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**Title: Illegal Fishing and Fisheries Crime as a Transnational Organized Crime
in Indonesia**

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Abstract

Illegal, unreported and unregulated (IUU) fishing is increasingly drawing international attention and coastal states strengthen their efforts to address it as a matter of priority due to its severe implications for food, economic, environmental and social security. As the largest archipelagic country in the world, this is especially problematic for Indonesia. In this already complex geographical and security environment, the authors test the hypothesis that IUU fishing and fisheries crime(s) classify as transnational organized criminal activities. The article argues that IUU fishing is much more than simply a fisheries management issue, since it goes hand in hand with fisheries crime. As a result, although the two concepts are quite distinct, they are so closely interlinked and interrelated throughout the entire value chain of marine fisheries, that they can only be managed effectively collectively by understanding them both within the framework of transnational organized crime. To make this argument, the research utilizes qualitative and quantitative data collected from approximately two thousand trafficked fishers, rescued in 2015 from slavery conditions while stranded in two remote Indonesian locations: Benjina on Aru island and on Ambon island. The article's findings also unveil new trends relating to the inner workings of the illegal fishing industry, in four different, yet interlinked categories: recruitment patterns and target groups; document forgery; forced labor and abuse; and fisheries violations. The paper concludes by confirming the hypothesis and highlights that IUU fishing provides the ideal (illegal) environment for fisheries crimes and other forms of transnational organized crimes to flourish.

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Keywords: Maritime Security; Illegal Fishing; Fisheries Crime; Transnational Organized crime; Human Trafficking; Labor Exploitation; Indonesia.

1.Introduction

‘One of the reasons I prioritize the eradication of illegal fishing is not only because we are losing trillions of rupiah due to illegal fishing, but also because illegal fishing is often a vehicle for other crimes, such as people smuggling, drugs smuggling and slavery.’

Susi Pudjiastuti, Indonesian Minister of Marine Affairs and Fisheries (IOM 2015a:1).

The statement above highlights the significance and implications of illegal, unreported and unregulated (IUU) fishing for Indonesia and justifies the prioritization of its eradication by the sitting Indonesian government. The annual cost of IUU fishing for Indonesia is estimated at around USD 3 billion (ASEANnews 2017). Indonesia’s own estimates of total annual loss including lost tariffs and risk of permanent damage to possibly 65% of their coral reefs places the number much higher, at USD 20 billion (Parameswaran 2016, Santosa 2016). In addition to this economic cost and the implications of illegal fishing practices both for coastal communities’ livelihoods (Jaiteh 2017) and for the marine ecosystem, the Indonesian minister stressed several more lucrative crimes that are not encapsulated by what the term IUU represents but which clearly increase illicit profits. Human trafficking alone is estimated to generate over USD 150 billion in annual profits for criminal enterprises globally (ILO 2014:13). These are crimes that are traditionally considered to be only indirectly attached – if at all – to this particular maritime security challenge and, consequently, are not perceived as integral components of IUU fishing per se. Instead, they have been considered as distinct maritime crimes (UN General Assembly 2008:17-33) with potential links occasionally existing between them (Percy 2016: 157-9).

In 2015, two particular and interlinked incidents within the Indonesian fishing industry captured the public’s attention in Indonesia, the biggest archipelagic country in the

world, and triggered the research conducted for this article. The incidents took place on two remote East Indonesian locations, Benjina on Aru island and on Ambon island. Both involved extensive human trafficking and forced labor in parallel with IUU fishing activities (Townsend 2015, Salim 2015). Thousands of foreign nationals from regional countries, such as Myanmar, Cambodia, Laos and Thailand, had been rescued from trafficking and their testimonies offered valuable qualitative and quantitative data – and some tragic insights – for this article.

The aim of this article is twofold: first, to test the existing hypothesis that IUU fishing and fisheries crime(s) classify as transnational organized crime (TOC) (Osterblom et al 2011; Liddick 2014). Second, to offer invaluable insight and unveil new transnational organized crime trends throughout the supply chain of the (illegal) fishing industry in Indonesia. Structurally, the article first puts IUU fishing and fisheries crime in context, and identifies the differences – both in theory and in practice – between these forms of crime and TOC. After discussing its hypothesis in detail, the paper then focuses on the Southeast Asian region and Indonesia, in particular, to explore the extent to which IUU fishing and fisheries crime is understood, classified and addressed as TOC. The analysis of data collected from the trafficked victims in these cases, is then utilized to test the hypothesis and indicate the actual transnational and organized crime nature of these crimes. Based on the evidence provided, the article also presents new TOC trends in the fishing industry, in four main categories: recruitment patterns and target groups, document forgery, forced labor and abuse, and fisheries violations.

It concludes, that findings from the two investigated incidents in the Indonesian fishing industry provide sufficient evidence to confirm the hypothesis that IUU fishing and fisheries crime classify as TOC. They transcend issues directly challenging fisheries management. The unveiled recruitment patterns, document forgery, forced labor and illegal fishing practices indicate that only if they are recognized and treated collectively as TOC, could adequate and efficient responses be formed.

2. The illegal fishing and fisheries crime hypothesis

In recent years, IUU fishing has increasingly attracted international attention due to the challenges it poses to environmental, food and economic security (US NIC 2016). Its annual cost to the world is estimated as being between USD 10 and 24 billion (Seafish 2017) and, in his 2008 report to the General Assembly of the United Nations, 'Oceans and the Law of the Sea', the United Nations' Secretary General identified IUU fishing as one of the seven main threats to maritime security (UN General Assembly 2008:17-33).ⁱ However, IUU fishing is mostly understood as a non-traditional security challenge as it does not threaten the physical survival of states (Osterblom et al 2011:261) and mainly involves non-state actors, (Pomeroy et al 2016a: 94-5, Chapsos 2015: 70-72). Nevertheless, its impact upon livelihoods, food security, and human security – from coastal communities (Pomeroy et al 2016b:28) and small island states (Malcolm and Murday 2017:240, Malcolm 2017:242) through to a global level – is documented in many existing maritime security strategies. In the African Union's 2050 Integrated Maritime (AIM) strategy, for example, IUU fishing holds a prominent role since fishing makes a vital contribution to the food and nutritional security of over 200 million Africans and provides income for over 10 million (AU 2014: 8). The European Union approaches IUU fishing both through the lens of the environmental risks and protection of economic interests (EU 2014:7-8). The United Kingdom's National Strategy for Maritime Security goes one step further and, additionally to citing the economic and food security challenges stemming from the IUU fishing on a global level, it highlights the potential links with piracy off Somalia (UK 2014:31-35). The United States National Intelligence Council also identifies IUU fishing as a crime with global implications for food and economic security, which benefits transnational crime and contributes to human trafficking (US NIC 2016:5).

The variety of the documented and reported challenges is to some extent reflected in the distinction between the three components of the term, IUU: illegal, unreported and unregulated activities. The definitions of these highlight the differences and also the links between them: 'Illegal fishing' refers to fishing activities that are conducted by national or foreign vessels in waters under the jurisdiction of a state, without the permission of that state or in contravention of the laws and regulations of that state (See, for example, Fig. 1 – unlicensed border hopping). 'Unreported fishing' refers to activities that are unreported or deliberately misreported to proper authorities (See,

for example, Fig. 1 – misreporting/ not reporting catches). And finally the term ‘unregulated’ refers to fishing conducted by vessels without nationality, those flying the flag of a country not party to a Regional Fisheries Management Organizationⁱⁱ (RFMO) or, more generally, fishing in a manner which contravenes the regulations of the RFMO or in a manner inconsistent with state responsibilities for the conservation of living marine resources under international law. (See, for example, Fig. 1 – fishing in marine protected area) (Liddick 2014:292, Bondaroff et al 2015:12-13).

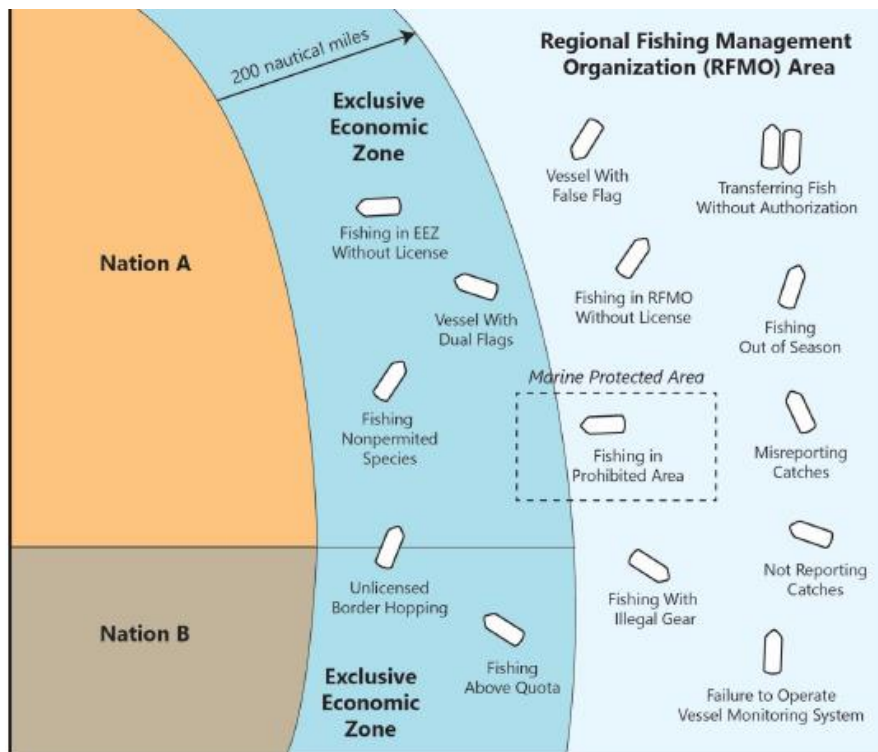


Fig. 1: Common forms of IUU fishing. (Source: US NIC 2016:6)

In 2013, Interpol introduced the new concept of fisheries crime (De Coning 2016:147), which encapsulates ‘...those criminal offences defined as such in domestic law (including, but not limited to, such offences in marine living resources acts) committed within the fisheries sector, with the ‘fisheries sector’ referring to the entire value chain from vessel registration to the sale of the commodity’ (De Coning and Witbooi (2015:213). Fisheries crime includes a long list of (traditional) organized crimes, such as human trafficking, document fraud, drug trafficking, corruption, tax and customs evasion, etc. which occur within the fishing industry. As such, it is of great importance to better understand the links and relationship between the IUU fishing and fisheries crime(s) concepts.

From the provided definitions, it is evident that IUU fishing is understood as a fisheries management issue mainly focused on the extraction of marine living resources, which falls under the mandate of the United Nations' Food and Agriculture Organization (FAO). Yet, approaching IUU fishing as a matter of industry regulation only is flawed; instead, IUU fishing has to be recognized and treated as TOC, due to its scale, complexity and diversity (Haenlein 2017). Furthermore, IUU fishing is a profit-driven transnational crime, linked to weak, incompetent and corrupted governance (Liddick 2014: 309-310), hence its conceptualization as TOC makes efforts to set political priorities and identify the necessary actions and resources to address it easier (Osterblom et al 2011:261). Additionally, the coexistence of IUU fishing with fisheries crimes, creates even more TOC dynamics. Understanding these interrelations through the lens of TOC would provide an essential tool to complement international – hitherto inefficient and inadequate – efforts to tackle IUU fishing (De Coning and Witbooi 2015:210-211). It is the aim of this article to test exactly this hypothesis: that IUU fishing must be understood alongside fisheries crime, and through the lens of TOC. Although it becomes clear that IUU fishing and fisheries crime are entirely distinct by definition, they are also closely interlinked and interrelated. Irrespective of their conceptual and theoretical discrepancies, the latter's existence depends on the former and vice versa, which results in their classification as TOC collectively.

3. Understanding IUU fishing and fisheries crime, through the lens of transnational organized crime

Transnational organized crime (TOC) has been defined as

'... a cross-border misconduct, which entails avoidable and unnecessary harm to society, which is serious enough to warrant state intervention and similar to other kinds of acts criminalized in the countries concerned or by international law. Crime will be viewed as cross-border when the offenders or victims are located in or operate through more than one country' (Passas 1999:401).

Finckenauer (2005:79-81) cites the definition adopted in the United Nations Convention against Transnational Organized Crime (UNCTOC)ⁱⁱⁱ and identifies TOC as a new menace, arguing that although its definition could have been applied for

example to pirate groups of the 16th century, its contemporary scale is unprecedented, and it is hence a new reality of the 21st century.

As global markets and communications have become more interconnected, criminal activities and security challenges have developed and evolved with the times. Although IUU fishing is one such area of growing concern, unfortunately, this development came long after the introduction of UNCTOC with its primary focus on crimes like trafficking in persons, migrant smuggling, and firearms trafficking. Consequently, while UNCTOC makes special provision for such transnational criminal activities, it does not include similar provisions for IUU fishing.

The international body with the mandate to oversee activities focused on combatting transnational crime, the United Nations Office on Drugs and Crime (UNODC), while not explicitly acknowledging IUU fishing as TOC per se, has commissioned studies into linkages between the latter and the fishing industry. In particular, the UNODC commissioned a desk review focused on TOC and the fishing industry in 2012. The review considered the inputs from an expert group, UNODC materials, and other information related to crime in the fishing sector. One of the recommendations from the 'Expert Group Meeting: Combatting Transnational Organized Crime Committed at Sea' was that transnational organized fisheries crime conducted by an organized crime group be clearly demarcated from IUU fishing for the purposes of UNODC mandates (UNODC 2013b:49).

In another report, focused on fisheries crime, the UNODC exposed extensive criminal activities, forced labor, and abuse in the fishing industry, where both children and fishers were trafficked by organized crime networks. In parallel with these, the networks were involved with illegal fishing (both in terms of their practices and their focus on endangered species) and 'laundering' illegal catches on the international fisheries market, a practice that can only be achieved through the use of fraudulent documents, transshipments and corruption. The report also revealed that in most of the cases documented, these organized crime networks exploited the fishing industry operators' skills and knowledge of the maritime domain and recruited them in order to expand their illicit activities. Hence, fishing vessels in the reported cases were used as a legitimate business cover to facilitate smuggling of migrants, and trafficking of people, drugs and weapons (UNODC 2011).

In a similar vein, another UNODC report on transnational crime in Southeast Asia exposes the extent to which human trafficking, smuggling of migrants, forced labor and sexual exploitation are directly and/or indirectly linked to the fishing industry (UNODC 2013a:6,7,9,16). Ultimately, however, the UNODC's approach advocates that IUU fishing is not, itself, recognized as a transnational criminal activity although it does involve such activities, including human trafficking for labor exploitation of crew members. From this, it can be presumed that IUU fishing uses the cover of the ostensibly legitimate commercial sector to hide transnational criminal activity and, as Liddick (2014:297) asserts, it is '...perpetrated by private commercial enterprises and organized crime groups driven by the opportunity for large profits'.

Matching the growing relevance of fisheries crime to their mandate, UNODC launched an ongoing global campaign on Fisheries Crime in 2016, recognizing 'organized criminal organizations engage in fisheries crime with relative impunity' (UNODC 2016:2). Similarly, Interpol (2017) notes trafficking in the fishing industry has become a 'business model' to 'minimize cost and maximize catch' and in order to detect and combat fisheries crime, it established a dedicated 'Fisheries Crime Working Group' within their Environmental Security sub-directorate.

The development of TOC has, to some extent, been aligned with globalization; indeed, Williams (2012) further asserts that transnational criminals have been some of the biggest beneficiaries of this process. Furthermore, he highlights that the ever increasing volume of international trade results in the respectively increasing difficulty in regulating it. Williams (1994:96) also criticizes the notion that organized crime groups are just a domestic law and order issue, arguing that they pose very serious challenges to both national and international security. As such crime groups transcend national borders, they can operate in one state and extend their reach beyond the borders of that state with impunity (Williams 1995).

Transnational crime is also marked by the harm it does to the population and the state. Shelley (2011:135) asserts that human trafficking is one of the most rapidly growing forms of transnational crime. She maintains that the activity undermines the integrity of the state, weakens political institutions, and undermines civil society and human rights (Shelley 1995:463, 467). Albanese (2012:1, 12) suggests that transnational crimes are distinguished by their multinational nature and cross-border

impact and categorizes them as having three broad objectives: provision of illicit goods, provision of illicit services, and the infiltration of business or government operations (See Table 1).

<i>Provision of Illicit Goods</i>	<i>Provision of Illicit Services</i>	<i>Infiltration of Business or Government</i>
Drug trafficking	Human trafficking	Extortion and racketeering
Stolen property	Cybercrime and fraud	Money Laundering
Counterfeiting	Commercial vices (e.g., illegal sex & gambling)	Corruption

Table 1: Classification of Transnational Crimes (Source: Albanese, 2012:2)

The review above outlines some of the essential criteria and traits that qualify illegal activities as TOCs. Within this context, the next section seeks to shed more light and improve our understanding on cases where the same groups/actors perpetrate both IUU fishing and other TOC activities (such as human trafficking, forced labor, document forgery, smuggling of non-marine fishery products). In order to achieve this, we look in more depth at the Indonesian case study and the research conducted in the aftermath of two major incidents of human trafficking in the Indonesian fishing industry: the Benjina case (Townsend 2015) and the Ambon case (Salim 2015).

4. The Indonesian Case Study

4.1 The Southeast Asian and Indonesian environment

Chapsos and Malcolm (2017) investigated the Indonesian stakeholders' understanding, priorities and approach regarding maritime security challenges. Their article notes that although IUU fishing is seen as the predominant challenge in the country, fisheries crimes such as smuggling and trafficking (of humans, drugs, weapons) by sea are all quite high on the priorities list too (Chapsos and Malcolm 2017:181-2). As this article's introductory quote from the Indonesian Minister reveals, combatting IUU fishing has become a focal point of the government's approach based on a realization that it causes harm both to the Indonesian economy and to

the fishers involved in the illegal activity (IOM 2015a:1). This has coincided with the identification of transnational organized criminal activity in IUU fishing in Indonesia (IOM, KKP and Coventry University 2016). The use of crew trafficked for exploitative labor has heightened awareness of IUU fishing and led to an unprecedented government effort to address issues related to the human rights of crew members and the practice of IUU fishing (Antaranews 2016, Tempo 2016).

Recognizing the interconnectedness of threats, Indonesia has pushed for IUU to be classified as a TOC. The Head of 'Indonesia's Presidential Task Force to Combat Illegal Fishing', stated that the linkages with a number of criminal activities and characteristics mean that fisheries crime meets the international definition of TOC (ARF 2016:5).

Regional institutions have acknowledged the threat posed by non-traditional security (NTS) issues and TOC for many years. The region's foremost security institution, the ASEAN Regional Forum (ARF) had transnational crime placed firmly on the agenda of ASEAN states with the ASEAN Declaration on Transnational Crime (1997) and the Manila Declaration on the Prevention and Control of Transnational Crime (1998) committing ASEAN member states to combat TOC.

This focus was further strengthened with the release of the ASEAN Political-Security Community (APSC) Blueprint, and its stated commitment to '...strengthen cooperation in addressing non-traditional security issues, particularly in combating transnational crimes and other transboundary challenges' (ASEAN 2009:12). This included ASEAN states' cooperation in combatting IUU fishing (ASEAN 2009:13). The shift towards acknowledging IUU fishing as a serious cross-border criminal issue and a maritime security challenge, reflects the region's gradual adoption of mechanisms recognizing the threat posed by TOC.

Globally, Southeast Asia is considered to be '...the principal location for trafficking persons for forced labor into the fishing industry' (Graham 2011:2). Thai fishing vessels operating in Indonesia and Malaysia were associated with a higher degree of trafficking than other areas (IOM Thailand 2011:9). Furthermore, it is '...estimated 1,000 foreign vessels conduct IUU fishing in 12 per cent of Indonesia's territorial waters each year' (Caballero-Anthony & Hangzo 2013:248).

Within this framework, two specific and interlinked incidents of trafficking by sea in 2015 captured public attention in Indonesia. The first took place in Benjina, on the remote East Indonesian island Aru where hundreds of stranded foreign fishers, from Myanmar, Cambodia, Laos and Thailand, had been rescued from trafficking in the fisheries sector. In the second incident hundreds of victims of trafficking were rescued from foreign fishing boats in Ambon (IOM 2015:1). These two tragic incidents will be utilized as this article's case studies, in order to test the hypothesis that IUU fishing and fisheries crime classify as TOC and investigate in depth the potential links between them in this particular region.

4.2 Methodology: documenting experiences of trafficked victims in the Indonesian fishing industry

In August 2015, the International Organization for Migration (IOM) Indonesia surveyed 285 fishers who had been rescued as victims of trafficking on fishing vessels in Indonesia (IOM Indonesia 2015b:1). IOM expanded their normal questionnaire assessing victims of trafficking to also capture data related to IUU fishing and fisheries crime to profile how forced labor was being utilized. The questionnaire consisted of questions about the vessel(s) they worked on, the hours worked, the types of trawls used, transshipment, licenses, flags flown, and fish and marine products. The fishers were also asked to match illustrations of vessels and trawls with the ones utilized in their work environment.

The survey was conducted, with interpreters when needed, in a safe and secure environment away from the fishing companies. They represented part of a much larger group of over 1,342 fishers from Myanmar, Cambodia, Laos, and Thailand who had been rescued from trafficking in Benjina and Ambon in Eastern Indonesia in 2015.

Additional primary data is drawn from interviews conducted by the IOM Indonesia staff with a broader sample of 1,342 rescued fishers, contained in a joint research report compiled by IOM Indonesia, the Indonesian Ministry of Marine Affairs and Fisheries, and Coventry University (IOM, KKP and Coventry University 2016). This report also included supporting data obtained from an audit of 1,132 ex-foreign vessels operating in Indonesian waters, conducted in 2015 by the Indonesian

Ministry of Marine Affairs and Fisheries (KKP) and law enforcement agencies, which identified many criminal activities and breaches of fisheries legislation. The report came as a product of the long term and well-established research partnership between IOM Indonesia and Coventry University. In particular, it focused on the links between illegal fishing, exploitation and trafficking in the Indonesian fishing industry and clearly outlined the deceptive recruitment practices and mechanisms utilized by the fishing companies to control their workforce.

The analysis of the trafficked victims' responses to the questionnaire and the data collected from the interviews provide an insight into the modus operandi of the criminals and the conditions at sea and on land for the fishers.

4.3 Unveiling new transnational organized crime trends in the Indonesian fishing industry

a. Recruitment patterns and target groups

The recruitment pattern involved a high degree of organization, with mass recruitment of fishers through deception across four countries, namely Myanmar, Cambodia, Laos and Thailand, mainly by recruiters visiting their villages. Although most were told that they would work in the fishing industry, they were given the false impression that it is an easy occupation not requiring special skills or training, but only strength and stamina. They were further tempted by the perception that it's easier to save money while working in the fishing industry -even with a lower wage compared to other land-based occupations- as while at sea their daily needs will be covered by the fishing company and they will have nowhere to spend their money. Furthermore, the majority of the fishing companies in Thailand still accept undocumented and/or unregistered foreign unskilled workers, whereas all other sectors require legal documents –such as for example an Identification Card- for potential employees. Therefore, on the one hand the victim avoids the cost of procuring a legal document for employment; on the other hand, the employers save the high cost they would have to spend on registering them but also minimize the risk of been caught due to the victims' continuous presence on board the vessels and long time spent at sea (IOM Indonesia, 2015b:2-3, IOM, KKP & Coventry 2016:41-9).

It is noteworthy that all the victims were male, and the majority (90%) between 20-40 years of age. They were all of poor, or very poor financial status and most had very low levels of education, or none at all. Equally interesting is that the marital status of almost 70% of the victims was single, or generally unattached, which made their recruitment easier: they would be more willing to work overseas due to limited responsibility towards wife and/or children. Most were offered jobs as fishermen and some specifically in the Thai fishing industry. 70% of the victims had to pay a 'recruitment fee' to the agent (USD 2-4,000) but given their financial situation, almost half of them were required to sign a debt contract prior to their departure. This was later used as another means of pressure for forced labor and excessive working hours, where they supposedly had to work harder in order to repay it. After the successful recruitment, many were held in safe-houses in Thailand under the control of armed guards. They were transported under guard to the port and placed on waiting fishing vessels which took them to Indonesian waters (*ibid*). .

b. Document Forgery

The majority of the fishers (79%) in the Ambon case reported that they had a Seaman's Book, but they never held them in their possession as they were confiscated by the recruiters and thereafter held by the captain of the vessel as a means to control the movement of the fishers and to prevent any chance of escape. In both cases (Ambon and Benjina), the majority of victims from Thailand (85%), Myanmar (87%), Cambodia (50%) and all from Laos neither ever had nor ever been issued with a Seaman Book, and were undocumented. The remaining fishers who didn't have one (30% in total), were provided with false identities in order to be issued a Seaman's Book and this presumably requires the use of corrupt officials to produce fraudulent Seaman's Books on a large scale. An analysis of the issuing offices in Thailand suggests official collusion in the process with multiple fraudulent Seaman's Books with consecutive numbers issued to fishers on fishing vessels. An examination of the Seaman's Books showed signs that the photos had been altered, with each fisher shown wearing the same clothes and given a false Thai name on their document, whether they were from Myanmar, Cambodia or Laos. Apart from being a fraudulent document, this also removed the real identity of the fisher and made it difficult to identify and locate that individual (IOM Indonesia 2015b:4; IOM, KKP & Coventry 2016:64, 87).

The criminals also went to great lengths to foil the authorities by disguising vessels and using false registration documents and licenses. Some vessels had their provenance disguised and were, in effect ‘re-birthed’; records were changed and new ones issued to show that they were built in a different location. Vessels’ registration papers and licenses were also exchanged between vessels. This was seen to be done by throwing documents overboard in a plastic bag and the other vessel collecting them (IOM Indonesia 2015b:11).

c. Forced labor and abuse

The vast majority (87%) of the fishers interviewed confirmed that it took between one to six months to complete one single trip. The working hours for the fishers during these long voyages were extreme: 46% worked between 16 and 20 hours per day and 32% between 21 and 24 hours per day (IOM Indonesia 2015b:7) (See Fig. 2). None of the victims reported working less than 12 hours per day.

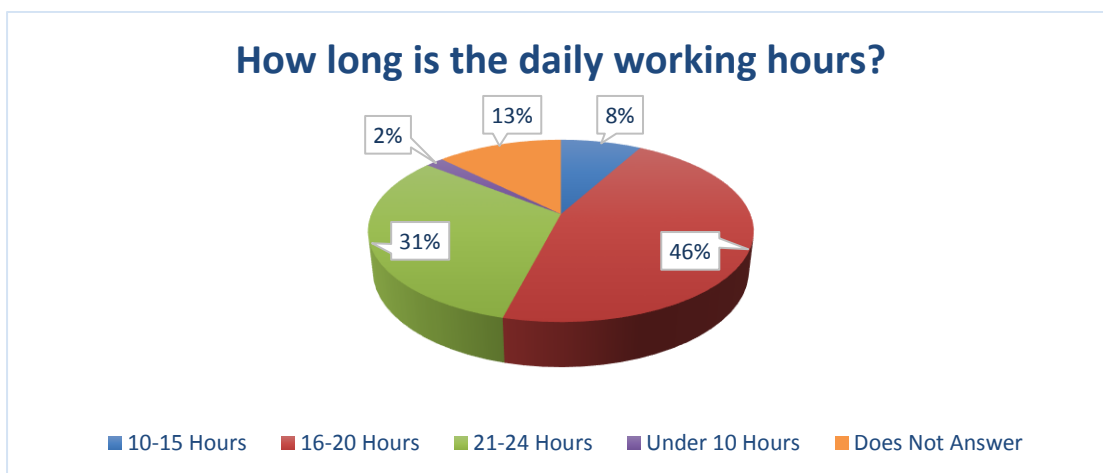


Fig. 2: Working hours of trafficked victims onboard fishing vessels

The long time spent at sea, the excessive working hours and denial of salary payments illustrate how the crews were exploited. The remoteness of the locations their vessels were fishing made their escape impossible, but the debt contracts and confiscation of any available documents increased the means of pressure and control over them. Even on the rare occasions where the vessel was calling at port, several guards were placed around it to prevent victims from escaping. 75% of the victims reported that they were not allowed to move freely neither on board the vessel nor ashore. An overwhelming majority of victims deemed that their living quarters were unsanitary and claimed that they were denied adequate food, water

and medical treatment. This also involved the virtual imprisonment of fishers both on board vessels and on land, as well as physical abuse, psychological abuse, and the killing of some to control the trafficked workforce of fishers. A testimony of a Cambodian fisher is indicative of the followed practice:

'In Benjina port, every time my ship harboured, I have seen 1-2 dead bodies floating on the sea, I had even helped and carry one of the body who happened to be a Burma. The port officer will take away those body and dry them out on the edge of the beach, wrap them with plastic, and burn them in Benjina island. Most of the dead bodies were Burma and Thai' (IOM, KKP & Coventry 2016: 83).

Beatings were common and in several cases people were thrown overboard, as another Cambodian fisher described:

"While on board, I often heard the news from the boat radio that several boat crews had died, either falling to the ocean, fighting or killed by the other crews. While I was working on the boat, I saw with my own eyes more than 7 dead bodies floating in the sea. Prior to leaving Benjina, I also saw 2 dead bodies, they were Thai crews, floating in the sea" (IOM, KKP & Coventry 2016: 84).

Witness statements provided by the rescued fishers identified a number of instances where officials were seen assisting in the movement and disposal of dead fishers. Quoting a Cambodian fisher,

"...If a crew is dead, the captain would ask assistance from the local government to burn the body on an island across the Benjina island" (IOM, KKP & Coventry 2016: 83).

Another report involves the larger vessels that were used for transshipments, which were allegedly responsible for returning fishers to Thailand; foreign nationals would continue their journey to their home countries from there. However, a testimony suggested that this was a deception:

“I was not brave enough to return home with the export ship because I heard that they threw Myanmar nationals to the sea once they were on the waters”
(IOM, KKP & Coventry 2016: 84)

Benjina, where many of the fishers had been based, had a company prison for the fishing companies to imprison fishers and seafarers and a large graveyard for foreign crew who died at sea or on land (see Picture 1). Their deaths were never investigated (IOM, KKP & Coventry 2016: 65, 83-5).



Picture 1: Part of the cemetery in Benjina used to bury victims of trafficking (Source: IOM, KKP & Coventry University 2016: 85)

d. Fisheries violations

The criminals were able to engage in IUU fishing by committing a variety of fisheries offences. Some of these were carried out to assist in ‘legitimizing’ the fishing operations and others to maintain vessels at sea and away from ports. These practices prevented authorities from conducting compliance activities and enforcing Indonesian fisheries regulations. It also prevented the authorities from checking the crew and the cargo. A clear manifestation of this criminal activity lies in the transshipment process and the ability to maintain criminal operations at sea and away from the scrutiny of law enforcement. The fishing vessels concerned regularly

transshipped their catch at sea. This was in contravention of Indonesian regulations requiring vessels to unload the catch at specified ports. Out of the 285 fishers interviewed, transshipment had been witnessed by 58% of them (see Fig. 3), and 78% of these transshipments took place at sea, in either Indonesian or Thai waters. The movement was primarily from the fishing vessels to larger vessels used for freezing the fish and taking them to markets (IOM Indonesia 2015b:10).

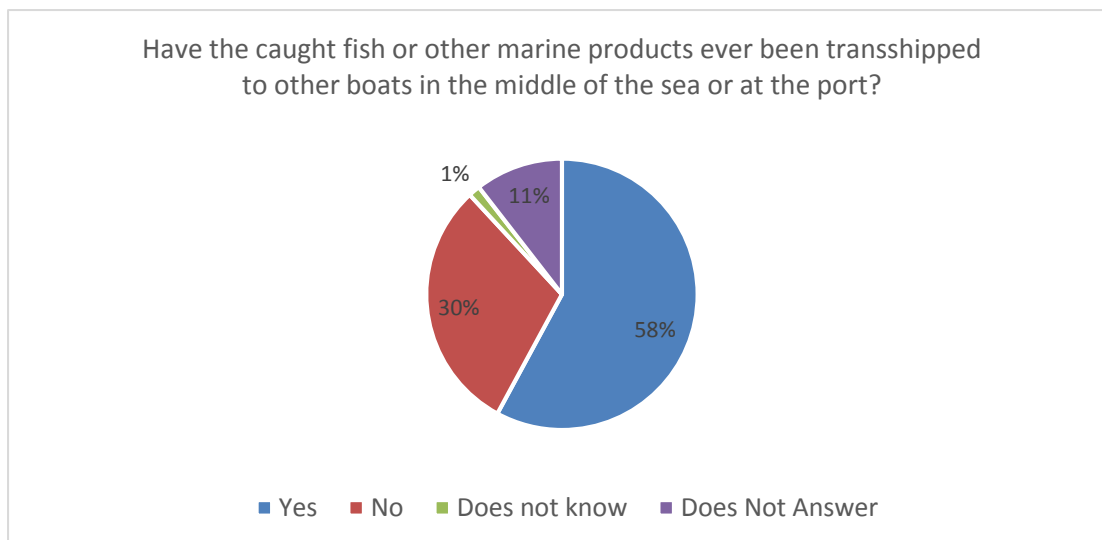


Fig. 3: Fisheries product transshipment

Transshipment allowed the fishing vessels to remain at sea for long periods: 47% of fishers reported having spent four to six months at sea while 40% had spent one to three months at sea. This practice allowed the fishing companies to maximize the catch and keep boats away from ports to evade controls (IOM Indonesia 2015b:7-10). Transshipment was not only used as a way to transfer fish but also to resupply vessels with provisions, and to change crew. Statements from fishers suggested that some of the crew members who were moved to the larger transshipment vessel never returned home and may have been murdered at sea (IOM, KKP & Coventry 2016: 84).

Transshipment at sea was also used to transfer commodities other than marine catches (See Fig. 4). Suggestions were made by fishers that some of these transfers may have involved goods, such as electronics, foods, snacks, cigarettes, beverages and even fishing equipment, all of which were being illegally smuggled into Indonesia

(IOM Indonesia 2015b:10-11). There was no mention of witnessing the movement of illicit substances; however, the government audit discovered evidence of illicit drugs trafficking aboard some vessels (IOM, KKP & Coventry 2016: 16).

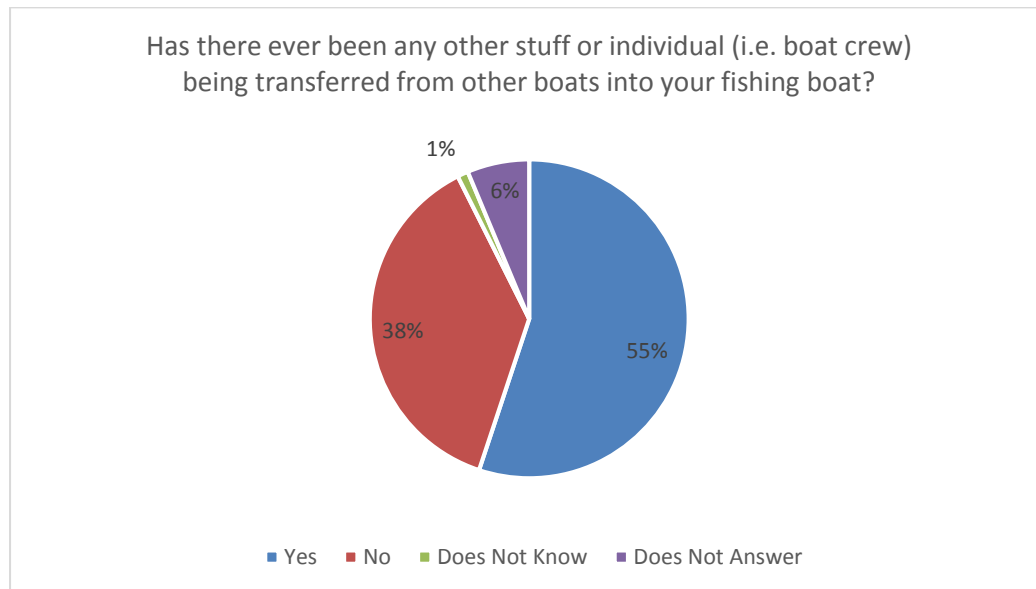


Fig. 4: Transshipment of commodities other than marine catches

The fishing operators were also able to maintain their criminal activities in Indonesia through the use of remote coastal communities where they based their operations. These areas provided a staging point for IUU fishing not only in Indonesia but also in Papua New Guinea and Timor Leste (IOM Indonesia, 2015b:18). For instance, when the mass rescue took place on Benjina and Ambon, not all of the trafficked fishers managed to escape their servitude and a number of vessels evaded the Indonesian authorities and headed for other ports, including at least 30 that sailed to Papua New Guinea (Townsend 2015).

Witness testimony from the Benjina case highlighted the frequent changing of vessels' flags, alternating between Thai and Indonesian flags depending on the fishing area. This activity clearly contravenes the law and highlights the premeditated behavior and intent to conduct fishing illegally in another state's waters. Furthermore, Vessel Monitoring Systems (VMS) and the Automatic Identification Systems (AIS) were tampered with to hide the location of vessels. Fishers stated that the VMS was disabled to avoid police patrols when in Indonesian waters (IOM Indonesia 2015b:13).

The findings of the questionnaire on IUU fishing and fisheries crime completed by the 285 fishers are further strengthened by the Indonesian government audit of 2015. This found that all of the 1,132 fishing vessels had breached fisheries regulations or legislation to some degree. From the audit, the Ministry also found that 769 of the vessels had committed severe violations and 363 vessels took part in general violations. In addition, 168 were found to have crew who had been trafficked or were involved in forced labor. The crews of these vessels reported working between 18 and 22 hours per day, seven days per week (IOM, KKP & Coventry University 2016:19, 21).

The fisheries violations and fisheries-related violations committed by the 1,132 vessels included: deactivating the vessel monitoring system (VMS) (73%); using foreign seamen and captains (67%); fishing outside the fishing grounds (47%); transporting goods to and from the territory of Indonesia without going through customs authorities (37%); transshipment at sea (37%); not landing the catch in a fishing port (29%); not owning/partnering with a fish processing unit (24%); using illegal fuel (23%); forgery of fishing logbooks (17%); trafficking in persons and forced labor (10%); and using prohibited fishing gear (2%) (IOM, KKP & Coventry University 2016:19).

5. Confirming the hypothesis: IUU fishing and fisheries crime as transnational organized crime in Indonesia

The analysis of the collected data provides an important exposé of the dynamics of IUU fishing, its links with fisheries crime(s) and their classification as TOC. In particular, the preceding section presented these findings categorized in four separate, yet interrelated groups, which provide evidence that the process transcends plain fisheries management issues, to include well-financed and structured TOC.

The recruitment pattern unravels a highly organized criminal venture, and highlights the transnational criminal nature of these activities operating across multiple maritime and land borders. This meets the criteria of the definitions a) adopted in the United Nations Convention against Transnational Organized Crime (United Nations Centre for International Crime Prevention, 2000: 48-49); b) provided by Passas

(1994); but also confirming Williams' (1994, 1995, 2012) analysis, as outlined in the previous section.

The extent of document fraud, whether it refers to seaman books or vessel licenses and documents, provide evidence that the documented activities meet the criteria set out in the definition of organized criminal groups (UNODC 2004:5) and highlight how IUU fishing encapsulates several other forms of fisheries crime, such as in this case document forgery and corruption.

The extent of forced labor and exploitation of the fishers, clearly illustrates the interdependence between human trafficking and IUU fishing. Focusing on the latter, the findings provide evidence of violations relating to all three terms of illegal, unreported and unregulated fishing activities, as defined earlier in this article. Furthermore, in the examined cases of Benjina and Ambon, there is no doubt that all the documented transnationally organized crimes were perpetrated within an equally well organized IUU fishing environment. Hence, even if one argues that the identified fisheries violations do not constitute transnational organized crimes in themselves, it is evident that this well-established illegal fishing environment and network within an ostensibly legitimate business used as their cover was utilized to facilitate human exploitation and transnational crimes in the most efficient and brutal way, with the aim of maximizing the financial profit of the group(s).

The experiences of trafficked victims documented in this article provide evidence that criminal activity such as IUU fishing fits well also in Albanese' (2012) classification and so can be viewed as TOC. The activities that the research found to be taking place alongside IUU fishing satisfy all three of Albanese' objectives (see Table 1): provision of illicit goods in terms of both illegally caught fish and commodities other than marine catches; provision of illicit services in the form of forced/trafficked labor; and infiltration of business or government by the use of front companies and the corruption of officials. Thus, the identified links between IUU fishing and fisheries crime, including document forgery, trafficking in persons for labor, smuggling, money laundering, and drugs trafficking, clearly fall within what constitutes transnational criminal activity according to this classification system and they demonstrate that one is vital for the other to flourish. The discussed findings also connect IUU fishing with TOC and reaffirm Shelley's (1995, 2011) position in the sense that it poses great harm to the population

and the state. The extent of the fisheries crime facilitated within this illegal fishing environment, and in particular the documented human trafficking for forced labor and abuse of human rights up to the level of homicide leaves no space for doubt on this. Companies involved in IUU fishing have maximized regional market opportunities with their commodities but have also been drawn deeper into serious criminal activity to support it. Such activities that involve corruption and violence affecting both the community and state agencies pose a challenge to the state by weakening governance mechanisms and eroding government controls.

6. Conclusion

This article has tested the hypothesis that IUU fishing and fisheries crime classify as TOC, and to achieve that, it utilized qualitative and quantitative primary data collected from trafficked fishers in two incidents – Ambon and Benjina- in the Indonesian fishing industry. The findings, provide clear and sufficient evidence to confirm the hypothesis, as the two case studies indicate that they fulfill all the essential criteria discussed in detail in the preceding sections. But additionally to this hypothesis testing, the findings offer an invaluable insight and unveil original and new trends in the inner workings of these criminal networks. The plethora of IUU fishing activities and a range of violations of fisheries laws and regulations, were complemented and enabled by large-scale trafficking of fishers from other parts of Southeast Asia – effectively into enslavement on fishing vessels and in remote Indonesian coastal communities. The recruiters/ traffickers exploited the existing levels of corruption to perpetrate massive document forgery which inevitably involves and requires corrupt officials and governance structures. They also exploited human insecurities such as poverty and low education to target and deceive males of a particular age range, with quite limited family commitments and trafficked them on board Thai fishing vessels to illegally fish in Indonesian waters. The enslavement of the fishers and the control of their movements were further enabled by binding debt contracts as they were unable to pay the high recruitment fee, but also by confiscating any identification documents so that they wouldn't even consider to escape and travel individually. Victims' testimonies also reveal the extent of their experienced physical and psychological abuse, up to the level of homicide, and a broad range of human rights abuses, such as denial of payment of wages, adequate food, sanitary facilities, medical care, etc., complete the picture of the environment in

which this activity took place. To support these findings, further studies are needed to confirm whether IUU fishing and the extent of its links to fisheries crime in other parts of the world mirrors that found in Indonesia, with a similar modus operandi on the part of the transnational organized criminals.

TOC in the fisheries sector flourishes because of its high profit, low risk nature and difficulties in policing illegal activity in the vast maritime space; this is compounded by the obstacles to obtaining witness testimony and the high level of official corruption. The treatment of these fishers and seafarers by the fishing operators underlines the need for the international community to act against IUU fishing and fisheries crime and to recognize and treat them as transnational organized criminal activity.

The undertaken testing of the hypothesis through the presentation of the research findings, confirms and clearly presents IUU fishing and fisheries crime as a TOC problem (Haenlein 2017; Liddick 2014; Osterblom et al 2011), which implicates a wide range of actors, including organized crime groups, commercial fishing enterprises and corrupt public officials. In such cases, it is almost impossible to isolate what is solely related to the extraction of living marine resources and overlook issues concerning living human resources. The complexity of the maritime space in security terms does not allow silos for each illegal activity to be understood, addressed and suppressed individually. Instead, a more comprehensive and inclusive approach is needed to explore, understand and disrupt the linking and overlapping of various maritime insecurities. Only when the importance of these interconnections is accepted and IUU fishing and fisheries crime are seen as almost inseparable and taken as seriously as other transnational organized crimes will they become the focus of more intense law enforcement efforts and global scrutiny.

Disclaimer:

The opinions, comments and analyses expressed in this paper are those of the authors and do not necessarily represent the views of any of the organizations with which the authors are affiliated.

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ⁱ The United Nations' Secretary General report to the General Assembly of the United Nations, under the title 'Oceans and the Law of the Sea' identified seven specific threats to maritime security: piracy and armed robbery at sea; terrorist acts involving shipping; offshore installations and other maritime interests; illicit trafficking in arms and weapons of mass destruction; illicit traffic in narcotic drugs and psychotropic substances; smuggling and trafficking of persons by sea; illegal, unreported and unregulated (IUU) fishing; and intentional and unlawful damage to the marine environment.

ⁱⁱ Regional management organisations or arrangements (RFMO/As) exist in the majority of high seas areas that have major deep-sea fisheries. They are usually tasked with collecting fisheries statistics, assessing resources, making management decisions and monitoring activities. For further details, see <http://www.fao.org/fishery/topic/166304/en>.

ⁱⁱⁱ According to the United Nations Convention against Transnational Organized Crime:

- [A]n organized crime group is a "structured group of three or more persons existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences in order to obtain, directly or indirectly, a financial or other material benefit."

- [A]n offence is transnational if "(a) It is committed in more than one state; (b) It is committed in one state but a substantial part of its preparation, planning, direction or control takes place in another state; (c) It is committed in one state but involves an organized criminal group that engages in criminal activities in more than one state; or (d) It is committed in one state but has substantial effects in another state" (United Nations Centre for International Crime Prevention (2000) *Assessing Transnational Organized Crime: Results of a Pilot Survey of 40 Selected Organized Criminal Groups in 16 Countries*, *Trends in Organized Crime*, 6(2): 48-49).