

SRTC Report

Title: “India’s Maritime Neighbourhood: Issues and Option - Sri Lankan Case”

Speaker: Dr. N. Manoharan, Research Fellow NMF

Chair: Vice Admiral (Retd.) Anup Singh

Discussant: Mr M.R. Narayanswamy and Ms Gulbin Sultana

Date: 16 July 2014

Rapporteur: Ms. Sohinee Basak

The National Maritime Foundation hosted the scholar roundtable conference on “India’s Maritime Neighbourhood: Issues and Options - Sri Lankan Case” by Dr. N. Manoharan on 16 July 2014. The event was attended by representatives from Indian Navy, Coast Guard, and strategic community.

The speaker began with the observation that India shares maritime boundaries with as many countries as it shares land borders. Officially, there is no maritime boundary issue between India and Sri Lanka. The relationship between both the countries had been traditionally cordial. The two countries are engaged in wide ranging areas. The relationship between the two serves as a model of good neighbourly interactions. .

The maritime boundary between the two countries was settled with the help of four agreements signed way back in the 1970s. Yet, due to simmering fishermen issue, these agreements have been questioned especially by political actors in Tamil Nadu. This called for answers to the following questions: Is there a connection between boundary agreements of 1970s and fishermen issue? If so, how? Did not the maritime agreements foresee the issue? If the maritime agreements are not to blame, then where exactly does the fault lie? What should be done to resolve the fishermen problem? The presenter said the study tried to answer these questions by analysing the fishermen issue in five broad phases

During colonial period, despite Britain’s affirmation that waters between India and Sri Lanka were “integral part of His Majesty’s domain”, there were attempts to delimit the maritime boundary to safeguard fisheries. In the discussions held in 1921 on what was termed as “Fisheries Line”, the delegations of colonial authorities from India and Ceylon agreed on the “need to avoid over-exploitation” and to “take measures for the conservation of the marine resources.

Soon after independence, both India and Sri Lanka felt the need for a clear-cut demarcation of borders between them. Foremost in Sri Lanka's mind was Kachchathivu, which figured as an issue in the form of base for military practice. On the mode of resolution, while India wanted to settle the boundary through bilateral discussions, Sri Lanka threatened to go for international arbitration. However, through 1974 Agreement, the boundary line was agreed upon based on 'modified equidistance line'. As against general perception, India gained on two fronts from the Agreement: Firstly, of the total Palk Bay area, India's share vis-à-vis Sri Lankan share in terms of ratio was 1.02:1; secondly, special provisions were included to allow the continuing use of Kachchathivu for pilgrimage and for drying nets and free movement of vessels in the Palk Bay as before. But, fishing is not explicitly mentioned.

Through the 1976 Agreement, the issue of Sri Lanka's claim to historic fishing rights in Wadge Bank was resolved by India's goodwill gesture of agreeing to permit Sri Lankan fishermen to fish for three years at the Bank since the establishment of EEZ and after this period to provide 2000 tons of fish per year. Unlike the Palk Bay area, 'equidistance principle' could be followed in Gulf of Mannar because of presence of very less number of off-shore islands from both countries.

The Agreements, however, did not affect the movement of fishermen on either side. Both governments did not find the need to restrict the free movement of fishermen, especially in the "historic waters". Part of the reason was that the Sri Lankan Navy lacked enough capability to strictly monitor the sovereign border. Meanwhile there was expansion of fishing fleets and advancement of fishing equipment, especially on the Indian side. Trawlers were used and nylon nets replaced traditional nets. Sri Lankan Navy used to apprehend and later release those Indian fishermen who strayed into the territorial waters of Sri Lanka but their nets and fish would be seized. Despite ethnic similarities, Sri Lankan Tamils supported Colombo's stand point on the maritime boundary and actions of Sri Lankan marine forces in chasing away Indian fishermen. During this phase, there were no cases of arrest of Sri Lankan fishermen by Indian authorities to keep them away from Indian territorial waters.

With the emergence of the Liberation Tigers of Tamil Eelam (LTTE) as a dominant militant group, Sri Lankan Navy marked 'security zones' around coasts and at the same time gave more importance to its modernization. The Sri Lankan Navy found Indian fishing boats in Sri Lankan waters a major distraction in achieving its military goals. The main issue was the difficulty in distinguishing between genuine fishing boats from those that were involved in smuggling activities. This led to the general conduct of Sri Lankan Naval personnel of 'shoot first and question later'. However, Indian fishermen continued fishing in Sri Lankan waters for livelihood, despite huge risks.

The dynamics of the fishermen issue has become different after the civil war. The Sri Lankan Navy is back to its primary task of patrolling the island's maritime borders mainly to prevent possible return of LTTE cadres from elsewhere. Relaxation of fishing restrictions along Sri Lankan coasts has led Sri Lankan fishermen to venture into the seas around. The Indian fishermen, who thus far enjoyed monopoly of resource-rich waters, have now got competitors in the form of their Sri Lankan counterparts. This has led to confrontations between the two fishing communities. The main complaint of Sri Lankan fishermen has been against mechanised Indian trawlers that indulge in pair, mid-water, pelagic, and bottom trawling and in the process severely damaging marine resources and sea bed. Trawler sector in Tamil Nadu is also politically influential giving it the electoral dimension. The speaker brought to light the arrests of Sri Lankan fishermen, who are mostly Sinhalese, poaching in Indian waters off coasts of Kerala, Tamil Nadu, Andhra Pradesh, Andaman and Nicobar Islands and even Orissa. They are, however, not shot at, but arrested and prosecuted for violating the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981.

Having analysed the problem, the presenter argued for comprehensive and humane approach leading to pragmatic solutions for the issue on an urgent basis. Contribution of all the concerned actors who are directly and indirectly involved in the issue is imperative for finding a sustainable resolution. He identified four broad actors - governments, naval forces, fishing communities, and civil society- in this regard. At the governmental level, the Joint Working Group (JWG) in its second meeting in January 2006 agreed to examine the possibility of not arresting straying fishermen within five nautical miles of the maritime boundary on either side; consider releasing the small fishing boats along with the fishermen on humanitarian grounds; and to enhance coordination between the two Navies to curb illegal activities. But the infrequent meetings of the JWGs have failed to bring out any concrete effect on the bilateral issues.

He pointed out that the issue of ID cards to the fishermen and reinventing sustainable fisheries are vital. Additionally, developing fish farming extensively in Indian waters would prevent its fishermen from venturing into each other's waters. India may also consider leasing fishing blocks from Sri Lanka. He also highlighted the need of strict and complete ban on mechanized trawlers. India may also consider taking on Kachchathivu on long-term lease. Things would improve tremendously if Colombo takes note of this and reciprocate accordingly by taking a liberal approach on Kachchathivu and its visitors.

Vessel tracking systems should be installed in all fishing boats. Costs of installation could be shared by the governments of India and Tamil Nadu with a token

contribution from the concerned fishermen. Apart from training the fishermen of its usage, there is a need to create greater awareness to avoid crossing over into Sri Lankan waters for their own safety and security.

The Indian fishermen should voluntarily try and avoid using bottom trawlers as these often deprives Sri Lankan fishermen of their livelihood. Arranging frequent meetings between fishing communities of both countries could be explored 'Solution from below' has greater chances of success than a 'solution imposed from above' by the governments. Strong backing from the governments both central and provincial and their marine forces can play a major role in this regard.

It was suggested that the Sri Lankan Navy needs to take greater care in handling straying Indian fishermen. Something that marine forces from both sides need to avoid is arrest and detention of fishermen for the purpose of 'reciprocal release'. Coordinated patrolling between Sri Lankan Navy and Indian Coast Guard can be considered. The scope of 'Operation Tasha' may be expanded to include desisting fishermen from crossing the borders or distances agreed upon. The 'Trilateral Cooperation on Maritime Security' initiative between India, the Maldives and Sri Lanka may be utilized to strengthen the maritime cooperation at the bilateral level on the issue.

Members of civil society like the NGOs can play an important role in providing legal and humanitarian assistance to their jailed nationals in other countries. Media also needs to help in creating awareness among the fishermen and had to abstain from indulging in sensational reporting of shootings.

Discussant 1: Mr Narayanswamy appreciated the paper to be unbiased. He pointed out that the issue between the Indian fishermen and Sri Lankan Navy is often considered to be Tamil-Sinhalese problem, as the Sri Lankan Navy is dominated by the Sinhalese. In reality, however, it is Tamil-Tamil problem as the Northern part of Sri Lanka is Tamil dominated. He agreed with the speaker that claiming Kachchathivu will not solve the problem. He also wondered whether political actors in Tamil Nadu would want the issue to get resolved.

Discussant 2: Ms Gulbin Sultana supported the speaker's observation on the Kachchathivu issue. She commented that the paper could also look into strategic issues, especially involving China. She suggested that Indian fishermen could be encouraged to take on deep sea fishing. But that involves lot of investments in large vessels, cold storage facilities and training. She pointed out the presence of Chinese fishing vessels around Sri Lankan waters, which is a concern.

Discussant 3: Ms Priya Kumari, the internal discussant, pointed out that the paper gives a lot of emphasis on the fishermen issue, without mention of other issues like Sethusamudram project, terrorism, refugees problem and smuggling. She further pointed out that leasing out of Kachchathivu, as suggested by the paper, may not be a practical solution.

The comments from the three discussants were followed by a lively discussion. Rear Admiral (Retd) Raja Menon, pointed out that the relation between India and Sri Lanka is multifaceted, since not only the central government but the provincial governments are also involved. The support of Tamil Nadu government is required to find solution to the issue. Amb Yogendra Kumar pointed out the need to include the role of think-tanks in both countries. He also observed that maritime cooperation between India and Sri Lanka in conserving bio-diversity was required. Dr. Vijay Sakhuja, Director NMF, commented that fishermen from both the sides may be the source of problem, but may also be a part of the solutions. India and Sri Lanka can examine the diverse models of sustainable fisheries followed by different countries of Bay of Bengal region, and adopt an appropriate model for themselves.

In his concluding remarks, Vice Admiral (Retd) Anup Singh remarked that India plays an important role in the subcontinent. He pointed out how personal rapport among leaders is important to resolve bilateral issues. The electoral politics in Tamil Nadu is one of the main hurdles in otherwise good relations between India and Sri Lanka. He agreed with the need to create awareness among the fishermen. He concluded the conference by appreciating the paper and its subject as topical and timely.
