

From Informal 'Co-adventurers' to Formal Workers? ILO's Work in Fishing Convention, 2007

SEBASTIAN MATHEW

After a gap of 40 years the International Labour Organisation has adopted a new labour instrument – Work in Fishing Convention, 2007 (No 188) – for fishers on board fishing vessels through three discussions at the International Labour Conference between 2004 and 2007. Contrary to the earlier practice of a compartmentalised approach to fishing labour standards, a consolidated approach has been achieved by ILO in adopting this convention. In a single legal instrument it provides flexible and prescriptive standards with respect to minimum requirements for fishing, conditions of service, accommodation and food, occupational safety and health and social security. The scope of the convention, also for the first time, includes all types of vessel-based fishing, both large and small. However, it does not deal with non-vessel based fishing activities.

This article provides a backdrop to the employment and labour dimensions, and to earlier ILO labour standards of relevance to fishing. It discusses the process which led to the adoption of the Work in Fishing Convention, 2007 and its salient aspects. Being an important instrument in establishing principles and criteria and in proposing a mechanism to improve labour conditions related to fishing, the article argues that the ILO member-states, in consultation with representative organisations of fishing vessel owners and fishers, should initiate a process to ratify the convention, develop national legislation to implement, and to apply its provisions, as appropriate, to benefit all fishers.

The author wishes to thank Brandt Wagner of International Labour Office, Geneva, for comments on an earlier draft of this article.

Sebastian Mathew (*Sebastian1957@gmail.com*) is with the International Collective in Support of Fishworkers, Chennai.

1 Introduction

The fisheries sector currently employs workers, both men and women, in at least eight kinds of activities: fishing, processing, net and gear making, ice production and supply, boat construction and maintenance, manufacturing of fish processing equipment, packaging, marketing and distribution (FAO 2009). Although the Food and Agriculture Organisation (FAO) estimates that the livelihood of a total of 520 million people – 7.9% of the world population – is dependent on fisheries, aquaculture and those supplying goods and services to these sectors, only 44 million people are estimated to be employed worldwide as fishers and fish farmers, of which 35 million are dependent on inland and marine capture fisheries for employment.¹ Most of the fishers are in the small-scale or artisanal sector operating on coastal fishery resources (FAO 2009), especially in developing nations. Nearly 50% of fishers dependent on capture fisheries for employment – about 17 million persons – are employed on board fishing vessels, worldwide (ILO 2003). This also includes approximately about 2,00,000 fishers working on board industrialised fishing vessels.²

While employment in fisheries in most low income and middle income countries has been growing steadily, employment in fisheries has fallen, or remained stationary, in most industrialised countries (FAO 2009).³ Since younger persons in industrialised countries are reluctant to work at sea on fishing vessels, fishers from economies in transition or developing nations are increasingly replacing local fishers in these countries (*ibid*).

There are quite a few aspects unique to living and working conditions at sea in relation to fishing. First, "Fishing brings with it a risk that does not normally exist in shore-based jobs – and that is that the working platform rarely stays still..." Second, "fishermen usually have no regular hours of work..." Third, "fishermen may stay at sea for extended periods; not only a few days but many months.... The vessel, for that period, is not only their workplace but also their home. Accommodation on fishing vessels covers the full range of conditions, from state-rooms, mess-rooms and recreational spaces that are modern, well-equipped and comfortable to those that are extremely cramped and unhealthy. Quality of food and water are important..." And fourth, "the life of a fisherman also varies from that of the average merchant seaman; not only do they perform different duties but fishermen are more exposed physically to the sea itself – and ... to the hazards associated with working directly with marine life" (ILO 2003).

Several issues have been highlighted in relation to the labour dimension of fishing. First, the vast majority of fishers engage in

small-scale and artisanal fishing. Second, many fishers work on vessels registered in states other than the fishers' state of nationality or domicile.⁴ Third, many fishers live on board their vessels for extended periods of time. Fourth, fishers often work under an employment relationship involving many people due to the prevalence of a sharing system, which might lead to exclusions from laws protecting most workers. Fifth, low rates of trade union membership or lack of fishers' organisations lead to weaker social protection and social dialogue in this sector (ILO 2003). Further, an increasing emphasis on conservation and management of fisheries resources has implications for employment of fishers. Regulation of fishing capacity and effort, for example, may increasingly lead to difficulties in maintaining current levels of employment in fishing, which would necessitate the adoption of social safety nets.

2 ILO and the Fishing Sector

2.1 Labour Standards for Fishing Vessels 1920-2007

The International Labour Organisation's (ILO) engagement with the fishing sector had started as early as 1920. However, prior to 2007, the last time the ILO adopted a convention dedicated exclusively to fishing was in 1966. The concept of "economic zone" or historic "exclusive economic zone" (EEZ) was not then developed.⁵ The marine fisheries, in particular, were then dominated by industrialised countries and their fishing fleet accounted for two-thirds of the world's marine capture fisheries production.⁶

The labour standards applying to fishing vessels until the adoption of Work in Fishing Convention, 2007 (No 188) were confined only to vessels in the maritime waters.⁷ These were of two kinds: standards that applied to all commercial maritime fishing vessels and standards that exempted certain categories of fishing vessels. The only labour standard in fishing that applied to all commercial maritime fishing vessels was the Minimum Age (Fishermen) Convention, 1959 (No 112), which stipulated the minimum age for fishing as 14 years of age.⁸ The other fishing conventions, such as the Medical Examination (Fishermen) Convention, 1959 (No 113) and the Fishermen's Articles of Agreement Convention, 1959 (No 114) had provisions to exempt specific types of fishing vessels and associated categories of fishers in consultation with employers' and workers' representatives. Later, the Fishermen's Competency Certificates Convention, 1966 (No 125) and the Accommodation of Crews (Fishermen) Convention, 1966 (No 126) were designated only for fishing vessels engaged in offshore fishing and greater than 25 gross registered tonnes (GRT). The latter convention also excluded vessels less than 13.7 metres in length.

During the post-1966 period, several of the labour standards for the maritime vessels also made partial provisions for commercial maritime fishing vessels.⁹ Thus, the Seafarers' Welfare Convention, 1987 (No 163); Health Protection and Medical Care (Seafarers) Convention, 1987 (No 164); Social Security (Seafarers) Convention (Revised), 1987 (No 165); Repatriation of Seafarers Convention (Revised), 1987 (No 166); Labour Inspection (Seafarers) Convention, 1996 (No 178); Recruitment and Placement of Seafarers Convention, 1996 (No 179); and Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No 180) made provisions to apply maritime labour standards to

industrialised, commercial maritime fishing vessels.^{10, 11} Effectively, until 2007, small-scale fishers and fishing vessels – the majority of fishers and fishing vessels in the world – were excluded from the scope of all ILO labour instruments for fishing.

2.2 A New Labour Standard for Fishing

The ILO, recognising the special nature of work in the fishing sector, called for the adoption of more up to date provisions in international labour standards to effectively address the decent work deficit in the sector for both industrialised and small-scale fishing vessels. This was to be undertaken, first, by updating the seven existing standards (five Conventions and two Recommendations), adopted in 1920, 1959 and 1966, respectively, to reflect changes in the sector. It was also with a view not to reduce the protection already afforded to workers by ratified conventions (ILO 2003).

Second, taking into account the poor ratifications of the existing conventions, ILO was keen to ensure widespread ratification for a new instrument. Third, ILO also was keen to reach a greater portion of the world's fishers, particularly those on smaller vessels.¹² Fourth, developing a new labour standard for fishing was also to be viewed as part of ILO's move towards an integrated approach towards standards-related activities, and to move away from a traditional compartmentalised approach (ILO 2003). Fifth, fishing vessels engaged in fishing activities and fishers on such vessels previously afforded protection by ILO's standards for seafarers – and excluded from the scope of the Maritime Labour Convention, 2006 that revised these standards – were to be protected so that they would continue to enjoy the same level of protection under a new fishing convention.¹³

Towards serving as a basis for the first discussion, the International Labour Office drew up a preliminary report in 2003 (ILO 2003), which gave an overview of the fishing sector and analysed the relevant legislation and practice concerning labour conditions in the sector in various ILO member-states. This report, along with a questionnaire, was communicated to the governments of member-states. The ILO office prepared a report based on replies to the questionnaire from 82 member-states, from governments, employers' and workers' organisations, of which 64 governments supported having a comprehensive standard, i.e., a Convention supplemented by a Recommendation (ILO 2004). The governing body subsequently placed on the agenda of the 92nd session (2004) of the International Labour Conference (ILC) an item concerning a convention supplemented by a recommendation on work in the fishing sector. This was to be the first discussion under the double discussion procedure¹⁴ for adoption of a work in fishing convention and recommendation.

Based on the conclusions adopted by the International Labour Office following the first discussion at its 92nd session, the ILO office prepared and communicated to the governments of member-states in 2004 a proposed convention and a proposed recommendation (ILO 2004a) to seek their views for a second discussion at the 93rd session of the ILC in 2005. The report of the Conference Committee on the Fishing Sector 2005 (ILO 2005b), based on its 16 sittings – containing the proposed convention and recommendation – was submitted to the plenary of the conference

for discussion and approval. When submitted to record votes, the proposed convention concerning work in the fishing sector was not adopted at the plenary owing to a lack of a quorum (ILO 2007a). The “employers” group abstained en masse during record vote ostensibly because they considered it impossible for the wide ratification of the proposed convention (ILO 2007). Many governments, especially Asian member-states such as China, Indonesia, India, Japan, Republic of Korea, Vietnam, the Philippines and Malaysia also abstained during the record vote.

While some government representatives of member-states were of the view that the proposed convention was not sensitive to the situation of developing nations, others such as China and Japan took a view that the text did not address the differences in fishing fleets and types of fishing (ILO 2007). There was also a position that the proposed text was too prescriptive with regard to hours of rest, validity of medical certificates, and measurements regarding accommodation, especially with respect to vessels above 24 metres in length. Disagreements, for example, with the conversion ratios for length into tonnage for vessels were not resolved to the satisfaction of some of the Asian governments.

Following these votes, the 2005 session of the ILC adopted a motion to request the governing body to place on the agenda of the 96th session of the conference (2007) an item concerning work in the fishing sector. The 294th session (November 2005) of the general body included on the agenda of the 96th session of the ILC an item concerning work in the fishing sector based on the report of the Committee on the Fishing Sector presented at the 93rd session as well as the outcome of other tripartite consultations.¹⁵ At its 295th session, the governing body further decided to follow the single-discussion procedure.¹⁶

There were several meetings between 2005 and 2007 of representatives of employers, fishers and some governments not only at ILO meetings but also outside on their own as part of social dialogue to better understand each other’s position.¹⁷ In December 2006, an Interregional Tripartite Round Table on Labour Standards for the Fishing Sector was held in Geneva where the possibility of incorporating into the proposed convention a “progressive implementation approach” was suggested by the employers group, which would allow “States, under specific conditions, to implement progressively certain provisions of the Convention over a fixed period of time”, for early and widespread ratification even before developing necessary infrastructure for the effective implementation of the convention (ILO 2007a).

The convention, ILO Work in Fishing Convention, 2007 (No 188), was adopted along with the Work in Fishing Recommendation, 2007 (No 199) at the 96th session of the ILC in 2007 with an overwhelming majority. The government representatives of 128 States,¹⁸ trade union representatives of 110 States and employers’ representatives of 98 States cast their record vote in favour of adopting the Convention. This was in significant contrast to the record vote in 2005 which led to the non-adoption of the convention when the minimum quorum could not be met. The convention will come into force 12 months after 10 members, including at least eight coastal states, have registered their ratifications with the Director-General of ILO. Some member-states have already initiated the ratification process.¹⁹

3 Work in Fishing Convention, 2007

The Work in Fishing Convention, 2007 is a consolidated legislation for fishers on board fishing vessels. It lays down rights of fishers, responsibilities of fishing vessel owners, skippers and fishers, and duties of states. It develops principles and criteria for the benefit of fishers working on board fishing vessels in relation to: (i) minimum requirements for work; (ii) conditions of service; (iii) accommodation and food; and (iv) medical care, health protection and social security, including occupational safety and health and accident prevention, and protection in the case of work-related sickness, injury or death. It also proposes principles and criteria for compliance and enforcement (ILO 2007c).

The minimum requirements for work on board fishing vessels include minimum age and medical examination standards. The conditions of service include several items such as standards for manning of fishing vessels and hours of rest of fishers,²⁰ crew list, fisher’s work agreement, repatriation, recruitment and placement of fishers, and payment of fishers.

(1) Minimum Age: Regarding minimum age, a three-tier age structure has been adopted by the convention, ranging from 15 years to 18 years of age: 15 years if young persons are not subject to compulsory schooling, and 16 years if they are. The minimum age for day work is stipulated as 16 if work carried on board could jeopardise the health, safety or morals of young persons; and 18 if it involves night work.

Types of work in fishing that can be construed as “worst forms of child labour” include: (i) work that expose children to physical abuse; (ii) work in confined spaces; (iii) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads; (iv) work in an unhealthy environment which may expose children to temperatures, noise levels, or vibrations damaging to their health; and (v) work under difficult conditions such as work for long hours or night work (ILO 2003). Some of these hazardous labour conditions are true of maritime fishing operations,²¹ and also of inland fishing.²² Adopting minimum age standards for work in the fishing sector, therefore, could be of benefit to a larger number of young persons in attaining legal protection from being employed to undertake some of the worst forms of child labour.

(2) Medical Examination: A two-tier standard has been proposed under medical examination which requires fishers to work on board fishing vessels with a valid medical certificate attesting to fitness to perform duties. At one level, it can be a flexible standard. Exemptions could be granted, in consultation with owners and workers, to fishers on board certain categories of fishing vessels from holding a valid medical certificate attesting to fitness to perform their duties, subject to factors such as size of the vessel, availability of medical assistance, duration of the voyage, area of operation and type of fishing operation.

At another level, minimum mandatory provisions are advocated for vessels that remain at sea for more than three days along with vessels 24 metres in length and over. These are requirements to hold a medical certificate attesting to satisfactory hearing and sight and not suffering from a medical condition that

could be aggravated by service at sea so as to render the fisher unfit for such service, or to endanger the safety or health of other persons on board.

(3) Manning and Hours of Rest: While general norms are considered for all vessels such as the need for sufficiently and safely manning for the secure navigation and operation of the vessel, and giving fishers regular period of rest of sufficient duration to ensure safety and health, mandatory standards are adopted for vessels that are 24 metres in length and above, as well as for vessels regardless of size that remain at sea for more than three days. The states are required to establish minimum hours of rest for fishers on board such vessels. However, temporary exceptions can be made, after consultation with representative organisations of fishing vessel owners and fishers, to some of the mandatory standards if alternative requirements, substantially equivalent and that would not jeopardise the safety and health of the fishers, could be made, or if compensatory periods of rest could be guaranteed.

Although fatigue has been identified as an important cause of accidents at sea, most flag states do not have any regulation on hours of work or hours of rest on board a fishing vessel (ILO 2003). Adoption of standards for manning and hours of rest by flag states would be beneficial, for example, to fishers who participate in multi-day longline fishing operations for tuna in offshore waters or in the high seas where fishers, once they reach the fishing ground, often do not get any rest at all. In Taiwanese longline fishing operations in the Indian Ocean, for example, consecutive rest periods of six hours are granted only every three days at sea (Mathew 2000). The standard, once adopted and implemented, would benefit especially many migrant fishers on board fishing vessels less than 24 metres in length that are fishing in distant waters.

(4) Crew List: It is required that every fishing vessel should carry a crew list which is also to be provided to authorised persons ashore prior to departure of the vessel. This requirement could be beneficial in so many ways to fishers and owners, especially during accidents, inspections on board, and settlement of disputes regarding working and living conditions. It can also assist in cases involving arrest and detention of fishers in the waters of coastal, flag or port states, on board both large- and small-scale fishing vessels (ICSF 2003).

(5) Fisher's Work Agreement: It is required that fishers employed on board vessels should benefit from the protection of a work agreement. It is the responsibility of owners of fishing vessels to ensure that each fisher has a written work agreement providing decent work and living conditions on board the vessel. The non-resident fishers employed on board vessels in both industrialised and developing nations, for example, would particularly benefit from the requirement of a work agreement.

(6) Repatriation: For the first time, repatriation rights of fishers from foreign ports are being recognised. The states are required to work out legal measures to fulfil this entitlement of fishers on board vessels flying their flag. The provision is most relevant to fishers working on vessels that do not frequently return to their home port. It is also relevant to migrant fishers working on vessels

that, although may return to the home port, do not return to the country of the fisher's residence (ILO 2003).

As has been further pointed out by the ILO, a serious problem for many fishers has been repatriation following arrest of a vessel or its abandonment by the owner, often arising from the vessels being apprehended for illegal fishing and when the vessel and crew are apprehended (ILO 2003).²³ Such a provision should help better address numerous cases of abandoned fishers in foreign ports, of migrant fishers unable to return home from ports of flag states, and to facilitate repatriation from sea due to illness or injury (ITF 2006).

(7) Recruitment and Placement: Measures to protect fishers from recruitment and placement agencies, especially from private ones, particularly of fishers recruited to serve on board fishing vessels flagged by nations other than fishers' country of domicile are proposed. These would be effective in addressing abusive practices reported among a number of such agencies, which include poor payment for jobs; false contracts; and the berthing of fishers in floating hotels and barracks with very poor accommodation, as has been reported by ILO (ILO 2003). There are numerous cases of such abusive practices, especially in the Indo-Pacific region (ICSF 1991; Met Yung Lit 1991; ICSF 1994; Cura 1995).

(8) Payment of Fishers: Measures to ensure that fishers who are paid a wage are ensured a monthly or regular payment, and are given means to transmit their payments to their families are proposed. These measures are of particular relevance to fishers from labour-supplying countries on board foreign-flag fishing vessels, and to fishers who are on board vessels that undertake fishing operations in other EEZs or the high seas (Rakotoniaina 1995).

(9) Accommodation and Food: For the first time, requirements for accommodation and food for fishing vessels including smaller vessels have been proposed. It has to be ensured that accommodation on board fishing vessels are of sufficient size and quality. The quality and quantity of food and water on board are to be regulated. Detailed provisions are annexed to the convention, especially for vessels above 24 metres in length and over with regard to both accommodation and food.

(10) Medical Care: Under medical care, a two-tier standard is adopted: a flexible standard for all vessels taking into account the number of fishers on board, the areas of operation and the duration of the fishing trip, and a prescriptive standard for vessels 24 metres in length and over. The flexible standard is in relation to the provision for having at least one fisher trained in first aid or other forms of medical care and who has the necessary knowledge to use the medical equipment on board, and in relation to the provision for communication facilities on board for obtaining medical advice. The prescriptive standard for larger vessels requires a more detailed compliance with mainly a set of preventive measures and on-board procedures. The fishers' right to medical treatment ashore and the right to be taken there in a timely manner are also recognised for the first time.

(11) Occupational Safety and Health: Similar to medical care, flexible and prescriptive standards are adopted for occupational

safety and health protection, including preventive and protective measures. Flexible standards may be adopted to prevent occupational accidents, occupational diseases and work-related risks on board fishing vessels, including risk evaluation and management; for on-board instruction of fishers; for training of fishers in handling of types of fishing gear and the knowledge of the fishing operations; for ensuring the safety and health protection of young persons under the age of 18 years; and for reporting and investigating accidents on board fishing vessels.

Prescriptive standards are required for fishing vessels of 24 metres in length and over normally remaining at sea more than three days, and also for other vessels after consultation, taking into account the number of fishers on board, the area of operation and the duration of the voyage. These would also include measures to provide fishers with protection from work-related sickness, injury or death through a system of fishing vessel owners' liability, or compulsory insurance, workers' compensation, or other schemes. Provisions are also to be made for fishers to have access to medical care and compensation in the event of occupational accident or disease.

Although fishing is recognised as hazardous in comparison with other occupations (ILO 1999), and death and injury rates in fishing are reportedly high in both industrialised and developing nations, this is the first time that ILO is adopting an occupational safety and health standard specific to fishing.²⁴ These measures, once implemented, would not only contribute to the development of a safety culture but also to improve reporting of accidents, fatalities, injuries and diseases in fishing, currently, poor in most fishing nations (ILO 2003).

(12) Social Security: Also for the first time, social security rights of fishers and their dependents on a par with other workers, including employed and self-employed persons, are being recognised.²⁵ Steps are to be taken to achieve progressively comprehensive social security protection for all fishers. Countries are also to cooperate through bilateral and multilateral agreements to achieve social security protection for fishers taking into account the principle of equality of treatment irrespective of nationality, and to ensure the maintenance of social security rights regardless of residence.

(13) Compliance and Enforcement: The states that ratify the convention would be expected to exercise their jurisdiction and control over vessels that fly their flag by establishing a system for ensuring compliance with the requirements of this convention including inspections, reporting, monitoring, complaint procedures, appropriate penalties and corrective measures in accordance with national laws or regulations. Fishing vessels that remain at sea over three days, which are 24 metres in length and over, or navigating at a distance over 200 nautical miles from the coastline of the flag state or that go beyond the outer edge of the continental shelf would be required to carry a valid document that they have been inspected by the competent authority.

Not only flag state provisions, but port state provisions are also employed to implement the convention. Thus, port states are authorised to receive complaints or obtain evidence against vessels calling at its port about poor conformity with the provisions

of this convention, and to take measures necessary to rectify any conditions on board which are hazardous to safety or health of fishers after notifying a representative of the flag state.²⁶

4 Analysing the Work in Fishing Convention, 2007

As can be gathered from the above discussion, the Work in Fishing Convention, 2007, has a much broader scope compared to any other labour instrument hitherto developed for fishing. For the first time, it includes all commercial fishing operations – defined as fishing operations other than subsistence or recreational fishing²⁷ – including on rivers, lakes and canals.²⁸ Also for the first time, the definition of “fisher” includes persons working on board a fishing vessel who are paid on the basis of a share of the catch. The convention also provides, for the first time, standards related to occupational safety and health and social security to fishers on large and small fishing vessels.

The scope of the convention, allows flexibility to adopt labour standards in all commercial forms of fishing involving fishing vessels. Exclusions could, however, be made to vessels engaged in fishing operations in rivers, lakes or canals, and limited categories of fishers or fishing vessels with due prior justification and after providing equivalent protection. Excluded categories are to be progressively brought within the scope of the convention. There is further flexibility if a state faces substantive special problems due to poor infrastructure or institutions in relation to implementing certain provisions of the convention. In such situations, certain designated provisions of the convention could be progressively implemented, in accordance with a plan and after consulting with the most representative organisations of fishing vessel owners and fishers.²⁹

The Work in Fishing Convention, 2007, thus, has a three-tier structure: at one level, certain categories of fishing vessels in marine and inland waters may be excluded; at the second level, certain specific provisions of the convention may be suspended until conditions conducive for their implementation are in place. At the third level, recognised provisions are to be implemented in relation to non-excluded categories of fishing vessels and operations, comprising flexible and mandatory standards, depending on size of the fishing vessel, area and duration of fishing operation.

While the overall duty to develop laws and regulations and to ensure their implementation rests on the State, the duties of fishing vessel owners include: hiring fishers subject to minimum age requirements; providing the conditions of service such as regular periods of rest, ensuring fishers have the protection of a work agreement and the right to repatriation; employing licensed recruitment and placement agencies; ensuring regular payment of fishers; providing proper accommodation, food and water on board fishing vessels; providing medical care, and preventive and protective measures towards occupational safety and health of fishers.

Recognition of rights of fishers under the convention could also help address the organisational hiatus in relation to unionisation of fishers in the sector. From informal patron-client arrangements, trade unions, based on legislation developed to implement the convention, could organise labour on board fishing vessels under a rights-based framework to realise the rights of fishers. These rights include the right to a work agreement; right to

regular periods of rest during fishing trips; right to repatriation, right to regular payment; right to treatment ashore, right to safety and health; right to protection from work-related sickness, injury or death; and right to social security.

Effective implementation of the convention can ensure that fishers are no more a bunch of “co-adventurers”. Developing national laws and regulations in line with the convention can help improve working and living conditions in fishing, a neglected area as evident from ILO’s account (ILO 2003). Strengthening employers’ organisations can enhance the process of social dialogue towards the implementation of the convention to the benefit of both fishers and owners of fishing vessels.

Implementing the convention could lead to labour legislation in different nations to develop common elements of a mechanism to improve living and working conditions in fishing, as well as to extend social security protection. However, the additional flexibility provided to progressively implement certain designated measures in the convention without specifying a time frame could result in their implementation getting inordinately delayed.³⁰ Efforts should be made at the national level to ensure that there are no such delays.

5 Conclusions

The adoption of the Work in Fishing Convention, 2007, is “fundamentally important for those countries that had no specific law relating to this sector” (ILO 2007), as Brazil observed at the 96th session of the ILC, 2007 during discussion on the revised text of the convention.

The Work in Fishing Convention, 2007, is a major watershed in addressing the labour dimension of fishing. It has come at a time when marine capture fisheries are in the throes of a transition from development-driven fisheries to conservation and management-driven fisheries, which have implications for labour and employment in fishing. Simultaneously, vessels below 24 metres in length are expanding their range of fishing operations and occupying niches vacated by industrialised fishing vessels in the EEZ. Increasingly, large number of smaller fishing vessels in Africa, Asia and Latin America, are undertaking longer fishing

trips lasting several days into distant waters. Many of these fishing operations involve fishing trips exceeding seven days. Implementing the provisions of the convention therefore would be of great benefit to workers participating in such fishing operations, in particular. The convention could also be of immense benefit to improve working and living conditions of fishers employed on board fishing vessels under foreign flags.

While retaining and enhancing protection to fishers on board larger vessels, the convention, for the first time, introduces elements of labour standards to all types of fishers on fishing vessels at the lower end of the fishing spectrum. Its elements such as minimum age and social security provisions could be of benefit to majority of world’s fishers, including those on smaller vessels. The convention has also successfully integrated several elements into a consolidated labour instrument.

The convention should serve as a mechanism to improve conditions of labour in fishing. It should become a toolbox to fix existing problems related to the working and living environment in fishing, to develop measures to protect children from hazardous forms of labour and to provide social security protection to all fishers. There should be consultation at the national level of fishers, owners of fishing vessels and authorities at different levels towards ratifying the convention and in developing a plan of action for implementing it through national legislation.

Further, the scope of the convention should be broadened while applied at the national level to reach a greater number of fishers, especially categories of shore-based fishers,³¹ which also includes a large number of women. This would help meet one of the key objectives of developing a new fishing convention, namely, to reach a greater portion of the world’s fishers. The broadening of scope should at least be with respect to measures concerning social security, safety, health and accident prevention.³² In the meantime, there should be perseverant effort to disseminate the content of the convention at the regional, national and local levels to explain how the convention can address the decent work deficit in the fishing sector.³³

NOTES

- Eighty-six per cent of fishers and fish farmers worldwide are located in Asia. China alone accounts for 23% of the global fishers’ population, followed by India, Indonesia, the Philippines and Vietnam.
- Fishing vessels above 24 metres in overall length are considered to be industrialised fishing vessels.
- Industrialised countries employed only about 8,60,000 fishers in 2006, as against one million fishers in 1990.
- This can take the form of fishers working on board foreign flagged vessels in waters under the jurisdiction of the fishers’ state of nationality, or migrant fishers on board foreign flagged vessels fishing elsewhere. There are many south Asian fishers, for example, working on board fishing vessels in the Middle East.
- The concept of the EEZ came into use only in the early 1970s (United Nations 1995).
- The trend is now reversed with developing nations accounting for the bulk of global marine fisheries production. The adoption of EEZ which grants sovereign rights to explore, exploit, conserve and manage natural resources, including fisheries resources, of the EEZ to the coastal state under the 1982 United Nations Convention on the Law of the Sea also means that the coastal state has been given a say in

protecting working and living conditions on board fishing vessels in waters under its jurisdiction, which includes the territorial sea and the EEZ.

- With the exception of Hours of Work (Fishing) Recommendation, 1920 (No 7) that recommended adopting national legislation to adopt an eight hours’ day or a 48 hours’ week as the standard for fishing operations in all types of waters.
- The convention had a poor ratification record. According to ILOLEX, C 112 is ratified by eight and denounced by 21 member states (see, <http://www.ilo.org/ilolex/english/convdisp1.htm>).
- A caveat was added: “to the extent it deems practicable, after consulting the representative organisations of fishing-vessel owners and fishers, the competent authority shall apply the provisions of this convention to commercial maritime fishing” since shipowners’ delegates at the conferences that negotiated these instruments who were representative of companies engaged in maritime transport did not feel they could speak for owners of fishing vessels (ILO 2003). Shipowners’ Liability (Sick and Injured Seamen) Convention, 1936 (No 55) also applied to fishing vessels except coastwise fishing vessels.
- By inference, in this instance, “industrialised, commercial maritime fishing vessels” were the larger vessels coming under an employer-employee

agreement, especially those unloading fish or boarding fishers in ports other than those under the jurisdiction of the flag state; or operating in maritime waters beyond the jurisdiction of the states of fishers or the owners of fishing vessels.

- The Seafarers’ Welfare Convention, 1987 (No 163); Health Protection and Medical Care (Seafarers) Convention, 1987 (No 164); Social Security (Seafarers) Convention (Revised), 1987 (No 165); Repatriation of Seafarers Convention (Revised), 1987 (No 166); Labour Inspection (Seafarers) Convention, 1996 (No 178); Recruitment and Placement of Seafarers Convention, 1996 (No 179); and Seafarers’ Hours of Work and the Manning of Ships Convention, 1996 (No 180) were revised under the Maritime Labour Convention, 2006 (MLC), and in the process the MLC has excluded all types of fishing vessels from its scope.
- Although it was observed by ILO as early as 1958 that, “...as regards the workers in a great number of smaller fishing vessels, and the workers engaged in coastal fishing, it is desirable to prepare ... a draft international instrument which meets the actual conditions of the small-scale fishing industry ...” (ILO 1958), it took nearly 50 years since then for the workers on board smaller vessels as well as the workers engaged in coastal fishing, to be brought within the scope of an international labour instrument.

- 13 "In no case shall the adoption of any Convention or Recommendation by the Conference, or the ratification of any Convention by any Member, be deemed to affect any law, award, custom or agreement which ensures more favourable conditions to the workers concerned than those provided for in the Convention or Recommendation" (Paragraph 8, Article 19, the Constitution of the International Labour Organisation).
- 14 See Article 39, Standing Orders of the International Labour Conference for details of the double discussion procedure (ILO 2004c).
- 15 Implying without making any substantive changes to the instruments as they were contained in the Report of the Committee on the Fishing Sector, 93rd Session, International Labour Conference, Geneva.
- 16 See Article 38, Standing Orders of the International Labour Conference (ILO 2004c).
- 17 Courtesy: Brandt Wagner, Maritime Specialist, Sectoral Activities Department, International Labour Office, Geneva (personal communication).
- 18 Asian governments representing fishing nations such as China, Vietnam, Korea, Thailand and India, voted for adoption of the Work in Fishing Convention, 2007, along with South Africa, Russian Federation, the United States, Canada, Norway and members of the European Union. It should, however, be noted that several south-east Asian governments representing fishing nations such as Indonesia, Malaysia and the Philippines abstained, along with Peru, a leading fishing nation from Latin America.
- 19 On 14 January 2009, the European Parliament, for example, adopted a Legislative Resolution urging all EU member states to proceed rapidly to ratify the Work in Fishing Convention, 2007 (C188) and put its content into effect in advance of completion of the ratification process (see, <http://www.europarl.europa.eu/sides/getDoc.do?language=EN&reference=A6-0423/2008>. Accessed on 20th April 2009).
- 20 The definition of "fisher" has been broadened to include persons working on board who are paid on the basis of a share of the catch.
- 21 Children are employed on multi-day fishing vessels as cooks in India. There are fishing operations that employ children for driving the fish towards the net. Muro-Ami fishing in the coral reefs of the Philippines reportedly employs children, mainly between 12 and 14 years of age, to undertake diving and swimming operations to drive the fish towards the net by using a scare-line. Ruptured eardrums and damaged auditory nerves are reported among these children (Van Oosterhout 1988).
- 22 Large number of children, particularly girls of five to eight years of age, is reportedly employed in Lake Volta, Ghana, in diving operations from smaller fishing vessels in reservoirs, which often lead to loss of hearing. There are also serious threats to the morals of these girls often staying away from their families (ICSF 2004).
- 23 See <http://arrest-fishers.icsf.net/icsf2006/jspFiles/arrest-fishers/index.jsp>. Accessed on 23 December 2009.
- 24 There are provisions under the Occupational Safety and Health Convention, 1981 (No 155) to exclude maritime fishing from its application.
- 25 Social Security (Minimum Standards) Convention, 1952, No 102 excludes "seafishermen" from its scope. Although the Social Security (Seafarers) Convention (Revised), 1987 (No 165) could potentially apply to commercial maritime fishing, that employed just a small fraction of fishers on board fishing vessels. Also, the Maritime Labour Convention, 2006, which, inter alia, revises C 165, does not apply to fishing vessels.
- 26 A tripartite meeting of experts to adopt port state control guidelines for the implementation of the Work in Fishing Convention, 2007 (No 188) will be held at the International Labour Office in Geneva from 15 to 19 February 2010.
- 27 The Work in Fishing Convention, 2007, does not offer any definition of subsistence and recreational fishing operations. However, ILO quotes the meaning of "subsistence fishery" from the FAO Fisheries Glossary as: "a fishery where the fish caught are shared and consumed directly by the families and kin of the fishers rather than being bought by middle-(wo)men and sold at the next larger market" (ILO 2005).
- 28 Fishing vessels in earlier conventions only included ships and boats that were engaged in maritime fishing in salt waters.
- 29 Progressive implementation provisions apply to vessels below 24 metres in length, or vessels remaining at sea less than seven days, or vessels that stay within 200 nautical miles from the seaboard of the flag state, or fishing vessels that do not fall under the port state control.
- 30 A government member, during the single discussion on Work in the Fishing Sector, raised the issue of why the concept of progressive implementation did not set out a time limit. He wondered whether this might lead to difficulties and uneven scrutiny by the Committee of Experts on the Application of Conventions and Recommendations when assessing members' implementation records. He was of the view that at the time of ratification, member states should commit themselves to a specific time frame for the final implementation of the convention (ILO 2007).
- 31 There was a demand from civil society organisations to include shore-based fishers within the scope of the convention to assist them benefit from provisions such as medical care and social security (ILO 2005b).
- 32 Spain in its reply to an ILO questionnaire prior to the single discussion in 2007 (ILO 2007a) proposed that: "Shore-based person carrying out work on board, and other persons not covered by the definition of "fisher" contained in the Convention should also be covered by the measures concerning safety, health and accident prevention" (ILO 2007a).
- 33 To further disseminate the convention and to explain its relevance, the International Labour Office has organised several meetings in Asia, Africa and Latin America. These are: Asian Regional Seminar on the Work in Fishing Convention (for Asia and the Pacific) in Seoul, Republic of Korea from 2 to 4 September 2008; Sub-Regional Workshop on Decent Work in the Fishing Sector, Dakar, Senegal from 9 to 10 October 2008; Two-Country Workshop on Decent Work in the Fishing Sector, Lima, Peru from 23 to 24 October 2008; and American Regional Seminar on the Work in Fishing Convention, Rio de Janeiro, Brazil from 24 to 26 August 2009.
- The International Collective in Support of Fishworkers (ICSF) has prepared a Guidebook in nine languages on the fishing Convention explaining its relevance to developing countries, in particular (see http://icsf.net/icsf2006/jspFiles/icsfMain/toDownload/ICSF_Guidebook_Understanding_the_Work_in_Fishing_Convention_2007_in_English_French_Spanish_Arabic_Bahasa_Indonesia_Gujarati_Malayalam_Marathi_Tamil_and_Telugu).

REFERENCES

- Amarasinghe, O (2005): "Social Welfare and Social Security in Sri Lankan Fisheries", SAMUDRA, Monograph, ICSF, Chennai.
- Cura, N, M (1995): "Distant-water Fishworkers: Treading on Dangerous Waters", SAMUDRA Report (No 13), ICSF, Chennai.
- Dickinson, M (1998): "Seafaring Workers: Protest, Don't Sit Still", SAMUDRA Report (No 21), ICSF, Chennai.
- FAO (2009): *The State of World Fisheries and Aquaculture 2008* (Rome: FAO).
- ICSF (1991): "Proceedings of the ICSF Seminar/Workshop on the Conditions of Fishworkers on Distant-water Vessels", 1-3 February, Manila, the Philippines, ICSF, Brussels.
- (1994): "The Cebu Conference Proceedings: The Struggles of Fishworkers: New Concerns for Support (Triennial Conference of the International Collective in Support of Fishworkers and the Tenth Anniversary of the International Conference of Fishworkers and their Supporters)", Cebu, Philippines, 2-7 June, ICSF, Chennai.
- (2003): "Proceedings of the Indian Ocean Conference: Forging Unity: Coastal Communities and the Indian Ocean's Future", ICSF, Chennai.

- (2004): "Fishing for Standards: A Collection of Articles on ILO's Proposed Comprehensive Standard on Work in the Fishing Sector", ICSF, Chennai.
- (2007): "Understanding the Work in Fishing Convention", ICSF, Chennai.
- ILO (1958): *Conditions of Work of Fishermen, Report VII (2)* (Geneva: ILO).
- (1999): "Note on the Proceedings: Tripartite Meeting on Safety and Health in the Fishing Industry", Geneva, 13-17 December.
- (2003): *Report V (1) Conditions of Work in the Fishing Sector: A Comprehensive Standard (a Convention Supplemented by a Recommendation) on Work in the Fishing Sector* (Geneva: ILO).
- (2004): *Report V (2) Conditions of Work in the Fishing Sector: The Constituents' Views* (Geneva: ILO).
- (2004a): *Report V (1) Work in the Fishing Sector* (Geneva: ILO).
- (2004b): "Provisional Record 21. Fifth Item on the Agenda: Work in the Fishing Sector – A Discussion with a View to the Adoption of a Comprehensive Standard (a Convention Supplemented by a Recommendation) (First Discussion): Report of the Committee on the Fishing Sector".
- (2004c): *Constitution of the International Labour Organisation and Standing Orders of the International Labour Conference*.
- (2005): *Report V (2A) Work in the Fishing Sector, International Labour Conference, 93rd Session 2005*.
- (2005a): *Report V (2B) Work in the Fishing Sector, International Labour Conference, 93rd Session 2005*.
- (2005b): "Provisional Record 19: Fifth Item on the Agenda: Work in the Fishing Sector (Second Discussion), Report of the Committee on the Fishing Sector. Ninety-third Session of the International Labour Conference", ILO, Geneva.
- (2007): "Provisional Record 12. Fourth Item on the Agenda: Work in the Fishing Sector (Single Discussion), Report of the Committee on the Fishing Sector", ILO, Geneva.
- (2007a): *Report IV (2A) Work in the Fishing Sector: Fourth Item on the Agenda. International Labour Conference 96th Session 2007*.
- (2007b): *Report IV (2B) Work in the Fishing Sector: Fourth Item on the Agenda. International Labour Conference 96th Session 2007*.
- (2007c): "Provisional Record 12A: Text of the Convention Concerning Work in the Fishing Sector Submitted by the Drafting Committee", ILO, Geneva.
- (2007d): "Provisional Record 12B: Text of the Recommendation Concerning Work in the Fishing Sector Submitted by the Drafting Committee", ILO, Geneva.
- ITF (2006): *Out of Sight, Out of Mind: Seafarers, Fishers and Human Rights. A Report by the International Transport Workers' Federation* (London: ITF).
- Kurien, J and A Paul (2000): "Nets for Social Safety – An Analysis of the Growth and Changing Composition of Social Security Programmes in the Fisheries Sector of Kerala State, India", SAMUDRA, Monograph, ICSF, Chennai.
- Lourenço, C, F, J Henkel and M C A Maneschy (2006): "Social Security for Fishworkers in Brazil: A Case Study of Pará", SAMUDRA, Monograph, ICSF, Chennai.
- Mathew, S (2000): "Another Filipino Story", SAMUDRA Report No 26, ICSF, Chennai.
- Met Jung Lit, Yvonne (1991): "Fishworkers and Taiwan's Distant-water Fishing Industry", SAMUDRA Report No 4, ICSF, Chennai.
- Rakotoniaina, J (1995): "Seafaring Workers: Scars of Labour", SAMUDRA Report (No 12), ICSF, Chennai.
- United Nations (1995): *Conservation and Utilisation of the Living Resources of the Exclusive Economic Zone: Legislative History of Articles 61 and 62 of the United Nations Convention on the Law of the Sea*, United Nations, New York.
- Van Oosterhout, H (1988): "Issues and Options of Child Labour in the Philippines: A Practical Example of the 'Muro-Ami' Fishing Operation" in Assefa Bequele and Jo Boyden (ed.), *Combating Child Labour* (Geneva: ILO).



NATIONAL INSTITUTE OF RURAL DEVELOPMENT

(An Organisation of the Ministry of Rural Development, Govt. of India)

Rajendranagar, Hyderabad 500 030

NIRD invites applications in the prescribed format for the following posts to be filled up on **Direct recruitment basis**. The Institute broadly follows the UGC pay scales for academic positions.

I. PROFESSORS : 5 Posts

(OBC-1, SC-1 and UR-3)

(Scale of pay : Rs.16,400-22,400-pre-revised)

in the following areas:

- i) Library and Information Science
- ii) Information Technology
- iii) Rural Infrastructure
- iv) Human Resource Development
- v) Panchayati Raj

- v) Panchayati Raj
- vi) Water and Land Resources
- vii) Rural Infrastructure
- viii) Self Employment and Rural Enterprises
- ix) Tribal Studies
- x) Rural Credit and Developing Banking

GENERAL QUALIFICATIONS:

ESSENTIAL:

- i) First or high second class Post Graduate degree (55% above) with Ph.D. in the relevant subject.
- ii) 10 years' experience in teaching in a recognised University or training in a recognised Institute of which at least 5 years should be at the level equivalent to that of a Reader of a University.
- iii) Independent research experience with published books and research papers in the relevant field.

GENERAL QUALIFICATIONS:

Essential:

Minimum of High Second Class Post Graduate Degree (with 55% and above marks) with Ph.D. in the relevant discipline in Social/ Physical Sciences/ Agricultural Sciences / Computer Sciences/ Statistics/ Management

Or

Minimum High Second Class Master's degree in any of the Technical disciplines with Ph.D.

Or

Minimum High Second Class M.Tech. degree in any of the Engineering disciplines.

Experience:

Two years of experience in teaching in a recognised University or training in a Institution or relevant field experience in any Engineering/ Technological area relevant to Rural Development; and

Area wise qualifications for the post of Professors, Associate Professors and Asst. Professors, job description and general conditions etc. can be obtained from NIRD Website.

II. ASSOCIATE PROFESSORS: 10 Posts

(OBC-2, SC-2, ST-1 and Unreserved-5)

(Scale of pay of Rs.12,000-18,300) (pre-revised)

in the following areas:

- i) Distance Education
- ii) Gender Studies
- iii) Water and Land Resources
- iv) Self Employment and Rural Enterprises
- v) Tribal Studies
- vi) Quantitative Techniques
- vii) Panchayati Raj
- viii) General Management
- ix) Wage Employment and Poverty Alleviation
- x) Planning, Monitoring and Evaluation

GENERAL:

Age : No age limit for the above posts. However, the age of superannuation is 60 years at NIRD.

Note: Persons with different disabilities of Partially Deaf (PD), One leg affected(OL), One arm affected (OA) and Both legs affected (BL) may also apply for all the posts.

Compensation Package:

D.P. DA, HRA,TA and other allowances as applicable to Central Govt. employees. Residential accommodation on payment of normal rent in NIRD Campus will be provided subject to availability.

GENERAL QUALIFICATIONS:

ESSENTIAL:

- i) First or High Second Class in Post Graduate Degree (55% and above) with Ph.D. in the relevant discipline
- ii) Atleast 7 years experience in teaching in a recognised University/ training on a recognised institution/consultancy in relevant discipline/subject, etc. of which a minimum of five years should be at the level equivalent to that of a Lecturer in the University.
- iii) Independent research experience in the relevant field/published books/ papers based on original work etc. and should have made some mark in the areas of scholarship as evidenced by quality of publications, contribution to educational innovation, design of new courses and Curriculum.

GENERAL CONDITIONS:

- 1) Applicants who are serving employees should submit their applications through proper channel. The candidates should produce 'NOC' from parent organisation at the time of interview.
- 2) In case of serving personnel, pay certificate duly signed by the pay drawing authority to be attached along with details of experience and present status.
- 3) Candidates selected are likely to be posted anywhere in India including **NIRD Regional Centres at Guwahati and Patna etc. as per the requirements of the Institute.**
- 4) Other details as regards job description of the post and application form may be downloaded from **NIRD Website: nird.org.in.**
- 5) Prescribed applications duly filled-in and supported by all relevant documents should reach the Registrar, NIRD on or before **26th February, 2010.**

III. ASSISTANT PROFESSORS - 8 posts

(OBC-3 and Unreserved-5)

(Scale of pay of Rs.8000-13500) (pre-revised)

in the areas of :

- i) Planning, Monitoring and Evaluation
- ii) Human Trafficking
- iii) Information Technology
- iv) Agrarian Studies

Sd/- Registrar & Director (Admn)