

ICSF Dossier

Fishing for Standards

A collection of articles on
ILO's proposed comprehensive standard on
work in the fishing sector



International Collective in Support of Fishworkers
27 College Road, Chennai 600 006, India

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Preface

Towards a New Standard

As a source of income and livelihood, fishing is a peculiarly problematic occupation, principally because of the special nature of work in the fishing sector. Not only is fishing an inherently hazardous vocation, but fishermen working in small-scale and artisanal fisheries—who make up the vast majority of the world’s fishermen—also have different difficulties that call for specific, targeted measures.

The uniqueness of the labour process in fishing and the nature of the fisheries sector itself—which, again, can often vary vastly from country to country, as some of the articles in this dossier point out—lead to a whole host of important, and largely neglected, labour issues that impinge on the fundamental principles and rights at work that are supposedly applicable to all workers, as laid down in the Declaration of Fundamental Principles and Rights at Work of the International Labour Organization (ILO).

Yet, many of these paramount labour issues—ranging from workplace-related problems and employment relationships to seasonality of employment and the effects of fisheries management measures to reduce fishing effort—have remained unexamined, even as the world’s fisheries have undergone significant and far-reaching changes over the last 40 years.

During this period, while laws and regulations covering other workers may have been modified or updated to recognize and accommodate such changes, very little has been done for those working in the small-scale and artisanal fisheries sector. The ILO itself last developed a standard for the fishing sector four decades ago.

It is in this context that ILO has proposed a new standard, to be placed on the agenda of the 92nd Session of the International Labour Conference in June 2004 at Geneva, which would revise the existing seven ILO instruments on the subject—five Conventions (on minimum age, medical examination, article of agreement, accommodation and competency certificate) and two Recommendations (concerning vocational training and hours of work).

Towards this end, ILO circulated a questionnaire among member States in March 2003 to elicit views on the content of a comprehensive standard. Governments were requested to consult with the most representative organizations of employers and workers in the sector before finalizing their replies to the questionnaire by August 2003.

The responses received have been summarized in the overview report that opens this dossier. Significantly, though, several member States did not consult with stakeholders in their fishing sectors before replying to the questionnaire, while some did not even respond at all.

To partially make up for this lacuna in information, the International Collective in Support of Fishworkers (ICSF) organized a series of workshops in four countries—Philippines, Sri Lanka, Ghana and India—to elicit the responses of fishworker organizations, industry representatives and concerned persons to ILO's proposed new comprehensive standard of work in the fishing sector. The reports from these workshops are included in this dossier, some of which reveal the existence of useful and practicable provincial schemes for the social security of fishing communities in the small-scale and artisanal sector. Also included are analyses of the social security systems for fishing communities in three countries, namely, Sri Lanka, India and Brazil. In the case of Brazil, as the final article points out, several of the social security standards prescribed by ILO have been incorporated into the country's social security system and have particularly benefited fishing communities.

ICSF hopes that this dossier will play a useful, complementary role to the ILO's law and practice 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*, published in 2003, and the post-questionnaire Report V(2), *Conditions of work in the fishing sector: The constituents' views*, prepared in 2004 by the International Labour Office. ■

Proposed Comprehensive Standard on Work in the Fishing Sector: An Overview

The following is based on a presentation made at the workshop on the International Labour Conference and the proposed comprehensive ILO standard on work in the fishing sector at Accra, Ghana on 21 April 2004

Sebastian Mathew, Programme Adviser, ICSF

Introduction

According to the Food and Agriculture Organization of the United Nations (FAO), in 2001, marine capture fisheries stood at 82.5 mn tonnes. About 45 per cent of the total marine fish production is estimated to originate from the small-scale fisheries sector, and the rest is from the industrial fisheries sector. In 2000, there were about 27 mn persons estimated to be employed in capture fisheries, worldwide. They range from those employed by multinational corporations in industrialized fishing vessels to those working on rudimentary unmechanized *kattumarams* (catamarans). The vast majority of the world's fisher population is based in Asia. Of the 27 mn, about 15 to 20 mn are considered as artisanal and small-scale fishers. About 90 per cent of the fishers of the world work on vessels less than 24 m in length.

Perhaps the most significant change that has happened in marine fishing over the last 40 years relates to the status of fisheries resources. Capture fisheries seems to have peaked. Aquaculture is now the main frontier for increasing fish production. There is little room for developing new fisheries or for increasing fish production from existing fisheries. These facts have serious implications for employment. The emphasis, according to the International Labour Organization (ILO), is changing from maximum employment to sustainable employment.

Over the last 40 years, there have been significant changes in fishing technology, too. Smaller vessels that never ventured beyond near-shore waters are now fishing outside the territorial limits of 12 nautical miles, and sometimes even in other exclusive economic zones (EEZs). These vessels now stay at sea longer and fish at

greater distances, which have implications for the working and living standards of the crew on board. In India, for example, vessels below 20 m length account for almost the entire marine fish production of the country. The Ghanaian artisanal fisheries, too, contributes to more than 80 per cent of Ghana's fish production. Ghana's artisanal fishing canoes now fish up to the edge of the country's continental shelf.

It is almost 40 years now since ILO last developed a standard for the fishing sector. The proposed new standard, to be placed on the agenda of the 92nd Session of the International Labour Conference in June 2004 at Geneva, would revise the existing seven ILO instruments on the subject—five Conventions (on minimum age, medical examination, article of agreement, accommodation and competency certificate) and two Recommendations (concerning vocational training and hours of work). This is within the context of revising ILO Conventions (binding for countries that ratify them) and Recommendations (not binding, but providing guidance) adopted before 1985, in order to update and strengthen the standards-setting system of ILO.

ILO broadens the definition of 'commercial fishing' in the proposed new standard to include all but subsistence fishing and recreational fishing (including fishing operations in inland lakes and rivers). The definition of 'fisher' includes every person employed or engaged in any capacity on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch.

The new standard on work in the fishing sector—a Convention supplemented by a Recommendation—is expected to reflect changes in the fishing sector during the past 40 years. For the first time ever, it expects to reach a greater portion of the world's fishers, particularly those working on board smaller vessels. It wishes to address—also for the first time—other critical issues in the fishing sector, such as safety and health, and the social security of fishers.

The new standard would take into account the provisions of the 1995 FAO Code of Conduct for Responsible Fisheries and it would try to integrate the work of ILO with that of other international organizations concerned with fisheries and the operations of fishing vessels. This, ILO believes, would result in the standard being clearly understood and to be found more acceptable not only by ministries responsible for labour issues but also by those responsible for fisheries management and vessel safety, as well as by fishing vessel owners and those working on fishing vessels.

ILO circulated a questionnaire among member States in March 2003 to elicit views on the content of a comprehensive standard. Governments were requested to consult with the most representative organizations of employers and workers before finalizing their replies to the questionnaire by August 2003.

Of ILO's 177 members, 83 countries responded to the questionnaire, of which more than 50 per cent were developing countries. More than two-thirds of the responding countries reported consultation with employers' and workers' representatives in preparing their responses to the questionnaire.

Almost 90 per cent of the respondents agreed to adopt instruments on work in the fishing sector. While most countries would like to see a Convention supplemented by a Recommendation, a narrow minority of developing countries, including India, would like to see only a Recommendation (not binding, but providing only guidance).

Regarding the scope of the proposed legal instrument, more than 50 per cent of the respondents said the proposed standard should apply only to vessels engaged in marine waters, although 23 States would like to exclude vessels in territorial waters from the scope of this standard. In addition to 'areas of operation', 36 States would also like to see 'fishing vessel length' as another method of delimiting the scope of the Convention.

Of the responding States, 94 per cent would like to include a provision concerning minimum age for work on board fishing vessels. The majority proposed 18 years as the minimum age. Several States have given their reasons for requiring a minimum age: the hazardous nature of fishing, the difficult and demanding nature of the occupation, and the importance of having fishers who have reached a certain level of mental and physical maturity, or who have an understanding of their rights, responsibilities and safety regulations. School-leaving age is also a consideration for some respondents.

There was overwhelming support for the need for fishers to (a) undergo initial and subsequent medical examination; (b) hold a medical certificate attesting fitness for work as a fisher; and (c) carry appropriate medical supplies, considering the hazardous nature of fishing operations and their remoteness from medical care ashore.

The vast majority of governments and workers' organizations also highlighted the importance of written contracts or articles of

agreement between vessel owners and fishers. Many developing countries, however, said such contracts should not apply to small vessels engaged in artisanal and small-scale fishing operations.

With regard to accommodation and provisions on board fishing vessels, almost all States who responded, observed that the Convention should provide that all fishing vessels, with exemptions for some categories, should have appropriate accommodation and sufficient food and drinking water for the service of the fishing vessels.

There was overwhelming support for measures to ensure that fishing vessels have sufficient and competent crew for safe navigation and fishing operations in accordance with international standards, and for minimum periods of rest, established in accordance with national laws and regulations, to combat excessive fatigue and for general health reasons.

In view of the hazardous nature of fishing and the high injury and fatality rate, almost all governments suggested that the Convention should provide that occupational safety and health provisions should cover persons working on fishing vessels. Most governments wanted occupational safety and health provisions to apply to all vessels.

An overwhelming majority of governments suggested that the Convention should provide that persons working on board fishing vessels should be entitled to the social security benefits applicable to other workers, in view of the hazards of their occupation.

Most governments suggested that the Convention should include a provision concerning consultation with representative employers' and workers' organizations, as well as representative organizations of persons working on board fishing vessels in the development and implementation of national laws and regulations concerning conditions of work on board fishing vessels.

The proposed conclusions that have been prepared by the International Labour Office, based on the replies to the questionnaire, aim "to help ensure that fishers have decent conditions for work on board fishing vessels with regard to minimum requirement for work on board; conditions of service; accommodation and food; health promotion; medical care and social security." The Convention would apply to vessels engaged in commercial fishing operations. It can exclude rivers and inland waters. Exclusions could, however, further be made for "categories of fishers or fishing vessels in respect of which special and

substantial problems relating to application arise in the light of particular conditions of service of the fishers or the fishing vessel's operations." ■

Fishing for Labour Standards

This backgrounder on the ILO's proposal for a comprehensive new standard on work in the fishing sector first appeared in SAMUDRA Report No. 35, July 2003

Sebastian Mathew, Programme Adviser, ICSF

Introduction

At its 283rd Session, held in March 2002, the Governing Body of the International Labour Organization (ILO) placed on the agenda of the 92nd Session of the International Labour Conference, to be held in June 2004 at Geneva, an item concerning a comprehensive standard on work in the fishing sector.

This is within the context of revising ILO Conventions (binding for countries that ratify them) and Recommendations (not binding, but providing guidance) adopted before 1985, in order to update and strengthen the standards-setting system of ILO. The ILO Conventions of relevance to fishing were adopted in 1959 and 1966, while the Recommendations pertinent to fishing were adopted in 1920 and 1966.

The 93rd Session of the International Labour Conference in 2005 is expected to adopt the revised standards in the fishing sector. It is proposed that the new standard(s) would revise the existing seven ILO instruments: five Conventions and two Recommendations that apply to persons working on fishing vessels. The existing Conventions concern minimum age, medical examination, articles of agreement, accommodation and competency certificates, while the existing Recommendations relate to vocational training and hours of work.

As a comprehensive standard, issues hitherto not addressed in relation to persons working on board fishing vessels would be taken up, namely, occupational safety and health, and social security. The ILO also intends to provide protection for persons working on both large and small fishing vessels. The ILO believes that the objectives of the new instruments should be to extend coverage to reach as many persons working on board fishing vessels as possible; minimize obstacles to ratification; provide a

better chance for wide ratification; enable the provisions to be implemented into practice; and minimize the risk of the Convention becoming outdated in a short period of time.

The new standard would take into account the provisions of the 1995 FAO Code of Conduct for Responsible Fisheries and it would try to integrate the work of the ILO with that of other international organizations concerned with fisheries and the operation of fishing vessels. This, the ILO believes, would result in the standard being clearly understood and to be found more acceptable not only by ministries responsible for labour issues but also by those responsible for fisheries management and vessel safety, as well as fishing vessel owners and those working on fishing vessels.

The ILO is circulating a questionnaire among member countries to elicit views on the content of a comprehensive standard. Governments have been requested to consult with the most representative organizations of employers and workers before finalizing their replies to the questionnaire. They have been especially asked to contribute to an internationally shared sense of what should or should not be addressed in the proposed new Convention and Recommendation.

Maritime fishing

According to ILO, the seven existing ILO instruments concerning work on board fishing vessels set out their scope in different ways. Generally, they provide that they apply to vessels engaged in maritime fishing in salt waters. Several provide exceptions or exemptions for certain categories of fishing vessels (those engaged in whaling or recreational fishing, or those primarily propelled by sail) or for fishing vessels operating in certain areas (like ports, harbours and estuaries of rivers). Some provide that the instrument applies, in whole or in part, to fishing vessels of a certain size (measured as vessel length in feet and metres, or tonnage) or engine power.

For the purpose of the proposed Convention, the term 'fishing vessel' is defined as any vessel used or intended for use in the commercial exploitation of living marine resources, including mother ships and any other vessels directly engaged in fishing operations.

Many States regulate some aspects of conditions of work on board fishing vessels according to the area of operation of the vessel. Rather than depend on nebulous categories like 'coastal', 'inshore', 'offshore', 'small-scale' and 'artisanal' to delimit the area of operations, the ILO is trying to improve clarity in the use of terms

concerning the area of operation. In its questionnaire, it proposes five areas of operation: (a) vessels engaged in fishing operations in the high seas and in waters other than those of the flag State; (b) vessels engaged in fishing operations up to the limits of the exclusive economic zone (EEZ) of the flag State; (c) vessels engaged in fishing operations up to the limits of the territorial waters of the flag State; (d) vessels engaged in fishing operations up to three miles from the baseline; and (e) vessels engaged in fishing operations in rivers and inland waters.

It then seeks to know if the Convention should apply to fishing vessels in all these areas of operation or whether it should consider the possibility of excluding fishing vessels within, and below, the territorial limits. If 'areas of operation' would not be an appropriate method of delimiting the scope of the Convention, the questionnaire seeks the views on using different categories such as 'fishing vessel length', 'tonnage' and 'time fishing vessel spends at sea'. It also includes questions on whether the Convention should apply to all persons working on board fishing vessels, irrespective of nationality.

Views sought

The questionnaire seeks views on provisions concerning the minimum age for work on board fishing vessels and whether or not there should be exemptions. It also seeks to know if certain fishing vessels and certain types and conditions of work on fishing vessels should be prohibited for persons under the age of 18 years. Under the category of 'medical examination', the questionnaire seeks to know if the Convention should provide that persons working on board fishing vessels should undergo initial and subsequent periodic medical examinations, and whether the Convention should provide for exemptions from this requirement.

If medical examination is required, it seeks to know if a person should hold a medical certificate attesting to fitness for the work for which he or she is to be employed at sea.

The questionnaire section on medical care at sea seeks to know if fishing vessels should be required to carry appropriate medical supplies and whether the fishing vessel should have on board a person qualified or trained in first aid or other forms of medical care. It also asks if certain fishing vessels should be excluded from this requirement.

Under 'contracts for work', the questionnaire seeks to know if every person working on board a fishing vessel should have a written contract or article of agreement. It seeks to clarify the

categories of persons working on board fishing vessels who could be exempted from the provisions concerning written contracts. It also seeks to know whether or not persons working on board a fishing vessel should have access to appropriate mechanisms for the settlement of disputes concerning their contracts or articles of agreement.

Under 'accommodation and provisions on board fishing vessels', the questionnaire seeks to know if all fishing vessels should have appropriate accommodation and sufficient food and drinking water for the service of the fishing vessel and if there is any need for exemptions.

Under 'crewing of fishing vessels', it seeks to know if States should take measures to ensure that fishing vessels have sufficient and competent crew for safe navigation and fishing operations in accordance with international standards.

Views on the need for a provision for minimum periods of rest on board fishing vessels, in accordance with national laws and regulations, are also sought. The questionnaire asks whether occupational safety and health provisions should cover persons working on board fishing vessels.

More specifically, it seeks to know if these should be an extension of general occupational safety and health provisions, or an extension of maritime occupational safety and health provisions, or specific provisions for work on board fishing vessels, or a combination of any of these.

Social security

Under 'social security', the questionnaire seeks to know if all persons working on board fishing vessels should be entitled to the social security benefits applicable to other workers, and if the Convention should provide for the possible exemption of certain categories of persons working on board fishing vessels.

The questionnaire seeks to know if the Convention should provide that persons working on board the high seas and distant-water fishing vessels should have labour conditions that are no less favourable than those provided to seafarers engaged in commercial maritime transport, and if such provision should cover persons working on board other fishing vessels. It also seeks to obtain views on having provisions for recruitment and placement, identity documents and repatriation.

Regarding 'enforcement', the questionnaire seeks to know if the Convention should provide that States should adopt measures to verify compliance with the provisions of the Convention and whether or not any category of fishing vessels should be exempted from this requirement. Views of representative organizations are also sought on including a provision on port State control. The questionnaire also seeks the views of respondents on the need for including a provision in the Convention for consultation with representative employers' and workers' organizations, as well as representative organizations of persons working on board fishing vessels in the development and implementation of national laws and regulations concerning conditions of work on board fishing vessels.

The questionnaire seeks to know if the proposed Recommendation should provide guidance on (a) the types of work or fishing vessels that should not be employing persons under the age of 18; (b) the content of the medical certificate and the medical procedures to be followed for issuing it; (c) the content of the medicine chest and the type of medical equipment or first-aid kit required to be carried on board fishing vessels; (d) the content of contracts or articles of agreement for work on board fishing vessels; (e) specification of insurance coverage for persons working on board fishing vessels in the event of injury, illness or death; (f) contracts or articles of agreements for work on board fishing vessels; and (g) systems of remuneration, including those based on a share of the catch.

The questionnaire also seeks to know if the Recommendation should provide that States should have national laws and regulations concerning planning and control of crew accommodation on board fishing vessels, and on providing guidance concerning standards of accommodation, food and drinking water. It also seeks to know if the guidance on accommodation and provisions on board fishing vessels should make distinctions based on fishing vessel length, operating area, tonnage and time spent at sea. Views on guidance concerning hours of work or rest periods are sought, including the limits of working hours or provisions for minimum rest periods.

Regarding 'occupational safety and health', the questionnaire asks if the Recommendation should address the inclusion of fishing occupational safety and health issues in an integrated national policy on occupational safety and health. The questionnaire also seeks to know if the Recommendation should include guidance on social security provisions for persons working on board fishing vessels.

Views are sought on the Recommendation including provisions concerning maintenance by the competent authority of a register of persons working on board fishing vessels. Lastly, the questionnaire seeks to know if the Recommendation should provide that coastal States should require, when they grant licences for fishing in their EEZs, that fishing vessels conform with the standards of this Convention. ■

Report from the Philippines

The following account from Bigkis-Lakas Pilipinas summarizes the deliberations at its General Assembly on the proposed ILO standard and on the conditions of work in the fishing sector

Bigkis-Lakas Pilipinas, ASI and ICSF

Introduction

Bigkis-Lakas Pilipinas (BLP), a national alliance of fisherfolk organizations in the Philippines, comprehensively discussed the implications of the forthcoming 92nd Session of the International Labour Conference in June 2004, specifically the Agenda items on conditions of work in the fishing sector. This occurred during the BLP's 15th Anniversary General Assembly and celebration of the World Fisheries Day between 19 and 21 November 2003 at the coastal town of Calauag, Quezon. Eighty-six BLP members participated in the workshop, together with supporters from private and government institutions.

The agenda for the discussions was presented through a symbolic drawing of the different relevant themes: sizes of fishing boats/vessels; people of different sexes and ages; food; medicines; medical certificates; contracts; security benefits and law enforcement. Such a graphic representation led to easy understanding, which allowed the participants to concern themselves with the work conditions of the fishworkers engaged in catching fish. At the beginning, there was a violent reaction to the term 'fisherfolk' that was initially used. Several participants suggested the use of 'fishworkers' instead, especially those who were in the commercial fishery and who go out to fish beyond the exclusive economic zone (EEZ) for over a week.

The timely intervention of ILO and the objectives behind the preparatory activities leading to the proposed International Labour Conference in June 2004, encouraged BLP to open an avenue for greater collaboration with the country's fishworkers, especially with those involved in small-scale fisheries. Most of the fishers are unorganized and very subservient to vessel owners or to their trustees. As they shared their experiences at the General Assembly, the participants explained how their situation is worse than that of owner-operators of 6-HP (horsepower) fishing boats. They have

no contracts, no social security benefits and no medical care whatsoever, and they have to fend for their own food. Often, they are apprehended for poaching in fishing grounds of other provinces and even of other countries. Some end up in jail for several months, as in the case of fishworkers in General Santos City, Mindanao, who illegally fished in Indonesian waters.

In this context, the BLP regards the forthcoming ILO 2004 conference as a grand favour and opportunity not only for those in large-scale fisheries, but also especially for small- or medium-scale fishers. BLP thus readily supports this initiative. However, during the discussions, an important limitation of BLP came to light—its lack of involvement in organizing fishworkers. The General Assembly meeting was thus a good forum for understanding the firsthand experiences of fishworkers and their observations of their current conditions of work.

Another point raised during the discussion was the fact that the Philippines' present Fisheries Code Republic Act 8550 has concrete provisions to safeguard the welfare of fishworkers on board fishing vessels through prescriptions for medical care, safety, food, contracts, and so on. However, since, in practice, these are rarely implemented to the letter, most fishworkers are sceptical about the efficacy of such laws, which will remain good only on paper. One participant even despaired that if only the existing laws meant to meet the concerns of fishworkers were implemented, that in itself would suffice. However, most participants realized that to partake in this preparatory exercise of gathering data for an international labour standard is an opportunity to be heard. BLP hopes the concerns of its members and other fishworkers will be included in the final draft of the policy standard by ILO, as happened when BLP participated in drafting the FAO's Code of Conduct for Responsible Fisheries in Rome in 1994 through the late fisher leader Sofronio 'Ka Onie' Balagtas.

Discussions at the plenary session

Making use of the symbolic drawing, the plenary discussion started with BLP approving ILO's effort to have a Convention supplemented by a Recommendation. The four areas of operation in fisheries used in the ILO questionnaire were considered existing in the Philippines, but exemptions were demanded, especially for traditional and indigenous fishing done during daytime and for only several hours or a day, as in the case of those fishing within the 15-km limit. When the participants talked of traditional and indigenous fishing, they took into account fishing vessel length, tonnage, time spent in fishing at sea, and types of fishing gear and operations.

On the item of acceptable fishing age, the participants agreed on the country's legal working age, which is 18 years. But they also expressed the need for exemptions, especially for those who are being trained by their parents to take up the profession, for those who are forced to go fishing at a young age because their parents are disabled, and for those who are in schools of fisheries. But during conditions of rough or cold, windy seas, deck-based work and jobs should not be allowed for youths below 18 years of age.

...during rough or cold, windy seas, deck-based work should not be allowed for youths below 18 years of age.

The participants wanted medical examination for persons working on board fishing vessels to be made mandatory, with the exemptions mentioned earlier (day fishing in traditional boats below 3 gross tonnes, within the municipal waters). Those who are qualified should have medical certificates, and all necessary medical care, food and safety gear at sea must be provided on the commercial and industrial fishing

vessels. Besides the medical certificates, contracts for work must be strictly followed.

Appropriate accommodation and sufficient food and drinking water in the abovementioned fishing vessels must be provided to the fishworkers during fishing periods, except in the case of short-hour fishing boats. Fishworkers on board fishing vessels operating for a longer time and in deep seas within and outside the EEZ should have sufficient training and competence in safe navigation and fishing operations, in accordance with international standards. The participants regarded rest periods for fishworkers as necessary for health and safety reasons. If possible, after every fish haul, a period of rest must be awarded to the fishworkers, they asserted.

Likewise, social security, as defined in the fisheries codes of different countries, must be granted. There must also be equal or justified sharing of the income from fishing, after deductions for necessary expenses. This is also a way of protecting fishworkers from unforeseen difficulties.

Conclusion

BLP regards fishworkers as responsible contributors to food security for humankind. It is essential, therefore, that they also develop a sense of ownership of the fishing vessels they board. This would ensure trust and a lasting working relationship between owners and workers in fisheries and related endeavours. Caring for the means of production and nature—which is the fishing ground and resources—ensures the sustenance of fisheries

for coming generations. Consultation between owners and workers is vital to promote partnership in fisheries management and development. Along with this, other issues like the seaworthiness of fishing fleets, employment of security guards on fishing vessels, and treaties and agreements between countries affecting fishers in small-scale fisheries will be easily and peacefully resolved. ■

Report from Sri Lanka

The following is a report on the National Workshop on Improving Labour Conditions in the Fisheries Sector of Sri Lanka, held on 21 March 2004 at the Sri Lankan Foundation Institute, Colombo

RUUSA, UFFC, NAFSO and ICSF

Background

The Governing Body of the ILO has decided to place on the Agenda of the 92nd Session of the International Labour Conference (to be held in June 2004), an item concerning a comprehensive Convention supplemented by a Recommendation on work in the fishing sector. The ILO has decided to revise seven of its Conventions and Recommendations on labour conditions in fisheries. The new standard is expected to address other issues, such as occupational safety, health and social security. It is also intended to provide protection for persons working on both large and small fishing vessels.

In order to do this, the ILO prepared a Law and Practice Report that examined existing legislation and practice concerning labour conditions in the fishing sector of ILO member States. A questionnaire based on the assessments made in this report was also prepared. The purpose was to request the member States to provide the ILO office with their views concerning the scope and content of the proposed instrument, after consultations with the most representative organizations of employers and workers. The duly filled-up questionnaire was to be sent to the ILO office before August 2003.

The above questionnaire has also been sent to the Government of Sri Lanka, in particular to the Ministry of Employment and Labour, and was subsequently sent to some fishworker organizations as well. However, even by the end of the year 2003, sufficient attention had not yet been paid to this issue by the government or by the fishworker organizations, although they had the opportunity of doing so. In fact, only one response (from the United Fishermen's and Fishworkers Congress or UFFC) had been received for the ILO query.

The above issues were brought to light at several discussions that the International Collective in Support of Fishworkers (ICSF) has had with its members and also at other national forums when academics of the University of Ruhuna, Matara, Sri Lanka had the opportunity to discuss these matters with fishworker organizations. In this context, the Ruhuna University Union of Senior Academics (RUUSA), UFFC and the National Fisheries Solidarity (NAFSO) decided to join hands to organize a workshop in collaboration with ICSF.

Workshop objectives

The following were the major objectives of the workshop:

- a. to suggest ways and means of improving work conditions in the fisheries sector and also to recommend revisions to the existing conventions and recommendations dealing with conditions of work in the fisheries sector;
- b. to provide an input to the ICSF representation at the ILO meeting scheduled for June 2004; and
- c. to take a step forward in getting the fishworker organizations in Sri Lanka to join hands in working towards common issues.

The workshop was held on Sunday, 21 March 2004 at the Sri Lankan Foundation Institute, Colombo.

Participants

The participants consisted of representatives from fishworker organizations, government departments, and universities. There were 12 non-Sinhalese and 24 Sinhalese, including two women. The participants represented almost all areas of the country, except the LTTE-dominated Northern Province. The workshop was conducted in both local languages—Sinhala and Tamil—and simultaneous translation facilities were provided to all participants.

Proceedings

About 10 days before the workshop, the participants were provided with information on the existing ILO conventions and recommendations dealing with work in the fisheries sector and their relevance to the small-scale and artisanal sector. The workshop participants were asked to give sufficient thought to the particular character of their fisheries prior to the workshop so that they could contribute productively during the one-day deliberations.

After the inaugural session, which took about half an hour, three major presentations made at the workshop highlighted the existing

conventions and agreements dealing with work conditions in the fisheries sector, and the presenters tried to relate them to the situation in the small-scale and artisanal fisheries sub-sector of Sri Lanka. The participants then split into three groups according to the major themes and tried to provide answers to the ILO questionnaire, giving reasons. All throughout the discussions, the participants were provided with simultaneous translation facilities in order to ensure their effective participation.

Those who are above the accepted school-leaving age should be legally allowed to engage in the industry.

The participants unanimously agreed that the present ILO conventions and recommendations dealt only with large-scale fisheries and that their relevance to even the ultra-modern deep-sea fisheries sector was very little.

Some of the important propositions made by the participants are now discussed. A Convention supplemented by a

Recommendation was suggested.

Classification of fishing according to 'areas' should also include fishing activities that do not involve the use of fishing vessels (such as beach-seining), perhaps as an additional group.

For delimiting the scope of the Convention, the existing classification is accepted, subject to the inclusion of a category F (fishing without the involvement of fishing vessels: land-based, lagoon and inland water fishing).

Those who are above the accepted school-leaving age should be legally allowed to engage in the industry. Persons below the age of 18 should not be allowed to fish in vessels exploiting the deep and high seas.

The following type of work should be prohibited for persons below the age of 18:

- work requiring long periods of stay at sea
- work involving the use of heavy fishing gear and equipment
- work involving a high probability of being subject to abuse
- work with high risk of health and security

Medical examinations must be carried out and fitness certificates issued to those who have to work in (a) extremely risky and dangerous conditions; (b) highly exhausting conditions; (c) periods of long duration without sleep, with the risk of mental tension

due to a long absence from home. A complete medical examination must be conducted at recruitment and twice a year since then. Basic medical facilities should be made available in all fishing vessels.

Work agreements (articles of agreement) between employers and employees must be made compulsory to ensure security of employment.

All fishing vessels should have appropriate accommodation and sufficient food and drinking water for the service of the fishing vessel (except in vessels operating in coastal, lagoon and inland areas).

Special attention must be paid to the area of operation, and general and maritime occupational safety and health safeguards must be made available.

The crew must possess good knowledge of occupational safety and health, and a person who is well versed in identifying and using essential drugs and capable of giving first aid must be on board the fishing vessel.

The crew must be imparted technical knowledge on mechanical faults and communication, and also knowledge on the impact of weather on navigation and fishing.

Persons working on board fishing vessels should be entitled to the social security benefits applicable to other workers.

Service conditions that apply to commercial maritime vessels should also apply to workers in fishing vessels in category B, if fishing occurred over five days, and vessels in category A.

Owners of fishing vessels should insure their crew workers for sickness, invalidity and employment injuries, and the craft owner should contribute to a fisheries social security fund—an amount equal to 2 per cent of the cost of the craft (which will be used to pay subsistence allowances to families affected by calamities). States should undertake to implement pension schemes for fishermen.

There is no agreement on standards in respect of competency or training at the national level. It is therefore necessary to formulate national-level standards for the level of training required for workers on board fishing vessels.

Maternity benefits, survivor benefits and family benefits should be included in the Recommendation. The remainder (medical care, sickness benefits, old-age benefits, employment injury benefits, invalidity benefits and unemployment benefits) should appear in the Convention.

Only full-time fishermen (who spend at least more than 50 per cent of their time fishing) should be included in the proposed register. Any benefits or help extended to the fishermen should be based on the register.

...the risks and uncertainties artisanal fishers face, and the safety, medical and social security issues that concern them are quite different...

National laws on work conditions should apply to nationals of the port State, but who are working in a vessel registered elsewhere (foreign vessel).

The ILO has so far not proposed any Convention dealing with issues related to small-scale and traditional fisheries. The present Convention deals only with conditions of work on board fishing vessels. But there are a large number of fishers engaged in beach-seine fishing and other fishing activities that do not involve the use of craft. In respect of small-scale and artisanal fishers, the nature and intensity of risks and uncertainties they face, and the safety, medical and social security issues that concern them are likely to be quite different from those associated with fishing in distant marine waters. It is therefore necessary to take into account the specific nature of the small-scale and artisanal sector in the development of a Convention.

It should also be noted that the proposed instrument will not have a significant positive impact on the lives of fishermen unless the countries adopt and implement other international agreements, conventions and national laws that protect the resources from the large-scale use of environmentally unfriendly technology, so as to promote resource sustainability.

Countries should aim at preparing national fisheries policies, and the issue of labour conditions should be adequately addressed. Unless the State is willing to deal with labour issues nationally by enacting national laws and regulations, and establishing competent authorities and mechanisms of inspection and sanctions, international conventions will never be properly adopted or ratified by national States because the required will and enforcement and inspection structures will be absent.

Conclusion

The entire exercise was not without its weaknesses. First, the ILO questionnaire had many questions that were not relevant to small-scale fisheries. Too much of time was wasted on these issues, on which the workshop participants had very few things to say. Second, the participants consisted of a large number of active fishermen as well. Although this improved the quality of information obtained, these fishermen were also very keen on presenting their problems, irrespective of whether those were relevant to the ILO issues. This consumed a considerable amount of time. Third, although the participants were provided with information documents prior to the workshop, the time given was not sufficient for them to discuss such issues with their respective organizations.

However, in general, the workshop proved to be a good exercise that brought into light several important issues related to labour conditions in the fisheries sector. It was also held at a very crucial time, when the then Minister of Fisheries and Ocean Resources declined to speak of 'labour conditions' in fisheries because he believed that those who worked for a share did not fall under the category of 'labour'. ■

Report from Ghana

The following is a report on the workshop on the International Labour Conference and the proposed comprehensive ILO standard on work in the fishing sector, held at Accra, Ghana on 21 April 2004

ICSF and TESCO

Introduction

Following a presentation on recent developments in Ghanaian fisheries by S. N. K. Quaaty of the Fisheries Department, Ghana, Sebastian Mathew, Programme Adviser, ICSF, gave an introduction to the forthcoming ILO Convention on a comprehensive standard on work in the fishing sector. The following questions were used to discuss the proposed labour standards:

1. What should be the scope of the proposed ILO labour standard in the fishing sector?
 - a) Should it apply to inland waters?
 - b) Should it apply to inland and marine waters?
 - c) Should it apply only to marine waters?
 - d) Should it apply to waters less than 3 nautical miles?
 - e) Should it apply to waters less than 12 nautical miles?
 - f) Should it apply to waters less than 200 nautical miles?
 - g) Should it be based on vessel length/tonnage?
2. What should be the minimum age for work on board fishing vessels? Should it be based on the type of fishing?
3. Is medical examination for fishing required or not (with reference to 1(a) to (g) above)?
4. Should there be articles of agreement between vessel owners and workers (with reference to 1(a) to (g) above)?
5. Is Accommodation/provisions on board fishing vessels required (with reference to 1(a) to (g) above)?
6. Is a competency certificate necessary and what should be the minimum period of rest (with reference to 1(a) to (g) above)?

7. Are social security and measures for occupational safety and health required (with reference to 1(a) to (g) above)?
8. Is there a need for consultation in developing national legislation on the above?

Artisanal fishers group

This group reported a high incidence of child labour in the Volta Lake, where girl children aged 5 to 8 are involved in fishing, diving up to 12 ft to disentangle nets from tree trunks and branches underwater in the Volta reservoir. In view of the situation prevalent, inland fishers would like the minimum age to be fixed at five years.

High occupational hazards exist, and accidents on the Lake have been reported that related to both fishing and transportation. There is hardly any safety equipment on board the transport boats. More accidents occur in inland waters than in marine waters. Many are undocumented, and the group felt that there should be mechanisms to document such accidents.

Semi-industrial fishers group

The group recommended a minimum age of 15 for commercial fishing, with the caveat that it could be less if the children are working with their parents. The group felt that a minimum age is required for both inland and marine fishing sectors. Medical examination for all categories should be made mandatory, as should be the signing of articles of agreement for all categories.

The group argued for accommodation and provisions for all categories of fishing vessels, as well as competency certificates and minimum rest periods for crew on board all categories of fishing vessels. The group called for the reintroduction of the Technical Assistance Committee (TAC) programme at the Regional Maritime Academy to train the fishermen in navigation and seamanship and safety at sea.

...a high incidence of child labour in the Volta Lake, where girl children aged 5 to 8 are involved in fishing...

Questions 7 and 8 should also apply to all categories, the group felt. However, it recognized that it will take time to implement labour standards in fishing. Meanwhile, there should be consultations in doing so.

Industrial fishers group

The industrial fisheries sector is characterized by poor working conditions like excessive exposure to heat in onboard processing

plants. Remuneration is poor, as is medical care. Safety equipment for crew is absent, and sanitation in the vessels and factories is poor. Where they exist, sanitation facilities offer unequal access, with officers having better facilities than workers. Toilets are often too close to onboard processing facilities. Drinking water is unsafe, and cockroaches and rodents roam in the cabins.

The group called for the strengthening of the capacity of enforcing institutions and an intensification of monitoring and enforcement of relevant ILO legal instruments that have been ratified by Ghana.

The scope of the proposed standard should apply to all categories, the group felt. In open-access regimes, it would be useful to have labour standards that could also help resource management.

The minimum age requirements should be in line with the Constitution of Ghana. Setting a minimum age for the industrial sector is fine, the group felt, but it is difficult to do so in the artisanal sector since there is a need for apprenticeship. (“If you start at 15, then you can’t even stand on a canoe!” was one comment.)

Medical examination should be made compulsory for all, as should articles of agreement for all categories of workers and share-earners since they can give a sense of security.

Accommodation should apply to 1(e) and (f) above; competency from 1(a) to (g); occupational safety from 1(a) to (g); social security also from 1(a) to (g). Social security is a constitutional requirement in Ghana that takes care of old age and death.

The group felt the need for a national consultation that would impart a sense of ownership and legitimacy.

Conclusion

This meeting was rather unique in the sense that it had the participation of all the three main sub-sectors in Ghana’s fishing sector—namely, industrial, semi-industrial and artisanal—as well as the marine and inland sectors. From the discussions, it was observed that social security and occupational safety and health are issues common to all the three sub-sectors. It was also observed how discussing the proposed ILO labour standard for fishing helped bring a labour perspective to the issues related to fishing. The workshop focused on the common future of Ghanaian fisheries from the twin perspective of resource management and labour standards. ■

Report from India

The following is a report on the workshop on the proposed ILO comprehensive standard on conditions of work in the fishing sector that ICSF and the South Indian Federation of Fishermen Societies held at Kovalam, Trivandrum, during 2-3 April 2004, with the participation of the National Fishworkers' Forum, India.

ICSF and SIFFS

Introduction

At the outset, the meeting discussed the rationale for the National Fishworkers' Forum (NFF)—mainly an organization of workers, owner-operators and owners in the unorganized traditional/artisanal fisheries sector of India—to discuss labour standards and to participate in the process related to the development of a comprehensive standard on work in the fishing sector, including the artisanal/small-scale sector, to be placed on the agenda of the 92nd Session of the International Labour Conference in June 2004 at Geneva.

It was observed that globalization—understood here as the free movement of capital across national boundaries around the world in search of greater market share, earnings and profits—and the World Trade Organization (WTO) agreements should be seen as a backdrop to any international convention of relevance to fishing and fishing communities, including the proposed ILO labour standards in fishing to be discussed in June 2004. Any indifference to international negotiations in the face of globalization could lead to further victimisation of fishing communities whose bottom-line is not profits but survival. There is an urgency to be involved in global processes to extract the maximum rights for the fishing communities and to prevent victimisation in the hands of the profiteering classes, who have capital and infrastructure at their command, and can influence global institutions and instruments to their advantage. In this context, the participants expressed appreciation at such a workshop being organized to discuss these issues.

It was also observed that it is important to discuss how NFF could be involved in the ILO process. There is need to have a worker perspective, rather than a community or caste perspective in relation to ILO labour standards, irrespective of the type and class

of fishing vessels involved. It is important to have a *raison d'être* to participate in the ILO meeting in a proactive manner. There should be an understanding about the possible positions that could be taken in relation to various legal instruments in the proposed ILO standard.

It was noted that open-access fisheries could have an impact on labour standards. Rather than the share system, fishing vessel

owners prefer a wage system to remunerate their workers when a fishery is being developed. However, in an open-access fishery, the wage system becomes a liability once there are too many boats bringing down the profitability of fishing operations.

...it is important to recognize the linkages between fisheries resources, management regimes and labour standards...

Workshop participants felt it is important to recognize the linkages between fisheries resources, management regimes and labour standards, and the linkage between the subsistence economy of the fishers and

labour-intensive fishing techniques. It is also important to understand the complexity of traditional/artisanal fisheries in the unorganized sector. In India, the traditional sector, for example, also supplies labour to all categories of fishing.

There is a further need, the workshop stressed, to recognize the importance of maintaining resource plenitude from the point of view of maintaining or enhancing employment. A well-managed fishery is also the best form of social security, especially for the artisanal sector. There is also need to explore the positive links between labour-intensive fisheries and fisheries resource management.

In a globalized world, the State appears to be giving up all responsibility, it was observed. In the fishing sector, for example, it is the State that has to provide social security measures and protect members of the sector. The role of the State should be to protect the most vulnerable groups *who have an organic link with resources*. In this context, there is also a need to consider property rights, participants felt. There is a further need to better understand how women complement work and livelihood roles in the fishing sector.

Free movement of labour could also contribute to reducing human pressure in physically overcrowded fisheries in several developing countries. Maintaining ecologically sustainable small-scale fisheries could better serve fisheries conservation in the North, it

was felt. It could also contribute to better management of the fisheries in the South, where overcrowding-related fisheries management problems are quite acute in the small-scale sector.

The Indian context

Before discussing the ILO questionnaire, the workshop participants felt it was important to have a general understanding of the unorganized fisheries sector. Abuse of labour often takes place in the fisheries subsector, especially when migrant workers are employed. The level of exploitation in Indian fisheries is more among migrant labourers in the mechanized sector who work as wage-workers. In Maharashtra, for example, tribal people are exploited in the *dol* or bag-net fishing and gillnetting operations. There are about 15,000 migrant workers from Andhra Pradesh undertaking trawling operations in Gujarat. In the purse-seine fishing operations of Mangalore and in the trawling operations of Goa, there are workers employed from the distant State of Jharkhand, who are also an exploited lot. In all these cases, there are only oral contracts between workers and boatowners. Wage-workers, in general, are exploited at all levels, especially in relation to wages and hours of work and rest. The situation is particularly worse when wage-workers are migrant workers.

However, some bag-net owners from Maharashtra who were among the participants at the workshop contested the claims of exploitation of tribal workers. They said they pay a daily wage of Rs50 (which is less than what a fisher from the fishing community will be paid for a similar piece of work), of which 25 per cent is paid in advance before the fishing season commences; and that the workers get two to three hours of rest for every four hours of work in bag-net fishing because of the nature of the fishing operation, where the bag-nets are fixed using stakes twice and are removed twice in a 24-hour cycle. The tribal workers sometimes abscond from work after accepting the advance payment, it was claimed. The advance payments to tribal workers were akin to a bonded labour system, it was observed, and should not be seen as the generosity of owners to migrant workers.

It was brought to the attention of the workshop participants how tribal crew in Maharashtra die at sea without any compensation to their bereaved families. The bag-net owners' representative, however, said that without adequate insurance coverage for the fishing vessel and crew, they cannot obtain a fishing licence in Maharashtra.

It was further observed how tribal workers are not considered at par with the local fishermen in Maharashtra. While all the local

fishermen receive a share of the catch, the tribal workers receive fixed wages. Although NFF is a body of workers, owners and owner-operators, in relation to labour standards in fishing, NFF should uphold the interests of workers, it was suggested.

There should be logbooks maintained on board fishing vessels, and also a list of workers who are on board for fishing and fishery-related activities, irrespective of whether the fishing unit is small-

or large-scale. The effective implementation of such standards, however, might be difficult in Indian fisheries, it was observed. The shark fishermen of Thoothoor, Tamil Nadu, said they have to submit a list of crew members to the customs authorities before they are issued passes to undertake fishing trips.

...a need for functional, not formal, education, and vocational training schools, supported by reading and writing courses...

The minimum age for fishing among shark fishers of Tamil Nadu is 11 to 12 years. Boys start as cooks and graduate as fishers by 16 years of age, becoming skippers by 18. Along the Coromandel coast of Tamil Nadu, children are taken for *kattumaram* and other inshore fishing by the time they are 15 or 16. In Gujarat, the age of starting to work is 14 to 15 years, and in Orissa, 12-year old boys are usually trained by their fathers and get no share of the catch, though in shore-seine operations, they get half a share. The Orissa children become full-fledged fishermen at the age of 16 years. In West Bengal, children of 18 years go for multi-day fishing operations, and 10-11-year olds do shore-based fishing operations. In Andhra Pradesh, the minimum age for fishing is 12 years, and 10 to 12 years in inland fishing, especially in the Ganges and Godavari belts. In the *kattumaram* fishery of Kerala, boys do shore-based activities from 10-12 years of age and go to sea at 13-14.

Some suggestions from participants

It was highlighted that, in general, there was a need for functional, not formal, education, and that vocational training schools, supported by reading and writing courses, should be set up in coastal villages. The minimum age for fishing should be gradually increased to 18 years. It is also possible to consider flexible schooling hours for children from fishing villages. It is important to recognize and ensure that children are able to adapt to fishing in spite of schooling and the minimum age requirement for fishing. A situation should not arise where boys after schooling are unable to take up fishing because of seasickness, having remained unaccustomed to facing rough sea conditions from an early age. An early exposure to fishing, it was observed, is therefore

important to not only overcome seasickness and fear of the sea, but also to acquire certain essential fishing skills.

It was suggested that there should be articles of agreement for fishing under both the sharing and wage labour systems, taking into account the context and type of fishing operations. In the Jambudwip fisheries, for example, there is no need for a written contract, but a written contract would be necessary in fisheries that have an influx of workers from other parts of the country.

The mechanized fishing vessels of Gujarat, Maharashtra, Goa, Rameswaram (Tamil Nadu) and Mangalore (Karnataka), in particular, employ migrant workers, and it is important to initiate labour standards in these places, it was felt. There is also need to discuss the protection of migrant workers fishing in other coastal States or working on board fishing vessels of other flag States.

The representative of the workers on board industrial fishing vessels said there are currently no provisions on board Indian industrial fishing vessels for medical safety. There have been several instances where workers have died on arrival at the harbour due to lack of provision of timely medical care at sea. In one case cited at the workshop, a worker lost an arm due to the delay in providing medical help. The Indian Coast Guard should help to rush injured fishermen to the nearest hospital, participants said. The assistance provided by the Indian Coast Guard should extend to fishing vessels in territorial waters, according to the shark fishermen of Thoothoor.

The State of Tamil Nadu makes it mandatory to have fisheries training certificates for deep-sea going vessels, as well as insurance, for registration of mechanized fishing vessels. The Tamil Nadu government also provides subsidies for life-jackets.

Workshop participants demanded that the national fisheries legislation should incorporate safety provisions. Using the example of a shrimp trawler off the Orissa coast, the industrial sector representative at the workshop drew attention to the drowning of fishermen who use life-jackets that are poorly maintained. The life-jackets that were used when the vessel capsized were 10 years old, and all the fishworkers who used these life-jackets lost their lives. Ironically, the fishermen who did not use the life-jackets in this particular accident survived and were rescued by other fishing vessels.

...need to discuss the protection of migrant workers fishing in other coastal States or working on board fishing vessels of other flag States.

Recommendations of the workshop

The workshop recognized that there are distinct employer/employee categories in the traditional, unorganized artisanal/small-scale fisheries sector. There is a relatively high frequency of change of employers in the artisanal/traditional subsector, perhaps more than in the industrial fisheries subsector because workers often change fishing vessels and, in the process, end up working for different employers, sometimes in fairly quick succession.

There is thus a tripartite structure in the artisanal/traditional fisheries sector. Would it be possible to bring this tripartite structure, as well as the 'traditional' dimension of fisheries in the artisanal subsector, into the ILO domain, it was asked.

The ILO should now address labour standards in both the organized as well as the unorganized fishing sector...

The ILO has a role in traditional/artisanal fishing although most of the fishers and fishworkers are in the unorganized sector.

The ILO, for example, has a role in defining the minimum age for all workers, including for those in the unorganized sector. Recognizing minimum wages in a globalized world is equally important. In this context, it was pointed out that not only labour standards but also recognizing free movement of labour in today's globalized world merits equal attention.

There was general agreement that the proposed five Conventions—namely, minimum age, medical examination, article of agreement, accommodation and competency certificate—should apply to the fisheries sector of India. It was asked how ILO could ensure effective implementation of labour standards in fishing.

The workshop agreed that ILO should go for a Convention supplemented by a Recommendation, instead of only a Recommendation as some States, including India, had proposed in response to the questionnaire circulated by ILO in March 2003. The ILO should now address labour standards in both the organized as well as the unorganized fishing sector, it was proposed.

It was, however, recognized that there is no need for sweeping labour standards for all those who work in the fishing sector and for all types of fishing activities. There is a need to develop such standards with flexibility. There should be some distinction, especially based on whether or not it is a day fishing operation or a multi-day fishing operation. The type of traditional/artisanal fisheries that could be exempted from selected provisions of the

labour standards should be considered. Articles of agreement and social security are important even in small-scale fisheries, it was observed.

The general agreement was to propose 15 years as the minimum age. Regarding minimum hours of rest, it was suggested that it should be one-quarter of the hours of work. There should be some flexibility according to work as well as craft-and-gear combinations. It was suggested that there should be articles of agreement for both fishing under sharing system and wage labour, taking into account the context and type of fishing operations.

The details of labour standards should be at the national level. Consultation with fishers is an important prerequisite to capture nuances of employment and conditions of work that are specific in nature, it was observed.

It was suggested that ICSF should organize a meeting with mainstream trade union representatives before the ILO session, in New Delhi. After the ILO session, ICSF should take the initiative to organize an international meeting, it was suggested. It was also suggested that ICSF should draft a paragraph to capture the complexity of the artisanal and small-scale subsector to be presented to the ILO.

Conclusion

The national leadership as well as the representatives of units of NFF from all the States of India, except Karnataka and Goa, participated in the workshop. ICSF summarized and presented the various responses to the ILO questionnaire to facilitate a debate on the proposed labour standard in the fishing sector. SIFFS made a presentation on current issues of relevance to conditions of work in the Indian small-scale fishing sector.

There should be some flexibility according to work as well as craft-and-gear combinations.

On the whole, the participants appreciated the workshop, especially the background materials that were provided, as well as the content of the discussions and the perspective on labour standards that emerged. The workshop gave participants an exposure and insight into the language of ILO as well as to the organization's approach to labour standards in the fishing sector. It also threw light on the status of current labour practices and conditions of work in the fishing sector, both in the traditional/artisanal subsector and the large-scale sector. Several participants

commented that the workshop provided a forum for workers from all the subsectors to participate and discuss issues of concern. NFF, in particular, said it is willing to be a party to the ILO process. ■

Social Security Measures in Sri Lankan Fisheries

The following article outlines some of the important social security interventions in fisheries—both protective and promotional measures—that the State has put in place in Sri Lanka

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Introduction

Sri Lanka has a 1,760-km coastline, of which 1,150 km are sand beaches, possessing a shelf area (up to 120 m depth) of 30,000 sq km. With the declaration of the exclusive economic zone (EEZ) in 1976, Sri Lanka has sovereign rights over an area of about 230,000 sq km of the sea. According to 1989 figures, Sri Lanka has 111,335 active seagoing fishermen, the majority of whom operate small-scale fishing units that fish in coastal and offshore waters. Deep-sea fishing is a fairly recent phenomenon in the country.

Fishing is a particularly hazardous occupation, with a relatively high rate of injury and death. Fishermen and their dependents, therefore, need some form of protection in the event of injury, illness and death. Moreover, the overly growth-oriented policies and the unregulated process of globalization were found to have given rise to a number of problems like declining catches, overcapacities, resource degradation, and the marginalization of small-scale fishers who were increasingly facing both sea and land tenure problems.

With technological development, fishermen started moving into deeper and deeper waters, which gave rise to further problems like arrests of fishermen for poaching in foreign waters, increased responsibilities of women at home, and so on. Expansion of tourism, encroachment of coastal areas by industries and other expanding sectors, and the high rate of unemployment have caused increased the incidence of social problems like child and drug abuse. The generally declining social welfare of the small-scale fisheries sector and the increasing social insecurities meant that attention had to be paid to the sector.

State intervention in fisheries

The role of the Sri Lankan State changed from a 'regulatory' to a 'reformist' one since the country's independence in 1948. The major changes in the fisheries sector commenced with the establishment of the Department of Fisheries in 1942. Initial State intervention was in the spheres of craft mechanization and marketing. Fisheries development was conceived as a process that leads to increased fish production and consumption. These growth-oriented policies

were transformed into more-equity oriented policies by the 1970s, when a number of measures were adopted to help the small-scale fisheries sector and to improve the welfare of its fisher communities. Since then, the State has played a commendable role in improving fishers' welfare and providing social security to fisher people, spending public money on these issues.

...promotional measures deal with habitat, housing, sanitation, health, education, training, marketing assistance, welfare societies...

Social security measures for fishing communities

Two major groups of social security measures can be identified. They are promotional measures and protective measures.

The promotional measures deal with matters relating to habitat and housing, sanitation and health, education and training, marketing assistance, welfare societies and so on, while protective measures include pension and insurance schemes.

Promotional measures

Housing and habitat

The Ministry of Fisheries and Aquatic Resources Development has initiated a number of housing schemes for fishers since the 1970s. About 73 village housing schemes have been completed under the *Diyawaragamma* housing programme and, under the *Diyawarapura* housing scheme, three apartment-type housing complexes are scheduled to be constructed. In contrast to these two programmes, the *Visiri Niwasa* programme is intended to help fishermen who have been displaced for various reasons. About 3,641 houses have been built under this programme. However, a number of deficiencies in the construction and allocation of houses were noted. Selection of unsuitable sites and material for the construction of houses, and political intervention in the allocation of houses were found to be the major deficiencies. Quite surprisingly, non-fishermen occupy nearly half of the houses in fisheries housing schemes.

Sanitation and health

Since most fishing villages remain isolated from urban centres and townships, access to clean water is a serious problem, leading to poor sanitary and health conditions in these villages. It was also noted that some of the housing schemes have no source of water, preventing people from access to water for basic sanitation and drinking purposes. Large amounts of public funds have recently been channelled to provide pipe-borne water supply to fishing villages and for the construction of latrines. The number of latrines provided to fishing villages showed a rapid rate of growth in the early 1990s; from 187 in 1989 to 1,358 in 1993. Some fisher people were found not to fully utilize the sanitary facilities provided by the State, because of their lack of understanding of the importance of good sanitation and their unwillingness to change their lifestyles.

Community development

The Fisheries Social Development Division of the Ministry of Fisheries provides the fishing villages with an array of infrastructural facilities such as the provision of beacons, construction of community centres, pre-schools, daycare centres, playgrounds, and so on. Under the funds allocated to the ministry, 278 projects, with a total expenditure of Rs89 mn, were completed in 2000, of which the highest expenditure has been incurred on the provision of electricity and approach roads.

Helping families in distress

The Ministry of Fisheries has also arranged for the repatriation of fishermen into Sri Lanka who fall into distress at sea. In 2000, dry rations worth of Rs492,898 were provided to 177 fisher families who were affected by the disappearance of crew members along with the fishing boats. A total of 147 fishermen were repatriated and arrangements made for the release of 21 fishing boats that were in foreign custody.

Under the *Diyawara Soba Vanitha* programme, the Ministry of Fisheries extended help to improve the life of women and children in fishing communities. This programme organized a number of training workshops and youth camps to pave the way for alternative income-generation projects.

Education and training centres

While being an essential component in the development of the fisheries sector, fisheries education and training facilities also provide the youth in fishing communities with opportunities for finding employment in the field of fisheries. The National Institute of Fisheries Training (NIFT) provides training courses to youth on

engine technology and modern fishing gear and methods. These young people are expected to replace those who retire from the industry. NIFT has its training institute at Mattkkuliya, Colombo, while regional fisheries training centres are located in Negombo, Tangalle, Batticaloa and Jaffna. The National Institute of Fisheries and Nautical Engineering (NIFNE) (*Sagara Vishwavidyalaya*) offers degree courses to students. Here, special emphasis has been given to the training of youth from fishing communities.

Scholarships for students

...the failure of the government to provide adequate assistance in respect of sea safety and health issues are the major setbacks ...

Scholarships are offered to selected students from very poor fisher families to undertake training programmes or degree courses, although the extent of such help extended is quite small.

Fisheries cooperatives

Sri Lanka's cooperative system has a long history, with the present-day system emerging in 1925. Fisheries cooperatives emerged as important community organizations in the late 1950s. In fact, they were initially formed with the involvement of the State and they received State support in the form of subsidized issues of crafts, engines, credit, etc. Cooperatives in fact played a very important role in preventing the process of marginalisation of fishermen by providing them with the required strength to have access to new technology and new resources. However, there was a reversal of State fisheries policy in the 1990s, when the political leadership opted to distribute State help to their clientele, bypassing the fisheries cooperatives.

Subsidies

Subsidies have always been an important component of the fisheries technology package of the state. When the State initiated its craft mechanization programme in the late 1950s, subsidies up to 50 per cent of the cost of the crafts were granted to help ordinary fishermen to adopt the new technology. Since then, subsidies were granted for the purchase of various types of crafts, engines, gear, accessories such as satellite navigators, radios, etc. Recently, first-aid boxes were also issued free of charge to multi-day crafts as a means of improving onboard health issues. However, at present there is a high degree of political influence and the subsidized crafts and equipment are distributed among fishers through the political party clientele.

Protective measures

Fishermen's pension scheme

The physical fitness of fishers is very important if they are to perform fishing activities efficiently. Hence, disability and old age are serious problems that are likely to drag fishers into distress. In this context, pension schemes play a very important role in providing insurance against such risks. The Fishermen's Pension Scheme in Sri Lanka provides fishermen with benefits in the event of any physical disability or old age and, on death, the dependents are provided with compensation. This is one of the best schemes ever designed by the State to provide social security for fisher people, and the interest in it is growing, but at a slow pace. There could be two reasons for the slow pace. First, there is lack of interest among fishermen in schemes that depend on fixed monthly instalments (because their incomes are uncertain). Second, fishermen's awareness of these schemes is quite low due to poor communication between fishermen and researchers and policymakers.

Insurance

The Insurance Corporation of Sri Lanka and the National Insurance Corporation, the two leading insurance institutes in the country, offer insurance against the risk of damage or loss of craft, gear and crew. Yet, craft owners are not very much interested in their schemes because of the delays associated with the processing of claim applications and payment of indemnity. Moreover, participation of fishermen in insurance schemes based on monthly/yearly premiums is poor because the incomes they receive are highly unpredictable. Disincentives are quite high due to informational asymmetries between the insurers and the insured, and the lack of effective public or private insurance schemes based on easy premiums.

Deficiencies in social security measures

Regional disparities in the distribution of State help—with the lion's share of public support going to the southern region—is a notable deficiency. This would definitely accentuate the present tensions between the north and the south of the country. The channelling of State subsidies and other forms of State help through the political clientele, lack of awareness among fishers of the various social security measures available, and the failure of the government to provide adequate assistance in respect of sea safety and health issues are the major setbacks in the present social security system of Sri Lanka. ■

Social Security Nets for Marine Fisheries in Kerala, India

This article, on the growth and changing composition of social security programmes in the fisheries sector of Kerala State, India, is based on a working paper written by the authors and published by the Centre for Development Studies, Trivandrum in October 2001, which, in turn, drew on a detailed study undertaken earlier for ICSF

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Introduction

Security of life and livelihood are resurfacing today as issues central to the development discourse. The magic formula of 'growth-created-welfare-for-all' has proved unworkable in most parts of the developing world. In many developing States, the search for new ways to achieve a decent living for all their citizens is becoming a matter of high priority.

One route to this goal has been to provide social security coverage for as large a segment of the population as possible. Providing social security is not seen merely as a measure to solve temporary economic insecurity. It also seeks to address the problem of chronic poverty. These measures are envisaged as public provisioning to the vulnerable, thereby empowering them in their private pursuit of a livelihood.

In small-scale fishing communities in developing countries, the task of earning a livelihood can be a risky and tenuous business. One's individual income is usually a share of the earnings of an enterprise. What accrues to a fisherman would depend in large measure on his contribution to the labour of the specific fishing trip and to his overall share, if at all, in the capital of the enterprise. This, and the fact that the harvest from the sea is a fluctuating fortune and the price of first sale is by no means predictable, results in highly fluctuating daily incomes.

These can be well below daily subsistence requirements or sometimes yield windfalls that are excessively out of comparison

with a reasonable minimum. Despite this, mean incomes can be low and the standard of living can leave much to be desired. It is reasonable to conjecture that the above objective conditions of earning a livelihood have accounted for the presence of several neighbourhood and community-created income-spreading, income-transfer, insurance and redistribution mechanisms. These can be counted to form traditional social security measures.

Kerala's marine fisheries and fishing communities

To get a proper appreciation of the issues of social security provision in Kerala's marine fishery sector, a brief introduction to the position of fisheries and fishing communities in the context of Kerala's economy and society is necessary.

The coastal waters off Kerala's 600-km coastline (10 per cent of India's mainland coastline) are the most productive in the country. This high productivity is one of the important factors behind the concentration of marine fishermen in Kerala. Numbering over 170,000 (that is, active workers at sea), they form a fifth of the Indian total. The people of Kerala, cutting across religious affiliation, are avid fish eaters. Fish and fisheries therefore have a very significant place in the sociocultural fabric of life in Kerala.

It may be of relevance to point out that unlike other traditional occupational sectors in the Kerala economy, the marine fisheries sector was one in which unbridled market forces, modern technology and export orientation were introduced without any opposition by an organized working class. By the yardstick of present liberalization policies, a sector with this three-fold orientation should have achieved substantially increased output and productivity, leading to higher levels of income and quality of life.

The evidence on this account is mixed, to say the least. Fish harvests have fluctuated, showing secular trends that first increased (1970-75), then substantially declined (1975-80), increased significantly again (1980-90) but have remained stagnant at that level during the decade of the 1990s. Physical productivity per worker and per unit of capital invested has declined due to the steady increase in the number of workers and the steep increase in the capital invested. This is a phenomenon characteristic of open-access resources subject to increased commercialization. If the State income statistics are any guide, the evidence shows that the fishery sector product per fisherperson (that is, total number of persons in the households of the active fishermen of the State) was always lower than the State domestic product per capita. The gap increased between 1970 and 1985 with the decline in the fish production

and then narrowed between 1985 and 1995, thanks to increased fish prices following rising demand and stagnant output.

More than these differences in the income levels, it is the lower quality of life (on the average) and the higher occupational risks (both to human life and productive assets) that set marine fishing communities apart from the other occupational groupings in Kerala. It is also for this very reason that social security measures

attain paramount importance for them. There are four areas in which the fishermen stand at a greater disadvantage compared to other communities in the State, which require close attention: (i) habitat and housing; (ii) sanitation and health; (iii) literacy and education; and (iv) safety at sea.

...four areas where fishermen face a greater disadvantage: (i) habitat and housing; (ii) sanitation and health; (iii) literacy and education; and (iv) safety at sea.

Social security schemes for fisherfolk

Our analysis is confined to the social security schemes specific to the fisherfolk. On the basis of data availability, our analysis is restricted to the 35-year period from 1964 to 1998. State assistance to the fisheries sector

was initially confined to development assistance. This included funds for technological upgradation of harvesting facilities, infrastructural development and marketing assistance. The development planners conceived the quick transition to mechanized fishing operations as the only alternative for development of a fishery conducted by a traditional community using artisanal technology. This is amply evident from the fact that the direction of developmental assistance since the initiation of the five-year plans was towards mechanization. Social security assistance per se was at a low key in the State. The approach of the State was to provide some palliative welfare measures to address the visibly apparent dimensions of the poor quality of life, such as poor housing, sanitation, illiteracy and low educational standards.

Initially, the Fisheries Department was the sole agency engaged in the implementation of social security for fishermen. Later, newly created agencies like the Kerala Fishermen's Welfare Corporation, the Kerala State Co-operative Federation for Fisheries Development (more commonly known as Matsyafed) and the Kerala Fishermen's Welfare Fund Board (known as Matsyaboard) have also entered the arena for supplementing the social security initiatives.

A glance at the introduction of various social security measures for fishermen reveals that compared to the first three decades since the formation of Kerala State in 1956, the decade commencing from the mid-1980s was the one that witnessed a significant increase in the social security provisions.

Taking a cue from this transition point, we divide the data examined for the study broadly into two time periods: from 1964 to 1985 and from 1986 to 1998. Period One can be further divided into two subperiods: (i) the years of promotional social security provision (1964–1980) and (ii) the years of greater institutionalization of social security (1981–1985).

The primary step to institutionalise social security provisions was the characteristic feature of the post-1980 period. The institutionalization can be said to be the government's response to the growing restiveness in the fishing community about their experience of increasing poverty and marginalization. After over two decades of modernized fisheries development, fish production was at its lowest level during 1975-80.

Quantum jumps in the number of social security schemes and in the volume of social security assistance and a greater emphasis on the provision of protective social security measures, which hitherto remained at a low ebb, were the hallmarks of this period.

Though the precise mandate of Matsyafed was to provide developmental assistance, namely, technological and financial assistance in upgrading traditional fishing craft, it has also come up with certain social security measures. Matsyaboard, on the other hand, was instituted specifically for providing social security for the fishers under the Fishermen Welfare Fund Act, 1985.

Between 1986 and 1998, Matsyafed initiated 10 social security schemes. The coverage included housing, sanitation, alternative employment, education, training and accident insurance. It is noteworthy that schemes that specifically target women in the sector were included among these measures.

Since its installation in 1986, under the legal provisions of the Fishermen Welfare Fund Act, 1985, Matsyaboard was mandated as the nodal agency for implementing welfare measures for fishermen. It is important to note that, unlike Matsyafed, most of

The institutionalization can be said to be the government's response to the growing restiveness in the fishing community...

the social security schemes implemented by Matsyaboard are protective ones.

This policy shift must be seen in consonance with the increased pressure from fishermen, who were agitating for, among other things, immediate redressal of the increasing risk and negative externalities of trawling on their livelihoods.

The various schemes of the Matsyaboard practically cover most of the social security benefits prescribed by the ILO Convention 102. According to this Convention, social security is addressed to provide protective measures in case of nine specific contingencies: (1) medical care and benefits; (2) sickness; (3) unemployment; (4) old age; (5) employment injury; (6) large family; (7) maternity; (8) invalidity; and (9) widowhood.

The old-age pension is the most popular of the schemes of the Matsyaboard...

The old-age pension is the most popular of the schemes of the Matsyaboard having the largest number of beneficiaries. It is quite commendable that the schemes of the Matsyaboard cover the various phases of a fisherman's life. Births, marriages and funerals are financially assisted. Treatment for different types of morbidity—from eye ailments and snakebites to diseases like cancer, brain tumour, heart surgery, and even mental illness—is given assistance.

Though most of the social security schemes were implemented by Matsyaboard and by Matsyafed during this period, a few schemes were still operated by the Department of Fisheries. These include saving-cum-relief schemes, schemes for housing and electrification of homes, and schemes to provide sanitation, dispensaries, fisheries schools, training centres and educational grants.

Of these, the saving-cum-relief scheme is the only protective social security scheme. The rest are promotional ones. The saving-cum-relief scheme is a sort of contributory unemployment benefit scheme and the only one of its kind. It provides fishermen with a financial assistance during the lean months of fishing. In terms of the volume of assistance, this is the largest of the Departmental social security schemes. During the period 1992–1998, about Rs 300 mn was disbursed under this scheme. The housing scheme of the Department has become more attractive since it is a full grant-in-aid scheme. Related to housing are the two new schemes of house electrification and sanitation.

The most striking feature we observe is the significant increase in the volume of assistance in Period Two (1986 to 1998), compared to Period One (1964 to 1985). The increase in the total volume of social security and the broadening of protective social security during Period Two are quite significant. With regard to certain relative magnitudes of social security—such as per capita social security, ratios of social security to fisheries sector product, and to budgetary expenditure—the achievements in Period Two are quite commendable.

Sociopolitical backdrop

We have observed a substantial quantitative and qualitative change in the nature of State-led public action for provisioning of social security. It is therefore relevant to reflect upon the processes that brought about this change. Was it a result of enlightened State action from above? Or was it due to the pressure of demands from below? We shall see how both these factors contributed to the outcome, which was ultimately the State's response contingent on collective action by the fishworkers.

Collective action by fishermen for social security started only after the growth of labour unions among fishworkers. Compared to other sections of the labouring poor in Kerala, like agricultural labourers, toddy tappers, and coir and cashew workers, unionization of fishworkers had a late start.

The Catholic Fishermen Union (CFU), formed at Alappuzha in 1970, pioneered the fishermen's agitations to press for social security in the wake of burgeoning negative externalities on the traditional fishery created by unregulated mechanized trawler operations.

Notwithstanding some initial achievements, one major limitation of the fishermen's struggle during these early years was that they were narrowly focused in terms of issues, space and participants. They lacked a broader vision of the needs and demands of fishermen and the fishery of Kerala as a whole.

Collective action by fishermen for social security started only after the growth of labour unions among fishworkers.

Collective action by fishermen that cut across barriers of caste, creed and political affiliations was made possible only with the starting of the Kerala Swathanthra Matsya Thozhilali Federation (KSMTF) in 1980. That year, KSMTF presented a 38-point charter of demands to the Chief Minister of Kerala. It contained many

novel demands that included both social security and resource conservation measures. Along with the earlier demands, new demands like registering of all genuine fishermen, providing pensions, arranging for provident funds, and providing medical insurance for fishermen were added. Also, for conservation, the charter demanded prohibition of purse seining, and restriction of mechanized fishing beyond 20 km off the coast. The KSMTF was joined in its efforts by the traditional community organization of the Hindu fishermen called Dheevara Sabha.

The year 1984 witnessed the most militant agitation of fishworkers in Kerala. The agitation included rallies, demonstrations, picketing and hunger strikes at all coastal districts of the State. Among the demands, the one most stressed was the ban on trawling during the monsoon season. Social security measures were an important second demand.

One of the major joint struggles undertaken in 1985 pertained to the issue of the provision of old-age pensions. Even though the government did not approve the demand for a trawl ban during the monsoon, most of the social security demands were virtually approved to placate the agitating fishermen.

Two important achievements on the social security front, as the aftermath of the 1984 agitation, were the introduction of an educational benefit scheme (lump sum grant) for students from fishing communities and the old-age pension for fishworkers. The educational benefit scheme has a special significance. Until 1984, it was a benefit restricted to students of certain backward castes and later to the Dheevara caste. But, with this new scheme a caste benefit got transformed into a class benefit.

Conclusion

Achieving the desirable levels of social security for everyone in a society is indeed a daunting and challenging task. However, attaining this objective is tantamount to fostering genuine economic development and the substantive freedoms associated with it. In the developing-country context, and more specifically in the context of specific sectors like the small-scale fishery, a 'growth-mediated' approach to social security is unattainable. Consequently a 'support-led' strategy for social security provisioning, with a tripartite approach to resource mobilization, forms the only economically viable and socially feasible option.

The arrangements for social security in Kerala's fishery sector deserve praise. The numbers of schemes in place touch the lives of fishworkers and their families from birth to death, and match

the requirements of the ILO. However, this cannot be taken to be merely an achievement of the State. It is also a tribute to the effectiveness of the collective action by the fishermen that 'pushed' the State to enhance the resource flows for social security, and initiate and strengthen the organizational apparatus for its delivery.

The challenge before both the State and the fishing community in the new millennium will be faced on three fronts: (1) enhancing the flow of funds for social security; (2) generating credible data and information; and (3) evolving new promotional and protective measures by pushing for a more democratic and decentralized delivery mechanism. The first will call for far more political will. It can only be ensured by sustained pressure from below, on the one hand, and risk-pooling mechanisms by the community to complement public support, on the other. The second calls for greater initiative and commitment by government functionaries, complemented with the use of the latest information technology. The third calls for more imaginative and dedicated leadership at the level of the State and the community. ■

Fishermen and the Social Welfare System in Brazil

This article outlines how Brazil's new social security regulations, considered a landmark in the history of the country's social welfare, has benefited fishworkers and fishing communities

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Introduction

The official social security system of Brazil, called the RGPS (Regime for General Social Security), began to include fishermen and fishworkers in its ambit at the start of the 1990s. Previously, until the end of the 1980s, the rural sector was covered by a separate social security regime, which provided fewer benefits, at lower rates. The new constitution of 1988 and the subsequent laws regulating the RGPS ended the rural-urban divide. The minimum value of welfare benefits, for every category of beneficiary, was fixed at the minimum wage level (which, on 1 May 2004, was around US\$86 per month).

Bridging the rural-urban divide was considered a big step forward, in the light of the fact that earlier, rural workers were only partially protected, and benefits were fewer and less in value than those for the urban population. It can be said that the people living in rural areas were only part-citizens. Importantly, as some researchers point out, Brazil expanded the social protection of the rural areas through a shift in welfare legislation in a decade when the trend at the international level was to the contrary. The new social security regulation is considered a landmark in the history of social welfare in Brazil, since it opposed the prevailing iniquity that discriminated rural populations from urban ones.

The change in Brazil's social security system resulted partially from pressures from below. By the mid-1980s, after the end of the military regime in the country, the huge pro-democracy mobilization led to the creation of the National Constituent Assembly and the approval of a new constitution in 1988. Among the many social classes and categories that had mobilized

themselves and lobbied for change were the small-scale fishermen, who were then represented in a movement called 'Fisheries Constituent', formed in 1986. It succeeded to influencing some of the legislation aimed at the sector. Spearheading the movement was the National Fishermen's Federation, formed by representatives of fishermen's *colônias* from different parts of the country, non-governmental organizations (NGOs) such as the Fishermen's Pastoral Council, researchers, political militants and technicians from State institutions, notably SUDEPE (Superintendência do Desenvolvimento da Pesca), at that time the official institute responsible for the promotion and development of the fisheries sector. All these entities participated actively in the democratic movement of the time, struggling to increase the rights of Brazilian citizens.

Since the new federal constitution of 1988, social security has been regarded as a social right, along with education, health, work, leisure, safety, and maternity and childhood welfare. Article 194 of the constitution defines social security as an integrated set of actions undertaken by the public powers or by the society in order to assure health, social welfare and social assistance.

From 1991 onwards, both Law 8.212 (called the Organic Law of Social Security) and Law 8.213 (which establishes the goals and main principles of social security in Brazil) define the different occupational categories covered by the system. One of them is the so-called 'special insured' category, which is where small-scale fishworkers and peasants are included. This category covers the following: rural producers, sharecroppers, part-owners, tenants, artisanal fishermen, and those who work in a family economy (even with outside help), as well as their partners (wives or husbands) and children aged 14 and above. In 1998 the minimum age for work was increased from 14 to 16 years by Constitutional Amendment No. 20.

...social security has been regarded as a social right, along with education, health, work, leisure, safety, and maternity and childhood welfare.

The legal definition of a family economy regime is clearly expressed in Law No. 10.779 of 25 November 2003. This law, which will be considered in more detail later in this article, shifted some of the unemployment insurance benefits to artisanal fishworkers. According to it, the family economy regime is "the work of the members of the same family, necessary for their subsistence, and exercised in mutual dependence, without employees". The use of external labour (workers from outside the family) does not disqualify from the status of a family economy

regime, as long as it is temporary and does not lead to permanent employment.

It is important to stress that women rural workers and women fishworkers became eligible for welfare rights as individuals, regardless of whether their husbands were already beneficiaries themselves or whether they were widow-pensioners. Children older than 16 have also achieved the right of subscribing to the

social welfare system as long as they work in similar conditions. In the past, women would be entitled to the benefits only if they were heads of the family, a very unlikely eventuality at that time. Also, as mentioned earlier, rural benefits were fewer and less than urban ones, being around half the official minimum wage.

...access to the State bureaucracy depended on patron-client relations, which had to be mediated through politicians, middlemen or a member of the local elite.

In the Brazilian rural welfare system, the rights entitlement does not correspond to the sum of the worker's contribution to the welfare fund, nor to the period of time he

contributes to it, as is the case with most of the urban workers. So, theoretically, it adapts better to the characteristics of producers like small-scale fishermen, whose incomes fluctuate and are, in general, low. The value of a rural worker's contribution to the welfare system is calculated as 2.1 per cent of the income earned from commercialization of his/her product. In a study on rural pensions, Helmut Schwarzer estimates that the Brazilian rural retirement coverage is like a universal basic income scheme, considering that all beneficiaries receive the same amount, regardless of what they have contributed to the system or what they have earned during their active working life: on retirement, they receive the minimum wage (US\$86 as on 1 May 2004) each month. Schwarzer explains that the rural welfare regime is not like an aid plan, since eligibility is not based on criteria like the 'needs test', but on previous experience in fishing or farming. Though the amount it doles out may be low, the rural welfare regime upholds the principle of a universal right.

Thus, we can see that in the last decade, Brazil has moved somewhat closer to the ILO position on fishworkers, notably regarding their 'special need for social security' consequent to their risky working conditions.

Background of rural social welfare in Brazil

Fishermen and fisherwomen, as well as peasants, were included only later in Brazil's social welfare system. Only at the start of the

1960s (in March 1963, to be precise) did the federal government promulgate the Rural Worker Status Law, regulating some aspects of labour relations, such as the institution of a minimum wage for rural employees, and official recognition of labour unions, which also meant that rural workers would henceforth be obliged to join rural unions, and fishermen, to adhere to the *colônias*. Though they became entitled to old-age pensions, financial and administrative constraints prevented the functioning of the scheme. In 1969 a specific fund was instituted for the purpose, called the FUNRURAL (Fundo de Assistência e Previdência do Trabalhador Rural). For a long time the only benefits for rural workers were medical and hospital assistance.

During the 1960s and 1970s, though the rural unions and *colônias* were recognized, they were also controlled by the State. In 1971, the Rural Assistance Program (PRORURAL), linked to FUNRURAL, took over the running of the old-age pension scheme and provided the rural unions and *colônias* with some infrastructure for locally offering health services to their affiliates. To become eligible for old-age-pension, which was then half the minimum wage, a worker had to be 70 years old. In the case of widows, the pension amount was even lower. Local health assistance covered basic medical and dentist care. However, due to the large distances involved and the inequitable power structure prevalent in most rural areas, health support for these groups was far from sufficient. In many cases, access to the State bureaucracy to apply for old-age pension depended on patron-client relations, which had to be mediated through politicians, middlemen or a member of the local elite.

By the 1970s the rural welfare schemes were becoming more progressive, and old-age security coverage began to expand to other categories such as domestic servants, who gained access to the welfare benefits in 1972. Nevertheless, coverage was still very limited. The retirement age of 70 was also a big handicap, compared to the situation of most urban workers who, on average, would be entitled for retirement rights after 35 years of work.

Features of the 'special insured' condition

At present, for social security purposes, most artisanal fishworkers are classified as 'special insured', one of the categories of eligibility for rural workers established in the General Social Security Regime, RGPS. The other rural categories are: employees, individual contributors and casual workers in agriculture. Though there are a few artisanal fishermen in these other categories, most register themselves as 'special insured'.

An artisanal fisherman is defined as one who, individually or in a family economy regime, has fishing as his main occupation or source of livelihood; if he uses a boat, it should not be more than 10 tonnes in capacity; he should not be relying primarily on employees, though eventually he can count on external labour. For the purpose of welfare benefits, the shellfish collector is considered similar to the artisanal fisherman.

The *colônias* are expected to play a crucial role in mobilizing fishers and familiarizing them with their rights and duties.

Wives and husbands can apply for the 'special insured' status, as well as children older than 16 who are members of the family and work in the same conditions. Thus the members of the fisherman's family were no longer viewed as his dependents. It is possible to lose the 'special insured' status if the beneficiary does not fit its requirements—for example, if the person already enjoys retirement benefits or old-age pension from any other welfare system (federal, State or municipal level), receives wages from other activities or has permanent employment in the fishery. In these cases, the fisherman has the right to subscribe to the social welfare system under other categories of rural insurance.

Subscription procedures and associated benefits

To avail of welfare rights, fishermen and fisherwomen have to subscribe individually at the National Institute of Social Welfare (INSS). The contribution of the 'special insured' category to the scheme is calculated as 2.1 per cent of the total of the income resulting from the sale of the produce. Of this, 2 per cent goes to the social welfare system and 0.1 per cent to finance pensions for work-related accidents. Fishermen and small-scale farmers have been exempted from making contributions until 2006.

During the period of eligibility of welfare, the beneficiary receives the minimum wage each month. The age for retirement is 60 for men and 55 for women. Some of the situations and conditions when fishworkers can claim welfare benefits are:

- During infirmity—a condition to be determined by medical experts from INSS— when the person cannot work;
- In case of work-related accidents;
- Forced retirement due to a disability resulting from an accident at work;
- Maternity benefits, namely, a minimum wage paid monthly for four months, to be claimed either after the eighth month of

pregnancy or after childbirth (applicable also for women who have miscarriages). The woman needs to prove that she has been working as a fisherwoman or a rural worker for at least 10 months.

- In case of death, the pension is paid to the legal dependents of the insured (wife/husband and children younger than 21).
- In cases of imprisonment, welfare is provided to the dependents of the insured, during the period of incarceration, as long as the monthly income of the insured is below Reals560.81 (US\$189).

Unemployment insurance

Unemployment insurance, available for fishworkers who are in the 'special insured' category, is a special temporary allowance given annually when the fishing season is closed (the period called *defeso*), to allow for conservation and rejuvenation of stocks. Those entitled to this benefit receive the minimum wage for each month of the closed season. Around 20 per cent of the beneficiaries are women

Aimed to ensure the subsistence of fishworkers during the closed season, unemployment insurance was instituted by Law No. 8.287 on 20 November 1991 and was recently modified by Law No. 10.779 on 25 November 2003. Unlike the other schemes, this insurance scheme is not managed by the Social Welfare Ministry (Ministério da Previdência Social), but by the Ministry of Work and Employment. It is funded by FAT (Workers Support Fund), a federal government fund instituted to mitigate the effects of unemployment.

At the start of each closed season, the fisherman or fisherwoman who seeks unemployment insurance must address the local office of either the Regional Delegacy of Work (DRT) or the National Employment System (SINE). If such an office does not exist in his/her village or town, s/he should turn to the municipal colônia. To qualify for unemployment insurance, it is necessary to be registered as a professional fisher holding a valid professional fisherman's card. Previously, registration and issue of cards were done by IBAMA, the federal government institute integrated into the Environment Ministry and that deals with the environment and natural renewable resources, and which is the authority that establishes the closed fishing season, specifying the duration, areas and species prohibited from capture, in marine waters, rivers and lakes. Since 2003, however, after the new government took over,

registration has been transferred to the Secretary of Aquaculture and Fishing.

Several government institutions are involved in the operation of this insurance: IBAMA, the Ministry of Work and Employment (through Regional Delegacies of Work and National Employment System, SINE), INSS and the fishermen's *colônias*. The *colônias* are expected to play a crucial role in mobilizing fishers and familiarizing them with their rights and duties. IBAMA monitors

the fishing operations and fisheries management. Anyone caught fishing a protected species will be penalized with a fine and confiscation of craft and gear.

The *colônia* leaders believe that the social movements of fishworkers and rural workers have played a key role in the acquisition of welfare benefits.

The strength of the local *colônia*—which is related to its particular history and the activism of its members as well as to the history of the social movements in the area—often determines the success of, and accessibility to, the unemployment

insurance scheme.

Studies show that there is still lack of information and awareness about rights and duties. Often, fishermen fail to qualify for unemployment insurance for want of papers and documentation. Until November 2003, it was necessary to have been registered as a fisherman for at least three years before being able to claim unemployment insurance. Since then, after the enactment of federal Law No. 10.779 on 25 November 2003, it is necessary to prove only one year of registration.

Although membership of a *colônia* is no more compulsory—the 1988 constitution consecrated the principle of freedom of union—in practice, the *colônia* is the key point of reference. As proof of qualification for social security benefits, one of the documents accepted by the State bureaucracy is the declaration of the *colônia*, signed by its president or his legal representative. But if someone has other documents as proof, that declaration is not necessary. Nevertheless, its existence does lead to tendencies for manipulation, as professional leaders may charge a fee to exercise this power. Illegal 'intermediaries', who will provide the necessary documents and proof, and offer to represent the interested party before the INSS, in exchange for a fee, have also sprung up. Overall, though, despite such misuse, the *colônias* play an important role in facilitating access to social rights.

Conclusion

It was only in 1963, 40 years ago, that rural workers got included in Brazil's social welfare system. Despite that inclusion, progress has only been partial, since their status is still not equivalent to that of the urban workers. In spite of an expansion in universalizing rights—which included both male and female fishworkers—actual everyday access of fishing communities to the welfare system faces many obstacles.

The *colônia* leaders believe that the social movements of fishworkers and rural workers have played a key role in the acquisition of welfare benefits. Most leaders regard unemployment insurance and welfare rights as the most significant benefits for fishing communities. Several have also hailed the maternity benefits for fisherwomen.

In the 1990s, CONTAG (National Confederation of Agricultural Workers) entered into a national mobilization movement called 'Land Cry', which attempts to present to the government claims concerning several crucial aspects of their working lives, ranging from technical assistance, credit, agrarian reform, and consistent public policies, to education, health and social welfare. In Pará State, fishworkers' movements like MONAPE and MOPEPA have joined hands with this movement and included some of their own proposals in the charter of demands.

There are demands to improve access to existing benefits as well as demands to broaden the present range of benefits. CONTAG claims to want to "humanize" the service in INSS agencies and local offices; to widen the mobile welfare service (Prev-Móvel) in the rural communities; and to increase the budget in order to offer good quality services to the population. Several demands pertain to the medical expertise offered by INSS in assessing welfare claims. According to CONTAG, the experts' reports should be well supported by evidence and made easily accessible and understandable for the rural worker.

On the matter of health, the demand is for mobile health services, and research into drugs consumption in rural areas and their consequences. There is also demand for free distribution of medicines to the aged and the handicapped. The CONTAG document also calls for a review of the WHO International Classification of Diseases (Code International de Maladies), so that pathologies resulting from specific occupational conditions in agriculture can be considered, for example, exposure to toxic substances and sun-rays. Fishworkers, in particular, complain of skin diseases from exposure to sun-rays.

In a letter presented to the Brazilian government during the last National Fisheries and Aquaculture Conference, held in November 2003 in Brasilia, MOPEPA demanded the building of hospitals in the important municipalities of the State, which should also cover the riverine and coastal communities. It also demanded mobile health services, with boats equipped with doctors, nurses and medicines.

There have also been demands to increase the number of local INSS agencies and doctors, beef up health infrastructure in the rural areas, and hasten the process of disbursal of welfare benefits for victims of accidents and illnesses. INSS also needs to take into account the difficulties that women face in proving their labour status; most often, their personal papers (marriage certificates, children's birth certificates, etc.) mention that they are housewives, without specifying an occupation, which leads to many difficulties in qualifying for social welfare benefits. ■



Fishing for Standards

A collection of articles on ILO's proposed comprehensive standard
on work in the fishing sector

ICSF Dossier

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Fishing for Standards

A collection of articles on ILO's proposed comprehensive standard on work in the fishing sector

Fishing is a peculiarly difficult occupation not only because of the strenuous and hazardous nature of the labour process itself but also because of the unpredictable status of the world's fisheries. Most of the world's fishermen—who are in the small-scale and artisanal sector—do not enjoy the benefits of the fundamental principles and rights at work that are supposedly applicable to all workers, as laid down in the Declaration of Fundamental Principles and Rights at Work of the International Labour Organization (ILO).

Forty years after its last standard on work in the fishing sector, ILO has proposed a new standard, to be placed on the agenda of the 92nd Session of the International Labour Conference in June 2004 at Geneva. This dossier puts together reports on workshops held to discuss this proposed standard, as well as analyses of social security measures for fishing communities in the small-scale and artisanal sector in a couple of selected developing countries.



ICSF is an international NGO working on issues that concern fishworkers the world over. It is in status with the Economic and Social Council of the UN and is on ILO's Special List of Non-Governmental International Organizations. It also has Liaison Status with FAO. Registered in Geneva, ICSF has offices in Chennai, India and Brussels, Belgium. As a global network of community organizers, teachers, technicians, researchers and scientists, ICSF's activities encompass monitoring and research, exchange and training, campaigns and action, as well as communications.