

Implementing International Law and Policy to Combat Marine Corruption: How Can African Coastal Cities Help?

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Abstract

Oceans are central to the healthy functioning of the Earth's biosystem, contributing to climate stability and harbouring valuable food resources. Marine corruption is one of the greatest threats to the healthy functioning and conservation of marine resources. Since local authorities offer many viable solutions to some of the problems associated with rapid urbanisation and globalisation, such as marine corruption, it is argued that states should work with their coastal cities to control corruption and improve the sustainable use of marine resources. This article explores how African coastal cities can contribute to the implementation of international law and policy to combat marine corruption. African regional law provides that cities should have sufficient autonomy to regulate and manage their local affairs. It is also argued that because of the nature of marine corruption, coastal cities are in the best position to contribute to addressing it. This means that national governments, at least from the perspective of African regional law, should grant coastal cities the necessary powers and capacities to do so. The article discusses the measures under international law that can be used to control marine corruption. These measures include those contained in anti-corruption laws and those primarily aimed at the sustainable use of marine resources. A case study of Walvis Bay, in Namibia, is used to show what coastal cities can do to control marine corruption.

Keywords: Marine corruption; illegal, unreported and unauthorised fishing; coastal cities; international law; marine resource harvesting

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Introduction

Oceans are central to the healthy functioning of the Earth's biosystem.¹ They contribute to climate stability and harbour valuable food resources.² The management and conservation of the oceans, seas and marine resources are among the international community's priorities for sustainable development, as demonstrated by the United Nations Sustainable Development Goals (SDGs) 2, 14 and 13.³ Corruption is one of the greatest threats to the healthy functioning and conservation of marine resources.⁴ It contributes to the overexploitation of marine resources, which threatens marine biodiversity and destabilises the fragile balance of marine ecosystems, spreading to the entire ocean ecosystem.⁵ Moreover, marine corruption diminishes the fishing communities' ability to benefit adequately from local fishing activities and in some cases leads to a complete deterioration of livelihoods supported by fishing activities.⁶ For local authorities (in this article, the terms 'local authorities', 'local governments', 'cities' and 'municipalities' are used interchangeably), corruption in fisheries has an impact on local economies, conservation management, resource extraction licensing, resource use and harvesting, monitoring and enforcement.⁷

Marine corruption has an adverse impact on municipalities; therefore, it is important to note that cities have the potential to develop solutions to global challenges such as corruption, partly because of their proximity to communities.⁸ In the past, local authorities have provided many potent solutions to some of the problems associated

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- 1 This research was conducted with the financial support of the National Research Foundation of South Africa (NRF) (Grant No. 115581). All viewpoints and errors are the author's own. The author wishes to extend her gratitude to Ms Melandri Steenkamp and Dr Felix Dube for their diligent review of earlier versions of this paper.
 - 2 United Nations, Transforming Our World: The 2030 Agenda for Sustainable Development GA Res 70/1 (2015) SDG 14, which relates to the conservation and sustainable use of the oceans, seas and marine resources for sustainable development.
 - 3 *ibid.* Where SDG 2 relates to ending hunger, achieving food security, improving nutrition, and promoting sustainable agriculture, and where SDG 13 relates to taking urgent action to combat climate change and its impacts.
 - 4 Eréndira Aceves-Bueno, Andrew J Read, and Miguel A Cisneros-Mata, 'Illegal Fisheries, Environmental Crime, and the Conservation of Marine Resources' (2021) 35(4) Conservation Biology 1124; Cheryl W Gray and Daniel Kaufmann, 'Corruption and Development' (1998) 35(001) Finance and Development 8.
 - 5 Ussif R Sumaila, Jennifer Jacquet, and Allison Witter, *Corruption, Natural Resources and Development* (Edward Elgar 2017) 99.
 - 6 Quentin Hanich and Martin Tsamenyi, 'Managing Fisheries and Corruption in the Pacific Islands Region' (2009) 33(2) Marine Policy 386.
 - 7 Andre Standing, *Corruption and Industrial Fishing in Africa* (CHR Michelsen Institute 2008).
 - 8 Barbara Oomen and Moritz Baumgätel, 'Frontier Cities: The Rise of Local Authorities as an Opportunity for International Human Rights Law' (2018) 29 European Journal of International Law 614; Agnieszka Szpak, 'The Growing Role of Cities and Their Networks in the International Relations and International Security' (2016) 52 Athenaeum: Polish Political Science Studies 65.

with rapid urbanisation and globalisation.⁹ This means cities can complement national governments' efforts to address global challenges, including corruption.¹⁰ Communities are more accepting of international agendas when cities actively contribute to them.¹¹ Scholars have also noted that cities have the capacity to 'get things done' and can therefore play a crucial role in localising international law, policy, standards and agendas.¹² It could thus be argued that states need to work in partnership with their coastal cities to combat corruption and improve the sustainable use of marine resources. Therefore, this article argues that cities have the capacity to contribute to controlling marine corruption.

Moreover, this article identifies and examines how African coastal cities can potentially use measures set out in international and regional law and policy to help national governments control marine corruption. The first section defines corruption and discusses its nature, and how it manifests in the use of marine resources. The second section shows, from an African regional law perspective, the degree of autonomy African coastal cities should have to administer and manage affairs that affect them, including controlling marine corruption. While it is established that African cities currently have different powers and autonomy, it is argued that each African coastal city should be empowered to contribute to the control of marine corruption. The third section examines international laws and policies to establish the measures they contain that African coastal cities may use to help control marine corruption. These instruments include those specifically dedicated to combating corruption and those that primarily aim to promote sustainable harvesting of marine resources or preventing illegal, unreported and unregulated fishing. The final section concludes and makes recommendations.

Marine Corruption and its Manifestations

Various disciplines in many countries and regions have studied corruption for many years.¹³ The prevailing understanding of corruption in legal scholarship is that it

9 Janne Nijman, 'The Future of the City and the International Law of the Future' (2011) FICHL Publication Series 217; Szpak (n 8) 56.

10 Oomen (n 8) 607, 608; Nijman (n 9) 217; Szpak (n 8) 56; Helmut P. Aust, 'Cities as International Legal Authorities: Remarks on Recent Developments and Possible Future Trends of Research' (2020) 4 *Journal of Comparative Urban Law and Policy* 83.

11 Oomen (n 8) 608.

12 Nijman (n 9) 217.

13 Transparency International 2020 <<https://www.transparency.org/en/what-is-corruption>> 9 October 2021; Giorgio Blundo and Jean-Pierre O. De-Sardan, *Everyday Corruption and the State* (Bloomsbury Publishing 2008); Elizabeth Grobler and Sandra J Joubert, 'Corruption in the Public Sector: The Elusive Crime' (2004) 17(1) *Acta Criminologica* 90; Trevor Budhram, 'The Role of Investigative Ethics and Good Governance in Addressing Corruption' (2018) 53 *Journal of Public Administration* 123; Kwandile Kondlo, 'Making Participatory Governance Work-Re-Inventing IZimbizo Forums in South Africa' (2010) 45 *Journal of Public Administration* 325; Hendri Kroukamp, 'Corruption in South Africa With Particular Reference to Public Sector Institutions: the

involves the abuse of entrusted power to obtain illicit benefits (personal or otherwise).¹⁴ International law and policies such as the United Nations Convention Against Corruption (UNCAC)¹⁵ and the African Union Convention Preventing and Combating Corruption (AUCPCC)¹⁶ define corruption by listing specific acts which constitute corruption.¹⁷ Such acts include, but are not limited to, soliciting or accepting a bribe of any kind, any act or omission by a public official to improperly obtain an advantage, diversion of state property, illicit enrichment, use or concealment of the proceeds of corruption and engaging in or attempting to engage in any of these acts as a principal, co-principal, agent, instigator or accomplice.¹⁸

When one tries to interpret corruption, one often stumbles over conceptual difficulties, which include the secretive nature of corruption.¹⁹ Those who are not involved in corruption are often unable to appreciate its inner workings, leading to the presentation of oversimplified definitions.²⁰ Yan and Graycar posit that corruption is not a monolithic concept that occurs in a single form in a particular place and time, but it changes according to place, people, industries and contexts.²¹ Subsequently, corruption should be seen as contextual, meaning that it is described with reference to the moral and ethical values of a particular community.²²

Therefore, it may be beneficial to consider corruption in the context of marine resource harvesting. The idea is not to advance an argument for the recognition of marine corruption as a specific form of corruption, but rather to show the nuances of corruption in this specific context. To distinguish other crimes from corruption, particular emphasis is placed on the misuse or abuse of a position of trust.²³ Misuse or abuse could be described as taking advantage of a position of trust or power to gain an advantage

Evil of All Evils' (2006) (si-1) *Journal of Public Administration* 208; Funeka April and Mokoko Sebola, 'A Comparative Analysis of Corruption in South Africa and China: Evidence from the Application of Governance Theory' (2016) 46(3) *African Insight* 85; Adeoye O Akinola and Ufo O Uzodike, 'Combating or Condoning Corruption? The Two Faces of Anti-Corruption Agencies' (2014) 3(1_2) *Ubuntu: Journal of Conflict and Social Transformation* 38; and Corruption Watch 2020 <<https://www.corruptionwatch.org.za/learn-about-corruption/what-is-corruption/our-definition-of-corruption/>> accessed 7 October 2021.

14 *ibid.*

15 (2003) 43 *ILM* 5.

16 (2004) 43 *ILM* 1.

17 Articles 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27 and 28 of the UNCAC; Articles 1 and 4 of the AUCPCC.

18 Article 4(1) of the AUCPCC.

19 Charles Fombad and Nico Steytler (eds), *Corruption and Constitutionalism in Africa* (Oxford University Press 2020).

20 *ibid.*

21 Yifei Yan and Adam Graycar, 'Exploring Corruption in Fisheries' (2020) 44(2) *Natural Resources Forum* 185.

22 As (n 13).

23 Johandri Wright, 'Legal Perspectives on the Prevention and Minimisation of Corruption for Sustainability in South African Municipalities' (DPhil thesis, North-West University 2021).

(profit) that is not one's due.²⁴ Another approach would be to define 'abuse' according to a given set of rules (laws, regulations, codes of conduct, guidelines and other informal rules of the respective institution).²⁵ These rules are generally used to distinguish between acceptable behaviour and corruption or other crimes.²⁶ In the context of marine resource harvesting, a person in a position of trust can be seen as anyone who has the means to extract marine resources. Misusing this position of trust means not ethically exercising responsibility²⁷ related to fishing. Moreover, it signifies contravening fishing and any other laws, policies and regulations aimed at conserving or managing marine resources. When one considers many of the scholarly and legal definitions of corruption, marine corruption can be viewed as abusing a position of power to obtain an advantage to which one is not normally entitled by violating the formal and informal rules governing marine resource management and conservation.²⁸

Previous research has highlighted the nature of corruption in the exploitation of marine resources (including fisheries), the forms in which it can manifest itself and the impact it can have on the overall well-being of the marine biome.²⁹ Studies have shown that corruption takes many forms and includes the payment of bribes, non-compliance with international agreements by state governments, statistical misconduct, labour law violations, labelling fish as other species, exceeding legal catch quotas, smuggling, piracy, classifying catches inappropriately and false reporting.³⁰ For example, according to statistics, in the United States, almost one-third of all seafood is mislabelled and sold as a different species.³¹ Other practices of mislabelling include wrongfully labelling fish

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- 24 Mark Philp, 'Peacebuilding and Corruption' (2008) 15(3) *International Peacekeeping* 313. One such example could be when an illicit price is charged for an item or service as in Grobler and Joubert (n 14) 91. Stealing time, for example, when an employee does not show up for work but still collects their pay cheque as in Rema Hanna, Sendhi Mullainathan, and Rema Banerjee, 'Corruption' (2012) *Harvard Kennedy School of Government* 6; Philp (n 24) 313; the Indian Penal Code as cited in Rual Carvajal, 'Large-scale Corruption: Definition, Causes, and Cures' (1999) 12(4) *Systemic Practice and Action Research* 339; Budhram (n 13) 123.
- 25 Carvajal (n 24) 339; Philp (n 24) 313; Hanna (n 24) 6; Peter C Kratcoski and Maximilian Edelbacher, (eds) *Fraud and Corruption: Major Types, Prevention, and Control* (Springer 2018).
- 26 Philp (n 24) 313; Kratcoski (n 25) 23.
- 27 Lam and Pauly summarise the ethical responsibility that must be exercised in fishing as an evolving social contract for ethical fisheries among governments, citizens and businesses which must couple both legal and moral rights to sustain fisheries and conserve marine resources for present and future generations. Mimi Lam and Daniel Pauly, 'Who is Right to Fish? Evolving a Social Contract for Ethical Fisheries' (2010) 15(3) *Ecology and Society* 16.
- 28 Sumaila (n 5) 93 and see also note 14.
- 29 Sumaila (n 5) 98.
- 30 Brooke Zanetell and Barbara Knuth, 'Bribing Biodiversity: Corruption, Participation, and Community-Based Management in Venezuela' (2002) 18(2) *Journal of Rural Social Sciences* 131; Sumaila (n 5) 94; Yan (n 21) 177; Aksel Sundström, 'Corruption and Violations of Conservation Rules: A Survey Experiment with Resource Users' (2016) 85 *World Development* 74; Standing (n 7) 9, 10, 16, 19; Hanich (n 6) 388; OECD *Foreign Bribery Report 2014: An Analysis of the Crime of Bribery of Foreign Public Officials* (OECD 2014).
- 31 Sumaila (n 5) 98.

or seafood as ‘wild’ even though it has been farmed, or paying bribes to obtain certificates that entitle fisheries to label their fish as ‘sustainably caught.’³²

Marine corruption occurs at international, regional and national levels.³³ An example of marine corruption at an international level is Japan’s admission to having paid bribes to the governments of poor states to support its pro-whaling policy in the International Whaling Commission in 2001.³⁴ This shows how corrupt practices can influence international policy negotiations. Other examples of international corrupt practices in fisheries include vessels sailing under Flags of Convenience³⁵ to avoid inspections and paying taxes, and circumventing labour regulations.³⁶ As a result, these vessels often pay inadequate wages or engage in poor labour practices, which range from subjecting seafarers to poor living conditions to leaving them in foreign ports when fishing is no longer profitable.³⁷ Furthermore, marine corruption also manifests itself when governments of developed countries conclude agreements with developing and poor countries to gain access to fisheries. Such agreements are to the detriment of developing and poor countries.³⁸ These examples show that corruption in fisheries is of a cross-border nature.³⁹

Corruption can also be isolated or systemic in a specific sector. One can determine whether corruption is systemic by asking whether corruption is the norm or the exception, in other words: Is corruption common in the context in question?⁴⁰ When one states that corruption is the norm, one is saying that corruption is embedded and systemic in this context.⁴¹ After an empirical study of systemic corruption in the fishing industry, Nunan concluded that where corruption is embedded and institutionalised, it should be tackled through collective action.⁴² This study was published in 2018 and collected data based on 133 qualitative interviews from the Lake Victoria fishing area.⁴³

32 Sumaila (n 5) 98; OECD (n 30) 31.

33 Sumaila (n 5) 95; OECD (n 30) 31.

34 Sumaila (n 5) 95.

35 Flags of Convenience is a business practice in which a ship’s owners register a merchant ship in a ship register of a country other than that of the ship’s owners, and the ship flies the civil ensign of that country called the flag state, helping the owner avoid regulations of the owner’s country which may, for example, have stricter safety standards. Sumaila (n 5) 94.

36 Sumaila (n 5) 94; Yan (n 21) 186.

37 Sumaila (n 5) 94; OECD (n 30) 21.

38 Sumaila (n 5) 96; OECD (n 30) 21.

39 Sumaila (n 5) 94.

40 Yan (n 21) 186; Nunan Fiona and others ‘Compliance, Corruption and Co-management: How Corruption Fuels Illegalities and Undermines the Legitimacy of Fisheries Co-Management’ (2018) 12(2) *International Journal of the Commons* 73.

41 *ibid.*

42 Nunan (n 40) 73, 67.

43 *ibid.*

In some instances, even law enforcement agencies and the judiciary were found to be involved in marine corruption.⁴⁴

The far-reaching effects of marine corruption have briefly been outlined in the introduction.⁴⁵ Corruption severely limits a government's ability to manage marine resources effectively.⁴⁶ For example, licensing plays a crucial role in enabling governments to control fisheries and promote sustainable fisheries. Licences such as fishing licences are instruments of control that help to regulate the quantity of resources people may harvest during a given period.⁴⁷ State governments, which include coastal cities, are often perceived as trustees or custodians of the community's natural resources and are mandated to manage them on behalf of the communities for the common good. Corruption, however, facilitates an administration of resources that only benefits the interests of a few, which is sometimes referred to as 'gatekeeping.'⁴⁸

Practices such as mislabelling, statistical misconduct, or misreporting have resulted in a significant decline in the scientific studies used to set fishing quotas, marine conservation efforts and so forth.⁴⁹ These practices give marine biologists false data and a deceptive picture of the state of marine resources.⁵⁰ This could lead to, among other things, overfishing. For example, China's fisheries authorities have manipulated national statistics that—contrary to accurate world statistics—have given the impression that global fish catches are declining.⁵¹ Furthermore, since 2001, China's fisheries data has falsely reported shark fins as shark meat, giving the illusion that imports of shark fins have been halved.⁵²

According to some scholars, corruption encourages overfishing, slavery, child labour and organised crime, while exacerbating environmental challenges such as climate change, ocean acidification and biodiversity loss.⁵³ Marine corruption is widespread and enables slavery and child labour in the processing plants, which has brought some controversy to the shrimp industry.⁵⁴ Sumaila and Jaquet have proved that many children work in the shrimp industry despite the legal protections that international law

44 *ibid.*

45 Sundström (n 30) 73; Pedro Fidelman and others, 'Coalition Cohesion for Regional Marine Governance: A Stakeholder Analysis of the Coral Triangle' (2014) 95 *Ocean and Coastal Management* 117.

46 Hanich (n 6) 386.

47 *ibid* 388.

48 Sumaila (n 5) 96.

49 Fidelman (n 45) 117; Sumaila (n 5) 99; Yan (n 21) 177.

50 Sumaila (n 5) 99; Yan (n 21) 177.

51 *ibid.*

52 *ibid.*

53 Yan (n 21) 177; Sumaila (n 5) 96; Fidelman (n 45) 117; Sundström (n 30) 73.

54 Sumaila (n 5) 96.

such as the Convention on the Rights of the Child⁵⁵ provides them.⁵⁶ The next section shows the ambitions of African regional law relating to the autonomy of cities, including combating corruption.

Powers of African Cities as Envisioned by African Regional Law

Why should African cities have some degree of autonomy to manage their local affairs? States often find themselves in a political deadlock, power struggles, or other governance-related crises.⁵⁷ As a result, many international obligations concerning the welfare of communities—such as addressing climate change, promoting sustainable fishing practices and controlling corruption—are put on hold.⁵⁸ The concentration of power states hold sometimes contributes to their failure to fulfil their international obligations and meet communities’ needs.⁵⁹ This has led to international organisations such as the World Bank investing in local authorities because of their contribution to promoting international agendas.⁶⁰

Cities can help solve many global problems but have been stranded in the failure of states.⁶¹ In realising their potential, local governments have improvised some methods to contribute to the solutions to international challenges such as marine corruption.⁶² The systemic and transboundary nature of marine corruption requires states and coastal cities to work together to reduce global opportunities for corruption. Moreover, it may also be argued that corruption is so embedded in certain states that elaborate corrupt networks are prevalent in all sectors of their national governments, paralysing their ability to control maritime corruption.⁶³

African regional law—particularly in the African Charter on the Values and Principles of Decentralisation, Local Governance and Local Development—⁶⁴envisions local authorities equipped with powers and autonomy that would enable them to contribute meaningfully to solving some international challenges at a local level. African regional

55 United Nations Convention of the Rights of the Child (1989) 28 ILM 1448.

56 Sumaila (n 5) 93.

57 Oomen (n 10) 608; Szpak (n 8) 62.

58 Oomen (n 10) 608; Chrystie Swiney, ‘The Urbanization of International Law and International Relations: The Rising Soft Power of Cities in Global Governance’ (2020) 41 *Michigan Journal of International Law* 227.

59 Szpak (n 8) 65.

60 Szpak (n 8) 65; Andrew Bodiford, ‘Cities in International Law: Reclaiming Rights as Global Custom’ (2020) 23 *CUNY Law Review* 30.

61 Richard B Bilder, ‘The Role of States and Cities in Foreign Relations’ (1989) 83(4) *The American Journal of International Law* 821; Bodiford (n 60) 30; Swiney (n 58) 227.

62 Bodiford (n 60) 22; Shanna Singh, ‘Brandeis’s Happy Incident Revisited: US Cities as the New Laboratories of International Law’ (2005) 37 *George Washington International Law Review* 540; Nijman (n 9) 222.

63 Sumaila (n 5) 94.

64 African Charter on the Values and Principles of Decentralisation, Local Governance and Local Government (2011) <<https://bit.ly/3yqQJ9f>> accessed 7 October 2021.

law provides for state parties to devolve power, responsibility and resources to local authorities to promote public participation in local governance and improve the quality of service delivery.⁶⁵ Where local authorities are better able to manage certain matters efficiently, central governments should create the conditions for local authorities to do so.⁶⁶ To direct and manage their local affairs, local authorities must be empowered to enact by-laws and policies, and develop and implement programmes.⁶⁷ When local authorities exercise their functions and powers at a local level, they must support and comply with regional or international treaties states acceded to.⁶⁸ Therefore, if African coastal cities are in a good position to fight marine corruption, partly because of their proximity to communities, then their national governments should give them the opportunity to do so. National governments can achieve this by enacting national laws and regulations that recognise and establish different levels of government, each with its own mandate and prescribed powers.⁶⁹

States have to adopt national legislation and other measures which authorise local authorities to mobilise and disburse resources to promote local economic development.⁷⁰ This may include making provisions to transfer to local authorities a portion of the revenue raised at a national level.⁷¹ Local authorities should then subject themselves to national law accountably and transparently, and have the power to manage their administration and finances through democratic executive institutions.⁷² One can thus say that coastal cities may then have the power to decide how they will spend their money, that is, fund anti-corruption efforts. On the other hand, local authorities must accountably and transparently manage and administer local and other resources under their control.⁷³

From the perspective of African regional law, it can be said that the African community envisions cities having sufficient autonomy to administer and manage specific local affairs. It is also argued that because of the nature of marine corruption, coastal cities are in a good position to contribute to addressing it. This means that national governments, at least from the perspective of African regional law, should grant coastal cities the necessary powers and capacities to do so.

65 Article 1 of the African Charter (n 64).

66 Article 6(1) of the African Charter (n 64).

67 Articles 5(2) and 9(1) of the African Charter (n 64).

68 Article 9(2) of the African Charter (n 64).

69 Article 5(1) of the African Charter (n 64).

70 Article 7(1) of the African Charter (n 64).

71 Article 7(2) of the African Charter (n 64).

72 Article 5(2) of the African Charter (n 64).

73 Articles 7(4) and (5) of the African Charter (n 64).

International Law to Combat Corruption and Promote Sustainable Marine Harvesting

From the 1990s, the global community began to move away from the common perception that corruption can be a means of overcoming bureaucratic hurdles to economic growth.⁷⁴ A variety of legal instruments that indicate a movement towards complete intolerance of corruption have since been developed. In the context of marine corruption, there is an extensive international framework consisting of laws and policies aimed at promoting the sustainable use of marine resources and controlling marine corruption. It is argued that international instruments promoting the sustainable use of marine resources contribute indirectly to the prevention of marine corruption. If marine resources are used sustainably and meticulously in accordance with the provisions of these instruments, then they will not fall prey to corruption. Whereas international anti-corruption laws contribute more directly to the overall fight against marine corruption, the fact that not all African states signed or ratified these international instruments is not disputed. However, it is argued that these international instruments all contain potent measures that can be used to prevent and control marine corruption and that they should, at a minimum, be considered as guiding standards which African states and their cities should aspire to implement. The following discussion—divided into two parts—provides a more complete picture of the international instruments that can be used to combat marine corruption.

International Anti-corruption Law and Policy

The international legal landscape on anti-corruption consists of about fifteen instruments. The most important instruments relevant to African coastal cities are the UNCAC,⁷⁵ the United Nations Convention Against Transnational Organised Crime,⁷⁶ the OECD Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions,⁷⁷ the AUCPCC⁷⁸ and the SADC Protocol Against Corruption.⁷⁹ Since the focus of this article is on the contribution that local authorities

74 Sumaila (n 5) 93.

75 (2003) 43 ILM 5.

76 (2001) 40 ILM 335.

77 (1998) 37 ILM 1.

78 (2004) 43 ILM 1.

79 (2001) <<https://bit.ly/2VFRigI>> accessed 7 October 2021. Other regional legal instruments which may be used to combat corruption include the African Charter on the Values and Principles of Public Service and Administration (2011) <<https://bit.ly/3yqQJ9f>> accessed 7 October 2021; the African Charter on the Values and Principles of Decentralisation, Local Governance and Local Democracy (2011) <<https://bit.ly/3yqQJ9f7>> accessed 7 October 2021; the African Charter on Democracy, Elections and Governance (2014) <<https://bit.ly/3fCBC5a>> accessed 7 October 2021; the European Union Convention Against Corruption Involving EU Officials or Officials of EU Countries 37 ILM 12 (1998); the Civil Law Convention on Corruption (1999) EUR/TS/174; the Criminal Law Convention on Corruption (1999) EUR/TS/173; The Twenty Guiding Principles for the Fight Against Corruption (1997); the Inter-American Convention Against Corruption (1996) 35 ILM 724; the ASEAN Political-security Community Blueprint 2025 <<https://bit.ly/2VxpV8K>> accessed 15

can make in combating marine corruption, the relevant international instruments are discussed from the perspective of cities.

On the front of specific international anti-corruption law, several measures to control corruption in fisheries can be observed. Reforms of the public services in cities that contribute to enforcing and regulating fishing practices will help prevent and control marine corruption in fisheries licensing, permitting and administrative regulation.⁸⁰ These reforms may include encouraging compliance with licensing and permit requirements and simplifying the collection of application and related fees.⁸¹ Administrative decisions can further be made subject to a form of public participation which will increase the legitimacy of the cities' decisions among fishermen.⁸² Other measures that coastal cities can consider are improving access to information, promoting anti-corruption education, improving public participation, working with the media and establishing an anti-corruption agency.

Information such as details of fishing licences and access to fishing stock agreements may be made public to promote transparency and accountability in fisheries regulation.⁸³ A legal and policy framework that facilitates access to such information from coastal cities is an important factor in preventing marine corruption.⁸⁴ Access to information in this context refers to the free flow and accessibility of information on fishing issues.⁸⁵ It translates into people being able to 'look into something, to see what is going on.'⁸⁶ Improving access to information can be seen as a key component of transparency as it requires local authorities to disclose their rules, regulations, administrative decisions and the reasons behind them.⁸⁷ Local authorities can improve

September 2021; and the Arab Convention Against Corruption (2010) <<https://bit.ly/3AkYpum>> accessed 15 September 2021.

80 Sumaila (n 5) 101; Article 5(1) of UNCAC; ASEAN (n 80) para 2.3; Article 4(a) of the SADC Protocol (n79); Article 10 of the Arab Convention (n 79); Principle 15 of the Twenty Guiding Principles (n 80).

81 Luka Tacconi and David Williams, 'Corruption and Anti-corruption in Environmental and Resource Management' (2020) 45 Annual Review of Environment and Resources 318; Standing (n 7) 22 to 25; Hanich (n 6) 391.

82 Article 10 of the UNCAC; A 7(2) of the United Nations Organized Crime Convention (n 77); Article 9 of the AUCPCC; Article 4(d) of the SADC Protocol (n 80); and Article 14 of the Arab Convention (n 79).

83 Wright (n 23) 94; Article 10 of the UNCAC; Article 7(2) of the United Nations Organized Crime Convention (n 77); Article 9 of the AUCPCC; Article 4(d) of the SADC Protocol (n 80); Article 14 of the Arab Convention (n 79).

84 Article 13 of the UNCAC; Wright (n 23) 102.

85 Heungsik Park and John Blenkinsopp, 'The Roles of Transparency and Trust in the Relationship Between Corruption and Citizen Satisfaction' (2011) 77(2) International Review of Administrative Sciences 256; Wright (n 23) 103.

86 Catharina Lindstedt and Daniel Naurin, 'Transparency is Not Enough: Making Transparency Effective in Reducing Corruption' (2010) 31(3) International Political Science Review 304; Wright (n 23) 103.

87 Ronald Mitchell, 'Sources of Transparency: Information Systems in International Regimes' (1998) 42(1) International Studies Quarterly 110; Lindstedt (n 87) 304; Wright (n 23) 104.

the availability of information by putting in place simple and straightforward procedures to enable the public to obtain information on governance issues, and in this case, information related to marine resource management and conservation.⁸⁸

Providing information only on request may not be sufficient to promote transparency in marine management issues.⁸⁹ Law and policy should encourage local authorities to proactively disclose relevant information on fisheries, such as quotas, fishing agreements, licences etc.⁹⁰ For communication efforts to be effective, this information should be published on platforms and in a format that would have a reasonable chance of reaching the public, particularly local fishermen.⁹¹ The media could also be approached to get information out to the public.⁹² Local authorities can use policies to establish official communication channels through which the public can access such reports.⁹³

Measures should be taken to strengthen civil society and promote a culture that rejects corruption in any form.⁹⁴ International and regional instruments, therefore, strongly encourage states to take action to raise awareness and educate civil society about corruption, its effects and how to combat it.⁹⁵ They can educate the public about the role ordinary citizens can play in preventing corruption and address issues such as where and how to report it.⁹⁶ This is perhaps where coastal cities can make the greatest contribution to controlling corruption because they are often familiar with the community. This is so because municipal officials, generally, know the effective methods of communication that communities accept.

Through awareness and communication campaigns, governments can facilitate public identification with the anti-corruption agenda, and in particular with the fight against marine corruption.⁹⁷ Public support can be gained by ensuring that the community is aware of the state's vision and mission on corruption.⁹⁸ Local by-laws and policies may set out procedures for public hearings to be used to highlight corruption prosecutions and uncover areas where procedures, laws and policies can be improved.⁹⁹ The visibility

88 Article 10 of the UNCAC; Wright (n 23) 103.

89 Park (n 85) 256; Wright (n 23) 103.

90 *ibid.*

91 Lindstedt (n 86) 302; Wright (n 23) 103.

92 Article 12 of the AUCPCC; Article 4(i) of the SADC Protocol (n 80); Article 13 of the UNCAC; Wright (n 23) 103.

93 Article 10 of the UNCAC; Wright (n 23) 103.

94 *ibid.*

95 Principle 1 of the Twenty Guiding Principles (n 79); Article 5(8) of the AUCPCC; Article 4(j) of the SADC Protocol (n 79); UNDP Institutional Arrangements to Combat Corruption: A Comparative Study (UNDP 2015) 37, 38; Wright (n 23) 112.

96 *ibid.*

97 Rudy Harahap, *Strategies for Preventing Corruption in Indonesia* (Asia Pacific Press 1999); UNDP (n 95) 47; Wright (n 23) 112.

98 UNDP (n 95) 97; Wright (n 23) 112.

99 UNDP (n 95) 33, 34; Wright (n 23) 112.

of other anti-corruption efforts, such as the publication of reports on corruption investigations, can further strengthen public confidence.¹⁰⁰ Furthermore, it is necessary that education and communication efforts promote integrity, honesty and the ethical responsibility of fishing among the youth because it is vital for the next generation to know the value of continuous anti-corruption efforts.¹⁰¹

In addition to raising public awareness and education, by-laws and policies, participatory governance can be used to enable the public to evaluate government action and expose corruption.¹⁰² Participatory governance is based on the premise that an informed public is better able to recognise signs of corruption and hold those responsible to account.¹⁰³ It ‘seeks to deepen citizen participation in the governmental process.’¹⁰⁴ National and local legislation and policies should therefore reflect the reality that the public is an integral part of any anti-corruption agenda.¹⁰⁵

Guaranteeing media freedom to report on the state or other activities is another means of strengthening civil society.¹⁰⁶ The media is a valuable stakeholder, especially in spreading anti-corruption messages and reporting on or exposing suspected cases of corruption.¹⁰⁷ Governments, including coastal cities, should therefore ensure that they welcome and nurture this partnership.¹⁰⁸ However, the media should not be seen as a substitute for personal contact between local authorities and the community.¹⁰⁹ Personal contact plays a central role in creating awareness of local reporting mechanisms.¹¹⁰ In Hong Kong, for example, a network of offices was set up to maintain direct contact with the various groups in the community.¹¹¹ These offices are the contact points between the local authorities and the community and provide information and serve as reporting

100 Arnold Heidenheimer and Michael Johnston, (eds) *Political Corruption: Concepts and Context* (Transaction Publishers London 2002); UNDP Institutional Arrangements to Combat Corruption: A Comparative Study 57; Wright (n 23) 112.

101 UNDP (n 95) 47; Principle 1 of the Twenty Guiding Principles (n 80); Wright (n 23) 112.

102 Frank Fischer, *Participatory Governance: From Theory to Practice* (Oxford Press 2012); Wright (n 23) 112.

103 Michael Gilbert, ‘Transparency and Corruption: A General Analysis’ (2018) University of Chicago Legal Forum 121; Wright (n 23) 112.

104 *ibid.*

105 Jorge Florez and others, *Five Principles for Engaging Citizens in Anti-corruption Mechanisms* (Transparency International 2019) 7–10; Wright (n 23) 112.

106 Principle 16 of the Twenty Guiding Principles (n 79); Article 2(3) of the AUCPCC; Article 2(c) and 7 of the SADC Protocol (n 79); Wright (n 23) 110.

107 UNDP (n 96) 48; Principle 16 of the Twenty Guiding Principles (n 79); Wright (n 23) 110.

108 UNDP (n 96) 48; Wright (n 23) 110.

109 *ibid.*

110 *ibid.*

111 *ibid.*

centres.¹¹² As with good governance, platforms can be created to share best practices and experiences in preventing marine corruption.¹¹³

Another important strategy to control corruption is establishing anti-corruption agencies or ombudsman offices that are accessible to the public, where marine corruption can be reported.¹¹⁴ Local authorities may establish institutions that complement the functions of national anti-corruption institutions.¹¹⁵ It is increasingly being argued that in order to prevent and control corruption, the fight against it should rather be carried out at the local level because:¹¹⁶

- widespread corruption is present in the provision of local services;¹¹⁷
- decentralisation of government strengthens the powers and authority of sub-national governments, creating opportunities for innovative ways to control and prevent corruption; and¹¹⁸
- local authorities, as the level of government closest to the ground and most familiar with local communities, are better placed to fight corruption.¹¹⁹

When coastal cities consider establishing such an authority, they need to take into account that these institutions should operate independently and can carry out their tasks freely and without undue influence.¹²⁰ This independence can be enhanced by giving anti-corruption institutions the power to appoint, dismiss and train their personnel.¹²¹ Consequently, independence also means having the necessary competence to investigate and prosecute cases of corruption independently.¹²²

Anti-corruption institutions must have a clear mandate to prevent, detect, punish and eliminate corruption¹²³ because the effectiveness of an independent anti-corruption

112 *ibid.*

113 Aa 2(9) and 2(10) of the African Charter on Values and Principles of Public Service and Administration (2011) <<https://bit.ly/3yqQJ9f>> accessed 7 October 2021; Wright (n 23) 110.

114 A 5(3) of the AUCPCC; Article 4(g) of the SADC Protocol (n 79); Article 6, 13(2) and 36 of the UNCAC; Article 7(1) of the United Nations Organized Crime Convention (n 77); Article 20 of the Criminal Law Convention (n 80); Wright (n 23) 108.

115 Adam Masters and Adam Graycar, 'Making Corruption Disappear in Local Government' (2016) 18(1) *Public Integrity* 50; Wright (n 23) 108.

116 Bryane Michael and Stephen Mendes, 'Anti-corruption Law in Local Government: Legal Issues Related to Ordinance-Design and Municipal-Level Anti-corruption Agencies in Macedonia' (2012) *International Journal of Law and Management* 27; Masters (n 115) 50; Wright (n 23) 108.

117 *ibid.*

118 *ibid.*

119 *ibid.*

120 Article 13(2) and 36 of the UNCAC; Wright (n 23) 108.

121 UNDP (n 96) 47; Wright (n 23) 108.

122 *ibid.*

123 Article 4(g) of the SADC Protocol (n 79); Wright (n 23) 108.

agency depends on the scope of its mandate.¹²⁴ In Singapore, for example, the anti-corruption agency has powers to effectively investigate and punish those involved in corruption and this has contributed to its success.¹²⁵ Anti-corruption institutions should have a balanced mandate that gives equal attention to prevention, education and investigation of corruption (also referred to as a ‘three-pronged approach’).¹²⁶

In addition to a carefully balanced mandate, anti-corruption bodies should be equipped with adequate legal powers and resources.¹²⁷ Restrictions on resources have partly stifled anti-corruption efforts in the past.¹²⁸ Coastal cities should thus ensure that the anti-corruption institutions that they might establish have access to resources such as specialised personnel and infrastructure they may need to fulfil their mandate.

It is desirable that all state agencies and stakeholders support any anti-corruption institutions.¹²⁹ Not all local authorities have the resources and capacity to set up their own anti-corruption agencies.¹³⁰ In this case, local authorities can support national anti-corruption institutions, which may involve sharing relevant information.¹³¹ Shared responsibility should be fostered to ensure a culture that rejects corruption.¹³² Among other things, this argues for a coordinated government approach to fighting corruption.

International Law and Policy Promoting Sustainable Use of Marine Resources

There are thirty-six international legal instruments, 206 regional conventions and policies and eighty-seven bilateral agreements dealing with issues involving marine

124 Alan Doig and Stephen Riley, ‘Corruption and Anti-corruption Strategies: Issues and Case Studies from Developing Countries’ (1998) 45 *Corruption and Integrity Improvement Initiatives in Developing Countries* 46; UNDP (n 96) 76, 80; Wright (n 23) 108.

125 UNDP (n 96) 76, 80; Wright (n 23) 108.

126 Gabriel Kuris, ‘Comparing Peer-based Anti-corruption Missions in Kosovo and Guatemala’ (2019) 6 *U4 Issue Briefs* 17; UNDP (n 95) 33, 34, 37, 38, 62; Wright (n 23) 108.

127 Roger Tangri and Andrew Mwenda, ‘Politics, Donors and Ineffectiveness of Anti-corruption Institutions in Uganda’ (2006) 44(1) *Journal of Modern African Studies* 103; UNDP (n 95) 47; Wright (n 23) 108.

128 Viothan Naidoo, ‘The Politics of Anti-corruption Enforcement in South Africa’ (2013) *Journal of Contemporary African Studies* 525; UNDP (n 95) 33, 34, 52; Wright (n 23) 108.

129 Article 13 of the UNCAC; Article 2(3) of the AUCPCC; Article 2(c) and 7 of the SADC Protocol (n 79); UNDP (n 95) 52; Wright (n 23) 108.

130 UNDP (n 95) 33; Wright (n 23) 108.

131 *ibid.*

132 *ibid.*

resource conservation,¹³³ sustainable fishing practices,¹³⁴ trading in fish stocks,¹³⁵ fair labour practices within fisheries¹³⁶ and the prevention of illegal,¹³⁷ unreported and unregulated fishing (the footnotes provide examples of these international instruments).¹³⁸

International legal instruments prescribing sustainable fishing practices have the primary objective to conserve and manage marine resources.¹³⁹ These instruments aim to maintain or restore populations of exploited marine species at levels that provide the highest sustainable yield, taking into account relevant local ecological and economic factors.¹⁴⁰ However, these international instruments may also indirectly contribute to preventing and combating marine corruption by prescribing how marine resources must be managed and by implication, prohibiting management practices that would allow or facilitate corruption.

It is argued that marine corruption is closely linked to illegal, unreported and unregulated (IUU) fishing. Therefore, IUU fishing cannot be conducted without

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- 133 Convention on Biological Diversity 31 ILM 818 (1992); Convention on Fishing and Conservation of Living Resources of the High Seas 559 UNTS 285 (1966); Convention on the Conservation of Migratory Species of Wild Animals 19 ILM 15 (1980); Food and Agriculture Organisation (FAO), 'Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas' 2221 UNTS 91 (1993); FAO, 'International Plan of Action for the Conservation and Management of Sharks', Rome, Italy (1999); and FAO, 'International Plan of Action for the Management of Fishing Capacity', Rome, Italy (1999).
- 134 Convention on International Trade in Endangered Species of Wild Fauna and Flora 993 UNTS 243 (1975); Convention of the High Seas 40 UNTS 11 (1962); Code of Conduct for Responsible Fisheries (1995); United Nations Agreement for the Implementation of the Provision of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks 34 ILM 1542 (1995); and United Nations Convention on the Conditions for the Registration of Ships 26 ILM 1261 (1982).
- 135 International Convention on the Harmonised Commodity Description and Coding System 1503 UNTS 167 (1988); World Trade Organisation (WTO), Agreement on Import Licensing Procedures 1186 UNTS 372 (1979); WTO, Agreement on Pre-shipment Inspection <http://www.wto.org/english/docs_e/legal_e/21-psi_e.htm> accessed 28 September 2021.
- 136 International Labour Organisation (ILO), 'Accommodation of Crews (Fishermen) Convention C126' (1966); ILO, 'Convention Concerning Work in the Fishing Sector C188' (2007); ILO, 'Marine Labour Convention 45 ILM 792' (2006); and ILO, 'Minimum Age (Fishermen) Convention C112' (1959).
- 137 Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing CL 137/5 (2009) (hereafter referred to as the Agreement for IUU Fishing); FAO, 'International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing', Rome, Italy (2001) (hereafter referred to as the International Plan for IUU Fishing).
- 138 Yan (n 21) 185; Mary Palma, Martin Tsamenyi and William Edeson, *Promoting Sustainable Fisheries: The International Legal and Policy Framework to Combat Illegal, Unreported and Unregulated Fishing* (Nijhoff Publishers 2010)
- 139 See (n 134), (n 135), (n 136) and (n 137).
- 140 See (n 135).

committing corruption.¹⁴¹ Because of this close link, preventing and combating IUU fishing will also contribute to controlling marine corruption. Two instruments specifically adopted to address IUU fishing are the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. These instruments stipulate that all factors, such as corruption, that contribute to IUU fishing must be combated.¹⁴²

Similar to anti-corruption laws and policies, these two legal instruments to prevent and control IUU fishing include measures that require cooperation with state agencies and other stakeholders,¹⁴³ communication, education and raising awareness among communities,¹⁴⁴ publication and access to information,¹⁴⁵ and promotion of participatory governance.¹⁴⁶ These provisions can thus be used to supplement the corresponding measures in anti-corruption laws and policies, as they add some of the contexts for the conservation and management of marine resources. In addition to these, action plans should be adopted to set out the measures that relevant regional fisheries and stakeholder groups, including local authorities as regulators and users of marine resources, ought to take to combat, prevent and eliminate IUU fishing.¹⁴⁷ The measures that are discussed in the following section involve access to fish stocks, ports or local harbours, and market- or economic-related restrictions. States should also seek to raise awareness among all stakeholders (including consumers) about the harmful impacts of IUU fishing.

Some measures involve regulating access to fishing stocks.¹⁴⁸ Proper regulation of such stocks may not only prevent IUU fishing but also all marine corruption.¹⁴⁹ State institutions responsible for the management of marine resources should require permits for any fishing activity and keep an official register of vessels. The register can be used to help prevent issuing permits to vessels previously engaged in IUU fishing.¹⁵⁰ Coastal

141 Brooke (n 31) 131; Sumaila (n 5) 94; Yan (n 21) 177; Sundström (n 31) 74; Standing (n 7) 9, 10, 16, 19; Hanich (n 6) 388; OECD (n 31) 21; Jorge (n 105) 3.

142 Article 9(3) of the International Plan for IUU Fishing (n 138).

143 Article 6(3) of the Agreement for IUU Fishing (n 138); Article 9(1) of the International Plan for IUU Fishing (n 138).

144 Article 73 of the International Plan for IUU Fishing (n 138).

145 Article 32 of the International Plan for IUU Fishing (n 138).

146 Article 25 of the International Plan for IUU Fishing (n 138).

147 Article 24 of the International Plan for IUU Fishing (n 137). The Municipality of Walvis Bay, for example, adopted the Environmental Strategy and Action Plan for the Coastal Areas in 2003 which *inter alia* addresses the extraction of marine resources in areas that include the lagoon, their harbour and Pelican Point. The Municipality also adopted the Integrated Coastal Zone Management Plan in 2011, which more specifically deals with integrating environmental considerations into the development and management plans for the Walvis Bay Municipal coastline.

148 Article 51(7) of the International Plan for IUU Fishing (n 137).

149 Article 51 of the International Plan for IUU Fishing (n 138).

150 Article 34, 42, 44, 51(3), (4) and (8) of the International Plan for IUU Fishing (n 137).

states and their cities may require vessels to keep complete and truthful records of the catch, transshipments and processing of fish by a fishing vessel.¹⁵¹

In the second case, access to ports can be regulated.¹⁵² Vessels may be required to request authorisation to enter a port or local harbour. Such a request should involve providing information such as vessel identification, catch information and the identity of the flag state.¹⁵³ If a vessel is suspected of being involved in IUU fishing or marine corruption, the responsible authority may not permit it to enter the port, unless it grants such permission for law enforcement purposes.¹⁵⁴ Port states may not provide services such as refuelling or replenishing supplies if the vessel is involved in IUU fishing.¹⁵⁵ In addition, there are detailed rules to ensure effective inspection of fishing vessels entering ports.¹⁵⁶ Upon completion of these inspections, the competent port authorities must send a report on the results of the inspection to all parties concerned.¹⁵⁷ Many of these measures are primarily aimed at commercial fishing enterprises and national ports. However, some states may have local harbours and docks where smaller fishing operations may be conducted. These measures may then be adapted or guide local authorities on how their local docks can be managed to control IUU fishing and marine corruption.

In the third and final instance, all states can look to implement certain market-related measures. The main objective of such measures should be to prevent fish caught through IUU fishing from being traded in the state or coastal city concerned.¹⁵⁸ Coastal cities could, for example, regulate access to local street and other markets where fish products can be sold. Here one could potentially look for guidance on how cities have approached the regulation of informal markets and small businesses that sell food. A system of certification of fish and fishery products can be used to facilitate the traceability of fish and fishery products.¹⁵⁹ The international Harmonised Commodity Description and Coding System for fish and fishery products can also be adopted and implemented by States and their coastal cities.¹⁶⁰ This ensures that fish products are described consistently around the world. Tourists and members of local communities are familiar with these descriptions and are better able to make responsible consumption decisions.

151 Article 51(5) of the International Plan for IUU Fishing (n 137).

152 Article 52 of the International Plan for IUU Fishing (n 137).

153 Article 7 of the Agreement for IUU Fishing (n 137).

154 Article 9 of the Agreement for IUU Fishing (n 137).

155 Article 11 of the Agreement for IUU Fishing (n 137).

156 Part 4 of the Agreement for IUU Fishing (n 137).

157 These include the flag state of the vessel, other relevant parties, the state of which the vessel's master is a national, regional fisheries management organisation, the Farming and Agricultural Organisational, and other international bodies. A 15 of the Agreement for IUU Fishing (n 137).

158 Article 66 of the International Plan for IUU Fishing (n 137).

159 Article 69 and 76 of International Plan for IUU Fishing (n 137).

160 Article 75 of the International Plan for IUU Fishing (n 137).

The Case Study of Walvis Bay

This section highlights the Municipality of Walvis Bay by-law and policy instruments that it can use to control marine corruption. Section 111 of the Namibian Constitution empowers local authorities to manage local affairs, which includes making by-laws or regulations.¹⁶¹ National legislation, such as the Local Authorities Act 23 of 1992, sets out the individual areas of responsibility of local authorities in which they can exercise their legislative and executive powers.¹⁶² One of these areas, which is specifically relevant to controlling marine corruption, is managing natural resources, which includes marine resources.¹⁶³ This means that the Municipality of Walvis Bay can make by-laws, issue directives and make expenditure decisions concerning the regulation and management of marine resources.

In its Integrated Environmental Policy 2022 (the Policy), all the environmental objectives, which include marine resource management (the blue economy), of Namibia are highlighted, and the responsibilities as assigned by national legislation to the different levels of government are clearly set out. This shows how Walvis Bay should discharge its responsibility to manage and administer marine resources, including controlling marine corruption. In this Policy, the Municipality of Walvis Bay recognises that damage to the environment should be prevented and that activities that damage the environment should be reduced, limited or controlled.¹⁶⁴ Since marine corruption has many harmful effects on the environment, it can be said that controlling corruption is implied in this provision. The Policy also seeks to ensure sustainable consumption and production patterns of natural resources and to conserve and sustainably use marine resources.¹⁶⁵

The Policy sets out some implementation tools that it intends to use to achieve these objectives. First, the municipality commits to comply and implement existing national environmental laws, policies and regulations. Second, appropriate local by-laws, guidelines, regulations, plans and programmes will be developed. One such by-law already adopted by the Municipality is the Sea-shore By-law.¹⁶⁶ Using this by-law, Walvis Bay regulates local access to fish stocks by prohibiting the use of boats in certain areas.¹⁶⁷ The Municipality also provides for the appointment of persons to ensure that

161 The Namibian Constitution of 1990.

162 Section 30 of the Local Authorities Act 23 of 1992.

163 Paragraph 3.1 of the Integrated Environmental Policy (2022).

164 Paragraph 3.1 of the Policy (n 164).

165 Paragraph 3.2 of the Policy (n 164).

166 Walvis Bay Municipality Regulations Relating to the Control of the Sea-shore, the Sea and its Environment within or Adjoining the Area of Jurisdiction of the Municipality of Walvis Bay No 6 (2004).

167 Sections 4, 11(1)(c) and 12 of the Sea-shore By-law (n 166).

the provisions of this by-law are administered and enforced, and fines imposed where appropriate.¹⁶⁸

Third, environmental education programmes and awareness campaigns will be carried out.¹⁶⁹ The target audience of such educational programmes is learners and residents. They are designed to inform, raise awareness, foster a sense of pride in one's environment and cultivate a commitment to conserving the marine environment.¹⁷⁰ In addition, these education efforts can be used to promote the legitimacy of, and voluntary compliance with, international and other anti-corruption measures among ordinary fishermen.¹⁷¹

Education can also include efforts to create awareness of the ethical responsibility to fish sustainably and conserve marine resources for present and future generations.¹⁷² The educational activities envisioned by the Municipality of Walvis Bay can further promote the signing of the International Code of Conduct for Responsible Fisheries.¹⁷³ This Code sets out, in a non-binding manner, the international principles and standards that guide the conduct of all stakeholders towards responsible and ethical fishing.¹⁷⁴ The media platforms that the Municipality of Walvis Bay uses should consider using websites, newspapers, social media, etc. These platforms could be user-friendly to disseminate information about local fishing activities. This may include details on licences, access agreements, reported IUU fishing, remedial measures against IUU fishing and more general information on the protection of marine life.

Fourth, the Integrated Environment Policy determines that the Environmental Fund will be used to finance the design and implementation of environmental management programmes and initiatives.¹⁷⁵ The Municipality of Walvis Bay periodically selects a theme that represents a particular environmental management issue. The municipality then appoints a champion councillor and two support staff from the relevant departments to work as a team to find practical and innovative solutions to the identified problem.¹⁷⁶ Theoretically, the Municipality can choose marine corruption as the theme for one of these projects in the future.

And finally, the Policy shows that the Municipality is committed to implementing all national environmental management systems.¹⁷⁷ Incidentally, the Environmental

168 Sections 21, 22 and 23 of the Sea-shore By-law (n 166).

169 Paragraph 3.3 of the Policy (n 164).

170 Paragraph 3.4.7 of the Policy (n 164).

171 Sundström (n 30) 75.

172 Lam (n 27) 16.

173 Mimi Lam and Tony Pitcher, 'The Ethical Dimensions of Fisheries' (2012) 4(3) *Environmental Sustainability* 364.

174 *ibid.*

175 Paragraph 3.3 of the Policy (n 164).

176 Paragraph 3.4.1 of the Policy (n 164).

177 Paragraph 3.3 of the Policy (n 164).

Management Act 7 of 2007 states that the national government must involve all stakeholders, marine users and regulators, including local authorities, in the development of environmental management systems.¹⁷⁸ This should be seen as an opportunity for the Municipality to participate in national decisions that affect the management of marine resources, and it can raise concerns that involve marine corruption. One part of Namibia's national environmental management instruments is the Marine Spatial Plan. The Marine Spatial Plan's primary purpose is to ensure 'a healthy, safe and well-understood marine and coastal environment that is sustainably and transparently governed and delivers optimised social and economic benefits to Namibia.'¹⁷⁹ If it is accepted that marine corruption is unsustainable, then the Marine Spatial Plan's purpose also implies that it should be controlled.

In addition to the instruments aimed at managing marine resources, the Municipality of Walvis Bay has adopted several policies and regulations aimed at strengthening it as an institution against corruption. The Integrated Environment Policy also dedicates Goal Sixteen to the promotion of accountable and inclusive institutions, including those responsible for administering and managing marine resources.¹⁸⁰ Goal Seventeen requires the Municipality of Walvis Bay to strengthen the implementation of the Policy by revitalising partnerships with other institutions to promote sustainable development.¹⁸¹ Other policies and regulations address important issues such as appointing family members, disciplinary inquiries, financial controls, communications strategies and personnel code of conduct rules which contribute to strengthening the Municipality of Walvis Bay as an institution.¹⁸²

Apart from these local by-laws and policies, the Municipality of Walvis Bay, like other local authorities, can also participate in government forums, and establish and participate in voluntary associations to support ethical fishing. An example of such an association is the Fisheries Transparency Initiative, a global partnership to promote transparency and facilitate participation for better sustainable management of marine fisheries.¹⁸³ Another initiative that coastal cities can engage in is the Fully Documented Fisheries, which is a project aiming to develop an autonomous video-based monitoring programme for the live recording (recording as you catch fish) of a catch.¹⁸⁴

Coastal cities, as regulators and sometimes users of marine resources, should have the opportunity to participate in the negotiation of fishing licences or harvesting agreements

178 *ibid.*

179 Paragraph 3.4.6 of the Policy (n 164).

180 Paragraph 3.2 of the Policy (n 164).

181 *ibid.*

182 Personnel Rules (1999) Ref no 1/5/2/8; Appointment of Family Members (1993) Ref no 4/3/P; Disciplinary Inquiries (1994) Ref no 4/10/P; Financial Rules (1997) Ref no 1/5/2/9; Financial Policy (2002) Ref no 5/1/P; Implementation of Corporate Governance: King Report (2004) Ref no 5/15/P; and Communication Strategy and PR Policy (2000) Ref no 10/1/P.

183 Yan (n 21) 177.

184 Tacconi (n 81) 318.

and their enforcement, especially those that have a notable impact on local issues such as reduced fish stocks for local communities or impacts on tourism.¹⁸⁵ Coastal cities can increase national accountability by monitoring their decisions and participating in inter-governmental forums where natural resource management policies, administrative decisions and their implementation are discussed.¹⁸⁶ Coastal cities can also advocate for national governments to enact legislation that adequately reflects the ethical dimension of marine resource use. Non-governmental organisations may also play this role, but often they only do so to promote a very specific agenda. If local authorities are allowed to participate in making these decisions, they can do so and still promote the overall objectives of the national government. Therefore, when cities are allowed to participate in government decision-making, they can provide a valuable local perspective on marine resource management.

Concluding Observations and Recommendations

The introduction of this article showed that sustainable marine resource management is necessary for the survival of the ocean biome. However, marine corruption has several adverse impacts on marine resource management. It is therefore necessary to control marine corruption. It is proven that cities make effective contributions to solving some international challenges, including corruption. Many reasons may be attributed to cities' ability to tackle challenges. These include that African cities are well-acquainted with local conditions and have a unique proximity to fishing communities—one can even say that they are experts in what is happening locally. This informed the primary purpose of this article: to identify how African coastal cities can potentially use measures set out in international and regional law and policy to help national governments control marine corruption.

As a starting point, the nature, impact and forms of marine corruption were discussed. Marine corruption was defined as misusing a position of power to gain an advantage that one is not normally entitled to by violating the formal and informal rules governing marine resource management and conservation. It was also noted that marine corruption occurs at international, regional, national or sub-national levels and is transnational. Furthermore, it is noted that marine corruption is endemic or systemic in nature. This makes tackling marine corruption by a single state or coastal city difficult; collective action is required instead.

It has already been motivated that coastal cities should be allowed to contribute to controlling marine corruption. African regional law provides for African coastal cities to be empowered and to play a greater role in finding solutions to global challenges that may have a notable impact on their local affairs. These solutions include controlling marine corruption. It is accepted that not all African states have signed and ratified the

185 *ibid.*

186 Sumaila (n 5) 101; Sundström (n 30) 75; Tacconi (n 81) 317; Standing (n 7) 23–25; Hanich (n 6) 391.

African regional treaties which prescribe such powers and autonomy, but it is argued that coastal cities, regardless of the degree of autonomy or legislative and executive powers granted to them by the national government, can contribute in one way or another to fighting marine corruption. Their contributions range from the possibility of enacting their own by-laws to merely creating awareness of marine corruption.

Some international laws and policies prescribe various measures to promote sustainable marine resource management and conservation while others address corruption more directly. It was argued that those international instruments seeking to promote sustainable marine resource management and conservation may also indirectly contribute to preventing and combating marine corruption by prescribing how marine resources are to be managed, and by implication, prohibiting management practices that would allow or facilitate corruption. Furthermore, it was argued that because of the close link between corruption and IUU fishing, controlling IUU fishing will also contribute to controlling marine corruption. These measures have all been described in terms of how coastal cities can adapt them for local use in controlling marine corruption. While not all states have signed nor ratified all the treaties and policies discussed, states and their coastal cities can still use these instruments as guiding standards on how to develop and adopt measures that can be used to control marine corruption. Walvis Bay as a practical example showed how local by-laws and policies can be used to control corruption. Additionally, the case study unveiled the measures from international and regional law and policy that a coastal city can implement without explicit authority from the national government.

Despite the remarkable role that coastal cities can play in combating marine corruption at the international level, it should not be forgotten that the success of anti-corruption measures depends to a large extent on political will, good and reliable data, transparent transactions, and rigorous enforcement. Moreover, widespread marine corruption cannot be attributed to a lack of international and regional regulations. Future research plans should, therefore, examine the implementation and effectiveness of current anti-corruption measures.

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