

# **The Plight of Fishermen of Sri Lanka and India<sup>1</sup>**

## **The legacy of Sri Lanka's civil war**

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### **Introduction**

The civil war in Sri Lanka (1983-2009) had undoubtedly touched the lives of all citizens of Sri Lanka, both in the war zone and outside it. Its impact on the economy, polity and society was considerable, with many long term and permanent changes taking place. This paper will explore the impacts it had on fisheries and the fishing communities of Sri Lanka. It will also discuss the impacts it had on the fishermen of the Indian state of Tamil Nadu, Sri Lanka's immediate neighbour across the sea. It will highlight how the changes in the fisheries of both Sri Lanka and Tamil Nadu, triggered by the war, now represent a serious problem in peace time that needs urgent resolution. The well being of the fishing communities on both sides depend on this resolution.

### **Affected coastlines and fishing communities**

In terms of the coastal areas and fishing communities that were affected by the civil war in Sri Lanka and India, it may be useful to specify upfront the areas and the communities that were affected by the war directly or indirectly. On the Sri Lankan side, the fishermen of the north and east were obviously the ones directly affected. Even within this, it is the fishermen of the north who were the most affected. However, as I shall show, the war had indirect effects on the fishing communities on the west and south of Sri Lanka, both positive and negative.

On the Indian side, the fishing communities affected belong to the Palk Bay and adjoining areas of the state of Tamil Nadu. In particular, the districts of Ramnad, Pudukottai, Tanjavur and Nagapattinam are affected.

### **Sri Lankan Fisheries—Pre-1983**

Sri Lanka, like India, had a traditional small-scale fishery at the time of independence with the entire marine fisheries conducted by sailing and rowing boats. It also had fishing communities across its 1600 km coastline with a long history of fishing. All fishing was concentrated in the coastal waters near the shore. Shore seine fishing or *Madel* fishing was very prominent. If the Tamil fishermen of the Northern Province<sup>2</sup>

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<sup>2</sup> Provinces came into being much later, but for convenience I am using the term to designate the group of districts that are contained in them. The Northern Province includes the coastal districts of Mannar, Killinochi, Jaffna and Mullaithivu. Vavuniya, the fifth district of the province, is not on the coast.

used *Kattumarams*, the Sinhala fishermen in the south and west used canoes, especially the *Orus*, which are out-rigger fitted canoes. Though Sri Lanka has only a narrow continental shelf, the location where most of the fish resources are concentrated, fishing capacity and intensity was low enough for major expansion programmes to be contemplated.

The 50s, 60s and the 70s saw the continuous expansion of the fisheries with major state interventions through cooperatives, promotion of new technologies and subsidies for fishing equipment. Much to the envy of the Tamil Nadu fishermen, the Sri Lankan fishermen were the first to acquire nylon nets. They then graduated to small fibreglass boats with Out Board Motors (OBMs). Improvements in transport systems and availability of ice gave a boost to these changes.

The Sri Lankan market for fish and fishery products was also an important driver of fisheries development. Fish has always been an important item of diet in Sri Lanka, and fish prices have always been higher than in neighbouring India. This explains the long standing export of dry fish from India to Sri Lanka and the absence of fish trade in the opposite direction. Tuticorin in Tamil Nadu was a major base for seafood exporters in India with dry fish to Sri Lanka being their mainstay.

Bottom trawling, particularly for export oriented shrimp, also made an entry in Sri Lanka, soon after it started in India. However, it ran foul of the existing set up very soon and was abandoned in most of Sri Lanka. That Sri Lanka has a very narrow continental shelf played no mean role in this. Very early on, the conflict between the artisanal fishermen and the trawlers erupted and it was obvious that both could not co-exist. However, a relatively small fleet of trawlers got established and entrenched in the Northern Province, both at Mannar and Jaffna. This can be explained as the consequence of the wider continental shelf that the Northern Province enjoyed.

The Palk Bay between India and Sri Lanka is a shallow water body with the depth not exceeding 50 m. North of Jaffna is also the Pedro banks, a shallow area with rich fishing grounds. The greater scope for the trawlers to co-exist with small boats made it possible for a small trawl fleet to emerge and survive till this date in the Northern Province. However, this fleet was never allowed to develop into a large one and was always kept on a strong leash by the local community<sup>3</sup>. Sri Lanka is perhaps the only instance of a country in the tropics that escaped creating the trawl-non trawl dichotomy in fisheries, a source of permanent conflict and resource degradation.

The generally higher level of human development in Sri Lanka—the result of the economic model that put human development above economic growth—meant that the fishing communities in Sri Lanka were also far ahead of their counterparts in India/Tamil Nadu by a wide margin, before the start of the civil war<sup>4</sup>. Standards of education, health and hygiene in fishing villages of Sri Lanka were far superior to most of India.

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<sup>3</sup> This problem has resurfaced after the civil war with the small trawl fleet in the northern province insisting that they be allowed to operate when there is no control on Indian trawlers.

<sup>4</sup> Kerala in India is also said to have followed a similar economic model with emphasis on redistribution of wealth through land reforms followed by investments in health and education. However, as John Kurien has demonstrated, the “Kerala model” did not really apply to tribes and fishing communities who remained “outliers” in Kerala’s society.

Something worth noting was the importance of the Northern Province to the overall national fish production in Sri Lanka. Due to the availability of the rich resources of the Palk Bay and the Pedro Banks, the Northern Province was the leading fish producing region of Sri Lanka and played a significant role in catering to the nutritional security of the island nation.

### **Tamil Nadu fisheries, pre-1983**

India, like Sri Lanka, started its fisheries development after independence without a single mechanised boat but with a large traditional fishing community. With the resource exploitation being low even in the shelf area, the prospects for fisheries expansion looked limitless.

The 50s and 60s saw fisheries development in India that was largely driven by the domestic market demand and the availability of new materials like nylon. Fisheries started expanding with increasing benefits to the traditional fishermen. However, efforts by the state to introduce mechanisation were not very successful, except in the state of Maharashtra where the combination of a wider continental shelf, much larger country boats that went on multi-day sailing trips, the Bombay market and the emergence of genuine cooperatives made mechanisation a smooth and less contentious process.

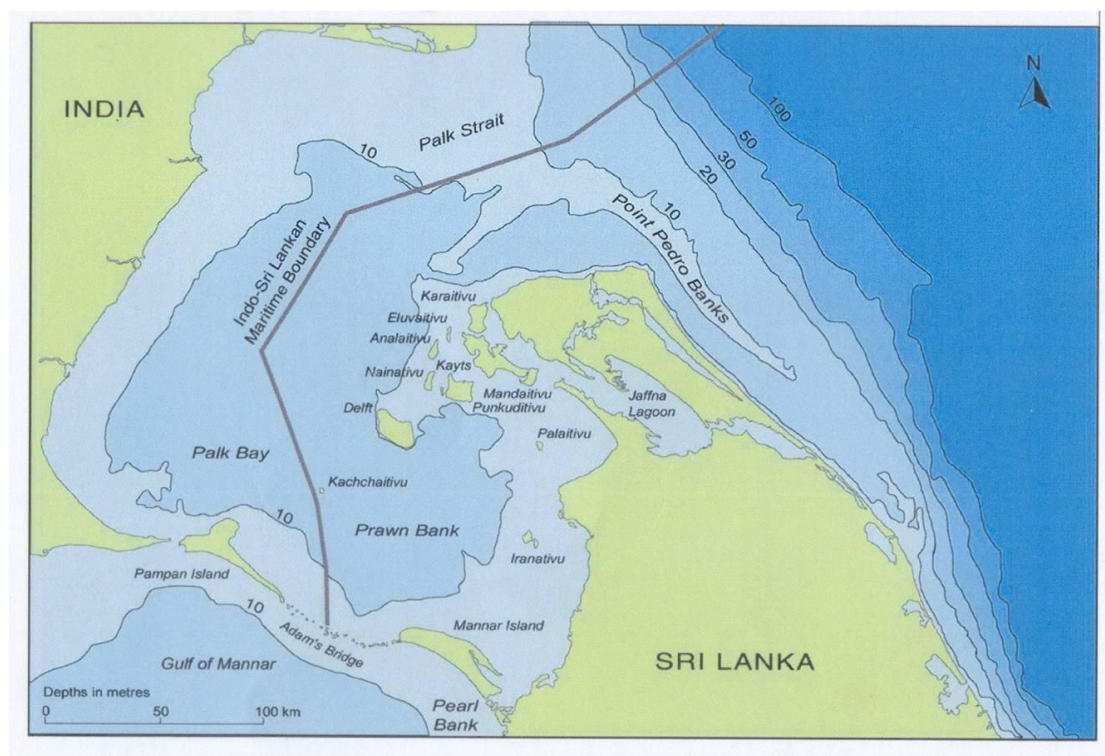
The foreign exchange crisis of 1966, the devaluation of the rupee and the national shame over dependence on donated food articles, created conditions for a major overhaul of national policies. Increases in food production as well as export oriented policies in certain designated sectors became high priority. Marine fisheries became a key sector to earn foreign exchange. This made India pre-disposed towards promotion of bottom trawling for shrimp. Starting in a small way in the mid-60s, trawling started making a big impact by the mid-70s across the entire coast, leading to conflicts between the small scale fishermen and the new mechanised trawlers. However, the Indian establishment, while making some regulations to protect the small fishermen from trawlers, continued to back trawling as a method.

Tamil Nadu, with its 1000 km coastline, has a large fishing community, but a relatively narrow continental shelf (relative to rest of India, but wider than that of Sri Lanka). The fishing community in TN is also known for its high skills and dynamism. Tamil Nadu also followed this national pattern of development to the extent that it is the Indian province with the largest number of trawlers. However, it is important to recognise that the “big vs small”, “trawler vs traditional” debates can be misleading at times.

The trawl sector in Tamil Nadu (and in most Indian states) does not represent big business. Though trawl owners do represent a new class within the fishing community, they are at best the equivalent of green revolution peasant farmers growing commercial crops. The trawlers are owned mainly by those belonging to the fishing community, mostly employing labour from the fishing communities. Even in Rameswaram, where a motley crowd of non-fishing communities got involved in trawling, the trawl owner is not a big businessman but just a small entrepreneur trying to make both ends meet.

An important event that occurred on the Tamil Nadu side of the Palk Bay in the late 70s is worth mentioning. There was a major clash between the gillnet vallams (solidly build wooden canoes) and the trawlers. The gillnets used are quite long and need considerable space at sea while the trawlers operating in the same sea are bound to destroy the gillnets. Both cannot co-exist at sea. This clash led to “peace-talks” between the two groups organised by the district administration of Pudukottai and the emergence of the “three day-four day” rule. As per this, trawlers and gillnetters will fish on alternative days with gillnetters getting four days a week to fish and the trawlers the remaining three days of the week. This agreement continues to be in force in the Palk Bay districts of Ramnad, Pudukottai and Thanjavur even today.

### **Indo-Sri Lankan fishing interactions, pre-1983**



The Palk Bay and Palk Straits are where the Sri Lankan and Tamil Nadu fishermen had close interactions at sea due to the proximity of the two coastlines. In the Palk Bay, the distance between the two countries ranges from a mere 16 km to 40 km. Even without mechanical propulsion it was possible to cross over by rowing boats at the extremities of the Palk Bay and with sail in the remaining parts of the Bay. Katchativu in the centre of the Bay was an island where one could dry one’s fish and nets and where fishermen from both sides met at the annual St. Antony’s Church festival. In addition to Tamil as a common language, the fishermen on both sides also had common origins.

It is said that there were tensions between the two groups on a couple of occasions when new technology made its entry. The Sri Lankan side was the first to get nylon nets and some Indian fishermen are said to have stolen nets leading to a clash at sea. This got resolved shortly with the Indians also getting access to nylon nets at home.

When the Indian side obtained trawlers in 1967, this also led to a clash but was resolved shortly when the Sri Lankan side also obtained the same technology. If one ignores these two blips in the relationship, there was considerable brotherhood at sea and a lot of give and take. It is said that whenever a new MGR film was released, Mannar fishermen would go across, anchor their boat in Rameswaram and see the film! And this went on till 1983, well after the maritime boundary was drawn up in 1974.

The maritime boundary in the Palk Bay and Palk Straits was fixed as per an agreement in 1974, popularly known in India as the Katchathivu agreement, on account of the boundary being drawn to include the island in Sri Lankan waters. This was a politically contentious issue in Tamil Nadu, but it did not seem to make any difference to the fishing activities and the fishermen. It was business as usual for them till the civil war started in 1983.

Thus the pre-1983 relationship was one of free movement of fishing boats all over the Bay, something that did not stop with the formal demarcation of the boundary in 1974. There were occasional conflicts at sea, but these were much less severe than those between different groups of Indian fishermen. The civil war put an end to this idyllic situation when fishermen were the masters of the Palk Bay and sorted out their problems irrespective of nationality.

### **The civil war and its impact on the north and east of Sri Lanka**

The 26 year civil war impacted fishing and fishermen in many ways. In the war affected north and east, these were the impacts:

- Displacement due to war; sometimes more than once for particular villages and communities
- Forced to flee as refugees to India or to other parts of Sri Lanka (IDPs or Internally Displaced Persons)
- Destruction of fishing equipment time and again due to the war
- Severe restrictions on fishing operations—on time of operations, area of operations, use of motors, etc.
- High security zones near military bases where fishing was banned depriving fishermen of their livelihood
- Deaths due to being in the wrong place at the wrong time

Some of these impacts are perhaps not unique to fishing communities but were common to many other communities in the north and east. It must also be mentioned that many rounds of rehabilitation took place only for war to destroy all that was done during periods of truce. The tsunami added to the woes of the war affected, especially in the north east and east when the fishing communities took the brunt of the tsunami.

What must have been demoralising for fishermen of the north in particular was the loss of their premier position in Sri Lankan fisheries. While the south and west progressed with new technologies, development of deep sea fishing, etc., the northern fishermen regressed to a level well below their 1983 status. Jaffna, which used to be the district with the highest fish landings, declined from around 20,000 to 5,000 tonnes per annum.

## **Indian fishermen—fishing in the midst of war**

On the Indian side of the Palk Bay, the war did not stop fishing activities. With fishing being their sole occupation, fishermen saw no reason to stop fishing and continued to fish across the border, as they had been doing earlier. Straightaway, there were tragic incidents. The first incident took place in 1983 itself when three Rameswaram fishermen were shot dead by the Sri Lankan Navy. The entire community erupted in anger, blocking the rail transport to the island of Rameswaram. This was just the start of many such incidents.

Things settled to an uneasy equilibrium with Indian boats routinely fishing across the border. Periodically, there would be incidents of shooting or physical harassment. These incidents would highlight the risks involved and throw a scare into the community. However, after a short gap, it would be business as usual. The area most affected by the war was Rameswaram Island with its 1000 mechanised boats and few hundred country boats that crossed regularly into Sri Lankan waters. A quick look at the map will provide an explanation. The maritime border is just 7-8 km from Dhanushkodi, the eastern tip of the Rameswaram Island. With fishing prohibited within 5 km from the shore to protect small boats, the trawlers would start operations after that. The very first fishing haul would automatically take them beyond the maritime border.

However, it was not just the trawlers who would fish beyond the borders. The gillnet *vallams* go chasing after the shoals on both sides of the border. Even *kattumarams* would cross the border with their sail. Many a time, these traditional small scale units also paid the penalty with some of their crew losing lives.

Moving up the coast from Rameswaram, the extent of border crossing reduces significantly as the distance to the border increases. While the Rameswaram boats go towards Mannar and Delfts Island, the Jagadapattinam boats from the middle of the Palk Bay coast, go towards Delft Island and Jaffna. Further up the coast, it is more often than not the country boats that cross the border to go and fish on the other side. In the Palk Straits, the Nagapattinam boats, which migrate to Kodikarai or Pt. Calimere during the lean season, cross over to fish in the rich Pedro bank vacated by the Sri Lankan fishermen due to the war.

The actual casualties of Indian fishermen during the war are reported differently in different sources<sup>5</sup>. According to information collected from the Rameswaram fisheries office, I had computed that 85 fishermen were killed between 1983 and 2000 from Rameswaram alone. Around 14 were missing and presumed dead. Around 276 had sustained serious injuries. A recent computation by ARIF indicates that 226 fishermen have died (including 81 who went missing and are presumed dead) and 335 have sustained injuries.

As a piece of statistics, the casualty figures from the Indian side are not very large when compared with the death toll on the Sri Lankan side. No statistics exist on how many Sri Lankan fishermen lost their lives, not necessarily while fishing, but as

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<sup>5</sup> A figure of 500 deaths is quoted routinely but I am yet to see a proper list substantiating this.

civilian victims in the war. It would surely be much higher than the casualties of Indian fishermen. However, for a non-combatant country, such levels of casualties were completely unacceptable and every incident would trigger anger and anguish on the Indian side. It also showed the risks that the Indian fishermen took during the war to pursue their livelihood.

Another aspect of the risk was the arrests and detention. In some ways this risk was statistically more significant than the risk to life. While Indian boats were routinely allowed to cross the border, on many occasions and during certain periods of the war, arrest and detention of some of the boats and the fishermen would take place. Till 2000, those arrested would spend months (and occasionally a year or two) in jail and return after a lot of hardship. An associated risk was the loss of the boat and fishing equipment. Some boats were destroyed in the action itself. Most would be confiscated and remain in custody till they were beyond salvage.

Diplomatic efforts and work of NGOs on both sides helped early release of fishermen and boats. By and large, the Sri Lankan civilian authorities and courts were sympathetic to the Indian fishermen and the release would take place once it was ascertained that no crime was involved other than that of poaching. However, physical roughing up, severe beatings and mental harassment were reported in many instances during the initial arrest and detention before handing over to civilian authorities.

### **Understanding the Sri Lankan response**

Despite the large number of incidents of shootings and arrests that took place, it is important to put this in context. It needs to be understood that over 1000 Indian trawlers crossed into Sri Lankan waters three days a week for over 25 years. Add to this the few hundred country boats that would cross over on the remaining four days of the week. Obviously, the Sri Lankan Navy did not arrest or shoot at Indian fishermen for crossing over to Sri Lankan waters. If they had taken such a position, the figures would have been astronomical and it would have been a geo-political disaster.

The reality was that the Sri Lankan Navy was merely concerned about security issues and not about poaching. Most incidents of shooting took place at night when it is difficult to distinguish between friend and foe. It often took place when Indian fishermen were perceived by the Navy to have been behaving “suspiciously”. It is acknowledged by the Indian fishermen that for most of the time, the Sri Lankan Navy enjoyed a cordial relationship with Indian fishermen. Many a time naval vessels would provide drinking water to Indian boats. At times the Navy personnel would ask for fish in exchange for some provisions. So, despite the many tragic incidents, the relationship at sea was actually very good most of the time.

### **The Katchathivu myth**

It should be clear from the above that border crossing by Indian vessels was accepted as unavoidable by Sri Lankan authorities during the entire course of the war. The same can be said about the Indian authorities. It is only during the IPKF operations that the Indian military proposed that fishing be completely stopped in the Palk Bay to enable it to do an effective job of controlling the sea. This was found to be politically

infeasible and the idea was given up. The Tamil Nadu Fisheries Department, in between, tried to impose a fine on those crossing the border. This also could not be enforced.

However, a clear pattern developed around the way incidents involving shooting or arrests were reported. Finding that the insurance companies would not pay for loss of life or injury if the incident took place outside Indian waters<sup>6</sup>, fishermen started reporting that they were fishing in Indian waters when the incident took place. Given that Katchathivu is close to the border (just 2 nautical miles inside Sri Lankan waters), it became a convenient excuse to say that they were fishing “near Katchathivu” when the incident took place. It was easy for all concerned to believe that the poor fishermen, who do not have modern gadgets, would not know where the border was exactly located and hence might have “accidentally” crossed over.

However, for political parties in Tamil Nadu, these reports reinforced their belief that Katchathivu was wrongly handed over to Sri Lanka and it is important to get it back. Every incident at sea would trigger a wave of indignation over the injustice done to fishermen on account of the Katchathivu agreement. The media gleefully gave good coverage and the Katchathivu myth was born. The fishermen finding that the Katchathivu story gave them good mileage, stuck to it.

When I met the Fisheries Secretary of Tamil Nadu in 1997, soon after the formation of the Alliance for Release of Innocent Fishermen (ARIF)<sup>7</sup>, I found that he and the senior officials in the TN Government were blissfully unaware that the Indian fishermen fished right up to the Sri Lankan shore and that there are no good fishing grounds left near Katchathivu. While the local officials and the police knew about the ground realities, the higher ups were often in the dark<sup>8</sup>.

### **Fishing fleet expansion despite the war**

Another feature of fisheries during the war was the expansion of the Indian fleet in the Palk Bay, especially the trawlers. This can be attributed to the absence of competition from the Sri Lankan side. The Tamil Nadu trawler fleet expanded in other regions also during this period, though to a lesser extent<sup>9</sup>. Tamil Nadu, as every other coastal state in India, has no effective fisheries management system in place. While there are a number of rules and regulations governing fishing, with some of them enforced and the others are not<sup>10</sup>, there is no effective “limited entry” into fishing. Fishing, for all

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<sup>6</sup> All marine fishermen in India are insured jointly with the state and central Governments sharing the premium paid to Insurance companies.

<sup>7</sup> ARIF is a network of trade unions, fishermen associations and NGOs that came together in December 1996 to form a common platform to take up the issue of arrests and detention, provide humanitarian and legal assistance to those arrested and to find a long term solution to the problem.

<sup>8</sup> This has changed in recent years with the Sri Lankan authorities providing aerial and satellite pictures of Indian fishing vessel movement. However, this information is not yet in the public domain and the Katchathivu myth endures.

<sup>9</sup> Tamil Nadu trawlers are the scourge of all neighbours. If the Palk Bay fleet fishes in Sri Lankan waters, the Chennai fleet fishes in Andhra waters while the Colachel fleet fishes almost entirely in Kerala waters.

<sup>10</sup> A six week ban on mechanised boats every year is being effectively enforced in all states of India. However, the various restrictions on fishing gears and the 3 mile zone for artisanal fishing are effective only where the local communities themselves accept the need for these and take their own measures to enforce them or force the officials to enforce them.



practical purposes, remains “open access”. This is true to a large extent in Sri Lanka as well.

The failures in fisheries management can be attributed to poor governance, but it also needs to be recognised that most fisheries management regimes that talk about “limited access”, licences, “property rights”, “quota systems” have come up in developed countries and often in temperate waters where species based fisheries management is more applicable. For practical purposes, there are no real life examples of how to manage fisheries in countries like India and Sri Lanka where fishing is largely informal, a large and dispersed population depends on it and the scientific information needed for stock based or species based management does not exist.

So, during the war, the trawl fleet of the Palk Bay in Tamil Nadu literally doubled. However, this expansion came to a halt around 2000 when diminishing returns to fishing as a result of excess capacity, increased operational costs and decreasing price for shrimp combined to make trawling a less attractive proposition. It is only in Nagapattinam that the trawl fleet has expanded after that. This was on account of the tsunami largesse it received in 2005 and 2006.

### **War impacts on other parts of Sri Lanka—emergence of the “multi-day” fleet**

The fishermen of western Sri Lanka (Chilaw, Puttalam and Negombo) had a long tradition of migrating to the northern coast, especially Mannar, during their lean months. They used to take their shore seines with them and later on the FRP-OBM combination as well. The war put an end to this migration. The inability to pursue seasonal migration forced the fishermen to intensify their fishing operations in their own coastal waters. Predictably, this resulted in higher horsepower, longer distances and increases in gear. There was obviously a limit to this type of intensification of fishing in the same area.

The late 1980s saw the introduction of “multi-day” boats to go beyond the shelf and fish in the deep sea for tuna and shark. The Negombo fishermen, under pressure to find new fishing grounds, jumped at the opportunity and took to multi-day fishing. The Sri Lankan Government, also concerned by the increasing fishing pressure in coastal waters came up with subsidies and liberal bank finance for multi-day boats. By early 1990s, this became a rapidly growing sector.

The Sri Lankan multi-day boats are a unique phenomenon. By international standards, these are small boats which are normally not expected to indulge in oceanic fishing involving long voyages. Initially, they were just around 40 feet long and went for week-long voyages. The design was clever and provided for storing large volumes of fuel and water needed for voyage-fishing. The fishing gear used is also somewhat unusual and innovative. It is a “combination gear”: a gillnet<sup>11</sup> used in combination

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<sup>11</sup> Gillnets are the most common form of fishing nets. A gillnet is nothing but a rectangular piece of net that is set vertically in the water. The multi-day boats use “drift gillnets” wherein one end is tied to the boat and the other end drifts with the water current. Fish are normally caught at the gills in the mesh of the net, giving the gear its name. The thickness of the twine, the size of the mesh, length and width of the net vary according to the type of fish that is caught and the scale of the operation.

with a long line<sup>12</sup>. The long line is tied to the gillnet so that both gears are simultaneously fishing. Skipjack tuna is mostly caught by gillnet while the long line is targeted at yellowfin tuna and sharks. Smoked and dried skipjack tuna is a delicacy in Sri Lanka and the multi-day boats had no problem of marketing their catch and compensating the cost of traversing the ocean.

As the number of multi-day boats increased and the fishermen gained confidence in going farther, the boat size steadily increased. Today most boats are in the 50-60 foot range and have the capacity to go for 2-3 month voyages. The entire Indian Ocean has become their terrain. Almost overnight, fishermen operating 18-foot fibre glass boats with OBMs for short trips of a few hours had become deep sea fishermen traversing the entire Indian Ocean. In many ways, this first deep sea fleet in South Asia has disproved the conventional wisdom that only industrial vessels operated by large corporate houses can undertake oceanic fishing. Most industrial fishing has its origins in temperate waters where the size of the vessel is huge in view of the rough seas as well as the need to protect the fishermen from the weather. In the tropics, all it needs is adequate storage facilities for fuel, water and the fish caught.

The multi-day boats are also well equipped with communication facilities and GPS. Radio telephones are used and the Fisheries Department has set up base stations to receive messages from the multi-day fishing boats at sea. This ability to communicate easily with the shore and each other at sea has contributed immensely to the confidence and sense of security felt by the deep sea fishermen.

### **Trans-border fishing by multi-day boats**

With the oceanic Tunas travelling thousands of miles in shoals, it is but natural that the fishing fleet targeting them also move long distances. Strictly speaking, the oceanic tunas do not belong to any country's EEZ<sup>13</sup> and are "highly migratory and straddling stocks" that move from EEZ to EEZ and from EEZ to the high seas<sup>14</sup>. Given the vastness of the ocean and the limited fish stocks in them, it is difficult to contain a deep sea fleet to one's own EEZ, especially that of a small island nation like Sri Lanka, which has virtually no EEZ on its western side due to proximity with India.

No wonder, when the Sri Lankan fishermen increased their boat capacity for long voyages, they ended up in the EEZ of other countries in the Indian Ocean. India, the neighbouring country with a large EEZ, is naturally the number one destination for these boats. They also end up in the EEZs of Myanmar in the north, Indonesia in the east, Maldives in the west and even Diego Garcia in the south west<sup>15</sup>.

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<sup>12</sup> Long lines are nothing but long lines (mostly made of nylon) to which hooks are attached through branch lines. The thickness of the main line, the size of the hook and the length of the mainline will vary according to fishing requirements. The hooks will need to be baited to catch the target fish. The bait is likely to be small fish caught en-route to the main fishing grounds.

<sup>13</sup> Exclusive Economic Zone. This includes the sea area that is 200 nautical miles from the shore.

<sup>14</sup> High Seas are the international waters beyond the EEZ and hence do not belong to any country.

<sup>15</sup> Occasionally these boats have been used for nefarious purposes, carrying people illegally to distant countries. Some boats have been spotted in the Mediterranean carrying persons to Italy. In 2003, I came across a Sri Lankan multi-day boat stranded in East Timor when it developed engine trouble while attempting to reach Australia with a group of people.

As far as India is concerned, the Sri Lankan multi-day boats visit both the east and west coasts and are often found in the Lakshadweep and Andaman Islands. With small islands acting as “tuna aggregating devices” in the ocean, the multi-day boats often end up near island chains. India is a doubly attractive destination as it has not been able to exploit its deep sea resource and its local fleet is more or less bound to the continental shelf. The “trawlerisation” of Indian fisheries has acted as a hurdle for the development of genuine deep sea fishing. It is only around the end of the 1990s that the shark fishermen of Thoothoor (Kanyakumari District) started moving into oceanic fishing (initially for pelagic shark and subsequently for tunas)<sup>16</sup>.

The consequences of fishing in other country waters have been varied. Maldives is the strictest of the lot. With tourism and fishing as its main sectors of the economy, it cannot afford to be liberal. Once caught in Maldives waters, one can only bring back the fishermen and boat after paying a hefty fine that will bankrupt the owner. With India, the situation can be variable. Perhaps, one can escape detection as the Indian EEZ is large<sup>17</sup>. This may be the reason why the multi-day boats are willing to take their chances in Indian waters. Once caught, however, the Coast Guard is strict in enforcing the law—they seize the vessel and arrest the fishermen and hand over both to the civilian authorities on shore. Normally, the arrested fishermen are charged under the Maritime Zones of India Act (1981) and tried in one of the seven designated courts enforcing the MZI Act. This process can be long and tedious taking over a year. The result is also certain as there is no escape route in law. A stiff fine and seizure of the boat is the result.

Arrest and detention in India can be very traumatic. Even though the system treats them well, in the sense that there is no harassment, the long months in Indian jails going through the grind of the Indian legal system is hard for the ordinary fisherman. The families back home become desperate and send friends or relatives to India to check out the status of the arrested fishermen. Some pay for lawyers but this is a waste as they only delay the inevitable. However, since 1997, as a result of ARIF’s advocacy, the Tamil Nadu Government has been releasing the Sri Lankan fishermen without trial. This is clearly with a view to ensure reciprocal release of Tamil Nadu fishermen who also used to languish earlier in Sri Lankan jails. In other states, getting the release of the Sri Lankan fishermen can be quite difficult.

Thus, it is not a bed of roses for the multi-day boat fishermen who spend long months away from their families at sea and take huge risks in fishing in the EEZ of other Indian Ocean countries.

The significance of the multi-day boats is that they bring a certain balance to Indo-Sri Lankan fisheries relationship. Without them, trans-border fishing would be a one-sided affair with Indian trawlers fishing in Sri Lankan waters using the logic of historical rights. With both countries having their own “naughty boys”, it is difficult for either of them to take the high moral ground or become totally legalistic in this matter. However, this does not mean that the trawler problem in the Palk Bay is

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<sup>16</sup> The Thoothoor shark fleet is another extraordinary example of native ingenuity in South Asia. Unknown to the Govt, this fleet developed into a deep sea fleet. The Thoothoor boats are nowadays even bigger than the Sri Lankan multi-day boats, but voyage only for a maximum of four weeks. This seems to suit them fine.

<sup>17</sup> 2 million square kilometres

cancelled out by the multi-day fishing boats fishing in the Indian EEZ. As will be shown, each is a distinct problem and has to be resolved satisfactorily for the well being of fish and fishermen<sup>18</sup>.

### **Fishermen of the Northern Province—biggest victims of war...and peace**

Throughout the war, the fishermen of the Northern Province had their livelihoods curbed severely and were barely able to pursue fishing. This varied considerably from area to area and from time to time. There were obviously long periods when there was a break in fighting and an uncertain peace prevailed. Even during these times, the curbs on fishing continued and the fishermen of the Northern Province operated almost on a subsistence basis. Fishermen of some areas were a bit better off as they could get fuel for the OBMs while others could only undertake non-motorised fishing.

It was an irony that the Indian fishermen had a free run of Sri Lankan waters right throughout the war period while their Sri Lankan brothers were severely curbed from pursuing their livelihood. Over time, the Indian fishermen became more and more aggressive, operating their trawl nets within hand shaking distance from the Sri Lankan shore. Even when operating their small nets within the prescribed distances, the Sri Lankan fishermen would often lose their nets to the marauding Indian trawlers. In the Palk Bay were the Indian fishermen followed the three day-four day rule, the three days of the week when Indian trawlers came calling were days of uncertainty when only the desperate or foolhardy Sri Lankan fishermen would dare to go fishing. The following days when they would not be disturbed by the Indian trawlers would also become useless quite often as the Indian trawlers left behind a turbid sea unsuitable for the operations of their small gillnets.

Most of the period, the Sri Lankan took this treatment from their Indian brothers stoically. The strong sense of brotherhood prevented them from making a public issue of the matter. Moreover, in different phases of the war, many of them had been refugees in India and could not rule out the need to go back to India as refugees. The warmth and hospitality shown by the Indian fishermen to the refugees had also created a deep sense of obligation.

In any case, to whom could they complain? Both the Sri Lankan Government and the LTTE had their own reasons not to make an issue out of the Indian trawler operations in Sri Lankan waters. For Colombo, taking up the trawler issue would create a political turmoil in Tamil Nadu and potentially alienate New Delhi whose moral support for the war against LTTE was vital. The LTTE, whose support base in Tamil Nadu declined after the Rajiv Gandhi assassination, did not wish the fishermen issue to become a cause for further decline in support among the people and politicians of Tamil Nadu.

If the lull between periods of active warfare was fraught with uncertainties and hence prevented the fishermen of the Northern Province from taking up the issue of Indian trawlers, the end to the civil war in May 2009 has not brought any respite to them.

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<sup>18</sup> I had argued in my first paper on this subject in 2000 for a system of reciprocal licensing of Indian trawlers in the Palk Bay in exchange for licensing of the multi-day boats in India's EEZ. While this might have made sense when the Sri Lankan fishermen were unable to fish in the Palk Bay, it makes no sense when they are back in action.

With recovery from war taking place slowly and reinvestment taking place in fishing equipment, the Indian trawlers have become a major threat to the recovery and rehabilitation of the fishermen of the Northern Province.

If the Indian media has constantly projected the Indian fishermen as the victims of the there decade civil war, the fishermen of the Northern Province have been the real victims of the war. They continue to be victims in peace as well.

### **The 2004 dialogue between fishermen**

The Norway brokered truce of 2002 created stable conditions for fishing activities to resume in many parts of the Northern Province, though still hampered by severe restrictions and the “high security zones” that cordoned off long stretches of the coast. By early 2003, some kind of a recovery had started. Not surprisingly, the Indian trawler problem surfaced as a block for this recovery. Clashes took place in Mannar and Wadamarachi between local fishermen and the Indian trawlers. One fisherman even died in Wadamarachi, as a result. Political leaders in the Northern Province became extremely concerned and started looking for solutions. Acutely aware of the geo-politics and the limitations of Governments on both sides, the idea of a fishermen-to-fishermen dialogue was mooted<sup>19</sup>. The idea also found favour on the Indian side with the trawler fishermen wanting to avoid clashes and fish in Sri Lankan waters with the full support of their Sri Lankan brothers.

As an organisation that maintained close relationship with fishermen on both sides of the Palk Bay, ARIF took the lead in organising this dialogue. A 21-member “Goodwill Mission” composed of 15 fishermen leaders and 6 supporters visited Sri Lanka in May 2004. The mission visited Mannar and had interactions with fishermen and others to get a grip on the field realities. A three-day meeting was held in Colombo for the Indian team to enter into dialogue with a delegation of Sri Lankan fishermen leaders from the Northern Province. The entire visit and dialogue was organised on the Sri Lankan side by a group of civil society organisations led by National Fisheries Solidarity (NAFSO) and SEDEC (Caritas, Sri Lanka). On the Indian side, the ARIF mission was organised by the South Indian Federation of Fishermen Societies (SIFFS)<sup>20</sup>.

The response of Governments on both sides was cautious. They did take note of the initiative but did not take it very seriously. Sri Lankan Fisheries Department sent an Assistant Director of Fisheries from Mannar as an observer while the Indian High Commission in Colombo also sent an observer. However, the dialogue opened the eyes of the two Governments to the role that such dialogues could play in resolving the issue. The Joint Declaration between India and Sri Lanka in October 2008 clearly states that such dialogues such be fostered. This has remained the policy, even though both Governments are yet to take steps to make this happen<sup>21</sup>.

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<sup>19</sup> Selvam Adaikalanathan, the then M.P. from Mannar, was the first to propose this idea and it was welcomed by other political leaders from the Northern Province as well as civil society organisations.

<sup>20</sup> SIFFS, the apex body of India’s largest network of fish marketing societies for small scale fishermen, has been the host organisation for ARIF ever since its formation in 1997 and has funded all ARIF activities.

<sup>21</sup> As of Jan 2011 when this paper went to press.

## **“The border is not the issue, it is trawling”**

The May 2004 dialogue was a path-breaker in many ways. For one, it changed the perception of the Indian fishermen about the issues involved. The Indian side had hoped to get an approval from their Sri Lankan counterparts for continuing their fishing operations in Sri Lankan waters, but with certain controls like the avoidance of more harmful forms of trawling like “pair trawling”. However, the Sri Lankan response was unexpected. They strongly condemned trawling and explained that they were taking steps to eliminate even their own nominal trawl fleet. They made it clear that they would not tolerate any trawling in Sri Lankan waters and wanted the Indians to stop trawling in three months. The message was clear: “We are brothers alright. The border is not an issue between us. But just stop trawling”.

The Indian trawl association representatives were taken aback as they could not conceive of a life without trawling, as it has become so well entrenched in India and almost a way of life to a sizeable number of people. Despite confessions to the contrary in private, no trawler association in India had ever accepted till then that trawling was harmful to the environment and hence needed to be stopped. However, facing a determined Sri Lankan fishermen group, the Indian fishermen had to cave in and give a promise that they will work with their Government to develop a scheme to retire trawlers and to move on to alternative fishing methods or even totally new livelihoods. While no deadlines were given for this, they promised to be “good boys” in the interim, avoid “harmful nets” like pair trawls, ring seines, roller-trawl, chank-trawl, etc. They also promised not to come within 3 nautical miles from the Sri Lankan shore so that the small nets used by local fishermen would not be damaged<sup>22</sup>.

There was no dramatic change in the situation after the fishermen “agreement”. Attempts to reform the trawlers on the Indian side were only partially successful with many of them going back to their old ways after a while. However, the dialogue process had resulted in many of the trawler associations getting used to the idea of a “trawl buy-back” scheme and they started openly proposing it. What was inconceivable earlier became an open talking point. ARIF attempts to further the dialogue and to find a long term solution were abruptly halted by the tsunami of December 2004 with fishing coming to a virtual standstill in most parts of Sri Lanka and Tamil Nadu<sup>23</sup>. By the time the fishermen recovered from the tsunami, Eelam War IV had started, making it difficult to focus on long term issues.

## **Civil war over, fishing conflict resurfaces and intensifies**

With the three decade-long civil war finally coming to an end in May 2009, the fishermen of the Northern Province have finally started thinking in terms of the long run and have started dreaming of their future once again. A whole generation that has not known normal fishing is hoping to get started and eventually catch up with the

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<sup>22</sup> A full report of the dialogue can be read in *Fishing For a Favour, Netting a Lesson* available in [www.siffs.org](http://www.siffs.org) or on [www.icsf.org](http://www.icsf.org).

<sup>23</sup> Even in this, the Palk Bay fishermen on the Indian side were largely unaffected by the tsunami and could continue fishing after a short break. Ironically, the brunt of the tsunami was absorbed by Sri Lanka protecting the Indian coast line on the Palk Bay and Gulf of Mannar side. The Coromandel and the Arabian Sea coasts of Tamil Nadu were badly affected by the tsunami.

fishermen of the west and south who have gone on to conquer the Indian Ocean with their multi-day boats.

With resettlement of war affected fishing villages gradually taking place in the Northern Province, investment in fishing is slowly building up, partly with Government support and partly with merchant capital and own sources of funds. This process could take a while<sup>24</sup>. The various restrictions on fishing are being gradually dismantled and motorised fishing is picking up. The opening up of the A-9 highway and the resumption of normal fish transport systems is making fish prices attractive. However, straight away, the Indian trawlers have become the biggest hurdle to the revival or reconstruction of livelihoods. Fishermen all over the Northern Province are bitterly complaining about their inability to fish due to the invasion of the Indian trawlers. They have also been losing their new nets at regular intervals due to trawlers running over them.

Anger and frustration is building up and some fishermen have already started taking direct action despite the leadership advising patience. Pesalai fishermen in Mannar captured an Indian trawler in June 2010 and petrol bombed it after taking the crew ashore. Another trawler that came with permission to tow back the damaged trawler also met the same fate. In Jaffna, the fishermen have so far desisted from direct action due to the leadership advising patience and restraint. However, there have been stoppage of fishing and 'hartals'<sup>25</sup> in protest against Indian trawlers and the failure of the Sri Lankan Navy and Govt to protect them.

Pressure is also building on local politicians to get the Sri Lankan Government to take action on the Indian trawlers. Very clearly things are heating up on the Sri Lankan side of the Palk Bay and a deep sense of crisis prevails.

### **Reviving the dialogue process**

It is in this context that ARIF and NAFSO decided to revive the fishermen-to-fishermen dialogue process. In August 2010, a 24-member Sri Lankan team spent a week in Tamil Nadu, visiting Rameswaram, Jagadapattinam, Kottaipattinam, Mallipatinam and Nagapattinam en-route to Chennai for a three day dialogue with the Indian fishermen associations of the Palk Bay area.

This time the Government response was much more positive. The Sri Lankan Fisheries Minister himself approved of the idea and sent two fisheries officials as observers and the Sri Lankan Director General of Fisheries as Chief Guest for the valedictory session of the Chennai dialogue<sup>26</sup>. The response from the Indian side was also positive but a little less effusive. Three officials of the Tamil Nadu fisheries department participated in the Chennai dialogue as observers. The Indian Navy also sent an observer. However, no senior official participated in the valedictory session with the Director of Fisheries of Tamil Nadu present only as an observer without the

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<sup>24</sup> Eelam War IV saw the internal displacement of population of all fishing villages in Killinochi and Mullaitivu. It also saw similar displacement in parts of the Mannar and Jaffna coasts.

<sup>25</sup> Closure of shops and establishments

<sup>26</sup> It is worth noting that he was interested in personally attending the meeting but pulled out due to other commitments. Douglas Devananda, another Cabinet Minister and a long time supporter of ARIF, also played a crucial role in getting Sri Lankan Govt support for the dialogue initiative.

mandate to speak. Clearly, the multi-tiered Indian administration was unable to take a formal decision endorsing the dialogue, even though most persons in power strongly supported the initiative in personal conversations.

The dialogue itself proved to be complicated with the Sri Lankan fishermen losing their patience with Indian fishermen and deciding unilaterally that trawling should stop within a one-year period even though the Indian fishermen have no clue how this is to be achieved without the Governments of India and Tamil Nadu coming with a package for this. Strong restrictions on trawling were proposed during the one-year period. This “agreement” is subject to the two Governments approving it. However, both Governments have been slow to respond and the matter is still hanging fire as we go to press.

Some new issues have also cropped up. The Nagapattinam trawlers were only minor offenders in 2004 as they used to fish only for a short period every year in Sri Lankan waters, north and east of Jaffna. Now, they have become regulars in Sri Lankan waters<sup>27</sup>. Since the three day-four day rule does not apply to the Nagai trawlers, they fish all days in Sri Lankan waters making them a serious menace to local fishermen. Another issue is that the small motorised vessels of Tamil Nadu have started using long mono-filament gillnets in Sri Lankan waters. With Sri Lankan fishermen themselves banning mono-filament nets<sup>28</sup>, this is becoming a new conflict. It has been decided to take this up when the Indian fishermen go to Sri Lanka next for the “return visit”.

The August 2010 dialogue has for the first time brought the plight of the Sri Lankan fishermen to the notice of the general public as well as the fishing communities themselves in Tamil Nadu. This is an important development that could create conditions for a realistic assessment of the issue and find a permanent solution.

### **Understanding it as a fisheries management problem**

The final solution to the Palk Bay problem (as well as the multi-day boat problem) requires that both countries start looking at it as a fisheries management problem caused by over-capacity and poor management systems. The de-facto open access system has caused this over-capacity in the trawl sector in India. Equally important has been India’s failure to control trawling with all the ecological damage it does. This is an All-India problem not just a Palk Bay problem. Only, the fisheries problem in Palk Bay has got enmeshed in larger geo-politics due to the proximity of the international border and the long civil war that upset the balance that existed between the Indian and Sri Lankan fishermen before the war.

The Indian Government needs to realise that it is simply a problem of over-capacity and inappropriate technology. However, simple solutions do not exist for this simple problem. There are just too many people dependent on the trawl boats. If there are around 2000-2500 trawlers that depend on Sri Lankan waters for their fishing in the four districts of Ramnad, Pudukottai, Thanjavur and Nagapattinam, then there are

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<sup>27</sup> This is the unfortunate consequence of tsunami funding that allowed the Nagai fishermen to replace their damaged wooden trawlers with much larger steel trawlers. With this higher capacity, they cannot survive any more with just Indian resources but have to prey on Sri Lankan resources.

<sup>28</sup> They prefer multi-filament gillnets as they consider these to be less harmful to the eco-system.



around 15,000 owner and crew families directly dependent on the trawlers. If one assumes that for every one directly dependent on trawling there is at least one more person indirectly dependent in the value chain, the total number of families that depend on trawling will be at least 30,000 families or a population of 1.5 lakhs. In addition, the trawl sector contributes immensely to the economy of the coastal areas in these districts and the consequences of closing it down is not easy to measure.

Obviously, it is not just a question of stopping the Indian trawlers from crossing the border. It requires a major initiative to restructure the fleet so that Indian trawlers do not need to go to Sri Lankan waters for their survival. This initiative will need a combination of many measures including, perhaps, a “buy-back” scheme. It will also require a complete revamping of the fisheries management system to enforce capacity limits and other regulations. This will not be possible without a fishing community buy-in. Some form of “co-management” with the fishermen associations taking responsibility for monitoring and enforcement is a must.

Instead of such tough decisions, if Governments of India and Tamil Nadu think that they can solve the problem by getting the Sri Lankan Government to continue tolerating Indian trawlers, they need to understand that it is not going to be a lasting solution. It will be unjust to the Sri Lankan fishermen in the Northern Province and lead to their alienation from their own Government and perhaps lead to strong anti-India sentiments that will harm India’s cause in the long run. It is important to understand the size of the problem on the Sri Lankan side as a result of the Indian trawlers. If anything, a larger population is affected on the Sri Lankan side by Indian trawlers than what would be affected on the Indian side if trawling were to be stopped overnight.

On the Sri Lankan side, it is equally important to recognise that the multi-day boats are not just playing truant when they fish in Indian waters. It is inevitable, given that the fleet goes after a highly migratory species like the Tuna. Fleet size and resource availability in Sri Lankan waters needs to be matched. Legal access to Indian waters needs to be negotiated. It is worth noting that the Sri Lankan multi-day boats fish far from the coast that the Indian fishermen have rarely seen them as a problem<sup>29</sup>. India should seriously consider licensing the Sri Lankan multi-day boats and also promote joint ventures between the fishermen on both sides so that Indian fishermen also pick up the nuances of deep sea fishing.

### **Killing of Indian fishermen—inexplicable, inexcusable**

A problem that continues to haunt us and confuse the issues is the continuation of incidents involving Indian fishermen and the Sri Lankan Navy. As already mentioned, the Navy does not take action on Indian fishermen for poaching as it is reigned in by the Sri Lankan Government, anxious to avoid tension with India<sup>30</sup>. Mostly, the relationships at sea between the Indian fishermen and the Sri Lankan Navy are actually cordial. However, inexplicably, there are incidents of physical harassment of

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<sup>29</sup> It is also recognised that the multi-day boats use methods of fishing that are eco-friendly.

<sup>30</sup> The October 2008 Joint Declaration between India and Sri Lanka permits Indian vessels to fish in Sri Lankan waters with the exception of “high security zones”. This was probably a war time concession, but is yet to be formally withdrawn at the time of writing this paper.

Indian fishermen which occasionally (and tragically) leads to death. While these incidents of death are inexplicable, these are a couple of possible reasons:

- (i) Caught between the instructions from the Government to ignore Indian boats and complaints from Sri Lankan fishermen about the damages done by the Indian boats, some Navy personnel take out their frustration by physically harassing some Indian fishermen. Such harassment at times gets out of hand leading to death of some fishermen.
- (ii) Night time shooting on Indian boats could be due to continuing fear of the LTTE and what is perceived as suspicious behaviour on the part of the Indian boat. The inability to distinguish between friend and foe from a distance at night due to an absence of suitable communication systems/protocols on Indian boats could be the problem in this case.

Whatever be the reasons, the killing of Indian fishermen is inexcusable and unjustifiable<sup>31</sup>. Unexpectedly, some of the recent deaths involve fishermen on small artisanal boats rather than trawlers.

The death of Indian fishermen also muddies the waters and reinforces the image of the Indian fisherman as a victim rather than aggressor. It raises the political temperature in Tamil Nadu and undermines attempts to find proper solutions.

### **Process is crucial to the solution**

It is important to recognise that the problem of trans-border fishing is not just a question of experts or administrators or politicians working out a solution. It requires a deeper process involving fishermen on both sides and negotiating a settlement that is acceptable to them. Any number of "Joint Commission" meetings will not help resolve the problem unless there is a multi-tiered negotiation process. This will require Govt-fishermen, fishermen-fishermen and Govt-Govt negotiations, all in parallel. In India, it may also involve Centre-State negotiations as well as inter-ministry negotiations.

It is important to recognise that without the fishermen there cannot be any solution. It is also important to recognise that the fishermen cannot solve the problem by themselves.

### **In Conclusion**

The civil war in Sri Lanka has had tragic consequences for the fishermen of the Northern Province with more than a generation losing out on fishing opportunities. It also triggered changes in fishing on the Indian side of the Palk Bay as well as in the Sri Lankan western and southern provinces. The Indian trawl fleet in the Palk Bay expanded enormously to make use of the vacuum created by the decline of fishing effort on the Sri Lankan side to such an extent that a large population on the Indian side now depends heavily on exploiting the fish resources on the Sri Lankan side. In

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<sup>31</sup> Sri Lanka has tended to deny the involvement of its Navy in such incidents. This could very well be because the Indian fishermen rarely report the correct location of the incident as part of the perpetuation of the myth of fishermen crossing the border inadvertently or fishing near Katchativu.

the south and west of Sri Lanka, the emergence of multi-day fishing boats has resulted in a new dynamic fishery that often involves trans-border fishing in India's EEZ.

With the end of the civil war, the fishermen of the Northern Province have started to reclaim the space they had vacated as a result of the war. In this they find the Indian trawlers the biggest hurdle. Their fresh investments in fishing nets are proving disastrous with Indian trawlers continue to damage them during their operations. Any attempt at controlling the Indian trawlers leads to political repercussions in India with potential to harm Indo-Sri Lankan ties. This is preventing the Sri Lankan Government from taking a hard stance on the issue. Moreover, incidents of Indian fishermen losing lives due to actions by the Sri Lankan Navy are muddying the waters and further confusing the issue.

It is time that the two Governments work on a long term solution taking into account that the problems of trans-border fishing are essentially arising from faulty fisheries management rather than see them as merely issues of sovereignty or to be dealt by Ministries of Foreign Affairs. Any solution has to be just and mitigate the negative impacts on those who will lose by it. The onus is on India to resolve the trawl issue in the Palk Bay as continuation of trawling in Sri Lankan waters is not acceptable to the Sri Lankan fishermen. The multi-day boat problem requires careful assessment by Sri Lanka and an engagement with India to provide licences for their operations.

However, the process of finding solutions requires the strong involvement of fishermen from both countries for it to be just, workable and sustainable.