

News

FishFORCE

Africa's first fisheries law enforcement academy turns five

Ever since it was established five years ago, FishFORCE has strongly advocated that fisheries crimes be addressed as organised crime and prosecuted as a national priority crime under the Prevention of Organised Crime Act, with severe penalties of 25 years to life.

FishFORCE is further appealing to the South African government to put pressure on landlocked countries such as Lesotho and Zimbabwe to adopt laws against the export of poached marine produce.

"Much of the global fisheries crime activity linked with fishing is happening off the coast of South Africa, Namibia, and the east coast of Africa," says Professor Hennie van As, professor in Public Law and Director of the FishFORCE Fisheries Law Enforcement Academy at Nelson Mandela University.

"The fishing vessels that illegally fish in our Exclusive Economic Zone (EEZ) don't need to visit our harbours, they make their transshipments offshore, but we don't have the capacity to deal with them. There are far too few patrol vessels and fisheries control officers (FCOs) for South Africa's 2800km coastline."

Adding to this, many fisheries crimes – officially referred to as Illegal, Unreported and Unregulated (IUU) fishing – continue to be dealt with as a fisheries management issue, resulting in less severe penalties that are not having a deterrent effect.

However, major abalone (perlemoen) racketeering cases in South Africa that have been prosecuted as organised crime, with sentences of 18 to 20 years, might have a deterrent effect if they become the norm.

"Corruption in the fisheries sector is a serious, pervasive problem," says Prof van As. "Recently, nine FCOs who were employed as compliance officers by the Department of Agriculture, Forestry and Fisheries (DAFF – now DFFE) were arrested by the Directorate for Priority Crimes Investigation ("the Hawks") on charges of being directly involved in organised crime syndicates pertaining to abalone poaching.

FishFORCE was established in 2016 with the support of the Norwegian Ministry of Foreign Affairs to improve fisheries law enforcement through training, research and innovation.



Norwegian Ministry of Foreign Affairs

“While this and other evidence demonstrates the presence of active organised crime, corruption and maladministration within the department that is expected to protect marine living resources, passive corrupt acts have also taken root. This can take the form of overlooking a violation or failing to inspect vessels with due diligence, often in exchange for gratification. This culture of non-compliance has had negative consequences on several fronts.

“Our country is losing billions of rand in revenue and our national marine resources are being decimated. Far more stringent laws, combined with specialised policing and intelligence gathering for fisheries organised crime and harsh sentences, need to be prioritised at a national and international level.”

Fisheries multi-crimes

The multi-crimes affecting the global fisheries sector range from illegal fishing and extraction of marine resources to human and drug trafficking, forced labour, fraud, forgery, corruption, money laundering and tax and customs evasion.

Slipping through the net

Prof Hennie van As and Cameron Cordell, a FishFORCE research assistant, co-authored the first chapter of *African perspectives on selected marine, maritime and international trade law topics*, edited by Professors Patrick Vrancken, Nelson Mandela University, and Charl Hugo, University of Johannesburg.

The chapter, “Slipping through the net: Reforming South African fisheries law enforcement”, elaborates on the corruption and inefficiency of fisheries law enforcement in South Africa and the region. They write: “Abalone poaching in South Africa remains one of the most serious and entrenched forms of fisheries-crime violations. ...The fact that court-imposed sanctions do not act as a deterrent to the continued poaching ... is an inefficiency mirrored throughout the fisheries law enforcement chain.

“Fisheries crime activities erode respect for the rule of law and lead to socio-economic degradation and the proliferation of gangsterism, allowing a culture of dependency to become entrenched in communities. The lack of human resources results in the failure to investigate the links between poaching and organised crime,

resulting in prosecution for lesser offences and commensurately lesser penalties. There are beacons of hope where stiff penalties have been imposed such as by the court in Humansdorp thanks to a dedicated prosecutor.

“Law enforcement agencies are not using the full power of the law to address the poaching of marine living resources as a priority crime and do not allocate their resources commensurate with the value of the commodity. As a country that is beleaguered by fisheries crime, overfishing and exploitation, South Africa must take a tough stance and should pursue criminal organisations with all the power that the state can muster. This gives rise to the question whether FCOs are best suited as a unit of DFFE or whether they should become a specialised unit of the SAPS dedicated to addressing fisheries crime. These officials are primarily fulfilling a policing function and placing them within the SAPS might also assist in bringing the unit under the oversight of bodies such as the Independent Police Investigative Directorate (IPID).”

Vrancken, P., & Hugo, C. (Eds.). (2020). *African perspectives on selected marine, maritime and international trade law topics* (1st ed.). African Sun Media. <http://www.jstor.org/stable/j.ctv1nzg0dv>

Professionalisation of Law Enforcement in SA through training and career paths

Counteracting organised crime in South Africa is currently difficult because law enforcement often doesn't see the full syndicate picture when they make a 'bust', so they are tackling the symptom rather than pursuing the cause – the 'kingpins' or real beneficiaries of criminal proceeds.

Organised criminals are active in a wide range of overlapping fields, for instance: animal products – ivory, rhino horn, pangolin scales, lion bones; marine resources – lobster, seahorses, mud crabs, fish maws and, of course, abalone; rare plants and timber; pharmaceuticals and cigarettes. In short, anything that has value.

An essential approach to increasing the effectiveness of law enforcement in counteracting organised crime is to professionalise it. The FishFORCE Academy was established five years ago to promote fisheries law enforcement as a career choice by professionalising the sector

An essential approach to increasing the effectiveness of law enforcement in counteracting organised crime is to professionalise it.

FishFORCE promotes the professionalisation of law enforcement in South Africa through the implementation of a career path policy by government departments. The academy advocates that the appointment and promotion of all law enforcement officers, whether they are employed by fisheries, national parks, municipalities or SAPS, should be linked to qualifications and experience.

The training developed and delivered by Nelson Mandela University's Centre for Law in Action and FishFORCE Academy sets out to address the lack of professionalisation through the development of short learning programmes linked to formal qualifications, such as a Higher Certificate and a Diploma in Law Enforcement, followed by an Advanced Diploma and a Post-graduate Diploma, thus providing an articulation pathway for trainees to pursue a viable career path in law enforcement.

The academy also proposes minimum standards of training for appointment and promotion and for the length of time that a person must be in a position before they can be promoted to the next position or post level, subject to successful completion of their training, and that law enforcement professionals should display the following characteristics:

- They are affiliated with a professional association (e.g.the Institute For Municipal Public Safety Southern Africa);
- Their training is institutionalised;
- They adhere to a code of ethics and high standards of professional and intellectual excellence; and
- They undergo tertiary education.

FishFORCE gives an example for a non-SAPS law enforcement environment in the following table:

Position	Experience	Qualifications/Training offered at the Nelson Mandela University
Intern	6 months ¹	3 Credit bearing Short Learning Programmes ²
Assistant FCO/Inspector	1 year	6 Credit bearing Short Learning Programmes
FCO/Inspector	2 years	Higher Certificate: Law Enforcement
Snr FCO/Inspector	3 years	Diploma: Law Enforcement
Control FCO/Inspector	2 years	Advanced Diploma: Law Enforcement
Manager	2 years	Post-graduate Diploma: Law Enforcement

¹This is the proposed time that an incumbent must be in the position before they can be promoted to the next position, subject to successful completion of the training.

²Must complete this training to be able to progress to the next post level.

NELSON MANDELA UNIVERSITY

Faculty of Law

Enrol for the Diploma in Law Enforcement full-time (3 years) and part-time (5 years) programme offered on a block-release basis at the Nelson Mandela University, Gqeberha.

This is an NOF Level 6 qualification and potential candidates should meet the admission requirements as set out on the Faculty of Law website <https://law.mandela.ac.za>.

This qualification has been designed to enable students to follow career paths in various areas of law enforcement, including municipal law enforcement, building control, forestry, fisheries, SANParks and other environmental agencies, transport (rail and road) and many others. The qualification also focusses on marine living resource protection.

For more information please email Mrs Billie at Dieketso.Billie@mandela.ac.za

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1 JUNE 2020 → 31 MAY 2021

Short Learning Programmes

Identification of Marine Species and Vessels and Gear used in Illegal Fishing

Agencies Trained:

- Department of Environment, Forestry & Fisheries' Officials
- South African Police Services Officials

TOTAL DELEGATES
 16 61 **77**

Law for Fisheries Control Officials, Inspectors and other Enforcement Officials

Agencies Trained:

- Department of Environment, Forestry & Fisheries' Officials
- South African Police Services Officials
- City of Cape Town officials
- South African National Parks officials

TOTAL DELEGATES
 16 74 **90**

Enforcement of Marine & Coastal Legislation

Agencies Trained:

- Department of Environment, Forestry & Fisheries' Officials
- CapeNature
- City of Cape Town officials
- South African Police Services officials
- South African National Parks officials

TOTAL DELEGATES
 20 85 **105**

New legal developments in combating fisheries crime

FishFORCE's research resulted in the development of charge sheets and statements for charges to be brought for attempted poaching and conspiracy to commit a crime if culprits are caught with the implements used to remove abalone, as there is a 'no take' policy in place for this species.

Governments need to prioritise the Port State Measures Agreement (PSMA)

Port State Measures are recognised as an effective tool to combat IUU fishing as they can prevent the use of South African ports by foreign distant water fleets which engage in illegal fishing.

FishFORCE offered PSMA training, in collaboration with Operation Phakisa, to improve inspections in ports. Such inspections, undertaken as multi-agency efforts, are key for addressing illicit activities in fishing in a cost-efficient manner. The number of port inspections need to be increased and the best results will be achieved if states collaborate by developing regional arrangements for collaboration on PSMA training.

FishFORCE Operation Phakisa training

FishFORCE continues to serve as a member of Operation Phakisa Initiative 5 – Compliance and Enforcement, a national initiative in South Africa with a focus on the blue economy. Through its involvement with Operation Phakisa, various training initiatives have been delivered and will continue:

• Enforcement of Marine & Coastal Legislation

- 03–07 May 2021 in Kleinmond: 15 delegates attended from the Department of Forestry, Fisheries and the Environment (DFFE) and CapeNature
- 17–21 May 2021 along the West Coast: 20 delegates attended from the DFFE, City of Cape Town and South African National Parks (SANParks)
- 31 May–04 June 2021 in Cape Town: 15 delegates attended from the DFFE, City of Cape Town and SANParks
- 21–25 June 2021 in Mooimaak in the West Coast National Park: 15 delegates attended from the DFFE, City of Cape Town and SANParks
- 11–15 October 2021 in Mooimaak in the West Coast National Park: 25 delegates attended from the DFFE, City of Cape Town and SANParks

• Identification of Marine Species and Vessels and Gear used in Illegal Fishing for the South African Police Services (SAPS)

- 26–30 April 2021 in Richards Bay: 15 delegates attended

- 03–07 May 2021 along the West Coast: 16 delegates attended
- 24–28 May 2021 along the West Coast: 15 delegates attended

• Train the Trainer Workshop with Namibia

- 18 August 2021

• 3rd Online Fisheries Trade Monitoring and Compliance

A third training session on Fisheries Trade Monitoring and Compliance took place online from 18 August to 10 September 2021 with 12 delegates from South Africa, Namibia, Kenya, Malawi and Somalia.

The overall objective of the training was to facilitate the acquisition of knowledge, understanding and practical skills relating to the international trade in fisheries products, in order to reduce IUU fishing and fisheries crime and to support fisheries management. Training is provided on how to source, extract and analyse fisheries trade and catch data, and to conduct comparative analysis of this data to enhance knowledge of possible trade in products sourced from illegal fishing, and to inform fisheries management decision-making.

The course was presented by Markus Burgener, Senior Programme Coordinator with TRAFFIC. High demand for this course has led to a further session being run in the final quarter of the year.

NELSON MANDELA UNIVERSITY

The FishFORCE Academy in collaboration with the One Ocean Hub invites you to an online specialised training session titled **Fisheries Trade Monitoring & Compliance**

Purpose: To facilitate the acquisition of knowledge, understanding and practical skills relating to the international trade in fisheries products in order to reduce IUU fishing and fisheries crime.

Attendees nominated for this course must fall within one of the below-mentioned job categories and comply with the stated requirements:

- Fisheries compliance officers with 5 years' experience and some desk-based research and analysis; or
- Data analysts within fisheries agencies (staff who analyze VMS tracks and/or catch data, CPUE); or
- Customs officials who have some desk-based research and analysis experience; and
- Working experience of Excel.

Nominating agencies will have to certify that nominees qualify for nomination.

Mr Markus Burgener from TRAFFIC will facilitate these sessions.

Dates: One (1) day a week for 4 weeks with the final assessment taking place for the final session. Online content sessions will take place on:

15 August 2021
1 September 2021
26 August 2021
8 September 2021
Assessment: 15 September 2021

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ONE OCEAN HUB

- **FishFORCE Short Learning Programmes** delivered by partner universities at Eduardo Mondlane University in Mozambique, the University of Dar es Salaam in Tanzania and the University of Nairobi in Kenya.

- Law for Fisheries Control Officials, Inspectors and other Enforcement Officials
- Enforcement of Marine and Coastal Legislation
- Fisheries Trade Monitoring and Compliance





Faculdade de Direito avalia necessidades de formação em Pescas



A Faculdade de Direito da UEM organizou ontem um Workshop para avaliar as necessidades de formação em pescas e segurança marítima, em parceria com a *FishForce Academy da Nelson Mandela University*, da África do Sul. Na ocasião, a Directora-adjunta para Graduação daquela unidade, Mestre Elysa Vieira, afirmou que o evento estava enquadrado nos esforços daquela Faculdade de participar cada vez mais activamente nos processos de formação dos quadros nacionais e, no caso vertente, do sector do controlo e fiscalização marítima. Durante o workshop foram abordados temas relacionados com os ilícitos da pesca, investigação criminal dos ilícitos da pesca, investigação forense avançada nos crimes pesqueiros, monitoria do comércio marítimo e conformidade, aplicação da legislação marinha e costeira entre outros. Participaram na formação

docentes, investigadores ins-
pectores, fiscais, procuradores,
juizes, em representação das
diferentes instituições que in-
tervêm na área.

FishFORCE front page news at Eduardo Mondlane University, Mozambique

Mozambique's Eduardo Mondlane University featured the October 2020 FishFORCE training course in its weekly magazine *Jornal da Comunidade*. Organised by the university's law faculty, in partnership with the FishFORCE Academy at South Africa's Nelson Mandela University, the workshop was designed to facilitate training in fisheries law and maritime security. Workshop themes included criminal investigation of illegal fishing, advanced forensic investigation of fisheries crimes, monitoring of marine industries and their legal compliance and the application of marine and coastal legislation. As part of the law faculty's contribution to the training of public servants, the workshop was offered to representatives of the various institutions involved in fisheries and marine protection including academics, lawyers, customs officers and fisheries inspectors.

In Partnership with:



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