


- i) MEA's Summary background note for meeting of the Informal Consultative Committee (March 1968).
- ii) Record of Discussion of meeting between then Foreign Secretary and then Chief Minister of Tamil Nadu in June 1974.

Yours Sincerely,



(Ajay Jain)

Under Secretary
CNV&I division

12.3.2024

P. P. P.

OK

Meeting of Informal Consultative Committee (19.3.68)

subject for discussion proposed by Shri B.K.P. Sinha:

The Katchathivu island in the Palk Straits and the dispute regarding the sovereignty over this tiny strip of land.

BACKGROUND NOTE

Katchathivu is a small uninhabited island about 1 mile long and about 300 yards across. It is situated in the Palk Bay at a distance of about 18 miles from Rameshwaram island, 10.5 miles from Delft island (Ceylon) and 20.1 miles from Mannar Coast (Ceylon). The island is covered with thorny shrubs and there is practically no vegetation. The only structure on the island is a small Roman Catholic church with a tiled roof. An extension recently built provides some shelter against sun and rain. Roman Catholic fishermen are said to have constructed the church and the extension; nationality of these persons or the date of construction are not known. Just outside the structure, there is a small statue of St. Anthony on a brick and cement base. There is no fresh water on the island. A circular tank has been constructed to store fresh water for the use of the pilgrims who visit the island for the annual festival held in March.

2. There are no inhabitants on the island which is used by fishermen, most of whom are from India and a few from Ceylon, during the fishing season which lasts from February to April. It has been alleged by the Ceylonese authorities that illicit immigrants from India use the island as a hide out prior to their entry into Ceylon.

3. The political status of the island has been a matter of controversy for over 50 years. It is part of the landed property of the Raja of Ramnad. The Government of Madras have taken over the entire property of the Raja and the State Government claim that the island is part of Madras State.

4. The question of the ownership of the island had come up for discussion at a conference on fishing rights held in 1921 between representatives of India (including representatives of the Government of Madras) and Ceylon. The then Government of India accepted the Ceylonese claim to the island subject to the Zamindari rights of the Raja of Ramnad and intimated the Secretary of State for India accordingly. Since the Conference in 1921 concerned fishing rights and delimitation of waters between India and Ceylon, the proceedings appear to have been forwarded to the Admiralty in U.K. They raised certain objections and the Secretary of State, therefore, did not ratify the proceedings of the Conference. The matter was allowed to rest the question of sovereignty was not touched in this Conference.

5. The Government of Ceylon have, however, exercised de facto control over the island and exercises by Ceylon Defence Forces.

Defence forces are said to have been held on the island. Soon after Independence, the Royal Indian Navy intimated the Government of Ceylon its intention of holding certain exercises on the island. The Government of Ceylon stated that the prior permission of the Government of Ceylon was necessary before the exercises could be held. The exercises were not held.

7. The issue came up again in 1955 when the Director of Civil Aviation in Ceylon intimated to his counter-part in India that Royal Ceylon Air Force would carry out some gunnery practice on the island. This intimation is said to have been given as the area fell under Madras Flight Information Region. The Indian authorities replied that the matter was under consideration.

8. The Civil Aviation authorities in India referred the matter to the Ministry of External Affairs for clarification regarding the ownership of the island. While the matter was still under examination, there was a press report in Ceylon that the Director of Civil Aviation in Ceylon proposed to authorise the Ceylonese Air Force to use the island for gunnery practice. The Indian High Commissioner took up the matter with the Ceylonese authorities and requested them not to implement this decision till further particulars were available regarding the ownership of the island. He also referred the matter to the Ministry.

10. Questions have been tabled in the past in the Parliament on this subject and the answer has been that the time was not opportune for discussing it with the Ceylonese authorities.

11. The legal aspects of the question are highly complex. The question had been considered in some detail in this Ministry. No clear conclusions could be drawn as to the strength of either India's or Ceylon's claim to sovereignty over the island. For the sake of convenience a note recorded by the then Commonwealth Secretary, Shri Y.D. Gundevia, in response to a minute from the late Prime Minister,

Shri Jawaharlal Nehru is included, as annexure I. The upshot was that, even though our late Prime Minister, Shri Nehru, wanted to settle the matter one way or the other, it was considered that the situation at that time (May 1961) was not propitious for discussing the matter with Ceylon. This was primarily because of the disturbed internal situation in Ceylon. For the sake of convenience, the text of Shri Nehru's observations on Shri Gundevia's note are given below :-

"I attach no importance at all to this little island and I would have no hesitation in giving up our claim to it. I do not like matters like this pending indefinitely and being raised again and again in Parliament.

"It is true that with the present conditions in Ceylon as they are, this is not the right time to raise any matter with them.

Sd/- J. Nehru"
10.5.61

(F.No.14(1)-BC(c)56, p.64-notes).

11. As regards the international law aspects of the question, an extract from a note recorded by Dr. K. Krishna Rao, Joint Secretary (L&T) in 1960 is given below :

"Judged purely from the evidentiary value of competing claims, I submitted above that those of Ceylon are more substantial. On the other hand, it may be noted that India has a good legal case, which could be argued with considerable force. I am not suggesting that we have no case at all. I submit that our legal case in this connection may be used to obtain fishing rights around the island".

(File No.14(1)-BC(C)/65, p.136-corr.)

The then Attorney General, Shri M.C. Setalvad, in his opinion had indicated as follows :

"The matter is by no means clear or free from difficulty but on the assessment of the whole evidence it appears to me that the balance lies in favour of concluding that the sovereignty of the island was and is in India".

(Opinion of 19th October, 1958; F.No.14(1)/BC(C)/56, p.111corr)

Ministry of External Affairs

In a Minute dated 13.4.61, the Prime Minister had asked why we did not take up the question of the Kachch Thivu island with the Ceylon Government and settle it one way or another.

2. I regret I have delayed answering the question; but this was because I thought I would explain matters to P.M. personally, and this has not been possible because of the P.M.'s other preoccupations.

3. We have periodically debated whether we should take up this issue with Ceylon or not, almost every time a question is asked in Parliament, and there is a question in the Lok Sabha every Session. Two reasons, mainly, have led us to feel that the matter had best be left alone:

(a) It is not certain that our claim to the island can be easily established in law. The legal aspect of our rights on the island have been examined exhaustively and the conclusion seems to be that our case is not strong - it may be, at best, fifty - fifty.

(b) The completely unstable political situation in Ceylon, constantly since 1957, it is felt, is not the right atmosphere for any honest, healthy discussion. I once raised this with the late Mr. Bandarnaike, on my own initiative, and all he said to me was, very typically, leave it alone, for goodness sake, my dear man! Ceylon newspapers, once in a way, come out with this issue; but the Ceylon Government has never suggested a discussion in recent years.

4. When the Ceylon Government is not anxious to discuss the issue, I would submit that it would not be in our interest to take the initiative and risk having to give up the island. It is an uninhabited little cluster of rocks and sand (with the ruins of a Christian Church on it) and is not really important to anybody, except sometimes as a refuge for fishermen - or illicit immigrants!

Sd/- Y.D. Gundevia
10.5.1961.

PM.

as desired by Foreign Secretary, I place below,
in duplicate, a record of the talks held in Madras on
19 June 1974 between the Chief Minister of Tamil Nadu
and the Foreign Secretary in connection with the
consideration of the question of Kachchativu.

B.K. Basu

(B.K. Basu)
Dir(HD)
21/6/74

F.S.

Foreign Secretary, Shri Kewal Singh, accompanied by Director, Historical Division, Shri B.K.Basu, called on the Chief Minister of Tamil Nadu, Shri M.Karunanidhi, at the Secretariat Conference Room, Fort St.George, Madras on 19 June, 1974 at 11.00 a.m. At the meeting which lasted for more than an hour, the Chief Minister was assisted by the Tamil Nadu Chief Secretary, Shri P.Sabanayagam and later also by the Home Secretary, Shri S.P.Ambrose.

2. After the exchange of courtesies, Foreign Secretary explained the purpose of his visit. Recalling the talks he had in New Delhi with the Chief Secretary on 13 October 1973 and with the Chief Secretary and other officials of Tamil Nadu Government in Madras on 14 October, 1973 before the Indo-Sri Lanka official level talks in Colombo on 15-16 October, 1973, Foreign Secretary said that the purpose was to keep the Tamil Nadu Government fully informed of the developments in the talks with Sri Lanka and get the benefit of the views and suggestions of the Tamil Nadu authorities.

3. Foreign Secretary then gave a resume of the talks held in Colombo in October, 1973, which consisted mainly of a free, frank and full exchange of the views by both sides on the issue of sovereignty over Kachchativu. At these talks, the Indian side presented as strong a case as possible on the basis of the evidence collected at various record offices in London, The Hague, Goa and Tamil Nadu (Madras and Ramanadapuram). The Indian case rested mainly on the claim of the Raja of Ramnad that the island of Kachchativu belonged to him from time immemorial and formed part of the Zamindari as granted to him by the East India Company in 1603. It is especially in that capacity that he exercised the rights not only over Kachchativu but also in relation to fishery and other resources in the area adjoining the island. The Raja exercised these rights continuously and uninterruptedly from 1875 to 1948 as is evidenced in the various leases executed for the fishing

rights, collection of dye roots and chank shells. After the Ramnad Estate was taken over in 1949 by the Government of Madras under the Estates Abolition Act(1948) the rights over the island exercised by the Raja of Ramnad prior to 1948 continued thereafter to be exercised by the State of Madras as the owners of the Zamindari. The Madras Government renewed leases in 1949, 1965 and 1967.

4. A second line of argument in favour of India's claim was the continuous exercise of jurisdiction in the form of visits by Customs/Excise officials in (1963, 1964, 1965, 1966 and 1968), survey teams etc. and the traditional visits to the island of pilgrims and fishermen from India. It was pointed out that at no time during his exercise of these rights over Kachchativu had the Raja of Ramnad ever derived any title from the Government of Ceylon or paid any tributes or taxes to Ceylon in recognition of its overlordship or sovereignty. Similarly, in the exercise of jurisdictions through visits by Customs/Excise officials survey teams, there was no interference from the authorities in Ceylon. For instance, in conducting the Triangulation operations (1874-76), at no stage did the Government of India approach the Ceylon Government for permission or for sharing the costs of operations in Kachchativu. Stress was laid on the absence of any contractual relations at any time between the Raja and Ceylon and the existence of such relations between him and India.

5. The Indian side also drew attention to the absence of any documentary evidence to prove the original title of Sri Lanka to Kachchativu from historic times. In the numerous records of the Dutch Governors of Ceylon and the Commanders of Jaffnapatnam in the form of Memoirs and Instructions covering the period from 1650 to 1766, no direct reference was available indicating that Kachchativu was included within the limits of Jaffnapatnam. Similarly, the three proclamations issued in the name of Queen Victoria in 1845, while listing and describing the islands forming part of Jaffnapatnam do not mention Kachchativu. The omission is certainly significant so as to draw the conclusion that Kachchativu did not form part of Ceylon during the Dutch/British periods. Dutch and

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earliest maps of 16th and 17th centuries as to the only direct evidence of Kachchativu belonging to Ceylon. The only exceptions are (a) the instructions issued in 1653 by the Governor of Ceylon to the Commander of Jaffnapatnam, in which "Caatchiadeive" (identified in a footnote as Kachchativu) is included among 5 uninhabited islands within his jurisdiction and (b) some Portuguese maps which refer to the "Isle de Galo" or "Chagodina", which were meant to refer to Kachchativu, as belonging to Ceylon.

6. The Sri Lanka side, however, took a very determined position on the question of sovereignty over Kachchativu, which according to them rested with Sri Lanka from historic times. They referred to records dating back to 1658 establishing the island as part of the kingdom of Jaffnapatnam. There were Dutch and British maps showing Kachchativu as part of Sri Lanka territory. This position was further buttressed when the Government of India on several occasions, had either made admissions that the island belonged to Ceylon or had not refuted when such assertions were made by Ceylon. Thus a Survey Party from India had in 1874-76 referred to the island as belonging to Ceylon when the establishment of Trigonometrical survey stations on Kachchativu was considered. This was left unchallenged. In 1910, the Ceylon Government, claiming the island as theirs, requested removal of the Trigonometrical survey stations. While replying to this letter the Government of India had not protested against this statement. Admissions to the same effect were made in Topo Sheet No. 58-0 of Triangulation in India and Adjacent countries (1915). In 1921, the Ceylon side had asserted their sovereignty over the island during discussions to demarcate the fishery line in the Palk bay. The Indian side, while not admitting the territorial claim and reserving their position on that, agreed to determine the line three miles west of Kachchativu, leaving the island on the Ceylon side. After the Conference of 1921, the Government of Madras having investigated the question for three years could not adduce sufficient evidence to establish original title to the island on the part of the Raja of Ramnad. Accordingly, in June, 1924, the Government of

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India recommended to the Secretary of State in London that they were disposed to recognise the claim of Ceylon over Kachchativu, subject to such rights of ownership as may be established by the Raja of Ramnad which were, however, considered as irrelevant to the question of sovereignty. This position is very well known to the Sri Lanka side and has been a strong point in their arguments.

7. The exercise of jurisdiction over the island since 1924 by Ceylon has been more or less continuous without any challenge or protest from India. Ceylon enacted legislation in respect of Kachchativu in 1944, which established the island as a naval bombardment range. These regulations were renewed in 1950-51 and the Ceylon Government asserted "the range has since continued to be used as such with the knowledge of the Government of India". In October 1955, the island was used for this purpose by the Ceylon Air Force, without any protest from the Government of India. On the other hand, Indian desire to use the island for naval exercises in 1949 was challenged by Ceylon; She insisted on obtaining prior express consent for this. Ceylon also stated that their administrative officers have made regular visits to the island, surveyed it and included the island for census operations.

8. After describing the respective stands of the Indian and Sri Lanka sides, Foreign Secretary explained to the Chief Minister of Tamil Nadu the relative weakness of India's case for sovereignty over Kachchativu as compared to that of Ceylon. Although the Raja of Ramnad had claimed that the island belonged to him from time immemorial there is no document which establishes his original title to the island. The island is not mentioned in the Ramnad Manual nor in the Sanad granted to him in 1803 which listed some 21057 villages as comprising the entire zamindari. There is no map in which the island has been shown to be a part of India. On the other hand, Sri Lanka has in its possession direct evidence to establish that Kachchativu has been included within the territory of Ceylon for several centuries. The island is mentioned, during the Dutch period, in the

Instructions issued by the Governor of Ceylon to the Commander of Jaffnapatnam. Kachchativu, spelt as "Caatchindive", is listed one of the five uninhabited islands included among the five provinces of Jaffnapatnam. Our study in London, at The Hague, in Goa and in Bombay had also shown that during the Portuguese period (1505-1658) Kachchativu is shown as the 'Isle de Calo' and later as 'Chagodina' which in Portuguese glossary is explained to mean Kachchativu. Besides, Sri Lanka side is very much aware of the correspondence between the Government of India and the Secretary of State during 1921-24 which ultimately led to the recommendations of the Government of India that Kachchativu belonged to Ceylon.

As regards continuous jurisdiction, again, on balance, Ceylon's exercise of sovereignty over Kachchativu has been more or less continuous, at least since 1925, without any protest or reservations by India. In comparison, the exercise of jurisdiction by India is more recent. Foreign Secretary further mentioned that the legal aspects of the question were exhaustively examined by the Attorney-General of India in August 1970 who advised that "on balance, the sovereignty over Kachchativu was and is with Ceylon and not with India".

9. Sri Lanka side being convinced of the superiority of their case, and also aware of the shortcomings of our case, had maintained a sustained pressure on us to refer the issue to the International Court of Justice for a decision, if we could not settle it bilaterally at an early date. Foreign Secretary then mentioned that Sri Lanka had envisaged a certain time-table for the settlement of the issue. After the meeting in Colombo in October 1973 they insisted on the urgency for an early solution, in no case later than the end of 1973. For various reasons it had not been possible to adhere to this time schedule, but the pressure since October, 1973 has been unrelenting. During Mrs. Bandaranaike's visit to India in January, 1974 and during the subsequent visits of Sri Lanka's Foreign Secretary, the latest being on 10-11 June, 1974 with messages from his Prime Minister, the urgency of arriving at a settlement by the end of June 1974 was stressed.

10. At this stage the Chief Minister wanted to know whether the issue cannot be kept pending for another two years. Foreign Secretary pointed out to certain domestic and external compulsions, favouring an expeditious settlement. Among the domestic compulsions, Foreign Secretary stated, in strictest confidence, that oil structures are reported to have been located in the area and that at present, the Sri Lanka side is presumably not yet aware of this. If settlement is delayed and knowledge about oil strike becomes available, settlement will become more intractable. Among the external compulsions, Foreign Secretary mentioned the persistent threat from Sri Lanka to begin to exercise jurisdiction, in view of the extensive drilling operations they have already begun in the Gulf of Mannar area. Moreover, Foreign Secretary pointed to the existence of a very strong pro-Chinese lobby in Sri Lanka which is eager to take advantage of any misunderstanding between India and Sri Lanka and which may be urging them to refer the dispute to arbitration or even go to the World Court to embarrass India. Thus any further delay in solving the issue would in effect be playing into the hands of elements inimically disposed to India. The present stage, when the relations with Sri Lanka are cordial and when the knowledge of oil strikes in the area is not open, and in view of the basic weakness in our case, it was time to consider such solutions as would not adversely affect our overall interests in the waters between India and Sri Lanka.

11. Foreign Secretary then said that he had the authority of Prime Minister and Foreign Minister to put forward to the Chief Minister of Tamil Nadu for his consideration a compromise proposal which would divide the historic waters in the Palk bay between India and Sri Lanka in such a manner that the boundary line will, rather than pass some three miles west of Kachchativu as in 1921 fishery line, pass some 1-2 miles west of Kachchativu. The boundary line will divide the historic waters for all purposes and give ~~the~~ India a larger share thereof than under 1921 line. At this stage, the Chief Minister, while appreciating the urgency and need for a bilaterally negotiated compromise

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settlement, wondered whether the issue could not at a later stage be referred for an opinion to the World Court. Foreign Secretary explained the difficulties inherent in arbitration by a third party. He said we wish to avoid arbitration on principle and in the light of our experience in the past over Kashmir in the Security Council or of arbitration in the Kutch case, and more recently on the question of hijacking of an Indian plane to Pakistan and the consequent banning of over-flights over Indian territory. The objective impartiality of a third party cannot be taken for granted. Besides, world opinion tended to side with a small against a big country. An adverse judgement by a third party would deprive us of advantages which might be secured by bilateral political negotiations. Foreign Secretary also reminded that the late Chief Minister Annadurai did not favour arbitration as a medium to settle the question of Kachchativu. Any course other than political negotiations would harm our national interest and would augment influence of other foreign powers (e.g. China) and adversely affect our security and economic interests.

12. Foreign Secretary then explained the proposal under consideration. This consisted essentially of accepting the delimitation line drawn in 1921 which ran 3 miles to the west of Kachchativu, subject to some modifications and adjustments. Foreign Secretary explained, with the help of charts the two alternative lines proposed. One of these lines (D1) would run one mile to the west of Kachchativu and the other (D2) two miles to the west of island. Line D1 would keep the reported oil structure almost entirely on our side of the line while D2 would secure 60% of the oil structure. The ostensible reason for the lines would be to ensure the maintenance of traditional fishing and other rights enjoyed by Indian nationals on and around the island, which would now fall on the Sri Lanka side of the line. This, Foreign Secretary explained, would be the maximum that can be extracted from Sri Lanka, which had at one stage put forward claims running as far as 7 miles west of Kachchativu. At one stage they even insisted on introducing visa and other travel documents to regulate visits to the

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...by Indians. However, because of my strong stand, I finally agreed that Indian fishermen and pilgrims will enjoy access to the island as hitherto. Foreign Secretary indicated to the Chief Minister that during the recent talks with Sri Lanka's Foreign Secretary (10-11 June) it appeared that Sri Lanka might be agreeable to drawing the boundary line in the historic waters of Palk bay approximately one mile to the west of Kachchativu. The Sri Lanka's Foreign Secretary was expected to obtain his Government's view on the proposal and return for talks before the end of June.

13. At this stage the Chief Secretary of Tamil Nadu wanted to know whether a line could not be agreed upon which passed through Kachchativu. Foreign Secretary mentioned that various suggestions had been mooted by Indian side: i) Condominium, ii) a line cutting through the island, and, iii) a line skirting the island, none of which was acceptable to Sri Lanka. At one stage, the Chief Secretary also suggested that the strong feelings prevalent in Tamil Nadu could help strengthen the Central Government's bargaining posture. Foreign Secretary said that this had not been lost sight of but it apparently had no effect on the Sri Lanka side. In this connection the Chief Minister wanted to know whether any mass hysteria has been built up in Sri Lanka over Kachchativu. Foreign Secretary said that the controlled press in Sri Lanka, unlike that of India, could whip up public feeling on the subject and make a solution difficult to attain.

14. On the substance of the proposal, the Chief Minister indicated that he was inclined to accept the suggested solution. His difficulty was, however, that he could not take the Opposition into confidence without sharing with them the knowledge about the oil strike and convince them about the need to accept the compromise. He wanted to know whether the Prime Minister has sound the Opposition. Foreign Secretary said that, to his knowledge, the proposal was known only to one or two senior Cabinet Ministers and that probably Prime Minister would like to have the views of the Chief Minister of Tamil Nadu before discussing it with the Opposition leaders.

15. The Chief Minister having once again signified his

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general acceptance of the suggested solution, said that, for obvious political reasons, he could not be expected to take a public stand in favour of it. The Chief Minister, however, assured Foreign Secretary that he will help keep the reaction at a low key and would not allow it to be played up. Foreign Secretary appreciated this gesture and stressed that nothing should be done to embarrass the Central Government or turn the affair into an issue between the Centre and the State. In this connection, Foreign Secretary also recalled that the Tamil Nadu Government had been kept informed throughout the negotiations with Sri Lanka. Foreign Secretary thanked the Chief Minister for favouring him with the views of Tamil Nadu Government and said that he would report to Foreign Minister and Prime Minister about his talks with the Chief Minister.

20-6-1974

Information Sought (जानकारी मांगी):

The legal status of Kachchativu Island (also spelt as Katchatheevu Island) has long been an emotional matter for the people of Tamil Nadu. It has also had a direct impact on the livelihoods and well-being of fishermen from Tamil Nadu.

Over the decades, many things have been talked about informally about the position taken by the Government of India and the Government of Tamil Nadu during the negotiations to settle the status of Kachchativu Island between Sri Lanka and India.

In this context, I request the Ministry of External Affairs to provide me the following two documents:

A summary background note was prepared by MEA for a meeting of the Informal Consultative Committee sometime in March 1968, which is said to provide an overview of the legal status of Kachchativu Island.

The Record of Discussion of a meeting said to have taken place in Chennai (then called Madras) sometime in June 1974 between the then Foreign Secretary and the then Chief Minister of Tamil Nadu regarding the settlement of the Kachchativu Island issue with Sri

Lanka.

These documents are said to exist, but I have not been able to locate them in any public records. Given the emotions attached to this issue and in the public interest of all Indian citizens, I urge the MEA to declassify and release these documents in case they exist under a classified status.

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