



HRiC | Newsletter

ISSUE 1, JANUARY/APRIL, 2014

Jaffna Kilinochchi Water Supply and Sanitation Project

The goal of the Jaffna Kilinochchi Water Supply and Sanitation Project is to improve health and human development in areas of Jaffna Peninsula. The project will contribute to rehabilitating, reconstructing, and developing areas affected by conflict.

The objective of the Project is to deliver safe water to approximately 300,000 people and provide sanitation to 80,000 people. The Project will benefit people living in the towns and suburbs of Jaffna, Kodikamam, Karaveddy, Chavakachcheri, Navatkuli, Kopay, Atchuvveli, Sandilipay, Kaddudai, Navaly, Changanai, Nallur, Moolai, Araly, Vaddukkodai, Karainagar, Kayts, Analaitivu, Punguduthivu, Velanai, Mandaitivu, Poonakari and Palai. The Project will also increase the financial and institutional sustainability of NWSDB and the institutional capacity of the provincial councils, Pradeshiya Sabhas, and CBOs participating in the Project.

The project plans to accomplish these goal by Rehabilitating and improving head works at the Iranaimadu Tank to increase water resources and tank efficiency levels; Constructing a water intake, a raw-water supply system, a water treatment plant, and a treated water pumping station, Laying treated-water transmission mains to the Jaffna Municipality; Providing water connections to an urban council and Pradeshiya Sabhas en route to Jaffna involving 12 off-takes from the treated water transmission main¹

The total investment cost of the project is estimated at Rs 17,880 m (US\$ 164.4 million) of which the contribution of the Asian Development Bank (ADB) includes a loan of Rs 7,630 m (US\$ 70 million) from the Asian Development Fund (ADF) and a loan of Rs 2,180 million (US\$ 20 million) from Ordinary Capital Resources (OCR). The Agence Francaise de Development (AFD) of France has agreed to provide a loan of Rs 5,232 million (Euro 35 million or US\$ 48 million) to part finance the



water supply sub-component of the project and associated consulting services for design and supervision.

In addition, the International Fund for Agricultural Development (IFAD) has agreed to provide a loan of Rs 2,180 million (US\$ 20 million) for the downstream development of the Iranamadu Tank from which water is drawn for the water supply scheme in order to ensure that adequate quantity of water is provided to the farmers in the downstream for irrigation.²

The problem is twofold. Firstly Kilinochchi farmers are worried that the project will send water to the Jaffna peninsula that is necessary for irrigating their fields. President of the Iranamadu Project Farmers' Association, S. Sivapragasam has said that the water supply project would have an adverse impact on the farming community in Kilinochchi.³ Due to unreliable rain patterns as well as low water levels currently, the fear that the farmers hold is not unfounded.⁴ For this reason the TNA has opposed this project, stating that the water and irrigation facilities for the people in Kilinochchi have to be attended to first before channelling water to Jaffna⁵. The project is focused on providing clean water and sanitation to the Jaffna peninsula, but to achieve this goal the expansion of the Iranaimadu Tank as well as construction to stop seepage, will supposedly lead to more available water for irrigation in Kilinochchi. While these are legitimate reasons for the Kilinochchi farmers to take issue with the project, the political powers seem to have other concerns.

² http://www.development.lk/project_detail-1a--53.html

³ http://www.colombopage.com/archive_14A/Mar05_1394034876JV.php

⁴ <http://www.ceylontoday.lk/90-56523-news-detail-extension-of-mahaweli-to-kilinochchi-tamils-fear-racial-colonization.html>

⁵ <http://www.thesundayleader.lk/2013/12/22/tug-of-war-between-kilinochchi-and-jaffna-for-water/>

¹ <http://www.jkwssp.org/index.php/project-details>

The political problem with the project is that politicians worry that this project will lead to racial colonization of the Kilinochchi area, similar to what happened with the Mahaweli Project in the Dry Zone. While the ethnic language and colonization has not been used in relation to the Jaffna Kilinochchi project, as was done with the Mahaweli Project in the Dry Zone, the fear that the Tamils hold is based on a very real precedent set by the latter irrigation project. The Chief Government Whip and Water Supply and Drainage Minister Dinesh Gunawardena, made a statement in parliament on march 4, 2014, that the Government's Iranamadu Jaffna Water project had not been planned with any intention whatsoever, for the settlement of Sinhala families in Iranamadu and Jaffna⁶. Although reassuring, there history of irrigation projects in Sri Lanka is not so reassuring, and must be taken into consideration when debating the Jaffna-Kilinochchi water project.

The issue now is that the Jaffna Kilinochchi project is providing a necessary service to those in Jaffna by implementing mechanisms for clean water and sanitation. This is a big step in terms of development and bringing the Jaffna Peninsula into the modern century after decades of war. On the surface this project seems problem-free, but the concerns of the Kilinochchi farmers, as well as the historical precedents set by irrigation projects like Mahaweli in the Dry Zone, show very real underlying issues that must be addressed diplomatically by both the TNA and the Sri Lankan government. Within the northern population there must be an agreement between Kilinochchi and Jaffna on the issue of water, as well as an understanding between the TNA and the Sri Lankan government of who will benefit directly from this project.

HRiC Team

Troubled Waters: the conflict between India and Sri Lanka over fishing in the Palk Strait

Fishing issues have recently come to the forefront of topics between India and Sri Lanka. This has been an on-

⁶[http://www.dailynews.lk/?q=political/jaffna-kilinochchi-water-](http://www.dailynews.lk/?q=political/jaffna-kilinochchi-water)

going issue between the two countries, even when both were under British colonial rule. While agreements have been made over the border between the two in the Palk Strait, the arrests and deaths of fishermen on both sides has made this anon-going and pressing concern.

The problem arose when both India and Sri Lanka began arresting fishermen that have come into their waters, and without clear demarcation of borders in overlapping jurisdiction it has become increasingly easy to cross the border. The Sri Lankan navy claims that it is not only because the Indian fisherman are crossing the border that they are being arrested, but because their fishing methods are becoming increasingly damaging to the Sri Lankan side of the ocean. Tamil Nadu fisherman use a technique called bottom trawling which has been banned in Sri Lanka but not India. This type of fishing uses nets dragged over the seabed which destroys the fragile Sri Lankan coral reefs. Dr. Rajitha Senaratne, the Sri Lankan Minister of Fisheries and Aquatic Development stated "because of this method of fishing, the bottom of our northern sea and marine environment get completely destroyed. In the future there will be no fish left in the North."⁷ Indian fisherman claim that these waters have been traditionally there and without any sort of demarcation it is difficult to tell when they have crossed into Sri Lankan waters.

Recently multiple events have once again mad this a issue between India and Sri Lanka. It has estimated that in the first six months of 2014, 200 Indian fishermen have been arrested by the Sri Lankan authorities.⁸ Although this number has been lessened due to the fact that Sri Lankan President Rajapaksa ordered the release of all Indian fishermen in Sri Lanka's custody as a goodwill gesture on March 28th after the Indian government abstained from the UN Human Rights Council vote.⁹ Although there has seemed to be positive actions being taken, as recently as July 16th, a total of 39 fishermen from Jagathapattinam and Rameswaram were arrested by Sri Lankan navy personnel on while fishing near the Palk Straits, an Indian fisheries department

supply-scheme-will-enhance-well-being-jaffna-people-dinesh
⁷<http://lens.blogs.nytimes.com/2014/07/16/fishing-in-south-indias-troubled-waters/>

⁸ <http://www.aljazeera.com/indepth/features/2014/06/fishing-issue-clouds-india-sri-lanka-ties-2014691244367569.html>

⁹<http://www.thehindu.com/news/international/south-asia/sri-lanka-to-release-all-indian-fishermen/article5843098.ece>



officials said,¹⁰ while Fisheries and Aquatic Resources Development Ministry of Sri Lanka has stated that 41 Sri Lankan fishermen were released on July 12th only after a court process and heavy fines.¹¹

This issue of fishing rights stems from the Law of the Sea 1982, which provides the proprietary country the exclusive right to its natural resources, including fishery resource within the Law of the Sea 1982, provides the proprietary country the exclusive right to its natural resources, including fishery resource within the United Nations Convention on the Law of the Sea, Exclusive Economic Zone (EEZ) of 200 nautical miles (1 nautical mile = 1.151 miles) from the shore, and legal rights in the territorial water, extending to 12 nautical miles from the shore. As Rameshwaram and Mannar are about 15 miles apart and Indian shoreline and islands near Jaffna are about 48 miles apart, the EEZ and the territorial boundaries of India and Sri Lanka overlap. In such situations, the Law of the Sea says that both countries should come to an agreement on the line of demarcation, which is usually the median between the two countries.¹² Because of the overlap India and Sri Lanka came together to create the 1974 Agreement on the International Maritime Boundary Line in Historic Waters between India and Sri Lanka and related matters which

created the borders between India and Sri Lanka.¹³ The agreement gives six positions to mark the boundary between the two countries, but due to the lack of GPS devices on most fishing boats, as well as no demarcation of the border, it has been crossed many times by both Indian and Sri Lankan fisherman. In addition the agreement was recently brought into question when DMK President, M. Karunanidhi filed a case with the Indian supreme court on the basis that Important historical documents and records prove that India's sovereignty over the islet was not taken into consideration when the agreement was made in 1974. He said the failure to follow the procedure mandated by the Constitution vitiated the agreement, which was neither legal nor constitutional. "Such an unconstitutional agreement cannot settle the status of Katchatheevu, nor could it cede the island to Ceylon."¹⁴ In response to the filing of the court case then Minister Bogollagama of the Ministry of External Affairs in Sri Lanka stated that "a decision given by a Court of law in a jurisdiction outside Sri Lanka would not be binding on Sri Lanka. Any such Court Order or judgment will not alter or have an impact on a bilateral treaty concluded between two sovereign States."¹⁵ This legal battle over the 1974 agreement brings to light

¹⁰<http://www.newindianexpress.com/nation/2014/07/16/39-Fishermen-Arrested-by-Sri-Lankan-Navy/article2333644.ece>

¹¹<http://www.nation.lk/edition/breaking-news/item/31150-sri-lankan-fishermen-fined-by-indian-court.html#sthash.7fV2NeyJ.dpuf>

¹²<http://www.humanrights.asia/news/ahrc-news/AHRC-ART-130-2013>

¹³For the full agreement see: <http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/TREATIES/LKA-IND1974BW.PDF>

¹⁴<http://www.thehindu.com/news/national/tamil-nadu/katchatheevu-sovereignty-has-never-been-with-sri-lanka-karunanidhi/article6214681.ece>

¹⁵ <http://www.mea.gov.lk/index.php/en/media/statements/1396-the-maritime-boundary-between-sri-lanka-and-india-stands-settled-minister-bogollagama>

exactly how contentious this issue of fishing in the Palk Straight has become in both countries.

Because of the close location of the north west of Sri Lanka to South India it has primarily been Tamil fisherman in Mannar, Jaffna, and Tamil Nadu that are suffering from a lack of a solution between the two countries. Fishermen from both countries are usually from poor areas, where fishing is their only source of livelihood. Especially in Sri Lanka where fishermen are attempting to restart their lives after the war, income from fishing is of the absolute importance.¹⁶With the rapid increase in industrialization in India the fisherman are ill affected. Increase in shoddy industrial construction on the shoreline has led to erosion, which threatened the fishermen's houses. Coal-fuelled, thermal power plants spew fly ash into the ocean, and salt mines raise the salinity of the soil destroying mangrove forests which contributes to erosion. Human waste and urban sewage are also going directly into the ocean, pushing the fish further away from the Indian coastline, forcing fishermen to follow them into Sri Lankan waters.¹⁷The treatment of prisoners by both the Sri Lankan and Indian governments is also a cause for alarm, where torture has been talked about on both sides. An immediate solution must be found between the two countries because of the adverse effects it is having on not only inter-government relations, but more importantly on the lives of everyday citizens of both countries.

Currently the Joint Working Group on the fishing issue, composed of central government officials from both countries and individuals representing the fishermen's interest, is working to find a solution to the problem. The goal of the current process is to work out an agreement that reduces the use of force against Indian fishermen straying near or into Sri Lankan waters, and streamlining judicial procedures so that Sri Lanka can respond to fishing violations by Indian fishermen in a manner agreeable to the government of Tamil Nadu, India's southernmost state.¹⁸ The Asian Human Rights Commission has laid out a multiply pronged approach consisting of the steps:

- Both countries must agree on the boundary.
- Demarcate this boundary with anchored buoys with visible flags and solar powered lights for all fishermen to see the boundary during day and night.
- Educate the fishermen in both countries on their responsibilities and consequences of crossing this boundary. Sri Lankan and Indian Navy and border protection agencies establish a task force and conduct routine patrol. Now that the war is over, SL Navy should be able to direct their resources in this direction.
- Both countries should agree that those who violate the Law of the Sea would face the legal proceedings according to the laws of each country¹⁹

The Minister of Fisheries and Resources Development Dr. Rajitha Senarathne stated "remember this is not only a fisheries problem. It is a problem about relations between countries. There is a long history for relations between India and Sri Lanka. For a long time we are best friends. We have to solve our problems through discussion between us. For this our country is always ready" the Minister stated.²⁰LST agrees with this approach, as well as the on-going discussions, but urges all parties to realize that human lives are at stake, as well as a lasting impact on the relationship between India and Sri Lanka. Both Indian and Sri Lankan fishermen and their families are suffering a great deal under the current conditions and it is up to the governments of both countries to ensure that this suffering ends quickly.

HRIC Team

Female Headed Households in the North and East

While much has been accomplished in the past five year since the end of the war, women in the North and East are still suffering greatly to provide for their families. The war between the LTTE and Sri Lankan government left many widows and female heads of households in its aftermath. Recent reports, as well as the LLRC have

¹⁶ <http://www.aljazeera.com/indepth/features/2014/06/fishing-issue-clouds-india-sri-lanka-ties-2014691244367569.html>

¹⁷ http://lens.blogs.nytimes.com/2014/07/16/fishing-in-south-indias-troubled-waters/?_php=true&_type=blogs&_r=0

¹⁸ <http://thediplomat.com/2014/03/india-sri-lanka-fishermen-dispute-remains-complicated-despite-modest-advances/>

¹⁹ <http://www.humanrights.asia/news/ahrc-news/AHRC-ART-130-2013>

²⁰ http://www.fisheries.gov.lk/news_more.php?nw=82



found that there are over 40,000 female headed households in the war affected areas of the north and east, and that these women are struggling every day to survive. Women in the post-conflict areas suffer from unique circumstances that differentiate them for the larger group. The North's patriarchal social structure, and an economy and reconstruction effort that favours males, have deepened their vulnerabilities. The Centre for Policy Alternatives stated 'Particularly worrying are the reports of growing insecurity, sexual violations and vulnerability of women living in the North. The presence of the military has compounded issues of protection and security of women and girl children. In particular, the prevailing surveillance culture coupled with a fear psychosis prevents women from making complaints related to sexual harassment, violence and rape.'²¹ Saroja Sivachandran, who heads the Centre for Women and Development in northern Jaffna, said that the number of such households could exceed 50,000. Mrs. Sivachandran further said that as Sri Lanka reduced assistance to returning families and humanitarian agencies began pulling out, single female-headed families faced a precarious situation. 'There are lots of concerns over food security, family security, the security of the children, the list can be endless,' Mrs. Sivachandran said. It is also found that as sole breadwinners, women who head households are often absent, working as daily labourers and leaving their children without adequate care and protection. Field reports indicate that, in this environment, new partners of widows or extended family

members are perpetrating abuse against children.²² In June 2013 the United Nations High Commissioner for Refugees (UNHCR), found that 40% of all women, including 467,000 returnees who were displaced during the last stages of the war, are still afraid to live in their homes, while 25% are afraid to venture out of their villages on their own.²³ One woman reported that said she had tried to seek work in various fields - from construction to the civil service (as a clerk) - but without success. All the jobs she sought went to men.²⁴ The burden of having to care for a family, earn a livelihood, and protect oneself is extremely heavy in any circumstances, but particularly in a post-war society. This burden is usually not eased by the surrounding community for widows carry a heavy stigma in the Tamil culture. A member of the Mannar clergy stated that 'these women headed families face many difficulties, as the Tamil society is very traditional society. When a man goes to help a widow's family undue suspicious could arise and social and moral issues could also come up. They do not have anybody to help.'²⁵ It is well known throughout the international community that Tamils in Sri Lanka suffered a great deal and continue to face adverse conditions in their everyday lives, but the Tamil women who are now completely responsible for their families well being are marginalized continuously, not only by their own communities but by the national government as well. The inter-sectionality of

²¹ <http://www.cpalanka.org/joint-civil-society-memorandum-to-the-human-rights-council-and-the-international-community/>

²² <http://www.irinnews.org/report/98285/bleak-future-for-sri-lanka-s-female-headed-households>

²³ <http://www.fides.org/en/news/36079->

²⁴ <http://www.ft.lk/2014/05/20/sri-lankan-war-widows-still-struggle-to-support-their-families/>

race and gender must be considered when creating effective and practical policy to aid these women.

The LLRC has documented many of the issues facing female-headed households, especially widows in that position. It recorded issues such as land rights, societal exclusion of widows, and lack of economic development aimed at women specifically. The LLRC states, "The Commission heard many representations with emphasis placed on the need to support female headed households to drive the reconciliation process forward. In that process, there is also a need to let these women know that the Government, civil society and the citizenry as a whole are fully behind them in supporting them."²⁶

Sri Lanka's Constitution guarantees equal rights without discrimination on grounds of sex and furthermore provides for affirmative action to ensure full equality. Sri Lanka adopted a "Women's Charter" in 1993 to give national expression to the goals envisaged in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) to which Sri Lanka is a party and as a measure to provide greater policy coherence on women's issues.²⁷

There cannot be peace and reconciliation in the North and East of Sri Lanka, or even in the whole country if the specific needs of women are not met by the government. Both the local politicians in the areas where war-widows are numerous and the national representatives must understand and articulate the needs of these women. The government must provide the mechanisms needed to aid the women who are carrying a heavy burden in this post-conflict society. There should be an easily available way to allow widows and women with missing husbands to access their land and earn a living and support their family. There will never be full recovery in Sri Lanka thousands of women are left behind.

Nitya Ramanathan

²⁵ LLRC 202

²⁶ LLRC Final Report P.201

²⁷ file:///C:/Users/acer/Documents/intern/Sri_Lankawomen%20un%20report.pdf

Land Issues in Mannar

While issues concerning land are problematic throughout the North and East of Sri Lanka, specifically in the post-conflict context, a meeting held in Mannar shed light on the immediacy of the issues that the people are facing.



During a public discussion organized by the Law and Society Trust on land issues in Mannar members of the community came forward to share their stories and experiences on the topic of land. An example that has garnered much national attention is the Wilpattu National Park encroachment. BBS has criticized government officials for allowing Muslim families to settle within the Wilpattu National Park borders. These are Muslim families that were forced to leave their homes in Marachchikattu by the LTTE in 1990. The Divisional Secretary said that the population in Musali Division in 1990 comprised Muslims (84 percent) Tamils (13.4 percent) and Sinhalese (2.6 percent). When state lands were alienated in 1995 the original Muslim inhabitants evicted in 1990 were living temporarily in various parts of the country including in camps in Puttalam. Now 73 families from Marikkarthevu, Marichchikkatti who were not accommodated had put up temporary huts about one kilometer away from the Wilpattu National Park border, because the Navy has taken over about 700 acres of land within Marachchikattu for security purposes.²⁸

One community member explained that in March, 50 acres of land in Marachchikattu were allocated to relocate

²⁸ http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=102386

Muslim families who were living within the 1.6kms now claimed by the Wild Life Protection Department. The families claimed they lived in these lands in the past, but a survey must be done to ascertain their claims and verify some of the documents that they have produced to prove their right to the land. There may have been settlements before the forest plot was declared a sanctuary in 1905 or before it was made a national wildlife park in 1938. However, after the designation no one had been allowed to live within the sanctuary or build houses there. The new plot of land to which these people will be relocated is situated about half a mile away. The places the families have encroached and the areas the Navy occupied are in two different locations. Another community representative stated that Muslim families were never relocated from this area to facilitate the Navy but one Tamil village was relocated.

One community member stated that the Wildlife Department officials said that the area where people were settled recently was a wild life buffer zone. According to the local council, there are 73 families living in this Wilpattu area. They will be relocated in Marachchikattu, in a place closer to where they live now. When the people are relocated then there will not be a contentious issue for anyone to fight over. It was alleged some hectares of land was cleared. The people were in the Buffer zone were not within the sanctuary.²⁹

This specific land dispute highlights multiple issues that the people of Mannar are facing including a lack of unity among the different ethnic groups in the area, the lack of legal mechanisms in place for the people and an unclear understanding of the importance that the land holds for the people in the area.

In 2013 the Centre for Policy Alternatives conducted a report on the relations between the Tamil and Muslim communities in Mannar and stated that while Mannar has a history of peace coexistence between the various ethnicities in the area, the war had a powerful and unfortunate impact on the area. The report states "With the war suspicions and tensions intensified between them, but with the expulsion of the northern Muslim community in October 1990 by the LTTE there was a rupture in relations. The long-term displacement of the

Muslim community, the dynamic situation on the ground, including with regards to displacement and settlement of Tamils within Mannar, and challenges to civilian administration created and exacerbated disputes."³⁰ People are now hesitant to mediate the issues, or compromise because of the negative history they now share.

With limited mechanisms in place to help those with land issues, the tension has been rising within the community. One community member mentioned that land powers of Mannar are completely in the hand of politicians. He added officials are unable to do anything against politicians. Without easily available solutions to the land issues that the people face as well as more platforms for them to express their feelings on the matter, tensions will continue to rise. People in Mannar, as well as the rest of the country feel very strongly about their land because it gives them their history, a sense of identity, and ties to their past and family. Especially in the cases of those in the north and east, because a large percentage of these people are displaced persons, their feelings toward the land are magnified.

The Sri Lankan government has already put mechanisms in place through the recommendations of Lessons Learned and Reconciliation Commission (LLRC) and National Human Rights Action Plan to deal with the lasting effects of relocation and land displacement. The LLRC specifically the new program put forth in the Cabinet Paper No.13/ 2011. This program uses semi-formal methods to resolve land problems including the use of community leaders, instead of the overburdened formal court system. Although the commission is in favor of this program it would like to stress that if people have the necessary legal proof, they should pursue their case in a court of law. The National Action Plan (NAP) also stresses access to justice through legal means. The NAP recommends that adequate access to legal documentation and legal assistance be provided by the government to all IDPs in need. According to the National Involuntary Resettlement Policy (NIRP) absence of formal title to land by some affected persons should not be a bar to compensation. Whereas the LLRC cites the loss of formal deeds as a major hindrance to the

²⁹<http://www.sundayobserver.lk/2014/04/27/fea06.asp>

³⁰ Tamil-Muslim Tensions and Coexistence in Mannar: Land Disputes in Sannar and Uppukulam. Centre for Policy Alternatives. 2013

resettlement process, the NIRP does not see it as an obstacle. The government must insure that it is wholly fulfilling its duties in allocating, relocating, and mediating land issues as well as making sure that people can access the mechanisms put in place to assist them.

HRiC Team

Human Rights in Conflict Programme

Programme Goal

To catalyze an improvement in human rights protection in war-torn communities in the North of Sri Lanka.

The Program hopes to achieve this through a combination of advocacy, activism, training, research, analysis, information dissemination and working with other stakeholders in order to influence decision makers.

Programme Strategy

The vision of the Programme is a Sri Lanka that is inclusive, free, equal, progressive, and humane, where unity in diversity in all its forms is welcomed and encouraged, and conflict is resolved sans war, bloodshed, and exclusion by working for and / or with the war affected communities. In this vision, no Sri Lankan is left behind and discriminated against, and everyone has equal

and unfettered access to law and authority that are both non-discriminatory, transparent, accountable, and holistically developmental.

To achieve this vision, the mission of the Programme is to provide quality and empowering holistic legal and meta-legal services to the marginalized and underrepresented.

There are seven aspects of this mission:

- legal empowerment of communities;
- promotion of human rights and social justice among war affected people;
- protection of human rights defenders;
- research analysis and advocacy based on evidence;
- documentation, monitoring and reporting of human rights situations;
- awareness raising through participatory trainings, seminars, workshops, and forums;
- local and international advocacy and networking.

All these aspects of the mission shall work synchronously towards the Programme's vision of Sri Lanka using minimal resources and relying upon largely committed volunteer workforce within the target communities itself.

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