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Is the fight against IUU fishing a case of shadowboxing?

Introduction

Global fish stocks are [in decline](#) and there are [reports](#) that coastal communities in Africa are losing their livelihoods and a valuable source of food. One of the [main reasons](#) cited for this dismal state of affairs is illegal, unreported and unregulated fishing, also known as “IUU fishing”. Ever since the term IUU fishing was first coined in the late 1990s, the global community has been committed to combat IUU fishing and even had an ambition to put an end to it by 2020 as [target 14.4](#) of the Sustainable Development Goals. Yet IUU fishing persists. According to the Food and Agriculture Organization of the United Nations (FAO), as much as [one in five fish caught originate from IUU fishing](#), which translates to about [18 million tons of fish in 2023](#). According to the UN Secretary General, in 2022 global fish stocks were under [“increasing threat from IUU fishing”](#). More than a quarter of a century’s global commitment and law and policy changes have done little to resolve the problem.

IUU fishing seems to be particularly rife in the Global South. According to an [IUU fishing index](#), African countries such as South Africa (29th), Senegal (27th), Somalia (13th), the Republic of Congo (16th), and Equatorial Guinea (24th) are ranked at a higher risk of IUU fishing, potentially soliciting the attention of the [EU](#) and [USA](#) that place import bans and restrictions on fish and fish products from high-risk countries.

However, what the global law and policy community seems to be unable to give a convincing answer to, is *what IUU fishing is*. The issue is not merely academic – it is very much real and most visible perhaps for the coastal states that face import bans and trade sanctions and are left fending for themselves trying to solve an ambiguous problem. Equally problematic, however, is that not understanding the nature of IUU fishing typically means that, despite universal commitment and concerted efforts, there is a high likelihood that the problem remains unresolved.

What is IUU fishing?

As a slogan, “IUU fishing” has certainly been highly effective to garner international commitment. IUU fishing is fishing activities soliciting no less than three negative prefixes in capital letters. There can be no doubt that IUU fishing is *bad* fishing, and no rational policymaker can oppose efforts to fight bad fishing practices. The success of IUU fishing as a policy objective is evidenced at international, regional and, to a much lesser extent, at a domestic level, where law- and policymakers have created an intricate web of measures designed to prevent,

deter, and eliminate IUU fishing that [may stand out as unparalleled](#) in modern international law- and policymaking. Among the most notable developments is that states have committed to [blacklisting IUU fishing vessels](#) and deny them access to fishing grounds and [ports, sanction nationals](#) that trade with fish that originate from IUU fishing, and, most recently, to deny [subsidies](#) to IUU fishing vessels and operators. Moreover, some states has taken to denying import from [other states](#) that do not do enough to prevent IUU fishing in their waters.

Typically, the question of what IUU fishing entails, is answered with a reference to [paragraph 3](#) of the International Plan of Action (IPOA-IUU) of 2001 to prevent, deter and eliminate IUU fishing. The paragraph pertains to the “nature and scope” of IUU fishing and includes seven examples of activities that are either “illegal”, “unreported” or “unregulated” fishing. The IPOA-IUU is a policy document, but paragraph 3 is not itself a legal definition. Nevertheless, paragraph 3 of the IPOA-IUU is today [widely recognized as a legal definition](#) despite [warnings to the contrary](#) by its drafters. A closer examination of the seven examples of IUU fishing activities inevitably leads to confusion, however. The examples are vaguely formulated and overlap. For instance, illegal fishing refers to activities that are “in violation of national laws and international obligations” leaving out [important detail](#) as to the scope of both the “activities” and “laws” in question. Moreover, as the reporting of catches is a legal requirement, unreported fishing tends to be per definition illegal, raising questions about the redundancy of the category “unreported” in IUU fishing. These and a [fair few other ambiguities and inconsistencies](#) has made it [impossible to settle on a common standard](#) for quantifying the magnitude and impact of IUU fishing.

Applying IUU fishing to actual cases in practice proves equally challenging. As a number of [scholars](#) points out, small-scale fishing activities would often fit one of the seven examples of activities that would render it IUU fishing because it is “unreported” or “unregulated”. Yet, many of the measures targeting IUU fishing (denial of access to ports, markets, and subsidies), seem disproportionate or ineffective when applied to small-scale fisheries. The issue is not only unique to Africa. In Europe a study carried out by the [European Commission](#) shows that, between 2015 and 2019, 19 EU Member States detected 45 562 infringements of the EU Common Fisheries Policy within the EU, of which at least 4 909 were serious infringements and a breach of the EU IUU fishing regulation. Yet, there is no suggestion that these fishing operators are identified as IUU fishing operators or that their vessels are registered as community IUU fishing vessels. The European Commission has since the establishment of the EU IUU fishing vessel list ([the Union list](#)) in 2010 yet to list a single EU registered fishing vessel on this list for infringements in the EU (“Part A”). In fact, to be listed as an IUU fishing vessel seems quite rare worldwide, which is surprising given the purported magnitude of IUU fishing in the world today. As of 2024, only [353 vessels](#) have ever been listed by one of the thirteen Regional Fisheries Management Organisation that collect these lists, and only 119 IUU fishing vessels have been listed since 2013.

Conclusion

So where are all the IUU fishing vessels and operators? Is their absence on IUU fishing lists a matter of poor implementation of good policies, or could the answer lie elsewhere? As a policy concept, IUU fishing may have provided the constructive ambiguity necessary to gather international support for an impressive body of international laws and policies. However, when implemented as the basis upon which legal consequences are attached to the acts and omission of individuals, a number of scholars voice concerns about IUU fishing both as the definition of a social problem and as a legal concept. Now twenty years ago, [Vidas](#) voiced his concern about both the diagnosis of the IUU fishing problem and its cure. In more recent years, legal scholars like [Rosello](#), [Serdy](#), [Thielen](#) and [Palma-Robles](#), recognise the difficulty of accepting a purely literal interpretation of paragraph 3 of the IPOA-IUU to understand and apply IUU fishing in law and practice. In his assessment, Serdy concludes that “the IUU acronym [is] an obstacle to clarity of thought and hence of good policymaking” and with “deleterious consequences”. Whether his assessment is correct or not, amidst an urgent need to rectify the overall decline of global fishing stocks in Africa and elsewhere, the time may be ripe to critically reflect on the fight against IUU fishing and its effectiveness.

Further Reading:

AM Song et al. 'Collateral damage? Small-scale fisheries in the global fight against IUU fishing' (2020) 21 *Fish Fish* 831.

FAO *Report of the Expert Workshop to Estimate the Magnitude of Illegal, Unreported and Unregulated Fishing Globally, Rome, 2-4 February 2015* FAO Fisheries and Aquaculture Report 1106 FAO (2015).

G Macfadyen et al. *Review of Studies Estimating Levels of IUU Fishing and the Methodologies Utilized* Poseidon Aquatic Resource Management Ltd (2016).

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