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The Impact of Marine Plastic Pollution in Asia-Pacific on Small-Scale Fisher's Rights

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ABSTRACT

Keywords

Asia-Pacific
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Marine environment
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This paper examines the impact of marine plastic pollution on the rights of small-scale fishers in Asia-Pacific countries and how the existing international law accommodates the problem. The research method used is doctrinal legal research with statute and case approaches using primary, secondary, and tertiary legal materials analysed with descriptive analytical techniques. The results show that Asia-Pacific is the most significant contributor to marine plastic pollution in the world as a region at the centre of the world's economic growth. The fisheries industry is one of the economic sectors that is the mainstay of countries in the Asia-Pacific, such as Indonesia, Australia, and China, because it contributes to a high Gross Domestic Product and becomes a job for small-scale fishers. However, marine plastic pollution is a problem because it contaminates fish, impacting fishermen's productivity. This has eliminated the rights of fishermen, especially the small-scale fisher. Meanwhile, the existing international law has yet to accommodate the plastic waste problem in the Asia-Pacific Ocean explicitly. Thus, there is a legal vacuum in the existing regulations. This research concluded that the issue of marine plastic pollution in the Asia-Pacific must be handled seriously by formulating an agreement between countries in the region that contains more technical and specific arrangements to maintain the rights of small-scale fishers in obtaining decent work and adequate living standards.

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1. Introduction

Asia-Pacific is a region that encompasses the coastal areas of East Asia, Southeast Asia, and Australasia, as well as the countries located in the Pacific Ocean ([BaliDwipa, 2021](#)). Asia-Pacific is better known as a region with rapid economic growth among nations. The area became known around 1980 when the rapid economic growth among countries was massive in terms of general trade, stocks, and political and economic interactions among nations ([UNKRIS Jakarta, 2021](#)). The potential economic growth in Asia-Pacific even attracted the

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attention of academics and financial practitioners to refer to it as Asia-Pacific's Century, where this term is used to mark the era of the global economy being centralised from the Atlantic to the Asia-Pacific ([Minardi, 2010](#)). It makes sense that the world economy is concentrated in the Asia-Pacific region, as the area is located on international trade routes.

Many industries are developing in the Asia-Pacific, including the marine sector, on which countries rely. This refers to a program by the Asia-Pacific Economic Cooperation (APEC) that builds a marine-based economic foundation called the blue economy ([Pradana, 2021](#)). Blue Economy is a program that applies the principle of ecocentrism by managing marine resources with sustainability measures in line with the principles of sustainable development goals (SDGs) integrally and holistically ([Pradana, 2021](#)). The Blue Economy is intended to protect marine ecosystems, food security, and economic improvement by promoting free and open trade, combating illegal fishing and fish trade through the management of empowerment of fishermen's professional workers, and increasing employment in fishery products at the international level ([Pradana, 2021](#)). In this case, fishermen are the key actors and main pillars in producing marine products to improve the economy of countries in the Asia-Pacific field ([N'Souvi, Sun , & Rivero, 2023](#)).

The massive potential in the marine sector in the Asia-Pacific is a blessing for fishermen because it can drive productive economies for individuals and countries. Indonesia is a maritime country with a sea area of 6.32 million km² and the potential for very promising fishery commodities such as tuna, crab, and squid fields ([Finaka, 2018](#)). In several Asian countries, fisheries are one of the crucial contributors to foreign exchange when viewed from the percentage of Gross Domestic Product (GDP), such as Indonesia at 2.35%, Vietnam at 3.7%, and Maldives at 17.29% ([Sugiyama & Staples, 2004](#)). The great potential in the marine sector will positively impact fishermen's economy (specifically small-scale fisher), society, and the state. This is because the level of small-scale fishers' welfare is determined by the catch of marine products (both quality and quantity), which has implications for the economic cycle of the community from small-scale fishers as producers, traders as distributors, and the public as consumers ([Nurbaya, 2019](#)). However, the dependence on the utilisation of the marine sector has serious challenges caused by marine plastic pollution ([Bilal et al., 2024](#)).

Asia-Pacific is the world's largest producer of solid waste, generating 23% of the world's solid waste with an average of 0.56 kilograms per capita per day, and the waste is dominated by plastic waste ([Lebreton et al., 2017](#)). It is estimated that 81% of global plastic waste pollution comes from the Asia-Pacific ([Bruno Alves, 2023](#)). Almost all plastic waste dispersed in the ocean does not originate from maritime activities but from anthropogenic activities in urban population centres, industries, and tourism that accumulate at different times and circumstances and end up in the sea ([Lebreton et al., 2017](#)). As reported in 2019, it is estimated that more than 6% of plastic pollution in the ocean comes from Manila, Philippines, specifically from the Pasig River ([Alves, 2023](#)). According to Leander von Kameke, inadequate waste collection and processing infrastructure is a contributing factor to Asia-Pacific being the region with the most plastic waste. According to projections, the Asia-Pacific region will be responsible for more than 70 per cent of the world's poorly managed plastic waste by 2025, and much of this waste will be dumped into the ocean ([Von Kameke, 2023](#)).

What is more dangerous is that plastic waste contains chemical particles in the form of microplastics and is prone to contaminate marine species, threatening the quality of aquatic resources ([Hiwari, Purba, & Ihsan, 2019](#)). This automatically causes a domino effect because it impacts the decrease in the quantity of fish caught by small-scale fishers, which causes a reduction in the economic productivity of marine products and a decrease in the ability of small-scale fishers to make ends meet ([Nurbaya, 2019](#)). This leads to taking the rights of small-



scale fishers as workers who rely on the welfare of life by catching marine products ([N'Souvi, Sun, & Rivero, 2023](#)).

The problem of marine plastic pollution is complex and multi-spectrum because, from the causes to the consequences, it cannot be focused on just one actor ([Guggisberg, 2023](#)). The impact also varies from damage to marine ecosystems and human health to depriving small-scale fisher's rights as a seeker of aquatic products, so plastic waste spread in the sea does require unique and specific treatment ([Apeadido, Alhassah, & Ehiakpor, 2024](#)). The solution provided cannot be in just one aspect but must also be bound by certainty, which could be through the legal aspect. Regarding legal aspects, Asia-Pacific, as an integrated region based on the economy, does not yet have regional rules governing the handling and preventing marine plastic pollution. Even internationally, there is no specific maritime plastic waste regulation. This creates legal uncertainty, a shared vision, and state compliance based on political mutual agreement by countries in the Asia-Pacific region in dealing with the problem of marine plastic pollution ([Arifin et al., 2023](#)).

While current research on marine pollution encompasses various dimensions such as trends in mitigation technologies, international regulatory frameworks, the rapid growth's impact on marine ecosystems, global status assessments, and correlations with events like the COVID-19 pandemic ([Anthony et al., 2023](#); [Chang et al., 2022](#); [Manullang, 2018](#); [Strain et al., 2022](#); [Turner et al., 2019](#); [Wang et al., 2022](#)). There remains a significant research gap regarding the specific effect of marine plastic pollution on the rights of small-scale fishers in the Asia-Pacific region. The existing studies provide valuable insights into the broader consequences of plastic pollution. However, more research that delves deeply into how this issue explicitly affects the livelihoods, rights, and socio-economic conditions of small-scale fishers in the Asia-Pacific region needs to be done. Understanding these dynamics is crucial for developing targeted interventions and policies that effectively address the challenges faced by these communities in the wake of escalating marine plastic pollution.

This research bases the discussion on fulfilling the needs of small-scale fishers in the Asia-Pacific who face the challenges of marine plastic debris from the perspective of applicable international law. Particularly, this research wants to analyse the problem of plastic waste in the Asia-Pacific region and its impact on the rights of small-scale fishers. Since marine plastic debris is a collective problem in various countries, including the Asia-Pacific region, The discussion is divided into several parts. The first is about the right of small-scale fishers to obtain decent work. Then, it is followed by the discourse of empirical conditions of the impact and interests of Asia-Pacific countries in the marine sector. Lastly, the discussion will end with a critical analysis of applicable international law related to handling marine plastic pollution and protecting the rights of small-scale fishers, especially in the Asia-Pacific region. It is hoped that this research can produce applicable suggestions on the issue of legal uncertainty to accommodate the interests of countries in the Asia-Pacific, specifically for their obligations towards small-scale fishers in their respective countries in dealing with marine plastic pollution.

2. Research Methods

This research uses doctrinal legal research methods to examine the rights of small-scale fishers, especially in the Asia-Pacific, who are deprived due to plastic waste pollution in the sea ([Singh, 2023](#)). This method is also used to analyse international regulations related to handling marine plastic pollution to see how implementing existing rules can apply to deal with marine plastic pollution and protect the rights of small-scale fishers. This research uses a statute approach and case approach to examine laws and regulations in which there are



deficiencies or deviations either at a technical or practical level by looking at actual cases that occur ([Vallejos, 2023](#); [Benuf & Azhar, 2020](#)).

The type of legal materials used in this research are primary legal materials, which are authoritative materials in this article are international regulations related to marine plastic pollution, including the United Nations Convention on the Law of the Sea (UNCLOS), The International Convention for the Prevention of Pollution from Ships 1973 and Protocol 1978 (Marpol), the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal 1989 (Basel Convention), and the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972 (London Convention) and the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping and Other Matter (London Protocol). In addition, secondary materials are also used in the form of books, doctrines, and legal principles, as well as tertiary legal materials in the form of news articles and the internet. All legal materials were analysed with descriptive analytics and systematic interpretation between one regulation and another ([Putra & Kurniawan, 2023](#)). By conducting an in-depth analysis of existing rules, exploring philosophically the rights of small-scale fishers, and looking at the reality of marine plastic pollution through current cases, the elaboration of these factors will create a logical framework that leads to a conclusion and practical legal solutions.

3. Discussion

3.1. Right to Decent Work for The Small-Scale Fishers

A human rights activist from the United States, Eleanor Roosevelt, stated that human rights are fundamental rights inherent in every human being from birth to death ([Nurdin & Athahira, 2022](#)). The United Nations Declaration of Human Rights (UDHR), as the momentum of the agreement of countries in the world, which is a general standard for respecting human rights universally, maps 30 fundamental human rights, one of which is the right to obtain work and a decent life. Following Article 23, paragraph (1) of the UDHR, which states:

Everyone has the right to work, the right to freely choose a job, the right to fair and favourable labour conditions, and the right to protection from unemployment.

The right to work, as written in UDHR, is extensively classified in the second generation of human rights, according to Karel Vasak ([Nurdin & Athahira, 2022](#)). Karel Vasak divides three generations of human rights, including the first generation of human rights, focusing on civil and political rights. The second generation focuses on economic, social, and cultural rights ([Pratiwi et al., 2022](#)). The third generation of human rights focuses on the collective rights of society ([Nurdin & Athahira, 2022](#)).

The basis used in the second generation of human rights is the International Covenant on Economic, Social, and Cultural Rights (ICESOC). It is explained in ICESOC that every human being has the opportunity to earn a decent living with freedom per the profession chosen or accepted, and the state must take steps to protect this, as written in Article 6 paragraph (1). This second-generation right is a positive right. The typical formulation uses the positive language of “right to” instead of the harmful speech of “freedom from”, like the formulation of the first-generation right ([Nurdin & Athahira, 2022](#)). The formulation of “right to” means the rationalisation that rights related to economic, social, and cultural rights are the responsibility of state government authorities to ensure that these rights are fulfilled ([Nurdin & Athahira, 2022](#)).



The right to decent work and prosperity is a logical reason for fishermen, mainly small-scale fisheries, to be able to continue their daily lives that depend on fish catches. The Food and Agriculture Organization (FAO) states that fishermen, small-scale fishers, fisher organisations, and the communities they are part of are right holders who should know their rights, such as sustainable resource utilisation/stewardship and secure rights to fishery resources and land, claims to the right to healthy food, rights to get decent works standards and conditions, and suitable to adequate standard of living (FAO, 2016). Based on this basic logic, these rights must be fulfilled by the state, private sector, and inter-governmental organisations.

3.2. The Impact of Marine Plastic Pollution in Asia-Pacific

Specifically, from fishermen's various rights, marine plastic pollution will directly impact the right to decent work and conditions and adequate living standards (Idris et al., 2023). This is supported by the fact that as a region surrounded by the largest oceans in the world, namely the Pacific Ocean and the Indian Ocean, the marine sector is vital for countries in the Asia-Pacific region because it holds a lot of economic potential (Parasasti, 2021). There are at least 13 marine sectors utilised by governments in the Asia-Pacific, including capture fisheries, aquaculture, maritime tourism, sea transportation, mining and energy, marine building, naval industry and services, marine biotechnology industry, non-conventional resources, valuable objects, cultural heritage, cultivation processing industry, environmental services conversion and biodiversity, and small islands (Kurniawati et al., 2021). The marine sector is strategic because it utilises abundant and diverse marine resources (McLean et al., 2023). Therefore, this sector has become very important and has a vital role in developing the national economy, especially related to increasing employment opportunities for coastal communities, income to improve the quality of life nationally, and revenue for small-scale fishers (Lester et al., 2024).

The growing industry in Asia-Pacific has resulted in increased plastic consumption (McIlgorm et al., 2022). In 2015, the University of Georgia studied 192 countries with coastlines to determine the amount and factors of pollution on beaches and seas. The results showed that the country produced as much as 2.5 billion metric tons of waste, of which 10% was plastic waste. The 10% percentage of plastic waste is then calculated again and gets a figure of 8 million metric tons that have polluted the sea (Atmanti & Purwanti, 2021). This is supported by the total quantity of plastic production produced by a country, such as Indonesia, which was reported in 2013 to have created 1.9 million tons of plastic; when accumulated with the previous year, Indonesia produced an average of 1.65 million tons/year (Kementerian Perindustrian dan Perdagangan, 2013).

Plastic waste is also categorised as the most significant contributor to waste that causes damage to the balance of nature. Many industries, households, and countries can still not implement adequate plastic waste management (Hiwari et al., 2019). Of all newly produced plastic waste, an estimated 10% will be disposed of in rivers and washed into the ocean. Research conducted by the Ocean Conservancy and McKinsey & Company suggests that as much as $\frac{3}{4}$ (three-quarters) of plastic waste leaks from land to the ocean (Ocean Conservancy, 2021). Plastic waste always leaks into the sea stream annually, especially in the Asia-Pacific. Currently, as much as 86% of the global plastic waste input flowing through rivers comes from rivers in the Asia-Pacific (Lebreton et al., 2017). This is a severe problem because most of the developing countries in this region do not have adequate capacity, budget, or waste management systems to deal with plastic waste problems. The highly productive economic sectors of countries in the Asia-Pacific region are one factor in the plastic waste problem. The Asia-Pacific is a region that accounts for 49.3% of the total plastic production worldwide, with Asia-Pacific reaching 38% of the total plastic consumption worldwide; what is worse is that



the average complete plastic waste that is managed inappropriately and sustainably in the six largest polluting countries in the Asia-Pacific region reaches 9.6% ([Environment and Development Division, 2022](#)).

The negative impact of plastic waste contamination is caused by the physico-chemical components of plastic, namely the microplastics ([Al Muhdhar, 2019](#)). Microplastics are plastic fragments with a diameter of less than 5mm ([Al Muhdhar, 2019](#)). With this petite size, microplastics have the potential to cause chemical effects on marine biota because they are susceptible to contamination and digestion by living things. Microplastic is a particle in plastic products that usually consists of various polymers. Microplastics are divided into two types, namely primary and secondary ([Hasan & Jho, 2023](#)). Primary microplastics are particles generated from industrial and domestic wastewater released at sea, while secondary microplastics are microplastic substances from decomposed marine plastic waste ([Al Muhdhar, 2019](#)).

The condition of marine plastic pollution is a real threat to countries in the Asia-Pacific, such as Indonesia, China, and Australia. According to the International Monetary Fund, these three countries have high productivity in the marine and fisheries sector ([Garcia et al., 2019](#)). Research from Purba in 2017 revealed that marine plastic pollution occurred in Indonesia, especially on Java Island, which, on average, contributed 68% of various types of waste in the sea ([Purba, 2017](#)). Indonesia can produce as much as 64 million tons of plastic waste annually, and an estimated 3.2 million tons end up in the ocean ([Wahyuni, 2022](#)). This fact is supported by the empirical situation of the impact of marine plastic pollution, which can harm the fishermen, as illustrated by the condition of fishermen in Pengaradan Beach Banten, which is polluted by a lot of plastic waste.

The average fish caught by small-scale fishers in Pengandaran Beach is 100kg, but since 2021, the number of fish catches has been erratic ([Atmanti & Purwanti, 2021](#)). This is because many dead fish have swallowed a lot of plastic in their stomachs when examined. The impact is on the uncertain income of small-scale fishers, who used to get approximately IDR 200,000 per day, but now it isn't very particular ([Atmanti & Purwanti, 2021](#)). Indonesia relies heavily on the fisheries sector because this sector can contribute up to 2.66% of the National GDP ([Mahdi, 2021](#)). If plastic pollution in the sea is still rampant, the logical consequence is that small-scale fisher's productivity level decreases, and the fisheries sector's GDP decreases automatically.

Furthermore, Australia is dubbed the driest continent, but it turns out that Australia still relies on fisheries as a strategic sector of state revenue. However, this is also threatened because Australia is estimated to contribute 130,000 tons of plastic waste into the sea annually. When viewed in terms of dependence, Australia still relies on state income through the strategic sector of fisheries commodities such as the type of tuna in the east and stingrays in 2020-2021 contributed \$35.6 million in GDP or 10% of total revenue in the fisheries sector and the type of scaly fish and sharks in the east and south (sectors that utilise trawls in fishing) managed to get \$70.3 million in GDP or 19% of total fisheries revenue according to data from the Australian Department of Agriculture, Fisheries and Forestry ([Australian Parliament House, 2020](#)).

Furthermore, China, the most populous country in the world, is also the most significant contributor to marine plastic debris. This claim is because the amount of plastic waste scattered in the ocean is substantial, namely 1.32-3.52 million metric tons ([Lin & Nakamura, 2019](#)). In line with the statement mentioned earlier, according to the Chinese State Oceanic Administration, 81% of China's coastal areas have been polluted with plastic waste, generally caused by economic-based activities such as ships docking at ports and tourist destinations.



So, based on data published by the Chinese State Oceanic Administration, it is estimated that 39 million tons of microplastics are spread throughout China's oceans. Regarding productivity in the economy and fishermen's catch, China has an average marine yield of 2,183 million tons and can earn foreign exchange of up to \$21.6 billion ([Textor, 2022](#)).

These concrete examples from several countries in the Asia-Pacific indicate that the Asia-Pacific has a dependency on the ocean as a source of state income. The massive amount of plastic waste produced by countries in the Asia-Pacific region will decrease fisheries production, which will automatically have a domino effect on other things, such as the marine environment and the productivity and income of small-scale fishers ([Omeyer et al., 2022](#)). This impact then becomes a concern that plastic waste harms and deprives small-scale fishers of their rights to obtain welfare, the right to decent work standards and conditions, and the right to adequate living standards ([FAO, 2016](#)). As Paul Durrenberger states, "Fishermen fish for a living; they do not make a living by going to meetings" ([Schneider, 2021](#)). The simple logic is that when the sea is polluted with plastic waste, marine products can be contaminated with harmful microplastic substances, automatically impacting small-scale fisher's productivity in catching fish and reducing their income.

In concept, the state is an entity that is considered to have the power to carry out human rights missions so that in the principle of implementing human rights, the state acts as a duty bearer ([Setiyono, 2020](#)). The consequence of the state's role as a duty bearer is that the state is required to "to respect," "to fulfil," and "to protect" the human rights of every individual or rights holder within its jurisdiction ([Setiyono, 2020](#)). In this case, the state must legally protect small-scale fishers as right holders with economic, social, and cultural interests and rights in utilising the sea. Then, when reflecting on the phenomenon that occurs, marine plastic pollution cannot be seen as a problem for only one country because of the light mass and abundant production of waste, it will be easy for plastic waste to be carried by ocean currents, which then accumulate and move from one country to another ([Rezasyah, 2022](#)). Thus, this problem must be seen from a broader perspective and resolved collectively by governments interested in the sea, such as those in the Asia-Pacific region. Article 2, paragraph (1) of ICESOC states that each country in this agreement must take steps individually or in international cooperation in the economic and technical fields to realise economic, social, and cultural rights by all feasible means, especially by accepting legislative regulations. It can be concluded that ICESOC mandates a form of collective cooperation by the state to realise the ECOSOC rights of the community through a joint commitment bond.

3.3. How The Existing International Framework Works to Combat Marine Plastic Pollution and Protect The Rights of Small-Scale Fishers

The issue of marine environmental cleanliness has been a strategic issue of international concern since the mid-20th century. This attention is expressed through international laws on protecting the marine environment. There are at least four international laws that apply to the protection of the marine environment from plastic waste. The first is Marpol, which regulates preventing pollution from ships into the marine environment. This convention encourages countries to provide facilities and manage materials harmful to the sea, such as oil, garbage, and other hazardous liquid materials ([Hassan & Karim, 2018](#)). Marpol has six technical annexes, Annex I-VI, whereas, as mentioned in article 14, Annexes I and II are mandatory, while Annex III-VI are optional to ratify. Annexes in Marpol are inseparable protocols. This protocol was adopted from the International Conference on Tanker Safety and Pollution Prevention in 1978 and a response to tanker accidents in 1976-1978 ([International Maritime Organization, 2022](#)). Annexes directly related to plastic waste at sea are in Annex V, which is about preventing pollution and garbage from ships. The scope of



waste referred to in Annex V is various types of waste, including plastic. Annex V defines plastics broadly:

...including, but not limited to, synthetic ropes, synthetic fishing nets, plastic garbage, and incinerator ashes from plastic products which may contain toxic or heavy metal residues.

This convention also requires port governments to provide adequate waste storage so that law enforcement is not only in the flag state but also in the port state as per Article 7 and Article 8. However, this will be easy to do if the marine pollution in question is pollution in the form of oil spills. It will be more complicated if the pollution is caused by plastic waste because, as described earlier, the plastic found in the sea does not only come from activities at sea but mostly from activities on land ([Yulisti et al., 2024](#)). In addition, this convention seems only to cover large vessels. It does not regulate the mechanism of supervision, control, and prevention of marine pollution due to plastic waste from small vessels, especially small fishing vessels. In Article 9, paragraph (3), Annex V of Marpol exempts small vessels (under 400 Ton GT) from the obligation to make a Garbage Record Book, including the disposal of unused nylon anchors. Since plastic debris from fishing anchors, especially on small vessels, is so abundant, it is recommended that the small vessel exemption provision, or the vessel size limit, be removed so that all vessels will have the obligation to complete their Garbage Record Book.

The second is UNCLOS, which is the primary source of international law on the sea that aims to utilise the sea, promote the peaceful use of the sea, make fair and efficient use of marine resources and conservation of biological resources, and protect and preserve the marine environment. This convention regulates protecting and preserving the marine environment as described in Chapter XII. However, due to the nature of UNCLOS as a fundamental law, this convention does not explicitly regulate handling marine plastic pollution. This convention only regulates marine pollution from activities carried out on land and at sea ([Mendenhall, 2023](#)). Article 192 states that states should protect and preserve the marine environment. Article 194 paragraph (1) obliges states, either individually or jointly with other states, to take the necessary steps to implement Article 192. Furthermore, Article 194 paragraph (2) stipulates as follows:

States shall take all necessary measures to ensure that activities under their jurisdiction or control are conducted so as not to cause damage by pollution to other States and their environment and that pollution arising from incidents or activities under their jurisdiction or control does not spread beyond the areas where they exercise sovereign rights under this Convention.

From the above provisions, it can be seen that the state is obliged to prevent pollution caused by activities carried out in its jurisdiction from causing environmental harm to other countries. In other words, Article 194 paragraph (2) adopts the principle of *maxim sic utere* or use the means and property of each country without endangering the property of other countries, in this case, the marine environment of other countries. Furthermore, Article 207 paragraph (1) explains the state's obligation to prevent, reduce, and control marine plastic pollution originating from land. It mandates the state to formulate legal instruments related to preventing and controlling pollution in the ocean while adhering to agreed international provisions, procedures, and practices based on Article 207 paragraph (1). However, it is unclear what is meant by complying with applicable international provisions, procedures, and practices, so there will be different state interpretations of these provisions. Hence, some experts call the arrangements in UNCLOS 1982 very weak ([Kirk & Popattanachai, 2018](#)).

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Third, the Basel Convention regulates the movement of hazardous waste across national borders. In contrast to UNCLOS 1982, which is more about active actions of the state not to pollute the sea, the Basel Convention is more about passive activities where the state prohibits the entry of waste into the area under the jurisdiction of a country. This can be found in the preamble of the Basel Convention as follows:

Any state has the sovereign right to ban the entry or disposal of foreign hazardous wastes and other wastes in its territory.

Transboundary movement of hazardous waste, as listed in the annexes of this convention, must comply with the Prior Informed Consent (PIC) mechanism, which involves exporting, importing, and transit countries; financial insurance requirements, including documentary evidence related to environmentally friendly waste management following Article 6 paragraph 4. The content of plastic waste is found in Annex I point Y13, which states that plastic materials are categorised as a type of waste that must be controlled, but it needs to be clarified how the technical control is. Exporting and importing countries are only allowed to conduct sale and purchase transactions of plastic waste if permitted by the country concerned ([Johnson et al., 2022](#)).

The fourth is the London Convention, which regulates the prohibition of dumping activities at sea. The London Convention has been amended five times with comprehensive content that contains what materials can and cannot be dumped into the ocean, a waste disposal licensing mechanism, and a dispute resolution mechanism. Concerning plastic waste, Article 4 of the London Convention mentions the classification of materials that should not be disposed of listed in Annex I, then the classification of materials that need special permission before disposal listed in Annex II, and waste disposal that only requires a general permit. Plastic waste is classified as a material that should not be disposed of at sea, as stated in Annex I point 4.

In 1996, the London Protocol was issued as an additional protocol to the London Convention. The London Protocol emphasises the prevention, reduction, and elimination of marine pollution and the precautionary principle not found in the London Convention. As Article 2 of the London Protocol explains, parties shall independently or collectively protect the marine environment with effective measures and each country's scientific, technical, and economic capabilities to prevent, reduce, and eliminate pollution at sea. However, the London Protocol does not specify plastic as a material that should not be discharged into the sea as in the London Convention. The London Protocol provides a general description of wastes that can be considered for disposal, such as sewage sludge, organic materials of natural origin, etc., and materials that can be disposed of without creating floating debris as per Annex I London Protocol.

In addition, on a regional scale, there is a consensus on the issue of plastic waste, namely the Bangkok Declaration. The Bangkok Declaration was formed at the 34th ASEAN Summit 2020 held in Thailand, where at the event, a forum of representatives of ASEAN countries agreed on one vision and goal to fight the problem of marine plastic pollution. However, the Bangkok Declaration is only in the form of soft law, so it only contains a statement of political agreement without any specific rules regarding the technical implementation of handling marine plastic pollution and standard procedures. So, the form of such a declaration needs to be stronger to be used as a basis for reference and compliance for each member country to comply because its content is not complex and comprehensive. Thus, when concluded from all existing international laws related to protecting the marine environment, no convention regulates specifically, rigidly, and provides legal certainty in dealing with the problem of marine plastic pollution ([Marin-Monroy et al., 2020](#)). Most existing conventions only



mention a little about the content that plastic waste must be prevented from polluting the ocean without providing technical guidelines and standards for handling it. So, from this conclusion, it can be stated that there is legal uncertainty in dealing with the problem of marine plastic pollution. Legal instruments must be formulated collectively by looking at the impact caused, especially on the deprivation of human rights for small-scale fishers to obtain decent work and adequate life ([Hamada & Jannial, 2023](#)).

The rule of law based on international agreements must be made with common goals and commitments that do not only contain political content. Agreements between countries must be ensured that they can be obeyed effectively and adequately to maintain the rights of small-scale fishers and the marine environment ([Mendenhall, 2023](#)). According to Daniel Bodansky's opinion, international agreements are effective and well-obeyed in several ways. First, an agreement must be formally ratified, which signifies a commitment of the country to implement the agreed provisions. Second, the legal obligations and consequences that occur if there is a violation from a country of the agreed agreement must be discussed and agreed upon at the beginning. Third, international agreements should be taken more seriously as legal commitments rather than political commitments. Fourth, binding agreements must have a massive effect on the internal political conditions of the state. Fifth, law enforcement needs to be strengthened by the availability of dispute resolution ([Bodansky, 2015](#)).

The agreement's substance is also an essential factor in how the problem of marine plastic pollution that affects small-scale fishers is to be resolved. Based on research from the School of the Environment, St. Mary's University explained that some efforts must be made to overcome this problem ([Khaleel et al., 2023](#)). First, there is a need to assess the fishery system holistically, mapping the impact of toxic waste directly impacting small-scale fishers, the economy, and society. Then, there has to be an examination of distribution, equity, and fairness, the interests of basic human needs that must be considered fairly and equitably. There is also a need to ensure the principle of good governance, which is linked to policy commitments, whether national or international and development priorities that investigate multiple aspects of ways such as the well-being of small-scale fishers and food security. There has to be an adjustment to the fishery policy, which could include shifting policy measures to support area-based solutions at the community level, such as local management or more broadly. Eventually, systematic monitoring and assessment frameworks will be utilised.

4. Conclusion

As a region integrated by economic interests, countries in the Asia-Pacific depend on the use of the sea, one of which is for small-scale fishers. However, the problem arises because Asia-Pacific is the world's largest producer of marine plastic waste. This causes the deprivation of small-scale fisher's rights in the form of the right to decent work and conditions and adequate living standards. This is evident from the cases of small-scale fishers in several countries in the Asia-Pacific region who stated that the quantity of fish caught in the sea decreased as many fish died due to plastic waste contamination. This situation causes a reduction in small-scale fisher's income because they depend on marine products to fulfil their daily needs. On the other hand, there is no law on an international level that specifically regulates the handling of marine plastic pollution. Because the problem of marine plastic debris in the Asia-Pacific is a collective issue of countries and must be taken seriously, it is necessary to have a joint agreement by countries in the Asia-Pacific region in dealing with the problem of marine plastic pollution by containing various more technical matters to have legal certainty and standard procedure for implementing the obligation to deal with marine plastic pollution in Asia-Pacific.



References

- Ahmed M A Hamada, Jacklyn Jannial, R. I. (2023). Mechanisms of the Legal Protection of Human Rights in Global Regulation. *Human Rights in the Global South*, 1(2), 10.
- Alistair McIlgorm, Karen Raubenheimer, Daniel E. McIlgorm, R. N. (2022). The cost of marine litter damage to the global marine economy: Insights from the Asia-Pacific into prevention and the cost of inaction. *Marine Pollution Bulletin*, 174.
- Andi Kurniawati; Rizkal Nur; Dyno Thiodores. (2021). The Effect of Sea Sand Mining on Fishermen's Rights. *Mulawarman Law Review*, 6(2).
- Anthony, D., Siriwardana, H., Ashvini, S., Pallewatta, S., Samarasekara, S. M., Edirisinghe, S., & Vithanage, M. (2023). Trends in marine pollution mitigation technologies: Scientometric analysis of published literature (1990-2022). *Regional Studies in Marine Science*, 66, 103156. <https://doi.org/10.1016/j.rsma.2023.103156>
- Australian Parliament House. (2020). *Chapter 2: Overview of marine Plastic Pollution*. https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Marine_plastics/Report/co2
- BaliDwipa. (2021). *Asia-Pacific*. https://p2k.balidwipa.ac.id/eng/1-3070-2959/Asia-Pasifik_12220_balidwipa_p2k-balidwipa.html
- Bilal Mghili, Mohamed Ben-Haddad, Ouafae Zerrad, Nelson Rangel-Buitrago, Mustapha Aksissou. (2024). Tackling marine plastic pollution in Morocco: A review of current research, regulatory measures, and future challenges. *Regional Studies in Marine Science*, 69.
- Bodansky, D. (2015). Legally Binding versus Non-Legally Binding Instrument. In Barret, S., Carraro, C., de Melo, J. (Ed.), *Towards a Workable and Effective Climate Regime* (p. 163). CEPR Press.
- Bruno Alves. (2023). *Regional shares of ocean plastic waste inputs worldwide 2019*. <https://www.statista.com/statistics/1270799/ocean-plastic-pollution-worldwide-by-region/>
- Chang, Y.-C., Zhao, X., & Han, Y. (2022). Responsibility under international law to prevent marine pollution from radioactive waste. *Ocean & Coastal Management*, 227, 106294. <https://doi.org/10.1016/j.ocecoaman.2022.106294>
- Elizabeth Mendenhall. (2023). Making the most of what we already have: Activating UNCLOS to combat marine plastic pollution. *Marine Policy*, 155(105786).
- Elvia Aida Marin-Monroy, Rainer Romero-Canyas, Jose A. Fraire-Cervantes, Dylan Larson-Konar, Rod Fujita. (2020). Compliance with rights-based fisheries management is associated with fishermen's perceptions of peer compliance and experience: A case study in the Upper Gulf of California. *Ocean & Coastal Management*, 189(105155).
- Environment and Development Division. (2022). *Managing Marine Plastic Debris in Asia and the Pacific*.
- FAO. (2016). Exploring the human rights-based approach in the context of the implementation and monitoring of the SSF Guidelines. *Workshop Proceedings*.



- Finaka, A. W. (2018). *Indonesia Kaya Potensi Kelautan dan Perikanan*. Indonesia Baik. <https://indonesiabaik.id/infografis/infografis-indonesia-kaya-potensi-kelautan-dan-perikanan>
- Garcia, B., Fang, M.M., & Lin, J. (2019). Marine Plastic Pollution in Asia: All Hands on Deck! *Chinese Journal of Environmental Law*, 3, 13.
- Hassan, D.; Karim, S. (2018). *International Marine Environmental Law and Policy*. Routledge.
- Hastarini Dwi Atmanti & Evi Yulia Purwanti. (2021). Dampak Sampah Pada Hasil Tangkapan Nelayan (Studi Kasus Nelayan Jaring Arad Pantai Pengaradan, Banten). *Rampaionline Workshop: Penulisan Ilmiah Populer Bidang Sosial, Ekonomi, Dan Pendidikan*.
- Hazman Hiwari, Noir P. Purba, Yudi N. Ihsan, L. P. S. Y. & P. G. M. (2019). Kondisi Sampah Mikroplastik Di Permukaan Air Laut Sekitar Kupang Dan Rote, Provinsi Nusa Tenggara Timur. *Pros Sem Nas Masy Biodiv Indon*, 5(2), 166.
- Hendar, Teuku Rezasyah, D. S. S. (2022). Diplomasi Lingkungan Indonesia melalui ASEAN dalam Menanggulangi Marine Plastic Debris. *Padjadjaran Journal of International Relations (PADJIR)*, 4(2), 201-214. <https://doi.org/10.24198/padjir.v4i2.40721>.
- International Maritime Organization. (2022). *MARPOL*. <https://www.imo.org/en/KnowledgeCentre/ConferencesMeetings/pages/Marpol.aspx>,
- Johnson, H., Nay, Z., Maguire, R., Payne, A., & Taboda, M. (2022). Conceptualizing the Transnational Regulation of Plastics: Moving Towards a Preventive and Just Agenda for Plastics. *Transnational Environmental Law*, 11(2), 334.
- Joseph Apeadido, Hamdiah Alhassah, Dennis Sedem Ehiakpor. (2024). Marine plastic pollution: fishers' coping strategies and its welfare effect in Volta region, Ghana. *Marine Pollution Bulletin*, 198.
- Kementerian Perindustrian dan Perdagangan. (2013). *Semester I, Konsumsi plastik 1,9 juta ton*. Kementerian Perindustrian Dan Perdagangan. <https://kemenperin.go.id/artikel/6262/Semester-I,-Konsumsi-Plastik-1,9-Juta-Ton>
- Kirk, E.A., Popattanachai, N. (2018). Marine Plastic: Fragmentation, Effectiveness and Legitimacy in International Law Making. *Review of European, Comparative & International Environmental Law*, 27(3), 233.
- Kodjo N'Souvi, Chen Sun, Yussuan Manuel Rivero Rivero. (2023). Development of marine small-scale fisheries in Togo: An examination of the efficiency of fishermen at the new fishing port of Lomé and the necessity of fisheries co-management. *Aquaculture and Fisheries*.
- Kornelius Benuf dan Muhamad Azhar. (2020). Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer. *Jurnal Gema Keadilan*, 7(1), 26.
- Laurent C. M. Lebreton, Joost van der Zwet, Jan-Willem Damsteeg, Boyan Slat, A. A. & J. R. (2017). River Plastic Emissions to The World's Oceans. *Nature Communications*, 8(1), 2.
- Leander von Kameke. (2023). *Plastic waste in the Asia-Pacific region*. <https://www.statista.com/topics/9499/plastic-waste-in-the-asia-pacific-region/#topicOverview>



- Lin, C. & Nakamura, S. (2019). Approaches to solving China's marine plastic pollution and CO₂ emission problems. *Economic Systems Research*, 31(2), 143.
- Lucy C.M. Omeyer, Emily M. Duncan, Kornrawee Aiemsomboon, Nicola Beaumont, Sujaree Bureekul, Bin Cao, Luis R. Carrasco, Suchana Chavanich, James R. Clark, Muhammad R. Cordova, Fay Couceiro, Simon M. Cragg, Neil Dickson, Pierre Failler, Gianluca Ferraro, S. (2022). Priorities to inform research on marine plastic pollution in Southeast Asia. *Science of the Total Environment*, 841(156704).
- Maharani Yulisti, Agus Syarip Hidayat, Carunia Mulya Firdausy, Ummi Mu'awanah, Nendah Kurniasari, Eka Nurjati. (2024). Effects of eco-friendly fishing gears on fishermen's welfare and sustainable fisheries: Lessons learned from Indonesia. *Marine Pollution Bulletin*, 198(115888).
- Mahdi, M. I. (2021). *Perikanan Sumbang 2,66% terhadap PDB RI pada Kuartal III/2021*. <https://dataindonesia.id/sektor-riil/detail/perikanan-sumbang-266-terhadap-pdb-ri-pada-kuartal-iii2021>
- Manullang, C. Y. (2018). Current Status and Future Prospect of Marine Pollution Research in the Banda Sea. *IOP Conference Series: Earth and Environmental Science*, 184, 012007. <https://doi.org/10.1088/1755-1315/184/1/012007>
- Md Mehedee Hasan, Eun Hea Jho. (2023). Effect of different types and shapes of microplastics on the growth of lettuce. *Chemosphere*, 339(139660).
- Mercedes McLean, Brian Warner, Robert Markham, Mibu Fischer, Jim Walker, Carissa Klein, Maia Hoeberechts, Daniel C. Dunn. (2023). Connecting conservation & culture: The importance of Indigenous Knowledge in conservation decision-making and resource management of migratory marine species. *Marine Policy*, 155.
- Mimien Henie Irawati Al Muhdhar. (2019). *Sampah Plastik di Laut Ancaman terhadap Ekosistem Laut di Pulau Ternate* (1st ed.). Universitas Negeri Malang.
- Minardi, A. (2010). *Asia Pasifik Menuju Sentra Ekonomi Dunia 2020 in Kontribusi Pemikiran untuk Bangsa (Sebuah Bunga Rampai)*. Lemlit Press Universitas Pasundan.
- Nurbaya. (2019). *Pengaruh Pendapatan Nelayan Terhadap Peningkatan Ekonomi Di Desa Wewangriu Kecamatan Malili Kabupaten Luwu Timur Sulawesi Selatan*. Universitas Muhammadiyah.
- Nurliah Nurdin & Astika Ummy Athahira. (2022). *HAM, Gender, dan Demokrasi (sebuah tinjauan praktis)*. CV Sketsa mandiri.
- Ocean Conservancy. (2021). *The Problem with Plastics*. <https://oceanconservancy.org/trash-free-seas/plastics-in-the-ocean/>
- Parasasti, M. A. (2021). Kebijakan Strategi Pertahanan Laut Indonesia Dalam Perspektif Ekonomi. *Jurnal Strategi Pertahanan Laut*, 7(2).
- Pradana, M. A. (2021). Dampak Blue Economy Terhadap Ekosistem di Asia Pasifik. *Jurnal Asia Pacific Studies*, 5(2), 158.
- Pratiwi, C. S., Listiningrum, P., & Al Anwary, M. A. Z. (2022). Critiques on Contemporary Discourse of International Human Rights Law: a Global South Perspective. *Human Rights in the Global South (HRGS)*, 1(1), 1–12. <https://doi.org/10.56784/hrgs.v1i1.3>

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(HRGS)

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- Purba, N. (2017). Sampah dan Solusi untuk Kesehatan Laut. *Indonesia Youth Marine Debris Summit*.
- Rizky Abadi Putra & Itok Dwi Kurniawan. (2023). Implementasi Program Pembinaan Bagi Narapidana di Lembaga Pemasyarakatan kelas III Sukamara. *Gudang Jurnal Multidisiplin Ilmu*, 1(5), 48–58. <https://doi.org/https://doi.org/10.59435/gjmi.vii5.128>
- Rizwan Khaleel; Gokul Valsan; Nelson Rangel-Buitrago; Anish Kumar Warriar. (2023). Microplastics in the marine environment of St. Mary's Island: implications for human health and conservation. *Environmental Monitoring and Assessment*, 195(9), 1034. <https://doi.org/10.1007/s10661-023-11651-6>, 2023
- Sarah E. Lester, Rebecca R. Gentry, Halley E. Froehlich. (2024). The role of marine aquaculture in contributing to the diversity and stability of U.S. seafood production. *Marine Policy*, 160.
- Schneider, P. S. K. (2021). Fishers' responses to the Danish seiner ban and the history of fisheries governance on the Java north coast. *Maritime Studies*, 20(43), 62.
- Setiyono, S. & J. (2020). Penerapan Prinsip Pertanggungjawaban Negara Terhadap Kasus Pelanggaran HAM Etnis Rohingya Di Myanmar. *Jurnal Pembangunan Hukum Indonesia*, 2(2).
- Singh, S. (2023). Legal Foundations of Economic Inequality in the Time Loop of Law and Economics Movement. *Human Rights in the Global South*, 2(1), 62–71.
- Siti Hafsyah Idris, Ramesh Nair, Faizal Kurniawan. (2023). Mental Health at the Workplace: Rights of Employees. *Human Rights in the Global South*, 2(1), 4.
- Soekanto, S. (2001). *Penelitian Hukum Normatif (Suatu Tinjauan Singkat)*. Rajawali Press.
- Sol`ene Guggisberg. (2023). Finding equitable solutions to the land-based sources of marine plastic pollution: Sovereignty as a double-edged sword. *Marine Policy*, 159.
- Strain, E. M. A., Lai, R. W. S., White, C. A., Piarulli, S., Leung, K. M. Y., Airoidi, L., & O'Brien, A. (2022). Editorial: Marine Pollution - Emerging Issues and Challenges. *Frontiers in Marine Science*, 9. <https://doi.org/10.3389/fmars.2022.918984>
- Sudikno Mertokusumo; A. Pitlo. (1993). *Bab-Bab Tentang Penemuan Hukum*. PT. Citra Aditya Bakti.
- Sugiyama, S., Staples, D. & Funge-Smith, S. (2004). *Status and Potential of Fisheries and Aquaculture in Asia and The Pacific*. RAP Publication.
- Textor, C. (2022). *Production value of fisheries in China 2011-2021 (online)*. [https://www.statista.com/statistics/280123/production-value-of-fisheries-in-china/#:~:text=In 2021%2C the gross value,to around 1.45 trillion yuan.](https://www.statista.com/statistics/280123/production-value-of-fisheries-in-china/#:~:text=In%2021%2C%20the%20gross%20value,to%20around%201.45%20trillion%20yuan.)
- Turner, A., Wallerstein, C., Arnold, R., & Webb, D. (2019). Marine pollution from pyroplastics. *Science of The Total Environment*, 694, 133610. <https://doi.org/10.1016/j.scitotenv.2019.133610>
- UNKRIS Jakarta. (2021). *Asia Pasifik*. https://p2k.unkris.ac.id/id3/1-3073-2962/Asia-Pasifik_12220_p2k-unkris.html
- Vallejos, V. R. (2023). Non-Incorporation of the Principle of Non-Refoulement in the Chilean Immigration and Aliens Law 21.325 of 20 April 2021. *Human Rights in the Global South*,



2(1), 10.

Wahyuni, T. A. (2022). *It's Terrible, Indonesia Is Already a Plastic Waste Emergency: A Day Reaches 64 Million Tons, The Second Largest In The World.* <https://voi.id/en/bernas/137477>

Wang, Q., Huang, R., & Li, R. (2022). Impact of the COVID-19 pandemic on research on marine plastic pollution – A bibliometric-based assessment. *Marine Policy*, 146, 105285. <https://doi.org/10.1016/j.marpol.2022.105285>

Zainal Arifin, Dede Falahudin, Hiroaki Saito, Tuti Hendrawati Mintarsih, Muhammad Hafizt, Yulianto Suteja. (2023). Indonesian policy and researches toward 70% reduction of marine plastic pollution by 2025. *Marine Policy*, 155.