

Sri Lankan initiatives for the release of arrested fishermen

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1. Introduction

The utopian ideal of 'freedom of the seas' was curtailed in the mid 1970's, with the signing of numerous bilateral maritime border agreements and finally sealed in 1982 with the promulgation of the United Nations Law of the Seas. Since then, these international agreements, framed within National legislation, have restricted the movements and activities of boats vessels across the globe. For nations with contiguous maritime borders - unmarked and often disputed by the local people whom they most affect - these claims to marine territory have created as many problems, as they have benefits.

Sri Lanka and India share a maritime border more than 400 km long. At its narrowest, the coast of Mannar is less than 4 hours by boat from the Rameswaram peninsular. An invisible line neatly bisects the two. Uninformed of these abstractions, fish and shrimps follow the currents in search of food and places to reproduce, crisscrossing the unobserved border. Fishermen, in their quest for a good catch, do likewise.

A network of non-governmental organisations has emerged in Sri Lanka in response to Indian and Sri Lankan fishing boats, straying into each others territorial waters. This loose association of NGOs seeks to address the political and personal consequences of these frequent incursions. A summary of this network, its origins, its activities and the problems that it has yet to solve is presented below. Thoughts about the future, of both Indian and Sri Lankan fishermen, from key members of this network, complete this perspective on working for the release of arrested fishermen.

2. Beginning to work on behalf of Indian fishermen

In November of 1996, Sri. J. Adaikalaraja, the General Secretary of the Tamil Manila State Fishermen's Federation (Bharath Nagar, Ramnad District), contacted Maheswari Velautham, a Sri Lankan Advocate, to ask for her assistance in the cases against five Rameswaram boats (RMS 2165, MTM 202, RMS 561, RMS 14 and PMS 509). The Sri Lankan Authorities (see Appendix A) had recently arrested the boats and their crews. Maheswari Velautham is the Secretary of a human rights organisation, Forum for Human Dignity (FHD).

Four crewmembers of RMS 2165 had been arrested on 17th September, while their boat was being towed back to India by another boat. The fishermen were produced before Mannar Magistrates Court on 18th September and remanded in Mirihana Detention Camp, Nugegoda, Colombo.

The Sri Lankan Navy had arrested twelve crewmembers from the other four boats on 13th November, while they were transporting Sri Lankan refugees to India. They appeared in Mannar Magistrates Court and were remanded in Mirihana Detention Camp. The sixteen fishermen then spent the next eight months in detention at Mirihana.

Mirihana Detention Camp is an open prison, where foreign nationals are held on remand by the Sri Lankan authorities. The facilities are basic, but remand prisoners are not kept in cells and are free to move in and around the Detention compound. The kitchen of the Mirihana Police Station provides food. A canteen is available, from which remand prisoners can purchase tea, coffee and other good if they have the money.

On the 19th of September, the Sri Lankan Navy arrested another Rameswaram boat and its crew of four fishermen. They appeared in the Magistrate's Court in Talaimannar on the 24th September and were transferred to Mirihana on the 30th of the same month.

On the 15th of February, eight fishermen in two boats left Rameswaram to go fishing. They were captured by LTTE and taken to Nochchikudah. On the 19th the LTTE forced them to transport refugees from Sri Lanka to India. The boats were dangerously overcrowded and as a result capsized. More than 62 of the refugees died in the mishap. Following this incident the remaining fishermen were held by the LTTE for more than two weeks. On 5th March, the LTTE permitted the fishermen to return to India.

As the fishermen approached Kachchaitivu, the Sri Lankan Navy arrested them. They were produced before the Jaffna Magistrate on 10th March and remanded in custody. The Court released the fishermen on the 19th June and the Jaffna Office of the Eelam People's Democratic Party took them care of. However, on the 20th of June they were arrested by the Police and transferred to the Mirihana Detention Camp. They arrived in Colombo on 7th July.

Four more Indian fishermen appeared in Anuradhapura Court on the 13th May 1997. The Rameswaram boat had left some days earlier. Unlike earlier groups of fishermen these four fishermen were intercepted near Delft, and found to be in the possession of over six lakhs of Sri Lankan Rupees. They were remanded in custody on 29th May under the Emergency Regulations. Transferred to Kalutara Jail they are currently awaiting trial. A court date has been fixed. They will appear in Court on 12th August 1998. The Judge granted bail of SL Rs 5,000 each.

In June of 1997, 28 Indian fishermen were being held on remand by the Sri Lankan authorities. Maheswari Velautham repeatedly petitioned the Attorney General's Office during this period, for the release of the all of the fishermen held on remand. At the end of June, her efforts were rewarded when the Attorney General's Office recommended the release of four fishermen, arrested on the 19th of September 1996, without charge.

On 8th July 1997, her efforts were again rewarded, this time in the Magistrate's Court of Colombo. Maheswari Velautham appeared on behalf of the sixteen fishermen, arrested in September and November of the previous year. Advised to plead guilty, the fishermen were convicted and fined SL Rs 1,500 each. Maheswari Velautham paid SL Rs 24,000 the total cost, out of her own personal funds. The fishermen were subsequently released.

In August 1997, The Sri Lankan Government repatriated the sixteen fishermen by boat. Finally in September 1997, Maheswari made arrangements with the Attorney General's Office for the release of the remaining eight fishermen originally abducted by the LTTE.

In all 28 fishermen had been released. Maheswari was by now well known amongst Rameswaram fishermen and by the Sri Lankan authorities dealing with the cases of arrested fishermen. Which is just as well because the arrest of Indian fishermen continued throughout the year.

On the 8th August, three boats (RMS 2059, RMS 2379 and RMS 536) left Rameswaram to go fishing. At 5pm, off Pesalai, they were arrested by the Sri Lankan Navy and held in the local Navy Camp. On the 18th of August the eleven fishermen were handed over to the Mannar Police. On the 20th of the same month, they were produced before the Magistrate in Mannar and remanded in Mirihana. They arrived in Colombo on the 27th August. The FHD negotiated their release, through the Attorney General's Office in December 1997.

On the 7th of October four fishermen left Tutticorin to go fishing. Their boat was intercepted and sunk by the Sri Lankan Navy. The four fishermen were arrested and produced before the Magistrate's Court of Anuradhapura on 28th November. The Judge remanded them in Kalutara Jail - 40km south of Colombo. On the 23rd February they were released on personal bail. Jumping bail, they immediately left the country, through Mannar.

During the period described thirteen boats were arrested by the Sri Lankan Authorities and 53 fishermen were detained. Forty four were released due to the intervention of the FHD, five jumped bail and the remaining four are still awaiting trial in Kalutara Jail.

3. Sri Lankan NGOs and arrested Sri Lankan fishermen

Negombo fishing harbour has the highest density of fishermen in the Country and it was from here that efforts to intervene on behalf of Sri Lankan arrested for fishing illegally in foreign territorial waters were initiated. Ironically it was the arrival of a group of Indian fishermen in Negombo in the early 1990's that gave rise to the early dialogue between south Indians and Sri Lankans. The Indian fishermen, due to the intervention of local fishermen, were held in Negombo, look after by the fishermen's families and eventually repatriated without charge.

In 1994 Satish Babu from the South Indian Federation of Fishermen's Societies (SIFFS) visited Negombo with three south Indian colleagues. During this visit, meetings were held with fishermen in Negombo and the National Union of Fishworkers raised the issue of twelve Sri Lankan fishermen then being held in Madurai Jail. Satish agreed on behalf of SIFFS to look into the cases, upon his return.

As a result of SIFFS subsequent interventions, the cases against the twelve fishermen were resolved and all returned safely back to Sri Lanka. Soon after, a further two fishermen from Thoduwa, near Chilaw were arrested by the Indian authorities. Herman Kumara from National Fisheries Solidarity and Lucas Fernando the Secretary of the NUF jointly contacted SIFFS once again, to ask for their support. During a visit to India in December 1997, Lucas Fernando and Herman Kumara met with SIFFS in Trivandrum to discuss the problems faced by arrested fishermen.

Back in Sri Lanka the focus of local NGOs was then largely upon meeting 'basic needs' of the families of deep-sea fishermen, missing or arrested whilst at sea. A collection of local NGOs, including the National Fishworkers Union (NUF), were successful in lobbying the Government and securing allocations of dry rations for the affected families.

Following the links with SIFFS, the successful release of 14 fishermen and a growing awareness of the scale of the problem on both sides, Sri Lankan NGOs initiated a programme of collective action on behalf of all arrested fishermen.

4. Collective action

A workshop, convened by NAFSO on March 7th 1998, marked a watershed in relationships between individuals and organisations working on behalf of arrested fishermen in Sri Lanka. More than twenty five participants attended, representing thirteen fishermen's organisations and Trade Unions and including the Government Department of Fisheries and Aquatic Resources Development. Representatives from the Kerala based, South Indian Federation of Fishermen's Societies and the all India National Fishermen's Forum were also present. Invitations were also sent to the Ministry of Foreign Affairs, Department of Immigration, the Sri Lankan Navy but no replies were received.

Mr. Herman Kumara, the Convenor of National Fisheries Solidarity, began the afternoon session by requesting that the opportunity be taken to establish commitments between the participants, through which all could work together on the issues faced by arrested fishermen in Sri Lanka and India. The agreements reached are summarised briefly below:

- The participants agreed to set up a Committee in Sri Lanka, to co-ordinate the work on behalf of arrested fishermen and their families. It was decided that NAFSO would take the responsibility to establish the Committee. Both Government and non-Government representatives would be welcomed as its members.
- The participants agreed to immediately visit the Indian fishermen then being held in Kalutara Jail and Mirihana Detention Camp. The Convenor of NAFSO and the Director of the Social and Economic Development Centre (SEDEC) pledged financial support to provide India fishermen with basic needs.
- Forum for Human Dignity (FHD) and Social and Economic Development Centre (SEDEC) agreed to help contact fishermen's organisations in Jaffna, Mannar, Trincomalee and Batticaloa - acknowledging of the fact that the gathering was predominantly of representatives from fishermen's groups in the South and West.
- A commitment was made to look into the options for raising community funds in support of arrested fishermen. Allied to the discussions that revolved around funds and finance, it was agreed that the potential role and function of the boat owners, in cases where Sri Lankan boats are arrested and held in India, would be investigated by the newly formed Committee. It was suggested that that funds should be made available from the boat owners to support work on behalf of arrested fishermen..
- Finally it was agreed that the reciprocal arrangement whereby Indian Fishermen and NGOs will work for the release of Sri Lankan fishermen and Sri Lankan fishermen and NGOs will work for the release of arrested

Indian fishermen was reaffirmed and the commitments to do develop and expand this interaction would be strengthened.

4a. Action on behalf of Indian fishermen

Within days of the workshop, Maheswari Velautham (FHD) and Steve Creech (NAFSO) paid a visit to the Mirihana Detention Centre, where they met six Indian fishermen from Sipikullam, Tutticorin District. The fishermen had left the village of Kordiakari, near Nagapattium, Tutticorin District on 27th February, in their boat VOC 3026 (see Appendix A).

According to their story, the SL Navy warned them on the same day for setting their nets in Sri Lankan waters. They left their nets and returned to Indian waters. The next day they returned to pick up their nets and were spotted by a Sri Lankan helicopter. Some shots were fired, but not directly at the fishing boat. The helicopter contacted a Navy patrol and they were arrested on the 28th, near Kankesanturai (KKS), north of Jaffna. Blindfolded, hands tied behind their backs they were held briefly in the KKS Navy camp.

By 8pm the fishermen were transferred to Police custody. On the 3rd they appeared in front of the Magistrate in Jaffna and were remanded in custody. On the 4th they were flown to Colombo and transferred to the Mirihana Camp. They arrived in good health, though they all complained of rough treatment by the Police, resulting in bruising. In the Camp they possessed nothing and were living in borrowed clothes.

'Basic Needs' were delivered to the six fishermen (sarongs x12, shirts x6, underwear x12, bed sheets x6 vests x6, towels x6, chappels x6, as well as paste, toothbrushes, hair oil and soap). The costs incurred were reimbursed by NAFSO. FHD made it clear to the Officer in Charge that its was following up the case. The Indian High Commission had been informed of the fishermen's detention, but until that time had not visited them. FHD immediately initiated the case for their release, through the Attorney General's Office.

Details of the fishermen and their arrest was emailed to SIFFS that same evening, with a request to contact the families of the fishermen and passed on to the relevant information. On the 17th of March the six arrested fishermen went on hunger strike, demanding to be released, along with their boat. Following a phone call from the Officer in Charge, Steve Creech returned to the camp and explained to them the situation and the need for patience.

Two days earlier, radio reports indicated that 24 Indian fishermen had been arrested in Jaffna. Enquiries were sent to SIFFS and positive identification was returned. On the 24th of March, a further twenty-one arrested Indian Fishermen from four boats (Boat No MDM 506, MDM 541, MDM 462, RMS 1349) arrived in Mirihana (see Appendix A).

Arrangements were made to provision all twenty-one fishermen with Basic Needs. SEDEC reimbursed the bill of SLRs 9,500. Details of the fishermen, their boats and next

of kin were emailed to SIFFS. FHD filed a petition on behalf of the fishermen with the Attorney General's Office.

The fishermen were visited weekly by NAFSO and during the second visit complained of ill health, with one of their number having suspected Yellow Fever. Through FHD, Swamiji Atma Ganananda, from the Ramkrishna Mission, Wellawatte, Colombo arranged for a Doctor with medical facilities to visit the Camp and conduct examinations. Medication was provided to all the fishermen who needed it

Meeting with the Ministries.

In response to the quicken pace of interventions and the bilateral involvement in the cases of arrested Indian, as well as the work being done on behalf of Sri Lankan fishermen in India, NAFSO requested a meeting at the Ministry of Fisheries and Aquatic Resources Development. The Secretary to the Ministry convened a meeting on April 3rd. NAFSO and FHD were invited along with representatives from the Department of Fisheries, the Foreign Ministry and the Department of Immigration.

The following points were made during the three-hour discussion:

- The speed with which the cases of arrested Indian fishermen was being processed, and Indian fishermen were being repatriated, was agreed to have increased. The Dept. Immigration official felt that they now faced few problems in ensuring the swift repatriation of arrested Indian fishermen.
- A discussion about whether or not Indian fishermen should be sent to Colombo was left unresolved. If cases could be heard and completed in Jaffna or Mannar it was argued, fishermen could be repatriated directly. This would greatly reduce the problems faced by Officials and fishermen. However, the absence of secure facilities for holding arrested fishermen and their lack of safety in Jaffna and Mannar, was given as a reason for their continued transfer to Colombo.
- Dept. Immigration raised a question concerning prosecution of fishermen who illegally enter Sri Lankan waters. Presently fishermen are held on remand. They are released without charge, on the instruction of the Attorney General's Department. The Department of Immigration representative felt that the Government both could and should prosecute fishermen. (NB in the interest of bilateral relations the Sri Lankan Government is unlikely to do so). Fishermen found to be in the possession of contraband would continue to be charged and imprisoned. Those fishermen working in support of the LTTE would be treated in accordance with the Emergency Regulations.
- The issue of repatriation with boats was raised. In it the Government Representatives presence asserted that most fishermen returned with their boats. The only incidences where fishermen were not repatriated

with their boats being when the boats were not sea worthy. This was disputed by FHD. As the sea worthiness of a boat decreases with the increased time fishermen spent in detention, it was suggested that quicker release times would facilitate greater numbers of fishermen being repatriated along with their boats. ✓

- The question of the ill treatment and torture of arrested Indian fishermen was raised by FHD. Although this was initially denied, the point was clearly made that the actions of Government Authorities regularly contravened Indian fishermen's fundamental human rights

During the final discussion it was accepted that, regardless of punitive measures, fishermen on both sides are likely to continue to stray into each other's territorial waters. Alternatives that would both reduce costs and the frequency of these incidents were discussed.

It was stressed by the Government representatives that the existing bilateral agreement between India and Sri Lanka were sufficient to deal with the problems posed by the arrest of fishermen. A reciprocal agreement for prosecution of fishermen in their own countries was thought to be untenable.

During the meeting the Department of Immigration informed FHD and NAFSO that papers securing the release of all twenty-seven fishermen had already been signed. The fishermen would be released and returned to India within seven days.

The release of twenty seven fishermen¹

Due then to FHD's efforts, the release order came on the 4th April. According to the fishermen, they were taken to Kankesanthurai on the 8th and kept in a police camp. Subsequently nothing happened. When questioned, the officials are said to have explained that they have not received any message from the Indian side about the transfer. Eventually after waiting in the Police Camp for more than three weeks the fishermen went on hunger strike.

Unable to handle the situation, the police transferred them to the Navy in Mannar on the 1st of May. Finally on the 4th May, the transfer took place with the Indian coast guard at mid sea. According to the SALF, when the Indian authorities were questioned by ARIF, they denied any delay on their side. They had been apparently pressurising the Sri Lanka side to return the fishermen before the Tamil New Year's day on 14th April. On 14th April the Coast Guard vessel did go out to meet the Sri Lanka Navy and received only the six fishermen from Sippikullam. "Logistical problems" were cited for the non return of the remaining 21 fishermen.

¹ Much of the description of the repatriation of the twenty seven fishermen is taken from an email communiqué received written by V.Vivekanandan, SIFFS.

Which version is correct is unclear. The only fact that is clear is that the fishermen remained in Sri Lanka a full month after an order was obtained for their release. The boats were separately released on the 21st May. Two boats were brought back out of the four. Only the engine of the third boat could be salvaged. Even that could not be salvaged for the fourth boat.

Since then two more Indian fishermen have arrived at Mirihana. Sri Subramuniam Raj was released from Kalutara Jail in May this year, having served six months in prison on suspicion of provisioning the LTTE. This 'fishermen' was apprehended by the Navy in April 1997. He left Mandappam in his vallam to go fishing with three Sri Lankan Tamils - formerly residents of Mandappam refugee camp. There were arrested by the Sri Lankan Navy near Delf. From Delf they were transferred to the Police Camp at KKS. From KKS they travelled to Anuradhapura, then to Vavuniya, and from there to Kalutara Jail (south of Colombo). According to his story, Sri Subramuniam Raj appeared in Court on 21st of January 1998, in Vavuniya. All four were sentenced to six months in prison and returned to Kalutara Jail. All have now been released. The three Sri Lankans have gone home. Details about Sri Subramuniam Raj have been sent to SIFFS and People's Watch and a petition for his release has been submitted to the Attorney General's Office by FHD. The Indian High Commission have taken statements and have been able to verify his status as an Indian citizen. It is likely that he will be repatriated soon.

The other 'fishermen' is Sri. Iyyapan Karuppiyah (registration number 2389 Rameswaram issued in 1997). According to his story, he was fishing aboard a Rameswaram boat by the name of 'Velmorgan' when the Sri Lankan Navy intercepted the boat at night. The Navy patrol then opened fire. The boat changed course and headed back towards Indian territorial waters. Iyyapan fell overboard in the ensuing confusion. The boat sped away and he was forced to swim ashore.

He eventually reached the shore at Pesalai (Manner Island). He was arrested by the Police on April 8th and according to his account beaten and tortured. He spent some time in Hospital. In Manner he appeared before the Magistrate on April 10th and was sentenced to be detained in Mirihana. During his journey from Manner he was imprisoned in Vavuniya (2 days), Anuradnapura (8 days) and Velicada (2 days).

The Indian High Commission has visited him, but are unhappy about his 'status'. They have received no information concerning his disappearance from the Indian authorities in Tamil Nadu. No firm confirmation of his fishermen's status has been received from Indian partner NGOs.

These last two cases highlight a side of the arrested fishermen's 'issue' that has hitherto only been referred to in passing. It is that not all arrested fishermen are fishermen. This is as true for Sri Lankans arrested in India as it is for Indians arrested in Sri Lanka. The need for caution is evident, as is a commitment to identify genuine fishermen from smugglers. Interventions need to be targeted towards those cases where genuine fishermen are involved.

Over the last three months Sri Lankan NGOs have successfully worked for the release of 27 fishermen from five boats. In the process, the Authorities have responded positively and with the exception of releasing boats (see below), arrested Indian

fishermen can now expect to be released swiftly after arriving in Mirihana detention Camp.

4b. Action on behalf of Sri Lankan fishermen

There is a consensus among a small number of Sri Lankan NGOs that says the conditions of labour of deep sea workers are poor and are steadily deteriorating. From the southern harbours of Tangalle and Mirissa to the north western ports of Negombo and Chilaw, this same body of opinion, opines that the negative impact of these conditions is reflected in the low social status and economic prosperity of the families of deep sea fishworkers. In response, organisations such as the National Union of Fishworkers and National Fisheries Solidarity have begun programmes to conscientise the communities and the authorities to the prevailing situation.

Aspiring to the achievements of the National Fisheries Forum in India, these organisations have recently initiated programme to mobilise fishworkers and their families. However Sri Lanka is a very different place from its Indian neighbour. Smaller than many of India's States, with better communication facilities and a more centralised Government Administration, Sri Lanka is a highly politicised and stratified country. This reflected as much in the fisheries sector as in any other.

Colombo's fish market is the focus of an island wide distribution network, highly organised, dominated by a few entrepreneurs or 'mudalali'. Colombo mudalalis are in contact with all the major fishing harbours in the country, most on a daily basis. Each harbour has its own local group of mudalalis. In almost every fishing village there are smaller mudalali, acting as agents and middle men.

Almost every every fishing village has a Government sponsored Fisheries Cooperative. In intent, a forum for the development of fishermen, in reality a mechanism through which Government assistance (new boats, fishing gear and other subsidies) can be channelled to already wealthy (and pro Government), fishing interests.

The room for NGOs to manoeuvre in this environment is limited. Opportunities for leverage and influence are likewise constrained. No island wide network of fisheries NGOs yet exists to counter the reach and influence of the Government and the private sector. This is reflected in the work that has been initiated on behalf of arrested Sri Lankan fishermen. In the main it is the work of individual NGOs, linked by consensus about the difficult circumstances faced by deep sea fishworkers.

Below, a brief description is given of the actions that have been taken to encourage the Government to intervene on behalf of the fishworkers and the recent involvement of SEDEC in the release of fifteen fishermen from Madurai jail.

encouraging greater Government involvement

Two approaches have been adopted by the NGOs working with this issue. The first has simply been to keep the Government's Department of Fisheries and Aquatic Resources Development (DFARD) informed. When actions are taken and problems arise, dialogue with DFARD soon follows. In this regard it should be noted that the DFARD's Deputy Director for Management and Social Welfare Mr. H.V.C. Fernando has been extremely receptive and supportive. NAFSO have repeatedly contacted Mr. Fernando for information, relayed information and arranged meetings with his support.

In the meeting referred to above at the Ministry of Fisheries and Aquatic Resources Development, convened on April 3rd, NGOs were able to highlight several aspects of the problems faced by Sri Lankan deep sea fishermen.

- It can take between three and twelve months to release a Sri Lankan fisherman from prison in India. The problems created in India by the presence of both State and National bureaucracies were immediately highlighted in discussion. Representatives from the Foreign Ministry expressed their opinion that the Ministry was fully able to support the repatriation of Sri Lankan fishermen through the High Commission in Madras. However, the Ministry can only act after the legal procedures against Sri Lankan fishermen have been completed.
- It was evident from the meeting (and subsequent discussions with the Deputy High Commissioner in Madras) that there is an information gap, between the arrest of a Sri Lankan boat and the sentencing of Sri Lankan fishermen in Court. Lack of knowledge about their whereabouts, leads to fishermen receiving little or no support from Sri Lankan authorities, until after their cases had been heard. Even then the ability of the Indian Deputy High Commission to intervene is questionable. An open opportunity exists for NGOs to work on behalf of the Sri Lankan fishermen. Encouraging the Coast Guard and local Courts to contact Indian NGOs when fishermen are arrested would enable information to be forwarded to NGOs Sri Lanka. Following up Court cases (by Indian NGOs) would both directly support the fishermen and encourage Officials to take a broader view of the situation (as has happened in Sri Lanka).
- The Ministry of Foreign Affairs concluded the meeting by saying it was both fully aware of the situation and taking all necessary action to ensure the release of fishermen. It did however acknowledge (off the record) that direct and indirect support from NGOs in India, would further enable the Ministry to work for the release of arrested Sri Lankan fishermen.

Experience reiterates the sentiments of the meeting, particularly so once the rhetoric of Government Ministries is put to one side. The Sri Lankan Authorities face considerable difficulties in intervening on behalf of fishermen arrested in India and elsewhere. Bound by Diplomatic procedures, they are forced to take a back seat until such time as the fishermen are released. Even then they may be informed of the release of the fishermen several months after the Court case was heard. The ability of Indian NGOs to intervene directly and for Sri Lankan NGOs to feedback information gives them a major advantage and is perhaps a fishermen's best hope for a swift release.

SEDEC's intervention on behalf of Sri Lankan Fishermen in India

In April 1998, Maheswari Velautham (FHD) and Steve Creech (NAFSO) visited South India to facilitate the building of relationships between Sri Lankan and Indian NGOs, working with the issue of arrested fishermen. They met representatives from SIFFS in Trivandrum and People's Watch in Madurai. In Rameswaram, a large reception was organised in appreciation of Maheshwari Velautham's work on behalf of arrested Indian fishermen. Back in Madurai they met the fifteen arrested Sri Lankan fishermen and in Madras they contacted the Deputy High Commission and the State Officer in charge of co-ordinating the response to foreign fishermen.

Upon returning to Sri Lankan, a list of contacts and report was circulated amongst interested NGOs including Fr. Deverajah (Director, SEDEC) who was preparing to depart to Madras for a conference. Briefed by NAFSO before he left, he made a commitment to meet the fifteen fishermen during his visit. Fr. Deverajah's arrival in Madurai coincided with the hearing of the cases against the fifteen fishermen on May 23rd.

On the advice of People's Watch lawyers, the fifteen fishermen pleaded guilty to the charges against them, to ensure their swift release. Taking into consideration the time already spent in detention the fishermen were technically free. However the not so small matter of paying fines levied against each fishermen (IRs 1,000) and against each of the boats (IRs 10,000) by the Customs Department, stood between the Sri Lankans and their repatriation. Fr. Deverajah, then stepped in and agreed to guarantee the repayment of all costs to People's Watch (approx. IRs 90,000). This effectively secured the freedom of the fishermen, who were released on May 25th.

On his return to Sri Lanka, Fr. Deverajah met with the three boat owners concerned and all agreed to repay the cost incurred for the release of their boats and crew. Letters had also been sent to the DFARD explaining the situation and requesting its full support in the recovery of costs. Within a week SEDEC had recouped its expenditure.

The intervention by Fr. Deverajah highlights several important features of the work that has been undertaken on behalf of Sri Lankan fishermen by Sri Lankan NGOs. In the first instance it was dependent largely upon an individual actions. Though Fr. Deverajah's involvement arose as a result of a commitment by others to share information. Secondly, there was no involvement of Government Departments or Ministries. Both these points reveal the strength of the developing network in Sri Lanka, but at the same time its weakness. And finally the contributions made by Sri Lankan NGOs to the release of Sri Lankan fishermen were entirely dependent on the hard work and cooperation of their Indian counterparts.

In June 1998, two meetings were convened by SEDEC and attended by FHD, NAFSO, NUF and Steve Creech. In these meetings options and ways of working together in the future were discussed. A decision was taken against formalising relationships between the parties concerned and instead to continue on an *ad hoc* basis until such time as more binding commitments were deemed desirable.

5. Thoughts about the future

This report has set out to present the events and happenings connected with the arrest and release of Indian and Sri Lankan fishermen from the perspective of Sri Lankan NGOs working with this issue. It is in large part a list, a sequential description of what has been done, when and by whom. So far there has been little, perhaps no attempt at analysis. The next two sub headings are dedicated to remedying this omission. First, in terms of Indian fishermen fishing and arrested in the Palk Straites. Then by taking a closer look at the Sri Lankan deep sea fishing industry.

5a. for Indian fishermen arrested in Sri Lanka

The existence of a maritime border, separating the jurisdiction of the Sri Lankan and Indian Authorities in the area of the Palk Straits and Palk Bay is hard fact; Internationally agreed, it is likely to remain so. Regardless of the contentious nature of its demarcation, particularly with respect to Kachchaitivu, the cartographers are unlike to again reach for their pens and slide rules. For fishermen in the region, who were accustomed to moving freely from coast to coast and fishing wherever they liked, the border is a new reality, that many have yet to come to terms with.

Roughly four hundred small trawlers leave Rameswaram and nearby Indian anchorages every day to fish in the Palk Straits. Many if not most enter illegally into Sri Lankan waters. Some fish so close to the Mannar coast that they become entangled in local nets and need to be rescued by Sri Lankan fishermen. Others simply bring their boats into Talaimannar, for a cup of tea and a vada, before returning home.

In the face of such an armada of fishing boats, Sri Lanka's Navy is more or less helpless to stem the daily influx of illegal boats. There is of course the opportunity for the more entrepreneurial to collect 'taxes' from the illegal boats. This is a common occurrence according to Indian fishermen. The security situation in the north requires the Sri Lankan Navy to be vigilant in the face of the organised smuggling of supplies to the LTTE. But again, according to Indian fishermen, the first concern of smugglers is to evade the Sri Lankan Navy. So it is fishermen who generally find themselves confronted by the patrols. Arrests seem to be the result of indiscriminate action taken against one or two boats, for reasons best known to the Navy themselves.

A commitment from the Navy to arrest Indian fishing boats would result in half of Rameswaram residing in Mirihana Detention Camp. A successful intelligence operation would result in many more 'fishermen' being charged under the Emergency Regulations, for smuggling contraband to the LTTE. As neither happens, the picture painted above, of a general freedom to fish, irrespective of the maritime border, with occasional, token arrests, can be taken as an accurate representation.

Ironically this situation is largely due to the presence of the security situation. The result of restrictions placed upon Sri Lankan fishermen living in Jaffna and Mannar - the types of boats they can own, the areas they can fish and the times they can spend at sea. Sri Lankan fishermen are restricted to fish not more than 2 Km from the coast, between 6am and 6pm, using non motorised craft. Along a large part of the coast line, fishing is completely prohibited. The Security Forces strictly enforce these restrictions, unlike those affecting the Indian fishermen.

The result is that Sri Lankan fishermen are unable either to compete with Indian fishermen for the fish resources in the Palk Straits or 'police' the Sri Lankan side of the border themselves. There is a commonly held opinion which says that when and if the conflict in the north is resolved, the problems created by the repeated incursion of Indian fishermen into Sri Lankan waters will swiftly be resolved - by the Sri Lankan fishermen.

Until then, the problem is likely to remain. NGOs on both sides will be engaged in humanitarian and legal assistance. Fishermen and their families will continue to suffer loss of income and fears about the safety of their loved ones. As noted above the intervention of FHD and other Sri Lankan NGOs has contributed to an increase in the speed with which the Sri Lankan Authorities now deals with the cases of arrested fishermen. At the same time humanitarian aid is provided to all arrested fishermen and communication with their families is now possible. What can be done to improve the situation further? There are two issues that continue to create problems:

repatriation with their boats: The time required to process the legal aspects of cases brought against Indian fishermen have been reduced considerably over the last 12 months. This is thanks almost entirely to the intervention of FHD and the cooperation of the Sri Lankan Authorities. Fishermen can now expect to be released within one to two months of arriving in Mirihana. However the release and repatriation of Indian fishermen without their boats, and thus means of income, simply relocates the problem from Sri Lanka to India. Efforts are now being made by FHD to engage the Sri Lankan Authorities on the issue of boats. In June 1998, FHD secured release papers for three boats (RMS 2059, RMS 2379 and RMS 53) and forwarded the relevant papers to the Indian High Commission in Colombo. More work remains to be done before the repatriation of fishermen with their boats becomes a formality.

ill treatment of Indian fishermen: Almost all of the fishermen interviewed at Mirihana complained about ill treatment from the time of their arrest until their arrival at Mirihana Detention Camp. Complaints included being kept in overcrowded cells, not being properly fed, being forced to undertake menial and degrading tasks in the prison where they were held and being handcuffed and paraded in public. Fishermen also complained of various kinds of torture including being blindfolded and beaten. In the worst cases it appears that there have been serious breaches of the Indian fishermen's fundamental human rights. At other times arrested fishermen have been treated very poorly and not in a manner consistent with that expected by foreign nationals, remanded in

custody and awaiting trial. Action needs to be taken both in Sri Lanka and in Indian to ensure the humane treatment of arrested Indian fishermen.

b. for Sri Lanka's deep sea fishermen

The statistics speak for themselves (see Table 4). In the last five years 269 Sri Lankan boats have been arrested for fishing illegally in Foreign territorial waters and 1,338 fishermen have been detained. To understand the nature of the problem, it is necessary to reflect a little upon the current state of Sri Lankan marine fisheries and the policies advocated by the Government in support of the fisheries sector.

Table 4. Boats and fishermen arrested between '93 and '97²

Year	boats	fishermen
'93	65	320
'97	56	280
	269	1,338

Briefly, Sri Lanka's marine fisheries sector is currently producing around 220,000 mt per annum, from two thirds of the area of its Economic Exclusion Zone. The north and north east being effectively unfishable due to the war. Estimates of the maximal sustainable yield for the fishery as a whole hover around 250,000 mt. There is a strong indication then that the fishery is maximally if not over exploited. Fishermen reflect this feeling. During a series of recent interviews with fishermen in Hambantota, fishworkers repeatedly referred to poor catches and a lack of fish as the main problem affecting their livelihoods. Changes over the last 10 years in the types of boats owned by fishermen, also reveal the shifting fortunes of fish stocks and fishing.

According to the latest census data collected by the DFARD there has been a rapid increase in the number of mechanised coastal fishing craft, no change in traditional craft, a demise in one day deep sea vessels and a near explosion of multi day fishing boats. These changes are an indication of the status of the fishery as a whole. They suggest that near shore fishing (less than 3 miles from the coast) remains the basis of subsistence fishery for poor fishermen. Coastal fisheries (3 miles to 20 miles) look to be being heavily, if not over exploited (there are now more than 8,000 motorised 17½ ft boats). In the deep sea, fishing (20 miles to 200 miles) is now only profitable if the trip lasts for several days – hence the demise of the 28ft one day deep-sea boats.

² Source, Ministry of Fisheries and Aquatic Resources Development

What is happening to Sri Lanka's marine fishery is that mechanisation and increasingly sophisticated gears are enabling less fishermen to catch more fish. The consequences are that more fishermen are catching less fish. The Government is fully aware of the problem and its main response has been to encourage the development of the deep sea fishing sector. The argument is that if there are no fish in coastal waters, then there must be fish in the deep sea. The sector is being promoted on the back of economic rhetoric and with a view to creating employment. Assistance from the Government has come in the form of subsidies for boats and gear and through the provisions of a number of protected anchorages along the southern and western coasts.

According to Government statistics, Sri Lanka's mutli day fishing fleet stood at 1,543 boats in 1995.. These boats were anchored in seven harbours around the country.

Colombo	24
Kalutara (Beruwela)	208
Galle	137
Matara (Dondra Head)	455
Hambantota (Tangalle)	227
Batticaloa	8
Trincomalee	81
Puttalam	234
Gampaha (Negombo)	169
	1,543

(figures from the National Fisheries Development Plan 1995 - 2000)

At a recent workshop at the National Aquatic Resources Agency (NARA), the total was thought now to be nearer 1,800 boats. More boats continue to be added to the fleet. There are eight boat yards in the country, dedicated to producing deep-sea vessels. Of the three that have been visited recently all have three or more boats under construction. Further encouraging this trend, the Minister of Fisheries recently announced another round of subsidies (80%) for another 50 deep-sea boats, valued at 40 Rupees million each.

Adding more boats to an already maximally exploited fishery is not very sensible. One direct result is to decrease the profitability of the boats already fishing. It also forces deep-sea boats to look beyond Sri Lanka's EEZ for fish. Again, data presented at the NARA workshop supports the contention that the deep-sea fishery within Sri Lanka's EEZ is at or nearing over exploitation. In a recent survey 19% of small deep sea boats (<40ft) were reported to be fishing outside Sri Lanka's territorial waters. Of the larger boats, 39% were fishing beyond Sri Lanka's territorial waters. For boats operating out of Negombo and Chilaw, the figures rose to 74% and 64% respectively. Deep-sea fishing boats are also getting bigger, another indication of the desire to fish further from Sri Lanka and for longer. Five years ago 45ft and 50ft boats were uncommon. Now the demand is for 60ft and 70ft boats.

When they begin to search for fish outside Sri Lanka's EEZ, deep-sea boats face a number of problems. To the north east and north west they are confronted by India's EEZ. To the west they encounter first Maldivian territorial waters then those of the Seychelles. To the south west lies the British Indian Ocean Territory (BIOT) of Diego Garcia. To west lie the territorial waters of Indonesia. Fines for illegal fishing in Seychellian waters are approximately Seychellian \$ 50,000 per day. The boat, gear and fish are automatically confiscated. Likewise in the Maldives boats, gear and fish are confiscated following arrest. Licences to fish in BIOT are granted at the cost of SLRs 360,000 to SLRs 450,000 per month for long lining. For purse seine fishing the fee is SLRs 2 million for four months and a daily payment of SLRs 120,000 for each day boats are engaged in fishing. The fines and the licence fees reflect the lucrative nature of commercial deep-sea fishing and the strong desires to States to control fishing activities within their EEZs.

Only due south from Sri Lanka are there uncontested international waters. But here the oceans are deep and fish are comparatively rare. It is here too that huge purse seine and long liners fish. The boats, belonging to the fleets of Japan, Korea, Taiwan or multi nationals are equipped with sophisticated navigational, communications and fish finding technology in addition to the modern fishing gear.

The arrest of Sri Lankan deep-sea fishing boats in India, in the Maldives and elsewhere is a reflection of both the trend at home and the competition for fish resources in international waters. Sri Lankan deep-sea fishermen are becoming caught more and more often on the horns of this dilemma. And the result is imprisonment, fines and despair.

It is difficult to be optimistic about the future. All the while Sri Lankan Government policy persists in seeking an answer to over fishing in coastal waters, by promoting deep sea fishing as an alternative, the problem is likely to continue. The deep-sea fishery within Sri Lanka's EEZ is probably nearing over exploitation. Sri Lankan multi day boats have no option but to look elsewhere for fish. The most viable option for many boats is to poach fish from Indian or Maldivian waters – regardless of the risks involved.

NGOs in Sri Lanka need to postulate a response to current Government policy on a number of levels. In terms of sustainable marine resource management the Government appears to have got it wrong. In terms of the human cost and the conditions of labour of deep-sea fishworkers the prevailing Government attitude seems to be any kind of employment is better than none at all. The fishworkers on deep-sea boats can no longer claim to be 'fishermen'. They neither own the means of production, or the right to sell the catch. Under the Government's policy they have become simple wage labour in a capitalist fishing economy. In terms of Sri Lanka's impact within the region, the continuing development of the deep-sea sector will only contribute to increased tensions and friction with its maritime neighbours. On this point the voice of Indian fishermen, who so successfully sent the multi national boats packing, could perhaps again be raised.

In the short term, Sri Lankan NGOs have more immediate task to address. Fishworkers remain unorganised and as such largely unaware of common problems they share throughout the country. Local, regional and national platforms need to be built to enable

fishworkers to engage with Government, boat owners and each other. Disunity in the face of the greater mobilisation and organisation of those dictating the pace of deepsea fisheries development and the management of Sri Lanka's coastal fish resources is one of the most debilitating obstacles faced by Sri Lanka's fishworkers. For the NGOs there remains the need to continue to build links with foreign counterparts, who will work on behalf of Sri Lankan fishermen arrested whilst fishing illegally in foreign waters.

Appendix A: Details of recently arrested Indian fishermen

No.	Date of arrest	Boat no.	No	Name of the fishermen	Date released
1	15.03.98	MTM 464 MTM 546 MTM 541 MTM 41	21	Alphones Suresh, Thommairajah, Alphones Anthoniraj, Varkis Joseph Darvin, Anthony Croos Rasappan, Joseph Alphones, Santhiya Croos Adaikalarajah, Ponnusamy Subramaniam, Iruthayasamy Justin, Ratnasamy Oliver, Pandiyan Parthipan, Henry Thomas Sathis babu, Selliah Muthuselvam, Varkis Janpeno, Rajappan Wilbert, Paniyadimai Anthoniraja, Anthonisamy Reniston, Gnanamani Kanagamuththu, Sivaperumal Thangathurai, Anthony Revet	04.05.98
2	n.a.	n.a.	6	Bosco Ramesh, Bosco Satish Kumar, Aruldas Mochchan, Ronald Fernando, Gerald Siluvasi, Susai Anthony SesuraJ	01.04.98
3	07.10.97	n.a.	4	Jeyaraj Victor Fernando, Arulanantham Sebastian, Kithariyan John, Thommaikontan	23.02.98
4	17.08.97	RMS 2059, RMS 2379, RMS 536	12	Ramachandran Muthandy, Sockan Ramamoorthy, Vellaisamy Marisamy, Sundarathas Marimuthu, Thevathas Alfon, Savarian Adimai Sathas, Thasan Vijayan, Rangasamy Malairasu, Amirthayan Mackilithas, Muniyandy Kruppusamy, Ramu Shanmuggam, Suyambu Muthu	12.12.97
5	13.05.97	n.a.	5	Mayandi Ramalingam, Kovindan Nayan Sethurajah, Ramasamy Balsubramaniam, Ananthan Manickam, Sellakalithas Ambedkar	Court Date 12.08.98
6	15.02.97	n.a.	8	Savuria Pitchai Krishthurajah, Ramar Muthu, Ramasamy Ramesh, Karmeham Selvaraj, Marimuthu Pandi, Muniyasamy Ganeshan, Koothan Nehru, Sukumar Kannan	09.09.97

Sri Lankan initiatives for the release of arrested fishermen

7	19.09.96	n.a.	5	Alagumurugan Thiruvalluvai, Sandiya Justin Verkadu, Lorenz Arulseelan Verkadu, Francis Temposko	06.06.97
8	13.11.96	MTM 202, RMS 561, RMS 14, PMS 509	12	Rosario Justin, Pandiyan Anthony, Muniyandi Poominathan, Mookiah Panchacharam, Murugaraj Tharmalingam, Krishnan Govindraraj, Isak Jebanesar, Vethakan baskaran, Narayanan Thuraipalan, Samuel Sellapandy, Mariyappan Ramanathan, Thangasamy Thiraviyam	08.07.97
9	17.09.96	RMS 2165	4	Thabgaraj Balrajah, Pandya Anthonimuthu, Danial Nadar Francis, Thuraipalan Veerasamy	08.07.97

Appendix B. Details of recently arrested Sri Lankan

No	Boat details	Arrested	No	Crew	actions / information
1	Charm Chaturanga 34ft 6D 444S N	04.98 Mangalore	5	Mr. Sylvesta Wilows, P. Christopher Silva, M.C. Raj Kumar Fernando, Kumjan Luxman, B.A.B. Don O.N. Laxman Appuhamy	details sent to ARIF April '98
2	Laxshmi Duwa 35ft 5D 7301 N	04.98 Mangalore	6	W. Stanley Marcus Fernando, T.B. Pradeep Samantha Dilruk, W. Benedict Fernando, T.B. Taju Sampath Wijaya	
3	Manel Sohyoro 6D9607K	06.04.98 Mangalore	4	Sembukuttigay Kusan Ashoka de Silva, Devadalagay Sarmendrana Silva, Meegama Arachigay Lalit Kumara, M.K. Somasiri	
4	Lakmi Duwa (6D3219C)	06.04.98 Mangalore	5	W.H. Vijay Singha, W. Sunil Santa Prenando, Ajanta Sampath Vandelam, T. Anton Jagat Susanta Fernando, W. Jude Christi Nuhall Obriss	
5	ADDI 17	16.03.98 Kanyakumari	1	Anthony	
6	4D 1521	30.02.98 Tuticorin	3	Adman, Jayasinghe, Sadamana	
7	Madhu Kumari multiday boat	unknown	4	Indnapala Heudawitharana plus three others	details from DFARD
8	Asanka Putha	05.98	4	Pragith Chaminda, P.K. Wijayaweera, P.M. Chamil Rohitha, Ajith Bandara	details Daily News May 2 nd DFARD sent details to ICRC
9	Philps Anne's Bahudina	28.02.98 Rameswaram	5	K.S. Nicholas Mohan Fernando, W. Wilbert Fernando, K.S. Joseph Washington Nimal, W. Waduge Chandra, K.S. Joseph Sirimal	Released by ARIF intervention and SEDEC on May 22 nd after the payment of IRs 1,000 per fishermen and IRs 10,000 per boat.
10	Kanishka duwa	28.02.98 Rameswaram	5	Joe Lewis Figuarado, K. Anthony Appuhamy, K. Jude Prasan, K. Anthony Laxman Fernando, Ranjith	released by ARIF intervention and SEDEC on May 22 nd after the payment of IRs 1,000 per fishermen and IRs

