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ILLEGAL, UN-REPORTED AND UN-REGULATED FISHING – IMPACTS AND CHALLENGES

Introduction

Fisheries are one of the main sources of providing nutrition to the mankind. It is a vital ingredient of food, employment and even recreation and crucial to the economy of some countries. Fishing is also a major livelihood of millions of people across the globe. Fisheries play a crucial role in maintaining food and economic security. Will there be sufficient fish for the future generations? Are we, the present generation doing enough to use this important source in a sustainable manner? We have a responsibility to conserve and manage world's fisheries. Not all fishing activities are conducted in a responsible manner. Some fishermen and fishing communities do not respect rules and ethos governing fishing, whether these rules are local or international. Some fishers impertinently overlook the rules applicable for fishing gear, fishing methods and fishing areas. Some fishing vessel owners 're-flag' their vessels to flags of countries, which are not strictly following rules. Some do not report catch. Some use very destructive methods like, use of chemicals or explosive devices to take or assist to take fish, bottom trawling, un-authorized nets, and these activities are hindering and damaging management of world fisheries. Bottom trawling is trawling (towing a trawl, which is a fishing net) along the sea floor. It is also often referred to as "dragging". The scientific community divides bottom trawling into benthic trawling and demersal trawling. Benthic trawling is towing a net at the very bottom of the ocean and demersal trawling is towing a net just above the benthic zone.

The rapid growth and globalization of the fisheries sector have transformed not only global fishing patterns and operations but also existing framework for fisheries management in a number of ways. Despite the adoption of a conservation-oriented approach to the management of fisheries resources, the deterioration of global fish stocks persists.

The decline of global fisheries resources has been attributed to number of interrelated factors such as;

-Industrialization.

-Overfishing.

- open access nature of many fisheries.
- Environmental factors affecting stock productivity.
- Over capacity in the world fishing fleet.
- Provision of subsidies.
- Unreliable fisheries information.
- Unsustainable fishing practices; use of nonselective fishing gear.
- Non-compliance by fishing vessels; reflagging to avoid fisheries restrictions.
- Reluctance of flag state to ensure compliance by their fishing vessels with fishing regulations.
- failure of fishing authorities to set sustainable limits on the basis of scientific advice.

Illegal, Unreported and Unregulated fishing (IUU fishing)

Illegal

- When vessels operate in violation of the laws of a fishery. This can apply to fisheries that are under the jurisdiction of a coastal state or high seas – fisheries.
- Illegal fishing refers to activities conducted by national or foreign vessels under the jurisdiction of a state without the permission of that state, or in contravention of its laws and regulations

Un-reported

- Fishing that has been unreported or misreported to the relevant national authority or regional organization, in contravention of applicable laws and regulations.

Unregulated fishing

- Generally refers to fishing by vessels without nationality, or vessels flying the flag of a country (flag of convenience) that is not party to the regional organization governing that fishing area or species.

IUU fishing is a global phenomenon with many detrimental environmental, economical, ecological and social impacts, a fact that has led the international community to consider it a serious threat to world fisheries.

- IUU fishing is rampant in developing world.
- These countries often lack the resources to properly police their territorial waters.
- IUU fishermen are quick to exploit the situation.
- IUU fishing is bad news for legitimate fishermen everywhere.

- Unreported illegal catches means that the catch data collected by agencies is incomplete and likely to give a more optimistic assessment of the status of fish stocks than is actually the case. This will result in failure to conserve stock. In extreme cases, this can lead to a collapse of a fishery.
- Fish caught by both IUU and legitimate fishers are sold on the same markets, but legitimate fishers pay higher operating costs from supporting fisheries and conservation measures.
- IUU fisherman flout rules, designed to protect the marine environment, including restrictions on the harvest of juveniles, closed spawning grounds, and gear modifications designed to minimize the by catch of non-targeted species.
- They inflict damages on sea-birds marine mammals, sea turtles, and marine bio diversity as a whole.

Social Impact

Some IUU fishing vessels recruit their crew members from States where there is a lack of alternative employment opportunities and may be unaware of the vessels illegal operations. IUU fishing is also known to cause the displacement of legitimate fishers. IUU fishing can lead to reduction of employment and household income, both of which exacerbate poverty, particularly among coastal and artisan fishing. Social impact studies show that IUU fishing not only affects industrial fishing, but is also a concern in small scale fisheries.

IUU fishing can take place in many fisheries. This is causing immense problems to the governments, people and fishermen, who are trying their best to govern and manage fisheries in a sustainable manner. IUU can virtually ruin the fisheries. This can even lead to the collapse of livelihood and economies of some countries. Those who are engaged in IUU fishing gain an unfair advantage over responsible fishers. Exact figures of IUU catches are not available and difficult to find, as most of them do not declare their catch. The predicament is, when the fish catches are declining, IUU fishing is likely to increase, resulting of complete elimination of fish stocks. Normal effect of exploitation should be compatible with sustainable use and reversible.

IUU fishing occurs throughout the world, and is thought to account for up to 30% of global fishing. Some estimates suggest that IUU causes annual financial losses up to about USD \$ 23.5 Billion. It is reported that, much of these activities are carried out by large industrial fishing vessels which operate internationally. Illegal fishing disrupts markets with unfair competition. It chokes the circle of compliance that we try to establish, and it damages moral of law-abiding fisherman-Illegal fishing is a criminal activity

IUU can also result in negative effect on marine environment. Over-fishing of certain types of fish may result in ecological imbalances and diminish the food source for another species of fish. Decease and pests introduced through illegal foreign fishing can devastate a country's natural environment as well as its aquaculture. IUU fishing often has a significant detrimental impact on the sustainability of both targeted and non-targeted species and of the whole ecosystems and vulnerable species such as corals reefs, turtles and seabirds. In fact, all eight sea turtle species are now endangered, and illegal fishing and hunting are two major reasons for their dwindling population. Regulating legitimate fisheries is aimed at mitigating such impacts, but IUU fishers rarely comply with regulations. This is likely to reduce productivity and biodiversity and create imbalances in the ecosystem, agriculture, and may impact severely on the economy and social stability. This in turn may lead to reduced food security in communities heavily dependent on fish as a source of animal protein.

Incursions by IUU fishing vessels into the EEZ or at times even the territorial waters of a country, can affect its ability to manage its natural resources, or pose a serious threat to her security. IUU fishing can also lead to breaking of law and order situation, challenging the jurisdiction of a country and could be linked to some form of maritime crime such as narcotic/ Gun running, illegal migration.

IUU fishing can take place by small vessels in their own waters, or in EEZ of other countries. At times, fishermen resort to IUU fishing, merely to meet basic human needs. Legitimate commercial fishing vessels can engage in IUU fishing, occasionally, to maximize profits. The most obvious economic impact of IUU fishing on developing countries is the direct loss of the value of the catches that could be taken by local fisherman if IUU fishing was not taking place. In addition to this are the losses of revenue from landing fees, license fees, and taxes payable by legal fishers. IUU fishing may also lead to reduced food security in communities heavily dependent on fish as a source of animal protein. IUU fishing is a Global problem, which requires a global solution. The first global review of IUU fishing, conducted in 2000, identified major concerns within coastal state fisheries jurisdictions, management areas of Regional fisheries organizations and the high seas. These concerns include poaching, illegal fishing by vessels flying the flags of non-members of Regional Fisheries Management Organizations (RFMOs) and misreported and underreported fishing.

What encourage fishers to engage in IUU Fishing?

Weak national governance structures and Monitoring, Control and Surveillance (MCS) capacity to control 'Foreign fishing' and to control IUU fishing by own nationals can encourage IUU fishing. Un-delimited or disputed boundaries or close proximity to other countries EEZ or territorial waters can also contribute to fishers to engage in IUU fishing. Lack of economic opportunities and buoyant market conditions for seafood are encouraging IUU fishing. Lack of a regional or bi-lateral structures and agreement to govern fisheries could be another IUU fishing encouraging factor. The argument of historical fishing grounds also being used by some IUU fishers to engage in their unlawful act. Profitability of conducting IUU fishing activities as a result of lower administrative and management costs, less crew costs are also contributing to increased IUU fishing. Overcapacity in the world fishing fleet, inadequate levels of penalties, corruption and poor economic and social conditions are contributing to this menace.

Fishing vessels engaged in IUU fishing:-

A fishing vessel shall presume to be engaged in IUU fishing if she;

- Does not hold a valid fishing license
- Does not provide or record catch date.
- Fishes in a closed area.
- Fishes unauthorized or endangered species.
- Uses prohibited or non-compliant fishing gear.
- Falsifies or conceals its identity.
- Falsifies or conceals evidence relating to an investigation.
- Obstruct the work of inspectors.
- Takes onboard, transship or lands undersize fish.
- Is a stateless vessel; missing registration
- Carries out fishing activities in an area covered by a Regional Fisheries Management Organization (RFMO), without complying with the conservation and management

measures of that organization or traditional fishing grounds are exploited by those who engage in IUU effectively.

Challenges

IUU fishing is one of the most serious threats to fishing jobs and fishing communities, as well as to the health of the world's Oceans. Illegal fishing destroys fish stocks and bio diversity. Fish stocks are either overfished or subjected to sparsely regulated fishing efforts, as a result of IUU fishing and inadequate flag state control. It recognizes the need for states - individually and through Regional Fisheries Management Organizations (RFMOs) - to implement effective port state measures and the importance of applying ecosystem approaches to the management of human activities in the ocean.

Organized crime

The main motive of illegal fishing is financial gain. While some IUU fishing may be of smaller scale, there can be large scale criminal activities of IUU fishing by organized networks. Money laundering, product laundering, corruption and exploitation of poorer communities could be some characters of this crime. Large scale illegal fishing may involve transshipment of catches to conceal origin, repeated re-flagging of vessels to avoid detection, bribing officials to turn a blind eye, and mislabeling products. Due to the large scale of illegal fishing, collaboration between governments, regional fisheries management organizations and international organization is essential to curb the problem. Some IUU fishing activities are also associated with the operation of transnational criminal groups and other illegal activities such as fuel smuggling, fish smuggling, and trafficking of fishing crews.

Monitoring

If fisheries laws cannot be enforced, then they are worthless. Enforcement becomes difficult, if not impossible, without effective surveillance of what is going on and where. As the FAO international plan of action on IUU fishing puts it, 'States should undertake comprehensive and effective Monitoring, Control and Surveillance (MCS) of fishing from its commencement, through the point of landing to final destination'. The ability to act decisively once illegal activity is detected is critical to combating IUU fishing. As the collection and sharing of accurate and timely information on IUU fishing activity increases, the monitoring of both legal and illegal operations is facilitated. Effective monitoring, control, and surveillance are at the heart of effective fisheries management. But regardless of the laws and regulations enacted and the technology brought to bear on the IUU fishing dilemma, if the means and will to enforce those policies is absent the illegal operators will prevail. Effective MCS increases the risk of detection and prosecution for IUU operators, while giving the economic advantage back to legal fishers. For developing States, a major challenge in addressing IUU fishing is the limited operational capacity to manage vast expanse of ocean spaces under their jurisdiction.

Port state Issues

The presently available Law of the Sea emphasizes the primacy of flag state jurisdiction, and the jurisdiction of the port state, (the countries where the fish is landed) remains optional. This has tempted some port states to take steps to attract the business of IUU fishing vessels. Strengthening port state controls may therefore, deter IUU fishing and improve enforcement. Domestic legislations and mechanisms to coordinate action with other port states, flag states and market states are also necessary.

Retail

Work done by high profile NGO campaigns, through effective media propaganda have drawn attention to the retailers and consumers of the scourge of illegal fishing and the increasing fragility of many fisheries.

- Some super markets, caterers, restaurants have banned certain fish products.
- Involvement of celebrities in high profile campaigns.

International Trade

There can be trade measures to provide incentives to join and comply with the agreements. These include, for example, prohibitions on parties to the agreement allowing landing or transshipment of fish from the vessels of non - parties, or non- complying states.

Flag State Issues

The Flag State – the state where a vessel is registered and flagged – is the basic legal entity for all high seas fishing vessels. Under international law, the flag state has primary responsibility for controlling the fishing activities of its vessels.

- Many flag states fail to live up to their responsibilities
- Many ships are registered in countries which bear no relation to their ownership or crew.
- Flags of convenience – well known for lax approach to regulation.

Enforcement

IUU fishing essentially arises from a failure adequately to enforce existing national and international laws. There are, however many factors underlying enforcement failure, including, notably, poor level of national governance. There can be influence on the governments by the IUU fishers to turn a blind eye when they are violating the territorial limits of another state and even to defend their actions. There are obvious problems with enforcing fisheries regulations on the high seas; including locating and apprehending the pirate ships, but solutions are available, chiefly through improved MCS systems. MCS systems are similarly of value within exclusive economic zones, including, for example, offshore patrols and licensing schemes.

Transshipment

One way in which IUU fishing can remain undetected is by vessels transshipping their catch at sea, thereby avoiding reporting the catch to either flag state or the port state. Some of the important factors in this regard are;

- Large vessels can remain at sea for months.
- Refueling & re supplying at sea.
- Transferring the illegally caught fish to another vessel at sea, thereby avoiding entering port with it. – Laundering illegally caught fish and then mixing it with legally caught fish.
- Calls for port states to effect all transshipments to take place in a port or, at a minimum require that transshipment at sea is done in accordance with proper controls and at locations where inspectors can be present to check details of fish being transshipped.

By catch/ Discards

In most fisheries, non – targeted species are caught alongside the targeted species. Some of the non – targeted species may have a value and be taken to port, but the greater portion of it will be unwanted and therefore discarded.

- May include commercially important species that are not wanted: may be fish are under-sized, over quota and not of sufficiently high value to the fisher.
- May also include non fish species, such as sea birds, marine mammals or turtles
- Amount of by catch may vary
- But it is one of the key environmental impacts of fishing.
- By catch estimated over 40% of global marine catches.
- Worst methods producing by-catch are use of long line, purse seine and bottom trawling

Capacity building

It is often the case that the countries affected most by illegal fishing, and where much illegal fishing take place, are those with the fewest resources to tackle the problem.

- Countries not only loose livelihood for local people but revenues for governments.
- This may affect finances to train officers operate effective monitoring control and surveillance or to enforce law and policies.

Certification

Mandatory products certification and catch documentation are increasingly used as a natural extension of normal monitoring and enforcement in fisheries, and as a means of excluding IUU products from consumer markets and thereby rewarding responsible fishing with projected markets. This concept is increasingly common in other markets, including those for Timber and for Diamonds.

Governance/Management

Analyses show a strong relationship between the level of governance of a country and its vulnerability to IUU fishing. Good governance appears to go hand in hand with good MCS systems and procedures, the political will to enforce regulations, cooperation with neighbours on surveillance, the elimination of possibilities for IUU activity, and active participation in regional and sub-regional fisheries agreements. The consequences of good governance are a reduced threat to food security and especially to artisanal fishers' livelihoods, but unless the aid targeted at improving MCS is accompanied by efforts to improve scope of governance, the potential benefits in terms of reducing vulnerability to IUU fishing are likely to be undermined, particularly in the longer term.

Strategy Against IUU

The European Union presents a comprehensive strategy to combat IUU fishing which endangers the economy of the fisheries sectors, fish stock and marine environment. The measures should include, restrict access to markets, and provide for surveillance activities at sea, identification of IUU operators improved implementation of legislation in the fisheries field and better applications sanctions in the event of infringements being committed.

- Only marine fisheries products validated as legal by the relevant flag states or exporting state can be imported to or exported from the EU
- A European black list has been drawn up covering both IUU vessels and States that turn a blind eye to illegal fishing activities.
- EU operators who fish illegally anywhere in the world under any flag, face substantial penalties proportionate to the economic value of their catch, which deprive them of any profit.
- The new EU regulations to prevent deter eliminate IUU fishing entered into force on 01st Jan 2010.

UN general assembly resolution 61/ 105, abides states and Regional Fishery Management Organizations (RFMOs) and other fisheries bodies to sustainably manage fisheries, regulate bottom fisheries and protect vulnerable marine ecosystem (VMEs)

To ensure a common fisheries policy, it is essential to

- Ensure that only allowed quantities of fish are caught
- Collect necessary data for managing fish opportunities.
- Clarify the role of countries regional organization to control fisheries.
- Ensure that rules are applied to all fishers in the same way.
- Ensure that only permitted methods are used for fishing
- Ensure that fisheries products can be tracked back and checked throughout the supply chain from net to plate.
- Identifying IUU vessel, denying them entry into ports, working with RFMOs to address IUU fishing within each region that is managed by those who have signed RFM agreements.
- Respecting the maritime boundaries

Recommendations to curb/deter IUU fishing

The world has a responsibility to curb IUU fishing for sustaining this most important resource of the mankind. Some of the recommendations this paper presents are as follows;

- a. Adoption and implementation of adequate legal and policy measures by states and regional organizations
- b. Implementation of a fishing vessel registration and authorization to fish or licensing system
- c. Proper flag state enforcement
- d. Maintaining by flag states proper record of fishing vessels including basic information and details of actual fishing operations
- e. Implementation of effective MCS measures in the EEZ including licensing of foreign fishing vessels and establishing Vessel Monitoring System (VMS)
- f. Obtaining advance notice of port entry and implementation of fishing vessels inspections in port
- g. Implementation of eco-labeling and catch certificate
- h. Review and revision of national legislation and regional regulatory frameworks
- j. Strengthening of regional institutions and bonds
- k. Implementation of educational/awareness programs
- l. Implementation of boarding in respective maritime areas and inspection through bilateral agreements
- m. Promoting good ocean governance and regional cooperation
- n. Formulating national plans to curb IUU fishing