

GENERAL ARTICLES

Who should certify the sustainability of our fisheries? A property rights perspective on ecolabelling

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Ecolabelling as a tool to ensure sustainability in the seafood value chain is gaining popularity in recent times. As a market-led intervention, ecolabel-enabled fishery certification rides on the willingness of the ecologically concerned seafood consumer to pay a premium price for the fish harvested from a sustainable fishery on the one hand, and the sensitivity of the multinational food chain fraternity to the reputational risks associated with the food they deal with, on the other. The market opportunity arising from this scenario is effectively harnessed by third-party certification agencies that assess the sustainability of a fishery and certifies it for a fee. However, analysing the existing scenario through the lens of the political economy behind property rights, this article argues that the entry of non-state entities in the ecolabelling business is not without problems which the state should be concerned about.

Keywords: Certification agencies, ecolabelling, fisheries, property rights, sustainable seafood.

If sustainability can come with a price tag and market can take the stewardship role, you have a win-win tool – this seems to be the neo-liberal *raison d'être* of ecolabelling, a recent tool that promises to solve the vexed problem of unsustainability in the seafood industry. Ecolabel-enabled certification is the new game gaining popularity and criticism as well in the global discourse on market-led interventions which are aimed to ensure sustainability in the seafood value chain¹⁻¹¹. Being a widely traded commodity, marine fish have always hogged the sustainability limelight in the context of increasing reports of fishery declines across the globe. For instance, according to Food and Agriculture Organization¹², of all the assessed fish stocks, 58.1% is fully fished.

The concept of ecolabelling makes use of the purchasing power of the 'concerned consumer' to ensure that a production ecosystem, like a fishery or a forest is managed sustainably. We do not mind paying a premium if you prove that the fish you have harvested is from a sustainably managed fishery – is what the consumers are nudged to say to the fisher. For a concerned fish eater, ridden with the guilt of making a repugnant purchasing choice, his/her neo-liberal altruism is worth emulation, especially when the fisher producer is portrayed as an irredeemable victim of the tragedy of the commons¹³.

Another concerned party is the multinational food chain fraternity who are sensitive to the reputational risks associated with the food they deal with. As a means to address this, they are equally or more keen on ecolabelling of fish and fish products sold through their outlets. The logic is too appealing to the eco-philanthropist as well as the value-chain optimist. But as the saying goes, the devil or god is in the details. This article is an attempt to distinguish them. The brief analysis is mainly done through the lens of the political economy behind property rights. We argue that entry of non-state entities in the fisheries governance regime is not without problems, which the state should be concerned about.

Why label marine fish?

Labelling is a market-friendly information key for qualifying certain attributes of a commodity to help the consumer in exercising a purchasing choice. Ecolabel, making a distinction from conventional labels which indicate origin and content of products, implies the concern for ecological correctness or green consciousness as a source of economic and ethical value addition. It provides information on the environmental impact of a product. This is different from the labelling of food safety aspects of a commodity like absence of harmful chemicals as in the case of organic farm products. Though organic certification also considers the eco-friendliness of the production process, the consumer is more attracted by the food safety benefits than the ecosystem benefits.

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An ecolabel in the case of a wild-caught or marine fish say, tuna or shrimp, is the result of certifying the sustainability of the fishery from which the fish has been harvested (note 1). As is obvious, it does not appeal to the health per se of the individual consumer, but to the health of the fishery. To catch the eco-consciousness of the concerned consumer in order to motivate the producer to adopt such practices that save the fish from overfishing or depletion is the logic of an eco-label. It shifts, partially, the burden of responsible behaviour from the producer or the State to the consumer who is willing to reciprocate by paying a premium price. This is an option Hardin did not see, i.e. preventing the freedom-lead ruin in the commons through a nudged regulatory regime invoked by the market rather than the State. Though as a business model it makes economic and ecological sense, it is ridden with many issues that border fishery governance and food sovereignty.

The property rights perspective

Marine fishery, considered as one of the last natural food production frontiers, is a common pool or open-access resource vulnerable for exhaustion. The unique property rights nature of the marine resource ecosystem leaves little stewardship incentives to the individual fisher – practising commercial or industrial hunting – whose sole (rational) aim is rent maximization (rent is nothing but profit, a term preferred by fisheries economists to emphasize the ‘public goods’ nature of the factor of production). But rent realization or maximization is limited by the inherent regenerative capacity of a fish stock. It is this sustainability reference point that decides whether what is being done is fishing or ‘finishing’. An individual fisher who literally reaps without sowing has no control over the production cycle which remains open (however, by developing breeding technology, the life cycle of a marine fish can be closed and production can be augmented through appropriate mariculture technologies). The tragedy of over-exploitation occurs due to the absence of precautionary regulations that keep the fishing intensity well below the biological or economic threshold. The resource users often attribute non-compliance of rules or regulations to the lack of a sense of ownership. The ‘free rider’ problem becomes rampant as it injects sufficient rationality to what is actually a livelihood myopia. By certifying the sustainability of a fishery, the argument goes, stakeholders (both producers and marketers) become more responsible as their actions are appropriately incentivized. Ecolabel offers a premium price or even a condition for market access for the fish they place in the value chain. Thus, a market-driven solution is eulogized for a collective-driven problem.

How an ecolabel works

Ecolabelling works on the principle of assessment of standards. That is, you need to have not only a set of

standards that define sustainable fisheries, but also an assessment protocol. Unlike organic farming, the trust deficit existing between the fish consumer and fish producer is huge in the case of a seafood ecolabel. It is almost impossible for the fish consumer to verify whether the standards are followed in a marine fishery, which is invisible and often fugitive. This demands a mechanism to bridge the trust deficit between the producer and consumer. There could be three types of such bridging mechanisms: (i) self-declaration by the fisher; (ii) The state making a public declaration, and (iii) private or third-party declaration.

It is obvious that the first option is of limited utility because (a) fisheries not being a private property does not limit other users who may not follow the standards, and (b) sustainability depends on the big picture which the individual fisher is unable to generate.

Regarding the second option, the state, being the *de jure* owner of the marine fisheries resources within the Indian Exclusive Economic Zone (EEZ), has the stewardship responsibility for ensuring that it is managed sustainably. In India, a federal system of fisheries governance is in place. The maritime states have the governance responsibility for the territorial waters (which is up to 12 nautical miles) and the Central Government takes care of the rest of the EEZ (which is up to 200 nautical miles). The total area of the Indian EEZ is 2.02 million sq. km, which roughly amounts to two-thirds of our land area. Since marine fisheries governance is dependent on a continuous scientific assessment of the marine ecosystem, a public-funded research system is mandated in India for the monitoring and assessment of sustainability of fish stocks and the fisheries they encompass. The ICAR-Central Marine Fisheries Research Institute (CMFRI), Kochi and Fisheries Survey of India (FSI), Mumbai play prominent roles here. So the State, being not only the *de jure* owner but also the custodian of the necessary information and knowledge, is the ideal agent to certify a fishery, respecting the public goods nature of the resource. This was the logic used by Iceland where the Fisheries ministry had declared, after systematic assessment done by their mandated research institute, that they were practising responsible fisheries in their entire EEZ (note 2).

The third-party mechanism is the apple in the ecolabelling market eye. Similar to organic farming, there are many players acting as bridging mechanisms. The Marine Stewardship Council (MSC), which is borne out of an alliance between Unilever and World Wide Fund for Nature (WWF), now based in London, UK, is the market leader (another dominant player is Friend of the Sea, Headquartered at Milan, Italy). Being the innovator of the very idea behind seafood ecolabel done on the forestry model for timber, MSC claims a global market penetration of 7–8% with a total number of 110 fisheries carrying the MSC label. They have already made their presence felt in India by way of certifying a fishery of

short-necked clam in Ashtamudi lake, Kerala. The price premium in the export market is their unique selling proposition (USP). We set the standards, we get the fishery assessed by a neutral party, and you manage – is the bargain they make before putting a price tag for the certificate which starts from 0.5% of the net wholesale value of labelled products. The certificate is issued to a group of operators in the fishery for a price and a period. The cost of marine fisheries management is obviously borne by the state. A few countries like New Zealand, where the cost of research and management is borne by the industry itself, are exceptions. Surprisingly, there is not much information in the public realm on the cost of certifying a fishery in India by MSC.

What is being certified?

A fishery is the interface between a fish stock and fisher stakeholders. A fishery is not a farm. The way an orchard of mango is certified as organic is not possible for a sardine fishery. Whether the orchard is privately owned or community owned or even state owned, the boundary of the property makes the certification process atomized and exclusive. So the unit of certification is less nebulous and contested. In the case of organic farming, it is the commodity that is certified organic and not the farm. But in the case of a wild-caught seafood, the certification is meaningful only if three conditions are met: (a) the boundary conundrum does not exist or the resource is area-confined like benthic resources that dwell at the sea bottom; (b) the number of harvesters is limited or manageable so that traceability along the chain of custody is less cumbersome (e.g. a portion of a lake), and (c) the nature of fisheries management has a semblance of privatization (for instance, the quota system of output-based fisheries management, common in temperate water countries, works on the principle of privatization of a public good). Paradoxically, a well-managed fishery is a sure candidate for certification. A poorly managed fishery remains the liability of the state.

The labelling perils

The situation is totally different in the case of fisheries in India. The public goods nature of the resource needs to be protected as a constitutional obligation of providing equal livelihood opportunities to those who depend on it. By way of license and registration issued by the Government, the fishers are allowed to make a living by producing enough commercially sustainable surplus. The whole process is mediated by management regulations based on the best available science¹⁴. There is no ambiguity in the fact that sustainability of the resource is also a public good to be enjoyed by all citizens of this country.

It is here that the idea of third-party private certification enters rough weather. Unlike elsewhere, certifying a fishery for an exclusive group of resource users is an improbable strategy here. As an instrument of profit-making out of the fisheries sustainability pie, the option of providing an inclusive certificate does not make much economic sense either. If so, how can one explain the persistence of certain global players in the country?

Ecolabel for them is suspected to be a euphemism for market monopoly both in terms of the certification business and seafood trade in general. It indeed makes business sense. What it does not share is the governance responsibility of the state. By way of allowing eco-labelling a common pool resource, the state, which is the *de jure* owner of the resource, is not only abdicating its stewardship responsibility but also donating the managerial benefits of sustainability, which again is a public good, to a non-state entity. In fact, the ecolabel does not solve any management problem. If a fishery is meeting the standards set by the labelling agency, a selected group of stakeholders is given the ecolabel for the fishery where they operate. Ecolabel is given because the fishery is managed well. Most often, the cost of managing the fishery sustainably well is borne by the public. The State Departments of Fisheries as well as the fisheries research institutes are public-funded institutions. But the benefit (by way of either a premium price or market access) is accrued to a few private players who afford the certification process through the certifying agent after paying a heavy licence fee. It is like a football referee charging the winning team a heavy price for declaring who the winner is.

Since there are many players in the eco-labelling business, the number of fisheries brought under the certification umbrella of a particular brand provides market advantage to the certifying firm. The aim of players like MSC is to retain their monopoly in the ecolabel market. Since they are catering to the green consciousness of rich consumers, they are on the lookout of poster fishes, especially from less developed countries, which improve their market visibility and green credibility. It is interesting to note that the certifying firm is even willing to waive the normal processing fee for developing countries. MSC has given ecolabel certification to two molluscan fisheries, the Ben Tre Clam in Vietnam and Ashtamudi short-necked clam in India, without charging the normal fee from the stakeholders. This is a clear departure in their otherwise exclusive approach practiced in other countries where they have operation.

The threat of ecolabel becoming a condition for market access and thus a potential trade barrier looms large in this grey area. The State of Fisheries and Aquaculture¹⁵ cautions that, while many trade facilitating tools have legitimate objectives, in practice, some of them, including private standards, traceability and certification requirements can create potential obstacles and restrict market

access. Presently, voluntary standards are not covered under the Technical Barriers to Trade negotiations of the World Trade Organization (WTO). However, WTO acknowledges the fact that, even voluntary standards can cause trade distortions, especially in the case of unincorporated process and production methods (PPM)¹⁶ (note 3).

Another concern is the likely polarization of fish consumers in India. The large majority of consumers who obviously cannot afford the premium price demanded by the eco-labelled products, are deemed to be consuming fish sourced from an ill-managed fishery in the country. In other words, an intervention by a non-state entity is making the larger public deprived of enjoying the benefits of sustainably managed fisheries in our EEZ. The responsibility of guaranteeing the domestic fish consumers that they are supplied with fish which is harvested from a sustainable fishery lies entirely with the state. Otherwise, the public-sector investment in the allied public-funded institutions that cater to fisheries administration and research becomes dubious.

It is time that the government should promulgate a self-certification on the sustainability of its marine fish resources based on appropriate or compatible standards, and the same be bestowed with binding equivalence for validity by non-state entities plying the export-oriented seafood certification schemes in the country. The very idea of bartering food sovereignty over an impaired foreign exchange reserve seems to be anachronistic. Marine fisheries governance system in our country is not yet ready for allowing neoliberal market forces to wield the pretext of a stewardship responsibility for gaining market access. It is strange that international multi-partnership organizations formed by sovereign nations to bolster cooperation in the responsible stewardship of the global commons have failed to fathom the way their governance as well as free trade responsibilities are compromised.

Notes

1. The standards under the UN Convention on Law of the Sea, UN Fish Stocks Agreement and Code of Conduct for Responsible Fisheries, are mainly considered for framing the ecolabelling certification criteria. In recent times, there are calls to expand the criteria to include social standards, mainly to ensure that the fishery engages labour in conformity with ILO Work in Fishing Convention 188.
2. However, subprime-driven economic recession forced the country to toe the Marine Stewardship Council line, because the export-oriented fishing industry of Iceland has huge stake in accessing the international seafood trade.
3. Denotes process and production methods that leave no trace in the final product, so that the consumer cannot ascertain whether a

product hails from a sustainably managed production system or not just by visual observation, which obviously is true in the case of marine fish.

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