime safety and compliance with maritime standards.

Furthermore, Law No. 13 of 2003 on Manpower, as amended by Law No. 6 of 2023 on Job Creation, serves as the *lex generalis* governing the employment relationship of ship crew members, including the form of employment contracts, occupational safety and health protections, and workers' statutory rights. Regulatory changes through the *omnibus law* approach provide greater flexibility for companies in managing employment relationships yet still require adequate protection of seafarers' rights to prevent practices that harm workers. For seafarers working on foreign-flagged vessels, legal protection is strengthened through Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers, which recognizes seafarers as migrant workers and guarantees protection from pre-placement through post-placement. The implementation of these various provisions is further supported by a number of implementing regulations, including Government Regulation No. 7 of 2000 on Seafaring, Government Regulation No. 22 of 2022 on the Placement and Protection of Migrant Ship Crew Members, as well as various other technical regulations whose implementation involves the Ministry of Transportation, the Ministry of Manpower, BP2MI, KSOP, and the Port Captain.

International Regulatory Framework Regarding the Recruitment and Placement of Ship Crew Members

The international regulatory framework regarding the recruitment and placement of ship crews is established through various legal instruments developed by the International Labor Organization (ILO) and the International Maritime Organization (IMO). These regulations were established in response to the global nature of the shipping industry, where seafarers often work on vessels flying the flag of a country other than

their country of origin. This situation gives rise to various risks, such as labor exploitation, the collection of illegal recruitment fees, employment contract fraud, and inadequate protection of seafarers' rights. Therefore, the Maritime Labor Convention, 2006 (MLC 2006), the STCW Convention, 1978, and the labor protection principles developed by the ILO serve as the primary instruments in establishing international standards that govern the fair, safe, and responsible recruitment and placement of seafarers.

The MLC 2006 is the most comprehensive international instrument governing the protection of seafarers, including aspects of recruitment and placement. This Convention, which entered into force on August 20, 2013, was designed as the fourth pillar of international maritime law following SOLAS, MARPOL, and the STCW Convention. Provisions regarding the recruitment and placement of seafarers are specifically set forth in Regulation 1.4, Standard A1.4, and Guideline B1.4 of the MLC 2006. Regulation 1.4 stipulates that every seafarer must have access to an efficient, adequate, and accountable recruitment and placement system. Furthermore, Standard A1.4, paragraph 1, of the MLC 2006 requires member states to provide seafarers with adequate protection against the risk of recruitment and placement agencies failing to fulfill their contractual obligations. This provision indicates that states cannot leave the protection of seafarers entirely to market mechanisms but must ensure it through effective regulatory and oversight systems.

Another important aspect of the MLC 2006 is the application of the "zero-recruitment-fee" principle, which prohibits the imposition of recruitment fees on seafarers. This provision is explicitly set forth in Standard A1.4, paragraph 5(c) of the MLC 2006, which states that recruitment or placement costs must not be borne by seafarers, except for certain costs such as medical certificates, seafarers' books, passports, or other personal travel documents. In addition, recruitment agencies are required to ensure that seafarers understand the contents of the seafarers' employment agreement before signing a contract, to verify the seafarers' qualifications and documents, and to provide financial protection against potential losses resulting from the failure of the agency or shipowner to fulfill their obligations. According to the ILO, these regulations aim to create a transparent, exploitation-free recruitment process and provide legal certainty for seafarers working in the international maritime sector.

In addition to the MLC 2006, the STCW Convention 1978 plays a crucial role in establishing competency standards that form the basis for the recruitment and placement of ship's crews. As explained by the International Maritime Organization (IMO), the STCW is the first international instrument to set minimum standards for training, certification, and watchkeeping for seafarers globally. Article I of the 1978 STCW Convention stipulates that contracting states are obligated to implement all provisions of the convention and its annexes. The STCW is closely linked to the recruitment process because certificates of competency issued in accordance with STCW standards are a primary requirement for seafarers to be recruited and assigned to international merchant vessels. Furthermore, Regulation I/2 of the STCW Convention stipulates that certificates may only be issued by or under the authority of the competent national administration, while Regulation I/10 governs the mechanism for the mutual recognition of certificates among countries through an endorsement system.

The MLC 2006 and the STCW Convention are complementary. While the MLC 2006 is more oriented toward the protection of labor rights, decent working conditions, and oversight of recruitment agencies, the STCW Convention focuses on competency standards and minimum qualifications for seafarers. Thus, the recruitment and placement of ship crews in accordance with international standards must address two aspects simultaneously: the protection of workers' rights and the fulfillment of professional competency standards. According to the IMO and the ILO, the combination of these two instruments forms a comprehensive protection system, ensuring that recruited seafarers not only possess adequate technical skills but also receive fair treatment during the recruitment process and throughout their employment aboard ships.

The ILO's fundamental principles serve as the normative foundation that strengthens international regulations in the maritime sector. Through the 1998 ILO Declaration on Fundamental Principles and Rights at Work, the ILO affirms four core principles: freedom of association and the right to collective bargaining; the elimination of forced labor; the elimination of discrimination in employment and occupation; and the elimination of child labor. These principles are subsequently implemented in various provisions of the MLC

2006 and instruments for the protection of migrant workers. Furthermore, through the *General Principles for Fair Recruitment* (2016), the ILO emphasizes that recruitment costs must not be borne by job seekers, information regarding employment must be transparent, and the promised working conditions must align with the signed contract.

Legal Framework for the Shipping, Labor, and Migrant Worker Protection Sectors, Regarding the Operation of Seafarer Recruitment Agencies

The legal framework for the recruitment and placement of seafarers in Indonesia is grounded in constitutional principles that guarantee citizens' rights to employment and protection in employment relationships. Article 27, paragraph (2) of the 1945 Constitution of the Republic of Indonesia affirms that every citizen has the right to work and a livelihood that is decent and humane, while Article 28D, paragraph (2) guarantees every person's right to work and to receive fair and decent compensation and treatment in employment relationships. According to Asshiddiqie (2006), these two provisions serve as the constitutional basis for the state to establish a legal system that not only provides access to employment opportunities but also ensures legal protection for workers, including seafarers working on both national and foreign vessels. Therefore, the regulations governing the recruitment and placement of seafarers must be understood as part of the state's responsibility to ensure the protection of citizens' constitutional rights in the maritime sector.

In practice, the regulations governing the recruitment and placement of seafarers have characteristics that differ from those of the general labor sector. Martono & Sudiro (2012) explain that seafarers' employment relationships, while related to labor aspects, also involve maritime safety, international competency standards, and cross-jurisdictional legal relationships. Consequently, regulations governing ship crews have evolved at the intersection of maritime law, labor law, and laws protecting migrant workers. This situation has resulted in regulations concerning ship crews being scattered across various legal instruments involving the authority of several ministries and state agencies, necessitating harmonization to avoid overlapping jurisdictions in their implementation.

In the shipping sector, Law No. 17 of 2008 on Shipping, as amended by Law No. 66 of 2024, positions ship crews as an integral part of the maritime safety and security system. A significant change is found in the Explanatory Note to Article 337(l), which affirms that labor provisions in the shipping sector generally apply to workers other than ship crews, while for ship's crew, special regulations apply based on the Seafarers' Employment Agreement (PKL), the Commercial Code, Law No. 15 of 2016 on the Ratification of the Maritime Labor Convention 2006 (MLC 2006), and all regulations in the shipping sector. These provisions demonstrate a clear recognition of a special legal regime (*lex specialis*) for ship crew members. According to Cooter et al. (1988), the legal consequence of these regulations is that policies regarding the recruitment and placement of ship crew members including the existence of maritime service companies and direct recruitment practices must be analyzed from the perspective of maritime law and the international standards applicable to seafarers.

Nevertheless, labor aspects remain relevant within the system for protecting ship crews. Law No. 13 of 2003 on Labor, as amended by Law No. 6 of 2023, provides the legal basis for labor protection, employment relationships, and labor placement. Furthermore, for seafarers working on foreign-flagged vessels, Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers provides a legal framework for the protection of Indonesian migrant workers. However, the results of the discussion indicate that the implementation of these two laws must be interpreted in harmony with maritime law provisions and the MLC 2006, as seafarers are subject to a specific legal regime that governs their employment relationships in greater detail.

At the implementation level, Indonesia's maritime legal system is reinforced through various implementing regulations, including Government Regulation No. 7 of 2000 on Maritime Affairs, Government Regulation No. 31 of 2021 on the Administration of the Shipping Sector, and Government Regulation No. 22 of 2022 on the Placement and Protection of Migrant Seafarers. These regulations govern education, certification, ship manning, seafarers' welfare, and protection mechanisms for migrant ship crews. Collectively, these regulations

demonstrate the state's commitment to building a maritime system that ensures the availability of competent maritime personnel while providing sustainable legal protection.

From an institutional perspective, Presidential Regulation No. 173 of 2024 on the Ministry of Transportation reaffirms the role of the Directorate General of Sea Transportation as the national maritime authority responsible for administering and cooperating with international maritime organizations, including the implementation of the Maritime Labor Convention (MLC) 2006. This regulation further strengthens the legal status of shipping as the primary framework governing the recruitment and placement of ship crews in Indonesia (Martono & Sudiro, 2012).

Operationally, the recruitment and placement of seafarers are carried out through maritime service companies or *Seafarer Recruitment and Placement Services* (SRPS), which conduct administrative screening, certificate verification, competency testing, interviews, and the signing of the Seafarer Employment Agreement (PKL), as well as the seafarers' departure process. This mechanism aims to ensure that the placed seafarers meet competency and safety standards in accordance with national and international regulations, particularly those based on the *STCW Convention 1978 as Amended*, the Shipping Law, and various other maritime regulations. The types of competencies and certifications that seafarers are required to possess are listed in Table 1 below.

Table 1. Seafarer Competencies

Type of Competency	Certification Type
Position Competency	ANT, ATT
Basic Safety	BST
Vessel Security	SAT, SDSD
Firefighting	AFF
Medical Assistance	MFA, MC
Safety and Rescue	SCRB
Specialized Competencies	Based on the type of vessel

Through this certification system, the government ensures that only seafarers who meet competency standards can work on board ships. In addition, maritime service companies also bear responsibilities before, during, and after the placement period, including conducting selection, verifying documents, handling complaints, facilitating dispute resolution, and repatriating seafarers. The entire process is overseen through mechanisms for licensing oversight, competency oversight, labor relations oversight, overseas placement oversight, and oversight of the implementation of the MLC 2006, carried out by the Directorate General of Maritime Transportation as stipulated in Article 53(1) of Presidential Regulation No. 173 of 2024. Thus, the results of the discussion indicate that the legal framework for the recruitment and placement of ship crew members in Indonesia is constructed through an approach that positions seafarers as a special legal subject within the shipping regime, supported by complementary systems of labor protection and migrant worker protection to ensure legal certainty, safety, and the well-being of seafarers.

Regulatory Intervention in the Implementation of Crew Agency Services

Regulatory intervention in the implementation of seafarer agency services reveals a dynamic relationship between the development goals of the maritime sector and the legal framework governing it. From the perspective of the Theory of Development Law proposed by Mochtar Kusumaatmadja (2013), law should function as *a tool for social engineering* capable of directing social and economic activities toward national development goals. Therefore, regulations concerning the recruitment and placement of seafarers must not merely serve as administrative instruments but must also be capable of enhancing the competitiveness of Indonesian seafarers, strengthening national maritime service companies, and increasing the maritime sector's contribution to the national economy. However, the current regulatory framework reveals a mismatch between these development objectives and the regulations applied in practice. Some shipping regulations have positioned maritime service companies as part of the national shipping system and as implementers of

Seafarer Recruitment and Placement Services as stipulated in Regulation 1.4 of the Maritime Labor Convention 2006 (MLC 2006), but some labor and migrant worker regulations still adopt a different approach to the status and placement mechanisms for seafarers. According to Martono & Sudiro (2012), this difference in paradigms creates a policy dualism that impacts legal certainty and the effectiveness of governance in the maritime sector.

This regulatory inconsistency is evident in the differing approaches between the maritime legal regime and the labor law regime. Law No. 17 of 2008 on Shipping, as amended by Law No. 66 of 2024 through the Explanatory Note to Article 337(l), explicitly places seafarers under a special legal regime subject to the Maritime Labor Convention, the Commercial Code, Law No. 15 of 2016 on the Ratification of the Maritime Labor Convention, 2006, and all regulations in the field of shipping. However, in some respects, ship crew members working on foreign-flagged vessels are also classified as migrant workers under Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers. These differing legal frameworks have led to variations in placement mechanisms, oversight, and institutional controls, which ultimately create legal uncertainty for both seafarers and maritime service companies.

This policy dualism has subsequently given rise to various irregularities in the recruitment and placement of seafarers. One of the most evident forms of such irregularities is the overlapping authority among the Ministry of Transportation, the Ministry of Manpower, the BP2MI, and local governments in certain areas. According to Hadjon (2007), overlapping authority has the potential to cause duplication of licensing, differing interpretations of regulations, and ambiguity regarding supervisory authority. Furthermore, regulations scattered across various sectoral laws have led to regulatory fragmentation, which increases *compliance costs* for businesses and reduces the efficiency of seafarer placement services. These conditions indicate that the existing regulatory system does not yet fully reflect the principle of policy integration, which is a defining characteristic of development law.

Another consequence of the lack of regulatory harmonization is the rise of direct recruitment practices by some foreign shipping companies, which recruit Indonesian seafarers directly without going through national seafarer placement agencies. This phenomenon arises due to unclear jurisdictional boundaries and weak policy coordination among agencies. According to Maragtas S.V. Amante, the practice of direct recruitment has the potential to undermine oversight functions, eliminate the protective mechanisms traditionally provided by seafarer service agencies, and weaken the position of the national seafarer service industry in the global maritime labor market. Internationally, however, major seafarer-supplying countries such as the Philippines, Malaysia, and Thailand continue to maintain a recruitment system through licensed manning agencies that are subject to government oversight. This situation indicates that national regulations have not yet been fully effective in supporting the development of the maritime manning services industry as an instrument of maritime economic development.

From a justice perspective, this situation also creates an imbalance in economic benefits among the parties involved. According to John Rawls, a just legal system must be able to create a proportional distribution of benefits and opportunities for all parties. In practice, however, foreign shipping companies often hold a stronger bargaining position than national maritime service companies, placing national agencies at a disadvantage in the negotiation process. Furthermore, the growing practice of direct recruitment reduces business opportunities for national maritime service companies to participate in the international maritime labor market. Therefore, the main problem in the system of crew recruitment and placement does not lie in a lack of regulations, but rather in the lack of harmonization among existing regulations. To realize the legal objectives of development as articulated by Mochtar Kusumaatmadja (2013) and the principle of justice according to Rawls (2006), regulatory harmonization is needed across the shipping, labor, and migrant worker protection sectors to ensure legal certainty, effective oversight, and a more equitable business climate for all stakeholders in the maritime sector.

The implementation of the Maritime Labor Convention 2006 (MLC 2006) in ASEAN countries demonstrates that the success of the governance of seafarer recruitment and placement depends heavily on the consistent application of the principles set forth in Regulation 1.4 of the MLC 2006. This provision requires each State Party to ensure that seafarer recruitment and placement services are carried out through Recruitment and Placement Services that have obtained a license, certification, or other form of official authorization from the government. Additionally, Standard A1.4 of the MLC 2006 mandates that States establish an effective oversight system for seafarer recruitment and placement agencies. From Cleopatra Doumbia-Henry's perspective, these regulations aim to ensure that seafarer protection begins at the recruitment stage, not merely once the employment relationship has commenced. Therefore, the existence of licensed recruitment and placement agencies is an integral part of the seafarer protection system established by the MLC 2006.

Table 2. Comparison of the Implementation of the Seafarer Recruitment and Placement System Based on the MLC 2006

Aspect	Philippines	Malaysia	Thailand
Status of MLC 2006 Ratification	Yes	Yes	Yes
Supervisory Authority	Department of Migrant Workers (DMW)	Malaysian Marine Department	Thai Marine Department
Seafarer Recruitment System	Through licensed agencies	Through government-authorized and supervised agencies	Through government-authorized and supervised agencies
Direct Recruitment by Foreign Shipowners	Not permitted	Strictly limited and subject to oversight mechanisms	Not the primary model and controlled through a licensing system
Recruitment Agency License	Mandatory	Mandatory	Required
Periodic Audits and Oversight	Yes	Yes	Yes
Seafarer Complaint Mechanism	Available and integrated	Available	Available
Employment Contract Protection	Very strong	Strong	Strong
Agency's Responsibilities Toward Seafarers	High	High	High
The Agency's Role in Placement	Central	Central	Central
Position in the Global Seafarer Market	Very dominant	Moderate	Moderate
Contribution to the National Manning Industry	Very large	Significant	Significant

Based on Table 2, the Philippines, Malaysia, and Thailand exhibit relatively uniform implementation patterns in applying the principles of Recruitment and Placement Services. All three countries require the use of government-licensed recruitment and placement agencies and designate these agencies as the primary actors

in the seafarer placement process. The Philippines has the strictest system in place through oversight by the Department of Migrant Workers (DMW) , under which foreign shipping companies are not permitted to directly recruit Filipino seafarers without going through a licensed agency. This policy aligns with Regulation 1.4 of the MLC 2006, which emphasizes the importance of state oversight over the entire seafarer recruitment and placement process. According to Maragtas S.V. Amante, the Philippine model has successfully struck a balance between seafarer protection, legal certainty, and the development of the national manning agency industry, enabling the country to maintain its position as the world's largest supplier of seafarers.

Implementation in Malaysia and Thailand also shows a similar trend, albeit with different institutional characteristics. The Malaysian Marine Department and the Thai Marine Department serve as the authorities overseeing recruitment and placement services in accordance with MLC 2006 standards. Both countries have maintained a recruitment mechanism through licensed agencies operating under government oversight, ensuring that functions such as competency verification, monitoring of employment contracts, complaint resolution, and seafarer protection can be carried out effectively. This approach reflects the application of the principle of state responsibility as emphasized in Regulation 1.4 of the MLC 2006, namely that the state bears direct responsibility for ensuring that recruitment and placement agencies operate in accordance with international standards. According to Attard et al., the quality of the national oversight system is a key factor determining the effectiveness of the MLC 2006's implementation in protecting seafarers' rights.

A comparison of these three countries also shows that the principle prohibiting the imposition of recruitment fees on seafarers, as stipulated in Standard A1.4(5) of the MLC 2006, can be implemented more effectively when the recruitment process is conducted through government-licensed and supervised companies. Through this mechanism, oversight of employment contracts, document verification, protection of seafarers' rights, and the provision of complaint mechanisms can be carried out in an integrated manner. Additionally, recruitment and placement agencies are responsible for ensuring that seafarers meet competency requirements, hold STCW Convention certifications, and comply with occupational health and safety regulations before being assigned to a vessel. According to McConnell et al. (2011), the existence of accountable recruitment agencies is a crucial tool for preventing labor exploitation and strengthening legal protections for seafarers working in the international shipping sector.

Issues in the Recruitment and Placement of Indonesian Ship Crews

The challenges in the recruitment and placement of ship crews in Indonesia essentially point to structural issues within the regulatory and institutional framework governing the maritime sector. The existence of various agencies with authority over seafarers namely the Ministry of Transportation through the Directorate General of Sea Transportation, the Ministry of Manpower, BP2MI, local governments, and government representatives abroad is, on the one hand, intended to strengthen seafarers' protections. However, on the other hand, this situation actually leads to overlapping jurisdictions, resulting in unclear authority, duplicated procedures, and bureaucratic complexity. From the perspective of Gustav Radbruch (Anisyaniawati & Alyanti Chandra, 2024), legal certainty can only be achieved if there is clarity regarding legal norms and the division of authority among institutions. Therefore, the large number of institutions involved without integrated coordination has the potential to create legal uncertainty for seafarers and maritime service companies alike. This issue has become increasingly apparent following the enactment of Law No. 66 of 2024. The Explanatory Note to Article 337(l) emphasizes that ship's crew members constitute a specialized profession subject to maritime regulations, the Seafarers' Employment Agreement, and the Maritime Labor Convention, 2006 (MLC 2006). However, in practice, other regulations still classify ship's crew members as part of the migrant worker regime. This discrepancy in approach creates uncertainty regarding which institution has the authority to oversee the placement of seafarers abroad, handle seafarers' complaints, provide guidance to maritime service companies, and fulfill the state's obligations under Regulation 1.4 of the MLC 2006 concerning Seafarer Recruitment and Placement Services. Such conflicts of authority can reduce the effectiveness of public services and potentially create uncertainty in the implementation of the law.

Concrete manifestations of this regulatory disharmony may include differing definitions of seafarers, differing approaches to protection, differing oversight mechanisms, differing administrative procedures, and differing policy orientations across regulatory sectors.

Table 3. Disharmony Among Regulatory Sectors

Forms of Disharmony	Impact
Differences in the definition of ship's crew	Leads to multiple interpretations
Differences in protection approaches	Leads to uncertainty in implementation
Differences in oversight mechanisms	Lead to overlapping authority
Differences in administrative procedures	Increase the bureaucratic burden
Differences in policy orientation	Hinder the development of maritime service businesses

The table shows that the issues faced are not only related to the substance of the regulations but also involve policy inconsistencies across legal regimes governing shipping, labor, migrant workers, government administration, and social protection. According to Peter Mahmud Marzuki (2019), regulatory disharmony is one of the factors leading to multiple interpretations of the law and inconsistencies in policy implementation. As a result, the goals of protecting seafarers and developing the maritime services industry often run counter to one another.

From the perspective of Development Law, this situation indicates that the law has not yet fully functioned as a means of development, as argued by Mochtar Kusumaatmadja. Regulations that are supposed to provide certainty and encourage industrial growth have instead created an additional administrative burden for maritime service companies. The phenomenon of multiple permits, reporting obligations to various agencies, and the complexity of placement procedures lead to increased compliance costs and reduced business efficiency. This situation contrasts with countries such as the Philippines, Malaysia, and Thailand, which implement a system for the recruitment and placement of seafarers through licensed maritime manpower agencies () with a more integrated oversight structure. Consequently, the competitiveness of Indonesian maritime service companies in the international maritime labor market is relatively lower compared to those of these competing nations.

Bureaucratic barriers and high compliance costs also impact the development of the national maritime services industry. As noted by Stopford (2011), regulatory efficiency is a key factor in enhancing the competitiveness of the maritime industry. When companies must allocate significant costs to meet administrative obligations and face regulatory uncertainty, their ability to expand international networks, improve service quality, and make investments becomes increasingly limited. In the long term, these conditions have the potential to reduce job opportunities for Indonesian seafarers and lower the maritime sector's contribution to the country's foreign exchange earnings.

Another growing issue is the emergence of direct recruitment practices by foreign shipping companies. This phenomenon has developed alongside the digitization of the shipping industry, which allows shipping companies to recruit seafarers directly through digital platforms without going through licensed maritime service agencies. Although this mechanism offers cost efficiency and speeds up the recruitment process, the practice raises legal concerns because Indonesia's legal system has not yet established clear regulations regarding the status and oversight mechanisms for such arrangements. Unlike the Philippines, Malaysia, and Thailand—which continue to prioritize Recruitment and Placement Services as a key component of implementing Regulation 1.4 of the MLC 2006—Indonesia still faces a legal gray area that could create uncertainty regarding the responsibility for protecting seafarers recruited directly.

From a legal protection perspective, direct recruitment has the potential to undermine the protective functions traditionally carried out by maritime service companies, such as verifying employment contracts, validating certificates, monitoring employment relationships, assisting with dispute resolution, and providing repatriation assistance. Yet Standard A1.4 of the MLC 2006 explicitly states that states must ensure the

availability of a recruitment and placement system under the supervision of the competent authority. Therefore, a diminished role for recruitment and placement agencies could increase seafarers' vulnerability to contract violations, delayed wage payments, workplace accidents, and abandonment abroad.

Fundamental Weaknesses of the Indonesian Seafarer Recruitment and Placement System from the Perspective of Fair Legal Certainty

The Indonesian seafarer recruitment and placement system was fundamentally designed to ensure a balance between seafarer protection, business certainty for maritime service companies, and the effectiveness of state oversight. However, research findings indicate that these objectives have not been fully achieved due to various fundamental weaknesses in normative, institutional, and implementation aspects. These issues are evident in the fragmentation of regulations scattered across various legal frameworks, ranging from maritime law, labor law, and migrant worker protection law to various implementing regulations governing maritime affairs. This situation creates uncertainty regarding the mechanisms for seafarer placement, the legal status of ship crews, and the division of authority among the agencies involved. Consequently, a system that should provide legal certainty has instead created room for differing interpretations and has the potential to undermine the effectiveness of legal protections for seafarers as well as business certainty for maritime service companies.

When analyzed in light of the values of Pancasila as a legal ideal (*rechtsidee*), these shortcomings indicate that the implementation of the system for recruiting and placing ship crew members has not yet fully reflected the values of humanity and social justice as embodied in the second and fifth principles of Pancasila. As affirmed in Article 2 of Law No. 12 of 2011 on the Formation of Legislation, Pancasila is the source of all sources of state law; therefore, every legal policy must be directed toward the protection of human dignity and the common good. In practice, various issues still persist, such as inadequate protection for seafarers working on foreign vessels, difficulties in accessing dispute resolution mechanisms, and unclear responsibilities among the agencies authorized to provide protection. These conditions indicate that the existing system has not yet been fully capable of realizing fair and humane protection for seafarers as the primary subjects in international maritime labor relations.

From the perspective of legal certainty (*rechtssicherheit*), the most fundamental weakness lies in the overlapping jurisdictions among agencies involved in the management of Indonesian seafarers. The involvement of the Ministry of Transportation through the Directorate General of Maritime Transportation, the Ministry of Manpower, BP2MI, local governments, and Indonesian diplomatic missions abroad is fundamentally intended to strengthen seafarer protection. However, as noted by Gustav Radbruch (Anisyaniawati & Alyanti Chandra, 2024), legal certainty requires clarity in legal norms and clarity regarding the authorities responsible for enforcing them. When authority is dispersed without clear coordination, various problems arise, including multi-layered bureaucracy, duplicative oversight, policy discrepancies, and procedural uncertainty. This situation not only increases compliance costs for maritime service companies but also causes confusion for seafarers in determining which agency to contact in the event of rights violations, employment contract disputes, or other protection-related issues.

In addition to institutional issues, this study also identified a regulatory gap regarding the practice of *direct recruitment* by foreign shipping companies of Indonesian seafarers. Unlike the Philippines, Malaysia, and Thailand which consistently implement a system of licensed *Recruitment and Placement Services* in accordance with Regulation 1.4 of the Maritime Labor Convention, 2006 (MLC 2006) Indonesia does not yet have regulations that explicitly prohibit or permit such practices. Consequently, a legal *gray area* has emerged that has the potential to create legal uncertainty for all parties involved. This ambiguity not only impacts the sustainability of the national seafarer services industry but also has the potential to reduce the effectiveness of state oversight over the employment relationships of seafarers working on foreign-flagged vessels. In fact, Regulation 1.4 of the MLC 2006 explicitly emphasizes the importance of a seafarer recruitment and placement system that is under state oversight through institutions that hold licenses, certifications, or other forms of official authorization.

Furthermore, when analyzed using Rawls' Theory of Justice (2006), the current system does not yet fully provide proportional protection to parties with differing bargaining positions. Seafarers, as a party that is structurally weaker than international shipping companies, require greater protection through mechanisms for verifying employment contracts, monitoring the implementation of employment relationships, assistance in dispute resolution, and adequate social protection. The growing practice of *direct recruitment* without clear oversight mechanisms has the potential to erode the layers of protection that have long been provided by licensed seafarer service companies. At the same time, maritime service companies that have fulfilled various regulatory obligations and seafarer protection standards also face the risk of reduced business opportunities due to competition that is not subject to an equivalent oversight framework. Thus, the principle of fairness is not only related to seafarers' freedom to obtain employment but also to the creation of a balance of rights, obligations, and protections for all stakeholders.

Based on the Theory of Development Law proposed by Mochtar Kusumaatmadja (2013), the law should function as a tool for development capable of supporting the growth of the national maritime sector while ensuring protection for the public. Maritime service companies cannot be viewed merely as business entities that connect seafarers with shipowners, but also as instruments of development that carry out the functions of verifying competencies, overseeing labor relations, developing maritime human resources, protecting seafarers, and providing maritime data to the state. Therefore, the fundamental weakness of Indonesia's crew recruitment and placement system actually lies in the failure to integrate the functions of protection, oversight, and development into a single, comprehensive legal system. The necessary legal reform involves not merely streamlining bureaucracy or adjusting administrative procedures, but establishing a system that provides legal certainty regarding authority, clarifies the status of *direct recruitment*, strengthens the implementation of Regulation 1.4 of the MLC 2006, and strikes a balance between the protection of seafarers, the interests of the maritime services industry, and national maritime development objectives based on the values of Pancasila and the principle of substantive justice.

CONCLUSION

Based on the results of a study on the mechanisms for the recruitment and placement of Indonesian seafarers, there remain various fundamental weaknesses, including regulatory fragmentation, overlapping authority among agencies, unclear regulations regarding *direct recruitment* by foreign shipping companies, and the failure to integrate the functions of seafarer protection, state oversight, and the development of maritime service industries into a single, comprehensive legal system. These conditions have prevented the realization of fair legal certainty for seafarers, maritime service companies, and the state, and have the potential to undermine the implementation of seafarer protection as mandated by Regulation 1.4 of the *Maritime Labor Convention* (MLC) 2006. Furthermore, it has been revealed that maritime service companies play a strategic role that extends beyond merely acting as intermediaries for the placement of maritime workers; they also serve as instruments of the state in verifying seafarers' competencies, overseeing labor relations, protecting seafarers' rights, developing maritime human resources, and strengthening the national maritime industry. These findings underscore the importance of restructuring the mechanisms for the recruitment and placement of ship crews based on the values of Pancasila, the principle of legal certainty, and substantive justice through regulatory harmonization, clarification of the division of authority among agencies, clear regulations regarding the status and limitations of *direct recruitment* and strengthening the role of maritime service companies within the national maritime system. Therefore, an integrated legal policy aligned with the MLC 2006 standards is needed to ensure optimal protection for seafarers, enhance the competitiveness of the national maritime services industry, strengthen the state's supervisory functions, and support the realization of sustainable, equitable, and community-welfare-oriented maritime development in Indonesia.

REFERENCES

1. Aditya, R., & Sari, P. (2019). *Strategies for Enhancing the Competence of Ship Crews in Facing Global Competition: A Review from the Perspective of Maritime Education in Indonesia*. Journal of Maritime Education, 8(3).
2. Alcock, Anthony. (1971). *History of the International Labour Organization*, London: Macmillan.

3. Anisyanawati, A., & Alyanti Chandra, H. (2024). The Concepts of Law and Justice in the Thought of Gustav Radbruch. *Praxis: Journal of Applied Philosophy*, 2(01).
4. Antara News. (2019). *Government Seeks to Repatriate Stranded Seafarers in India and the Netherlands*. Retrieved from <https://www.antaranews.com/berita/792858/pemerintah-upayakan-repatrisasi-abk-yang-terlantar-di-india-belanda>, Accessed on May 30, 2024
5. Asshiddiqie, J. (2006). Introduction to Constitutional Law.
6. Basuki, A., & Lestari, R. (2020). The Impact of Recruitment Policies on the Quality of Seafarers in Indonesia: An Analysis from a Human Resource Management Perspective. *Journal of Human Resource Management*, 7(2), (2020), pp. 120–135
7. Bayu, S., & Anugerah, T. H. (2019). *Fish Stock Conservation: Indonesian Policy and Foreign Intervention in Indonesian Waters. Monograph on State Policy in the Field of Marine Affairs & Fisheries in the Era of Regional Autonomy*, Lampung: Aura Publishing.
8. Cooter, R., Ulen, T., & Ulen, T. (1988). *Law and economics*.
9. World Bank data. (2024). Total population. <https://data.worldbank.org/indicator/SP.POP.TOTL>. Accessed February 24, 2024.
10. Fitria, N., & Rahmawati, D. (2023). *Legal Protection for Seafarers in an International Context: A Case Study of the ILO Convention on Maritime Labor*. *Journal of International Law*, 12(1).
11. Hadjon, P. M. (2007). *Legal Protection for the People of Indonesia: Special Edition*. Yogyakarta: Peadaban.
12. Harahap, F., & Sembiring, R.S. (2021). *Analysis of Ship Crew Recruitment Policies in Indonesia: Challenges and Solutions*. *Journal of Public Policy*, 12(2), pp. 123–140.
13. Hasibuan, M. S. (2007). *Human Resource Management*. PT. Bumi Aksara, Jakarta.
14. IDN Times. (2024). *There Are 4 New Cases of Abandonment of Indonesian Seafarers in Foreign Countries*. Retrieved from <https://www.idntimes.com/business/economy/vadhia-lidyana-1/ada-4-kasus-baru-penelantaran-abk-di-negeri-asing>
15. Info Publik. (2023). *Abandonment of Indonesian Seafarers on Foreign-Flagged Vessels*. Retrieved from <https://www.infopublik.id/kategori/nasional-sosial-budaya/897086/index.html>, Accessed on May 30, 2024
16. International Chamber of Shipping. (2021). *Manning Agency Guidelines (Version 1.0)*. International Maritime Organization. [https://www.wcdn.imo.org/localresources/en/OurWork/HumanElement/Documents/Manning-Agency-Guidelines%20\(1\).pdf](https://www.wcdn.imo.org/localresources/en/OurWork/HumanElement/Documents/Manning-Agency-Guidelines%20(1).pdf)
17. International Labour Organization (ILO). (2007). *ILO Work in Fishing Convention, 2007 (No. 188)*. Geneva: ILO
18. International Labour Organization (ILO). (2006). *Regulation 1.4: Recruitment and Placement, Maritime Labour Convention (MLC) 2006*. Geneva: ILO
19. Indonesia Ocean Justice Initiative. (December 3, 2024). *Constitutional Court: Migrant seafarers are Indonesian migrant workers* [Press release]. <https://oceanjusticeinitiative.org/press-release-constitutional-court-migrant-seafarers-are-indonesian-migrant-workers/>
20. Lorincová, S., Štarchoň, P., Weberová, D., Hitka, M., & Lipoldová, M. (2019). Employee motivation as a tool to achieve sustainability of business processes. *Sustainability*, 11(13), 3509.
21. Mangkunegara, A. A. P. (2011). *Corporate human resource management*.
22. Martono, K., & Sudiro, A. (2012). *National and International Public Aviation Law*. RajaGrafindo Persada.
23. McConnell, M. L., Devlin, D., & Doumbia-Henry, C. (2011). *The Maritime Labor Convention, 2006* (pp. 294–291). Leiden and Boston: Martinus Nijhoff Publishers
24. Mochtar Kusumaatmadja, (2013). *Law, Society, and the Development of National Law*, Alumni, Bandung.
25. Peter Mahmud Marzuki, *Legal Research*, Jakarta: Kencana, 2019.
26. Rawls, J. (2006). *A Theory of Justice: A Philosophical Foundation for Social Welfare in the State*. Yogyakarta: Pustaka Pelajar.
27. Rivai, V. (2006). *Human Resource Management for Companies: From Theory to Practice*.
28. Schuler, R. S., Jackson, S. E., Sihombing, T., & Yahya, D. K. (1997). *Human Resource Management: Facing the 21st Century*. Erlangga.
29. Setiawan, Y.A., & Prasetyo, B.A. (2020). *Legal Protection for Ship Crew Members in Indonesia: A Review from the Perspective of International Law*. *Journal of Legal Science*, 8(1).
30. Siswanto, S. (2002). *Indonesian Labor Management*. Jakarta: Bumi Aksara.
31. Stopford, M. (2011). *Maritime Economics*.
32. Swarday, S. R., Wijayati, A., & Widiarty, W. S. (2025). Legal Certainty in Seafarers' Employment Contracts in Ensuring the Welfare of the Crew of the Nusantara Regas Satu. *Journal of Social Technology*, 5(10), 3938–3954.
33. Tahir, R., Astawa, I. G. P., Widjanto, A., Panggabean, M. L., Rohman, M. M., Dewi, N. P. P., ... & Paminto, S. R. (2023). *Research Methodology in Law: A Theoretical and Practical Approach*. PT. Sonpedia Publishing Indonesia.
34. The Jakarta Post. (June 22, 2020). *Indonesian seafarers adrift in a sea of exploitation and legal precarity*. <https://www.thejakartapost.com/news/2020/06/22/indonesian-seafarers-adrift-in-sea-of-exploitation-legal-precarity.html>
35. Yuda, D. P., & Hafidz, J. (2017). Legal Protection for Seafarers Under the Contract System. *Khaira Ummah Law Journal*, 12(3), 555–564.