

Right to Livelihood of Uppukulam and Joseph Vaz Nagar Fishermen in the Mannar District

Human Rights Commission of Sri Lanka

Introduction

The right to life includes the right to livelihood. Deprive a person of his right to livelihood and you shall have deprived him of his life¹. All human rights are interdependent, indivisible and inalienable. You take away one, you take away the others. Deny food, deny livelihood, deny shelter and you deny liberty, freedom, and ultimately the right to life and all that goes with life.

Right to livelihood is incorporated in several international instruments. These are the 1948 Universal Declaration of Human Rights (UDHR), the 1966 International Covenant on Civil and Political Rights (ICCPR), and the 1966 International Covenant of Economic, Social and Cultural Rights (ICESCR). These provide the legal and political framework for the protection of human rights – for both women and men – and the assurance of dignity and well being.

The UDHR guarantees the right to life and livelihoods of all² people and recognizes the right to work and to non-discrimination in matters of employment³. Likewise, Article 6 of the ICESCR recognizes the **right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right**. The ICESCR enshrines the right to be free from hunger and to an adequate standard of living for the individual and their families⁴.

Sri Lanka the Constitutional guarantees that every citizen is entitled to the freedom to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise⁵. The State should ensure for all citizens an adequate standard of living for themselves and their families, including adequate food, clothing and housing, the continuous improvement of living conditions and the full enjoyment of leisure, social and cultural opportunities⁶.

There are some instruments specifically focused on livelihood of fishing. While the following UN Declarations and Plans of Action (POA) are not binding upon States, they enunciate important principles for States and are moral obligations. The World Summit for Social Development (1995) and the concomitant Declaration stressed the centrality of people in sustainable

¹ Olga Tellis v. Bombay Municipal Corporation, AIR 1986 SC 180

² Article 25 of Universal Declaration of Human Rights

³ Article 23 of Universal Declaration of Human Rights

⁴ Article 11 of International Covenant of Economic, Social and Cultural Rights

⁵ Article 14 (1) (g) of the Constitution of Sri Lanka -1978

⁶ Article 27(2) (c) of the Constitution of Sri Lanka -1978

development. Fishing is one of the major livelihoods in the world. The Programme of Action of the World Summit for Social Development (POA) lists principles for sustainable development within the fisheries sector and impresses upon countries the importance of:

- (i) recognizing the traditional rights of fishery workers in the national context;
- (ii) enhancing income generation opportunities and diversification of activities to increase productivity in low-income and poor communities, including fisher folk;
- (iii) promoting patterns of economic growth amongst different occupational groups, including fisheries, that maximize employment creation (paragraph 31(g), 32(d) and 50(f)).

The UN Code of Conduct for Responsible Fisheries 1995, contains provisions to protect and safeguard the rights and entitlements of sustenance for artisanal fisher people. Article 6.18 explicitly refers to the need to secure access rights for small-scale fisheries and advocates that states:

“should appropriately protect the rights of fishers and fish workers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure and just livelihood, as well as to preferential access, where appropriate, to traditional fishing grounds and resources in the waters under their national jurisdiction”.

The World Food Summit in Rome (1996) reaffirmed the right of everyone to development and to be free from hunger. The concomitant plan of action detailed the creation of an Institutional Framework for Sustainable Fisheries Development to enable States to achieve their commitments.

In Sri Lanka also fishing is one of the major traditional livelihoods. Its geographical location is suitable for fishing. Sri Lanka is situated in the Bay of Bengal in the Indian Ocean, Southeast of India, between latitudes 6^o N-10^o N and longitude 30^o C – 82^o E. It is in the Fishing Area 51 – Western Indian Ocean – according to the classification. The land area is about 65,000km² with a coastline of about 1,770 km. The width of the continental shelf rarely extends beyond 40 km and the average is about 25 km. With the declaration of the Exclusive Economic Zone (EEZ) of Sri Lanka in 1997, about 256,400 km of sea came under the national jurisdiction. There are, in addition, inland fresh water reservoirs to the extent of about 160,000 Ha, brackish water lagoons, estuaries, mangrove and mangrove swamps of about 120,000 ha⁷. Figure 1 shows the EEZ, Indo – Sri Lanka Maritime Boundary and the Historic Waters.

⁷ Territorial Use Rights in Fisheries (TIRFs) in Sri Lanka, Case Studies on Jakottu Fisheries in the Madu Ganga Estuary and Kattudel Fishery in the Negombo Lagoon Anton R. Atapattu.



Figure 1: EEZ, Indo – Sri Lanka Maritime Boundary and the Historic Waters

The fisheries sector plays an indispensable role in the economy of Sri Lanka contributing around 1.2% to the GDP. Fish products are an important source of animal protein, providing around 70% of the animal protein consumed in the country (Food Balance Sheet, Department of Census and Statistics). The sector provides direct and indirect employment to around 650,000 people and is directly linked with the lives of approximately 50% of the population who resides in the coastal belt. Fisheries sector contribution to the total export earnings of the country is around 2.5%. The fisheries sector has a significant scope for increasing the contribution to the national economy, exploiting the huge untapped potential⁸.

According to the report of the Ministry of Fisheries and Aquatic Resource Development, the total fishing household population is 699 920. Table 1 shows statistics of Marine Fisheries by fishing districts.

⁸ <http://regionalblog.chamber.lk/wp-content/uploads/2011/02/Fisheries-Sector-final-3.pdf>

Table 1: Basic Statistics of Marine Fisheries by fishing district, 2010

Fishing District	Number of Fishing Division	Total Fishing Households	Active Fishermen of Fisheries	Fishing Household Population	Fish Landings
Puttalam	8	12,710	15,570	58,720	52
Chilaw	11	9,980	11,520	40,990	63
Negombo	13	11,720	11,810	59,930	65
Colombo	9	1,690	1,850	6,810	25
Kalutara	9	4,430	5,020	20,970	39
Galle	9	14,030	14,910	29,720	79
Matara	9	11,690	12,690	39,640	33
Tangalle	12	8,560	9,920	28,980	47
Kalmunai	12	15,470	24,440	89,560	63
Batticaloa	15	19,790	29,670	93,870	138
Trincomalee	11	21,510	38,720	78,840	103
Mullaitivu	4	480	740	7,460	28
Jaffna	14	14,720	18,760	84,670	116
Kilinochchi	5	1,720	2,690	11,320	19
Mannar	6	16,490	24,430	48,440	73
Total	147	164,990	222,740	699,920	943

Source: Ministry of Fisheries and Aquatic Resources Development

In Sri Lanka the annual fish production increases each year. In 2012 coastal and off shore marine fish catch were 257,540 MT and 159,680 MT respectively. Table 2 shows the Annual Fish Production.

Table2: Annual Fish Production by Fishing Sub sectors, 2005 – 2012

Year	Marine Fish Catch		Inland and Aquaculture (MT)	Total Fish Production (MT)
	Coastal (MT)	Off Shore/Deep Sea (MT)		
2005	63,690	66,710	32,830	163,230
2006	121,360	94,620	35,290	251,270
2007	150,110	102,560	38,380	291,050
2008	165,320	109,310	44,490	319,120

2009	180,410	112,760	46,560	339,730
2010	202,420	129,840	52,410	384,670
2011	222,350	162,920	59,560	444,830
2012	257,540	159,680	68,950	486,170

Source: Statistics Unit – Ministry of fisheries and Aquatic Resources

Mannar district, including the Mannar Island, is surrounded by rich fishing areas. The most productive fishing ground lies in the Palk Bay and the Gulf of Mannar. When compared with the other parts of Sri Lanka, the sea of Mannar has a remarkable marine environment suitable for fishing. The Mannar district has a marine coast line with a stretch of 163 km, from Theavanpiddi in the north to Mullikkulam in south. Encircling the Mannar Island is a shallow continental shelf with rich fishing banks, pearl bank and prawn banks as well as an extensive area of 3,828 ha with brackish water and mangroves. In Mannar, 99% of the fishing is Coastal Fisheries. Figure 2 shows the administrative division in the Mannar district

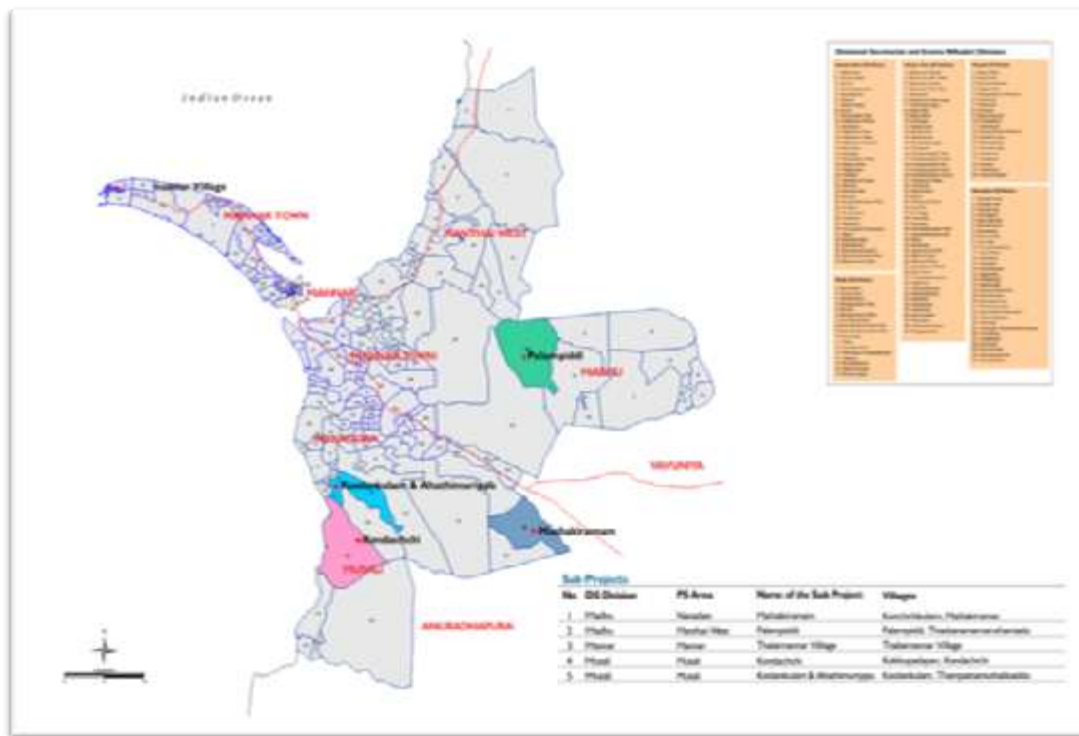


Figure 2: Administrative divisions in the Mannar District

The Mannar district comprises six Fisheries Inspector Divisions (FID) covering 38 fishing villages. These 38 villages have 50 landing sites. According to the Mannar district fisheries extension officers, the pre-war fisher folk population in Mannar consisted of 16,159 persons from 4,402 fishing families and 32 fishing villages, approximately 16% of the population of the district. Most of the fishing families have been displaced due to the war. During the peace process between the GoSL and the LTTE, some of the fishing families returned to Mannar and gradually

resettled in their villages, raising the number of fishing families to 7,033, at the end of 2002. This is 28% of the total population of the entire district⁹.

In Mannar a number of boats can be landed per km. Table 03 shows district wise Coastal length and shore facilities for fisheries.

Table 03 : District wise Coastal length and shore facilities for fisheries

District	Coastal length (Km)	Km per Fish landing	Number of boats per Km	Km per Beach seine
Negombo	35.06	0.31	126	1.0
Colombo	40.34	1.55	21	1.4
Kalutara	38.96	1.03	35	1.4
Galle	94.62	1.01	21	1.8
Matara	59.28	2.04	45	5.9
Tangalle	149.33	3.39	16	2.1
Kalmunai	116.57	0.96	20	19.4
Batticaloa	122.87	0.65	20	1.1
Trincomalee	215.85	2.63	20	1.9
Mannar	320.08	6.40	12	2.7
Puttalam	284.05	4.30	16	1.3
Chilaw	142.00	2.37	27	7.1
Killinochchi	306.32	18.02	1	15.3
Jaffna	624.56	5.48	10	4.5
Mullaithivu	67.23	2.80	12	2.2
Total	2617.12	2.46	16	2.6

Source: Census of fishing boats 2006/2007 by the Ministry of Fisheries and aquatic resources

⁹ <http://regionalblog.chamber.lk/wp-content/uploads/2011/02/Fisheries-Sector-final-3.pdf>

Two types of fishing methods are identified in Mannar. Those are traditional and modern. Kaddumaram (theppam) and vallam “oru” are the boats and set nets, beach-seines, castnet, traps and hand lines are the tools used in traditional fishing. Traditional methods are used by 30% in the fishing industry in Mannar. Trawlers (28-32 feet, IBM) and FRGB boats (17.5 - 23 feet, OBM) with trawl-nets, gill-nets and ring-nets are the modern fishing tools in use.

Among Sri Lankan fishermen, common property use associated with open access as well as exclusive use rights are found. Coastal fishing communities living close to fishery resources may find it profitable to have exclusive use rights in areas of the sea, lagoons, estuaries etc., which could be defended from outsiders. These rights are rarely legitimized or incorporated into the formal laws. There are advantages in having open access (i) the waste of resource is considerably reduced, (ii) economic waste is also reduced (iii) dissipation of rent is prevented and thereby the average income of fishermen is increased and (iv) there is less likelihood of disputes.

Most coastal conflicts are related to the fact that resources and space are finite and subject to ever increasing demand. A number of community-based fisheries have devised elaborate management systems that serve to address questions of equity, distribute access rights, and mediate conflict. A number of community-based fisheries have devised elaborate management systems that serve to address questions of equity, distribute access rights, and mediate conflict¹⁰.

The government has responsibility to safeguard the livelihood of fishermen, specially manage and prevent resource based conflicts. In Sri Lanka the Ministry of Fisheries and Aquatic Resources (MFAR) is the main fisheries policy-making body with responsibility for promotion, development, management of fisheries and control over the different executive bodies set up for enforcement and implementation of laws, regulations and projects. The chief function of the Department of Fisheries and Aquatic Resources and Coast Conservation Department is to execute the Fisheries and Aquatic Resources Act No. 2 of 1996 and the Coast Conservation Act No 57 of 1981, amended in 1989. Each department is administered by a Director General. Apart from that there are autonomous corporations- Ceylon Fisheries Corporation (CFC), Ceylon Fishery Harbour Corporation (CFHC). National Aquatic Resources, Research and Development Agency (NARA), Cey-Nor Foundation Ltd. (Cey-Nor), National Aquaculture Development Authority of Sri Lanka (NAQDA) and National Institute of Fisheries and Nautical Engineering (NIFNE) under the control of the Ministry.

In this report the analysis is of the issue between Joseph Vaz Nagar Fishermen and Uppukulam fishermen in the Mannar District.

¹⁰ Analysis of Fisheries sector of Sri Lanka, Institute of Policy Study of Sri Lanka

Objective

To ensure the right to livelihood of the Uppukulam Fishermen and Joseph Vaz Nagar Fishermen

Methodology

HRCSL conducted inquiries into certain issues related to Uppukulam Fishermen and Joseph Vaz Nagar Fishermen. The dispute related to arrest and detention which come within the HRCSL mandate. The inquiries were conducted at the HRCSL head office. The parties summoned before the Commission were the Petitioner – Uppukulam Representative and Respondents - Police, Divisional Secretary – Mannar)

A special discussion was held under the patronage of the Chairman – HRCSL about the dispute relating to Uppukulam Fishermen and Joseph Vaz Nagar Fishermen, at the Government Agent's Office. Relevant stakeholders were invited.

A fact finding mission was conducted. Individual and group interviews were organized with key representatives of Uppukulam village and Joseph Vaz Nagar village (religious leaders, rural development Societies, Women groups, Fisheries societies), Government authorities(GA, AGA, DS Mannar and Manthai west, Director – Fisheries, Coastal conservation officer, GN, Police) and Mannar fisheries cooperative Societies Union. Field visits were made to proposed sites and newly identified sites. Secondary data were collected from respective departments and media.

The report was prepared based on relevant facts, findings and observations.

Observations and Findings

1. Uppukulam Village

Uppukulam Village consists of two Grama Niladhari (GN) Divisions. They are Uppukulam South and Uppukulam North. According to the GN report(see annexure i), Uppukulam South GN Division has two villages. They are Uppukulam South and Konthapity. Table 04 clearly illustrates the composition of the population in the Uppukulam South GN Division.

Table 04: Ethnic wise population distribution in the Uppukulam South GN Division.

	Village	Tamil		Muslim		Sinhala		Total	
		Family	Members	Family	Members	Family	Members	Family	Members
1.	Uppukulam	122	361	304	1251			426	1604
2	Konthapity	06	09	58	253			64	270
	Total	128	370	362	1504			490	1874

Source: Uppukulam South Grama Niladhari's Report – October, 2013

According to the GN Report of Uppukulam North (see annexure i), there is only one village that belong to Uppukulam North GN Division. Table 5 clearly shows the population distribution of Uppukulam North GN Division.

Table 5: Ethnic wise Population Distribution of Uppukulam North GN Division.

Village	Tamil		Muslim		Sinhala		Total	
	Family	Members	Family	Members	Family	Members	Family	Members
Uppukulam North	415	1422	368	1447			783	2869
Total	415	1422	368	1447			783	2869

Source : Uppukulam North Grama Niladhari's Report – October ,2013

According to the report of GN Uppukulam North (see annexure ii) 50% of the population is Muslim in the Uppukulam North GN Division.

According to the Uppukulam South GN statement 30% of the Muslims were in the particular village during 1992 – 1994. In 2009 more than 90% of the Muslims were resettled in this particular village. Before 1990 around 30% of the Muslims were involved in fishing activities and 70% of them did business.

According to the Department of Fisheries and Aquatic Resources Report (see annexure iii) it is stated that the fishing population of the Uppukulam village is 300 (100 families) and also 40

active fishermen are in the village. Table 06 and 07 clearly show the fishing population and operating fishing craft in the Mannar District.

Table 06: Fishing population in the Mannar District

Fishing Population September 2013										
Fishing Division	Fishing Village	Fishing Families	Fishing Population	Active Fishermen	Women's Engage in This Active	Dependents	Displace Persons	Membership		
								Male	Female	Total
Pesali	Thalaimannar West	340	1,450	350	50	1,600	75	330	40	370
	Thalaimannar Pier	325	1,300	375	50	1,200	300	340	100	440
	Thalaimannar Station	60	265	55	10	160	150	100	20	120
	Nadukkudha	65	200	50	20	200	85	60	10	70
	Sriskanda	75	275	100	50	280	80	75	15	90
	Pesali	1,540	6,200	1,120	200	6,000	100	1,005	441	1,446
	Sub Total	2,405	9,690	2,050	380	9,440	790	1,910	626	2,536
Erukkalampiddy	Siruthoppu	60	252	100	50	252	150	79	7	86
	Periyekarisal	130	356	50	5	356	60	150	29	179
	Sinnakaraisal	250	1,005	100	10	1,005	250	200	10	210
	Toddaveli	100	450	75	20	350		100	20	120
	Erukkalampiddy	150	700	150	20	700	400	200	40	240
	Tharapuram	65	160	10				40		40
	Sub Total	1,080	3,973	885	155	2,953	1,210	1,069	111	1,180
Mannar	Pallimunai	705	2,986	800	300	1,200	160	790	27	817
	Panankaddikoddu	660	2,465	780	187	1,450	60	725	56	781
	Thalvupadu	100	450	40	30	220	20	134	1	135
	South Bar	80	280	60	30	145	30	116	5	121
	Periyakadai	602	2,000	450	280	1,125	80	420	47	467
	Uppukulam	100	300	40		260	40	107	7	114
	Sub Total	2,247	8,481	2,170	827	4,400	390	2,292	143	2,435
Nanattan	Vankalai	1,233	5,629	1,650	100	1,060	600	910	120	1,030
	Naruvilikkulam	86	562	85	10	120	35	115		115
	Achankulam	81	532	65	20	16	20	91	18	109
	Sub Total	1,400	6,723	1,800	130	1,196	655	1,116	138	1,245
Chilavathurai	Arippu	356	1,642	473	33	850		168	12	180
	Saveriya Puram	102	524	153	12	250		64	2	66
	Thomaiyar	20	62	24	4	35		24	4	28
	Chilavathurai	60	118	39		68		26		26
	Kulankulam	45	81	24		45		24		24
	Kokkupadayan	35	350	31	12	110		38	18	44
	Kondachchi	73	172	53		65		39	5	52
	Kondachikudah	51	198	65	22	75		52	18	56
	Karadykuli	110	450	45				100		100
	Mullikkulam	141	572	250				150		150
	Marichukaddy	200	410	120				150		150
	Sub Total	1,193	4,579	1,277	83	1,498		835	59	876
Vidaltivu	Pappamoddi	60	210	54	19	127	50	56	10	66
	Vidaltivu	251	918	26	58	605	50	282	20	302
	V. (Sakiya)	50	317	39		680	700	39		39
	Kalliady	55	160	42	20	98	25	46	10	56
	Illupaikadavai	85	304	90	20	194	50	98	15	113
	Anthonyar Puram	131	408	160	25	322	35	160	20	180
	Monarampiddy	138	415	140	36	245	30	148	15	163
	Thevenpidy	208	980	160	58	820	34	168	25	193
Sub Total	978	3,712	711	236	3,091	974	997	115	1,112	
Total	9,303	37,158	8,893	1,811	22,578	4,019	8,219	1,192	9,393	

Source: Department of Fishing and Aquatic Resource Report September 2013.

Table 07: Operating Fishing Craft in Mannar District

OPERATING FISHING CRAFT – SEPTEMBER 2013								
FI DIVISION	FISHING VILLAGE	MULTI	IDAY	OFRP	MTRB OBM	MTRB (NM)	BEACH SEINE	TOTAL
Pesalai	Talaimannar			100		47	6	153
	Talaimannar Pier			125		40		165
	Talaimannar Station			9		10		19
	Nadukkudah			21		5		26
	Sriskanda			22				22
	Pesalai	9	63	340		49	11	472
Sub Total		9	63	617		151	17	857
Erukkalampiddy	Siruthoppu			32				32
	Periyekarisal			27			2	29
	Sinnakaraisal			12				12
	Puthukkudiyiruppu			79		5	4	88
	Thoddaveli			30	25	20		75
	Erukkalampiddy			28	20	24		72
	Tharapuram			3				3
Sub Total				211	45	49	6	292
Mannar	Thalvupadu			136		5	9	150
	Panankaddikoddu			85	35	35	1	156
	Periyakadai			15	7	5		27
	South Bar			9	7	14		30
	Uppukulam			5				5
	Pallimunai		22	92	65	40	2	221
Sub Total			22	342	114	99	12	589
Nanattan	Vankalai			350		1		351
	Naruvilikkulam			24				24
	Achankulam			32		3		35
Sub Total				406		4		410
Chilavaturai	Arippu			165		86		251
	Saveriyar Puram			80	2	18		100
	Thomaiyar			3		2		5
	Chilavathurai			40		5		45
	Kulankulam			19		4		23
	Kokkupadayan			41		1		42
	Kondachi			25				25
	Kondachikudah			32				32
	Karadykuli			24				24
Mullikulam			10				10	
Sub Total				439	2	116		557
Vidaltivu	Papamoddai			3	6	20		29
	Vidaltivu			44	50	16		110
	Kalliady			2	5	8		15
	Illuppaikadavai			2	24	35		61
	Anthoniyar Puram			8	26	10		44
	Monrampidday			15	22	22		59
	Thevenpidday			20	24	10		54
Sub Total				94	157	121		372
Total		9	85	2,109	318	540	35	3,096

Source: Department of Fishing and Aquatic Resource Report September 2013

This fishing community has been using the “Konthapitty” fishing pier which belonged to Uppukulam area. The Uppukulam fisher folk have customarily used this Konthapitty Paadu exclusively. However after the expulsion of Muslims from the District in 1990 this Konthapitty Paadu was not used extensively due to absence of the Muslims from the area up to 2001.

According to the senior citizen society’s report (see annexure iv) it is stated that in the 1950’s period Konthapitty fishing pier was used by Sulthan Moraikar, Samsudeen, Aalimsha Neina Marraikkar with some others. They put up dry fish huts in this coastal area. They also purchased fish from Pallimunai and Panamkattikottu fishermen.

In the 1980’s period Kabir, Thajdeen, Anzar, Abdul Kalam, Pathan Saman, Kamal with some youths started fishing by small and big boats. They caught sea card and supplied to Sea Card Corporation adjoining of Konthapitty Pier.

In 1985 Uppukulam fisheries society was established. In 1987 the government declared a sea zone. Due to this 60 families were affected. The fisheries society made arrangements to provide stamps for them. In 1990, there were about 38 plastic boats and 6 big boats belonging to Uppukulam fishermen before being forcefully expelled by the LTTE.

Most of the Muslims were displaced and stayed in IDP camps in the Puttalam District. The fishing community continued their livelihood at Katpity.

After resettlement the fishing community based on the Konthaipddy pier started fishing and related activities such as icing of fish, making dry fish.

Normally all coastal areas belong to the state. But fishing communities in each village customarily have their own beach – front or pier exclusively used by fisher folks of that village to anchor their boats, fishing gear and to put up “Vaadies”. Therefore the Uppukulam fishing community has customary rights to use the “Konthaipiddi” fishing pier.

Joseph Vaz Nagar Relocated Village

Joseph Vaz Nagar belongs to Thoddaveli Mn/62 Grama Niladhari Division. According to the GN report(see annexure v) 331 families are in the Joseph Vaz Nagar relocated village. Most of them are Catholics. Table 8 shows more details of population of Joseph Vaz Nagar.

Table 08: Population details of Joseph Vaz Nagar

	Ethnicity			Religion			Gender	
	Tamil	Muslim	Sinhala	Hindu	Muslim	Catholic	Male	Female
No. of families	331			03		328		
Members	1318			10		1308	628	690

Source: Grama Niladhari Report – 30.10.2013

Their main livelihood is fishing. According to the Department of Fisheries and Aquatic Resource Report (see annexure iii), fishing population of Joseph Vaz Nagar is 450 (100 families). 75 active fishermen are in this village. 20 Women are actively engaged in fishing activities. They are continuing fishing at Vidattaltheevu sea area. After the displacement they temporarily anchored their vessels and fishing related activities in Pallimunai pier upto June 2000. Then they used Panamkatikottu pier temporarily up to December 2001. After that they have been using Kondapitty pier up to now.

Joseph Vaz Nagar people were displaced from Vidathalthivu in July 1990 and came to Pallimunai. Then they shifted to open refugees' camp at Pesalai. There were about 332 families from Vidathaltheevu.

In 2001 due to the efforts made by the Rev. Bishop of Mannar, they were relocated in Thottaveli from Pesalai open refugee camp. The Rev. Bishop allocated approximately 50 acres of church land for these displaced families and the particular land is defined and divided into lots of 10 perches. These lots were given to each family. One of the NGOs called Rural Development Forum provided 10' x 12' temporary sets. Caritas Sri Lanka built 299 toilets for this village. After that they permanently relocated in this village. On 31st of August 2001 this new village was named as "Joseph Vaz Nagar".

Approximately 328 families received lots. The Church authority made necessary arrangement to legally transfer the property in each family with the condition that each family has to pay Rs.40, 000/- on installment basis. After completion of payment the particular lot is transferred to particular persons' name by the way of deed of transfer. Up to now 100 families have made the payment and got their ownership. (Copy of transfer deed is annexed herewith – see annexure vi).

After that they changed the entire administrative correspondence to Joseph Vaz Nagar. They were registered under Thodavely Mn/62 Grama Niladhari's Division. They had voter's registration at Vidathalthivu up to 2011. In 2011 they transferred to Mannar Divisional Secretary Division. They cast their votes at the recent Provincial Council Election at Joseph Vaz Nagar. Around 200 families were registered under the Samurdhi Scheme and received Samurdhi benefits.

They formed the rural development society and it was ratified by the Rural Development Department – Northern Province. This was registered as Joseph Vaz Nagar Rural Development Society – NP/DRD/MA03/MNR – 062/0185 on 08.06.2008 (see annexure vii). They also formed Rural Fisheries Organization and Women's Development Society as well.

Joseph Vaz Nagar Fishermen have formed a Rural Fisheries Organization on 19.06.2011 accordingly the statement 07 in the section 03 of the constitution of the National Fisheries Federation with participation of 120 members at the Joseph Vaz Nagar (see annexure viii).

The Constitution of Sri Lanka ensures that every citizen is entitled to the freedom of movement and of choosing his residence within Sri Lanka¹¹. According to the statements, reports, legal documents, Joseph Vaz Nagar people have permanently resided more than 10 years at Thodavely GN Division, Mannar Divisional Secretary's Division in the Mannar District. They developed a social system in the Joseph Vaz Nagar, children go to school in the particular area. New families were formed and they registered in the particular area. Some of them are working in this particular administrative division. They discontinued all administrative correspondence which were in Vidathaltheevu. Therefore the present system is based on the relocated village of Joseph Vaz Nagar, although they have been using Vidathatheevu sea area for their fishing activities and also they have social relationship with the people owning properties at the Vidathaltheevu.

¹¹ Article 14(1) (h) of the Constitution of Sri Lanka - 1978

Issue between Uppukulam Fishing Community and Joseph Vaz Nagar Community

Joseph Vaz Nagar People were displaced from Vidathaltheevu to Pallimunai, the Pallimunai fishermen cooperative society allowed them to use the Pallimunai pier for fishing activities temporarily. Disputes arose between Vidathaltheevu fishermen and Pallimunai fishermen during that period. Finally Pallimunai fishermen society decided not to allow the Joseph Vaz Nagar fishermen to do fishing through Pallimunai pier.

Thereafter in mid of May 2000 Vidathaltheevu fishermen presently re located in Joseph Vaz Nagar had a discussion with the Panamkattikottu fishermen. They allowed Vidathaltheevu fishermen to do fishing through Panamkattikottu pier. In December 2001 Panamkattikottu fishermen were not allowed to do fishing through Panamkattikottu pier due to the dispute that arose between two fishermen's societies.

Joseph Vaz Nagar Fishermen have made a complaint to the Department of Fisheries and Aquatic Resources regarding this issue. After that the government authorities discussed about this matter and suggested to anchor Fisheries Harbour Corporation area to anchor the boats of Joseph Vaz Nagar fishermen.

Since 2002 Uppukulam Fisheries Community's (Konthapitty) customary fishing pier has been used temporary by the Joseph Vaz Nagar fishermen to anchor their boats and for other maintenance activities. Meantime LTTE sea tiger leader interfered in this matter and Uppukulam fishermen corporative society agreed to allow Joseph Vaz Nagar fishermen to use Konthapitty pier temporary with conditions. (see annexure ix)

After the agreed period ended Uppukulam fishermen society requested Joseph Vaz Nagar fishermen to vacate the Konthapitty pier. Joseph Vaz Nagar fishermen requested the Assistant Director of Fisheries to extend the period. He had a discussion with the Uppukulam fishermen corporative society and extended the period up to 10.08.2005. Further, after the interference of the one member of parliament of the Mannar District it was again extended for a period of one year.

Then by letter dated 10.03.2006 the Assistant Director of the Department of Fisheries and Aquatic Resources (see annexure x) and by letter dated 14.03.2006 the Government Agent, Mannar (see annexure xi) requested the Chairman of Ceylon Fisheries Harbour Corporation to allow to Vidathaltheevu displaced fishermen presently at Joseph Vaz Nagar to anchor their fishing crafts at the landing side of Ceylon Fisheries Harbour Corporation premises at Konthapitty, Mannar temporarily. By letter dated 15.06.2006 the Chairman of the Fisheries Harbour Corporation also agreed to anchor temporarily their fishing boats at the Ceylon Fisheries Harbour Corporation premises at Konthapitty, Mannar (see annexure xii).

According to the Joseph Vaz Nagar Fishermen's statements it was stated that Rs.3,000/- was paid unofficially per Vaddi to Uppukulam fisheries corporation society. They further stated that one of the higher rank army officers asked them to stop the payment. After that they did not pay. But they did not have any written evidence to prove this transaction.

In 2009 LTTE activities were completely suppressed. After that this issue was taken up in different backgrounds such as personal party politics and religious institution. This issue arose as a problem at district level.

Without any solutions the Uppukulam fishermen handed over an appeal on 07.08.2011 seeking the assistance from the Minister of Fisheries to settle the Konthapitty pier issue.

In response to the appeal handed over to the Minister of Fisheries by the Uppukulam fishermen, on the advice of the Assistant Director of fisheries and aquatic resources, a meeting was organized on 03.11.2011 in the presence of the President of the Federation of Mannar District Fishermen Association and other society members. At this meeting members had pointed out that when Erukalanpiddy and Uppukulam fishermen were displaced to Kalpity they were not allowed to fish at Kalpity area. At this meeting a decision was taken that Vidathaltheevu displaced fishermen should remove their fishing equipment on or before 30.11.2011 from Konthapitty pier. But that decision was not carried out by the Joseph Vaz Nagar fishermen and they continue fishing activities.

Another meeting was organized by the Superintendent of Police, Mannar on 07.06.2012 due to continuous pressure by Uppukulam fishermen. This meeting comprised representatives of Joseph Vaz Nagar fishermen and Uppukulam fishermen. That meeting was also not a success. Again it was decided to hold another meeting on 11.06.2012 under the patronage of the Government Agent. Some of the authorities did not attend this meeting. At this meeting it was decided to hold another meeting on 15.06.2012 at the office of the Divisional Secretary, Mannar. At this meeting also no concrete decision has been taken.

Therefore again it was decided to hold a meeting on 26.06.2012 under the patronage of the Government Agent at the Kachcheri. At this meeting permission was granted to put up temporary huts along the sea beach 100 meters long belonging to Coastal Conservation Department which is behind the North West of Youth Service Organization situated 3km away from Mannar town.

This permission was temporarily given to tie the boats at the allocated anchorage area and for their fishing activities to be carried out at Vidathaltheevu sea area. This permission was given with some conditions too (seen annexure xiii). Again DS stopped the use at this area because

this was private land. The land owner filed legal action against them on the ground of trespassing.

Because of the dispute the Government Agent (GA) requested the Joseph Vaz Nagar fishermen to stop utilizing the Konthaipiddy pier until an alternative solution was given. GA also agreed to provide dry rations to them. Because of that there was no fishing of Konthaipity pier from 29th of June to 11th of July 2012. Joseph Vaz Nagar fishermen were unable to manage without fishing because their one and only economic source was fishing. Therefore Joseph Vaz Nagar Fishermen had without prior notice, gone fishing at Konthapitty pier on 12.07.2012 and 13.07.2012.

On 13.07.2012 at about 2 p.m some Muslim people of Uppukulam came to the anchorage area and asked the Joseph Vaz Nagar fishermen to remove the huts. In the circumstances the dispute arose at this place.

According to the B report B396/2012 (see annexure xiv) submitted to the Court by the Mannar Police, it was stated that on 13.07.2012 evening some Uppukulam Muslims destroyed the 17 Vaddies worth Rs.1,59,000/-.

This case was called on 16.07.2012 and Superintendent of Police, Assistant Superintendent of Police, Head Quarters Inspector appeared before the Court. Meantime there were protests on 16th and 18th of July 2012 in front of the Court complex. The protest on the 18th turned violent. (see annexure xiv)

According to the B report (case no. B 401/12) dated 17.07.2012 (see annexure xv) by the Mannar Police it was stated that there was destruction of peace by both parties. It further stated that on 13.07.2012 some Muslims destroyed some vaddies which belonged to the Tamil fishermen. In this regard inquiry was conducted and report submitted to the Court. If this problem continues further between parties, it will lead to ethnic violence between Tamils and Muslims. Due to this violence several lives and properties will be lost. Therefore police pleaded of the Court.

1. To invite some members of both parties and request them to maintain the peace.
2. According to section 106 of the Criminal Procedure Code, order to prohibit organizing protests, rallies and unlawful activities
3. Order to be given to the GA and DS to find a suitable place. Police has also listed notice to be issued on the following parties.

1st Party

01. Anthonippillai

02. Johnson Burnod Dias
03. Sebamalai Jude Rosar
04. Francing Kingsly
05. Mahalingam Edwin Roch

2nd Party

01. Mohamed Alam
02. Hanifa Nazir
03. Unis Mahir
04. Uthuman Kamapawa
05. Noor Mohamed Hussain

3rd Party

01. Divisional Secretariat
02. Government Agent

According to the minute paper of the Court (see annexure xv) on 18.07.2012 the first party and the third party were present and the second party was absent. Complainant informed the Court that the second party refused to come to the Court and avoided accepting the notice which was sent by the Court. Further the Court ordered the DS and GA to take necessary action to provide alternative land. The third party requested three weeks time to take appropriate action.

On 06.08.2012 a report was submitted to the Registrar of District and magistrate's Court Mannar by the GA and DS (see annexure xvi). According to the report GA and DS organized a meeting with Fisheries Cooperative Societies and Fishermen's Rural Organization in the Mannar district. This discussion had gone on for more than two hours. Finally the following suggestions were made by the representatives of the societies.

- There are 1890 families (3900 members) actively engaging in fishing in the traditional villages of Pallimunai, Panamkattikottu, Southbar, Periyakadai, Erukkalampitty, Uppukulam and Periyakamam. Therefore they do not have enough space in the east and north coastal line to provide Thottavely fishermen landing rights.

They suggested 3 alternative places as follows,

1. Thalaimannar pier which is used by displaced fishermen
2. Near Thallady Army Camp – Thavady /Kilikarayan
3. A 32 Road and Ugilamkulam Road joining area called Nayatraveli

They also mentioned in the report that the first place which was suggested by government authorities is far from Thoddaveli. Other two areas are suitable and there is no by other fishermen interference. If Thoddaveli people considered suggestions as not suitable they have to go back to Vidathaltheevu and do fishing.

On 13.03.2013 a meeting was held at the DS office to discuss and resolve amicably the issues relating to "Paadu". But no decision was taken by the conclusion of the meeting.

On 19.03.2013 a discussion was held with HRCSL Chairman and officers at the GA's office. The Joseph Vaz Nagar fishermen organization's president sent a fax dated 19.03.2013 to HRCSL stating that they will submit the proposed locations before 20.04.2013(see annexure xvii).

According to the fax dated 19.03.2013 the President of the Joseph Vaz Nagar fisherman organization sent the letter addressed to Chairman HRCSL (see annexure xviii). In this letter the following suggestions were made.

Suggestion 01:- Northern side coastal beach area along the Pradeshiya Sabha Road leading to slaughter house Kondhapitty from Mannar Pallimunai main Road belongs to the state.

Suggestion 02:- Eastern side coastal beach area belongs to the state from St. Cross church on New Moor Street.

Letter dated 05.05.2013 addressed G/A Mannar by the Uppukulam Al-azhar fishermen's Cooperative society limited stated that they refused to provide the area which was mentioned in suggestion -01- by the Joseph Vas Nagar. They mainly highlighted that if that area was provided to Joseph Vaz Nagar unacceptable incidents will be occur in the future.(see annexure xix)

Letter dated 02.05.2013 addressed to GA Mannar by the Pallimunai St. Lucia's Fishermen's Corporative Society Limited stated that they refused suggestion 1 which was given by the Joseph vas Nagar fishermen because they have approximately 246 boats within a 200m coastal area. Therefore they do not have enough space. Simultaneously they refused suggestion 2 (St. Cross Church area) because this area was more suitable for fish breeding and also usage of boats affect the sea flora and fauna in the particular area. This situation will affect the small scale traditional fisherman who are engaging in fishing activities in this area. (see annexure xx)

The letter dated 04.05.2013 addressed to GA Mannar by the Erukkalampitty fishermen's society cooperative limited stated that they totally disagree with suggestions 1 and 2 which were proposed by the Joseph Vas Nager fishermen's organization.(see annexure xxi)

The letter dated 04.05.2013 addressed to GA by the Mannar district fishermen's cooperative society Union limited stated that they refused suggestions 1 and 2 which were proposed by the Joseph Vas Nagar fishermen. (see annexure xxii)

This issue was continuing without any proper solution. Again HRCSL's special team visited Mannar on 28th, 29th and 30th of October 2013 and observed the ground situation and collected all the relevant information regarding this issue. They visited the areas suggested by the government authorities and areas suggested by Joseph Vas Nagar People. During this field mission another site which is just past the Mannar Bridge was proposed by the DS Vidaththaltheevu.

On 04.11.2013 HRCSL held a meeting with Assistant Government Agent, DS Mandhai West, Assistant Director of Fisheries and Aquatic Resource Department, President of Uppukulam fisherman society, President of Panamkattikottu fisheries society and President of Joseph Vaz Nagar fishermen organization regarding the proposed new site. The Joseph Vas Nagar fishermen organization agreed to the proposed new site but Panamkattikottu fishermen's society did not give their consent at the time and they requested more time to discuss with their members. (see annexure xxiii)

Panamkattikottu fishermen society limited sent a letter dated 4.11.2013 to HRCSL. It stated that the proposed new site (near the Mannar bridge) is customarily used by the Panamkattikottu fisherman. If this site was provided to Joseph Vaz Nagar fisherman unacceptable incidents will happen in the future. Therefore they refused to provide this site to Joseph Vas Nagar fishermen. (see annexure xxiv)

Observations related to this issue

It has been observed that Konthapitty pier was customarily used by the Uppukulam fishermen up to 1990. This pier was totally abandoned after the evacuation of the Muslims by the LTTE. In the circumstances Joseph Vaz Nagar fishermen make use of this pier without any interferences and started their fishing activities in this particular pier in 2001. After 2002 with the ceasefire agreement (MoU), Muslims gradually started to resettle in their own places. Even though they were voiceless due to LTTE indirect influences prevailed in the Mannar district. Because of their survival, Muslims enormously tolerated this situation and carry out their livelihood with difficulties. With all pressure Uppukulam Muslim fishermen agreed to the use of Konthapitty pier temporarily by the Joseph Vas Nagar fishermen. This was clearly highlighted in the agreement which was made with the mediation of LTTE sea tiger leader and at other frequent meetings with LTTE.

This situation turned the other way round after 2009. LTTE activities were suppressed and totally eradicated. After that most of the Muslims returned and resettled in their own places. They started their livelihood activities including fishing in particular area. Therefore necessity arose to utilize their Kondapitty fishing pier which was customarily used by the Uppukulam fishermen before 1990.

Joseph Vaz Nagar fishermen were not concerned about the Uppukulam fishermen's requests and continue their activities with indirect external support. Since 2002 disputes started between Uppukulam fishermen and Joseph Vas Nagar fishermen. These disputes gradually expand. Most of the time both parties tolerated and tried to avoid disputes between them. Anyhow this dispute came to a peak and unable to tolerate this situation, some Uppukulam society members destroyed the Varddies which were built in the Kondappitty pier. This incident was not justifiable. It should be avoided whatever the situation. This incident gave a negative image about a particular community. All the citizens should obey the laws and administrative procedures that prevailed in the country.

Joseph Vaz Nagar fishermen have been using Kondappitty pier more than 10 years with the help of different external supports. They are mainly using Kondappitty pier to anchorage the vessels, maintain the fishing equipment and for selling fish. But they are fishing in Vidaththaltheevu sea area. They are not using the Uppukulam fishermen's sea area for the fishing purposes. They also strongly agreed that this pier did not belong to them, it belonged to Uppukulam fishermen. They are using temporarily until they get alternative anchorage place. Still they did not get a proper place and make use of these opportunities to continue the fishing activities in the Konthapitty pier.

Government authorities did not handle this issue properly. They did not make a real effort to provide permanent and sustainable solution regarding this issue. They only interchanged the fisheries society's views between parties. This situation was clearly reflected in several reports and letters exchanged to the competent authorities like the Courts and HRCSL. According to the report which was submitted to the Magistrate's Court by the Government Agent three alternative places were suggested.

One is Thalaimannar pier which is deep sea area. Fishermen normally called it "male sea". Joseph Vaz Nagar fishermen's customary fishing practices did not fit deep sea fishing. They do not have equipment relevant to deep sea fishing. In addition to that this pier is far from the relocated place (Joseph Vas Nagar).

Second alternative area is Thallady. This area should be developed according to the requirements of fishing activities such as cutting a canal, building a road, anchorage place etc. At present that area is not suitable for fishing activities. This is a costly and time consuming

process. The government wants to start a separate project. Also geographical structure specially soil type also affects the accessibility of sea. There may be disputes with Papamortai fishermen. Further there is the Sanctuary near the proposed area.

Third alternative place is Nayatravelly. This is very far from Joseph Vaz Nagar. Therefore the Government proposed areas are practically not suitable to Joseph Vaz Nagar fishermen. These alternative places and the only benefit is totally isolating the Joseph Vaz Nagar Fishermen from Pallimunai, Pannankattukottu and Uppukulam areas. Even though this proposal was given by the societies based on that they prepared and forwarded to the court. There is no any compromise or acceptable suggestion. This was rejected by the Joseph Vaz Nagar fishermen too. There is no reasonable solution. Government authorities should have done a proper feasibility study when they proposed alternative areas. Without doing anything they only considered the society's suggestions and are unable to take an appropriate decision. There were no any expert's reports or consultations regarding these alternative areas.

It clearly shows that the authorities purposely drag the issue. This will affect the community's harmony and peace. This type of duty bearer's irresponsibility will create inter community disputes further and further. This situation is very hard to reconcile both communities. Still each Fishermen's Society has boundary problems. This will not be solved by the government authorities. Without a proper boundary, it is not possible to come to a proper solution. On 09.05.2002 Divisional Secretary Mannar requested a surveyor to define the boundary of Uppukulam and Pallimunari Village but still it is not completed.(see annexure). Further HRCSL requested the boundaries of the Uppukulam, Pallimunai and Panakattukottu fishing area. But they sent an inappropriate report. (see annexure xxvi)

There was a Fishermen Harbour Corporation land at Mannar. There is a remaining building and tanks are evidence of that. On the request of Chairman Fisheries Harbour Corporation Sri Lanka, Survey Department measured demarcated land area. This was done by the District Survey Office, Vavuniya on 16.10.2006. (see annexure xxvii). But now this land was claimed by the DS Mannar. It is also observed that some Muslim families were settled without facilities in this area. Still there is no proper documentary evidence whether this land area was officially handed over to DS Mannar or not. Further HRCSL clarified with Fisheries Harbour Corporation and they confirmed that they have land which belongs to Harbour Corporation at Konthapity area. (see annexure xxviii)

Joseph Vaz Nagar Fishermen earlier used Pallimunai fishing pier. After that they came to Konthapity fishing pier. Both fishing villages did not allow them to stay for a long period. This clearly showed that there were disputes between them. This is mainly because of intolerable activities taking place that cannot be accepted. That is why still Pallimunai and

Pananmkattukottu fishermen do not forgive them. Therefore they tried to move them out of the Mannar Island.

Both fishing communities' livelihood is based on fishing. Because of the dispute livelihood is severely affected. According to the President of Women's Rural Development Society of Josep Vaz Nagar it is said that due to this problem livelihood is severely affected. Therefore it is unable to pay the loans. Uppukulam Women forum also said that due to this problem livelihood is severely affected. There were court cases also filed against their spouses. Due to that they have fear about their husbands that they will be arrested again. They do not have security. Because of these conditions of them sometimes family problems also arose. Due to this women and children are also affected in many ways and become more vulnerable.

Meantime Uppukulam fishermen did not continue the fishing. They said that after this incident police did not allow them to do fishing. But police refused this statement. And further they said that there was no complaint regarding this. A particular case clearly stated that by order of magistrate on 16.07.2012 no officer has the authority to stop the fishermen from going to sea. All citizens have rights to act accordingly. Sri Lankan laws are ensured in the Sri Lanka Constitution. Nobody has authority to stop their rights. But Muslim fishermen do not actively engage in fishing through the Konthaipity pier. Only very few boats are observed in the seashore. Some said that those boats are kept at home. Some are anchored under the Mannar bridge.

Recommendations

A) Specific Recommendations

1. Uppukulam fishermen have been using Konthaipity pier for a long time. Therefore relevant government authorities should take necessary action to provide the Konthaipity pier which is demarcated and declared by the relevant government authorities. It should be done within one month's time. In addition to that government authorities should provide necessary facilities which are entitled to Uppukulam fishermen. Further the government authorities should provide adequate security until they settle down to their normal lives. Fisheries and Aquatic Resources Department has to monitor their fishing activities on periodic basis and report to the relevant authorities.
2. The entire coastal area comes under the state. The fisheries communities have a set of norms to utilize the coastal area to avoid disputes. These norms are converted into customary rights. Normally customary rights include a particular fisheries community's right to access of the coastal area, selling fish, maintaining the fishing equipments, putting huts. The government is mainly concerned about the right to life of the fishermen. If there is any contradiction between right to livelihood and customary rights the government should be concerned about the right to livelihood based on the laws.

The government should be concerned about the availability of resources and proportionate share according to the necessity and population of the fishermen. The Uppukulam coastal area consists approximately 1 km (it may vary) and Pallimunai coastal area consists approximately 2 km (it may vary). There is an unused and abundant coastal area (near the Slaughter House) in between Uppukulam and Pallimunari coastal areas. 5% each from the total area of Uppukulam and Pallimunai can be allocated to Joseph Vaz Nagar for a defined period until a long term proposed area's construction is completed by the government authorities. This should be informed to court.

The government authorities should give permission with certain conditions specially as the Joseph Vaz Nagar Fishermen cannot utilize the sea area which belongs to the Uppukulam fishermen or Pallimunai fishermen and they have to go fishing in the Vidattaltheevu sea area. Joseph Vaz Nagar fishermen only use this proposed area to anchorage the fishing vessels and maintain the fishing equipment. They also have to do fishing without any interruption from Uppukulam and Pallimunai fishermen. The government authorities should give proper security to Joseph Vaz Nagar fishermen fish without any interruption.

Within three months period this work should be completed. The fisheries and Aquatic Resource Department should closely monitor the progress and submit the report to relevant authorities.

3. Government should do proper feasibility studies in the suggested areas such as Thallady and near the Mannar bridge areas. Based on the feasibility studies they should select an appropriate place and design a proper project. After completion of the project government authority to be appointed as a competent authority / committee to confirm the appropriateness of the site.

B) Other Recommendations

1. Relevant government authorities should take necessary steps to demarcate the coastal area boundary for each fisheries society according to the requirement and availability of resources.
2. Fisheries and Aquatic Resources Department and relevant ministries should take a pro active role to minimize fisheries dispute in the future under laws and regulations.
3. There will be a possibility to increase resource based conflict in the future. Therefore government authorities should draw action plans or policies to ensure the rights of the fishermen and their livelihood.
4. Programmes will be very essential for multi ethnic, multi religious groups and different social orders are in the Mannar District. Government authorities should develop social integrity, tolerance related programme among fishing communities. These types of programmes reduce misunderstanding and misperception and increase mutual understanding among the communities.
5. Political parties and Religious groups should be concerned about ethnic harmony of the particular district. They should have a strong cooperation and coordination to ensure sustainable peace.