

Chapter 7

Fish Crimes (Illegal, Unreported, and Unregulated Fishing)



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Introduction

As we have read in Chap. 6, overfishing compromises ocean health. More animals are removed from the ocean than can be replenished, and destructive fishing gears can destroy marine habitats. As the global community grapples with the need to bring fishing in line with the ecological limitations of the ocean, there is another side to the industry that exacerbates the already perilous state of world fisheries: illegal, unreported, and unregulated fishing, or IUU fishing. It is estimated that each year IUU fishing costs the industry a whopping 23 billion or more euros worth of fish. This translates to approximately one in five fish being caught illegally. IUU fishing wreaks havoc to life in the ocean, severely undermining any management and conservation efforts, and is devastating local communities and legitimate fisheries the world over. IUU fishing often goes hand in hand with other crimes including environmental and wildlife crimes, smuggling of contraband such as drugs or weapons, money laundering, human trafficking, and labour abuse and slavery at sea. The global scourge that is IUU fishing has finally, in the last two decades, caught the attention of governments and the media. As governments have come to recognise the economic loss to their own national fishing fleets and economies, they have started to work at the international level to try and address IUU fishing. Technologies are emerging to help tackle fish crimes. However, patrolling and enforcement of an elusive industry that happens out of sight in the vast open ocean remain incredibly challenging.

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What is IUU Fishing?

The term IUU fishing was first coined in the 1990s and is defined as follows:

Illegal Fishing (I) is fishing that occurs in violation of existing laws pertaining to fishing either in national waters or on the High Seas (international waters), such as the laws that govern fishing within areas managed by Regional Fisheries Management Organisations (RFMOs). In national waters, illegal fishing can be conducted by vessels either flying the flag of that state or a foreign flag. In international waters illegal fishing is conducted by those vessels flying the flag of states that are parties to the relevant RFMO and therefore bound to those laws, and who violate those laws.

Examples of illegal fishing include targeting fish for which the vessel operator has no licence, using prohibited gear or gear that is not in compliance with the law (e.g. too small mesh size or too large nets), catching undersized fish and fishing in areas that are off limits to fishing either permanently or temporarily (marine protected areas).

Unreported Fishing (U) is fishing that has not been reported or that has been misreported, either nationally or to the competent international authorities such as the RFMOs. Examples of unreported fishing include underreporting catches. A vessel may be fishing beyond their quota and not reporting the excess catch. Misreporting essentially violates the relevant reporting procedures. Some rogue vessel operators engage in a practice known as “high grading”. This is when they continue fishing to replace less than optimal fish with higher-quality fish. That vessel may have reached its quota but continues to fish to optimise the quality of its catch. This wasteful practice means that the true catch of a certain species by that vessel is not reported. Illegal discarding, which is when a vessel illegally throws unwanted catch or bycatch back overboard, is also a form of unreported fishing.

Unregulated Fishing (U) is all fishing that occurs that is not subject to any laws or regulations, for example, fishing in international waters by vessels flying a flag that is not party to the relevant fisheries management body (RFMO). By virtue of their flag, these vessels are not bound to the applicable rules and regulations. Unregulated fishing includes targeting fish for which there are no applicable management or conservation measures. Fishing activities that are inconsistent with the flag state responsibilities for the conservation of living marine resources under international law are also considered unregulated fishing.

Labour Abuse and Slavery at Sea



Bunk conditions onboard a purse seiner operating in the High Seas of the Western Central Pacific Ocean. *Credit Paul Hilton/Greenpeace*

The rising demand for cheap seafood drives overfishing globally, but it also comes with immense social issues. Overfishing forces vessels to fish further from their traditional fishing grounds including into the High Seas. This means higher operating costs including costs for improved technology, access and licensing fees, and fuel. One way industrial fishing vessels keep overheads down and seafood cheap is to break existing management and conservation rules, i.e. engage in IUU fishing. Another way is to exploit labour. Working conditions aboard fishing vessels are among the worst in the world. Crew can encounter a whole spectrum of issues from extremely low wages, lack of sanitation, lack of safety equipment, and lack of personal space to long working hours, forced labour, human trafficking, and even murder at sea. Once a vessel leaves port, it is very difficult to monitor what happens onboard. Vessels can spend months and sometimes years away from port. Ships at sea provide the perfect setting for labour abuse to occur.

Labour abuse and forced labour are not limited to any one nation's fleet, although the highest incidences documented and reported concern migrant workers from South East Asia. Workers can board fishing vessels with no idea that they will be forced to stay out at sea for months and sometimes years at a time. These workers find themselves misled and tricked by recruitment agents. Some never intended to work at sea. They are often migrants with a nationality other than that of their vessel operators. Their papers are taken away from them and being at sea means they cannot escape, let alone communicate their situations. Often not speaking the same

language or sharing the same culture as senior crew, the workers are stripped of all human dignity, forced to work long days without adequate rest, sharing bunks in cramped quarters, and with little to no access to sanitation. These men and boys set out to find work to support their families only to lose contact with their loved ones for long stretches of time, able to send back a fraction of what they were promised if they even get that opportunity.

What Enables IUU Fishing?

The fact that the ocean is so vast and makes up most of our planet goes a long way to explaining how challenging it is to clamp down on and eliminate IUU fishing. The sheer size of the ocean and the lack of eyes on the ocean make it a playground for criminal activities and those tempted to flout the rules. But there are certain legitimate practices that facilitate IUU fishing.

Flags of Convenience (FoCs). Every vessel must be registered to a country and fly the flag of that state. Flying a Flag of Convenience is quite simply a practice where a vessel owner registers its ship in a country other than its own. The use of “Flags of Convenience” or FoCs is not limited to the fishing industry. Usually, the adopted state is one with the least stringent rules in place. In the world of fishing, this country may not be signatory to any international agreements pertaining to fishing or may not be a party to any regional fisheries management organisations. Flying a Flag of Convenience essentially exempts that vessel from internationally agreed upon rules and regulations. Flying a Flag of Convenience not only lowers the bar in terms of fishing compliance but often also means that there are other less stringent laws that the vessel owner is subject to, for example, those relating to safety, labour laws, and even taxes. Within the fishing industry, there is no globally agreed upon or official definition of an FoC, or list of countries that provide FoCs. Moreover, vessels can “flag-hop” between states making it harder to track and trace those vessels systematically evading the rules.

Transshipment. This is the practice of offloading catch on to refrigerated cargo vessels (reefer vessels) at sea. It is a common practice that allows vessels to stay out at sea longer without having to return to port to offload their catch. Transshipment is particularly worrisome on the High Seas, where there is practically no oversight. A reefer engaged in IUU fishing can collect the catch of multiple vessels and can mix catches from fishing boats sometimes operating in different jurisdictions, thereby making it difficult if not impossible to properly trace fish back to the fishing vessel of origin. A fishing vessel engaged in IUU fishing does not report or underreports their catches. That vessel continues fishing, seemingly within its quota, whilst the excess fish is laundered through reefer vessels. Moreover, fish that may be destined in the books for one market easily ends up on another. Transshipment enables other crimes at sea. For example, the smuggling of contraband is facilitated through at-sea transshipment away from the scrutiny of the authorities. Furthermore since the High Seas are still largely lawless, it is difficult to know which authorities have jurisdiction over crimes in a given area there. Transshipment enables fishing vessels to stay out for months and often years at a time. Fishing vessels are resupplied at sea, with fuel, food, and other provisions, either by the reefer vessel or by other resupply vessels. This makes fishing vessels with no need for port calls a perfect setting for labour abuse, or worse, a perfect prison to keep slaves.



Illegal transshipment taking place in the High Seas of the Western Central Pacific Ocean. *Credit* Shannon Service/Greenpeace

A Lawless Ocean

Much of the ocean lies in international waters or the High Seas. In fact the High Seas comprise 64% by surface area of the ocean and do not belong to any one nation. This vast part of the ocean and indeed planet is subject to only a patchwork of regulations. There is currently no comprehensive governance regime that covers the High Seas. As discussed in Chap. 20, a treaty to protect biodiversity beyond national jurisdiction is currently being negotiated and finalised by the United Nations, but it is unlikely that this will address and clarify the jurisprudence of illegal fishing on the High Seas. This lawless nature of the High Seas makes it particularly appealing for criminals and those wishing to fish with impunity.

Tackling IUU Fishing

Technology to Combat Fish Crimes

Advances in technology are helping to unveil fish crimes happening at sea. The International Maritime Organisation (IMO) requires that all vessels greater than 300 GT (gross tonnage) that are on an “international voyage” and in any case all vessels greater than 500 GT have an automatic identification system (AIS) onboard. Although, a flag state may exempt certain ships from carrying an AIS. This system relays information in real time to the relevant authorities about a ship’s location. The AIS helps keep vessels safe by supplementing radars and avoiding collisions, but it also allows authorities to keep an eye on where a vessel is operating. A ship’s AIS must be on at all times, including at anchor. Some countries and intergovernmental agencies such as RFMOs have an automatic identification system (AIS) requirements for fishing vessels within their waters, for example, the EU requires all fishing vessels beyond 15 m to have an AIS.

Countries also have a requirement for national fleets to have a vessel monitoring system (VMS) onboard. This system relays information back to the national authorities of the vessel’s flag state.

Such monitoring tools are essential to understanding how many vessels operate at any given time, and whether these vessels are operating within the law. However, to be effective these systems must be universal, they must be tamper proof and on at all times, and the information must be made accessible to enforcement agencies.

As outlined in Chap. 23 on leveraging innovation for ocean conservation, great strides are being made to use satellite technology to help visualise what is going on in our ocean. Mapping and overlaying data points allow analysts to infer with high accuracy where a vessel has been or what it has done, even if that vessel has temporarily switched off its AIS, for example, determining whether a vessel has engaged in transshipment or whether it has entered a marine protected area.

Steps Governments Can Take to Help Eliminate IUU Fishing



Tuna illegally transhipped onto a reefer vessel. *Credit Alex Hofford/Greenpeace*

As with tackling any crime, it is difficult to eradicate illegal, unreported, and unreported (IUU) fishing entirely. However, there are some clear steps that can be taken to significantly reduce the amount of wildlife that is taken from our ocean each year through IUU fishing.

- A very simple and highly effective measure to combat IUU fishing and with it, all associated illicit activities, is to ban at-sea transshipments.
- There must be a global effort to eliminate the use of Flags of Convenience (FoCs), for example by mandating a genuine link between vessel owner and flag state.
- The seafood sector must continue to improve and develop enhanced traceability and transparency tools within seafood supply chains, for example through block chain technology.
- Governments and fisheries agencies should get better at sharing information and intelligence. This can be done through:
 - Joining initiatives such as Global Fishing Watch and sharing (fishing vessel) data.
 - Developing and mandating tamper-proof unique identification numbers (or IMO numbers) for all vessels engaged in commercial fishing, including reefers.

- Establishing an official centralised and enforceable global vessel registry, including a blacklist of vessels. For example, whilst RFMOs maintain their own vessel registries and black lists of vessels that have engaged in IUU fishing, this list is not centrally or universally enforced, for example by flag states and/or port states. This means that fish criminals caught in one area of the ocean can move to another area with impunity.
- The international community already has several instruments at hand that if implemented and enforced properly would greatly deter and prevent fish crimes from happening. These instruments include:
 - The Port State Measures Agreement (PSMA). Ports are the gateway for IUU caught fish to reach our markets. In 2009, the United Nations Food and Agricultural Organisation (FAO) approved the Port States Measures Agreement, which entered into force in 2016. This agreement was the first legally binding instrument to prevent, deter, and eliminate IUU fishing. All countries should ratify and implement this agreement immediately. Recognising that not all countries have the same capacity (funding and training for example) to implement and enforce the PSMA, the global community must come together to address any gaps.
 - Work in Fishing Convention C188. This convention was adopted by the International Labour Organisation (an agency of the UN) and entered into force in 2017. It is meant to ensure a basic universal standard of decent working conditions onboard all commercial fishing vessels. This standard covers food and accommodation, occupational health and safety, medical care, and social security. Setting such standards facilitates labour inspections in port. Unfortunately, this convention has yet to be ratified by the majority of nations.
 - The IMO Cape Town Agreement, which includes provisions around the safety and integrity of vessels including equipment onboard.
 - The FAO Compliance Agreement, which has a special emphasis on flag states responsibility to ensure that none of their vessels are fishing on the High Seas unless authorised.
 - The FAO International Plan of Action to Prevent, Deter and Eliminate IUU fishing. Whilst voluntary, this sets out some important comprehensive steps that if followed would make it difficult for illegal fishers to flout the rules and gain access to seafood markets both nationally and internationally. For example, it includes steps around monitoring, control, and surveillance, national, regional, and international cooperation, flag state responsibilities, technical compliance, vessel registries, and more.
 - There are also national and regional tools available that, whilst not perfect, help raise the global standard for fighting IUU fishing, including labour rights violations, for example, the EU rules to combat IUU fishing, the EU Fisheries Control Agency, and the US Trafficking in Persons country designations, to name a few.

- Market players have also come together to set standards for suppliers to access their markets. Some industry associations too have been establishing guidelines on transparency and traceability in seafood supply chains. See Chap. 10 for more on the move towards sustainable seafood.

Successfully fighting IUU fishing comes down to political will. If governments are serious about tackling fish crimes, they must get better at implementing and enforcing the rules already established. But beyond that there needs to be better cooperation and sharing of intelligence between nations and agencies, as well as a strong comprehensive global treaty for activities happening on the High Seas. Whilst international agencies such as Interpol are sometimes engaged to help track down and bring to justice fish criminals, their authority and jurisdiction are limited. Until there is an authoritative international policing system for the global ocean and an obligation to share (fishing vessel) data between countries, there will be too many loopholes for rogue fishers and fish crime syndicates to exploit.

First Hand Account—Farah Obaidullah

I have spent many years campaigning against destructive and illegal fishing practices, witnessing first hand some of the most egregious practices happening at sea. From the wasteful discarding of endangered species such as sharks and turtles, and the discharging of oil and other pollutants to sea, to the harrowing working conditions on fishing boats.

On my expeditions at sea, it was common for us to board fishing vessels. Our mission was to inspect and document these vessels. Were they licensed to fish where they were operating, did they keep proper logbooks, were they tampering with their vessel monitoring systems (VMS), how much did they catch, both on and off the books, including bycatch of animals such as sharks, and so on. On our visits, we would observe the working conditions, and where possible ask the crew some basic questions about where they were from and how long they were at sea for and their treatment onboard. On almost all my boarding of tuna longline vessels and purse seine vessels out on the High Seas, I would be appalled at the conditions onboard. Several men were sharing a single thin mat for a bed and sleeping in shifts. Sometimes the mats were tucked underneath a ledge, often in an extremely hot part of the ship, near the engine. The ships were infested with cockroaches and vermin. Often the men had been away from home for months if not years.



Man without scuba or safety gear corralling fish inside a purse seine net. *Credit Alex Hofford/Greenpeace*

As a safety diver, I accompanied our camera crew to document fishing activities underwater. On one occasion, we were diving at a depth of about 23 m (just over 75 feet) alongside a purse seine net filled with predominantly skipjack tuna (the kind mostly sold in cans). At first, I was taken aback by the blood coming out of the nets and the stress that the tuna were clearly experiencing. Then to my horror, I saw a human foot protruding from the net. Many thoughts went racing through my head. Was this a dead body in the High Seas? As the expedition leader, how should I deal with this? Then, a face emerged and it was clear that the man was alive and in fact working. Swimming among thousands of stressed tuna without any protective gear or even basic scuba gear, the man had a hose clenched between his teeth coming down from the ship supplying him with air. How do you hold on to that in a frenzied school of tuna? I wondered. No fins, no buoyancy control device, no regulator. The man's job was to corral the fish in the purse seine net and into the smaller scooper net that hauls the catch onto the boat. After surfacing, we requested to board the purse seiner, and whilst this vessel was legitimate, the working conditions were extremely hazardous. The man from the net showed me where he got his air supply. It was a rusty looking compressor, and there was no way to monitor the air quality or composition.

On another occasion, our crew bore witness to a transshipment happening on the High Seas in the Western and Central Pacific Ocean, involving multiple catcher vessels and a reefer flagged to Cambodia. We boarded and inspected the reefer to find that the captain kept no logbooks detailing the transfer of catch, how much and from which boat. No crew manifests and no details even of the

ships that he was offloading from. I was used to boarding ships with a bridge filled with high tech screens, radars, and communication gadgets. This ship had the bare minimum. No screens and no gadgets. The captain had a handheld Global Positioning System (GPS) and a satellite phone. He took orders from his boss on land who would call him with the coordinates of where to go. It was as simple as that. The ship's hold, the size of a basketball court, several metres high, was three quarters full mostly with skipjack tuna, and there was no way of knowing where any of it was caught or by whom. The fact that we were on the High Seas and that the reefer was flagged to a country that was not a member of the Western and Central Pacific Fisheries Commission (The RFMO charged with managing tuna in that area), made it impossible for us to alert anyone with authority. The closest territorial waters and therefore country was Palau. For the entire expedition, we had Palauan enforcement officers onboard, even whilst this incident unfolded. I made a call to the attorney general's office of Palau and as expected Palau, although willing, was powerless to act. I made the point that the ship would be passing through Palauan waters on its way to the Philippines and still Palau was unable to act. We trailed the ship for a few days and witnessed it changing name. They had also conveniently covered their IMO number. This is a number that is unique to the vessel and should not change even if the name or flag does. This case illustrated all too well the lack of governance on the High Seas and the desperate need for better international cooperation. We had all the information about the vessels in question, including visual evidence of transshipment, lack of proper catch data, and documented the overt change of name as well as dumping of fuel at sea. We knew where the ship was destined for and yet there was nothing we could do and no one we could alert, to stop this illegal catch from reaching the global tuna market.

What Can You Do to Help Eliminate Fish Crimes?

- The actions here are very similar to those outlined in Chaps. 6 and 10. The basic action you can take is to know what you eat. If you choose to eat seafood or eat seafood out of necessity, do your best to find out where your seafood comes from.
- Support initiatives and non-profits that help tackle IUU fishing.
- Importantly, as with all the critical issues facing the ocean, use your voting power to elect those that genuinely want to improve the state of the ocean.

Further Reading

Initiatives, Non-profits and Reports

Environmental Justice Foundation. <https://ejfoundation.org/what-we-do/ocean/ending-illegal-fishing>

Fishy Business. How transshipment at sea facilitates illegal, unreported and unregulated fishing that devastates our oceans. Greenpeace, 2020.

Forced Labour At Sea: The case of Indonesian Migrant Fishers. Greenpeace, 2021.

Global Fishing Watch: An initiative that uses technology to advance ocean governance through increased transparency of human activity at sea. Globalfishingwatch.org

TM-Tracking (TMT). TMT provides national fisheries authorities and international organisations with fisheries intelligence and analysis, to assist enforcement actions and broader improvements in fisheries governance. Tm-tracking.org

Books

Fishers and Plunderers. Theft, Slavery and Violence at Sea. Alastair Couper, Hance D. Smith and Bruno Ciceri. PlutoPress, 2015.

Outlaw Ocean. Crime and Survival in the Last Untamed Frontier. Ian Urbina. Vintage, 2020.

Movies

Ghost Fleet. 2018. A heart-wrenching documentary film that follows one woman's quest to seek justice for men forced into slavery at sea. (See Chapter 32 on Inspiring Voices and the profile of Patima Tungpuchayakul).



Farah Obaidullah I have been passionate about the ocean since as far back as I can remember. From picking up litter on the beach to exploring life in the shorebreak, my destiny to work for the ocean was sealed at a young age. I completed both my undergraduate and master's degrees from Imperial College in London. After four years of working as an environmental consultant, I redirected my career towards the ocean. I have spent the last 18 years campaigning for healthy oceans. My work has allowed me to travel the world, observing the beauty of the ocean and witnessing some of the most awful practices happening at sea. I have worked on a whole range of ocean issues. Among others, I have executed campaigns to end destructive fishing, worked with affected communities, lobbied for ocean protection, and exposed fish crimes, including slavery and labour abuse at sea. I am currently campaigning to secure a moratorium on deep-sea mining. Deep-sea mining is an emerging threat that we know will cause irreversible damage to the ocean. Unlike other destructive practices, we can still (at the time of this writing)

prevent deep-sea mining from going ahead. I am biracial, bicultural, and consider myself a citizen of the world. I strongly believe that by embracing our human diversity we can turn the tide for our ocean planet.