
BOTTOM TRAWLING – AN UNSUSTAINABLE FISHING PRACTICE AND REASON BEHIND INDIAN FISHERMEN CAPTURED BY SRI LANKA

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ABSTRACT

This paper is related to the Sustainable Development Goal No. 14 labelled as 'Life below water' and in the present INTERNATIONAL MULTI-DISCIPLINARY CONFERENCE organized by Kristu Jayanti College of Law titled "FOSTERING SUSTAINABLE DEVELOPMENT GOALS (SDGs) – NEW DIMENSIONS AND DYNAMICS" Sub theme No. 01 of Law that is Blue Economy and its legal implications. This paper in detail elucidate the issues in Bottom Trawling and its impact on the life below the water. Recently the Indian Government has stopped issuing licenses to the new Bottom Trawlers and Sri Lanka has enacted a legislation on banning Bottom Trawlers. There is on going border issues between India and Sri Lanka over Bottom Trawlers. This paper also in detail studies the Sri Lanka's Legislation and Indian Stakeholder reaction over it. This paper also briefly discusses the disputes between the Indian Fishermen and the Sri Lankan Navy along side Sri Lankan Fishermen. This paper elaborately discusses the solution of bottom trawlers which are existing and I will be in detail study the success of such vessels and their demand. This paper will critically examine the bottom trawling however this paper will study the loss faced by the fishermen community over this sustainable change. This paper will study the measures taken by various government over ensuring sustainable practices followed in Blue Economy.

Keywords: Blue Economy, India, Sri Lanka, Bottom Trawling and Sustainable Development Goals (SDGs)

INTRODUCTION

The Sustainable Development Goal (herein after referred as SDG) has a greater role in making our planet better place to live and there are 17 goals which has been promoted by United Nations for the same. These 17 goals have different characteristics. One of the 17 goal is “Life below Water” Goal No. 14 which ensures safety of life below water. Life below water is affected by various causes like plastic pollution, oil spills and various other pollution caused by human or nature. The Life below water is essential as it is an essential part of the ecosystem. The world in which we live is surrounded by 2/3rd with water which requires the equal amount of attention towards it. The primary objective of SDG 14 is to safeguard lives in the ocean by the pollution of plastic. The life below water is also blue economy which is essential for the economical aspect of the globe. The World Bank defines the blue economy as the “sustainable use of ocean resources to benefit economies, livelihoods and ocean ecosystem health”. The blue economy is estimated to be worth more than US\$1.5 trillion per year globally. It provides over 30 million jobs and supplies a vital source of protein to over three billion people. This huge blue economic activity requires a recycle of marine ecosystems. Fishing though an economic activity it cannot be a 365 day fishing in ocean to be allowed. If it is allowed there will a shortfall in marine life numbers. Here is also an another unsustainable practice of fishing done by bottom trawlers. Bottom Trawlers are fishing vessels which cannot target a specific species of fishes by this Juvenile Fish, turtles and inedible fish species are captured and killed. It is also falls under the overfishing practice. Bottom trawlers are not only the issue for life below water but they are also an issue between Indian fishermen and Sri Lankan Navy.

BACKGROUND OF RESTRICTIONS ON BOTTOM TRAWLERS

The human activities has disturbed the marine system as similar like the air. The ecosystem of ocean has been highly disturbed by pollution generated by mankind. However economic outcome of the blue water is important for human development the pollution of ocean is not much addressed. The present day fishing is turned into an economic activity which earlier used to be activity of necessity. The fishing activity carried out now a days is destroying the marine ecosystem. Bottom trawling is one of the age old practice that is exploiting the fishing resource of the ocean. This method of fishing dates back to 14th century which can be seen in the complaint about a form of

trawling during the regime of Edward III.¹ The petition was presented before the Good Parliament on prohibition of wondyrchoum (Early beam trawl with a wooden beam, and consisted of a net) one of the form of trawls. In Europe 19th century the trawlers were widely used for fishing. This got popular fishing practice during the time of World War II. This is not only a practice of Europe but even in 1704 it was recognized practice of fishing in Japan during Edo era. At present day the Bottom trawlers are greedy way of fishing in the ocean. United Nations General Assembly (UNGA) asked the member Nations to consider a ban on high seas bottom trawling.² At present there is a gradual decrease in Bottom trawlers but the developing nations or the nation's belonging to Global South's Governments has to work towards conversion of bottom trawlers to environmental friendly and Life below waters friendly fishing vehicles.

DISPUTE BETWEEN INDIAN FISHERMEN AND SRI LANKAN NAVY

Palk Bay a meeting point of Indian and Sri Lankan fishermen, both the fishing community have been fishing here for centuries as it is a semi-enclosed shallow water body located between the Southeast Coast of India and Sri Lanka. The present day problem dates back to 1974. The dispute between Indian fishermen and Sri Lankan Navy is long standing. There cannot be a boundary wall in ocean. The dispute always surrounded by Kachchatheevu island which the Indian Government came into agreements with Sri Lanka in 1974 "*Indo-Sri Lankan Maritime agreement*" and gave the island to Sri Lanka. This was widely protested by the adjoining state of Tamil Nadu regarding the transfer. There has been suit filed by the politicians to bring back Kachchatheevu from Sri Lanka to India's control. Initially due to the agreement there was no problem. After two countries demarcated International Maritime Boundary Line (IMBL) and creating Palk Strait a pond between India and Sri Lanka as per United Nations Convention on the Law of the Sea (UNCLOS). This made into a bilateral agreement banning international fishing and shipping. Till 2009 both the countries fishermen used to fish in Palk Bay Area without any dispute.

¹ Jones, Peter (May 2018). "The long 'lost' history of bottom trawling in England, c.1350–1650". *International Journal of Maritime History*. 30 (2): 201–217.

² United Nations General Assembly Session 59 Verbatim Report 56. A/59/PV.56 page 4. Ms. Kimball International Union for the Conservation of Nature and Natural Resources 17 November 2004.

2009 – EELAM WAR

Eelam war in Sri Lanka broken connect between both the fishing community. The fight between LTTE and Sri Lankan Army made both the Tamil communities separated. The Sri Lanka's North East province fishermen gone against the Indian fishermen due to the anguish against the then Indian Government for supporting Sri Lankan Military which committed war crimes against Eelam Tamil people. However, Tamil Nadu State Assembly of India adopted an All-Party resolution “Calling for an Independent International Investigation into the crime of genocide and other violations” on March 27th, 2013. Latest on May 20th, 2022, the Canada’s Parliament Unanimously adopted the motion to recognize the genocide of Tamil people in Sri Lanka and make May 18th of every year Tamil Genocide Remembrance Day.

SRI LANKAN LAW OF BANNING BOTTOM TRAWLERS

Fisheries (Regulation of foreign fishing boats) (Amendment) Act, (No.01 of 2018) enacted by Sri Lankan Parliament which regulate, control and manage fishing and related activities carried out by foreign Boats (Indian Vessels) in Sri Lankan waters. This law provides Magistrate Court of Sri Lanka to conduct trail over illegal fishing and the court can fine upto 7.5 Million Sri Lankan Rupees. As per the answer given by Minister of State in the Ministry of External Affairs Shri. V. Muraleedharan to Member of Parliament Shri. Trichy Siva on the question asked on 24th March 2022 stated that a total of 210, 74 and 159 Indian fishermen were captured by Sri Lankan Navy in 2019, 2020 and 2021 respectively. The reason of such large number of capturing of Indian fishermen is said to be use of Bottom Trawlers.

JOINT WORKING GROUP (JWG) BETWEEN INDIA AND SRI LANKA

By the efforts of Prime Minister Shri. Narendra Modi and the then Minister for External Affairs of India Late. Smt. Sushma Swaraj the Joint Working Group was formed between Ministry of Agriculture and Farmers welfare of India and Ministry of Fisheries and Aquatic Resources Development of Sri Lanka.

The aim of the JWG is to solve the fishermen issue with a permanent solution, framing procedures for returning fishermen arrested by both the countries and possibility of joint patrolling is looked

into as there are members of coast guards and navies of both countries are present in the group.

PRADHAN MANTRI MATSYA SampADHA YOJANA (PMMSY)

This Central Government scheme is an umbrella legislation started to support fishermen and it is a flagship scheme to make India Aatmanirbhar Bharat Abhiyaan of fishing sector. It is started in 2020-21 for a period of 5 years with ₹ 20,050 Crores.

During the period of 2020-21 and 2021-22 for procurement of 273 Deep Sea Fishing Vessels (DSFVs) a total sum of ₹ 9484.00 lakh has been approved under the head “ Support for acquisition of Deep Sea Fishing Vessels for traditional fishermen” under this scheme has been allotted.

₹31209.51 lakhs has been released for the procurement of 900 Deep Sea Fishing Vessels. There is a system of conversion of trawlers into resource specific Deep-sea fishing vessels under Blue Revolution Scheme has been introduced.

BOTTOM TRAWLERS STATUS IN INDIA

International law are often not adopted by many states considering their national interest towards Bottom Trawlers used by fishermen. There is lack of acceptance of International law as they nations often strictly comply with the national interest. There are two important conventions of United Nations which restricts Bottom trawlers which are, The United Nations Convention on the Law of the Seas (UNCLOS) and United Nations Convention on Biological Diversity (UNCBD). The UNCLOS is detailed framework Convention on the Seas. This convention covers all the areas of ocean which are high seas, continental shelves, Exclusive Economic Zones (EEZs), Territorial seas, contiguous zones, and the seabed.

Provisions of UNCLOS which restricts Bottom Trawlers:-

1. The treaty obligations, rights and duties, and interest of other states in their exercise of freedoms.³

³ Article 116, UNCLOS, 1982

2. The nationals of the states engaged in exploit marine resources must come together either separately or jointly by cooperating to make regional fisheries management organization to conserve such marine lives which are Life below Water.⁴
3. The member states should adopt various conservative measures and determine allowable fish catching methods. The member state should harvest such species which provides high yield that are sustainable.⁵
4. The international organization and the member states of UNCLOS should have strict provisions for prohibition, intimation, and regulation of mammals below the sea.⁶
5. The member states have the obligation to preserve the marine environment situated in the Exclusive Economic Zone (EEZ).⁷

Provisions of UNCBD which restricts Bottom Trawlers:-

1. The member states of this convention are liable for conserving Bio Diversity and for using their biological resources in a sustainable manner.⁸
2. Marine species and ecosystems are included in the definition of ‘biological diversity’⁹
3. The member state must implement harmonizing provisions regarding marine ecosystem consistently with the provisions of UNCLOS.¹⁰

The UNGA resolution 61/150 titled ‘Sustainable Fishing’ lays down a significant precedent in protection of marine ecosystem.

Countries having national ban on Bottom Trawlers,

⁴ Article 117,118 UNCLOS, 1982

⁵ Article 119, UNCLOS, 1982

⁶ Article 120, UNCLOS, 1982

⁷ Article 192, UNCLOS, 1982

⁸ Preamble, UNCBD, 1992

⁹ Article 2, UNCBD, 1992

¹⁰ Article 22, UNCBD,

1. Palau Archipelago¹¹
2. Sri Lanka¹²

Countries having a zone wise ban on bottom trawlers for protection and restoration of Marine Protected Area (MPA),

1. United States of America
2. United Kingdom
3. New Zealand
4. Norway
5. Chile and
6. Brazil

India is a party to both the conventions UNCLOS and UNCBD. Thus, India is obliged to provide a legal framework on the regulations of Bottom Trawlers. However, as per Article 246 and Schedule 7 of the Constitution the subject of fishing falls under the State list. But fishing beyond territorial waters of India falls under the central list thus the Indian Government has the legal ability to legislate and regulate over bottom trawlers.

The Central Government's Department of Animal Husbandry, Dairying and Fishing under the Ministry of Agriculture, has enacted the Guidelines for fishing operations in India Exclusive

¹¹ *Act to ban bottom trawling in Palau's EEZ*, FOALEX DATABASE, FOOD AND AGRICULTURE ORGANISATION OF THE UNITED NATIONS, <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC147782> (last visited JULY. 20, 2023).

¹² Cliffe White, Sri Lanka bans bottom trawling, fishermen in India strike, SEA FOOD SOURCE ORGANISATION, Jul. 11, 2017, <https://www.seafoodsource.com/news/environment-sustainability/sri-lanka-bans-bottom-trawling-fishermen-in-india-strike#:~:text=The%20law%20makes%20it%20illegal,of%20imprisonment%20for%20the%20offense.&text=Howe ver%2C%20the%20new%20law%20has,state%20closest%20to%20Sri%20Lanka>

Economic Zone, 2014 in November 2014. The Guideline clearly states the Letter of Permission (LOP) to be provided only for the deep-sea fishing vessel (DSFVs) of following categories:

1. Tuna Long Liners
2. Purse Seiners,
3. Trap/Hook & Line Vessels,
4. Squid Jiggers,
5. Pelagic/mid water trawlers, and
6. Pole & Line.

There are specific legislations aimed at banning bottom trawlers by way of general obligations under the Biological Diversity Act, 2002 and Wildlife (Protection) Act, 1972.

In India fishing is considered to be a state subject. By going through this aspect there are various laws passed by state governments which are as follows,

1. Kerala – Kerala has one of the long coastline in India. Fishing is the major economic activity in its western border. Arabian Sea and in Indian Ocean are the regions where fishermen from Kerala do fishing. Kerala was the first Indian state which banned bottom trawling during monsoon-season temporarily in 1988, based on the recommendations of the Balakrishnan Nair Committee which had two important aspects,
 1. To provide marine species a break from fishing during their reproductive season, which facilitated in the replenishments of marine stocks.
 2. It provided safety to the fishermen from hurricanes and storms which often develop in Arabian Sea during the monsoon.

State Government of Kerala additionally in 2018 banned the fishing activity done by pelagic trawl gear in areas of 30 meter depth of coast of Kollemkode to

- Paravoorpozhikara and within 20 meter depth the coast of Paravoorpozhikara to Bengaramanjeswaram.
2. Gujarat – the state of Gujarat allows fishing vessels attached with square mesh at cod ends to carry out bottom trawling between 5 to 12 nautical miles within the territorial waters.
 3. Maharashtra – Two types of ban on mechanized fishing vessels having trawls which are,
 1. Seasonal Ban,
 2. Ban from 6 PM to 6 AM
 4. Andhra Pradesh, Odisha, West Bengal and Union Territory of Daman & Diu and Puducherry – Have seasonal ban on Bottom trawlers.
 5. Tamil Nadu – The Government of Tamil Nadu has stopped fresh Licensing of Bottom trawlers and in Tamil Nadu also there is a seasonal ban on bottom trawlers.

IMPACT OF BOTTOM TRAWLERS

1. Bottom Trawling Leads To Overfishing

Since trawl nets are usually very large and trawlers move these nets across long distances, large numbers of fish are caught through bottom trawling. The intensity of such operations can rapidly deplete fish stocks, and overfishing can also lead to the elimination of fish species in the long run.

2. Unwanted Marine Life Caught As "Bycatch"

One of the biggest issues associated with bottom trawling is "bycatch." Since only certain species of fish among the thousands living in the ocean are edible and can be sold in the market, the rest that are caught are of no use to the fishing industry. This unwanted catch is called "bycatch." The fishing nets used in bottom trawling are unable to distinguish between species, and therefore many species of fish, marine invertebrates, marine mammals, reptiles, and even

seabirds are caught in such nets. Seabirds can become caught when attracted to the fish in the net while it is hauled into the boat. In most cases, almost half of the catch from bottom trawlers is unwanted. Bycatch is usually shoveled back into the ocean, but it does lead to the death of thousands of marine animals in the process. Today, bycatch is one of the primary reasons for the deaths of millions of dolphins, sharks, whales, and other marine fauna, and has pushed many species to the brink of extinction. Shrimp fisheries are one of the worst types of bottom trawling operations. Since the mesh size of the fishing nets used to catch shrimp is very small, larger fish cannot escape if caught in the net. At times, shrimp fishing catches 10 fish for every one shrimp. The catch often includes the offspring of fish that have no market value. As a result, such wasteful fishing operations are leading to the depletion of marine fauna populations.

3. Bottom Trawling Destabilizes The Seafloor

The seafloor is a very stable system. It is the calmest part of the sea, where currents, temperature, and other natural conditions remain relatively undisturbed. However, when heavy nets are dragged along the sea floor, they stir up sediments as well as the water, resulting in a destabilization of the sea floor.

4. Marine Flora And Fauna Living On The Ocean Floor Die

Bottom trawling operations uproot and displace marine flora and fauna living on the ocean floor. Sea anemones, sea pens, sponges, urchins, and other fragile-bodied marine fauna are destroyed during the trawling process. Many species of corals are specialized to grow on the ocean floor and can form massive colonies that survive for centuries. However, bottom trawling can uproot and kill these centuries-old coral colonies within a matter of seconds. Deep sea corals play an extremely vital part in the deep sea ecosystem, as coral reefs and coral groves on the seabed serve as the hiding and spawning grounds of many species of fish. Hence, the destruction of such corals adversely affects the species dependent on them.

5. Bottom Trawling Puts The Livelihoods Of Local Fishing Industries At Stake

Bottom trawling requires sophisticated technology and is highly profitable. Therefore, large

companies compete with each other to gain control of area of seas that are rich in fish. Often, the winner ensures that no other competitors can fish these areas in order to maximize profits. Local fishing businesses with traditional fishing equipment and small boats cannot compete with large fishing companies, and are therefore squeezed out and suffer economic losses.

CONCLUSION

Thus, Bottom trawlers though important for economy in a short run it will impact both blue economy and the life below water in long run. Bottom. Trawlers are not a sustainable fishing practice to be adopted in India. Indian government must provide more effort and budget in replacing bottom trawlers to DSFVs.