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MARITIME ISSUES AND SECURITY IMPLICATIONS FOR SRI LANKA IN THE INDIAN OCEAN REGION

Keywords: illegal poaching, Katchatheevu, maritime issue, Palk Strait, smuggling

ABSTRACT: Sri Lanka (earlier Ceylon) inherited some maritime issues right from the time it got its independence in 1948. Although Sri Lanka and India drew up their maritime boundaries in accordance with two agreements made in 1974 and 1976, a number of issues have surfaced since then. The aim of this paper is to examine the maritime issues that Sri Lanka has been confronting in recent times. This article is based on secondary data. Maritime issues in the Palk Bay and Gulf of Mannar continue to be raised periodically by India in the post-civil war era. In fact, the Tamil Nadu state government's political interest in Katchatheevu Island has even resulted in that matter being referred to the Indian Supreme Court for a decision. This is because the Tamil Nadu politicians have used this issue as their political strategy in order to win favor with the voters. Furthermore, illegal activities like Indian fishermen poaching in Sri Lankan waters, drug smuggling and human smuggling across the maritime border have rapidly increased in recent times. Consequently, a variety of social, economic, health-related and security-related problems have to be faced by Sri Lanka.

INTRODUCTION

Majority of countries in the world share common borders with their neighboring countries apart from the ocean. Many South Asian countries share their borders with India and the Indian Ocean. Whereas countries

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like Nepal and Afghanistan are landlocked Sri Lanka and the Maldivian Islands are entirely surrounded by the ocean. Territorial and border issues are common characteristics of most of these countries beginning from the post-colonial era. The reason Sri Lanka has never experienced border conflicts with its neighbors is because being an island it does not have borders with neighboring territories. However, a significant scenario of the post-independent period is that Sri Lanka has been facing a number of maritime issues. These issues mainly pertain to the maritime zone comprising Palk Strait and the Gulf of Mannar, where the maritime borders of India and Sri Lanka lie along a narrow sea belt. This maritime border was drawn and agreed upon by the erstwhile Prime Ministers of India and Sri Lanka, Mrs. Indira Gandhi and Mrs. Sirimavo Bandaranaike who signed an agreement ratifying it in 1974. According to that agreement the India-Sri Lanka maritime boundary was demarcated as commencing in the sea from a point about 18 nautical miles North-West of Point Pedro in Sri Lanka to Adam's Bridge in the Palk Strait, covering a distance of approximately 86 nautical miles (Rathwate, 2014). Again in 1976, both countries entered into a second agreement, according to the terms of which each party received the sovereign rights and jurisdiction covering the continental shelf and Exclusive Economic Zone (EEZ), including the living and non-living



Map 1. International Maritime boundary between Sri Lanka and India in disputed area

Source: Downloaded from Quara.com

resources on their respective sides of the boundary (Kodikara,1978). Although both countries entered into two agreements on maritime boundaries, some outstanding issues still appear to be present in the post-independence period in respect of the use of marine resources.

ISSUE OF THE KATCHATHEEVU ISLAND

Katchatheevu Island, which has been a contentious issue that was debated from time to time, has been polarizing India–Sri Lanka relations from 1974. Katchatheevu is a 285 acre barren island situated 15 miles North-West of Rameshwaram in India and 14 miles South-West of Delft Island in Sri Lanka. A Roman Catholic Church is the only edifice situated in the island and this attracts thousands of devotees from both countries during the church feast held in the month of June every year. Apart from the regular Indian pilgrims more than 7000 devotees from Sri Lanka visit Katchatheevu during the church feast (Perera, 2018). Fishermen of both countries engage in fishing activities in the seabed surrounding Katchatheevu as this habitat is rich in fish and oysters. During the colonial era both countries carried out fishing activities in the waters around Katchatheevu. Therefore, the people of both nationalities could travel over to this island freely without any hindrance. When Ceylon (later Sri Lanka) gained independence from British colonial rule in 1948, the Indian government kept Katchatheevu under its administrative control. Following the Sri Lanka – India agreement of 1974, the island was handed over to Sri Lanka. But even after control was ceded to Sri Lanka, Indian fishermen were allowed access to the island as the agreement did not specify fishing rights or confer direct judicial powers to either country. However, according to the maritime boundary drawn up between India and Sri Lanka, the island falls under Sri Lankan jurisdiction (Hettiarachchi, 2007). In terms of the agreement of 1976, permanent sovereign rights and jurisdiction over the Katchatheevu Island was granted to Sri Lanka. After this, both governments agreed to stop their fishermen from fishing in each other's waters through an exchange of letters covering this issue (Suryanarayan, 2010).

Besides the Central Government the Tamil Nadu State Government also took much interest in Katchatheevu because a large number of fisher folk in Tamil Nadu depend on the sea waters in the vicinity of the island. The Tamil Nadu politicians were not at all happy about their Central Government handing over the ownership of Katchatheevu Island to Sri Lanka. Therefore, the Tamil Nadu authorities, especially the politicians, rejected the agreement made in 1974 and agitated to regain control of the island. For example, in 1991 the Tamil Nadu State Assembly called for the return of Katchatheevu to India and demanded fishing rights in those waters for the Tamil Nadu fishermen. In 2008, AIADMK party Leader Jayalalitha filed a petition drawing attention to the fact that the island could not be handed over to Sri Lanka without making a specific constitutional amendment. Again in 2011 and 2012 Jayalalitha, as the Chief Minister of Tamil Nadu state went to the Supreme Court in an attempt to regain the island². In 2014 the Indian Supreme Court rejected the Tamil Nadu government's petition on Katchatheevu and affirmed the ceding of that island to Sri Lanka (Rajakaruna, 2014).

On the one hand, the attempt to regain Kachchateevu was a move directly prompted by popular party politics in Tamil Nadu. On the other hand, Tamil political parties in Tamil Nadu raised the Katchatheevu issue as they were highly displeased with the Government of Sri Lanka concerning its treatment of Tamil citizens during the period of civil war in the country. This was clearly seen during the post-civil war period in Sri Lanka that commenced in mid-2009. Close relations had always existed between the Tamils in Tamil Nadu state in South India and the Tamil community in the Northern parts of Sri Lanka³. Direct cultural ties between both communities have been a feature since ancient times. Therefore, Tamil Nadu state had always been concerned about the Sri Lankan ethnic conflict, which

² "What is the Issue behind Katchatheevu", www.quora.com

³ There is a Tamil population of 60 million in the state of Tamil Nadu in South India. In Sri Lanka the Tamil population is 2.2 million, comprising 11.2% of the total population of the country. Many of them inhabit the Northern part of the country.

emerged in the post-independence period of the country. The concept of a Tamil homeland to be carved out of Sri Lankan territory as proposed by the Tamil militant groups was strongly supported and endorsed by the Tamil Nadu politicians. The Liberation Tigers of Tamil Eelam (LTTE) was the major militant organization that engaged in a war with the Sri Lankan government from the 1980s to mid-2009. When Sri Lankan government troops finally defeated the LTTE in 2009, the Tamil Nadu government was very unhappy about it and forced the Indian central government to ally with the USA and pass a resolution on war crimes and human rights violations against the Sri Lankan government at the UNHRC in Geneva. Being under pressure from the Tamil Nadu state government, India voted in favor of the UNHRC resolution against Sri Lanka in 2012 and 2013 (Manoharan, 2013). Tamil Nadu political parties also tend to raise the issue of regaining Katchatheevu Island during their election campaigns in order to gain favor with the fishing community that lives in the coastal areas of Rameshwaram. Since the Rameshwaram fishermen are intent on fishing in the Katchatheevu waters, despite the fact it amounts to poaching, the demand to regain control of the island by the Indian administration is a popular slogan in the internal politics of Tamil Nadu (Thalpawila, 2014). The stand against the



Map 2. Kachchateevu Island between India and Sri Lanka

Source: Downloaded from southasiajournal.net

Sri Lankan government turned into a popular trend among the Tamil Nadu nationalist political parties as could be seen during the election campaign of 2014.

VIOLATING MARITIME BOUNDARIES AND POACHING IN SRI LANKAN WATERS

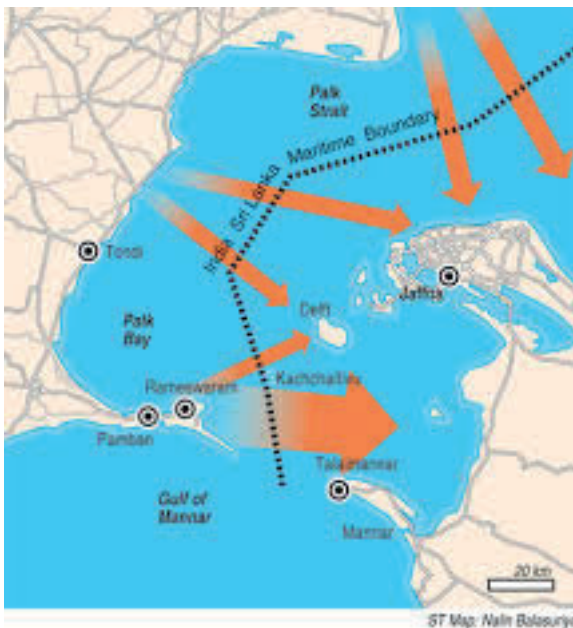
One of the burning maritime issues faced by Sri Lanka is illegal poaching by fishermen of both countries over the last few decades. As mentioned earlier, prior to 1976 both countries' fishermen fished in Palk bay without obstacles. With the signing of the maritime boundary agreement in 1976, Indian fishermen lost their fishing rights since Sri Lanka acquired sovereign rights over the continental shelf and EEZ. Therefore, Indian fishermen were prohibited from violating the maritime boundary in order to catch fish in Sri Lankan waters. Agreements notwithstanding, it has been a common practice of fishermen from both countries to violate each other's maritime zones and poach in those waters over the last few decades. During the civil war period the Sri Lankan government banned all fishing in the Northern seas due to the prevailing security situation. The government took this step because the LTTE operatives used to disguise themselves as fishermen and transport ammunition and their cadres across the Palk Bay and Northern Sea. However, after the war was concluded in 2009, illegal poaching was resumed and practiced mainly by the Indian fishermen. There are two aspects to this significant issue. One is that due to the poaching by Indian fishermen, Sri Lanka keeps losing a large tonnage of fish harvest annually. It is estimated that the annual catch of fish by Indian trawlers in Sri Lankan waters amounts to around 1557.7 metric tons (Hettiarrachchi, 2007). President of the Sri Lanka Seafood Exporters Association has stated that the loss caused by the poaching of Indian fishermen has been estimated to be over US\$ 750 million annually (Hettiarrachchi, 2007). The Palk Bay is rich in Tuna and Prawns and Indian fishermen continue to grab practically the entire fish harvest while the Sri Lankan fishermen suffer severe deprivation of their livelihood. According to the reports there are over 100,000 families

dependent on their fisheries for their livelihood in the Northern Province (Krishnaswamy, 2014).

Furthermore, it has been reported that Indian fishermen are using novel and illegal methods for catching fish in this area. According to these reports, the Indian fishermen use 24 to 46 foot long boats with inboard engines and use bottom trawling techniques (Hettiarrachchi, 2007). As the fishermen use these types of trawlers, they reap a huge harvest but at the same time damage the fishing nets laid by the local fishermen. Furthermore, these methods are proving to be a big threat to the maritime resources of Sri Lanka because this type of mass scale fishing by Indian trawlers completely strips the seabed of all forms of life including the growing fish and other organisms. Sri Lankan fishermen complain that the Indians use fishing methods that devastate the maritime resources and destroy the fragile ecosystem. This method known as 'pair trawling' involves two boats using drag nets that sweep the ocean bed clean, with drastic consequences (Kurukulasuriya, 2012). The capacity for regeneration is severely undermined. As a result, this badly affects the future fish harvest. Therefore, illegal poaching by Indian fishermen has seriously affected both the economy and the marine environment of the country.

Another aspect of this issue is the security implications for both countries. Sri Lanka's maritime guard forces (Sri Lanka Navy) are carrying out patrols in order to protect Sri Lanka's maritime boundaries in the Palk Bay and the Gulf of Mannar. As the Navy has lifted the "security zone" in the Northern Sea in the post-war period, there is an increased potential for illegal poaching in the Northern waters by Indian fishermen who have no qualms about violating the maritime boundary between the two countries. In South India there are more than 5000 trawlers and of those nearly 2500 trawlers depend on Sri Lankan waters for their catch (Madanayake, 2015). It is a common occurrence for the Navy to shoot at or arrest Indian fisheries boats that cross the maritime boundaries and encroach into Sri Lankan waters. The border protection activities of the Sri Lanka Navy have resulted in a significant number of Indian fishermen being arrested in the last decade because they entered Sri Lankan waters and engaged in fishing activities. This situation has resulted in diplomatic tussles between India and Sri Lanka. Much of the time the Tamil Nadu government blames the

Sri Lankan government by claiming that the arrested Indian fishermen are tortured and harassed by the Sri Lanka Navy. The Tamil Nadu state government employs this strategy to embarrass the Sri Lankan government in the international arena. Sri Lanka government in response points out that it has taken steps to release most of the arrested fishermen and their boats as a humanitarian gesture. Likewise, the Indian government has also been arresting a number of Sri Lankan fishermen who had been violating the Indian maritime border over the last two decades. Usually, there are a number of complaints regarding the arrest of fishermen by both sides when their territorial waters are violated by non-nationals. Sometimes the offending fishermen are jailed for weeks, months and in some cases even for more than a year, until their respective governments intervene to get them released (Kurukulasuriya, 2012). It is worthwhile to mention here that both governments have agreed to work out a permanent solution to this matter very soon. For example, several discussions have been carried out at ministerial level by the two governments, but still they have not been able to find a permanent solution to the problem of illegal poaching in the Palk Bay and the Gulf of Mannar.



Map 3. Illegal Poaching in Sri Lanka waters

Source: Downloaded from sundaytimes.lk

SMUGGLING ACTIVITIES, HUMAN AND DRUG TRAFFICKING

Recent security reports reveal that smuggling activities, drug trafficking and human trafficking are carried out across the maritime boundaries between India and Sri Lanka. According to media reports fishermen and some who pose as fishermen from across the Palk Strait were not only engaged in poaching but also in drug trafficking, thereby turning the Northern region into a hub for drugs⁴. Passage through the Palk Strait presents the most convenient route for smugglers who operate between the two countries. Earlier, the smugglers brought in textiles and gold from India clandestinely by boats. But in recent times the cargo has changed and the Palk Strait is used for bringing in narcotics and for human trafficking. Sri Lanka's Law and Order Minister Sagala Rathnayake told Reuters that Sri Lanka is currently a transit point for large scale drug dealers⁵. Addressing the UN Security Council Aria Formula meeting, he had further mentioned that "The use of the Indian Ocean as a major drug trafficking highway, particularly for heroin originating in Afghanistan, poses a threat to maritime security and calls for a maritime law enforcement change"⁶. The United Nations Office on Drugs and Crime (2005) pointed out that India routinely reports the trafficking of heroin on a large scale from the Southern part of that country into Sri Lanka via the Palk Strait. The Chairman of the National Dangerous Drugs Control Board said that drug trafficking through sea routes has increased during recent times (Jayamanne, 2016). The Central Bureau of Narcotics, India reported that heroin seizures in the Indo-Lanka sector have risen by 6% (UNOC, 2005). In recent times the Sri Lanka Navy has seized a large quantity of cannabis from the Northern seas. Colombo Page reported that a detachment of naval personnel from the Northern Naval Command while patrolling in the sea off Veththalakerni in the North nabbed two suspects with 79.3 kg of Kerala cannabis⁷. Due to

⁴ Sunday Observer, January 2, 2019

⁵ Sri Lanka emerging as transit hub for cocaine smugglers officials 21.08.2017, www.Reuters

⁶ Adaderana News Bulletin, 17.06.2018 www.adaderana.lk/news

⁷ Colombo Page, 11.05.2019, www.colombopage.com

the prevailing drug smuggling activities in the Indian Ocean, Sri Lanka has become a hub for narcotics in recent times.

Human trafficking is also indicated in the Indian Ocean lately, with a number of cases being reported of illegal migrants setting off to Malaysia, Indonesia and Australia by sea. There has been a constant stream of illegal migrants from Sri Lanka attempting to go to Australia, even risking their lives. Groups of human trafficking organizers transport asylum seekers to Australia by sending them on dangerous voyages on ramshackle vessels just so that they can make money. 825 Sri Lankan citizens attempted to enter Australia by irregular means in 2011 and 2012 (Karunaratna, 2013). Some unfortunate incidents like sinking of ships have taken place and a number of lives lost of people from developing countries. For example, 225 people were drowned near Christmas Island in 2010 while on their way to Australia illegally⁸. Commander of Operation Sovereign Borders Craig Furini points out that over 1200 people have drowned at sea attempting such illegal and dangerous journeys (Gamage, 2019). Aware of the dangers of these voyages, the Government of Sri Lanka has been making attempts to control this illegal activity within the Sri Lankan maritime zone. Public awareness programmes have been implemented by the Sri Lankan government with the help of the Australian Customs and Border Protection Service to curb these illegal maritime activities (Karunaratna, 2013).

During the civil war period the LTTE and other militant organizations used to routinely cross the India-Sri Lanka maritime border to transport their soldiers and weapons secretly. The Northern, North Western and North Eastern coastal areas of Sri Lanka also witnessed a lot of traffic by the militants who transported their goods from South India. Further, the military activities of the “Sea Tigers” who used to organize naval attacks on the Sri Lankan security forces were also in full swing in these areas. During the period of armed conflict the Sri Lankan Navy was highly active along the maritime boundary between India and Sri Lanka as one of its missions was to protect it.

⁸ “Too dangerous to attempt rescue in Christmas Island boat tragedy”, www.theguardian.com

SUMMARY

India-Sri Lanka maritime boundaries were determined clearly in 1974 and 1976 in terms of the agreements signed by both countries. However, it is clear that the waters of the Palk Bay and the Gulf of Mannar still continue to create some tension between the two countries. The issue of Katchatheevu Island also continues to create diplomatic tension between Sri Lanka and India occasionally. That is because this topic plays a significant role in the popular politics of Tamil Nadu in South India. Illegal poaching causes problems to both countries due to the security implications, and the arrests of fishermen found on the wrong side of the maritime boundary. Moreover, Sri Lanka is badly affected both economically as well as environmentally in the long term due to illegal fishing activities. Therefore, both governments should take stern action to avoid border violations and poaching by their fishermen in their neighbor's sea waters. Palk Strait has now become a popular transit point for the drug smugglers who deal in heroin in the region. The narcotics menace is always related with terror activities and other human trafficking activities in the region. Therefore, Sri Lanka's National security will be badly affected if the authorities do not take remedial action soon. To achieve effective results it is stressed that the Sri Lanka government should work together with the Indian government to solve these issues. The diplomatic and political relations between both countries will be significantly improved if mutual cooperation can be arranged.

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