

INTERNATIONAL LAW PERSPECTIVE ON FISHERMEN DISPUTE BETWEEN INDIA AND SRI LANKA

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Abstract:

The broad range of dispute between fishermen of India and Sri Lanka has resulted in the creation of a complex and multilevel issues between the players that includes the state of Tamilnadu government, central government of India, Sri Lankan government and fishermen of both India and Sri Lanka. In the Palk bay, fishing activity of two neighbouring countries led to competition and violence rather than cooperation and coexistence. Legal research reflects that two basic international law concepts that are Innocent passage and Ratification of agreement were not followed by both India and Sri Lanka. My research reflects that norms of International law was not followed, despite data indicating no ratification of agreements signed between India and Sri Lanka and killing of fishermen in the sea as well as the impact of trawlers and the ways for management of the fishing conflict was reflected in this paper.

Keywords:

India, Sri Lanka, fishermen, katchatheevu, conflict, dispute, international law, palk bay, maritime, LTTE, ratification, innocent, passage, Sinhalese, Indian, ocean, history, agreement, trawlers.

The history of dispute:

Katchatheevu, an uninhabited small islet in the Palk Strait is the centre of a long-standing dispute between the fishermen of Tamil Nadu and Sri Lanka. In 1974 Republic of India recognized Sri Lankan possession of the island on a conditional agreement. The 285-acre land, strategically important for fishing activities, was owned by the Raja of Ramnad of Ramanathapuram (Shunmugasundaram, 2019) and later became part of the Madras Presidency after the delimitation of Gulf of Mannar and Palk Strait throughout British rule between the then governments of Madras and Ceylon (Thangavelu, 2019). In 1921, both Sri Lanka and Republic of India claimed this piece of land for fishing and therefore the dispute remained unsettled. The island is additionally necessary for fishing grounds utilized by fishers from each country. The island encompasses a Catholic shrine that draws devotees from each country. Ownership of the island was disputed up till 1974 as throughout British Rule the island was administered by each country ("CIA", 2019). In 1921 a Conference was held in Colombo. A delegation of 4 officers came to Colombo from the then Government of the Presidency of Madras, headed by C.W.E. Cotton. There were additionally four officers from Sri Lanka, headed by B. Horsburgh. The Conference went on from March to Gregorian calendar month 1921. The sovereignty over Katchatheevu was claimed by both the countries, placing several documents in support of each one's claim. No argument was conclusive. In 1974, Katchatheevu was ceded to Sri Lanka by then Prime Minister Indira Gandhi through the Indo-Sri Lankan Maritime agreement to settle the maritime boundary within the Palk Strait with her counterpart Srimavo Bandaranaike (Dahanayaka, 2019). This forced M. Karunanidhi, then chief minister of Tamil Nadu, to write to Indira Gandhi on how the land was historically a part of Ramnad's zamindari. The Indo-Sri Lankan agreement allows Indian fishermen to dry their nets on the island. As a part of the Sri Lankan war, this arrangement led to many difficulties with the Sri Lankan Navy that is deployed to prevent smuggling of weapons by the rebel group LTTE. Katchatheevu was ceded to Sri Lanka in violation of the court below the 1974 and 1976 agreements while not the approval of 2 houses of Parliament. The lawfulness of the transfer was challenged within the Indian Supreme Court since the recognizing wasn't ratified by the Indian parliament ("Boundary Agreement in Historic Waters", 2019). This needless recognition of associate degree island that's culturally necessary to fishermen of Tamil Nadu state in

Republic of India has led to some agitations by Tamil Nadu individuals and politicians that it should be claimed to Indian sovereignty. The main drawback continues to grow as a lot of fisher go into the Sri Lankan ocean space for fishing work that Sri Lanka calls as unlawful poaching.

In 2010 the Sri Lankan government issued a notice to the Tamil Nadu government saying the Indian Supreme Court cannot nullify the 1974 agreement and Katchatheevu currently belongs to them and Indians don't seem to be allowed to fish there. In June 2011 the new Tamil Nadu government led by Jayalalithaa filed a petition within the Supreme Court seeking the declaration of the 1974 and 1976 agreements between Republic of India and Sri Lanka on relinquishing of Katchatheevu to Sri Lanka as unconstitutional by citing the ruling of the court within the Berubari case that the ceding of Indian Territory to a different country had to be sanctioned by parliament through amendment of the Constitution ("In Re: The Berubari Union And ... vs Unknown on 14 March, 1960", n.d.). However, the Republic of Indian central government objecting to the Tamil Nadu government's arguments has explicit that "No territory belonging to India was ceded nor sovereignty relinquished since the area was in dispute and had never been demarcated" which the dispute on the standing of the island was settled in 1974 by an agreement (Dahanayaka, 2019). On 26 August 2014, Attorney General Mukul Rohatgi, representing the Centre, told a Supreme Court bench led by jurist of Republic of India R.M. Lodha: "If you would like Katchatheevu back, you may need to head to war to induce it back." (Mahapatra, 2014). during Tamil Nadu chief minister J. Jayalalithaa meeting with Prime Minister Narendra Modi in June 2016, she pushed for the retrieval of Katchatheevu, the centre of a long-standing dispute between the fishermen of Tamil Nadu and Democratic Socialist Republic of Sri Lanka.

The Church of harmony:

St. Anthony's Catholic Shrine St. Antony's shrine on Katchatheevu is one among a sort that shares the borders of both countries Republic of India and Sri Lanka, and declared holy by each Governments. There stands the sole spiritual structure, St. Antony's Catholic Shrine that holds quite 100-year-old traditions, and was engineered by an Indian Catholic Tamilian known as Srinivasa Padaiyachi. there is not a drop of water on the island, and therefore the solely structure may be a lovely church named once St. Antony, patron-saint of seafarers, to whom the feast is devoted. it had been placing up by a prosperous fisherman within the early twentieth century. nobody is needed to possess an Indian passport or Sri Lankan visa for visiting Katchatheevu. The festival runs for 3 days. The monks from both India and Sri Lanka conduct the mass. As several as thirty-five country boats and 106 mechanized boats ferry the pilgrims, largely from Rameswaram. each February, thousands of devotees from Rameshwaram visit the 110-year-old St Anthony's Church on Katchatheevu island (Thangavelu, 2019).

The decision of Indian Government:

But the foremost vital reason for the 1974 maritime settlement is: after operation Smiling Buddha in May 1974, Republic of India was beneath huge pressure from International Communities. Republic of India urgently required support and Sri Lanka offered the assistance. Democratic Socialist Republic of Sri Lanka was to host the Non-Aligned Movement summit for the year 1976 and it had been also seemingly that president of UN General Assembly to be from Sri Lanka. therefore Mrs. Gandhi hastily got into an agreement with Sri Lanka, whereby she ceded Katchatheevu to Democratic Socialist Republic of Sri Lanka in seventh July 1974 while not hearing Tamil Nadu or while not discussing it in parliament. Katchatheevu has been the place wherever the Indian fishermen are doing their labour everywhere many decades even before independence. India, however, has outlived its stance on strategically vital Katchatheevu clearly, stating that it's the territory of the island nation (Mathew, 2011).

Though ceded to Sri Lanka, the agreement, that failed to specify fishing rights, either allowed or disallowed Indian fishermen to fish around Katchatheevu however confirmed to dry their nets on the island. throughout Emergency, with the Tamil Nadu government discharged in 1976, while not the consultation of the state assembly and Parliament, another agreement was finalized to work out the boundary within the Gulf of Mannar and Bay of Bengal and restricted both the countries' fishermen from fishing within the other's waters (Agreement between Sri Lanka and India on the Maritime Boundary between the two Countries in the Gulf of Mannar and the Bay of Bengal and Related Matters 23 March 1976, n.d.). "With the institution of the

Exclusive Economic Zones by the two countries, Republic of India and Sri Lanka can exercise sovereign rights over the living and non-living resources of their individual zones. The fishing vessels and fishermen of Republic of India shall not have interaction in fishing within the historic waters, the territorial ocean and also the Exclusive Economic Zone of Sri Lanka, nor shall the fishing vessels and fishermen of Sri Lanka have interaction in fishing within the historic waters, the territorial ocean and also the Exclusive Economic Zone of Republic of India, while not the specific permission of Sri Lanka or Republic of India, because the case could also be," said the agreement("Boundary Agreement in Historic Waters", 2019). In 1991, the Tamil Nadu Assembly adopted a resolution exacting the retrieval of Katchatheevu. throughout the war and with northern borders below the management of the Liberation Tigers of Tamil Eelam, the fishermen had easy accessibility into the fishing grounds. Later in 2008, Jayalalithaa stirred the Supreme Court to nullify the Katchatheevu agreements of 1974 and 1976. because the war between the Sri Lankan government and Liberation Tigers of Tamil Eelam reached a finish by 2009, the Sri Lankan government reinforced its security at maritime boundaries. Whenever Indian fishermen crossed boundaries, arrests, harassment and gunfight happened. The Sri Lankan government claims that depletion of marine resources on its waters has affected the support of its own fishermen(Mathew,2011). once the Indo-Sri Lanka agreement was signed on the Katchatheevu islands in 1974 within the interest of "good neighbourly relations", the then External Affairs Minister, Swaran Singh, had aforesaid that Indian fishing and navigation rights had been safeguarded for the longer term. beneath the agreement on the island, that falls within the Sri Lankan territory, Indian fishermen will rest and dry their nets throughout fishing in high sea. however, in recent times, Sri Lanka Coast Guards have discharged and killed many of Indian Fishermen (Shunmugasundaram, 2019).

Impact of India-Sri Lanka Agreements:

The Katchatheevu island may be a sovereign property of Sri Lanka ceded to them by the 1974 and 1976 agreements between the two countries and also the agreements don't confer any fishing rights on fishermen from Republic of India(Agreement between Sri Lanka and India on the Maritime Boundary between the two Countries in the Gulf of Mannar and the Bay of Bengal and Related Matters 23 March 1976, n.d.). beneath the accord agreement of 1974, Indian fishermen have lost the rights to fishing round the island because it is inside the water of state and also the 1976 agreement has established the International Maritime boundary line (IMBL), that the fishermen within the two countries don't seem to be allowed to cross into each other's territory. beneath the agreements of 1974 and 1976, Indian fishermen and pilgrims can get pleasure from access to Katchatheevu and cannot be needed by Sri Lanka to get travel documents or visas for these functions. Fishermen may rest, dry their nets and attend the annual St Antony's pageant in Katchatheevu. In 2014 Republic of Indian government advised the Madras tribunal responding to a PIL that Sri Lanka's sovereignty over Katchatheevu may be a settled matter and fishermen from India don't fancy any right to interact in fishing activities within the region(Mea.gov.in, 2019).

As per Vienna convention and agreement itself, this settlement agreement is invalid since it's not passed or ratified by parliament("Boundary Agreement in Historic Waters", 2019). however Indian central government currently maintains it to be a settled issue even in courts and assembly ("Q. 3089 Retrieving of Katchatheevu island", 2019). present Sri Lankan Prime Minister has said that Indian fishermen might be shot if they intruded in Sri Lankan waters. In 2015, Sri Lanka's prime minister Ranil Wickremasinghe stoked disputation in an interview for Chennai-based Tamil Channel Thanthi TV, suggesting that Indian fishermen are also shot if they poke into Sri Lankan waters. "Why are you coming back into our waters? Why are you fishing in our waters...? stay on the Indian side... there will be no issue... nobody will shoot anyone else... You stay on the Indian side, let our fishermen by the Sri Lankan side... Otherwise, do not create accusations of Human rights violation by the Navy. You came in there."("Sri Lankan PM justifies shooting of Indian fishermen amid Sushma visit", 2015).

India isn't fearful of Sri Lanka. India and Republic of Sri Lanka fall within the same geopolitical space So, India likes to stay with its neighbours as friendly as attainable for obvious reasons like Trade, economic boosts, easy military surveillance, etc. Also, China's military and economic strategy of creating alliances and establishing military bases with countries Sri Lanka, Maldives, Seychelles, Bangladesh, etc are pushing India to be friendly with its neighbour to take care of its political system. Thus, the close proximity of Lanka with the Indian land provides a really huge advantage to countries like China, Pakistan in watching India.

So, India is greatly involved. currently, India is additional centred on developing one another for economic advantages similarly as Sri Lanka.

Relationships between Sri Lanka and the Republic of India are rising after the election of the New president and PM. throughout war several weapons, food materials and cash were captive to support them from the Indian aspect, as per Sri Lankan view Indians were supporting Tigers so that they have started killing Tamils and fishermen. there is additional news, drug traffic is additionally happening in this space, therefore the issue is absolutely difficult. Thus, Lankan military continues to attack Indian fishermen on ocean who fishing in their traditional zones close to Katchatheevu.

Indian fishermen still visit Katchatheevu yearly for the church function in this island however that is the only time they are doing so. Sri Lanka asks Republic of India to charge TN leaders who encourage fishermen to risk their lives. Colombo says Republic of India mustn't go back to the Katchatheevu land once given to Lankan management considering a friendship with Sri Lanka. however, Lanka reserves the right to attack and kill Indian fishermen if they are available and fish in their traditional zones. They advise that with the relations between the two nations hanging on the balance, India will surely keep an in-depth eye on that so it does not get to regret more. a remote wish of a Tamil fisherman and a cat & mouse game between the two nations. The macro trajectory which is that the central government of Republic of India, the government of Tamil Nadu and also the state of Sri Lanka. within the micro trajectory, there are dynamics between the centre government of Republic of India and Tamil Nadu that has got to be thought of for numerous political reasons; Tamil Nadu government and its fishermen; the Sri Lankan government and also the provincial government in Sri Lanka; the Sri Lankan government and its fishermen; the Sri Lankan fishermen and Tamil Nadu fishermen. these are the players and all the stakeholders in this issue.

International law:

Innocent passage:

Passage is innocent farewell because it isn't harmful to the peace, sensible order or security of the coastal State. Such passage shall surface in conformity with this Convention and with different rules of law. Passage of an overseas ship shall be thought of to be harmful to the peace, sensible order or security of the coastal State if within the territorial sea it engages in any of the subsequent activities:

Any threat or use of force against the sovereignty, territorial integrity or political independence of the coastal State, or in the other manner in violation of the principles of law of nations embodied within the Charter of the United Nations;

- any exercise or practice with weapons of any kind;
- any act aimed toward grouping information to the prejudice of the defence or security of the coastal State;
- any act of propaganda aimed toward affecting the defence or security of the coastal State;
- the launching, landing or taking over board of any aircraft;
- the launching, landing or taking over board of any military device;
- the loading or unloading of any trade goods, currency or person contrary to the customs, fiscal, immigration or healthful laws and rules of the coastal State;
- any act of wilful and heavy pollution contrary to the current Convention;
- any fishing activities;
- the carrying out of analysis or survey activities;
- any act aimed toward intrusive with any systems of communication or the other facilities or installations of the coastal State;
- any alternative activity not having an instantaneous relating passage.

Foreign ships exercise the right of innocent passage through the territorial sea shall adjust to all such laws and rules and every one typically accepted international rules with reference to the prevention of collisions at sea(*United Nations Convention on the Law of the Sea*, 2019).

Ratification:

Ratification is an act by that a State signifies an agreement to be lawfully certain by the terms of a specific pact. To formalise a pact, the State initial signs it and so fulfils its own national legislative needs. Once the acceptable national organ of the country – Parliament, Senate, the Crown, Head of State or Government, or a mix of those – follows domestic constitutional procedures and makes a proper call to be a party to the pact. The instrument of ratification, a properly sealed letter bearing on the choice and signed by the State's responsible authority, is then prepared and deposited with the international organization Secretary-General in New York(*Vienna Convention on the law of treaties*, 1969).

The consent of a State to be certain by a pact is expressed by ratification when:

- The pact provides for such consent to be expressed by suggests that of ratification;
- It is otherwise established that the negotiating States were in agreement that ratification ought to be required;
- The representative of the State has signed the pact subject to ratification, or (d) the intention of the State to sign the pact subject to ratification seems from the complete powers of its representative or was expressed throughout the negotiation.
- The consent of a State to be certain by a pact is expressed by acceptance or approval beneath conditions almost like those that apply to ratification.

Case study:**1. The Paquete Habana**

Summary: The argument of the fishermen whose vessels were confiscated by the U.S officers was that international law exempted coastal fishermen from capture as prizes of war.

Facts: This appeal of a vicinity court decree, that condemned 2 fishing vessels and their cargoes as prizes of war, was brought by the owners of 2 separate fishing vessels. every of the vessel running in and out of Cuban capital and sailing beneath the Spanish flag was a fishing boat that frequently engaged in fishing on the coast of Cuba. within the vessels were fresh fish that the crew had caught. The owners of the vessels weren't conscious of the existence of a war till they were stopped by U.S. squadron. No insulative material like arms was found on the fishermen and that they failed to build any plan to run the blockade when learning of its existence nor did they resist their arrest. once the owners appealed, they argued that each customary international law and writings of leading international scholars recognized an exemption from the seizure at wartime of coastal fishing vessels("The Paquete Habana: Country at war (P) v. Fishermen (D) | Casebriefs", n.d.).

Issue: are coastal fishing vessels with their cargoes and crews excluded from prizes of war?

Conclusion: (Gray, J.). Yes. Coastal fishing vessels with their cargoes and crews are excluded from prizes of war. The belief that exempts coastal fishermen with their vessels and crews from capture as prizes of war has been known by the U.S. (P) from the time of the War of Independence and has been recognized expressly by the French and British governments. it's a long-time rule of international law that coastal fishing vessels with their instrumentation and provides, cargoes and crews, unarmed and honestly following their peaceful job of catching and delivery in fish are exempt from capture as prizes of war("The Paquete Habana | Casebriefs", n.d.).

2. Corfu Channel Case (United Kingdom v. Albania)

Summary: the very fact that the Albanian authorities failed to create the presence of mines in its waters was the premise of the United Kingdom claim against Albania. additionally, the right to send its ship through the straits used for international navigations was the claim argue by the United Kingdom.

Facts: Albanian forces fired at British warships that were sailing although the North Corfu Channel. The Albanian government maintained that foreign ships had no right to go through Albanian territorial waters without previous notification and permission from its authorities once the UK protested the actions of the

Albanian forces. The argument UK argument was that states may send their ships for innocent functions through straits used for international navigation, however, the Albanian refuted this on the bottom that the channel failed to belong to the category of international highways through that a rite of passage exists as a result of it absolutely was solely for native traffic. This channel has additionally been a topic of territorial disputes between Greece and Albania, although Albania was terrified of Greek incursions. The explosion of mines within the Albanian waters resulted in the death of a British military service personnel. it absolutely was on this basis that the UK claimed that Albania was internationally to blame for damages("Corfu Channel Case (United Kingdom v. Albania) | Casebriefs - Part 2", n.d.).

Issue: will the geographical situation connecting 2 elements of the high sea and not the very fact of it's being employed for the international navigation, be a check of whether or not a channel is thought of as belonging to the category of international highways through that passage cannot be prohibited by a coastal state in an exceedingly time of peace? are international obligations in time of peace created through elementary consideration?

Conclusion: Yes. The geographical situation connecting 2 elements of the high seas and not the very fact of its being employed for international navigation is that the take a look at of whether or not a channel ought to be thought of as belonging to the category of international highways through that passage cannot be prohibited by a coastal state in time of peace. The North Corfu Channel is classified to the category of international highways through that passage cannot be prohibited by a coastal state in time of peace. If Albania had issued such regulation in light of the state of war with Balkan country, then Albania would be even in provision rules in respect of the passage of warships through the strait. additional in 1982, the U.N. Convention on the Law of the sea was passed. It stipulates that whether or not coastal or inland, states will get pleasure from the right of innocent passage through territorial sea. however, twelve nautical miles from the coast was the utmost limit of that the territorial sea was control to exist("Corfu Channel Case (United Kingdom v. Albania) | Casebriefs - Part 2", n.d.).

3. case of Berubari Union

Summary: under Article three of the Indian Constitution, Parliament can Form new states, Alteration of state, boundaries and changing the name of states. But central government cede a territory called Berubari Union (West Bengal) to the Pakistan. It created lot of controversies. In 1960, The president of India referred the Supreme Court regarding Can Indian government has powers to give Indian territory to a foreign country.

Facts: given the composite demographics of the then British India, political boundary between India and Pakistan during the partition of India was a difficult as well as extremely complicated task. drawing international border happened under Radcliffe who was the then the chairman of boundary committee to recognize his work later the boundary demarcation line between India and Pakistan was named after its architect famously known as Radcliffe line. According to him, Berubari Union number 12 situated in Jalpaiguri district was conferred to West Bengal. Pakistan claimed berubari as the part of their territory. in order to settle the dispute in 1950 Indian PM Nehru and Pakistan PM Feroz shah Noon signed an agreement on dividing Berubari into two. This agreement is also known as the Nehru noon agreement 1958("In Re: The Berubari Union And ... vs Unknown on 14 March, 1960", n.d.).

Issue: Decision of transferring a bonafide part of Indian Territory led to a mass protest. lawyers and constitutional experts viewed this cede to a foreign country has misuse of power stored by article 3 of Indian Constitution. article 3 involves the Parliament to redefine redraw diminished political boundary of any state. India is appropriately described indestructible union of destructible States. Hence does central government has powers to cede territory of India to foreign country?

Conclusion: Yes, but not through agreement alone. Supreme Court said article 3(c) give parliament a power to diminish state territory but doesn't give power to cede. Mere exercising power under article 3 is not sufficient, Parliament has to bring an amendment to the Constitution using power and procedure mentioned in article 368. Supreme Court nullified the land transfer agreement and categorically voiced that only Parliament of India has the power to decide it through constitutional amendment under article 368 supported

by two-third majority. Constitutional amendment is required with majority to cede territory of India to foreign country. finally, through 9th amendment act of 1960 the land transfer to Pakistan took place ("[Case Brief] In Re: Berubari Union Case, 1960", n.d.).

The political game:

With the civil war in Sri Lanka which is carnage actually for thirty years war and suffer between Sinhalese and Tamil, the ramifications on movements often looking at alternative routes and logistics made it very interesting on how the seascape has looked especially during this war and there was a kind of a readjustment of this sea and the landscape.

Post-war intensification of new modes of production associated with mechanization, bottom trawling and resource attraction largely challenged in the hegemony over resources and Status quo of political boundaries. now the underlying reality, the conflict areas we had to be identified. the ecological ramifications are the most serious thing that is getting damaged because of bottom trawling and finally the poor fisherman has the victims in this whole issue (Srinivasan, 2016).

India has signed bilateral maritime agreement with several countries like Pakistan, Maldives, Sri Lanka, Indonesia, Thailand and Bangladesh. However, the maritime boundary agreements have a legal sanctity of its own. even when India had war with Pakistan several times, the Indus water agreement was not abrogated. Thus, abrogation of the maritime boundary agreement is not a solution. so how can the interests of the fishermen of India and Sri Lanka be fostered, protected and promoted without abrogating the maritime boundary agreement. the ownership of the island is giving away to Sri Lanka was mainly decided by the friendship between PM of Sri Lanka and Prime Minister Indira Gandhi. so, the Government of India took the stand that it is a disputed territory and the pulse of the delimitation the island falls on the Sri Lankan side. When delimiting the maritime boundary generally the principle of median line is applied but, in this case, that it when it came to Katchatheevu deviation was made so the island could follow on the Sri Lankan side. even though they are given, the article 4 & 5 of the agreement provided for continuation of the traditional fishing rights or the Indian fishermen to fish in and around Katchatheevu. it just mentioned that hereto they will enjoy the same rights as there were before.

Then 1976 there was another agreement which delimited the maritime boundaries in the Gulf of Mannar and the Indian Ocean within which in the form of exchanger letters between KL Singh and WT Jaisinghe well there is a preface which says now both countries had delimited the maritime boundaries between India and Sri Lanka in all sectors (Agreement between Sri Lanka and India on the Maritime Boundary between the two Countries in the Gulf of Mannar and the Bay of Bengal and Related Matters 23 March 1976, n.d.). thus, after this Agreement the Indian fisherman will fish in Indian waters and Sri Lankan fishermen will fish in their waters. in other words, the traditional fishing rights that Indian fishermen had in the 1974 agreement was bartered away in 1976 that is the time of the emergency so there was no debate in the parliament. now the Indian fishermen go to the Supreme Court for the redressal of grievances because as far as the fisherman was concerned Sri Lanka did not have much of a Navy and they could go as they had they liked and fish wherever they want during civil war.

The palk bay throughout history had been a bridge between India and Sri Lanka the movement of people and ideas; and in the 19th of the 20th century there were the Indian laborers were taken there and during the ethnic conflict in Sri Lanka there was the reverse that is the Sri Lankan Tamils came to India as refugees. Palk Bay became the conduit where the Tamil militants got their weapons and supplies. so, it had always been a bridge and not a barrier. The major difficulty with the 1974 and 1976 agreement is that they are state centric which means they were done by the mandarins in the South block and the mandarins in colombo in the name of good neighbourly relations ("CIA", 2019). according to their perception they were thinking what is good for India and Sri Lanka but what is required is a settlement from low level. Government must take the livelihood or the fishermen into consideration and evolve settlement from below (Mea.gov.in, 2019). so, governments should have been encouraging the fishermen dialogue. in the mid-1960s especially 1967-68 India was facing a severe foreign exchange crisis and New Delhi wanted to earn foreign exchange and therefore promoted export industries and that was the time when to encourage the export of fish and prawns they introduced trawlers in the Palk Bay.

It had two consequences, one was that formerly the fishermen themselves used to own the boat and use to fish. Now trawlers require investment and investment only those who can afford it. so non-fishermen started having the trawlers so then they used to fish. thus, the fishermen became wage laborers for them. then they the second consequences with the trawlers is at the bottom trawling plays havoc with my marine ecology(Stirrat, 2018). if you sweep the room there will not be even a small dust. similarly, the bottom trawling took away everything from the seabed including the seeds. as a result of it there is absolutely no fish on the Indian side of the palk bay so Indian fishermen and trawlers go to the Sri Lankan side. the ethnic conflict in Sri Lanka became advantage for the because fishing was banned in Sri Lanka since LTTE movements were high in those regions and many of the Sri Lankan fishermen came to India as refugees and the Sri Lankan Tamil refugees who came to Tamil Nadu helped trawlers to find fishing area in Sri Lankan waters. after the ceasefire came up in 2002, the Sri Lankan Tamils fishermen wanted to start fishing but they found the presence of the Indian trawlers to be a major hindrance to their livelihood. before 1983 in fact 38 percent of the fishing requirements of Sri Lanka used to be supplied by the northern province so if the major means of a livelihood as far as Sri Lankan Tamil fishermen are concerned(Stirrat, 2018). The basic problem is the use of trawlers by the Indians and the trawlers play havoc with the marine ecology and the Sri Lankan fishermen rightly says that if trawling by the Indian fishermen continues then there will be no fish on the Sri Lankan side also which is a genuine fear and trawling is banned in Sri Lanka which means Indian fishermen are using a banned equipment in the Sri Lankan waters. there are political forces in Sri Lanka which really want to take the case to the International Court and if it is taken to international court India has no defence except for Sri Lankan forces attack on Indian fishermen. The second thing is that now the Tamil national alliance with the representative of the Sri Lankan Tamils which is also in power in the northern provincial government has introduced a resolution in Parliament saying that since trawlers are banned all trawlers which get into the Sri Lankan waters should be detained. Hence Sri Lankan forces attacks and seizes a number of trawlers and fishermen which even led to killings. According to reports, there is an estimated kill of 500 fishermen in India Sri Lanka waters over past 30 years (Shunmugasundaram, 2019).

According to my research, India must withdraw the trawlers at the earliest. these trawlers can be used with certain amount of modification for deep-sea fishing in deep-sea fishing without bottom trawling. the other thing is that the fishermen are attacked in the sea which is breach according to international law. But the ones that trawlers out of the scene the Palk bay will become tranquil. So then both countries can work together so it can be made as a common heritage as it was throughout history instead of a contested territory as of now. A separate Palk bay Authority should be constituted consisting of the both India and Sri Lanka fisheries experts, marine ecologist and environmentalist. So then let the palk bay authority decide what is the ideal sustainable tax, what type of fishing equipment can be used, how many days can Sri Lankan fishermen do fish, how many days can Indian fishermen do fish, how to enrich the sea jointly etc. then the palk bay will become not a contested territory but common heritage. It will happen when we have a new dawn in India Sri Lanka relations and that depends upon the political will.

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