

Strategic Analysis Paper

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The Piracy-Illegal Fishing Nexus in the Western Indian Ocean

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Summary

Illegal, unregulated and unreported fishing (IUU) inhibits the managed recovery of the world's oceans from severe fish depletions. It is estimated to lead to billions of dollars worth of lost annual economic benefits, creates significant environmental damage due to unsustainable fishing practices and has wider consequences for food supply.¹

In the case of Somalia, the arc of piracy which is spreading ever further outwards into the western Indian Ocean has its roots as a response to the overfishing of Somali waters by European and Asian fishing vessels and the alleged dumping of hazardous waste by Swiss and Italian firms following the collapse of the Somali state in 1991.

Analysis

Principally occurring on the high seas and in the remoter oceans of the world, such as the Southern Ocean, IUU fishing is also common in the exclusive economic zones (EEZs) of coastal states that simply do not have the resources, money or political will to address the problem.² While the level of illegal fishing seems to have no significant relationship with indicators such as fish price or EEZ size, it does exhibit a significant connection with World Bank governance indicators such as government effectiveness, regulatory quality, the rule of law and control of corruption.³ The 2005 World Bank report *Turning the Tide*, highlighted the direct link between over-fishing and poverty. The Director of the Bank's Environment Department maintained that 'poor governance, lack of regulations and lack of enforcement present a barrier to effective fisheries management.'

¹ Agnew, D., Pearce, J., Pramod, G., Peatman, T., Watson, R., et al, 2009, 'Estimating the Worldwide Extent of Illegal Fishing', p. 1.

² Macdonald, I., 'Threats from Illegal Fishing', in *Fish, Aquaculture and Food Security: Sustaining Fish as a Food Supply*, Brown, A.G. (ed.). Record of conference conducted by the ATSE Crawford Fund, Parliament House, Canberra, 11 August 2004, p. 40.

³ Agnew *et al.*

Discord and a lack of communication and co-operation also contribute to allowing IUU fishing to flourish in certain areas. In the Indian Ocean, the waters around Somalia are rife with illegal fishing due to the absence of a functioning government and lack of any coastal protection or enforcement on the part of the state. As many pirates are former fishermen, some linkages have also been drawn between illegal fishing, and its effect on local fishermen, and the current security issues related to piracy in Somalia waters.

Around 40 per cent of the world's population relies on fish as its main source of protein.⁴ This means that fishing security is a highly important issue and illegal fishing, being a threat to global fish stocks, is a vital piece of the fisheries security puzzle. There is currently a raft of varied and wide-ranging actions being taken regarding IUU fishing (both by independent states and interstate organisations and agencies), with varying degrees of success. Despite the many protocols and conventions that are currently being implemented, there remains a great deal to be done in order to quell illegal fishing in the western Indian Ocean and beyond.

The Extent and Implications of Illegal Fishing

REGIONAL ESTIMATE OF ILLEGAL FISHING – AVERAGED OVER YEARS 2000-2003

| | Reported Catch (t) | % of total regional catch | Lower estimate of illegal catch (t) | Higher estimate of illegal catch (t) | Lower estimate of value (US\$M) | Higher estimate of value (US\$M) |
|-------------------|---------------------------|----------------------------------|--|---|--|---|
| West Indian Ocean | 2,165,792 | 52% | 229,285 | 559,942 | 206 | 504 |
| East Indian Ocean | 2,263,158 | 44% | 467,865 | 970,589 | 421 | 874 |

Source: Agnew et al, p. 2.

The economic impact of IUU fishing on coastal states includes not just the direct loss of value in terms of catches, but other forms of revenue associated with the wider fishing industry. The affected coastal state loses revenue that could have been accrued in the form of landing fees, licence fees, taxes and other levies which are payable by legal fishing operators. Other indirect impacts include the loss of income and employment in other industries and activities in the supply chain upstream and downstream from the fishing operation itself. IUU fishing depresses the demand for fishing gear, boats and equipment and other inputs that might otherwise be present, as well as having a negative impact on fish processing, packaging, marketing and transport.

Other than its economic impact, illegal fishing also has the potential to seriously deplete global fish stocks. It is detrimental to the marine ecosystem as it reduces biodiversity and can even have an impact on state and regional security considerations. Less conspicuously, as MacDonald notes, IUU fishing may introduce exotic diseases to marine environments that

⁴ MacDonald, p. 40.

are unable to withstand them. Collectively, all of these impacts can eventually result in less fish in the sea, thus increasingly threatening the food security of the 2.4 billion people who rely on fish as their main source of protein.⁵ This also creates a domino effect where greater reliance is placed on land resources, creating greater environmental stress there. A lack of food security can also make it increasingly difficult for states to maintain stability, as starvation often equals unrest. Somalia is an interesting case study in regard to the implications of uncontained illegal fishing, with a suspected correlation between the increase in illegal fishing in Somali coastal waters and the increasing prevalence of piracy.

Piracy in the Horn of Africa – Caused by Illegal Fishing?

Somali pirates in the Horn of Africa are a significant maritime security issue. Their motivation is not particularly mysterious: money is obviously the impetus. The history of how it began is, at least partly, connected with the illegal fishing and dumping of toxic waste, including radioactive material, in Somali waters. Many of the Somali pirates claim to have previously been local fishermen who only resorted to hijacking after illegal fishing operations intimidated them with the destruction of gear, attacks by high pressures hoses and the ramming of their vessels.

Due to the absence in Somalia of a functioning government with maritime surveillance and enforcement agencies and capabilities, the country's waters are essentially unpoliced. The Food and Agriculture Organisation of the United Nations (FAO) estimates that around 700 foreign fishing vessels are engaged in unlicensed fishing in Somali waters. IUU fishing vessels come from both within the region (Kenya, Pakistan, Saudi Arabia, Sri Lanka and Yemen) and outside it (Belize, France, Honduras, Japan, South Korea, Spain and Taiwan).

Some perceive these pirates as disenfranchised fishermen who have turned to piracy as informal "coastguards" levying ransoms as "fines". Many of the pirate gangs, or "companies", have taken such names as "Somali Marines", "Central Somali Coast Guard", "Defenders of Somali Territorial Waters" and "Ocean Salvation Corps", suggesting that many of the pirates see this as part of their narrative. Despite the fact that Somali seas are teeming with tuna, shark, lobster, deep-water shrimp and whitefish, not much of a fishing industry was ever developed due to traditional Somali culture being based almost exclusively in pastoralism; seafood was little prized in the Somali diet. So, while some pirates started out as humiliated fisherman reclaiming their seas, many did not.

The culture of piracy is now so entrenched in Somali society that many younger men have only ever aspired to piracy and probably have never considered fishing as a potential trade. The narrative of Somali pirates being protectors of their territorial waters also does not fit with the reality of an operation that is moving both farther south and east, with the area between the Seychelles and Tanzania becoming a prime hunting ground and attacks now taking place even further south in the Mozambique Channel. It does seem likely that illegal fishing was one part of the root cause of Somali piracy but, just as importantly, so too was the lack of governance and economic opportunities on land amid the chaos of post-1991 Somalia.

⁵ *Ibid.*, p. 40.

In regard to the international response to piracy, there appears to be a correlation between countries contributing (or planning to contribute) naval vessels to counter-piracy operations and those whose fishing fleets are exploiting the opportunities the area provides. It is worth considering whether the European Union's Operation *Atalanta* Naval Force Somalia (EU-NAVFOR) might perhaps also have the added advantage of protecting European vessels accused by Somali pirates and international organisations alike of illegal fishing or of dumping of toxic waste in Somali waters.

The current EU-NAVFOR fleet is comprised of warships from Spain, Italy, France, Germany and Belgium, several of which are known to have, or to have had, illegal fishing vessels in the area. While definite numbers regarding the origin of illegal fishing vessels in Somali waters are difficult to obtain, during a hearing regarding Operation *Atalanta* at the European Parliament in April 2009, representatives from French and Spanish ship-owner organisations told of approximately 40 EU fishing boats operating in the Indian Ocean. To date, Operation *Atalanta* has not reported any illegal fishing. Some European vessels captured by Somali pirates, such as the *Alakrana* in October 2009, were alleged by the Somalis to be involved in illegal fishing. The allegation was supported by watchdog groups such as fishsubsidy.org. In *Violence at Sea: Piracy in the Age of Global Terrorism*, Peter Lehr of St Andrews University, describes the situation as a "resources swap", with Europeans and Asians poaching US\$300 million in fish annually and Somalis, in return, taking US\$100 million in ransoms.

Actions Taken

In recent years, a number of regional and international measures have been initiated to combat IUU fishing. A legal framework, regulatory environment and a mandate regarding IUU fishing has been provided by the United Nations Security Council. In 2001, the FAO introduced the 'International Plan of Action to Prevent, Deter and Eliminate IUU Fishing'. The plan called for bilateral, regional and international co-operation to deal with IUU fishing. This was especially the case for shared fisheries that required co-ordination between countries.

In 2003, after a roundtable on sustainable development at the Organisation for Economic Co-operation and Development (OECD), a number of ministers decided to form a high seas task force to combat IUU fishing. Launched in 2003, the Task Force included fisheries ministers from Australia, Canada, Chile, Namibia, New Zealand and the United Kingdom, together with the Earth Institute, IUCN-World Conservation Union, WWF International and the Marine Stewardship Council. The goal of the Task Force is to set priorities among a series of practical proposals for confronting the challenge of IUU fishing on the high seas. A series of expert panels have been convened to identify the legal, economic, scientific and enforcement factors that permit IUU activity to thrive. The panels are then to determine key points of leverage that can be brought to bear at national, regional, and global levels to minimise the incentives to carry out IUU fishing on the high seas.

The Indian Ocean Commission, part of an EU-funded regional project for fisheries surveillance in the South-West Indian Ocean, is an intergovernmental organisation comprising Comoros, Madagascar, Mauritius, France (for Réunion) and the Seychelles.

Although it was originally conceived to encourage trade and tourism, it has now expanded its objectives to include economic development and fisheries management.

Regional Fisheries Management Organisations (RFMOs), sometimes called Regional Fisheries Organisations, also have a considerable role in the fight against IUU fishing. As international organisations dedicated to the sustainable management of fishery resources in a particular region of international waters, or of highly migratory species, RFMOs keep lists of IUU vessels, enabling them to take enforcement action when encountered. The Pew Environment Group, however, points out that, due to the majority of RFMOs not sharing their IUU vessel lists, port states are only obliged to enforce their own list. Together with different countries having different obligations depending on the RFMOs they are a party to, loopholes are created that are then exploited by IUU operators. The main loophole is that the regional focus of port state measures allows IUU-listed vessels to move to other regions to avoid sanctions. RFMOs also have problems in regard to their consensus approach. Although nations like Russia, Uruguay and Spain are involved as members, some of their fishing vessels are among the worst offenders.⁶

In March 2010 the Indian Ocean Tuna Commission held its annual meeting, said to be the most successful in years. The meeting saw the adoption of several new resolutions initiated by the EU. These resolutions included adopting a Port State Control and Inspection Scheme that reflects the recent FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.

In most East African and south-west Indian Ocean states, national responses to maritime safety and security are in their infancy. Very few of these countries have paid sufficient attention to growing maritime threats, including IUU. Most frequently, this is due to factors such as poor governance, a lack of maritime domain awareness and command and control capability, fragile regulatory and judicial structures, a lack of political will, deficient interagency co-ordination and inconsistent relationships with international partners. Although most of the nations are signatories to various International Maritime Organisation conventions and protocols, many have failed to take concrete measures to ratify these.

One particular organisation, the United States Africa Command (AFRICOM), is a Unified Combatant Command of the United States Department of Defence that is responsible for US military operations and military relations with 53 African states. AFRICOM has recently opened a US-funded (but locally staffed) maritime security and counter-narcotics centre in Cape Verde. While the US sees projects such as the security centre as assisting African nations to enhance their own security capabilities and thus allow them to patrol their own territorial waters, some remain suspicious of US motives. AFRICOM is unpopular within some African states due to a perception that it is an example of the US furthering its strategic interests through force (in this case, an interest in Africa's oil, minerals and markets), and raises concerns in such circles about the militarisation of US-African relations. While there remains a lingering distrust of AFRICOM, what can be achieved through it will be restricted.

⁶ *Ibid.*, p. 42.

Other organisations currently working on the problem of IUU include the Stop Illegal Fishing Programme, which operates across Africa, and the Marine Stewardship Council, an international non-profit organisation that runs a certification and eco-labelling programme for traceable, sustainable seafood. The Seychelles held a forum on sustainable fishing on 22-23 November 2010, hosting fifty fisheries ministers from African, Caribbean and Pacific Island countries. One of the challenges discussed by the forum was the high incidence of illegal, unregulated and unreported fishing and the need for improved fishery management.

Australia's response to illegal fishing has been largely committed to the Southern Ocean area, due to the more criminally sophisticated IUU fishing occurring in that area, which targets Patagonian toothfish stocks around the Heard and Macdonald Islands. In contrast, the illegal fishing in Australia's Indian Ocean waters is mainly carried out by traditional or smaller scale Indonesian vessels, which particularly target sharks for the Asian shark fin market.

Australia is very involved internationally in the response to IUU fishing. Although at the forefront in terms of demanding proactive management and enforcement, it remains, as Senator Macdonald noted, only one small element in the fight against a vast problem.

Conclusions

In order to have lasting success against IUU fishing, international co-operation is needed on the matter. International actions such as the creation of a global record of fishing vessels could help impede illegal fishing, but will only work if states do not try to protect vessels originating from their own country, as this would undermine any progress on the issue.

The strengthening of regional co-operation would also help to build a more effective deterrent against IUU fishing. Many illegal fishing vessels can currently evade punishment through the use of transshipment and the resupply of vessels that are not traceable. They are also helped by weak port controls and irresponsible flag states. Having measures only being taken against vessels, and not the nationals or companies involved, also means that those higher up in the illegal fishing food chain are able to continue their business unimpeded.

It is vital that coastal states ratify their own national maritime strategies. This would require sustained political will, the strengthening of relevant institutions and enforcement mechanisms, upholding of the rule of law and the devoting of adequate financial and human resources. Such measures would, however, be difficult for states with low governance indicators. Given that what happens on land affects what occurs at sea, if a government is not effective on land, it will be significantly more difficult for it to be able to implement the measures needed to deter illegal fishing vessels from entering its waters. In the case of Somalia, a viable national government and genuine economic alternatives are necessary prerequisites.

In order for true progress to be made, long-term strategies must be developed both regionally and internationally to deal with the maritime issues. They must also help the governments of coastal states improve order on land, thereby enabling them to combat the illegal fishing that occurs within their waters.

Any opinions or views expressed in this paper are those of the individual author, unless stated to be those of Future Directions International.

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