

A Collective Voice

The National Tripartite Workshop on the ILO Work in Fishing Convention, No. 188 was held in Goa, India, during 8-9 February 2013

A National Tripartite Workshop on the International Labour Organization (ILO) Work in Fishing Convention, 2007 (No.188—hereafter, C.188) was held in Goa, India, during 8-9 February 2013, in collaboration with India's Ministry of Labour and Employment (MOLE) and the Department of Animal Husbandry, Dairying and Fisheries (DADF) of the Ministry of Agriculture. The workshop was attended by representatives of federal and State governments, the Directorate General of Shipping, trade unions, organizations of vessel owners and employers, non-governmental organizations (NGOs), the media and the International Labour Office.

The workshop discussed the gaps between existing Indian legislation and C.188, and took inputs from governments of coastal States, social partners and other stakeholders regarding their views on ratifying C.188. Panudda Boonpala, Deputy Director, ILO Country Office, New Delhi, made introductory remarks. Speaking at the opening session, Anup C Pandey, Joint Secretary, MOLE, said the Goa meeting was a follow-up to the October 2010 and January 2011 consultations with stakeholders held in Kochi and Visakhapatnam. India will ratify C.188 only after ensuring that existing laws are in full conformity with the Convention, he said.

Brandt Wagner, Senior Maritime Specialist, Sectoral Activities Department of ILO, Geneva, introduced the provisions of C.188. Several questions were raised by participants concerning the Convention. These included: Would it be possible to have a higher minimum age for

fishers engaged in certain types of hazardous fishing operations? How would the Convention deal with crew change at sea? How does the Convention help in repatriation of fishers if they are arrested and detained in the name of maritime boundary infringements?

It was observed that fishers migrating between States within India often do not benefit from social-security schemes in the State where they work if they originate from another State. The importance of adopting provisions for

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transferability of social-security schemes across States was highlighted in this context. Attention was also drawn to labour protection of fishers on board Indian-flagged fishing vessels under joint ventures that do not land their catches in Indian ports.

Since most provisions of C.188 were addressing the labour dimension of fishing, it was suggested by the majority of the participants at the workshop that MOLE, instead of the fisheries authority, should exercise effective jurisdiction in relation to the implementation of the work-in-fishing legislation at the national and State levels.

Standards

Coen Kompier, Senior Specialist, International Labour Standards,

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ILO Decent Work Team for South Asia, drew attention to the Child Labour (Prohibition and Regulation) Amendment Bill that was introduced in the Rajya Sabha, the Indian upper house of Parliament, on 4 December 2012. The bill was aimed at prohibiting the employment of children, up to the age of 18, in hazardous occupations and processes, including mechanized fishing.

Kompier also drew attention to new labour legislation that would have relevance to fishers and

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fishworkers, such as the legislation on employment agency, and the recent changes to the Rashtriya Swasthya Bima Yojana (the National Health Insurance Programme) to provide health-insurance coverage to even those above the poverty line. Labour legislation is becoming more and more progressive, and the Indian government intended to bring all informal workers within the ambit of the Unorganized Workers' Social Security Act, 2008, by 2021, he added.

R V Anuradha of Clarus Law Associates, a consultative legal firm, presented the results of the gap analysis between C.188 and Indian fisheries, shipping and labour legislation, which was prepared in consultation with MOLE and DADF, with ILO's technical and financial support. The existing legislation is fragmented, she said.

Significant gaps were identified and a new legislation was the best way forward, she recommended. Subsistence fishing and recreational fishing are not within the purview of C.188, she observed. Based on the discussion on fisheries subsidies at the World Trade Organization (WTO), and India's position during those negotiations, she held that 'subsistence fishing' could mean

fishing for livelihood security through small-profit trade.

Brandt Wagner noted that in the preparatory work leading to the adoption of the Convention, when the term 'subsistence fishing' was defined and discussed, it referred to fish caught only for subsistence or for exchange with family and friends, which did not result in any economic gain. Therefore, 'subsistence fishing' should be considered rather narrowly. This said, the Convention did recognize the need for flexibility with respect to its application to the differing situations of countries and to limited categories of fishers and fishing vessels, and it provided for the possibility to make use of such flexibility following consultations at the national level.

If it was decided to exclude certain limited fishers or vessels from certain provisions of the Convention, it was also important to discuss how to provide such protection over time (the concept of 'progressive implementation') to such excluded fishers or vessels. The general aim of C.188 was to provide protection to the greatest number of fishers, and it should be recalled that it is so structured as to provide less stringent requirements for smaller vessels and those at sea for short periods.

R V Anuradha also cited examples of acts dealing with dock workers, miners, plantation labour, and motor transport workers, where the labour ministry, and not the respective sectoral ministries, took the initiative to protect workers in specific sectors.

The representative of the Directorate General of Shipping sought vessel- and voyage-neutral standards for Indian fishing vessels. The Commissioner of Fisheries, Andhra Pradesh, said public hearings should be organized in fishing villages to discuss the need for a work-in-fishing legislation.

Certificates

The representative of the Directorate of Fisheries, Odisha, said seaworthiness certificates and life-saving and communication

equipment should be made mandatory for all sea-going vessels undertaking fishing. He sought to insure all fishers on board fishing vessels and to make 20 years as the minimum age for fishers and 60 years as their retirement age.

The majority of fishing vessels in Odisha are below 15 m length overall, he said. Fishers currently work 15 to 18 hours per day. Working hours should be brought down to under 10 hours per day, he said. Fishers frequently change their vessel of employment. Conditions of service of fishers should be covered by the new legislation.

It is important to have common minimum standards for all fishers and processing workers across the States, he said. He also pointed out how 60 per cent of Odisha seaboard is off-limits to fishing due to wildlife sanctuaries and national parks and turtle-protection programmes.

The Director of Fisheries, Kerala, said 'fishers', as envisaged in a work-in-fishing legislation, should also include wives of fishers and women workers in allied fishing activities.

The Director of Fisheries, Goa, said 95 per cent of workers in the Goan fishing sector originated from other States. Fishers are provided with life jackets, identity cards, and registration certificates. They are paid good salaries, provided with free food on board, and given incentives based on fish catch. There are cases of workers taking money in advance and not reporting for work, he said.

He added that the provisions of C.188, including accommodation standards and hours of work, should not be made mandatory for vessels below 20 m length. There should be discussions between organizations of boatowners and workers before ratifying C.188. Twenty per cent of the Goan fishing fleet is non-operational due to the nonviability of the sector, the Director of Fisheries, Goa said.

The representative of the Associated Chambers of Commerce and Industry of India (ASSOCHAM) said health and safety requirements of workers are important, and

ASSOCHAM was in agreement with international labour standards. He sought adopting a national labour legislation before ratifying C.188, and establishing one nodal agency to deal with this legislation.

Y G K Murthy, President, Federation of Indian Fishery Industries (FIFI), said medical examination to work on board vessels as fishers was neither practical nor feasible. Accommodation, food and occupational safety should be as per national standards. It was impractical to adopt hours of work in fishing since fish had to be caught when it was available. Fishing could not be treated on par with land-based industry. Current provisions under the Merchant Shipping Act, 1958, would suffice to ensure safe navigation and communication of fishing vessels, Murthy added.

The certificate of inspection and registration of fishing vessels under this Act was adequate to ensure their seaworthiness. There was no need to adopt new provisions, he said. Fishers receive wages and shares as well as incentives for fishing. Fishers on board vessels never complain about their owners, Murthy said. The best available space on board the vessels was provided to fishers.

The boatowners were capable of ensuring decent work of fishers. C.188 was developed without any idea about Indian fishing vessels. Rather than promoting international law, existing national legislation should be implemented at the Central and State levels for vessels below 24 m length. The vessels already have to register under the Marine Products Export Development Authority Act, 1972, the Marine Fishing Regulation Act and the Merchant Shipping Act, 1958, Murthy added. C.188 is irrelevant, he argued, for vessels below 24 m length and it would do serious damage to the Indian fishing industry by making it operationally non-viable. Better catches can lead to better livelihoods, he said. The problems facing the sector had nothing to do with low wages but with low catches.

Thampan Thomas, Vice-President, Hind Mazdoor Sabha (HMS), said apprehensions of the employers

should be removed. The employers are yet to understand the importance of C.188, which was to bring a social change by safeguarding the interests of the working class in fishing. It was important to accept five mn fishers with rights as part of the labour movement in India. He sought an immediate ratification of C.188, without waiting to develop a national work-in-fishing legislation.

S P Tiwary of the Trade Union Co-ordination Committee (TUCC) said safety, health and the social security of fishers, as well as their food and accommodation, are important. All fishers, both marine and inland, should be covered by a fishing labour law. Tiwary sought a new piece of legislation with flexibility for both exclusion as well as inclusion. He said owners of fishing vessels and fishers have similar concerns. Both parties are seeking economic viability and generation of revenue from fishing.

The representative of the United Trade Union Congress (UTUC) said provisions for exclusion and progressive implementation should not be invoked, and sought broadening the scope of the work in-fishing legislation to include the inland fishing sector.

Hanumantha Rao, the representative of the Bhartiya Mazdoor Sangh (BMS), said local-language workshops should be held to further discuss C.188.

Josevimalraj of the Indian National Trade Union Congress (INTUC) sought training to improve deep-sea fishing skills, regulation of import of fish that adversely impacts the income of fishers, providing better safety and security for the fishing community in light of the killing of two Kerala fishermen in the Indian contiguous zone by Italian marines who mistook them for Somali pirates, and granting rights to fishing grounds to fishers. He sought a time frame from the Government of India for ratifying C.188.

Shankar Dasgupta of the All India United Trade Union Centre (AIUTUC) and Subbu Raman of the Labour Progressive Federation (LPF), supported a comprehensive national legislation for work in fishing that

stipulated, among other things, minimum age and minimum wage for fishing, including all fishing vessels. Ratification of C.188 was of utmost importance, said Dasgupta.

Christopher Fonseca, General Secretary, All India Trade Union Congress (AITUC), Goa, welcomed C.188. It is a normative convention, he said. All fishers should be brought within the scope of the convention. He referred to the large number of migrant fishers in Goa from all over India. They should be brought within the scope of the migrant labour act. Everyone should back C.188, he said, which can help the fishing industry to be better organized in future.

Speaking on behalf of the National Fishworkers' Forum (NFF), Pradip Chatterjee said he recalled a series of consultations on C.188 that the NFF, in collaboration with the Centre for Education and Communication (CEC) and the International Collective in Support of Fishworkers (ICSF), had organized in 2008 in different parts of India. Indian small-scale fishers could be found from the estuarine waters of the Sundarbans to the exclusive economic zone (EEZ). Currently, there are few laws to protect workers in fishing in India, he said.

The coverage of social security of fishers is poor. NFF was keen to see C.188 ratified and a comprehensive national work-in-fishing legislation developed to promote decent work in fishing. The scope of such legislation should include all types of fishing vessels and allied activities in fishing. There is considerable scope for improving work agreements in fishing, as well as occupational safety and social security.

A national legislation should be enacted and implemented, he said. MOLE should take the lead to mother the Act in consultation with DAHDF, and labour departments at the State level through a participatory process. A set of rules also needs to be developed to operationalize the act, said Chatterjee.

Road map

Discussing the road map to ratifying C.188, Anup C Pandey, Joint

ASSOCIATION OF DEEP-SEA GOING ARTISANAL FISHERMEN (ADSGAF)

Secretary, MOLE, said the concerns of the employers should be effectively addressed. Tripartite consultations at the State level would be organized over the next six months in local languages. Whether or not ratifying C.188 would affect the viability of the fishing industry will be examined.

Who should be implementing a work-in-fishing legislation will be decided in consultation with the State governments. The consultations will be time-bound and not open-ended, he said. A cabinet note will be prepared at the end of all the consultations.

Summarizing the two-day workshop, Coen Kompier of ILO said the issue of jurisdiction was raised—whether or not it should be the fisheries authority or the labour or shipping authority that should be giving effect to the provisions of C.188. Several implementation gaps were identified. While workers' organizations were unanimously in favour of C.188, the employers were not in favour of ratification. The purpose of C.188 would be defeated if only large vessels were brought within its purview, said Kompier. There was sufficient flexibility offered by the Convention in regard to medical examination, crew list, work agreement, social security and minimum age. While national standards were sought for national vessels, international standards were sought for foreign fishing vessels in the Indian EEZ. It will be good to have one set of standards that would apply to both foreign and domestic vessels, he said. Fishers do not often complain even if they were victims of forced labour, he added.

There are two types of ratification of ILO Conventions, Kompier explained. While countries such as the Russian Federation, India and Brazil see ratification essentially as mandating legal requirements, many other ILO Member States see ratification as expressing an aspirational statement with the idea of conforming to the ratified Convention. ILO has no particular view on what ratification approach should be adopted. ILO stood for a collective voice and for collective



A shark fisherman in Thootoor, India. Sufficient flexibility has been offered by the ILO Work in Fishing Convention with regard to medical examination, crew list, work agreement, etc.

agreement arrangements for fair competition. ILO cannot impose any sanctions, he said; it can only stimulate a dialogue to arrive at a consensus.

It would be better to move away from adopting a welfare approach in fishing towards a rights-based approach. Granting entitlements to workers and honouring them should be deemed more important than doling out benefits. Indian labour legislation is already moving in that direction, said Kompier, citing the example of the Unorganized Workers' Social Security Act, 2008.

As a way forward, it was proposed that ILO, in collaboration with relevant stakeholders, would bring out promotional material in local Indian languages. All organizations who wished to comment on aspects related to work in fishing would be afforded an opportunity to do so. States were requested to organize another tripartite consultative meeting to move towards developing a consensus on ratifying C.188. ILO would further liaise with the fisheries authorities, in collaboration with MOLE. The forthcoming Global Dialogue Forum for the promotion of C.188, from 15 to 17 May 2013 in Geneva, would be a possible opportunity to do so, it was hoped. 3

For more



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Comprehensive Standard of Work in the Fishing Sector