

Illegal, Un-Reported And Un-Regulated Fishing In Sri Lankan Waters And National Security Concerns

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Introduction

1. Fish is one of the main sources of providing nutrition to the mankind. It is a vital component of food, employment and crucial to the economy of some countries. Fishing is also a major livelihood of millions of people across the globe. It plays a crucial role in maintaining food and economic stability. Will there be sufficient fish remaining for the future generations? Are we, the present generation doing the utmost to utilize 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. 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 serious in following rules. Some do not report the catch. Some use very destructive methods like, use of chemicals or explosive devices to take or assist to take fish, bottom trawling, un-authorized types of nets etc. and these activities hinder the management of world fisheries. Bottom trawling is trawling along the sea bed. 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.

2. The rapid growth and globalization of the fisheries sector has transformed not only the patterns of global fishing and operations but also the existing framework for the management of fisheries. Despite the adoption of conservation-oriented approach to the management of fisheries resources, the deterioration of global fish stocks persist. The decline of global fisheries resources attributes to a number of interrelated factors such as;

- Industrialization.
- Overfishing.
- Open access nature of many fisheries.
- Environmental factors affecting the 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.

3. Illegal, Unreported and Unregulated fishing (IUU fishing)

Illegal-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.

4. IUU fishing is a global phenomenon with many detrimental environmental, economical, ecological and social impacts. This 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 not hesitant to exploit the situation.

-IUU fishing is bad news for legitimate fishermen everywhere.

-Unreported illegal catches mean that the catch data collected by agencies are incomplete and likely to give a more optimistic assessment of the status of fish stocks than actually the case is. This will result in failure to conserve the stock. In extreme cases, this could even lead to collapse of fishery.

-Fish caught by both IUU and legitimate fishers are sold on the same market. But legitimate fishers bare higher operational costs by supporting fisheries and conservational measures.

-IUU fishermen flout rules designed to protect the marine environment. This includes violation of restrictions on the harvest of juveniles, closed spawning grounds and gear

modifications designed to minimize the catch of non-targeted species etc.

-They inflict damages on sea birds, marine mammals, sea turtles and marine bio diversity as a whole.

-IUU fishing is a worldwide multimillion dollar crime, so destructive to nature and illegal in terms of all accepted criteria.

Palk Bay and Issue of Poaching

5. Palk Bay has become an area of escalating fisheries conflicts and a serious political issue that has important implications on relations between the two friendly countries Sri Lanka and India.¹ These waters had been historically shared by fisher folks of both the countries. The International Maritime Boundary Line (IMBL), which came into effect in 1974, separated the Palk Bay area between the two countries. Due to the close proximity of the coastal areas of Tamil Nadu and Northern Sri Lanka, fishermen and smugglers venture into other side of the IMBL quite often. The LTTE used the Palk Bay for movements between the two coasts to ferry their cadres, transferring war fighting materials, casualty evacuation and many other nefarious activities. The Sri Lanka Navy, during the conflict had to take a tough stand against Indian Trawlers venturing into Sri Lankan waters as the LTTE was exploiting these trawlers to fulfill their needs. The Sri Lankan fishermen did not venture much in to the Palk Bay due to the fishing restrictions and monitoring exercised by Sri Lankan authorities during the conflict. However, with the end of the conflict on 19th May 2009, Northern fishermen commenced their traditional livelihood of fishing, and started fishing in the Palk Strait in a big way. In their endeavor, they had to, at times, confront with the Indian fishing trawlers which kept poaching in Sri Lankan waters. However Sri Lankan fishermen are unable to match their counterpart as Indian trawlers are much bigger and more powerful, as these are meant for bottom trawling.

6. Quite often Sri Lanka Navy is accused of harassing, killing, disappearing Indian fishermen, damaging their boats, sinking them and even of looting valuable catch and items from them. Most of these allegations are centered around the island of Kachchative, as this tiny Island is the center of discussion, where the IMBL is concerned. SLN vehemently and repeatedly deny these allegation and their personnel have been issued with strict orders and guidelines not to use force and how to deal with the large number of Indian fishing trawlers poaching in to Sri Lankan waters. It can be argued that Tamil Nadu government uses these allegations as a tactic to prevent SLN from implementing strict control of illegal entry by Indian trawlers. The SLN has won the praise for “Defeating the Most ruthless terrorist organization in the world with international maritime capability” at sea. The SLN has to maintain this reputation and safeguard the territorial waters of Sri Lanka. Therefore they act with maximum restraint, when dealing with poaching Indian trawlers. Possessing more advanced surveillance equipment and satellite technology, India is fully aware that their boats keep poaching in large numbers in Sri Lankan waters. However, fishing is the major livelihood of the people in Tamil Nadu costal area. Tamil Nadu is also the largest exporter of shrimp to outside markets and

1 ‘Building Governance to resolve fisheries conflicts in the Palk Bay area’, <http://pathfinderfoundation.org/associates/Indo-Studies> accessed 16 July 2012, (Accessed 16Jul2012)

these shrimps are caught only in Sri Lankan waters. Therefore, the government of India cannot take a hard stand against their fishing fleet. Considering above facts it can be concluded that the allegations against SLN carry with them more political and economic objectives rather than actual incidents.

7. The issue of poaching by Indian trawlers was clearly proven by an affidavit filed in Madras. Filing a counter affidavit in reply to a public interest litigation petition before the Madras High court, the Deputy Director General of Indian Coast Guard (ICG), Inspector General VSR Murthy stated following.²

- A similar system (a 3 km no go zone on either side of maritime boundary) which exists in Gujarat between Indo- Pak IMBL, to be introduced for Indo- Sri Lanka IMBL to avoid illegal cross border fishing
- Indian trawlers, though having VHF sets never call for assistance of Indian Navy (IN) or ICG vessels deployed in Palk Bay
- The alleged attacks on the Indian fishermen had taken place only in Sri Lankan waters and not in Indian waters, as Sri Lankan vessels cannot intrude to Indian waters, due to patrolling by IN and ICG.
- The poaching by Indian fishers and usage of banned fishing gear have raised the issue of over exploitation of fisheries resources in the Sri Lankan Side of Palk Bay, besides challenging the sovereign rights of that country over their waters. The ICG has information from the Indian mission in Colombo about Indian fishing boats poaching within Sri Lankan waters.
- Approximately 17,102 Indian fishing boats were found poaching in Sri Lankan waters between June and October 2011.
- Despite giving ample documentary evidence of erring Indian fishing boats to the state authorities, cross border fishing still continues.

8. There is enough and more evidence to prove this fact. There is no doubt that Indian poaching has effects on the livelihood of fishermen in the north of Sri Lanka and ecosystems in the northern seas. It is noteworthy that Tamil Nadu government banned fishing by mechanized trawlers from 15 April for a period of 45 days each year. This ban is to conserve the fishery wealth in the coast of Tamil Nadu; in fact this includes the Sri Lankan waters as well. This ban clearly shows that India accepts that the destructive poaching methods used by them in Palk Strait and Gulf of Mannar do really affect the fishery resources therein. And also this very clearly displays the fact that if necessary Tamil Nadu government is capable of controlling and preventing its fishing fleet from poaching in Sri Lankan waters. On the other hand, this ban can also be interpreted as that they are engaged in a scientific and systematic way of taking the fish harvest in Sri Lankan waters.³

² 'State must also act to protect fishermen: Coast Guard', The Hindu News paper- dated 17 November 2011, <http://www.thehindu.com/news/cities/Madurai/article2633760.ece> (Accessed 16 July 2012)

³ Rohan Jayawardena, 'If India Really wants, poaching can be stopped', http://www.defence.lk/new.asp?fname=if_india_really_wants_poaching_can_be_stopped_20120426_04

9. Conservation Issue

In addition to social, economical and political issues, poaching by Indian trawlers can have serious implications on conservation of marine environment. Bottom trawling method of fishing, used by Indian fishermen could be very harmful to marine habitats on the sea bed. Bottom trawling, or which is also referred to as “Benthic trawling” can break corals and destroy sea grass, which are attractive and important marine habitats. These marine eco systems take decades to recover and hence affect the marine bio-diversity. Bottom Trawling is banned in Sri Lanka since 1996, under the fisheries and Aquatic Resources Act. Tamil Nadu fishermen have already destroyed the eco system on the Indian side of the IMBL. If poaching by them is not controlled, the eco system on Sri Lankan side will also be destroyed in the same way.

10. Joint Working Group (JWG)

The India- Sri Lanka JWG on fisheries has so far not produced a firm action plan to stop the menace of poaching in Sri Lankan Waters. However, according to a statement made by the Indian High Commission, following the fourth meeting in Colombo on 13th & 14th Jun 2012, there is a “salutary effect” with a decrease in violent incidents⁴. The meeting concluded with the following understandings.

- The use of force could not be justified under “any circumstances”
- Respect for IMBL was stressed by Sri Lankan side
- To develop a program for bilateral exchanges in aquaculture and fishing related activities.
- To enhance cooperation that would allow both countries to pursue their fishing activities in a safe, secure and sustainable manner, preventing the fishermen from using destructive fishing methods.
- Measures to expeditious release of bonafide fishermen from both sides.

11. Plight of Jaffna Fisherman

Minister Douglas Devananda, handed over a memorandum to visiting leader of the opposition of India Shusma Swaraj, which described the plight of Jaffna fishermen due to poaching by Indian trawlers. The following points were highlighted in this memorandum.⁵

- Value and richness of corals, plants, varieties of fish, prawn, cuttlefish and many more rare species etc. in Sri Lankan waters.

(Accessed 16 July 2012)

4 ‘Fishing matters Sri Lanka, India fisheries talks soft on poaching’ LBO, 15th Jun 2012

5 5 ‘Indian Trawlers poaching in Sri Lanka Waters, says Memorandum’, <http://newsneteast.com/indian-trawlers-poaching-in-sri-lanka-waters-says-memorandum/> (Accessed on 16th July 2012)

- Traditional and sustainable methods used by northern fishermen.
- Effect of conflict on the fishing communities in the north.
- Use of mechanized trawlers by Tamil Nadu fishermen and damage done by them.
- Legal implication of banned fishing methods and poaching by Indian trawlers.
- Requesting necessary action to prevent cross border fishing.

12. Financial Losses

Dr. Rajitha Senarathne, Sri Lanka's Minister of Fisheries & Aquatic Resources Development stated that the country loses Rs 5 Billion daily, due to poaching by the Tamil Nadu fishermen⁶. About 18,000 fisher families in the North directly depend on fishing as their main livelihood while another 10,000 indirectly depend on fishing⁷. The IUU fishing could also mean loss of foreign license revenue, loss of transshipment revenues and loss of landing fee which means loss of fish processing revenue to the country to which the fishery belongs to. The arguments here can be that if they take your fish, you don't own it, you don't process it and therefore you don't sell it to the international markets, which result in loss of export market, loss of foreign currency and foreign exports and possible loss of tourist revenue.

13. Security Concerns of Poaching by Indian Trawlers

As the insurgency grew, the LTTE came to realize the importance of the ocean for their thriving and sustenance. Due to geographical closeness and common ethnicity, the LTTE had been operating between Southern Indian coast of India and the Northern coast of Sri Lanka. LTTE used Indian fishing trawlers to smuggle arms and ammunition into the Northern Sri Lanka. LTTE also used Indian trawlers to illegally transport fuel required to sustain their battle against the government forces. These trawlers were also used to ferry injured and sick cadres between the two countries. There was an instance of LTTE blasting an Indian trawler, which was carrying a large stock of weapons, when the representatives of Sri Lanka Monitoring mission were inspecting it. Even though fishing was banned in many sensitive areas, the LTTE took full advantage of the Indian trawlers that used to come close to Sri Lankan coast poaching, in the absence of Jaffna fishermen.⁸ It is believed

6 ⁶Rajasingham KT, 'Sri Lanka loosing daily Rs.5 Billion'. Asian Tribune, 27th Sep 2011, <http://www.asiantribuns.com/news/2011> (Accessed on 16th July 2012)

7 ⁷ Rajasingham KT, 'To end poaching by Indian fishermen, 5000 Sri Lankan fishermen in 1000 boats will be on a sailing protest shortly to Rameswaram', Asian Tribune, 20th April 2012, <http://www.asiantribune.com/news/2012/04/20/end-poaching-indian-fishermen-5000-sri-lankan-fishermen-1000-boats-will-be-sailing-> (Accessed on 16 July 2012)

8 Chandraprema, CA, 'Gota's war: The crushing of Tamil Tiger Terrorism in Sri Lanka', Ranjan

that the LTTE encouraged and benefitted from poaching Indian trawlers, to smuggle items and to provide a cover to their nefarious activities. The LTTE boats used to take cover amongst the large number of Indian trawlers.

14. The Indian Government in July 2012 extended the ban on LTTE, declaring that it continues to adopt strong anti-Indian posture and poses a grave threat to the security of its citizens⁹. This is a clear indication that India, based on intelligence analysis firmly believes that the LTTE terrorist threat is not yet over, though it was virtually decimated by the Sri Lankan forces in May 2009. It can be assumed that the LTTE remnant cadres, dropouts, sympathizers, and supporters, who live in India, with the help of Tamil Diaspora, will continue to work towards achieving Eelam. The Tamil Nadu politicians, who play the Eelam card, will continue to play this power game, which will benefit the LTTE rump to resurrect the outfit and reorganize their efforts, which can be the biggest national security threat to Sri Lanka at this juncture. The situation if continues can certainly affect the ongoing reconciliation process in Sri Lanka. The LTTE rump could exploit poaching by Indian trawlers, as done in the past to revive subversive and terrorist activities. This situation coupled with depleting livelihood resources for Northern fishermen communities can have drastic negative national security implications on Sri Lanka as well as India.

15. Possible Solutions-Way forward

As a way forward in finding a long lasting solution to this very contentious issue, there had been many suggestions put forward by various interested parties. Some of these suggested solutions are as follows;

- Reduce the number of fishing days.
- Contacts between the fishing societies in both countries
- Stopping mechanized trawl fishing in Sri Lankan waters
- A Palk Bay Authority (Palk Bay not as contested territory, but as common territory), consisting of both the countries including specialists in fisheries and marine environment.
- Can determine the quantum of annual sustainable catch
- Type of fishing equipment that could be used and equitable fishing days and distribution of catch amount between the fishermen of both countries
- Joint ventures for deep sea fishing
- Take action against errant fishermen

wijerathne foundation, 2012 P.363

9 Venkat Narayana S, India cautions Sri Lanka: LTTE remnants secretly working for Eelam, The Island, 17 July 2012.

- Joint naval/coast guard patrolling in the Palk Bay
- Erection of physical barriers all along the IMBL
- Funded by both countries
- International funding
- Jointly monitored by both Navies & Coast guards

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