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# **BLUE ECONOMY AND BOUNDARY LAW: REDEFINING MARITIME DELIMITATION BETWEEN INDIA AND ITS NEIGHBOURING COUNTRIES**

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Shreyansh Bhatt, B.A. LL.B. (Hons.), Law College Dehradun, Uttaranchal University,  
Dehradun, Uttarakhand, India.

Nikunj Singh Yadav, Assistant Professor, Law College Dehradun, Uttaranchal University,  
Dehradun, Uttarakhand, India.

## **ABSTRACT**

Presently, delimitation at sea involves jurisdiction, development, and regional order delimitation at sea within the Indian Ocean. The research problem is India's current position of control through line drawing, despite the fact that conflicts today relate to the governance of resources, marine ecology, and cooperative conflict and security, focusing on these neighboring states. The research explores the United Nations Convention on the Law of the Sea and India's position, and examines related bilateral treaties and the main judicial and arbitral decisions in the Indian region using doctrinal legal research. It also evaluates the latest data enforcement of fisheries and recently signed treaties on the cooperative Blue Economy. The research indicates that despite the fact that India's maritime practices are in some cases (legally) beyond the norm, the institutional side is optimistic. The treaties imposed with Bangladesh, Sri Lanka, and the Maldives, as well as the award to Myanmar, show the long-term institutional impacts of resolving maritime delimitations. The fragile governance structures of the maritime domain can be seen in the continuing conflicts of the Sir Creek and Palk Bay fisheries. The research concludes that legal justice alone should not be the sole consideration in India's case on maritime delimitations.

**Keywords:** Blue Economy; maritime delimitation; India; Bay of Bengal; fisheries

## Introduction

India's Blue Economy now encompasses fishing as well as resources from the seabed, marine conservation, and coastal area connectivity and livelihoods. As per the World Bank, the Blue Economy consists of the sustainable use and access of ocean and marine resources while protecting ecosystems. It also focuses on the roles and relationships of the ocean and marine resources in the context of economic growth and job creation. For India, this paradigm is not merely developmental rhetoric. It is much more multifaceted within the context of the legal geography of its neighboring seas since access and utilization of ocean space depend on knowledge of the initiation, presence, and/or absence of coastal jurisdiction.<sup>1</sup>

There is a lack of doctrinal and practical policy gap. Disputes of law in regards to maritime delimitation are generally considered to be the drawing of lines in order to consolidate rights in overlapping boundaries. However, many of the disputes in India's neighboring seas are more about access to fishing and the use of humanitarian detention, as well as bottom trawling and other kinds of offshore investment, environmental issues, and the destruction of marine ecosystems. Although the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976, takes place of India's policy on international law of the sea, it does not and for that reason the dilemma of controlling antagonistic or severely regulated policed maritime boundaries does not exist. Thus, this results in the boundaries being legally delimited; however, in practice, this space creates conditions of conflict.<sup>2</sup>

India should regard maritime delimitation both as a line/procedure demarcation and as a governance activity. This case concerns relations between the maritime boundaries of Bangladesh, Sri Lanka, Myanmar, and the Maldives, as well as Pakistan, and India's interests in regional international law and jurisprudence regarding the law of delimitation. This is delimitation law ontology in India. This is the India's law of the sea.<sup>3</sup>

## Conceptual Foundations of Blue Economy and Maritime Delimitation

The subject is the interrelationship between the growth of oceans and maritime rights. In the

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<sup>1</sup> World Bank, "Toward a Blue Economy: A Promise for Sustainable Growth in the Caribbean" 6 (2016).

<sup>2</sup> The Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 (Act 80 of 1976), ss. 3, 5, 6 and 7.

<sup>3</sup> Robin Churchill, Vaughan Lowe, et.al., *The Law of the Sea* 87 (Manchester University Press, Manchester, 4th edn., 2022).

case of the Blue Economy, the law regarding the allocation of maritime space becomes paramount, considering that all coastal activities, including fishing, maritime transport, and exploration, are dependent on the demarcation of control, rights, and order of the sea.<sup>4</sup>

### **Blue Economy as a Legal Governance Concept**

The Blue Economy encompasses a big idea with a lot of moving parts and a complex legal definition. It suggests that there is a legal framework where extraction is matched with legal framework organised division of the care and protection and the safety and labor related to maritime zones. Tanaka's law of the sea is useful, as it is concerned with the distribution and division of sea zones, rather than sea governance. There is a need to balance within the Indian ecosystem, as the coastal development plans that integrate themselves within economic growth promoting legal boundaries, as the development of East Indian sea law dominates. It is a helpful framework to alleviate the development of the Blue Economy and the development of neighboring countries, where the ecosystems of their fishing, commerce, and sea law are integrated with one another.<sup>5</sup>

### **Maritime Entitlements under International and Indian Law**

The basis for the legal framework is the United Nations Convention on the Law of the Sea, particularly concerning the Territorial Sea and the delimitation of the, Exclusive Economic Zone and the Continental Shelf. These are different and have various geographical limitations. There is an attempt to set some balance within the rather elastic framework for the Exclusive Economic Zone and the Continental Shelf, regarding the Territorial Sea delimitation, i.e., a more constraining balance, the “median line” rule, within the framework of historic title and specific circumstances.<sup>6</sup> India's The Maritime Zones of India Act of 1976 interprets those spaces and hence provides the domestic authority/right to physical external delimitation outcomes.<sup>7</sup>

### **Territorial Sea, Exclusive Economic Zone, and Continental Shelf**

Defining Territorial Sea, Exclusive Economic Zone, and Continental Shelf marks important

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<sup>4</sup> Yoshifumi Tanaka, *The International Law of the Sea* 72 (Cambridge University Press, Cambridge, 4th edn., 2023).

<sup>5</sup> *Ibid.*

<sup>6</sup> United Nations Convention on the Law of the Sea, 1982, arts. 15, 74 and 83.

<sup>7</sup> *Supra* note 3 at 251.

legal distinctions in terms of scope and extent of jurisdiction and rights. That is, it is not complete sovereign ownership of a region up to 12nm. Territorial Sea is complete sovereignty of a coastal state with the legal doctrine of innocent passage. The Exclusive Economic Zone and Continental Shelf, on the other hand, afford a coastal state jurisdiction and ownership over rights to marine resources of a region.<sup>8</sup> These distinctions outline the scope of jurisdiction, rights, and legal entitlements over fishing, offshore oil, marine scientific research, and the laying of cables and pipelines, even in the legal absence of a boundary demarcation. Thus, delimitation lines demark/set boundaries and define/scope the rights of the respective states to legally assign them.

### **Methodology of Maritime Delimitation**

There have been for some time a convergence of uniform practice in modern maritime boundary delimitation theory. The dominant practice involves the drawing of a preliminary line, justification of possible adjustments, and then evaluation. This practice employs a definable legal lexicon of judges and arbitrators in the exercise of their discretion, and at the same time, legal elasticity to resolution of the predictable nature of disputes that arise from the concave nature of coastlines, carry through islands, cutoff effects, and shelf claims which extend beyond two hundred nautical miles.<sup>9</sup>

One related, yet often overlooked, area of interest is provisional and cooperative exploitation arrangements. Rothwell and Stephens suggest that at sea, international law does not see a delineated portion of sea space as a legal void, but rather as an area where self-restraint and delays of activities are expected, at least for the time being. For India, this principle is of particular interest for regions where socio-economic challenges and urgent political needs exist, but where the political process is relatively stagnant. So, from a Blue Economy perspective, the focus is on extending the provisional control beyond a line-fixed closure, where the control is cooperative, joint management, and self-constraint is socially disruptive.<sup>10</sup>

### **India's Maritime Boundary Practice with Neighbouring States**

The practices of India's neighbours can be grouped, in a loose way, into what I term treaty

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<sup>8</sup> Donald R. Rothwell and Tim Stephens, *The International Law of the Sea* 80 (Hart Publishing, London, 3rd edn., 2023).

<sup>9</sup> Stephen Fietta and Robin Cleverly, *A Practitioner's Guide to Maritime Boundary Delimitation* 108 (Oxford University Press, Oxford, 1st edn., 2016).

<sup>10</sup> *Supra* note 6.

settlement, adjudicated settlement and postponed delimitation. What these classifications demonstrate, when taken together, is that, while legal constructs can, in and of themselves, anchor a degree of stability to a region, the nature of the settlement is of much less significance than the quality of the institutions that are situated in the vicinity of a legal void boundary.<sup>11</sup>

### **India and Sri Lanka**

Sri Lanka's maritime relationship with India is partly defined by the 1974 Agreement on the Boundary in the Historic Waters and further demarcated by the 1976 Agreement on the Maritime Boundary in the Gulf of Mannar and the Bay of Bengal, which, alone, and in conjunction with each other, provide the legal framework for the International Maritime Boundary of the Palk Strait region.<sup>12</sup> Nevertheless, the treaties, although legally stable, do not address the operational aspects of the various conflicts, which include the incidents of bottom trawling, the Katchatheevu issue, and a host of military detentions. Such conflicts highlight the fact that, while treaty frameworks may demarcate a boundary, the various pressures that conflict with the boundary, whether they be economic, ecological, or asymmetry in enforcement, remain unresolved.<sup>13</sup>

### **India and Maldives, and India and Myanmar**

India's maritime boundaries with nations like Maldives and Myanmar exhibit the ease of borderline settlements through bilateral treaties. The treaty with Maldives in 1976 demarcated the maritime boundary of the Arabian Sea.<sup>14</sup> The boundaries were further established with Myanmar in 1986 to include the Andaman Sea, the Coco Channel, and the Bay of Bengal.<sup>15</sup> All of these settlements exhibit that the maritime borderline settlements are possible only when the geopolitical relations permit such technical agreements and the resource rivalry is not intertwined with impotent large scale fishing. They also display that a considerable part of India's maritime frontiers is defined and largely India's ocean frontiers are defined, secured,

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<sup>11</sup> Victor Prescott and Clive Schofield, *The Maritime Political Boundaries of the World* 205 (Martinus Nijhoff Publishers, Leiden, 2nd edn., 2005).

<sup>12</sup> Agreement between India and Sri Lanka on the Boundary in Historic Waters between the Two Countries and Related Matters, June 28, 1974.

<sup>13</sup> Agreement between India and Sri Lanka on the Maritime Boundary between the Two Countries in the Gulf of Mannar and the Bay of Bengal and Related Matters, March 23, 1976.

<sup>14</sup> Agreement between India and Maldives on Maritime Boundary in the Arabian Sea and Related Matters, December 28, 1976.

<sup>15</sup> Agreement between the Socialist Republic of the Union of Burma and the Republic of India on the Delimitation of the Maritime Boundary in the Andaman Sea, in the Coco Channel, and in the Bay of Bengal, 1484 *UNTS* 169 (1986).

and diplomatically settled.

### **India and Bangladesh**

The most within-depth account of conflict resolution on the Indian subcontinent is the case of India and Bangladesh with the Bay of Bengal. In 2012, the International Tribunal for the Law of the Sea in *Delimitation of the maritime boundary in the Bay of Bengal (Bangladesh/Myanmar)*<sup>16</sup> first drew a line for the Bay of Bengal for the case of Bangladesh versus Myanmar. The Annex VII tribunal in *Bay of Bengal Maritime Boundary Arbitration between Bangladesh and India*<sup>17</sup> completed the Bay of Bengal delimitation. The Concavity and Cutoff studies focused on the endemic nature on the coast and the shape of the coastline, in filling the Bay of Bengal beyond 200 nm. The main feature of these cases is not the lines drawn for the boundaries. Judicial settlements in these cases, after being stalled for decades, show that bilateral settlements can secure the development of regional resources beyond the previously established boundaries, which is in stark contrast to the previously established boundaries.

### **India and Pakistan**

The still unresolved land and sea disputes is the case of the Sir Creek region. The Ministry of External Affairs stated in June of 2012 that the last official talks that India and Pakistan held regarding Sir Creek also included talks regarding the marking of the international sea boundary. As a result of the lack of resolution for this sector, the northeastern subdivisions of the Arabian Sea have seen several issues in the regulation of fisheries, the implementation of control, and the maintenance of coastal defence.<sup>18</sup>

### **Comparative Assessment**

Geographically and historically, India's (geo)maritime practices (or policies) cannot be described as a monopoly (because they are neither extensive enough), but they are also hardly settled (because they are not minimal enough); all they are, in a sense, is in-between. Prescott and Schofield observe in their book, *Politics of Maritime Boundaries*, that the stability of a boundary depends as much on the line that is drawn, as it does the larger changing geopolitical resource context. This also holds for the Indian Ocean Region. Boundaries generally face the

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<sup>16</sup> ITLOS Reports 2012, p. 4.

<sup>17</sup> 32 *RIAA* 1 (2014).

<sup>18</sup> Government of India, "Question No. 1824 Sir Creek Issue" (Ministry of External Affairs, February, 2019).

greatest ecological and socio-political pressures in delineated areas and the greatest functional codified practices (that are not settled) gaps/semi- gaps.<sup>19</sup>

The following illustrates India's considerable delimitation with regard to its neighbours. Especially with the intention of describing it in a way where a table is not utilized, this demonstrates delimitation as a dated boundary resolution chronology, by showing legal documents, settlements by year, and their current status.<sup>20</sup>

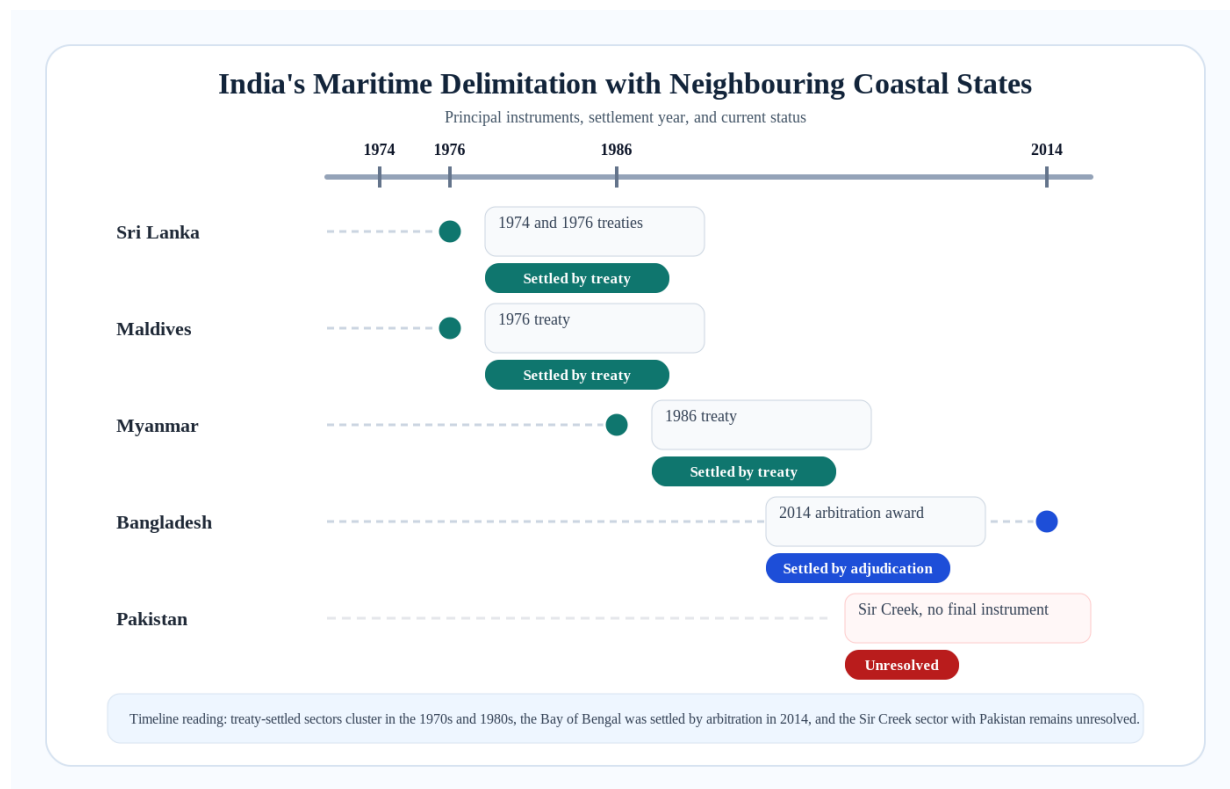


Figure 1. Principal maritime delimitation outcomes between India and neighbouring coastal States.

India's major borders at sea are mostly defined, but because of their diverse forms, some are recognized while others are not. In the Indian Ocean, treaty settlements have defined Sri Lanka's, Maldives' and Myanmar's borders, while Bangladesh's border is defined by an adjudication settlement. In contrast, the Sir Creek sector with Pakistan is an unclosed treaty. The formal establishment of boundaries impacts not only governance but also the jurisdiction

<sup>19</sup> *Supra* note 11 at 259.

<sup>20</sup> *Supra* note 9 at 275.

in the areas.<sup>21</sup>

## Regional Jurisprudence and the Reorientation of Delimitation Law

Today, International adjudication has been the most important factor in changing India's borders at sea. The value of the adjudication should not be in an abstract sense, but in the ways concavity, islands, outer shelf claims, gray areas, and the equilibrium of legal certainty and equity are handled.<sup>22</sup>

### The Black Sea Template

A case that illustrates the modern three-stage approach is the International Court of Justice case, *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*<sup>23</sup>. This case provides a systematized method for determining and, if required, revising a provisional equidistance line. For the South Asian subcontinent, the case will build a more formalized ordered approach rather than a more ordered equitable reasoning approach. While that reasoning could still foster judicial creativity, it re-establishes the line where judicial practitioners could think of maritime delimitation to a certain extent.

### Bay of Bengal Jurisprudence

The Bengal cases built on and further developed that line-drawing system. The International Tribunal for the Law of the Sea in *Delimitation of the maritime boundary in the Bay of Bengal (Bangladesh/Myanmar)*<sup>24</sup> recognized the concave nature of the coastline and held that the shelf beyond 200 miles could in the delimited order of law. The *Bay of Bengal Maritime Boundary Arbitration between Bangladesh and India*<sup>25</sup> also expanded that reasoning and, to an extent, answered the face cut off consequences of coastal geometry on India's eastern coast. The two cases, along with the first, redefined the geography of the Bay of Bengal to an ordered place.

The study of disputes expresses the nuances of this line of thinking, but more importantly the limits of it. Qiu and Gullett's work illustrates the Bay of Bengal delimitation debates and offers

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<sup>21</sup> *Supra* note 8 at 221.

<sup>22</sup> Massimo Lando, *Maritime Delimitation as a Judicial Process* 104 (Cambridge University Press, Cambridge, 1st edn., 2019).

<sup>23</sup> [2009] ICJ Rep 61.

<sup>24</sup> *Supra* note 16.

<sup>25</sup> *Supra* note 17.

analysis on the partitioning of the seabed and coastal zones.<sup>26</sup> Within this context, it is possible to think of equitable results, where islands or the outer shelf extensions impede the drawing of a line. Similarly, Prerna and Pandey's study on the grey zones of the sea illustrates the complexity of the situation, that is, the rational delimitation of the line or boundary that is legally justified, may nonetheless create zones of overlapping functional complexity.<sup>27</sup>

### Recent Cases and Their Significance

Future preferences have used this jurisprudential framework to further enhance it, instead of replacing it. The *Dispute concerning delimitation of the maritime boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*<sup>28</sup>, examined by a special chamber of the ITLOS, contained a strict evidentiary approach and a reliance on the existing conditions. Similarly, the *Maritime Delimitation in the Indian Ocean (Somalia v. Kenya)*<sup>29</sup> upholds the policy using stretched, modified and, then, defaulted equidistance, and a more navigating jurisprudential sea. The preliminary objections in *Dispute concerning delimitation of the maritime boundary between Mauritius and Maldives in the Indian Ocean (Mauritius/Maldives)*<sup>30</sup> give much more to think of the control that delimitations have in regards to sovereignty and jurisdiction, even before a case is analysed completely.

### Doctrinal Consequences for India

Doctrinally, India's position is clear. The equidistance-equality paradigm is dead. The method is judicially, and geographically, sensitive. Structured judicially, insensitivity to the practical and operational outcomes causes legally discontinuous delimitation of seas. This is where Fietta's work is instructive: the contemporaneous delimitation of the seas is the multi-dimensional integration of the technical and legal. The literal interpretation of legal contract clauses is, in fact, positive. The view, remaining legal disputes, to the management of the borders, whose legal points are remaining, but have, in fact, socio-politically equalized, is a positive disposition.<sup>31</sup>

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<sup>26</sup> Wenxian Qiu and Warwick Gullett, "Quantitative Analysis for Maritime Delimitation: Reassessing the Bay of Bengal Delimitation between Bangladesh and Myanmar", 78 *Marine Policy* 45 (2017).

<sup>27</sup> R. Prerna and Dhananjai K. Pandey, "The Shades of Grey over Blue: A Maritime Delimitation Dogma", 158 *Ocean & Coastal Management* 93 (2018).

<sup>28</sup> ITLOS Reports 2017, p. 4.

<sup>29</sup> [2021] ICJ Rep 206.

<sup>30</sup> ITLOS Reports 2020-2021, p. 17.

<sup>31</sup> *Supra* note 9 at 73.

## Blue Economy Stakes in India's Maritime Neighbourhood

The importance of delimitation, both economically and humanitarily, is most evident in the context of fisheries-related conflict, the deployment of capital, and marine governance. Control would be allocated to law of boundaries, but the practice of the Blue Economy puts to question whether those controls are practical, whether the entitlements are effective and whether the implementation of the blue entitlement and associated governance structures, in fact, reduces the tension to bordering and adjacent community states.<sup>32</sup>

### Fisheries, Livelihoods, and Maritime Enforcement

The most useful examples of assessing delimitation's jurisdictional constraints are found in the blue economy of the region. The economy of the Bay of Bengal is said to depend on joint efforts rather than demarcation alone. Unreported, unregulated, and illegal fishermen, aggressive trawlers, policy deficits, and poor or even non-existent palliatives are all over the Indo-extended region. The same applies to the Palk Bay.<sup>33</sup> The focus should not be on the absolute existence of the boundary, but the relative resource depletion and aggressive borderline enforcement, combined with the livelihood trawlers that are at the borderline and mechanized.

This is further supported by the social sciences. Song and his associates articulate that the 'boundary paradox' in fisheries policy, is to say that boundary-setting generates the demand for management of the fisheries, rather than removing the need.<sup>34</sup> Stephen, in his anthropology of trawlers of the Palk Bay, describes how 'fishing' where 'fishing' and enforcement of the 'formal law' or the legal maps is mediated by spatially perceived enforcement, and 'fishing', is one of the daily activities which are impacted by 'fishing' and the legal maps.<sup>35</sup> Kularatne's analysis of Sri Lankan law suggests that legalizing the fishing of foreign bottom trawlers may in fact be used as a policy of total 'Maritime Control' at the shifting borderline in the region where the

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<sup>32</sup> *Supra* note 1 at 173.

<sup>33</sup> Mohammad Rubaiyat Rahman, "Blue Economy and Maritime Cooperation in the Bay of Bengal: Role of Bangladesh", 194 *Procedia Engineering* 356 (2017).

<sup>34</sup> Andrew M. Song, Joeri Scholtens, et.al., "Transboundary Research in Fisheries", 76 *Marine Policy* 8 (2017).

<sup>35</sup> Johny Stephen, "A Place to Live and Fish: Relational Place Making among the Trawl Fishers of Palk Bay, India", 102 *Ocean & Coastal Management* 224 (2014).

subsidized South Indian and Sri Lankan fisheries subsystems spatially converge.<sup>36</sup>

Figure 2 shows the annual and state-specific arrests of Indian fishermen by Sri Lankan authorities from the year 2022 to March 24, 2025. Data for a specific year and state is presented as a stacked-bar to show the total annual arrests and the state-wise breakdown in one chart.

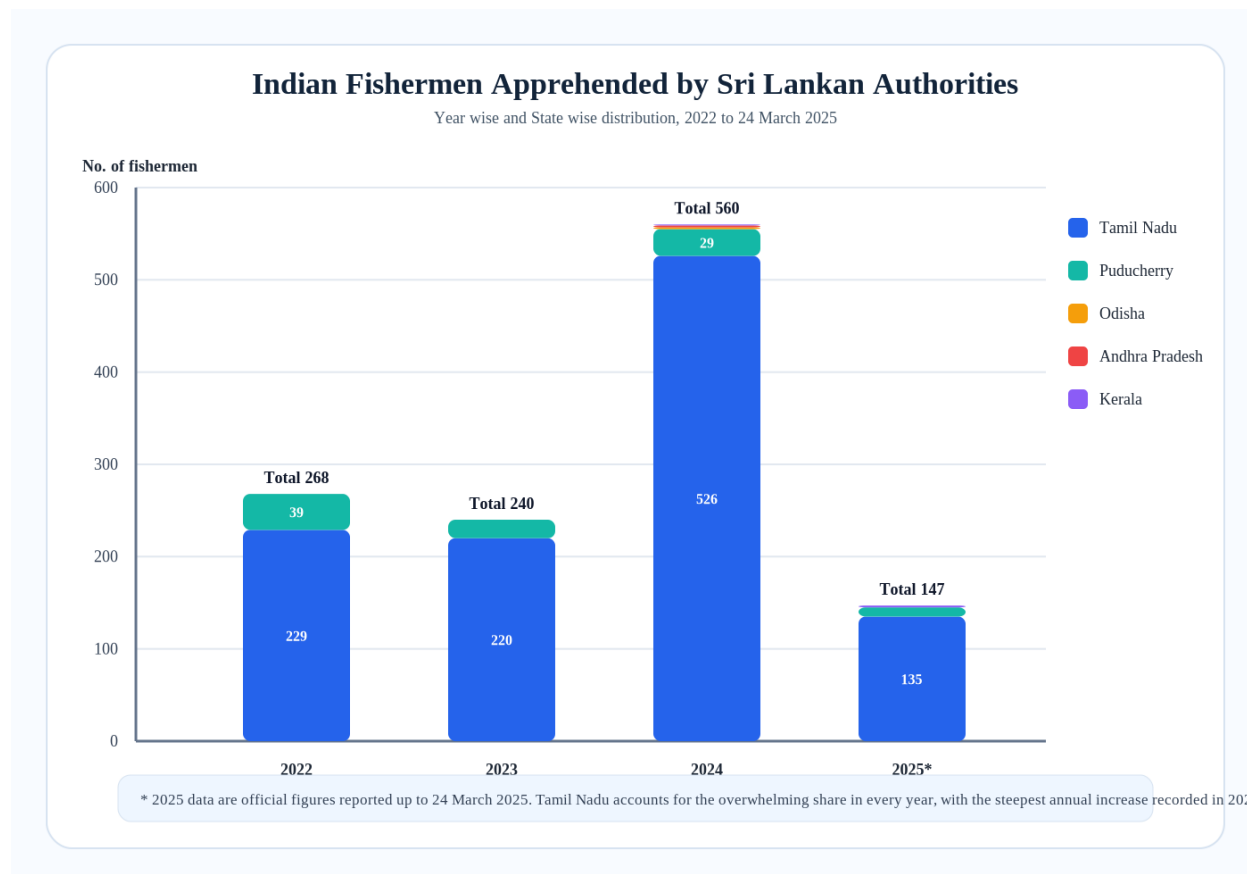


Figure 2. Indian fishermen apprehended by Sri Lankan authorities, 2022 to 24 March 2025.<sup>37</sup>

The official data shows many more cases from Tamil Nadu, some cases from Puducherry and with a smattering from Odisha, Andhra, and Kerala. There are gaps and missing cases from some more states. What the data shows is the post-maritime boundary settlements of data, the fisheries tensions, disruption of livelihoods, and detention issues still prevail, and even result in a data spike in the year 2024.

<sup>36</sup> Ranil Kavindra Asela Kularatne, “Unregulated and Illegal Fishing by Foreign Fishing Boats in Sri Lankan Waters with Special Reference to Bottom Trawling in Northern Sri Lanka: A Critical Analysis of the Sri Lankan Legislation”, 185 *Ocean & Coastal Management* 105012 (2020).

<sup>37</sup> Government of India, “Question No. 288 Indian Fishermen behind Bars in Sri Lanka” (Ministry of External Affairs, March, 2025).

Official data legitimizes a doctrinal assertion. The External Affairs Ministry reported 268 cases in 2022, 240 in 2023, 560 in 2024, and 147 cases recorded by the 24th March 2025. Tamil Nadu recorded most cases in. Another Parliamentary reply, the Government states 28 March 2025, that the Sri Lankan Government and the Soviet Government are not working on fishing agreements in the Palk Strait. The given facts point to the fact that orderly completion of the boundary location still results in an incomplete system of fisheries governance.<sup>38</sup>

### **Offshore Resources, Shipping, and Scientific Knowledge**

The Blue Economy covers much more than fishing. When Sea Limits of the Submarine Terrains are drawn, the concerns of offshore hydrocarbons and minerals, sub-sea and underwater investments also come into play. In this respect, the Bangladesh-India and Bangladesh-Myanmar treaties offer considerable significance as they resolved a long-standing jurisdictional dispute and provided clear frameworks on the overlapping claims of the continental shelf, in relation to the expectation of offshore hydrocarbons. In the absence of appropriate claims, adjudication can better rationalize marine plans in the investment and exploration adverse regions than claims to extend the continental shelf beyond the 200 nm limit.<sup>39</sup>

There are numerous areas of the Blue Economy which do not require strict enforcement of boundaries. For example, the provision of services such as search and rescue and pollution response services and various services in the Blue Economy rely on services interdependency and require cooperation beyond jurisdictional divide. This is more or less the same in the global maritime economy, especially as seen in the recent reports of the United Nations Conference on Trade and Development, as the volume of sea trade and commerce increases. Hence, it is safe to say that the demarcation of sea borders is critical and perhaps a necessary condition, but may not be sufficient to broaden the ocean economy of India.<sup>40</sup>

### **Recent Cooperative Practice**

The latest bilateral activities show that India is moving towards a governance-centred approach

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<sup>38</sup> Government of India, “Question No. 4697 Fishing Rights in Palk Strait” (Ministry of External Affairs, March, 2025).

<sup>39</sup> *Supra* note 3 at 196.

<sup>40</sup> UNCTAD, “Global Trade Update: Sustainable Ocean Economy, a Key and Fast-Growing Sector at Risk” 1 (June, 2025).

more cautiously. The 2024 MOU on Blue Economy and Maritime Cooperation between India and Bangladesh lays the groundwork for a Joint Working Group and entails collaboration on governance of the seas and research. While these documents do not resolve border issues, they demonstrate that border issues, including maritime delimitation, can be integrated into enduring collective relations.<sup>41</sup>

The new Blue Economy hinges on data sharing, coast guard migration, fisheries, conservation planning, and livelihood linkage or interdependency. Where these things are disconnected, law creates a bound, void sea. Where these things are connected, delimitation works helpful sustained cooperation.<sup>42</sup>

### **Redefining Maritime Delimitation in the Indian Context**

An advanced Indian paradigm should start conceptualizing delimitation as a layered legal process beyond single dimensional thinking. The first layer stands for the establishment/acceptance of a boundary line. The second layer concerns the handling of different lines interaction of common resources, maritime boundary disputes, and the conservation challenges and the loss of livelihoods therein.<sup>43</sup>

### **From Boundary Line to Governance Package**

The strongest argument for such a recasting is with respect to the Bay of Bengal and the Palk Bay. For the Bay of Bengal, delimitation integrated the behalf of the Bay of Bengal and the Palk Bay, while the Palk Bay Treaty settlement, along with other legal changes, reassigned a clear title, only to leave the ecological degradation and resource over-exploitation, gear conflicts, and the arrest cycles to a legal and governance void. A governance package framework might of delimitation, fishery transition, temporary non-enforcement, and ecosystem restoration.<sup>44</sup>

### **Humane Enforcement and Fisheries Transition**

Reforms should be initialized by humane and tiered enforcement. Instant access to consular

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<sup>41</sup> Memorandum of Understanding between the Government of the Republic of India and the Government of the People's Republic of Bangladesh in the Field of Blue Economy and Maritime Cooperation in the Bay of Bengal and in the Indian Ocean Region, June 22, 2024.

<sup>42</sup> *Supra* note 33 at 274.

<sup>43</sup> *Supra* note 8 at 272.

<sup>44</sup> *Supra* note 35 at 70.

and administered release should be applicable to cases of small-scale or unintentional crossing. Bottom trawling and other serious breaches should be dealt with to maintain supportive enforcement. Differentiation would reflect the law of the sea in a collaborative sense and would lessen the humanitarian costs of the routine fisheries incidents.<sup>45</sup>

The other central tenet would be fishery transition plans. The social costs in fishing literature (displacement and loss of employment of fishing as a way of earning a living) and the dependency of fishing on socially destructive and violent methods of fishing suggest that a simple fishery management strategy would be insufficient to attain the defined objectives. Controlling the limits and of enforcement of regulatory provisions would be complemented by other means: diversification and buy-backs of fishing vessels, the regeneration of marine areas, and the establishment of sustainable non-extraction economic activities.<sup>46</sup>

### **Ecological and Institutional Integration**

Ecological integration is the third part. Subdivision of the seas is of little strategic interest because marine ecologies. Fishing pressures on one side of the strait can quickly affect the opposite side. Genuine delimitation and the sustainability of shared habitats is equitable only when plans for integrated scientific assessments, field coordination and seasonal closures, restorative and maintenance actions are harmonized with that end.<sup>47</sup>

Fourth is the institutional design component. More recent government-to-government collaboration with Bangladesh is more optimistic that working joint groups is a comparatively more enduring link of delimitation and maritime collaboration than more speculative diplomacy. Assimilating the more transitory settlements, a level of reluctance towards cooperation is justified for the purposes of integration with regards to Sri Lanka and the Pakistan sector, as much as possible. Communication, even of a formal nature, will control the much needed escalation, as will the blocking of fishing incidents, the joint search and rescue, and the responding to instances of trans-boundary pollution, and the strikes and other actors.<sup>48</sup>

### **Implications for Pending and Future Disputes**

The legal significance of refashioning all ocean boundaries remains unchanged. If anything, it

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<sup>45</sup> *Supra* note 36 at 85.

<sup>46</sup> *Supra* note 34 at 166.

<sup>47</sup> *Supra* note 1 at 220.

<sup>48</sup> *Supra* note 41 at 160.

maintains the significance of boundaries as an organising construct, while also counteracting the misconception that the legal abundance is all that is needed. For India, the remaining issue is not the radical restructuring of existing boundaries, but the managing of boundaries that are parallel to law, livelihoods, and the needs and demands of the Blue Economy. Truly, delimitation should be perceived as more law, rather than less law.<sup>49</sup>

## Conclusion

The laws should not be crafted with sophistication that allows for the delimitation of the oceans neighboring India. India's neighboring maritime delimitation should not be seen as a restrictive practice of establishing a demarcated line between opposing factions. Maritime history in this region shows that in treaties and in adjudication, the views of India in these settings has been established, and the presence of a treaty record in the region does not solve the lingering social, political, and environmental strife, nor does it promote the presence of law in the region.<sup>50</sup>

The cases of Bangladesh, Sri Lanka, Myanmar, Maldives and Pakistan demonstrate three legal truisms. Firstly, legal certainty is paramount. It fosters stability of jurisdiction, curtails diplomatic ambiguity, and simplifies the structuring of offshore and onshore activities. Secondly, the advanced jurisprudence of international tribunals and courts has increased the certainty and discipline of maritime delimitation. Thirdly, the Blue Economy reveals the inadequacies of a paradigm which views delimitation as a permanently resolved issue once a line has been drawn. The Palk Bay fisheries conflict, are the persistent humanitarian detention, along with the indisputable need for cooperative marine governance, illustrate the necessity for a distributive law of boundaries combined with the law of governance.<sup>51</sup>

This Article will comprise both prescriptive and analytical dimensions. With the modified doctrines of modern delimitation law pertaining to the doctrine of substantive equity and the doctrine of finality as achievements of law, it is imperative to argue that India should sustain the growth of the said doctrines rather than pursue a literal cartographic interpretation to achieve the objectives of delimitation. In the modern Indian Ocean, the practical imperative of substantive equity and legal equity, when coupled with the cooperative use of the sea among other constituents, speak to the necessities of maritime delimitation. In recent decades, the sea

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<sup>49</sup> *Supra* note 18 at 86.

<sup>50</sup> *Supra* note 9 at 172.

<sup>51</sup> *Supra* note 11 at 241.

has constituted a huge realm of unexplored economic opportunity, the Blue Economy, thereby obliging India to strike a balance between providing modern yet legal and equitable maritime practice, and the shared nature of the oceans.<sup>52</sup>

### Suggestions

The analysis puts forward concrete suggestions for India's maritime law reforms aimed at integrating both sustainable ocean governance and addressing operational justice in the intervals between formal boundary demarcation.

1. Legalise provisional arrangements: India needs to come into effect provisional agreements for Fisheries and Responding to Incidents and Non-Prejudicing Provisions, etc. in contested and yet to be finally settled maritime space.
2. Create a Palk Bay fisheries compact: The two countries ought to negotiate a fisheries compact distinct from the historical boundary treaties. A fisheries compact should address bottom trawling, temporal access, conservation zones, crew release, and transition of gear.
3. Institutionalise rapid humanitarian release: The establishment of a standing bilateral agreement concerning time-bound consular access, regulated verification, and the expedited return of fishermen arrested for crossing without violence would address the problem of detention which happens repeatedly without the enforcement of a serious violation.
4. Link delimitation to ecological recovery: Boundary-adjacent governance should include collaboratively executed programmes for habitat restoration, seabed impact monitoring, and enforced closed seasons (coordinated in boundary sensitive marine areas with/without marking). Delimitation that meets the demands of the Blue Economy requires, at a minimum, the restoration of the ecosystem, rather than simply restricting the allocation of already-depleting resources.
5. Shift from punitive to differentiated enforcement: Enforcement should recognize the difference between serious commercial violations and infractions that impact one's

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<sup>52</sup> *Supra* note 8 at 293.

means to make a living. For low-level infractions and violations, a more appropriate course of action would be a warning and/or an administrative penalty and/or a response and/or monitoring of the commercial vessels over the extreme of criminal prosecution and the imposition of corrective custody.

6. Expand fisheries transition support: India should revise assistance for trawl diversification, deep-sea adaptation, modernisation of vessels, and subsistence shifts in the most impacted coastal districts. After economically defensible alternatives are offered to communities, destructive and unsafe practices become less dependable.
7. Use joint working groups more strategically: Direct inquiries, scheduled meetings, and publicly available meeting notes need to be provided to current bilateral structures. A forum capable of managing scientific data, fishery disputes, and maritime incidents is of sufficient quality to manage a boundary.
8. Integrate State governments into maritime diplomacy: There is a notable desire for the systematic involvement of the Coastal States, and more specifically, the Coastal States of Tamil Nadu and Gujarat, in the formulation of border and fisheries management policies. Acknowledging the capabilities of local government will enhance the design and policy formulation to encourage more effective implementation, enforcement, and operational shift actions.
9. Prepare a Sir Creek functional cooperation package: Even with no conclusive outcome in the litigation, India needs to sustain technical contacts regarding search and rescue, pollution response, and accidental fishing in the Sir Creek area. It is crucial to preserve legal claims, and operational management with minimal coo perdition is crucial. On that basis,.
10. Adopt a governance based delimitation policy: India should also embrace a forward-looking maritime policy by factoring in the advocacy of humane enforcement and scientific coordination to manage resources, to delimit those spaces within the contemporary jurisprudence and the growing developmental exigencies of the Indian Ocean Region.

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