

Freedom from Modern Slavery

Only shared interest and mutual will—nationally, regionally, locally—among fishers and social partners can help achieve sustainable fisheries

The term ‘sustainable fishing’ is often associated with concepts related to ‘protection and management of fish stocks, prevention of overfishing, establishing fish quotas, and fighting illegal fishing’. Not many would think in terms of ‘people—planet—profit’, which would be more appropriate, especially in the context of the Code of Conduct for Responsible Fisheries of the Food and Agriculture Organization of the United Nations (FAO). Fishing becomes sustainable only when decent work for fishers is assured, responsible management of fish stocks is undertaken, and profit for the fishing vessel owner is achieved.

law, in order to ensure safety at sea, it is a flag State’s duty to use these standards and guidelines when drafting its internal laws relating to fisheries. Unfortunately, where safety at sea in fishing is concerned, not many flag States fulfil their international duty—they do not ratify (and thus do not take into account) the international instruments available, even though they participated in the formulation of these instruments. It is difficult to understand why flag States do not ratify international instruments on safety at sea in fishing.

The International Labour Organization (ILO) has adopted several international standards regarding the working and living conditions of fishers on board vessels. These include the Minimum Age (Fishermen) Convention, 1959 (C112); the Medical Examination (Fishermen) Convention, 1959 (C113); the Fishermen’s Articles of Agreement Convention, 1959 (C114); and the Accommodation of Crews (Fishermen) Convention, 1966 (C126). None of these, however, has achieved widespread, worldwide implementation. Many countries have shown little interest in ratifying and implementing these conventions.

Unfortunately, ten years after its adoption the convention has been ratified by no more than ten flag States.

In marine fisheries, decent work for fishers—one of the pillars of sustainable fisheries—is linked to safety at sea. On the basis of the UN Convention on the Law of the Sea, the international community has agreed on several standards and guidelines for flag States to ensure safety at sea during fishing. These standards and guidelines cover: (a) construction, equipment and seaworthiness of fishing vessels; (b) training and certification of fishers; (c) manning of fishing vessels; and (d) labour conditions of fishers. The international standards usually apply to fishing vessels of 24 m in length or over. The guidelines cover smaller fishing vessels as well. Under international

Progressive implementation

As the 20th century drew to a close, the ILO began to replace these conventions with one single convention covering a wide range of minimum standards that promote decent work for fishers. In June 2007, the International Labour Conference of the ILO adopted the Work in Fishing Convention, 2007 (C188), after the Conference had failed to adopt a convention on work in fishing in

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2005. Although the 2007 Convention offered several countries solutions for issues that had kept them from ratifying the earlier conventions, to date only ten countries have ratified C188. However, this relatively low number of ratifications was just enough for the Convention to enter into force on 16 November 2017. The European Union (EU) has adopted Directive (EU) 2017/159, which implements C188 into EU law for fishers who are employed (but not for self-employed and independent fishers) and for seagoing fishing vessels. It is hoped that by 15 November 2019, 28 Member States would have implemented the directive and thereby have an incentive to implement C188 as well in order to cover all of their fishers and seagoing fishing vessels.

C188 does indeed apply to all fishers on all fishing vessels engaged in commercial fishing, a term that covers all fishing activities with vessels at sea and in internal waters (such as lakes, rivers and canals), with

the exception of subsistence fishing and recreational fishing. The Convention sets minimum standards that can be applied to all types of fisheries in both poor and rich countries. These standards cover: responsibilities of fishing vessel owners, skippers and fishers; minimum age; medical examination; manning and hours of rest; crew list; fishers' work agreements; repatriation; recruitment and placement; payment of fishers; accommodation and food; medical care; occupational safety and health and accident prevention; social security; protection in the case of work-related sickness, injury or death; and compliance and enforcement. For fishing vessels of 24 m in length or over and for vessels remaining at sea for longer periods, the Convention sets some additional standards of a higher level.

Although C188 sets minimum standards aimed at widespread ratification and implementation, the 2007 International Labour Conference understood that countries and their



The ILO migrant fisher meeting: Tripartite Meeting on issues relating to Migrant Fishers, 18 - 22 September 2017, Geneva, Switzerland

fisheries sectors might still have difficulties implementing all of the Convention's standards fully or at once. The instrument therefore incorporates several mechanisms for flexibility. Certain provisions have built-in flexibility (for example, on vessel measurement, minimum age, hours of rest, and on contracting fishers). For countries facing problems of a substantial nature, certain provisions (for example, on medical certificates, crew lists, and risk evaluation) are allowed to be implemented progressively in compliance with an implementation time-plan drawn up in consultation with the fisheries social partners. Finally, there is also a general flexibility to temporarily exclude fishing vessels engaged in fishing operations in rivers, lakes or canals, or limited categories of fishers, from the entire Convention or from parts of it—for instance, if progressive implementation does not offer sufficient solutions.

The Convention's provisions on the fisher's work agreement and on food, potable water and crew accommodation are of special importance. Hence, in addition to the

little to fisheries' sustainability, even as pressure and demands on social issues relating to fisheries are increasing gradually. Yet, the instrument exists, ready to be used. Do we—the fishing sector—then have to wait until our governments are ready to fulfil their international duties? Can we not already start implementing parts of the Convention, while acknowledging that certain other, essential parts—like compliance and enforcement—can only be taken up effectively when governments prescribe the standards for fishing vessel owners, skippers and fishers to comply with, and carry out flag-State or port-State control?

If there is shared interest and mutual will—nationally, regionally or even locally—among social partners and members of fishers' co-operatives and partnerships to achieve more sustainability, some parts of Cr88 can perhaps be implemented voluntarily. This, of course, depends on the willingness and ability to identify, through social dialogue, the suitable parts for such preliminary 'self-implementation'. I say 'preliminary' because full implementation of Cr88 by fishing vessel flag States shall remain the goal. The standards the Convention sets should always be enforced by competent authorities and through a fair legal system, ensuring that violations of, and conflicts over, the execution of the standards can be brought before objective courts for settlement.

In September last year, the ILO organized a tripartite meeting on issues relating to migrant fishers. The meeting was quite successful and the outcome showed, once again, what can be achieved through social dialogue and a willingness to find solutions through co-operation.

Migrant fishers

The human and labour rights of migrant fishers are not always respected, denying them basic dignity and decency. In recent years, this has been brought into the open by the international media, worker organizations, UN agencies, NGOs and other stakeholders. Exact numbers are

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articles of the Convention, Annex II lists the details that a fisher's work agreement shall cover, and there is also Annex (Existing vessels do not have to be altered.) Some of Annex III's provisions hold additional requirements for larger, new fishing vessels with a deck. Annex III, too, contains flexibility mechanisms to help achieve widespread ratification (for example, the use of gross tonnage instead of length or length overall for a limited number of requirements).

Unfortunately, ten years after its adoption the convention has been ratified by no more than ten flag States and has, therefore, contributed



Participants at the ILO migrant fishers tripartite meeting showed, once again, what can be achieved through social dialogue and a willingness to find solutions through co-operation

hard to come by, but the widespread human-rights abuses reported were so unacceptable that the international community could not remain mute on the sidelines. The forced labour of 'modern slavery' manifested as: abuse of vulnerability; deception; restriction of movement; isolation; physical and sexual violence; intimidation and threats; retention of identity documents; withholding of wages; debt bondage; abusive working and living conditions; and excessive overtime.

The abuses heaped on migrant fishers from low-income countries often start in their home countries where they fall into the hands of *mala fide* crewing agents, recruiters or labour brokers (or anyone else in the trade who act as mediators between job-seeking fishers and vessel owners) or their middlemen. Invariably, recruitment and placement services for fishers and fishing vessel owners are not regulated in accordance with internationally agreed standards as those laid down in the Maritime Labour Convention, 2006 (MLC) or C188, nor with international guidelines for fair recruitment. As it turns out, fishers still have to pay to get a job aboard a foreign fishing vessel and they are often burdened with loans (to pay for food and lodging, transport, and 'care' for the family), which results in endless debt bondage to these agents. Fishers should be made aware that these practices are forbidden under

the international agreements and guidelines mentioned above. Fishing vessel owners and fishers should not deal with agents who cannot prove that they comply with the international standards and guidelines (for instance, through a valid certificate from a recognized classification society.)

One underlying cause for these problems is that most flag States and labour-supplying countries have not fulfilled their duty to ensure safety at sea in fishing through internal legislation that implements the internationally agreed standards designed for fishing. This is in contrast to what they did for shipping and seafarers. The 2017 ILO tripartite meeting invited member States to ratify and implement the standards, and invited UN agencies to develop a joint roadmap for effective promotion of these standards. The UN agencies, separately and jointly, have already developed, with great dedication, all kinds of valuable materials to assist countries and social partners, such as guidelines, handbooks, training materials, and a model gap analysis.

They also carry out excellent programmes for assistance in the field. Sadly, these commendable activities have not led to the deserved success in that the numbers of ratifications have not increased much. Clearly, there is now an additional need for a focus on high-level political and diplomatic efforts. 

For more

<https://labour.icsf.net/>
ICSF website on Work in Fishing Convention

http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_515365.pdf

Fishers First: Good Practices to End Labour Exploitation at Sea

http://www.ilo.org/sector/activities/sectoral-meetings/WCMS_552792/lang-en/index.htm

Tripartite Meeting on Issues Relating to Migrant Fishers, 18 - 22 September 2017, Geneva, Switzerland