

FISHING CONVENTION

India Should Vote for ILO Work Programme

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This article argues that the government should support the proposed International Labour Organisation work on a fishing convention when it would come up again for adoption at the June 2007 ILC on the ground that a convention could benefit all Indians employed as fishers on board vessels of other flag states, as well as those working on board both large- and small-scale fishing vessels in India.

Will the minister of labour and employment be pleased to state:

(a) whether India was represented in the committee on fishing in the 92nd and 93rd Session of ILO; (b) if so, the details thereof; (c) whether the government decided to abstain from voting on the proposed work in Fishing Convention, 2005; and (d) if so, the reasons therefore, along with the position of the government on the proposed work in Fishing Convention?

– Lok Sabha, Unstarred question No 3761, Suresh Kurup and C S Sujatha. K Chandrasekhar Rao, minister of labour and employment, August 22, 2005:

(a) & (b): Yes, Sir. The International Labour Conference of the ILO held in 2004 discussed the various ILO instruments which were necessary for being established to improve the safety and working conditions of persons working in the fishing sector. These discussions were held in the Conference of 2004, as a first discussion to identify the areas where suitable measures for improving safety and working conditions in the fishing sector could be specifically drawn up. The Conference then decided to discuss various instruments in the International Labour Conference of 2005.

(c) & (d): Yes, Sir. India along with other likeminded 138 countries, decided to abstain from the voting at the time of final record vote during 93rd Session of the ILC in June 2005, as it was felt by developing countries that the draft Convention was very prescriptive and difficult to implement. The proposed Convention did not adequately address the concerns of the small fishermen who form bulk of the fishing sector in India. The new fishing instrument should be practicable and enforceable in countries like India with diverse ecologies and long coastlines (emphasis ours).

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Question (1): Were there 138 likeminded countries, along with the government of India, that had decided to abstain during the final record vote on the proposed fishing convention?

Let us examine the voting pattern. The details of the final record vote on the adoption of the work in the fishing convention is in the Provisional Record 25, which can be found on

the ILO website. As can be gleaned from the Record, while 98 governments voted for the convention, just four were against, and only 28 governments abstained – not 139 as claimed by the minister. Therefore, the reference to “Government of India along with other likeminded 138 countries” is a mistake that needs attention. The labour and employment minister mixed up the total number of abstentions, which is 139, with the total number of countries that abstained from the record vote. These abstentions included not only governments, but also trade union/worker representatives as well as representatives of employers.

The government abstentions included the government of India and 22 other developing country governments. Some were governments of land-locked countries such as Bolivia, Mali, Nepal and Afghanistan, and some were heavyweights such as China, India and Indonesia that account for over 60 per cent of the world marine fishers’ population. The governments that abstained also included the governments of Australia, Korea, Japan, Mexico and the US. The majority of developing country governments, in fact, voted for the convention: there were 60 developing country governments for the convention and just four against. Altogether 98 governments voted for, including 22 industrialised countries and 16 economies in transition. And, significantly, trade union representatives of 99 countries voted for the convention, which included the trade union representatives of China, India and Indonesia. Equally significantly, all representatives of employers, except a few, abstained from voting. While just 10 employers’ representatives voted for the convention, an overwhelming 90 representatives abstained.

(2) Is the proposed instrument very prescriptive and difficult to implement?

The support of most developing country governments shows that the majority of developing country governments did not consider the proposed standards as very prescriptive and difficult to implement. In any case, the ILO instruments could not be too prescriptive since article 19 paragraph 3 of the ILO constitution requires conventions and recommendations to take into account substantial differences in industrial conditions of developing nations.

The proposed standards are, in fact, more prescriptive towards larger fishing vessels and those that remain at sea for several days, but flexible towards smaller vessels that undertake day fishing operations. This is evident from reading the text of the proposed convention, which makes exemption provisions as the case may be based on duration of the voyage, number of fishers on board, area of fishing operations and type of fishing operations. If you fish onboard a wooden canoe or ‘kattumaram’ with your brother and son, for example, you do not come under the purview of the convention. Similarly, if you stay fishing at sea only for a day or a night you may be exempted from its provisions.

If you work on board a smaller fishing vessel that stays at sea for more than three days or if it undertakes fishing operations in the waters of other countries and the high seas then you would most likely come under the purview of the proposed convention. This should be seen in positive light since the proposed convention then gives an opportunity to draft legislation to ensure that fishers who work on board such fishing vessels have minimum

protection when they participate in such fishing operations. And it is well acknowledged, nationally and internationally, that fishing is a dangerous occupation.

The charge that the convention was prescriptive even for small-scale fishing industry was actually made by the employers group. This group mainly represents owners of larger fishing vessels, and not the small-scale. It used the small-scale as a smokescreen to deflect the debate from focusing on pertinent issues in relation to the large-scale sub-sector. It was hell-bent on defeating the convention during the final record vote because the adoption of the convention and the possibility of it later becoming national law would have meant binding obligations for them. It would have meant providing some of the basic standards on board larger fishing vessels currently accessible mainly to fishers on board boats registered in industrialised countries also to those registered in developing countries. It was evident from the almost unanimous decision of all employers' representatives from both industrialised and developing countries to abstain from the final record vote.

The Indian government, perhaps inadvertently, became part of a minority of governments that abstained from the final record vote along with the majority of employers' representatives who comprised owners of large-scale fishing vessels.

At the final record vote on the fishing convention, where a majority of governments and trade unions were for the convention, the act of abstention also by some governments, ironically, ensured a victory to the employers group in defeating the adoption of the convention at the ILC 2005. This is because the quorum of the final record vote is to be met from votes cast for and against, and not from abstentions. Knowing fully well that the majority was for the adoption of the convention the employers successfully lobbied – and even played on unfounded fears of some ILO member governments – to ensure that a sufficient number of abstentions was ensured to prevent a quorum.

Concerns of Small Fishers

(3) Did the proposed convention fail to address the concerns of small fishers?

And what were the concerns of small-scale fishers?

The International Collective in Support of Fishworkers (ICSF) had organised workshops in India, Sri Lanka, the Philippines, Ghana, Kenya and Argentina on the proposed convention during 2004-05 to disseminate the draft convention and to discuss it from a small-scale fisheries perspective.

The small-scale fishers representatives of these countries welcomed the proposed convention. They welcomed the degree of flexibility in relation to minimum age, medical examination, occupational safety and health and work agreement, considering the diversity of fishing operations in the small-scale sector. They were supportive of “benefit from social security protection” to all fishers and their dependents.

The small-scale fishers' representatives from Chile, Senegal and India who participated in an ICSF panel discussion ‘ILO Labour Standards for the Fishing Sector: A Small-

Scale Fisheries Perspective' on June 14, 2005, in Geneva, also supported the convention. In fact, there is no small-scale fishers' organisation in the world to our knowledge that has brought out a statement against the proposed ILO fishing convention.

Their concern is for widening the scope of the convention to be more inclusive to accommodate shore-based fishers who are dependent on fishing for their life and livelihood. The most outstanding concern of small-scale fishers is that full-time shore-based fishers such as beach-seine workers and women fishers who glean shellfish from mangroves and shallow mudflats are excluded from the scope of the proposed convention on the ground that they do not work on board fishing vessels.

(4) Should the government of India support the work in fishing convention at the 96th session of the ILC 2007?

The union government abstaining from the record vote at the ILC was raised in the Kerala legislative assembly on August 10, 2005. A member, drawing attention to the abstention, stressed the importance of the proposed convention in protecting the life and livelihood of fishers, especially those working on board fishing vessels of other countries, and in providing social security.

Being a country that exports fishers to other parts of the world and one that undertakes fishing operations in the waters of neighbouring countries such as Indonesia and Myanmar, and also being a country with the largest fishers' population in the world next only to China, it is imperative that the government of India joins the majority of other developing countries in working positively for – and not against – the proposed work in fishing convention when it comes up again for final record vote at the 96th session of the ILC in June 2007. Perhaps the government could even make an extra effort to address the concern of shore-based fishers to bring them within the scope of the proposed convention.

The adoption and ratification of the proposed work in fishing convention 2005 and the likely development of national legislation to address issues related to work in fishing sector will not only benefit thousands of Indian fishers who are already working, or seeking employment, in fishing in other countries but it could also help to address work and living conditions of Indian fishers, both on board large- and small-scale fishing vessels in Indian waters, as well as to benefit those who undertake longer voyages to waters under other national jurisdictions, or even to the high seas.