www.U4.no
December 2008 - No. 23

CMI CHR. MICHELSEN INSTITUTE

U4BRIEF

Corruption and commercial fisheries in Africa

Heightened competition and considerable illegal fishing by commercial boats, suggest that incentives for corruption in African fisheries are high. Dependence on revenues and investments from foreign countries, as well as conflicts of interests, are two factors that may limit law enforcement and the effectiveness of marine inspections. Law enforcement and prosecutions may also be thwarted by bribe payments and the complicity of officials in crimes. The most effective and realistic way of countering corruption appears to be through strengthening transparency and accountability. African civil society has an important role to play in scrutinising fisheries access agreements, tracking court cases and monitoring government budgets.

U4 Anti-Corruption Resource Centre
www.U4.no

by André Standing,
Senior Researcher,
Corruption and Governance Programme, Institute for Security Studies,
South Africa

Download this Brief from
www.U4.no/themes/natural-resources

Introduction

Marine fisheries support the livelihoods of millions of citizens in Africa's coastal countries. However, throughout the continent, unsustainable fishing practices are threatening the long–term viability of marine ecosystems. If the stocks of fish in African waters continue to decline, the result will be highly detrimental, impacting on food security, poverty, and human development.

To maximise the developmental potential of fisheries, democratic governance is a critical requirement. Yet the governance of commercial fisheries, particularly relating to industrial fishing by foreign boats supplying markets in Europe and Asia, is frequently undermined by a lack of transparency and accountability. In this environment, revenues from commercial fisheries can be wasted and fishing boats are allowed to break rules and regulations with impunity. Policy decisions can also be captured by domestic elites and foreign stakeholders to the detriment of local communities and small–scale fishermen.

In comparison to other resource sectors, corruption in fisheries has yet to gain the same level of scrutiny from researchers, civil society organisations, and the international donor community. However, experience from these other sectors may help inspire necessary reforms in fisheries. In particular, there appear to be good reasons why the Extractive Industries Transparency Initiative could be replicated or extended to marine fisheries.

This U4 Brief provides a short overview of corruption and the exploitation of marine resources in Africa. Policy reforms that may reduce incentives and opportunities for corruption in fisheries' management are also discussed.

Africa's marine fisheries in global perspective

As with other natural resources, Africa's marine fisheries are increasingly in demand and are gaining in geopolitical importance. A major factor lies in rising global consumption of fish and fish products. World exports of fish and fish products – including farmed fish – grew by 9.5% in 2006 and by 7% in 2007, reaching US$ 92 billion. China's remarkable economic growth is playing an important role – per capita fish consumption in China has risen from 5kg in the 1970s, to 26kg now. China looks set to overtake Spain as the world's third most important fish importing country, behind Japan and the US.

Rising demand for fish is occurring as fish stocks globally are in decline. The United Nations Food and Agriculture Organisation estimate that three–quarters of the world's available fisheries are either being fished at their maximum or are being over–fished, with only 1% being classified as recovering from over–fishing. Since the 1980s, global fish landings have decreased at a rate of approximately 0.7 million tons a year, and fishing boats compensate by targeting smaller species or species that were previously not in demand.

Exacerbating this marine crisis is the difficulty facing many of the world's leading fishing nations to reduce capacity of their fishing fleets. Many developed countries maintain substantial subsidies, estimated at some US$ 30–34 billion per year globally. Technological improvements in fishing add yet further problems, as sophisticated boats now have better devices for attracting fish and they have access to digital maps and powerful sonar systems that ensure very few areas of the ocean are left unexplored.

In this context, Africa's marine resources are gaining strategic and financial value. As fish resources elsewhere are decreasing and the demand and value for fish is steadily rising, there is a growing dependence by foreign fishing fleets, particularly from the European Union (EU) and Asia, on gaining access to historically underexploited waters of developing countries. The growth in commercial fishing has been particularly high in West Africa where total landings of fish have risen from 600,000 tons in 1960 to 4.5 million by 2000.

In addition to private licenses and joint ventures, the fishing activities of foreign boats in African waters are often controlled by fisheries access agreements – contracts that permit a certain number of foreign boats to operate in a country's water in return for a lump sum, typically paid annually. For many countries, these access agreements represent considerable income, accounting for a substantial proportion of the operating budgets of fishing ministries. Some access agreements are signed between governments, others between host governments and private fishing associations and there are those agreements signed between host governments and inter–governmental organisations, most notably the EU.

"... illegal fishing has become both cause and effect of decreasing fish stocks..."

At the same time as external pressures on African marine resources are mounting, there is also a growing need for marine resources in developing countries by indigenous communities and local fishing boats. The populations of coastal communities in numerous developing countries are expanding rapidly, and for millions of African citizens fish represents a low cost or free source of protein and subsistence income – a fact that is becoming more important given the global precipitous rise in the cost of food. However, over–fishing and the prominence given to exporting fish by African states means Africa is the only continent where fish supply per capita is in decline. Per capita fish consumption in Africa is already low, roughly 6.5kg. Maintaining this level of consumption, given projections on population growth in the next 10 years, would require domestic fish production to increase by over 25%.

Competition between key fishing nations for access and control over the marine resources of developing countries is therefore joined by ever–greater competition between local communities and industrialised foreign fishing fleets. It is not surprising that due to these pressures, incentives for a range of illegal activities are raised, such as fishing in protected parts of the sea, using proscribed fishing gear, underreporting catches and disregarding various conservation measures. One study commissioned by the UK Department for International Development (DFID) estimated the value of illegal fishing in Africa might be as much as US$ 1 billion each year. Many developing countries have very weak capacity to respond to unlawful fishing. Yet a failure to deal with illegalities places marine resources under further strain, meaning illegal fishing has become both cause and effect of decreasing fish stocks throughout the African continent.

Corruption and fisheries governance

Heightened competition for African fish, as well as considerable illegal fishing by commercial boats, suggests incentives for corruption are high in the fisheries sector. The following pages provide an introduction to the different ways in which corruption can manifest itself in fisheries' management and what the outcomes of this corruption may be.

Fisheries access agreements

In principle, fisheries access agreements can be a positive way of managing the surplus fish stocks of developing countries and they can deliver much needed foreign exchange earnings. Moreover, the money received from access agreements can be used to develop infrastructure to improve domestic management of fisheries and develop local fishing businesses. Indeed, the EU has, for a long time, insisted that a portion of the revenue it provides to developing countries through access agreements is spent either on improving monitoring and surveillance capacity or is invested in the local–small scale fisheries sector. However, access agreements have generated considerable controversy, being blamed for systematic over–fishing and for undermining local fishing industries. The terms of these agreements can allow too many boats to operate in territorial waters and they often permit fishing activities that are not allowed in the seas of developed countries.

A further criticism of access agreements is their lack of transparency. The EU now publishes the contents of its agreements with third countries, but in most cases the negotiation process is confidential, with no involvement from civil society or other domestic fishing stakeholders. Access agreements signed between host countries and Asian fishing associations or Asian governments remain completely private, meaning the public has no information on the scale and terms of these agreements, nor the sums being exchanged.

Lack of transparency, combined with the controversial terms of these agreements, has raised concern that forms of corruption occur during the negotiating stages. There is a dearth of evidence, but widespread allegations include ministers and officials receiving bribes and kickbacks, as well as foreign countries using donor funds or the threat of their removal to ensure the terms of agreements are favourable.

Corruption in the negotiating stages of access agreements is not the only concern. Some argue that access agreements can have an unintended consequence of undermining democratic governance. For example, revenues from access agreements may limit the independence of African regulators and policy makers, a tendency exacerbated where access agreements are linked to further loans and aid projects. A manifestation of this problem occurs when fishing boats operating under access agreements break rules and regulations. While there are cases suggesting foreign governments may apply diplomatic pressure to avert investigations and prosecutions, it may also be the case that the host state, wanting to protect diplomatic relations, may fail to respond with appropriate sanctions.

Dependence on access agreements may also encourage governments, or at least the ministry responsible for fisheries, to operate in ways that are not transparent or sensitive to local communities, particularly to small scale or subsistence fishers. This may be more evident in those countries where a large portion of total government revenues from fisheries is derived from access agreements and, in comparison, state funding in the form of taxes and levies from local fishermen and coastal communities can be small or insignificant.

This corrosive impact on democratic governance may also undermine the public aim of using the fees from access agreements for capacity building of fisheries management and the development of small–scale fisheries. In many countries the funds from access agreements have not been used well and evidence of poverty reduction is hard to find. This concern is heightened where the host governments of access agreements are known to have a poor track record on human rights and democracy. Again, the disappointing legacy of funds from access agreements seems to be exacerbated by a lack of transparency and accountability. The EU conducts evaluations and audits of its agreements which should document instances where funds have been poorly allocated or misspent. Yet these audits are not made publicly available.

Conflicts of interests

Outside access agreements, corruption in the form of conflicts of interests appears to be a common problem. Senior officials and politicians, some of whom may be involved directly in fisheries management, simultaneously own private fishing boats, are partners in fishing and fish processing companies or operate as shipping agents.

Countries appear particularly vulnerable to conflicts of interests where domestic policies favour the establishment of joint ventures between foreign fishing companies and local businesses. The motivation behind this policy is to ensure increased value–added in countries, and to move away from a situation where developing countries merely play a passive role in the exploitation of their natural resources. However, whereas foreign partners in joint ventures are typically the ones to bring in capital, boats, and fisheries expertise, a danger of this policy is that ideal local partners are those who offer political influence.

Where conflicts of interests exist, public officials may influence policy decisions and implementation for their own benefit. Moreover, where fishing boats are co–owned by senior officials, they may be free to engage in a range of illegal activities knowing that there is protection from arrest and investigations. For example in Angola, the EU and South African Development Council recently undertook a project aimed at increasing the capacity of marine surveillance and inspections. A research report noted that inspectors in Angola often failed to report irregularities due to the knowledge that boats were co–owned by politicians and public officials.

Widespread knowledge of conflicts of interests may undermine morale among public officials and inspectors, which may further limit their ability to police waters effectively. It may also be the case that, where senior officials are engaged in commercial fisheries, the capacity of law enforcement is deliberately kept low, with funding and training restricted and the most diligent inspectors being kept from senior positions.

Embezzlement of license fees

In the extractive industries of developing countries, a major source of concern appears to be the theft and misappropriation of state revenues. It has been argued that a lack of transparency and civil society oversight has facilitated this form of corruption. In comparison to other resource sectors, the accountability of state revenues derived from the exploitation of marine resources has not been scrutinised. However, revenues from fisheries can be substantial, and as is the case in other sectors, public access to information can be extremely limited. For example, in 2008, growing pressure on the government of Guinea to improve the governance of fisheries led to an official audit which revealed the country lost millions of euros due to various forms of fraud and theft by the ministry of fisheries. Similarly, a United Nations Expert panel investigating violations of the UN arms embargo in Somalia claimed that substantial revenues from commercial fishing have been paid into the personal bank accounts of warlords and have been used to fund civil conflict.

In addition to a lack of accountability and public oversight, a further characteristic of the management of fisheries that may encourage this form of corruption is that decisions on licensing are typically made by a single person, with very little involvement by others. This creates a situation where opportunities for fraud are high. Some experts have argued that multi–stakeholder committees could oversee licensing decisions and data on licenses and revenues could be published on the internet, as is the case in Papua New Guinea.

> *"A critical area for reform in fisheries relates to the issuing of licenses and the negotiation of access agreements."*

Corruption, bribe payments and illegal fishing

In the past decade, responding to illegal fishing in developing countries has been raised as a critical priority by African governments and international development organisations. Forms of illegal fishing seem to be an inevitable outcome of heightened competition for fish resources and overcapacity among the world's commercial fishing fleet.

Broadly speaking, most African states lack the capacity to effectively police their waters. However, it is now acknowledged that those developing countries that score better on proxies of good governance tend to be more successful at combating illegal fishing. Based on this view, DFID has argued that, unless measures are put in place to improve governance and reduce corruption, support to African countries for improving their monitoring and surveillance of fisheries could have limited impact.

The relationship between corruption and illegal fishing is complex. Dependence on revenues and investments from foreign countries, as well as conflicts of interests, are two factors that may undermine or limit law enforcement and the effectiveness of marine inspections. In addition, it is also the case that law enforcement and prosecutions may be thwarted by bribe payments and the complicity of officials in crimes. For example, bribe payments and intimidation from foreign boat owners has meant African on board observer programmes have often failed to be effective. Corruption and bribe payments among marine inspectors and port officials has also undermined investigations and has contributed to the fact that some ports – known as 'ports of convenience' – are deliberately favoured by known illegal fishing boats. Finally, there have been several cases where officials and inspectors have abused their position of authority in order to undertake illegal fishing themselves.

In studying the impact of bribe payments on illegal fishing, it is also important to recognise that bribe payments between officials and boat owners can also blur into forms of predatory rent–seeking. Thus, corrupt authorities may actively seek bribes and in doing so those fishing entirely legally can become victims. Those willing or able to pay bribes, even if they do so reluctantly, may gain competitive advantages over those who cannot afford bribes or who refuse to pay them. This, in turn, may ensure less responsible fishing companies succeed at the expense of others. Corruption and illegal fishing therefore become self–reinforcing.

www.U4.no

U4 - CMI
PO Box 6033
5892 Bergen, Norway
Tel: +47 55 57 40 00
U4@U4.no

Addressing corruption in fisheries

For the time being, corruption in fisheries has not been given sufficient attention by researchers, governments, and international development organisations, at least not to the same extent as other resource sectors. Placing corruption on the international agenda is therefore a necessary first step in reforming the governance of fisheries and reducing the opportunities for corrupt activities.

As is the case in other resource sectors, the most effective and realistic way of combating corruption appears to be through strengthening transparency and accountability. In other words, the opportunities for corruption diminish where there is strong public oversight and access to information. In this respect, a critical area for reform in fisheries relates to the issuing of licenses and the negotiation of access agreements. Fisheries departments should be encouraged to publish details of license agreements, including information on payments, taxes and fines. Furthermore, it is vital that all information on access agreements is made public, which not only includes the agreements themselves, but also key reports and information on the spending of revenues.

Several experts have suggested that opportunities for corruption may also be diminished through changes to the way in which fisheries licenses and access agreements are negotiated. At a national level, multi–stakeholder committees could be employed to oversee licensing decisions, instead of this role being undertaken by a single official or department only. At an international level, African states could benefit from negotiating access agreements with foreign fishing nations collectively, rather than alone. This may not only diminish the opportunity for bribe payments and undue influence, but it could also strengthen the regional management of migratory fish.

For increased transparency and access to information to lead to improved democratic governance, the role of African civil society organisations is critical. Such organisations should be scrutinising access agreements, tracking court cases and monitoring government budgets, for example. However, few countries have strong civil society organisations that work on fisheries, and those organisations that do exist tend to lack capacity and training. Here it is important to consider initiatives such as the Publish What You Pay (PWYP) coalition, an international network of civil society organisations that has not only campaigned for increased accountability in the extractive industries, but also has taken an active role in training, information sharing and engagement in the Extractive Industries Transparency Initiative (EITI). PWYP has already identified the need to work on marine fisheries and this appears to be an area where donor support could be effective.

While civil society plays a critical role in creating the ‘demand side’ of good governance, experience from other resource sectors suggests the need for independent audits of government departments as well. This is because tracking revenue flows and government expenditures can be complex and civil society organisations tend to lack the necessary expertise or credibility. The experience of Guinea provides inspiration and suggests African states may benefit considerably by instigating regular annual or biannual audits of fisheries departments. Such audits could be linked to broader efforts to measure the potential value of marine resources, as well as the economic and social costs of their demise.

Finally, reforms relating to greater transparency, accountability and public oversight could be joined together through an equivalent of the EITI. EITI not only places obligations on states to publish details of revenues and undertake independent audits by accredited auditing firms, it also establishes joint committees comprised of industry representatives, civil society organisations and government officials that monitor progress and track government spending. Extending EITI to fisheries may help raise awareness of the need to address corruption in this sector and the lessons learned from the oil and mining sector would no doubt be useful for work in fisheries. For such an initiative to be successful, however, it is vital that African countries and African intergovernmental organisations play a leading role. In this respect, the development of an EITI inspired initiative for fisheries could be driven by the African Union, with a secretariat operating within or through the New Partnership for Africa’s Development.

References

- High Seas Task Force (2006), *Closing the net: Stopping illegal fishing on the high seas*, Governments of Australia, Canada, Chile, Namibia, New Zealand, and the United Kingdom, WWF, IUCN, and the Earth Institute at Columbia University.
- Kaczynski, V and Fluharty, D (2002), “European Policies in West Africa: Who Benefits from Fisheries Agreements?”, *Marine Policy* 26(2), 75-93.
- MRAG (2005), *Review of impacts of illegal, unreported and unregulated fishing on developing countries*, Marine Assessment Resources Group, London.
- Tsamenyi, M and Hanich, Q (2008), *Addressing corruption in Pacific Island Fisheries,* Report prepared for the IUCN Profish Law Enforcement, Corruption and Fisheries Project, available from www.iucn.org.

This Brief is based on the U4 Issue Paper, Corruption and Industrial Fishing in Africa (Standing, A., U4 Issue 2008:7). To download this Brief and the related Issue Paper, and to access further information on Natural Resource Management and Corruption, visit: www.U4.no/themes/natural-resources