

Harmonizing Rights

The General Fisheries Commission for the Mediterranean Sea (GFCM) is focusing on legislation on fishworkers' labour rights as an important component of management

At its 14th session held in Sofia, Bulgaria, during 20-24 February 2012, the Scientific Advisory Committee (SAC) of the General Fisheries Commission for the Mediterranean Sea (GFCM) made a historic decision, which may prove to be important in relation to the management of the fishery resources of the Mediterranean Sea. The SAC approved the proposal made by its Subcommittee on Economic and Social Sciences (SCESS) at its 11th session held in Rome in January 2012 to collect, study and analyze the national legislation of its members in relation to the rights of fishworkers.

In 2010, the Italian Ministry of Agriculture, Food and Forestry Policies commissioned the Mediterranean Agronomic Institute of Bari (IAMB) and the International Centre for Advanced Mediterranean Agronomic Studies (CIHEAM), which is a GFCM partner organization, to carry out a project, Development of Co-operation in the Mediterranean Fishery Sector: World of Labour, Producers' Organizations, Consumers' Associations and Training (PESCAMED). The objectives of the project were "to conduct an analysis on the world of labour and associations and to promote training designed towards the sustainable development and management of fishing in the Mediterranean countries". In addition to the meetings and seminars held in 2011, one of the main objectives of the project was to collect and analyze legislation on fishworkers' rights of 11 participating countries—Albania, Algeria, Croatia, Egypt, Italy, Lebanon, Morocco, Montenegro, Syria, Tunisia and Turkey.

During the Sofia meeting, presentations were made by the Italian trade union representing fishworkers (UILAPESCA) on the issue of both the national laws of participating countries as well as the relevant International Labour Organization (ILO) conventions and recommendations, including the Work in Fishing Convention, 2007 (C188). In 2011, PESCAMED published a comprehensive study on country reports, the labour context and producers' associations.

At its 11th session, SCESS discussed a number of issues on the

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socioeconomic aspects of fisheries in the region. The secretary of UILAPESCA introduced the PESCAMED study, and gave a brief history of the objectives and achievements of the project. On the basis of that introduction and the discussions that followed, SCESS decided to include the subject of fishworkers' rights in GFCM member States in its future programme of work, which was approved by SAC at its Sofia meeting of February 2012.

Further work

The work initiated by the PESCAMED project will be substantially expanded and developed by GFCM to include the national legislation of all its members in relation to the rights of fishworkers.

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The PESCAMED project proved that there has been a lack of commitment by ILO members to ratify the ILO's specific as well as general conventions affecting fishworkers adopted since 1919. The only convention that has been universally ratified is the Minimum Age Convention, 1973, (C138), which replaced a number of specific conventions referring to minimum age in different professions. It was hoped that the adoption of ILO's Work in Fishing Convention, 2007, would encourage more members to ratify a simple, single convention addressing many issues previously addressed in different conventions or recommendations.

The Work in Fishing Convention, 2007, has already been described and analyzed in past issues of *SAMUDRA Report*. It should be pointed out that the Convention includes, for the first time, within the term 'fisher', the employees of the fishery sector, defined as "persons working on board who are paid on the basis of a share of the catch...". It is important to

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emphasize that while recognizing the role of the workers' unions in all aspects of policy- and decision-making, requiring their full participation, the Convention makes it clear that the workers' agreement should "contain certain particulars unless they are covered by other means by national laws or regulations or a collective bargaining agreement".

The recognition of the rights of fishworkers, and the securing of these rights in legislation, in a profession considered by ILO as one of the most hazardous of all, will not only serve to safeguard fishworkers' legitimate rights but will also eradicate the exploitation of fishworkers in many countries through illegitimate, and often illegal, employment. Such practices have undermined, and

continue to undermine, the efforts of both national authorities and regional fisheries management organizations (RFMOs) to implement conservation and management measures. Those engaged in illegal practices will not provide data on their catches and are also often involved in illegal, unreported and unregulated (IUU) fishing. There is less likelihood that a fishworker working legally, whose rights are protected by law and supported and represented by a fishing trade union, will be part of illegal activities in relation to fishery management.

It can be argued that a proper and thorough study of the laws and regulations covering the rights of fishworkers, on a regional basis, will provide practical advantages that could benefit RFMOs in their attempts to improve their effectiveness.

Since the adoption of the United Nations Convention on the Law of the Sea (UNCLOS) in 1982, a number of international instruments have emphasized the importance of full participation by fishworkers and their representatives in the adoption and implementation of conservation and management measures. But until the recent decision by GFCM, no other RFMO has addressed this issue. The reluctance to involve fishworkers properly in the management of fishery resources by RFMOs, seems to be the result of unwillingness on the part of their members to acknowledge the rights of fishworkers, to introduce appropriate legislation, and to protect and safeguard these rights.

Sustainable development

The 1992 Agenda 21 of the United Nations Conference on Economic Development (UNCED), held in Rio de Janeiro, Brazil, makes a direct connection between sustainable development and the role of workers and their trade unions. After emphasizing the importance of trade unions, it states that the objective is "poverty alleviation and full and sustainable employment, which contribute to safe, clean and healthy environments—the working environment, the community and



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the physical environment. Workers should be full participants in the implementation and evaluation of activities related to Agenda 21”.

The objectives of Agenda 21 include: (a) to promote ratification of relevant conventions of ILO and the enactment of legislation in support of those conventions; (b) to reduce occupational accidents, injuries and diseases according to recognized statistical reporting procedures; and (c) to increase the provision of workers' education, training and retraining, particularly in the area of occupational health and safety and environment.

Agenda 21 adds: “...trade unions are vital actors in facilitating the achievement of sustainable development in view of their experience in addressing industrial change, the extremely high priority they give to protection of the working environment and the related natural environment, and their promotion of socially responsible and economic development...”.

The activities envisaged by Agenda 21 include promoting freedom

of association: “Governments and employers should promote the rights of individual workers to freedom of association and the protection of the right to organize as laid down in ILO conventions. Governments should consider ratifying and implementing those conventions, if they have not already done so”.

It is clear that since 1982 there have been increasing demands by the international community on the conservation and management of fishery resources, including demands that RFMOs be more effective in fulfilling their mandates. The demands placed on many of the RFMOs are often overambitious and unrealistic, requiring much increased financial/personnel resources as well as proper support through the political will and commitment on the part of their members to fulfil those requirements.

In addition to the instruments referred to above, there are other international instruments that have stipulated further and more specific demands on these organizations. They include:

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Italian trawlers in Mazara del Vallo, Sicily, the most important Mediterranean fishing port. The ILO Work in Fishing Convention, 2007, covers employees of the fishery sector too

- FAO Technical Consultation on High Seas Fishing, 1992
- Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, 1993
- Rome Consensus on World Fisheries, 1995
- FAO Ministerial Meeting on Fisheries, 1995, to review the state of world fisheries and the organization's follow-up to UNCED
- Agreement for the Implementation of the Provisions of the UNCLOS relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA), 1995
- Kyoto Declaration and Plan of Action on Sustainable Contribution of Fisheries to Food Security, 1995
- Resolution on IUU Fishing adopted by the FAO Conference in 2003
- The Rome Declaration on IUU Fishing, 2005
- Agreement on Port State Measures to Prevent, Deter and Eliminate IUU Fishing, 2009
- International Guidelines on Bycatch Management and Reduction of Discards, 2011

The recent decision by GFCM to extend the scope and area covered by the PESCAMED project to include the collection and analysis of national

legislation of its members must be commended for several reasons.

First, GFCM is the first RFMO to acknowledge the role of fishworkers in fishery management through the study of regulations covering their rights. Such a study will provide a regional picture of various aspects of fishworkers' rights, and give the Commission greater understanding when it approaches, adopts and recommends management measures.

There can be no proper and meaningful participation by fishworkers and their trade unions if only a small fraction of the workforce in the fishing industry is invited to participate in matters related to the conservation and management of fishery resources since most countries do not have adequate laws and regulations providing, securing and safeguarding the rights of fishworkers.

Second, the absence of adequate and relevant legislation will show that the great majority of fishworkers in the Mediterranean region are operating without proper employment agreements and, therefore, such employment could be regarded as illegal. The problem is: How can national institutions and RFMOs expect to receive any data on fishing activities from those engaged in illegal activities?

Third, the study will prove the need not only for the introduction of legislation but also for the harmonization of such legislation on a regional basis. The lack of harmonization of fishworkers' rights will result in illegal migration, exploitation and, in some cases, possibly even the enslavement of fishworkers.

GFCM is pioneering an important and essential study, which will be extremely beneficial in the long term, enabling the Commission to be more effective in meeting its objectives. GFCM must be congratulated for taking such an important decision. Once the benefits of such a study are realized, other RFMOs will follow GFCM's lead. Management of fisheries involves fish and fishermen; yet so far the history of conservation and management shows that all the attention has been


concentrated on the fishery resources while the resources themselves could have benefited if more attention had been paid to those who catch them.

ILO regards fishing as one of the most hazardous of all professions, with a very high mortality rate. While the adoption of the Work in Fishing Convention, 2007, is a welcome development, it must be stressed that such a convention is long overdue. Furthermore, there has not been a concerted effort by ILO or its sister organizations, such as FAO and the International Maritime Organization (IMO), to promote the ratification of the 2007 Convention.

The 2007 Convention is not perfect; it is, nevertheless, a comprehensive document whose provisions cover all aspects of fishworkers' rights. The most fundamental defect of the 2007 Convention is that it does not cover fishworkers on board fishing vessels below 24 m in length. This, however, is recognized in the Convention, which recommends that, after ratification, parties could extend the provisions of the Convention to vessels below 24 m. There are also no provisions in the Convention in relation to fishworkers whose work is shore-based, such as those working in fish-processing factories.

It is hoped and expected that the GFCM's initiative will encourage other RFMOs to carry out similar studies and thus be able to exchange information and views on how to utilize such information to enhance the rights of fishworkers as well as their participation in fisheries management in various regions. PESCAMED studies show that there is not a single country with a coherent and comprehensive set of legislation that addresses the rights of fishworkers. A universal ratification of the 2007 Convention will be a very positive and important step towards the harmonization of fishworkers' rights. Such harmonization could create closer co-operation between fishworkers' trade unions and facilitate their widespread and active participation in deciding upon the conservation and management measures needed to

address the ever-increasing fragility of fishery resources.

The recognition of fishworkers' rights and the harmonization of national laws could prove to be the most important element in addressing the problem of IUU fishing as well as those related to providing accurate data to national and regional institutions responsible for fisheries conservation and management. For all these reasons, the importance of the task undertaken by GFCM cannot be underestimated. GFCM could be leading the way for a much better future for both fishery resources and fishworkers. 

For more

www.gfcm.org/gfcm/en

General Fisheries Commission for the Mediterranean

www.pescamed.it/index.php?option=com_phocadownload&view=category&id=24&Itemid=195

PESCAMED Country Reports on "The labour context and the producers' associations"

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