

CONVENTION ON FISHING: NO. 188 A NEW WELFARE FOR FISHERS?

Mr. Brandt WAGNER
Senior Maritime Specialist
Sectoral Activities Department
ILO, Geneva

Cardinal Veglió, distinguished delegates, ladies and gentlemen,

It is a true honour to be invited to speak to the XXIII World Congress of the Apostleship of the Sea, on World Fisheries Day, on the topic "Convention No. 188: a new welfare for fishers".

Officially, I am here on behalf of the International Labour Office, the secretariat of the International Labour Organization, or ILO, which, among the United Nations specialized agencies, has the mission to ensure decent working conditions for all workers.

Personally, I am here to both thank you for what the AOS and Stella Maris has done for me, and to reach out to you for help in promoting the rights of fishers.

When I was seafarer as a young man, still not twenty, I went to seafarers' centres all around the world. I was far from home and lonely. At the seafarer centres I met friendly and helpful people whom I could trust and who cared about me and about other seafarers. I was grateful that I had a place to go and people to talk with. The AOS reminded me of the importance of service to others.

Later, as an ILO official, I worked with the International Committee on Seafarers' Welfare, through which I saw more of your good work. There are several people here today that I have had the pleasure of knowing throughout my ILO career promoting the welfare of vulnerable workers.

Now I am here to reach out to you. With your leadership and our partnership, we can do more to protect those in need of a voice or a champion.

Tomorrow, Ms Cleopatra Doumbia-Henry, Director of the International Labour Standards Department will speak to you about the Maritime Labour Convention, 2006, or, MLC.

Seafarers may be called a "forgotten group" due to their isolation at sea. The AOS ensures that seafarers are in fact not forgotten. You care for those working at sea both materially and spiritually.

Six years ago, the AOS helped to ensure that the MLC was adopted. We shared the belief that strong international standards lead to substantial improvements in the lives

of many seafarers. This innovative Convention will come into force in August 2013. Among other things, it will encourage the establishment and maintenance of welfare services, both at sea and ashore, for seafarers. There is no one could can speak more passionately about the MLC than Ms. Doumbia-Henry, so I not take away now from her presentation to you tomorrow.

My task today is to focus on another group of sea workers that we must not forget and that needs our help. These are fishers, or fishermen, the men and women who, often in incredibly difficult conditions, provide the world with one of its most important sources of nutritious and essential food.

What legal standards apply to fishers?

Since 1920, the ILO adopted several international labour standards *specifically* for fishers. These Conventions and Recommendations covered important issues such as medical fitness, minimum age, and hours of work.

Prior to the adoption of the MLC, some other ILO maritime Conventions clearly applied to both seafarers and fishers, while others left it to each State to decide if the Convention would apply to seafarers or fishers or both.

When one looks around the world today at the national legislation concerning seafarers and fishers, one sees that the landscape of legislation covering seafarers and fishers is complex. In some countries fishers and seafarers are covered by the same laws and regulations. In other countries they are not. Sometimes it depends upon the size of the vessel or how long the vessel stays at sea. Frequently, several government ministries or agencies are involved in regulating conditions of fishers. This can sometimes lead to holes in the net, or gaps, in legal protection. It can also lead to weak enforcement of the laws that do exist.

Historically, only a few of the ILO's Conventions specifically concerned with fishers have received more than a dozen ratifications. The number of ratifications of Conventions for fishers has generally been lower than the number of ratification of Conventions for seafarers.

The same problem of low ratification of fishing-related Conventions had been experienced by our sister UN Organization, the International Maritime Organization, or IMO.

IMO Conventions for safety and training of seafarers, such as the Safety of Life at Sea Convention and the Standards of Training and Certification of Watchkeepers, have been ratified by nearly all IMO member States, while similar Conventions for fishers have only been ratified by a handful of such States. The IMO's Convention on Standards of Training and Certification of Watchkeepers on Fishing Vessels only entered into force two months ago, and the IMO's Torremolinos Protocol on Fishing Vessel Safety has not yet entered into force.

Fishing is challenging to regulate, at least at the international level. I hazard to guess that in your own work you may also have found that legal protection is not always clear and national and local authorities sometimes have difficulty enforcing laws to protect fishers.

Why have international standards concerning the fishing sector – at least those concerned with safety, training and working conditions - had such poor records of acceptance? It may be due to the ancient traditions of the sector, where working relationships may be based on a handshake or family ties, and change does not come quickly. Perhaps it is because fishers, as the last true hunters, are by nature very independent people who resist regulation, whether international or national. It may be because the fishing sector is complex, with vessels of all types and sizes, and with major differences among geographical regions that make it difficult to address this complexity in international instruments. It could be because fishers are working, literally, out of sight, and therefore do not get the political and media attention of other, more visible workers.

Comment [JL1]: This sounds more like a reason why they are difficult to organize. Perhaps if there were better union membership they would have a louder voice in front of the legislature. They could both be better regulated & better protected.

Whatever has caused low ratification of international standards concerning fishers, or at least slows down the rate of such ratification, it is clear that there are many fishers who would benefit by improved national laws, regulations and practices concerning their working conditions. Many of you, in your work, have seen this.

One area that must improve is the high fatality rate of fishers in most countries. Around the world, even in relatively wealthy countries, fishing is at or near the top of the list of mortality statistics, often many times higher than other forms of work. Improving requirements for protective equipment, safe practices and medical care on board – and enforcing those requirements - would save lives.

The fishing sector also suffers from some of the worst forms of exploitation

Child labour remains an issue in some areas. Minimum age laws for work on fishing vessels will help protect children from the physical dangers of some types of fishing operations and may give them the opportunity to go to school.

Forced labour also exists on some fishing vessels. The ILO estimates that 20.9 million people are working in conditions of forced labour worldwide. Recent reports of severe human rights abuses and exploitation aboard fishing vessels have led to calls for greater international attention to forced labour, human trafficking, and safe and decent working conditions of fishers.

I know that many people in the AOS network have had first-hand experience in the fight to eliminate this scourge. This issue can be addressed, in part, by regulation of the recruitment by third parties of fishers, particularly migrant fishers, for work on fishing vessels. Fishers need a clearly written and enforceable working agreement or contract with the fishing vessel owner or employer.

The mission of the ILO is to provide decent work to all people. International labour standards are a very important means of action to achieve this lofty goal. To provide decent work for unique occupations – or perhaps better to say, livelihoods, such as fishing, requires research, long discussion with representatives of governments, fishing vessel owners and fishers, and, the development of standards appropriate for the specific sector.

What ILO has done

As many of you know, when the Maritime Labour Convention was being developed, it was decided by the participants in an early ILO preparatory meeting to exclude fishing vessels (and thus fishers) from the Convention. This decision was a deliberate change. Previous ILO standards were often written, as I have already noted, so that could be applied, to both seafarers and fishers.

Fishing vessels, and thus fishers, were excluded from the MLC for several reasons. Primarily, there was an expressed desire, by the participants at the MLC preparatory meetings, to focus the MLC on seafarers on merchant ships. It was also agreed that some of the special characteristics of work on fishing vessels, such as paying fishers on the basis of a share of the catch, made it appropriate to have a Convention specific for fishers and negotiated by representatives of the sector.

Therefore, a separate, comprehensive Convention for fishers was developed. In 2007 the ILO adopted the Work in Fishing Convention, 2007 and the Work in Fishing Recommendation, No. 199.

The Maritime Labour Convention has been an unquestionable success, having been ratified by over 30 countries representing more than 60 per cent of the world's merchant fleet, as measured by gross tonnage. Many more ratifications are expected soon. Many people in this room are a part of the reason for the success of the MLC, as many of you have worked hard to have it ratified.

Unfortunately, the Work in Fishing Convention has only been ratified by a handful of countries. The ILO and fishers around the world need your help to implement strategies to increase the awareness of the problems facing fishers and to encourage more governments to ratify the convention.

Delegates of the AOS Congress, the fishing sector, like the shipping sector, needs to have in place laws and regulations concerning such issues as minimum age for work at sea, protection against improper recruitment practices, clarity in work relationships, protection against excessive working hours, provision of adequate accommodation and food at sea, occupational health and safety protection, the right to be repatriated, the right to medical care and access to social security. The fishing sector needs to have in place a system for enforcing such laws and regulations, including the inspection of

foreign fishing vessels, that is “port State control” for compliance with internationally agreed minimum standards. All of this is provided for in ILO Convention No. 188.

Around the world, national legislatures are amending national laws to reflect the provisions of the MLC. However, we should be asking, “What is happening to improve the laws addressing fishers or fishing vessels?” As countries are amending their shipping acts, or seamen’s acts, or other laws to reflect the MLC requirements, what is the impact on the legal protection of fishers? Are fishers put aside for future consideration? Are new gaps opening in the legal protection of fishers? Are governments looking not only at the MLC but, at the same time, at Convention No. 188 to ensure that there will be such protection?

Convention No. 188 is a somewhat shorter instrument than the MLC. It does not cover quite the broad range of issues addressed in that Convention. If Convention No. 188, which is not quite as comprehensive an instrument as the MLC, does not cover a particular issue, such as shoreside welfare facilities for fishers, are national laws and regulations being written to ensure that fishers as well as seafarers will be provided access to such facilities?

I raise these questions before this AOS Congress, as I firmly and sincerely believe that you and your colleagues at home are well-placed to raise these matters at the national level. In the ILO we are well aware of the very effective campaigns organized in some countries to encourage ratification of the Maritime Labour Convention. Perhaps it is time to undertake similar efforts to encourage governments and national legislatures to look into the legal protection of fishers and to the possible implementation and ratification of Convention No. 188.

Such an effort could start by simply requesting governments to undertake a comparative analysis of Convention No. 188 and national laws and regulations governing labour conditions of fishers, and then holding national consultations with the fishing sector stakeholders to consider what actions could be taken where gaps appear.

ILO tools

For those interested in pursuing such a campaign, the ILO offers a number of tools and publications, which I have made available this week for your review, which could be used to promote the Convention or could be used as the basis for developing your own materials. Nearly all these tools are also available on the ILO’s website.

The International Labour Office has been active in promoting the Convention through regional and national events. It has also formed partners with other United Nations Organizations, including the FAO, headquartered here in Rome, and the IMO, to jointly address such issues as safety and health of fishers, child labour in the fishing sector, and forced labour and trafficking of persons not only on vessels but in shoreside processing.

Though ratifications have so far been low, there is reason for hope that the pace of ratification will improve. Earlier this year, representatives of employers and workers in the fishing sector in Europe signed a social partners' agreement to implement the substantive provisions of Convention No. 188, which, it is hoped, will lead to widespread implementation of the Convention in Europe. Several countries are near ratification or at least working towards changing their laws and regulations to bring them in line with Convention No. 188.

The Convention is also being promoted by the International Transport Workers Federation and by the International Collective in Support of Fishworkers, which, on their own, have produced very useful publications that make the provisions of C.188 accessible to all, including the fishers themselves. There are also many fishing vessel owners and employers who have been a great help to the ILO in promoting Convention No. 188, as they see both the moral and practical value of having in place international standards that will improve the attractiveness and efficiency of the fishing industry.

I know that there are people in the AOS network that are especially concerned with the conditions of fishers on small vessels and in small fishing communities. I imagine that this is hard yet rewarding work. For you, I wish to note that Convention No. 188 provides some flexibility in the application of the provisions of Conventions for such fishers, while still creating a mechanism for steady progress, over time, in their legal protection.

The ILO and others are working hard and steadily to bring the benefits of Convention No. 188 to all fishers. However, it is an enormous task to change, country by country, the laws and regulations concerning working conditions of fishers – who number in the tens of millions. Such a task cries out for champions who are willing and able to bring their own experience, influence and skills to bear on creating, in each country, the political will and action to stimulate a national discussion of labour conditions of fishers and moving forward to make changes to laws, regulations and practices, and the related enforcement mechanisms, to bring about substantial improvements in the lives of people who, if not quite forgotten, have often not been given proper consideration.

What you can do

The ILO therefore looks to you not only for your help but also for your ideas on what future tools should be developed and on the best way of pursuing this worthy mission. You are experts about the national and local issues facing the communities where you work. Let us raise awareness about the challenges and hazards facing fishers so that governments will act to improve enforcement of existing legislation or adopt the Work in Fishing Convention.

When I initially accepted the invitation to speak at your Congress, I asked myself whether it would be appropriate for me to be rather aggressive in asking for help and to

Comment [JL2]: Anything else more specific that they could do as soon as they go home? What is the call to action?

encourage the AOS network to become even more actively involved in promoting the Work in Fishing Convention. I then thought about the theme of your Congress, “New Evangelization in the maritime world” and realized that this exactly what I should do.

As I understand it, evangelism is about taking action. It is defined as spreading of the Christian gospel by public preaching or personal witness, but in an even wider sense means zealous advocacy or support of a particular cause. I ask you, in the spirit of the your Congress, to expand upon your work to promote not only the Maritime Labour Convention but also the Work in Fishing Convention. The ILO stands ready to help you do this.

In closing, I again thank Cardinal Veglió, and thank all of you, for the opportunity to speak at this very important and timely Congress. I repeat my profound respect and admiration for the work of the Apostleship of the Sea, for Stella Maris. Together, the ILO and the AOS can work together to make significant improvements in the working and living conditions of both seafarers and fishers.