

Sea change

Who is accountable for what goes on in waters that belong to no-one and yet belong to all? Kristina M. Gjerde of IUCN's Marine Programme looks at governance in the high seas.

The high seas are parts of the oceans that are not included in the internal waters, territorial seas or exclusive economic zones of states. Together with the deep seabed beyond national jurisdiction, they are the world's last wilderness frontier, a place of rich resources but sparse regulations, traditionally considered immune to the impacts of humankind.

The fabric of life

Oceans help make life on Earth possible. They generate nearly half the oxygen in the atmosphere whilst absorbing vast quantities of CO₂; they moderate weather patterns, control planetary temperatures and chemistry, harbour most of the world's water and house the greatest abundance of biological diversity. Marine life and these life-giving processes are all interconnected; disturbances in one part of the web affect processes in another.

Growing threats

Pollution, shipping, military activities and climate change all imperil marine biodiversity but over-fishing presents the greatest immediate threat.

As a result of over-fishing and habitat destruction, scientists fear that species' decline in numbers and diversity is altering the composition of entire ecological communities and food webs, increasing vulnerability to climate change and other environmental shifts.

Budding knowledge versus unbridled exploitation

The high seas are only just being explored, with our current understanding based on investigations carried out in the last decade. International research projects such as the Census of Marine Life are casting new light on the tiniest microbes and largest predators, from individual seamounts to



the vast abyssal plains. IUCN, amongst others, is spearheading efforts to translate these findings into better management practices.

Today, however, exploitation outpaces our knowledge of how we can use the oceans sustainably. With many populations of large open ocean fish stocks reduced to 10% or less of their pre-industrial levels and some species teetering at the brink of extinction, action is urgently needed.

A myriad of meetings

The lack of protection of the high seas is disproportionate to the number of agreements that address the subject – the most prominent being the 1982 United Nations Convention on the Law of the Sea (UNCLOS). Other efforts are centred around 18 Regional Seas Programmes, 12 Regional Fisheries Management Organizations (RFMOs), and a variety of international organizations and inter-governmental processes.

Specific activities and certain regions, however, are not covered by these agreements. Some states take advantage of these “gaps” to engage in unregulated and destructive fishing practices such as bottom trawling on seamounts, cold water corals and sponge beds.

With their focus predominantly on coastal waters, countries are not looking further afield at the high seas where there is still a need for institutions, rules and enforcement mechanisms to ensure that ecosystem-based and precautionary approaches are applied. A lack of public and political awareness of the importance of the high seas “commons” and our limited knowledge about them, are significant obstacles to sound governance and practice.

Accountability no-go areas

At present, governments are not held accountable for their actions on the high seas. Fisheries management decisions, for instance, are often contrary to scientific advice resulting in “legal” over-fishing. States participating in RFMOs are not acting on their UNCLOS and UN Fish Stocks Agreement duties to protect marine biodiversity or to minimize bycatch. A lack of monitoring and reporting on performance, as well as enforcement of decisions, makes effective management all but impossible.

Decisions affecting the high seas are also made with little regard to transparency, participation and accountability. For example

participation in most RFMOs is restricted to states that have a direct economic interest in fishery resources. Decisions regarding the high seas lie in the hands of those who often face pressure to favour short-term gains over the long-term interests of developing countries, future generations, ocean health and ecosystem resilience.

Access to RFMO meetings can be denied to NGOs or restricted by registration fees. In some RFMOs, only one nation need object to an NGO's participation. Access to meeting documents and key reports is often limited, hampering preparation and the monitoring of decisions.

Bringing justice to the high seas

The only way to hold governments fully accountable for their failure to conform to international standards is via the International Court of Justice or the International Tribunal for the Law of the Sea. States, however, have so far proved unwilling to take other countries to court.

Pressure from the general public, the media and other states can make a difference. In response to revelations of Japan's under-reporting of US\$2 billion-worth of rare tuna catches, the country's

quota for Southern Bluefin Tuna was halved and independent observers positioned onboard all Japan's vessels. Many experts hope this incident will lead to mandatory observers on all vessels and drastically reduced quotas for all fleets as the species is critically endangered.

Seeds of hope

In what seems like a desperate situation, there is a small ray of light: an increasing number of states now recognize that change is imperative.

A review of the implementation of the UN Fish Stocks Agreement in May 2006 highlighted the need for RFMOs to improve their performance. States were urged to directly monitor the RFMOs of which they were members. The UN General Assembly is discussing proposals for an interim prohibition on high seas bottom trawling until effective conservation measures are in place.

In the past three years, countries have addressed problems of the high seas at the United Nations General Assembly, the Convention on Biological Diversity and the UN Food and Agriculture Organization.

The *United Nations Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction* is especially suited to discuss high seas governance matters. This group is critical to help improve management, increase accountability and transparency, and enable the participation of all stakeholders.

If the high seas are to be granted protection before they are irreversibly damaged, commitments need to translate into action. A multi-layered approach, operating from a sub-regional to a global scale, has been suggested as the way to effectively protect the high seas. Such an approach would not focus solely on fishing levels or pollution, but would manage human activities as a whole to ensure long-term conservation, sustainability and equitable use of the oceans.

Regular performance reviews and assessments of existing international agreements, organizations, and states in executing their high seas responsibilities, such as provided in theory by the UN Fish Stocks review conference, emerge as the logical way forward.

Governments and civil society have to face up to the major challenge of developing and delivering management systems that bring human demands in line with the high seas' capacity to give, absorb and support.

With awareness come growing demands for accountability, precautionary action and equitable

decision making. Meeting these demands will require that concerned citizens, vigilant conservation organizations, vocal scientists and visionary leaders all work together. ■

High seas health check

> Only some 0.0001% of the deep sea floor has been subject to biological investigations – more is known about the surface of the moon than about the bottom of the deep oceans.

> The majority of cold water coral reefs in the North Atlantic have been heavily damaged or destroyed by fishing activities, particularly bottom trawling.

> Five species of deep sea fishes in the Northwest Atlantic are close to extinction, declining by up to 99.6% in 26 years. Remarkably, only two of the five deep sea fish stocks are commercially targeted; the other three are netted by trawlers as unintended "bycatch".

> The value of marine ecosystem goods and services, in addition to traditional human uses like transportation, resource extraction and waste disposal, was estimated in 1998 at nearly US\$20.9 trillion a year, approximately 63% of the total estimated value of all systems on Earth.

