

IO2001/D2/S1/02

**INTERNATIONAL COLLECTIVE IN SUPPORT
OF FISHWORKERS (ICSF)
INTERNATIONAL OCEAN INSTITUTE (IOI), INDIA**

**FORGING UNITY:
Coastal Communities and the Indian Ocean's Future**

Conference Organized at IIT Madras
Chennai, India, 9 – 13 October 2001

**Issues Related to Deep-sea Fishermen and Their Families
Due to Detention in Foreign Countries**

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Abstract

Increasingly, deep-sea fishing vessels from Sri Lanka cross borders and get arrested by the navy or coast guards of other countries. In addition to Maldives, Bangladesh and India, Sri Lankan fishermen have been also detained by countries as far away as Thailand, Diego Garcia, Australia, Seychelles and Myanmar. This paper examines the main causes of such detention, and its economic and social effects. The paper also proposes measures that may be adopted, by institutions such as Governments and NGOs, to mitigate the difficulties caused by detention of Sri Lankan fishermen in other countries.

Introduction

It is a growing trend for deep-sea fishing vessels from Sri Lanka to cross borders and get arrested by the navy or coast guards of other countries. At the same time, the deep-sea fishermen as well as the small boats operate in their own EEZ. Very importantly, those vessels operate within the contiguous zone of Sri Lanka. This is a very important factor that explains why those foreign vessels come to our waters while our deep-sea fishing vessels are moving around the world for fish. One of the main activities of National Fisheries Solidarity (NAFSO) is to secure the release of the fishermen arrested in the neighbouring countries. NAFSO has worked with the families of the arrested fishermen, as we recount in this report.

The present situation

Sri Lankan fishermen are moving all over the world and getting arrested in distant waters. Thailand, Diego Garcia, Australia, Seychelles and Myanmar are some of the countries they have been caught in, besides Maldives, Bangladesh and India.

The following table lists the figures of arrested fishermen, captured boats and repatriated fishermen for the past six years.

Year	No. of Captured Boats	Repatriated Fishermen
1996	53	133
1997	32	160
1998	38	182
1999	27	125
2000	30	253
2001 (up to 07.01)	17	63

Source: Department of Fisheries, Minister of Fisheries and Aquatic Resources Development, Sri Lanka

Our immediate and very recent experience with captured boats and arrested fishermen in India was both exiting and frustrating. 155 fishermen were arrested and 30 fishing vessels captured by the Indian Coast Guard or Navy last year. Earlier, the average period of captivity for arrested fishermen was 5 to 6 months. But last year's case was very different and the captivity period extended to 12 to 15 months. During this period, the fisher families were utterly helpless. The boatowners were not ready to attend to the families' grievances. The authorities were also not in favour of the fisher families. The situation became serious when the number of captured boats increased.

The fisher families approached the Ministry of Fisheries (MoF) for help, individually. Even the MoF was awaiting a response from the Ministry of Foreign Affairs, which is the authority responsible for dealing with such matters.

Causes of Marine Disasters

Marine disasters occur from complex causes and are often assignable not to a single but a number of adverse conditions. Most marine disasters occur due to one or a combination of the following causes

- (a) Abnormal meteorological condition and adverse marine phenomena
- (b) Lack of skill in manoeuvring the ship
- (c) Ignorance or negligence of the crew
- (d) Deficiency of navigation aids
- (e) Lack of meteorological data

- (f) Deterioration of the hull, engine and other parts
- (g) Deficient installation or malfunction of nautical instruments
- (h) Manoeuvring beyond the vessel's capacity
- (i) Lack of understanding on the part of the vessel owner

Though some cases have been reported, Sri Lankan and Indian fishermen crossing borders hardly come under these conditions. The fishermen at Mannar claim that Tamil Nadu fishermen come near the seashore and operate their bottom trawling vessels for prawns, whereas a Sri Lankan fisherman who returned from an Indian jail last August said that after a long imprisonment, Sri Lankan fishermen do not bother to cross the borders and fish in the Indian territory, where there is a high risk of arrest.

The abovementioned causes are very rarely valid for those fishermen who cross borders intentionally. Only very few cases have been reported of boats drifting due to engine trouble or winds, etc.

But it is very important to see how the neighboring countries share the resources. Nobody can find boundaries at sea. So the fishermen do not bother about the boundaries. Their major concern is to catch the maximum amount of fish for a higher income.

Problems faced by the fisher families

Lack of information

After arrest by the authorities, the boatowners come to know the situation of their boat and the crew members. Some of the fisher families do not know what has happened to the boat and the crew. Boatowners do not bother to inform the families though they are trying to get the release of their captured boat.

So the family members are in trouble. Sometimes they do not know the boatowners, other crew members, registration number or any other basic information of the boat. It is only the boatowner who knows all the facts related to the boat.

The government provides six months subsidy for the fisher families of the arrested fishermen. To claim the subsidy, all the details of the boat are needed. From the very beginning, the families are in trouble if they do not have the basic information on the boat.

The fisher families approach the Ministry of Fisheries for assistance. But their role is limited as the Foreign Affairs Ministry should be involved through their foreign missions.

Survival

When the fishermen are arrested, the main issue is the survival of the family. Most of the time, the boatowners do not provide any assistance for the family's survival. As the skipper and the crew members are the only breadwinners of the family, they need assistance for the survival. The government provides some subsidy for the families. But our experience of the government subsidy scheme is not very encouraging or positive. The subsidies are not provided on time or not for all the families. But we can not ignore the amount of subsidy provided by the Department of Social Welfare as relief assistance.

Year	District	Boats	Families	Cost (Rs)
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1996	Negombo	7	35	165,288
	Chilaw	9	47	201,844
	Puttlam	1	5	20,236
	Kalutara	1	1	13,860
1997	Negombo	10	47	168,840
	Chilaw	2	9	10,364
	Matara	1	3	10,584
Total		31	147	591,066

Source: Ministry of Fisheries and Aquatic Resources Development 1998

Though we do not have exact figures, the Department of Social Welfare spent around one million rupees as relief assistance as subsidy.

Education of children

When the survival issue hits the family, education become a secondary or tertiary issue. As the routine expenditure cycle is affected by the long detention period of the breadwinners of the family, their children lose schooling and ultimately become dropouts. Last year alone, 15 children left school due to the economic instability of their families.

Social issues

The fishermen's wives face a number of difficulties as their husbands are away from the family. Some of the boatowners try to abuse the wives, when their husbands are in the foreign jails. Neighbours try to tempt them as they know these women are in trouble. A number of wives shared their situation with us, as they did not have anyone else to share these bad experiences.

Broken families

A few cases of broken families have been reported. When the wives can not run the families, they find ways and easy solutions to survive the long period of detention of their husbands. But often these solutions are not sustainable, as was reported.

Problems faced by the arrested crew members

All most all the crew members reported that they were beaten up by the Navy or the Coast Guard when arrested. The communication gap created great difficulties as those fishermen could speak only the Sinhala language. Few could speak Tamil. Prison life was painful and the food provided not familiar. Some people fell ill from the unfamiliar food in the jail.

Delayed court cases are painful. The fishermen were taken to the court every other week, without any hearing. Inability to communicate ability with the lawyers was also one of the biggest problems for the fishermen.

Some of the crew members in the jails shared their pathetic situation of no clothes (they have only one sarong and a shirt), no medicines, no money to send a letter to their families, and no basic facilities like soap, toothpaste, brush, etc.

Problems faced by the boatowners

Most of the boatowners are still repaying the bank loans for their boats. The installment varies from Rs75,000–100,000, according to the amount of loan. The situation becomes serious when they have only one boat. The boatowners are in trouble when the crew members' families approach them and they are not in a position to help. This situation creates misunderstandings between the crew members' families and the boatowners.

In our experience, only a few boatowners helped the families during last year's cases. The boatowners do not regard assistance for the fisher families' survival as their responsibility. As the captured boats are decaying at the harbours, the boatowners care more for the release of their boats than the fishermen.

The experience with Indian authorities

It takes almost 18 months to get some of the cases of Sri Lankan fishermen released from Indian jails. We don't say that the Sri Lankan fishermen are blameless in the current situation. But the authorities did not consider the UNCLOS Article 76, which says the crew must be repatriated promptly.

But the actual situation was different as it dragged up to one year to release the first batch of crew members. In India, both the State and central governments are responsible to issue release orders. There are three ministries in Delhi responsible for this matter: the Home Affairs Ministry, Ministry of External Affairs, and Ministry of Agriculture. Only after receiving release orders from these ministries will the courts of the State be ready to withdraw the cases.

But we had some negative experiences this time. Even after receiving release orders from the central government, the courts did not want to withdraw the cases due to certain technical reasons.

The fishermen are frustrated when the relevant officials do not appear in the court as witnesses. Some of the fishermen told us that they even contemplated suicide when the officials did not appear in the court for two consecutive times.

Government's role

Government authorities provided the Sri Lankan prisoners with dry ration for six months though it was received after a long time. The Sri Lanka Ministry of Fisheries (MoF) co-ordinated the issue with the Indian Foreign Affairs Ministry. When the people raised their voices, the MoF resolved to send the highest government delegates to India to discuss with Indian government. This was followed by a three-member delegation to India. The Hon. Minister of Fisheries and Aquatic Resources Development himself met the Hon. Minister of Agriculture, India for a settlement. The Ministry of Fisheries spent millions of Sri Lankan rupees for the repatriation of the fishermen, as detailed below.

Year	No of boats released	No of repatriated fishermen	Repatriation cost (Rs.)
1996	22	133	581,201
1997	30	160	1,358,157
1998	33	182	1,237,566
1999	17	125	1,000,000
2000	29	253	3,761,361
2001 (up to June 30)	1	63	446,811

Source: Department of Fisheries, Ministry of Fisheries and Aquatic Resources Development

The role of NGOs

Both Indian and Sri Lankan NGOs played a very vital role to settle the issues. They played a mediating role with the government and the people. Organizing people for collective efforts for short-term and long-term solutions was done by NGOs. As a result of these collective efforts, the authorities had to listen to the voice of the people.

From India, SIFFS, TDFP, CBCI, ARIF and WFFP played very important solidarity roles to release the fishermen. They intervened in legal matters and other welfare measures needed for the fishermen. They conducted advocacy work with policymakers to get the fishermen released soon.

Possible collaborative action

1. There should be an information centre to communicate immediately information on any boat captured.
2. UNCLOS provisions should be followed for any incident related to boats captured for crossing borders.
3. UNCLOS Articles 17, 18, and 19 permit the right of innocent passage through international waters.
4. Legal advisors with due authority to intervene in trans-border issues must be appointed in the respective foreign missions.
5. There should be an agreement to settle the cases within a reasonably agreeable period.
6. There should be a co-ordination body for NGOs working on trans-border issues.
7. Bilateral agreements between neighboring countries like Sri Lanka and India must be reached to reasonably exploit the fish resources in the Indian Ocean. We propose a Memorandum of Understanding for fisheries in both the territories.
8. There must be a multilateral agreement among SAARC countries for exploitation of fish resources using approved appropriate technologies.

9. A co-ordinating secretariat for Indian Ocean fisheries issues must be formed with the necessary powers to intervene in fishermen's issues, without disturbing national sovereignty.
10. Governments must be encouraged to identify the resource potential of their own waters and not exceed it, so as not to export overcapacity and overfishing.

Conclusion

Intentionally or unintentionally, thousands of fisher people cross maritime borders, though only a few get caught. We should ask why they cross borders? If we can find a reasonable answer, we should think of how to settle this issue reasonably. We should find ways for fishermen to reasonably share the resources in the sea. Just as there is an agreement call SAFTA for free trade in the South Asian region, perhaps we need to think of another agreement for reasonable exploitation of fish resources in the sea.