

# The Palk Bay Fishing Conflict and the Victimization of Tamil Nadu Fishermen

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## I. INTRODUCTION

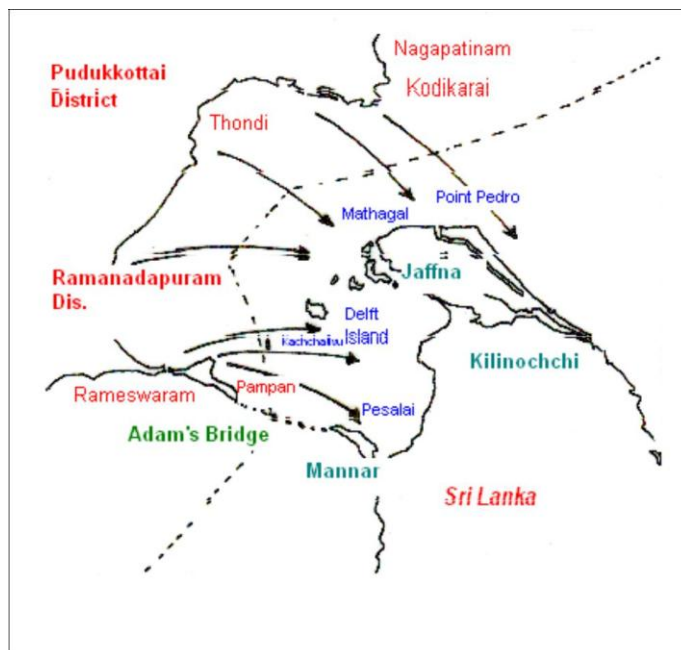
The Palk Bay region has been a flourishing fishing resource of livelihood to fishermen (fishers) in South India and the North Sri Lanka. This Bay has huge advantages of shrimp and prawn fishes, so the two sides of the fishers are enjoying, using the sources what they have. Both countries and their fishermen have not bothered about the maritime boundary for a long time, as they have historical relation. After 1974 and 1976, Sri Lanka settled the maritime boundary issue through an agreement with Government of India on the historic water dividing the two countries and related matters. This exposed the Indian fishermen to many troubles for fishing in these waters with an active role by Sri Lankan Naval personnel. Although there are historical linkages between the fishermen of both Tamil Nadu and North-eastern Sri Lanka, still they see their friends as victim and those on the other side of the international boundary line as aggressors. The Sri Lankan fishermen having more competence to poaching in other countries waters are more prevalent than that of Indian Fishermen. The India fishermen especially Tamil Nadu Fishermen fights their historical rights for fishing and normally float away in to Sri Lankan waters for fishing.

### The Palk Bay

The Palk Bay is named after Robert Palk, Governor of Madras Presidency from 1755 to 1763. The Palk Bay is about 70 miles long and is bounded on the north and west by the coastline of the State of Tamil Nadu in India, on the south by the Pamban strait, Island of India, the Adam's or Rama Bridge (a chain of shoals) and Mannar Island of Sri Lanka, and on the east by the northeast coastline and the Jaffna peninsula of Sri Lanka. The Bay is 137 km in length and 64 – 137 km in width. Although it is commonly referred to as Palk Bay, it is not typically a bay, but a strait, which connects the Bay of Bengal to the northeast and with the Gulf of Mannar to the south. The northern part of the Bay that opens passage to the Bay of Bengal is about 33 miles wide (HETTIARACHCHI, 2007).



The state Tamil Nadu, India has the boundary of Palk Bay only 6.9 Nautical Miles away from Dhanushkodi, 11.5 Nautical Miles away from Rameshwaram, 15.9 Nautical Miles away from Point Calimere, 23 Nautical Miles away from Vadharanyam and 24.5 Nautical Miles away from Thondi (Suryanarayanan, 2005).



**Source: Dr. Augustine Soosai**, University of Jaffna

The Palk Bay is situated between the Longitude 78° 58" & 79° 55" N and the Latitude 9° 55" & 10° 45" E

Since the Sri Lankan side of the Palk Bay water having more advantages of Shrimps fishing, the Tamil Nadu Fishermen, those who were using motorized trawlers took excessive advantage of this situation and started crossing the boundary line and poaching particularly the shrimp resources on the Sri Lankan side of the Bay.

#### **Indo- Sri Lankan Maritime Boundary**



**Source: Hydrographer of the Sri Lankan Navy**

#### **Limits of the Territorial Sea**

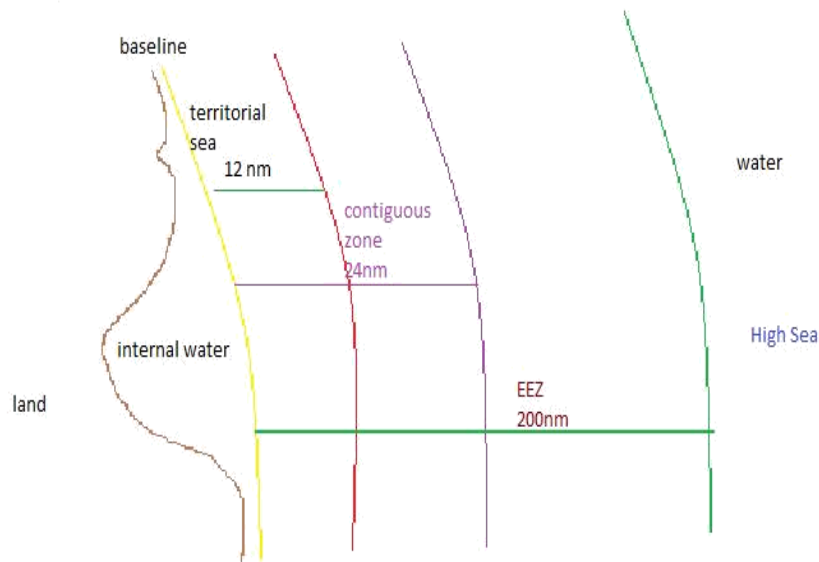
The United Nations Convention on the Law of the Sea (UNCLOS) says that the limitation of the territorial sea for all the country, which are,

**Article 3, Breadth of the territorial sea**, it says that Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention,

**Article 33, Contiguous Zone**, it says the contiguous zone may not extend beyond 24 nautical miles from the baselines from which the breadth of the territorial sea is measured, the coastal state may exercise the control necessary to prevent infringement of its Customs, fiscal, immigration or Sanitary Laws and regulation within its territory or territorial sea and

**Article 57, Breadth of the Exclusive Economic Zone**, it says that The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. In these two Articles of the United Nations Convention on the Law of the Sea are not adopted for the fishermen of the south east Tamil Nadu and the north east Sri Lanka. The Territorial Sea distance between the two countries is very little and not able to separate based on the **Article 3** at least.

#### Limits of the Territorial Sea



Source: Introduction to the Law of the Sea by Dr. David S Berry

#### Fishing On the Palk Bay

India considers, fishing as a major industry, especially in its coastal states. India has 8118 kilometers of marine coastline shores of the three seas viz. Bay of Bengal, Indian Ocean and the Arabian Sea. Considering fishing, as a profession in Tamil Nadu, the State Tamil Nadu is one of the top five fish productions in India. In Tamil Nadu the Fisheries Sector has a very crucial role in the overall economic development. In the early period the Fisheries Sector was started for survival/livelihood, but now it is contributing to both employment and economic generation, and food security and foreign exchange earnings, significantly. The state Tamil Nadu is having nearly about 1,076 kilometers Coastal Lengths with includes 13 Coastal Districts, and 591 Fishing Villages. The total coastal areas are having 9.15 lakh fishermen population.

Sri Lanka is also considered as the major industry in the field of fishing. The country has the coastline of 1800 kilometers and the continental shelf of 31,250 sq kilometer. The most of the Sri Lankan population (54.3 per cent) lives in coastal districts and nearly 7, 00,000 peoples depend on fisheries for their livelihood. Fish means a great deal to the fish loving population of Sri Lanka. Fishing is also vitally important to the Sri Lankan economy in terms of employment (Suryanarayanan, 2005).

From while they started fishing to till the late 1960s the Indian and Sri Lankan fishers fishing in the Bay region were limited to finfish and chank resources. Both countries' fishers were using traditional craft. There were no disputes reported between the two groups and they were fishing in harmony with each other. In the late 1960s the potential of shrimp resources in the area for earning foreign exchange was recognized and since then both groups focused more on shrimp resources. Shrimp was harvested by bottom trawling, and the number of motorized trawlers fishing in the area gradually increased (HETTIARACHCHI, 2007).

Fishing relation between India and Sri Lanka has a specific background, which has to point out that poaching occur both sides of the waters. The Tamil Nadu fishermen poach into the Sri Lankan water; Sri Lankan fishermen enter the Arabian Sea and fish in the Kerala waters, near the Lakshadweep and the Minicoy Islands. They also enter the Indian Exclusive Economic Zone to catch Tuna fish. The Palk Bay, the strip of water that separate Sri Lanka from India, there is one of the permanent and serious challenges facing India and Sri Lanka in their relation is about question of fishing rights in the Palk Bay. The Bay is the area providing a livelihood to tens of thousands fishermen in the two countries. Traditional small craft fishing in the Bay is a customary practice tradition and a critically important economic activity for the coastal population on both countries (Suryanarayanan, 2005).

Some of the Indian fishers who began pursuing shrimp resources under the commencement of shrimp fisheries, commence violating the maritime boundary and trawl on the Sri Lankan water.

When the number of such violations assumed serious proportions, more than 150 Indian trawlers crossing the boundary daily, the Government sent an aide memoir to the Government of India on 4<sup>th</sup> May 1976 expressing concerns (Anon, 2004a).

#### **Agreement between India and Sri Lanka**

The Indian and Sri Lankan states have become the natural custodians of the seas. The two Countries share more than 400 kilometers of their maritime border, which cuts across three different seas. The maritime boundary is close to the shores of both countries in the Palk Bay region, where the long distance separating them is around 45 km, and the short at 16 km (Vivekanandan 2001) Even before the Law of the Sea was negotiated at the United Nations, India and Sri Lanka already had the maritime agreements of 1974 and 1976. The 1974 Agreement demarcated the maritime boundary in the Palk Strait and ceded Kachchativu, a small, unoccupied island in the region, to Sri Lanka. The 1976 Agreement banned either country's fishermen from fishing in the other's waters.

**Article 5 of the 1974 agreement further said:** "Subject to the foregoing, Indian fishermen and pilgrims will enjoy access to visit Kachchativu as hitherto, and will not be required by Sri Lanka to obtain travel documents or visas for these purposes."

**And Article 6 said:** "The vessels of India and Sri Lanka will enjoy in each other's waters such rights as they have traditionally enjoyed therein". On the basis of this, Prof. V. Suryanarayan, a well-known Indian academician on this subject, argued, "Article 5... clearly provided for the continuation of the rights of Indian fishermen to fish even round about Kachchativu (Suryanarayan 1994: 24). But the Government of Sri Lanka rejected this standpoint, claiming that it gave only the right to dry the fishing nets and the right of the pilgrims to visit Kachchativu for religious purposes (Suryanarayan 1994: 4).

**In 1976 Agreement** there was an exchange of letters.

Paragraph I of the Exchange of Letters reads:

The fishing vessels and fishermen of India shall not engage in fishing in the historic waters, the territorial sea and the exclusive economic zone of Sri Lanka, nor shall the fishing vessels and fishermen of Sri Lanka engage in fishing in the historic waters, the territorial sea and the exclusive economic zone of India.

## **II. FISHING CONFLICTS**

After in 1983 ethnic conflict exploded, for the security purpose the Sri Lankan Government imposed some restrictions on fishing in the North and East. These restrictions continued till the Ceasefire Agreement signed between the Government and LTTE in 2002 came into effect. In the time of restriction the South Indian fishers, mainly those who were using motorized trawlers took undue advantage of this situation and started crossing into the Sri Lankan water and poaching particularly shrimp resources that were very rich on the Sri Lankan side of the Bay. Indian trawlers are also using high-opening bottom trawl nets to catch fin fish such as pomfrets and catfish but the fishers of Mannar and Jaffna are concerned only on shrimp trawlers which cause a considerable loss to Sri Lankan fishers. After the agreement made with LTTE in 2002, the local fishers resumed fishing. However, they had to face a new problem of competition from the Indian fishers who were poaching the resources on a large scale, using motorized bottom trawlers. Fishing activities of the Indian fishers often caused damage to fishing vessels and gear of local fishers. This situation led to disputes and even physical violence between the two groups (HETTIARACHCHI, 2007).

The conclusion of the Twenty Eight years of armed conflict between LTTE in May 2009, the Sri Lankan Navy has been patrolling the island's maritime borders. Also, relaxation of fishing restrictions along Sri Lankan coasts has led Sri Lankan fishermen to endeavor into the seas around challenging the domination enjoyed by the Indian fishermen. This has led to conflict between the two fishing communities and, in turn, drawing intervention by the naval forces of the two countries. (Manoharan, N, 2015).

Sri Lankan fishermen have made a complaint against mechanized Indian trawlers that using pair, mid-water, pelagic, and bottom trawling and in the process severely damaging marine resources and sea bed. Sri Lankan fishermen, who venture on high seas for „multi-day fishing“, are caught poaching in Indian waters by the Indian Coast Guard. They are, however, not shot at, but arrested and prosecuted.

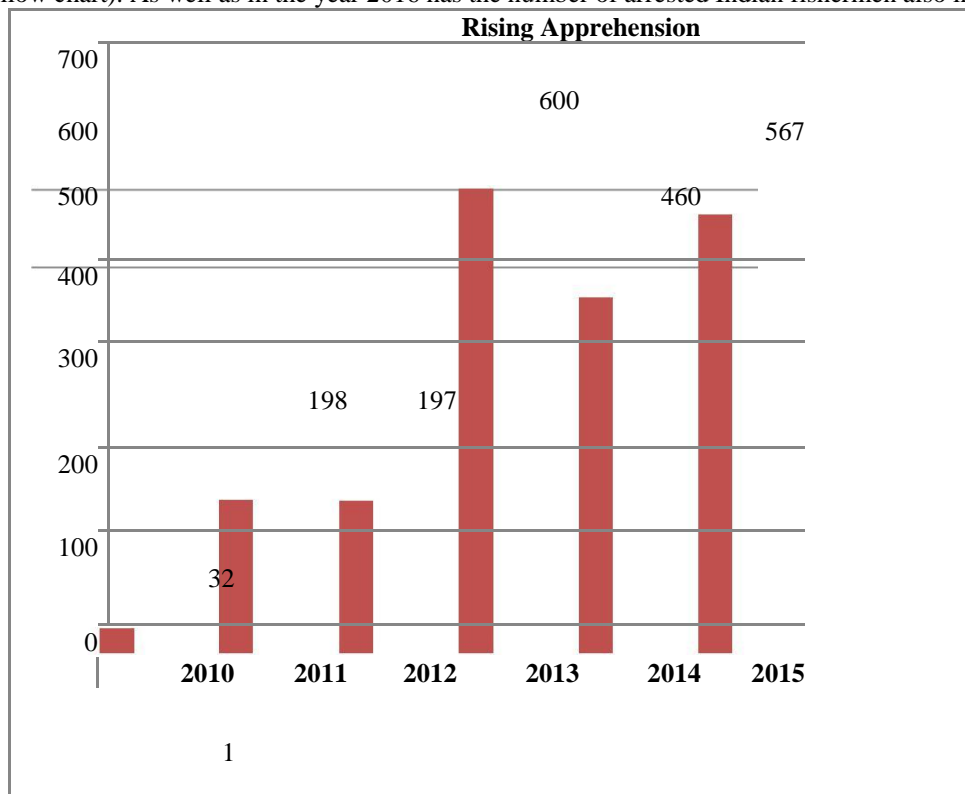
The fishing conflict is an emotional political issue on both side of the Palk Bay. The boundary crossing fishing issues affect the security of the people on both sides in environmental, economic, political and social terms. It makes serious military security issues of the both countries. In many aspect of India Sri Lanka relations, including fishing in the Palk Bay region are discussed in the media, but unfortunately poaching by the Sri Lankan fishermen in Indian waters does not get highlighted (Suryanarayanan, 2005). Dr.Y S. Yadava, Director of the Bay of Bengal Programme (BOBP), an Intergovernmental organization based in Chennai, said that the Sri Lankan fishermen are more adopt and active than the Indian fishermen. They are poaching in other countries waters is more widespread than the Indian fishermen. While Indian fishers crossed the boundary for more catch, they were attacked and fired by the Sri Lankan Navy Personal. Most of the time the Indian fishers were detained and harassed, it may extent to be killed by the Sri Lankan navy.

There is no doubt about that the Indian fishers frequently cross the International Maritime Boundary Line (IMBL) that defines the two nation's respective fishing zones on either side of it. However, many Criminologist, Social defense officers including Tamil Nadu Politicians, argue in defense of the fishermen, based on three major grounds: first one is that the fishers cross into Sri Lankan water without intention, second one is that it will take some time to deter fishers away from a zone where they traditionally held fishing rights and the last one is, at the end of the day, about their livelihood (The Hindu, 2013)

#### Victimization

U Arulanandam (ARIF), Alliance for Release of Innocent Fishermen (ARIF) said that on 1983 August 13<sup>th</sup> the first fire attack was made by the Sri Lankan Navel against the Tamil fishermen (Indian Fishermen). Then after more than 300 Indian fishermen have been killed by firing Sri Lankan Navy and more than 100 fishermen have gone missing and many fishermen have been rigorous injured and many boats, nets and fishing related properties have been destroyed by them and catch worth crores of rupees have been dumped into the sea. Now a day there is no fire attack on Indian fishermen because of Indian Government put some political pressure on these issues, but always the Indian fishers have been attacked and arrested by Sri Lankan Navy. The **Asia Time Online** reported on February 23, 2011 that, "Over the years, around 300 fishermen have lost their lives, over 2,000 have been injured and about 90 have gone missing". In this result, you can observe so many widows are there in the particular fisher's community and many school dropout children also there.

Over decades, the Indian fishermen have fished in Sri Lankan waters and Sri Lankan Fishermen have fished in Indian waters also. Both the two sides of fishermen have enjoyed their traditional fishing rights, but the year 2010 to 2015 the number of arrested Indian fishermen by Sri Lankan Navy is terrifically increasing (you can see bellow chart). As well as in the year 2016 has the number of arrested Indian fishermen also increased.



Source: The Hindu, Dated 19.12.2013 and U arulanantham (ARIF, Rameswaram)

### III. SOLUTIONS AND CONCLUSION

- Tamil Nadu fishermen ready to change their fishing mode, from Trawling to Deep Sea or Gill Net fishing. When they are changing their fishing, they need only 2 days in a week for fishing their historical water. If they are granted within 3 years they will completely change their fishing to Deep Sea or Gill Net Fishing.
- Wedge Bank, a rich fishing area, that the part of the Exclusive Economic Zone of India. After the 1976 Agreement, India agreed to provide fishing licenses up to 6 Sri Lankan fishing vessels to catch not more than 2000 tons of fish annually in the Wedge Bank for a period of 5 years, and after cessation of this period to provide annually to Sri Lanka, 2000 tons of fish at a price to be mutually agreed by the two countries. Likewise Indian government should find out some rich fishing area in the Sri Lankan side water and make an agreement with them to provide fishing licenses to Indian fishers for fishing frequently or occasionally on the basis of demand.

- Indian and Sri Lankan Navy and the border protection agencies establish a task force and conduct routine patrol, due to this kind of activities we have to reduce some kind of unwanted arrest and prevent to killing the fishermen by unwanted fires and allow to fishing their historical rights waters of the both countries fishermen with the two government surveillance.
- U. Arulanatham said that during the year 1958 the Thankachimadam (Rameshwaram) fishermen had gotten a license to stay Sri Lanka and fished their water with the permission of both governments. As well as we can also introduce that license system for both countries fishermen do fishing their traditional waters on particular periods.
- **Article 15** of the United Nations Convention on the Law of the Sea says that, **Delimitation of the territorial sea between States with opposite or adjacent coasts** which means that Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith.
- According this **Article 15** of the United Nations Convention on the Law of the Sea, we also consider that we have a very short distance sea level between Rameshwaram to Sri Lanka. Based on that we should define the new territorial boundary and allow to fishing the two countries fishermen, they will enjoy their historical rights and their livelihood, and take serious security surveillance about any other illegal trespass.
- The two governments should try to stop using of banned nets (trawling, bottom trawling and pair trawling) in their regions and more encourage to gill net fishing and deep sea fishing in their areas.
- The two governments should stop arrest fishermen and their boats and allow to sharing the resources of a sea by the both shore side of the fishermen with continuous surveillances.
- In the other side of thinking the two countries take responsibility to separate the boundary with anchored buoys with visible flags and solar powered lights for all fishermen to see the boundary during day and night. So that the fishermen can without difficulty recognized both the boundary by the long sight itself.
- According the Fishermen Official meet of the two governments on 27<sup>th</sup> of January 2014, they had reached an agreement on various issues over fishing in Palk Bay. The Sri Lankan side argument was that strictly implementing the ban on trawling since 2010 and the trawling nets are responsible for depletion of marine resources, but Indian fishermen are still using the banned nets on the Palk Bay. Then the Tamil Nadu fishermen representative said that now the Fisheries department in Tamil Nadu has the task of ensuring that Tamil fishermen do not use the banned nets in all the 13 coastal districts. U. Arulanatham said that the talks are very satisfactory and useful and we have made progress on this issues and it will be sent to the two governments for approval before implementation. Henceforth we should encourage the official meetings of the two government's fishermen official to take a right decision for the two sides of fishermen to fishing in their historical waters. But still there is no further action regarding the fishermen meet from the both governments.
- Otherwise, during fishing fishes will be reducing, but in Tamil Nadu fishermen are reducing.

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