

University of Wollongong

Research Online

Faculty of Law, Humanities and the Arts -
Papers (Archive)

Faculty of Arts, Social Sciences & Humanities

2008

Addressing Corruption in Pacific Islands Fisheries: a report/prepared for IUCN PROFISH Law Enforcement, Corruption and Fisheries Project

Ben M. Tsamenyi

University of Wollongong, tsamenyi@uow.edu.au

Quentin A. Hanich

University of Wollongong, hanich@uow.edu.au

Follow this and additional works at: <https://ro.uow.edu.au/lhapapers>



Part of the [Arts and Humanities Commons](#), and the [Law Commons](#)

Research Online is the open access institutional repository for the University of Wollongong. For further information contact the UOW Library: research-pubs@uow.edu.au

Addressing Corruption in Pacific Islands Fisheries: a report/prepared for IUCN PROFISH Law Enforcement, Corruption and Fisheries Project

Keywords

fisheries, pacific, addressing, islands, corruption, profish, law, enforcement, prepared, report, iucn, project

Disciplines

Arts and Humanities | Law

Publication Details

B. M. Tsamenyi & Q. A. Hanich, Addressing Corruption in Pacific Islands Fisheries: a report/prepared for IUCN PROFISH Law Enforcement, Corruption and Fisheries Project (2008)

DRAFT

ADDRESSING CORRUPTION IN PACIFIC ISLANDS FISHERIES

*A Report prepared for the IUCN PROFISH Law Enforcement,
Corruption and Fisheries Project*

By

Martin Tsamenyi, Ph.D.

Professor of Law & Director
The Australian National Centre for Ocean
Resources & Security (ANCORS),
University of Wollongong, Australia

&

Quentin Hanich

Research Fellow
The Australian National Centre for Ocean
Resources & Security (ANCORS),
University of Wollongong, Australia

INTRODUCTION

The Pacific Islands region includes some of the smallest States in the world, surrounded by the world's largest ocean. Many of these States are in a precarious condition¹ with low economic growth, political instability and significant weaknesses in their governments and institutions. Economic activity in much of the region is dominated by governments, and foreign fishing access agreements and foreign aid comprise significant and tangled components of national budgets. While there are many shared concerns within the region (particularly over issues such as climate change and fisheries development), there is also a great cultural, economic and institutional diversity with large variances between Island States in their levels of development, institutional capacity and effectiveness of governance.

The economic, governance and institutional weaknesses of the Pacific Islands States combine to leave them particularly vulnerable to corruption in the fisheries sector. In recent times, there has been a significant concern throughout the Pacific Islands region regarding the impact of corruption² and associated weaknesses in governance on the ability of the region to effectively manage and develop its economy.³ In the fisheries specific context, some senior fisheries managers and advisers in the region have also started highlighting the likely impacts of corruption in the fisheries sector, particular in regard to licensing and access agreements, on the sustainability of the fisheries resources of the region. The key factor in all of these is the lack of transparency in many fisheries decisions, particularly in licensing and access negotiations. Les Clark notes that: "Looking ahead, concerns about transparency are not likely to abate. With resources becoming scarcer and access to them becoming more valuable, incentives for corrupt practices are bound to increase."⁴

This paper examines fisheries corruption in the Pacific Islands in three specific areas, namely licensing, access negotiations and monitoring and enforcement. The paper concludes with recommendations for reforms to address corruption concerns in Pacific island domestic fisheries management.

¹ ForSEC. 2005. Enabling Environment – Good Governance and Security. Pacific Plan Regional Analysis Papers. Pacific Islands Forum Secretariat. Accessed 18 December 2007. http://www.pacificplan.org/tiki-list_file_gallery.php?galleryId=3

² The definition of corruption adopted in this paper is "the misuse of entrusted power for private gain", AusAID, "Tackling Corruption for Growth and Development: A Policy for Australian Development Assistance on Anti-Corruption, March 2007, p.3.

³ Crocombe, Ron. 2001. The South Pacific. Institute of Pacific Studies. University of the South Pacific. Suva. – Hanich, Quentin., Teo, Feleti. and Tsamenyi, Martin. 2007. 'Closing the Gaps: Building Capacity in Pacific Fisheries Governance and Institutions.' FFA Workshop Information Paper. Honiara. – AusAID. 2006. – AusAID. 2007. Valuing Pacific Fish: A Framework for fisheries-related development assistance in the Pacific. November 2007. Australian Agency for International Development (AusAID). Canberra.

⁴ Clark, L., "Perspectives on Fisheries Access Agreement; Developing Country Views", in Fishing for Coherence, Proceedings of the Workshop on Policy Coherence for Development in Fisheries, OECD, 2006, p. 89.

The four key tuna species of interest (albacore, skipjack, yellowfin and bigeye) migrate across the EEZs and high seas pockets throughout the region. Unlike other tuna fisheries in the Atlantic, Indian and Eastern Pacific Oceans, the majority of fishing effort in the WCPO occurs within the EEZs of the Pacific Island States, Indonesia and the Philippines. Approximately 57% of all WCPO catches for the four key tuna species are taken from within Pacific Island EEZs⁹. Pacific Island States depend upon these fisheries as a traditional and important source of food; employment (21,000 – 31,000 regional jobs); and as a critical form of revenue (AUD\$80-90 million in access fees) and income (expenditure by locally based vessels is worth approximately AUD\$190 million).¹⁰

These fisheries are the only significant resource for many Pacific Island States and have long been viewed as the primary development opportunity for many of the region's developing Island States. Access fees from foreign fishing vessels deliver much-needed financial contributions to governments, while domestically-based foreign fishing fleets and support industries make substantial contribution to the national economies of many Pacific Islands States. In some cases revenue from tuna can contribute up to 42% of gross domestic product¹¹ (e.g. Kiribati and Tuvalu). Access fees are significant components of national economies for 7 of the 14 Pacific Island States.¹² Fisheries resources have also, to a degree, motivated some distant water fishing States to build and maintain political relationships throughout the region that include significant aid budgets. However, these complicated relationships can bring a Pandora's box of development, governance and foreign policy ramifications.

The two main components of the Pacific Islands tuna fisheries comprise distant water fishing vessels and domestic fishing vessels. Distant water fishing vessels may either be based within a Pacific Island State (due to licensing requirements) or operate from a distant home port. The vast majority of these vessels are from distant water fishing nations (DWFN), notably China, Japan, Korea, the United States, Taiwan and increasingly, the European Union, who fish within Pacific Island EEZs or on the high seas. These vessels operate through access agreements or are directly licensed by the coastal States to fish within their EEZ. The annual value of tuna caught by DWFN vessels is estimated at approximately US\$2 billion.¹³

Domestic fishing vessels are generally smaller vessels that mostly fish for tuna within their own flag State's EEZ. These vessels may be nationally owned and operated, or may be foreign owned and operated through domestic charters and/or joint ventures with local

⁹For the purposes of this estimate, this includes the EEZs of: (FFA members) Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu, (and non-FFA members) American Samoa, French Polynesia, New Caledonia, Pitcairn Island, and the French territory of Wallis and Futuna. The data for this estimate was sourced from: Reid, C. 2007. Value of WCPO Tuna Fisheries. Report to the FFA www.ffa.int Accessed December 2007.

¹⁰ Gillett, Robert., McCoy, Mike., Rodwell, Len. And Tamate, Josie. 2001. *Tuna. A Key Economic Resource in the Pacific Island Countries*. A Report Prepared for the Asian Development Bank and the Forum Fisheries Agency.

¹¹ Gillet, R. and Lightfoot, C. 2001. *The Contribution of fisheries to the economies of Pacific Island Countries*. Report prepared for Asian Development Bank, Forum Fisheries Agency and World Bank.

¹² Gillet, R. and Lightfoot, C. 2001.

¹³ ForSEC. 2005. Fisheries. Pacific Plan Regional Analysis Papers. Pacific Islands Forum Secretariat. Accessed 18 December 2007. http://www.pacificplan.org/tiki-list_file_gallery.php?galleryId=11

interests. Charter and/or joint venture arrangements generally specify local participation requirements in the venture and require that the vessel be located within the country. Most domestic vessels are longliners, but recently there has been an increase in Pacific Island flagged or domestic-based purse seiners. The annual value of tuna caught by domestic fishing vessels is estimated at approximately US\$500 to 700 million.¹⁴

Over-capacity and over-fishing within the WCPO tuna fisheries (particularly for bigeye and yellowfin) are growing concerns and present clear threats to the long term sustainability and economic viability of some aspects of the fishery. Over fishing is likely to be occurring for both yellowfin and bigeye.¹⁵ While neither stock is currently over fished, the Scientific Committee of the Western and Central Pacific Fisheries Commission¹⁶ has noted concerns regarding the status of these stocks and has recommended reductions in fishing mortality for these species at each of its meetings in 2005, 2006 and 2007. The Western and Central Pacific Fisheries Commission has adopted conservation measures that limit increases in bigeye and yellowfin catches, but has so far been unable to reach consensus on the adoption of measures that meet the Scientific Committee's recommendations of 25% reduction for bigeye and 10% for yellowfin. Additionally, economic studies have shown that fishing effort is significantly above optimal levels, thereby reducing the profitability of the fishery.¹⁷

While regional arrangements and institutions are inherently necessary due to the migratory nature of tuna stocks, implementation of conservation and management decisions ultimately falls to national governments. This requires effective governance at the national level and the political will to implement, at times, contentious and difficult decisions. Weaknesses in governance threaten the long term sustainability of tuna resources and significantly reduce the real and potential economic returns to Pacific Island States. Furthermore, given the high dependence of many Pacific Island States on fisheries resources for revenue and food security, any serious threat to the sustainability of the resource can be viewed as a direct threat to the economic viability and food security.

GENERAL CONTEXT OF CORRUPTION IN THE PACIFIC ISLANDS FISHERIES

Analysis of corruption in Pacific Islands fisheries needs to be set within the context of corruption generally in the region. The World Bank's Worldwide Governance Indicators

¹⁴ ForSEC. 2005. Fisheries.

¹⁵ *Report of the First Regular Session of the Scientific Committee.* 2005. WCPFC.

¹⁶ Negotiations for the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC) were completed in 2000 with the Convention entering into force in July 2004. The objective of the WCPFC is '... to ensure, through effective management, the long term conservation and sustainable use of straddling and highly migratory fish stocks in the Western and Central Pacific Ocean in accordance with the 1982 Convention on the Law of the Sea and the United Nations Fish Stocks Agreement. The Convention established a decision making Commission (Western and Central Pacific Fisheries Commission) which meets annually, and a secretariat which is headquartered in the Federated States of Micronesia.

¹⁷ Bertignac, Michel., Campbell, Harry., Hampton, John., and Hand, Anthony. 2001. Maximising Resource Rent from the Western and Central Pacific Tuna Fisheries. In *Marine Resource Economics*. Vol. 15. pp151-177.

Project surveys and reports on the performance of countries against six dimensions of governance. The table below summarises reports for the past seven years on the performance of Pacific Island States against two indicators that are particularly relevant to this paper: control of corruption and government effectiveness. Control of corruption measures the extent to which public power is exercised for private gain. This includes the level by which the State may have been ‘captured’ by elites and private interests and both petty and grand forms of corruption. Government effectiveness measures the quality of public and civil services and the degree to which it is independent from political pressures. Other factors include the quality of policy formulation and implementation and the credibility of the government’s commitment to such policies.¹⁸ Also included in the table is the Transparency International Corruption Perception Index for 2007. This indicates the degree of public sector corruption as perceived by business people and country analysts and a country ranking to compare against others. As can be seen below, some Pacific Island States have demonstrated considerable improvement while others still suffer from significant problems with corruption and their effectiveness of government.

	Corruption Perception 2007 - Index		World Bank Assessment Control of Corruption				World Bank Assessment Government Effectiveness			
	Rank	CPI	2006	2004	2002	2000	2006	2004	2002	2000
	10 = highly clean 0 = highly corrupt		Percentile rank indicates the percentage of countries worldwide that rate below selected country. Higher values indicate better ratings.							
Country	Rank	CPI	2006	2004	2002	2000	2006	2004	2002	2000
COOK ISLANDS	N/A	N/A	72.3	59.2	51.9	54.9	58.3	52.6	49.3	62.1
FIJI	N/A	N/A	45.6	54.9	59.2	62.6	52.6	36.5	63	39.8
KIRIBATI	84 th	3.3	59.2	67	56.3	50.5	35.5	32.2	50.2	53.6
MARSHALL ISLANDS	N/A	N/A	38.3	33	18.4	29.1	13.7	14.2	46	16.6
FED. ST. MICRONESIA	N/A	N/A	50	57.3	43.7	46.1	47.9	31.3	44.1	25.1
NAURU	N/A	N/A	N/A	N/A	N/A	N/A	9	6.6	7.6	N/A
NIUE	N/A	N/A	N/A	N/A	N/A	N/A	31.8	N/A	23.2	N/A
PALAU	N/A	N/A	N/A	N/A	N/A	N/A	31.8	67.8	43.1	N/A
PNG	162 nd	2	9.2	15.5	28.2	24.3	23.2	24.6	28.9	33.2
SAMOA	57 th	4.5	63.1	59.7	57.3	56.3	57.8	58.8	62.6	66.8
SOLOMON ISLANDS	111 st	2.8	49	36.9	2.9	12.1	18	2.8	12.3	12.3
TONGA	175 th	1.7	5.3	39.8	30.6	34	29.9	28.4	35.1	34.6
TUVALU	N/A	N/A	56.3	71.8	61.2	60.2	45.5	13.3	50.7	70.1
VANUATU	98 th	3.1	62.6	31.6	27.2	23.3	40.3	30.3	45	29.9

Source for data: World Bank. 2007. Worldwide governance research indicators dataset. Accessed 19 December 2007. http://info.worldbank.org/governance/wgi2007/sc_country.asp. – Transparency International. 2007. Transparency International Corruption Perceptions Index. Accessed 20 December 2007. <http://www.transparency.org/content/download/24104/360217>

¹⁸ Kaufmann, Daniel, Kraay, Aart and Mastruzzi, Massimo. 2007. Governance Matters VI: Governance Indicators for 1996-2006" (July 2007). World Bank Policy Research Working Paper No. 4280 Available at SSRN: <http://ssrn.com/abstract=999979>

While there are a diversity of causes and contexts for corruption throughout the Pacific Islands region¹⁹, these States share a number of general characteristics that leave them vulnerable to corruption.

The small size of many of the Pacific Island States creates inherent vulnerabilities. The median population of each Pacific Island State is a little over 50,000²⁰ with low electoral ratios of parliamentary representatives to citizens (i.e. small electorates where the Minister is likely to personally know many, if not most, of his constituents). The small size of the communities, and the strong cultural ties, encourage a tendency to promote one's colleagues or relatives over merit based appointments.²¹ Additionally, politics is sometimes viewed as a 'means to personal wealth.'²²

Many of the Pacific Islands States suffer from low economic growth and poverty. Economic activity in much of the region is dominated by governments, while foreign fishing access agreements and aid funding form significant and tangled components of national budgets. The Table below shows the contribution of fisheries to the economies of the independent States in the Pacific Islands region.

	Aid % of GDP	Access Fees % of GDP	Government expenditure % of GDP	Government Employment % of total paid employees
Fiji	2.3	0.01	19.4	18.7
Papua New Guinea	6.4	0.17	n/a	n/a
Solomon Islands	25.5	0.1	53.1	32.5
Vanuatu	11.7	0.1	39.4	33.3
Cook Islands	3.5	0.21	n/a	n/a
Samoa	10.4	0.08	28	10
Tonga	16.3	0.1	43.4	41
Tuvalu	38.6	42.6	n/a	n/a
Kiribati	31.5	42.81	100.6	28.7
Marshall Islands	53.9	5.12	98.1	46.4
Fed. St. Micronesia	49.5	6.7	89.8	69.2
Nauru	35.5	6.59	n/a	n/a
Palau	20.6	0.7	n/a	n/a

Source for data: World Bank, 2002. *Pacific Islands Regional Economic Report*, World Bank, Washington, DC. – Gillet, R. and Lightfoot, C. 2001. *The Contribution of fisheries to the economies of Pacific Island Countries*. Report prepared for Asian Development Bank, Forum Fisheries Agency and World Bank. – AusAID. 2006. *Pacific 2020. Challenges and Opportunities for Growth*. Australian Agency for International Development (AusAID). Canberra.

¹⁹ For a discussion of the various causes of corruption identified in the region, Larmour, Peter. 2005. *Corruption and accountability in the Pacific Islands*. Asia Pacific School of Economics and Government Discussion Paper 05-10. Australian National University. Canberra

²⁰ Larmour, Peter. 2005. *Corruption and accountability in the Pacific Islands*. Asia Pacific School of Economics and Government Discussion Paper 05-10. Australian National University. Canberra.

²¹ Larmour, Peter. 2005. *Corruption and accountability in the Pacific Islands*. Asia Pacific School of Economics and Government Discussion Paper 05-10. Australian National University. Canberra.

²² Larmour, Peter. 2005. *Corruption and accountability in the Pacific Islands*. Asia Pacific School of Economics and Government Discussion Paper 05-10. Australian National University. Canberra.

This heavy reliance on aid, often tied up with foreign fishing access agreements, brings risks of corruption.²³ While some donors are increasingly demanding ‘good governance’ and accountability requirements for donor funds, other donors are less demanding. Interviewed officials recounted examples of a Pacific Island State that had introduced audit legislation in response to donor concerns. This legislation mandated auditing and oversight of all expenditure of donor funds from Australia and the United States of America. But the legislation specifically excluded aid funds from a particular country from any auditing requirements so as to enable a greater ‘flexibility’ in how these funds were spent.²⁴

The largest electoral funds in some countries now come from abroad. Especially where politicians have excessive discretionary power, such as in issuing licensing or exemptions for logging, mining, fishing, franchising stamps or registering ‘flags of convenience’ ships etc, entrepreneurs who mediate the deals can wield alarming political influence.²⁵

The dependence by Pacific Island States upon foreign aid also leaves these States highly vulnerable to manipulations by foreign powers. For example, the ongoing ‘turf war’ between China and Taiwan in the region has been blamed for increasing corruption, as neither side is playing by the normal rules of the ‘aid game’ in the Pacific.²⁶ According to one senior official in the region, ‘chequebook diplomacy has crossed the line from buying diplomatic influence to fostering corruption in domestic politics.’²⁷

Finally, the political and legislative structures inherited or developed by many of the Pacific Island States did not adequately consider the local context and how such a government might work within the local culture.²⁸ Consequently, many Pacific Island States are governed by political structures that are overly complex for the local context, do not work effectively and are prone to corruption, nepotism and ‘clientelism’. A high level of diversity within the region also means that there is no ‘one-size-fits-all’ government model that would best serve the interests of every Pacific Island State.

CASE STUDIES OF CORRUPTION IN PACIFIC ISLAND FISHERIES

There is clearly a significant concern throughout the Pacific Islands region regarding the impact of corruption and associated weaknesses in governance on the ability of the region

²³ Larmour, Peter. 2006

²⁴ Confidential personal communication. Interviewed 7 December. 2007.

²⁵ Crocombe, Ron. 2001.

²⁶ Dobell, Graeme. 2007. China and Taiwan in the South Pacific: Diplomatic Chess versus Pacific Political Rugby. Lowy Institute Policy Brief. Lowy Institute for International Policy. Sydney.

²⁷ Dobell, Graeme. 2007.

²⁸ AusAID. 2005, Pacific 2020 Background paper: Political governance. Australian Agency for International Development (AusAID). Canberra. – ForSEC. 2005.

to effectively manage and develop its fisheries.²⁹ Corruption has effectively stolen much needed funds that should have gone into national accounts and local communities, undermined negotiating positions by Pacific island States, and weakened the ability of Pacific island States to benefit from their fisheries resources.

In recent years there has been a noticeable rise in fisheries-related corruption in some of the countries of the region - as judged from complaints from the private sector, court convictions, action by public service commissions, and observations by knowledgeable individuals.³⁰

Although corruption in the fisheries sector in the Pacific islands region is widely believed to be widespread, there is very little evidence to substantiate the claim, apart from recent instances of court convictions and findings by commissions of inquiry in Fiji and the Solomon Islands (see below).

There are three areas within Pacific island fisheries where corruption impacts are most significant: licensing; access agreements; and monitoring and inspection. Within these areas, corrupt practices occur at both official and ministerial levels of government and involve both domestic and foreign operations (though the vast majority of allegations cited corruption involving Asian foreign fishing fleets). Fisheries corruption occurs in different forms. Some corrupt practices are 'low level', involving gifts of fish and products and episodes of small scale nepotism. Other corrupt practices occur at a 'grand level' that involves regular large scale financial transactions, organized criminal behaviour and political interference in official processes. These 'grand' examples can include high level Ministerial participation in the corrupt fishing venture and the shadowy support of foreign governments.

Corruption in Licensing

The ability of a coastal State to manage its fisheries resources in a sustainable manner is dependent upon its effective control of fishing activities through licensing. An effective licensing framework also determines the coastal State's ability to gain a reasonable economic return from the fisheries. Despite some reforms, licensing continues to challenge many Pacific island States who suffer from serious shortcomings in their governance of licensing, licensing processes and systems, and their relevant institutions, with a number of allegations raised in various Pacific Island States regarding suspicions of corruption.

In many respects, the legislative and administrative frameworks for fisheries in most of the countries provide a favourable condition for corruption. In many of these States, the

²⁹ Crocombe, Ron. 2001. *The South Pacific*. Institute of Pacific Studies. University of the South Pacific. Suva. – Hanich, Quentin., Teo, Feleti. and Tsamenyi, Martin. 2007. 'Closing the Gaps: Building Capacity in Pacific Fisheries Governance and Institutions.' FFA Workshop Information Paper. Honiara. – AusAID. 2006. – AusAID. 2007. *Valuing Pacific Fish: A Framework for fisheries-related development assistance in the Pacific*. November 2007. Australian Agency for International Development (AusAID). Canberra.

³⁰ Gillett, Robert. 2007. *Pers Comm*. 20 December 2007.

legislative framework for licensing can best be described as a “one-man” system in which fisheries legislation vest exclusive and power, with wide discretion, in either the minister responsible for fisheries or a licensing officer (usually a senior fisheries official) to issue licenses for both foreign and domestic fishing vessels. The licenses so issued provide the only means of verifiable authorization to fish. ‘One-man’ licensing processes are particularly vulnerable to corruption and do not include adequate opportunities for review or processing.

Alleged and proven cases of corruption through the issue of fishing licenses include Ministers and senior fisheries officials directing license fees into overseas private bank accounts or receiving direct payments from overseas fishing companies in return for favourable license conditions and ‘private’ licensing by fisheries officials of vessels that do not show up on the government books. Two recent revelations from public enquiries into corruption in the Solomon Islands and Fiji Fisheries Ministries are representative of allegations in many Pacific Island countries.

Auditor-General Report into Solomon Islands Fisheries Department

Following numerous allegations from the public and the fishing industry, the Solomon Islands Minister for Fisheries and Marine Resources, Nelson Kile was compelled to reveal in Parliament in 2005 that a number of permanent secretaries were dismissed by the government following what he described as “the siphoning of license fees to pay individuals”. The Minister also revealed that “there was a transfer of money from License fees to a special account, which was then paid to some individuals in various ministries”. An Auditor-General’s Report into the Department subsequently revealed that the country lost over US\$4 million through diversion of money, misappropriation, offsetting license fee income, unpaid fishing license fees and understatement of reported actuals. The Report also highlighted a systemic corruption, particularly by locally based foreign fishing companies. Some of the specific corrupt practices identified include license payments to fisheries officials in cash, most of which could not be accounted for and telegraphic transfers from companies traced into personal accounts of senior fisheries officials and or their spouses’ accounts.³¹

Committee of Inquiry into Fiji’s Ministry of Fisheries

Allegations of corruption over licensing decisions at senior official and Ministerial levels have been frequently made by the Fiji Tunaboat Association. Most of these allegations were in relation to attempts by foreign charter companies to buy licenses during a period when the Fijian fishery was over-fished and capacity reductions were required. In 2004, the government set up a special Committee of Inquiry to the Ministry of Fisheries to investigate the allegations. In early 2005, the Committee confirmed what the industry had been saying for many years. Two senior fisheries officials, including the then Director of

³¹ Solomon Star, 14 November 2005

Fisheries, were found to have engaged in the corrupt issuing of fishing licenses and were subsequently jailed.³²

Negotiation of Access agreements

For many Pacific Islands States, the principal means of deriving revenue from their fisheries resources is through access agreements with distant water fishing nations. Such agreements usually take one of three forms, namely: government to government agreements, government to industry agreements and government to enterprise agreements.³³ Access agreements in their current form were strategic responses by many developing coastal States to the declaration of extended fisheries zones in the late 1970s and subsequently EEZs under the 1982 Law of the Sea Convention. Clark notes that: “For coastal States, there were a number of reasons for the move towards managing foreign fishing through access agreements rather than through more direct licensing arrangements. They include securing recognition of coastal State jurisdiction and rights, compliance and economic gain.”³⁴ Regardless of form, all access agreements require negotiation between the coastal State and officials or industry representatives from the fishing State. In most Pacific Island States, legislation mandates that access agreements be subject to renegotiation on annual basis. Quite often in many Pacific Island States, this annual renegotiation of access agreements takes place in the distant water fishing nation.

Allegations of corruption of Pacific Islands officials during access agreement negotiations take a variety of forms, including: payment of business and first class air tickets for officials and their spouses; the provision of generous per diems and lavish hotel accommodation and entertainment, often in the foreign country; extended holidays and side-trips for Pacific Islands senior officials and their spouses after access negotiations; and payment of overseas tuition fees for the children of Ministers.

To a large extent, the lack of transparency of access agreements invites such allegations of corruption. Les Clark summarises the nature and cause of the problem cogently:

The problems are deep-seated. Firstly, the negotiation of access agreements is almost inevitably a secretive process. Part of the rationale for using access agreements rather than direct licensing is that it is possible to have different fee levels to counties where the fishing opportunities are essentially similar. But that approach usually requires at least the commercial aspects of the agreements to be kept confidential...

³² Radio New Zealand International, “Two Fiji Fisheries officials found guilty in corruption probe”, <http://www.rnzi.com/pages/news.php?op=read&id=15465>.

³³ Martin, Will, et al, A handbook for Negotiating Fishing Access Agreements, WWF, 2001, p.39; Clark, L., “Perspectives on Fisheries Access Agreement; Developing Country Views”, in Fishing for Coherence, Proceedings of the Workshop on Policy Coherence for Development in Fisheries, OECD, 2006, p. 76.

³⁴ Clark, L., “Perspectives on Fisheries Access Agreement; Developing Country Views”, in Fishing for Coherence, Proceedings of the Workshop on Policy Coherence for Development in Fisheries, OECD, 2006, p. 76.

And even where the agreement texts are public, the negotiations themselves are usually closed. More seriously perhaps, in countries where access agreements are important, the approach to negotiating access agreements is also reflected in the legislation governing all fisheries decisions. For example, one element of the strategy developed in the 1980s for developing coastal States was to give very great legal authority to a single Minister or official not just to negotiate access agreements but also to grant, suspend or terminate licenses and to attach conditions to licenses as a way of strengthening the position of those responsible to deal with powerful foreign fishing interest. With resources becoming scarcer and access to them becoming more valuable, incentives for corrupt practices are bound to increase and impatience with the kind of secrecy that attends access agreements also can be expected to increase.³⁵

Monitoring and Inspection

Monitoring and inspection of vessel logbooks and catches is critical to the collection of important data, effective management of a fishery and ensuring that licensing conditions are complied with and appropriate revenue is collected. Examples of corruption in monitoring and inspection can include ‘low level’ corrupt activities where port inspectors might be offered a large tuna in return for ‘going easy’ on the vessel and not verifying logbooks through inspections, or turning a blind eye to infractions with license conditions. Other examples include ‘high level’ activities where officials have a financial interest in ensuring that vessel infractions are not reported and that ‘their’ boats are favoured. In one example, a domestic fishing industry spokesman complained of harsh treatment of his skippers by a specific fisheries officer and expressed concerns that this fisheries officer, who was a shareholder in a foreign joint venture fishing company, was supplying their commercially sensitive catch data to foreign charter vessels:

‘... in light of recent allegations, one wonders why we even give our catch data at all, especially when our skippers complain about being on good fishing only to soon be surrounded by (blank) fishing vessels.’³⁶

In another example, one fishing vessel had failed to operate its satellite vessel monitoring system (VMS) for four months. Eventually the vessel was required to call into port to have its VMS fixed before it would be allowed to continue fishing. The instruction was quickly overturned by the Minister following contact from overseas.³⁷

³⁵ Clark, L., “Perspectives on Fisheries Access Agreement; Developing Country Views”, in *Fishing for Coherence, Proceedings of the Workshop on Policy Coherence for Development in Fisheries*, OECD, 2006, p. 89.

³⁶ Confidential personal communication. 18 December 2003.

³⁷ Hanich, Quentin., Teo, Feleti. and Tsamenyi, Martin. 2007. ‘Closing the Gaps: Building Capacity in Pacific Fisheries Governance and Institutions.’ FFA Workshop Information Paper. Honiara, p.34

GOVERNANCE AND INSTITUTIONAL RESPONSES TO CORRUPTION IN THE PACIFIC ISLANDS REGION

Corruption in the fisheries sector in the Pacific Islands region is part and parcel of the wider problem of corruption in the region. It is therefore important that efforts to stem fisheries corruption are considered within the wider national and regional context. Over the last few years, there have been a number of regional and specific national initiatives to address corruption generally in the Pacific Islands region through mechanisms such as the implementation of Leadership Codes. Many of these initiatives, if successful, would also assist in combating corruption in the fisheries sector.

In 2005, the Pacific Islands Forum endorsed a Pacific Plan that would form the basis of ongoing strengthening of regional cooperation and integration. In 2006, the Plan was updated and specific priorities were identified. Amongst other things, these priorities included regional support to consolidate commitments to key institutions such as audit and ombudsman offices, leadership codes, anti-corruption institutions and departments of attorneys general; including through judicial training and education to address corruption.³⁸

Similarly, in March 2007 the Australian Government, through its international development agency, AusAID, issued its policy blueprint entitled “Tackling corruption for growth and development: A Policy for Australian Development Assistance on anti Corruption”. Although the policy does not address any fisheries specific issues, many of the measures highlighted have significant relevance to corruption in the fisheries sector. The measures include: supporting civil society groups such as churches and the media to gather information on incidences of corruption and to promote awareness of anti-corrupt behaviour, establishing cooperative relationships with corporate entities, chambers of commerce and professional associations to promote integrity, ethical conduct and transparency in the private sector, funding and resourcing civic education and supporting legal and institutional reforms.³⁹

In the fisheries specific context, some Pacific Islands countries have also taken quasi-judicial and judicial measures to address corruption. As noted previously, both Fiji and the Solomon Islands established official inquiries into corruption in the respective departments of fisheries following widespread public allegations of corruption in these departments. In Fiji, the findings of the Committee of Inquiry in 2005 resulted in the prosecution and conviction of two senior fisheries officials.⁴⁰ In 2005, the Solomon Islands Auditor General’s investigation into that country’s fisheries Ministry revealed

³⁸ Pacific Islands Forum. 2006. The Pacific Plan for Strengthening Regional Cooperation and Integration (updated October 2006). Pacific Islands Forum Secretariat. Accessed 18 December 2007. http://www.forumsec.org/_resources/article/files/The%20Pacific%20Plan,%20updated%20Dec%202006.pdf

³⁹ Australian Government, Tackling corruption for growth and development: A Policy for Australian Development Assistance on Anti Corruption”, March 2007, pp. 9-10.

⁴⁰ See Radio New Zealand International, “Two Fiji Fisheries officials found guilty in corruption probe”, <http://www.rnzi.com/pages/news.php?op=read&id=15465>.

several instances of corruption by fisheries officials and resulted in the dismissal and prosecution of many senior officials.

RECOMMENDATIONS FOR REFORM

Fishing activities, particularly licensing and the operations of foreign fishing vessels are “distant” and are generally out of the public view as most of the vessels operate far at sea and barely come to the ports of the host country, except to refuel. This unique characteristic of fisheries makes it easier for fisheries officials and ministers to engage in corrupt license deals. This situation has been compounded by the fact that fisheries legislation has historically vested exclusive and discretionary power in either a minister or a senior fisheries official to issue licenses, a factor identified as one of the major causes of corruption in fisheries decisions. Improving the transparency of fisheries decision-making, particularly licensing, access negotiations and monitoring and compliance is fundamental to addressing corruption in Pacific Islands fisheries. Some of the specific measures that may assist in this regard include:

1. **Establishing Committees to make licensing decisions:** The licensing process most resilient to corruption and ministerial interference are those that mandate committee or board review/endorsement of licensing decisions and remove the Minister from any role in licensing. Corrupting a committee or a board will be much harder than corrupting an individual. Reform of the licensing system should “involve legal and administrative reforms to codify and formalize licensing processes. This should include broadening the responsibilities for licensing and setting of fees and other conditions that involve agencies such as financial and legal authorities so that the responsibilities do not lie with a single Minister or senior official.”⁴¹ Some Pacific Islands governments have recognized this and have implemented measures to reform the fisheries licensing system. For example, Fiji and Papua New Guinea have both introduced sophisticated licensing arrangements that require multiple reviews and checks by committees, with greater levels of transparency. Papua New Guinea lists all licensed fishing vessels on a publicly available website while Fiji will provide information to stakeholders on whether vessels hold a license to support detection of illegal fishing.
- **Public Disclosure of Licensing Details:** To ensure transparency in the licensing system and to reduce incidences of corruption, another strategy may be to require public disclosure of licensing details so that the decisions on whom licenses are granted to, and the terms and conditions of licenses, can be subject to public scrutiny.⁴² This suggestion has already been adopted by Papua New Guinea

⁴¹ Clark, L., “Perspectives on Fisheries Access Agreement; Developing Country Views”, in *Fishing for Coherence, Proceedings of the Workshop on Policy Coherence for Development in Fisheries*, OECD, 2006, p. 89.

⁴² Clark, L., “Perspectives on Fisheries Access Agreement; Developing Country Views”, in *Fishing for Coherence, Proceedings of the Workshop on Policy Coherence for Development in Fisheries*, OECD, 2006, p. 89.

which publishes the list of licensed vessels on the website of the National Fisheries Authority.

- **Public Disclosure of Access agreements:** Transparency in the negotiation of access agreements also requires serious attention to reduce the possibilities of official corruption. Transparency in the negotiation of access agreements can be achieved for example, by requiring that all negotiations take place in the coastal State and that the “texts of access agreements be freely and fully available to the public.”⁴³
- **Strengthening fisheries governance:** Institutional quality is one of the key factors in the ability of a country to manage corruption. Despite the socio-economic importance of fisheries resources to Pacific Island States, most national fisheries institutions throughout the region are poorly resourced and face daunting management challenges. Some national fisheries institutions simply do not have the necessary resources, capacity, legislation and/or political will to implement fisheries management limits and controls, meet national management goals, or implement their international and regional obligations. Additionally, many of the fisheries institutions throughout the region are hamstrung by unworkable conditions for staff, low pay, poor political engagement, inadequate funding, lack of skills, limited career opportunities, and inadequate operational budgets. These governance and institutional weaknesses undermine the ability of Pacific Island governments to address the root causes of corruption in fisheries. The impact of these weaknesses on corruption is exacerbated in some countries by declining standards of professionalism and ethical conduct within the public service, and a lack of public service training in good governance.⁴⁴ Corruption in fisheries cannot be effectively combated without efforts by national governments and donor agencies to address these governance weaknesses.

⁴³ Martin, Will, et al, A handbook for Negotiating Fishing Access Agreements, WWF, 2001, p.39.

⁴⁴ Roughan, Paul. 2004. Transparency International Country Study Report: Solomon Islands. Transparency International Australia. Blackburn South. Australia.