

**International Jury Verdict:
Independent People’s Tribunal on
Implications of Blue Economy in India (West Coast)**

Date of Tribunal: 15th December 2020

Date of Jury Verdict: 5th February 2021

States Covered (India): Gujarat, Maharashtra, Goa, Karnataka and Kerala

Verdict signed by Members of the Jury:

Justice (Retd.) Akbar Ali, High Court of Madras, India

Professor Merle Sowman, HoD of Environment and Geographical Sciences,
University of Cape Town, South Africa

Ms. Liziwe McDaid, Climate Justice Activist, Goldmann Environment Awardee,
South Africa

Ms. Pamela Philipose, Journalist & Public Editor, The Wire.in

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STATEMENT OF INTENT

The Jury is informed that between 2018-2019, the Research Team, comprising Jesu Rethinam, A. Gandimathi, Sridhar Rao and Jones Spartegus (here after, the Research Team) along with members of various fishworkersunions and civil society, conducted field visits in all the states on the West Coast of India - Kerala, Karnataka, Goa, Maharashtra and Gujarat. The state reports prepared by the Research Team, along with video and live testimonials, and expert opinions have been presented to the Jury as well as to representatives of fishworkers and CSOs from India and other countries, and to the general public through the *Independent People's Public Tribunal on Implications of the Blue Economy on the West Coast of India held on 15th December 2020*.

The Jury takes note that the People's Tribunal in India (West Coast) is the sixth Independent People's Public Tribunal on the impact of Blue Economy in select Indian Ocean countries, the first five being held in Sri Lanka on 27th August 2020, in Indonesia on 22nd October, 2020, in Thailand on 10th November 2020, in India (East Coast) on 25th November 2020 and in Bangladesh on 30th November 2020.

The Jury is obliged to the fishworkers, experts and other groups who placed a large volume of information and perspectives about the impact of different coastal programmes before this Jury. The Tribunal covered a wide range of serious issues regarding basic human rights, loss of livelihood and ecological impacts with the Blue Economy in the west coast of India. We also note that the Tribunal is taking place in a larger social, political and economic context. The Jury notes that as this verdict is made public, it will have been more than 6 months since farmers in India have been protesting against the [three Farm Bills](#). Farmers from major agricultural regions in the country have been camping outside the capital in the harsh northern winterdemanding that their voices and rights, as citizens and as the stewards of the country's food security, be heard and taken into account by the government. The Jury notes with concern the failure of the democratically elected government to assure its citizens that their rights and needs will be respected and protected. The Jury also notes with alarm the death of nearly over 100 farmers during the protest. In solidarity with the farmers and as co-producers of food, fishworkers under the aegis of the National Fishworkers Forum called for a 'Samundar Bandh' on December 8th 2020. They have also expressed their solidarity in this Tribunal. The Jury makes no comment on the merits of the farm laws, however, we reaffirm our conviction that fundamental rights and freedoms of citizens and Constitutional principles of democratic decision-making must be safeguarded.

TRIBUNAL PROCESS

The Jury expresses its appreciation for the effort taken towards comprehensively presenting much important information before the Jury in the Tribunal. We were also provided with historic, social, economic and cultural analyses. We would like to recognise the following:

1. **Jesurethinam, international coordinator of the Blue Economy Tribunal Research team**, presented the context, background and the dominant context of Blue Economy as -

- Exploration based on scientific assessments
- Exploitation of resources
- Expansion of coastal and marine sectors

And that this is done through legal, liberal, global agreements and the influence of International Finance Institutions.

“This is a neoliberal growth model; led by market based growth that is export oriented leading to erosion of food sovereignty, favouring accumulation of profit, commodification of natural resources, change in policy and legislation to serve commercial interests, creation of institutional mechanisms at national and international levels to support this”

2. Fishing community leaders from other regions and countries made important statements, particularly -
 - a. **Nadine Nembhard, Secretary General of World Forum for Fisher Peoples (Belize)** reminded everyone of the massive challenges being faced by the fisheries sector and that this could impact local harvested food. She said - *“We, at the global and national level, should focus on implementation of SSF guidelines, because I believe that this gives us hope to combat this Blue Economy buzz.”* She pointed to the need to look at things in the SSF guidelines that can be implemented like climate change, gender equity and equality, and responsible governance and tenure among others.
 - b. **Debasis Samyal, Vice President, National Fishworkers Forum, India** pointed to the threats to the lives and livelihoods of small scale fishworkers because of the Blue Economy, and also the associated threats to the ecosystem - *“If small-scale fishers are not there on the coastline and can’t carry on their livelihoods, coastlines will become unhealthy.”* He also appealed to the Jury for their support - *“I keep using the word ‘threat’ repeatedly, because this threat and fear is induced by the government and we need your support and your opinion, so that the message is not only among us, but goes to the government also.”*
 - c. **Nibras Fadhlillah, KIARA, Indonesia** compared the situation in India and Indonesia, saying that the challenges faced by the community in both places were similar - *As the land resources have been overexploited, they are shifting to marine resources. Sea and marine resources have been seen as the materials to get profits and investments for the big giant companies...Blue Economy affects the livelihoods of marine and coastal communities, and*

projects being done in different countries in the name of sustainable development destroys the environment” She also highlighted gender issues and that fisherwomen are one of the actors that are most impacted by these projects. She also left a message of hope for all saying that “small movements, small changes can change everything.”

3. Statements by Moderators

- a. **Vijayan, Research Scholar, Carnegie Civic Research Network & General Secretary, Pakistan India People’s Forum for Peace & Democracy (PIPPFD)** spoke of the push by international financial institutions of the Blue Economy agenda, and also of how it has played out - *“On the other hand, there is the absolutely unconsulted processes of development that continue on the body of the vulnerable and historically oppressed communities, especially the fishing and agricultural communities of the coast.”*
- b. **Anil Varghese, Coordinator, Delhi Forum** also pointed to the corporatisation of the coast - *“The testimonies are evident by themselves of what is happening. It is not just industrialisation of the coast, but rampant corporatisation and they are ruthless. Neither they consider life or livelihood, nor people or nature.”*

4. 5 state reports - ‘Blue Economy - Exploring the Socio Economic Political and Ecological Implications on the Coastal Communities’ - from Kerala, Karnataka, Goa, Maharashtra and Gujarat were submitted to the Jury, along with the Executive Summary presentation of the overall implications for the west coast was made during the tribunal. The Jury has been informed of the methodological due diligence has been applied by the Research team and representatives of the fishing community, in presenting the following facts before the jury, which included: -

- a. FGDs with the representatives of coastal communities, trade union leaders, Federation members, associations, and civil society organizations
- b. Interviews with traders and supply chain intermediaries in fisheries
- c. Interfaces with national and local coastal authorities; interaction with government officials and ministerial interaction, including with port authorities
- d. Interactions with experts and academicians
- e. Doctrinal research on global, national and local policies, and institutional frameworks of each country

Important parts of the reports have been captured in the following sections.

5. Presentations by two experts, Dr. Aparna Sundar, Visiting Faculty at Azim Premji University, on ‘Traditional Community Rights and Challenges from Modernisation and Development Paradigm in Coastal India’ and Dr. Himanshu Damle, Public Finance Public Accountability Collective, on ‘Blue Economy and the Role of Global Capital’.

6. Video testimonials and live testimonials from community representatives from 8 sites across 5 states on the social and ecological implications of ports, highways, mining and industrial pollution.

PEOPLE'S CHARGESHEET

The affected citizens of India, through this Tribunal process have put forward that the Government of India (GoI) has violated fundamental human rights as enshrined in the Constitution of India, the principles of governance under the Directive Principles of State Policy, and international commitments agreed on by GoI in multiple international conventions.

1. Specifically, that GoI and respective state governments have allowed and encouraged private and public companies to take over land and ocean spaces through the unchecked development of ports, tourism, mining, oil explorations and other projects leading to the loss of livelihoods, dignity and access to resources of fishing communities.

And that therefore the Government of India has failed to safeguard the fundamental rights of the citizens under -

- Article 21 of the Constitution of India - "No person shall be deprived of his life or personal liberty except according to a procedure established by law" read with
- Article 19(1)(g) - "All citizens shall have the right - to practise any profession, or to carry on any occupation, trade or business", and
- Article 14 - "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India"

The Supreme Court over the years has passed judgements that clarify that the 'right to life' as enshrined in the Constitution also encompasses the right to live a life of dignity, right to livelihood, right to clean environment and all other fundamental needs such as health, nutrition, shelter etc that make life worth living and not a life of mere existence. In **Olga Tellis v. Bombay Municipal Corporation [1986 AIR 180]**, the Supreme Court held that - *An equally important facet of that right is the right to livelihood because, no person can live without the means of living, that is, the means of livelihood. If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person his right to life would be to deprive him of his means of livelihood to the point of abrogation.*

The importance of the right to livelihood is also enshrined in Article 19(1)(g). The Tribunal process points clearly to the imminent loss of livelihoods of an entire community in India, constituting more than 39 lakh citizens.¹

The People allege that this loss of livelihood does not meet the reasonable restriction standard, and that the way non-consultative processes have been at the core of the port led industrial growth and Blue Economy implementation in India through unspecified frameworks like Sagarmala, it is evident that the fundamental right under Article 14 to be considered equal before law is denied to the fishworkers. This lack of consultation **violates core principles of natural justice** that are intrinsic to Article 14 and 21, and accepted under various judgments including **Satwant Singh Sawhney vs D. Ramarathnam, Assistant [1967 AIR 1836]** which laid out clearly that **due process of law has to include hearing of the affected person**. Furthermore the violation of Article 21 through policies and executive orders, further violates the standard set under **Maneka Gandhi v. Union Of India [1978 AIR 597]** and others that *due process of law has to be “fair, just, reasonable and not oppressive or arbitrary.”*

2. Communities have pointed out that not only is there a lack of consultation, there is a lack of proper information to the community. and state governments have violated the freedom of information under Article 19(1)(a) - “All citizens shall have the right - to freedom of speech and expression” as laid down in various judgments including **State of UP v. Raj Narain [1975 AIR 865]** - *“In a government of responsibility like ours, where all the agents of the public must be responsible for their conduct, there can but few secrets. The people of this country have a right to know every public act, everything, that is done in a public way, by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearing.”*
3. The People also allege that the Government of India and state governments have violated principles of environmental justice and environmental protection established under the Article 21 Right to Life, including -
 - a. Public Trust doctrine as accepted in **MC Mehta v. Kamal Nath [(1997) 1 SCC 388]** - *The State is the trustee of all natural resources which are by nature meant for public use and enjoyment. Public at large is the beneficiary of the sea- shore, running waters, airs, forests and ecologically fragile lands.... But in the absence of any legislation, the executive acting under the doctrine of public trust cannot abdicate the natural resources and convert them into private ownership or for commercial use.*
 - b. Precautionary principle
The precautionary principle was adopted by countries in the **Rio Declaration on Environment and Development under Principle 15** - “In order to protect the environment, the precautionary approach shall be widely applied by States

¹Fisher population as per CMFRI Census 2010 available at http://eprints.cmfri.org.in/8998/1/India_report_full.pdf

according to their capabilities. *Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.*”

The precautionary principle has been accepted in India as laid down by Vellore Citizens Welfare v. Union of India [AIR 1996 SC 271]

- c. Inter-generational equity - The principle of intergenerational equity was adopted by countries in **Principle 3 of Rio Declaration** - “The right to development must be fulfilled so as to equitably meet *developmental and environmental needs of present and future generations.*” This principle was accepted in India as laid down by Goa Foundation v Union of India [W/P 435/2012 in the Supreme Court of India].

4. Further, the testimonies point out that the new policies and amendments in laws as undertaken by the Government of India as well as various state governments are in contradiction to the spirit of the Constitution as enshrined in the Directive Principles of State Policy under

- **Article 38 of the Constitution of India -**

State to secure a social order for the promotion of welfare of the people

(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life

Article 39 - Certain principles of policy to be followed by the State: The State shall, in particular, direct its policy towards securing

(a) that the citizens, men and women equally, have **the right to an adequate means to livelihood;**

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(c) **that the operation of the economic system does not result in the concentration of wealth** and means of production to the common detriment;

Article 48A - The State shall endeavour to **protect and improve the environment** and to safeguard the forests and wildlife of the country

5. The people’s testimonies also point to actions of GoI and of the various International Finance Institutions (IFIs) and multinational corporations leading the Blue Economy programme, with investments and other means, that violate the basic international principles on which our societies come together, including basic human rights to life with dignity and livelihood, right to clean environment and others, and international commitments, including -

- **International Convention of Economic, Social and Cultural Rights**

Article 1.2:

“All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. *In no case may a people be deprived of its own means of subsistence.*”

And Article 6.1

“The States Parties to the present Covenant recognize 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 Employment Policy Convention, 1964**

Article 1.1

“With a view to stimulating economic growth and development, raising levels of living, meeting manpower requirements and overcoming unemployment and underemployment, each Member shall declare and pursue, as a major goal, *an active policy designed to promote full, productive and freely chosen employment.*”

- **The United Nations Basic Principles and Guidelines on Development-based Evictions and Displacement**

Sec.I Para 6.

“*Forced evictions constitute gross violations of a range of internationally recognized human rights*, including the human rights to adequate housing, food, water, health, education, work, security of the person, security of the home, freedom from cruel, inhuman and degrading treatment, and freedom of movement. Evictions must be carried out lawfully, only in exceptional circumstances, and in full accordance with relevant provisions of international human rights and humanitarian law”

Sec. III Para 38

“States should explore fully all possible alternatives to evictions. All potentially affected groups and persons, including women, indigenous peoples and persons with disabilities, as well as others working on behalf of the affected, *have the right to relevant information, full consultation and participation throughout the entire process, and to propose alternatives that authorities should duly consider.* In the event that agreement cannot be reached on a proposed alternative among concerned parties, an independent

body having constitutional authority, such as a court of law, tribunal or ombudsperson should mediate, arbitrate or adjudicate as appropriate.”

- **UN Declaration on the Rights of Indigenous Peoples**

Article 19

“States shall consult and cooperate in good faith with the Indigenous Peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them”

- **Rio Declaration on Environment and Development**

Including but not limited to

Principle 1

“Human beings are at the centre of concerns for sustainable development. They are *entitled to a healthy and productive life in harmony with nature.*”

Principle 4

“In order to achieve sustainable development, *environmental protection shall constitute an integral part of the development process* and cannot be considered in isolation from it.”

- **Paris Agreement**

Article 2

“... ”

(b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production; and

(c) *Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.*

- **Convention on Biological Diversity**

Article 8

(c) *Regulate or manage biological resources important for the conservation of biological diversity* whether within or outside protected areas, with a view to ensuring their conservation and sustainable use;

(d) *Promote the protection of ecosystems*, natural habitats and the maintenance of viable populations of species in natural surroundings;

(e) *Promote environmentally sound and sustainable development in areas adjacent to protected areas* with a view to furthering protection of these areas;

(j) Subject to its national legislation, *respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles* relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices;

Article 10 -

Each Contracting Party shall, as far as possible and as appropriate:

(a) *Integrate consideration of the conservation and sustainable use of biological resources into national decision-making;*

(c) *Protect and encourage customary use of biological resources in accordance with traditional cultural practices* that are compatible with conservation or sustainable use requirements;

(d) *Support local populations to develop and implement remedial action in degraded areas* where biological diversity has been reduced; and

- **United Nations Convention on Law of the Sea (UNCLOS)**

Article 192-

States have the obligation to protect and preserve the marine environment.

Article 194-

(1) States shall take, individually or jointly as appropriate, *all measures consistent with this Convention that are necessary to prevent, reduce and control pollution of the marine environment* from any source, using for this purpose the best practicable means at their disposal and in accordance with their capabilities, and they shall endeavour to harmonize their policies in this connection.

EVIDENCE PRESENTED

Evidence has been presented before the Jury on the above points through testimonials and reports. Key points are summarised below -

1. DISPLACEMENT AND LOSS OF LIVELIHOODS

The Tribunal has put forward that the Blue Economy model has led to rapid and reckless development all along the coast and the privatisation of commons which have been used and managed for centuries by fishing and coastal communities. A few examples of the

development projects coming up along the coast leading to the displacement and loss of livelihoods of the fishing community were brought forward during the Tribunal -

a. Vizhinjam port, Kerala (Adani Group)

The Kerala Report describes that Vizhinjam was planned as a Multi-purpose Deepwater Seaport in an area of 360 acres, including 130 acres of land reclaimed from the sea, and a breakwater of 3180m. The implications of the Vizhinjam port was put forward clearly in the testimony of M. Amala, a field organizer of SEWA in Thiruvananthapuram, who testified regarding the impacts felt by the community from Vizhinjam -

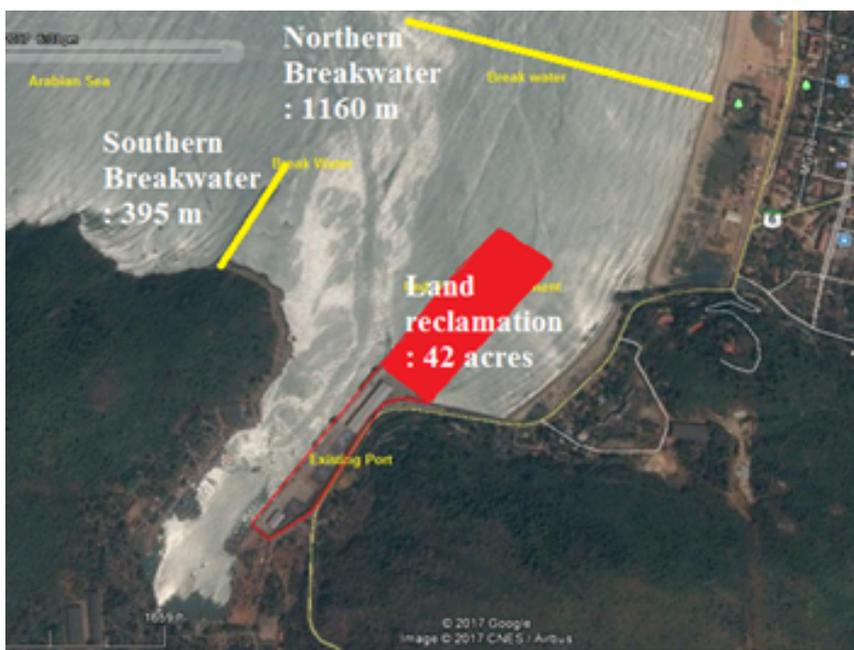
*“They are going against nature - they are built by blocking the sea. **In the district of Thiruvananthapuram, where thousands of fishworkers are living, people are displaced and lose their livelihood, which is not taken into account. This is being done only for the growth of the corporates, regardless of which government is in power.**”*

She recollected that even when only the fishing harbour in Vizhinjam was built, coastal erosion was happening in areas of Panathura and Poonthura, and ominously predicted the extent of the impact with the port - *For Vizhinjam port, there is dredging, which only 40% has been done, and already there is erosion up till the airport-Veli-Vettukadu areas, and at the same time, there is accretion in Adimalathura-Pulivulla area. Already, the government has notified Adimalathura as a ‘No Fishing Zone’, and given the community a package to keep them quiet.”*

She further pointed to how basic necessities of the people were not being met, even as these plans were being taken forward - *“...in Valiyathura, people are still living in the school. The women are not getting any fish, they have no opportunities for work. **But instead of protecting the women and children, the government’s aim is to grow billionaires like Adani and Ambani. Projects like Sagarmala are a way to trick the people - first they give them hope, and then they oppress. They first destroyed the forest and land, now their eyes are on the water. There are crores worth of wealth in the sea which they want to sell to foreign countries and to corporates.**”*

b. Karwar port, Karnataka

The Karnataka Report indicates that there are expansion plans for the existing Karwar fishing harbour under Sagarmala involving 6 new berths along with a 1.5 km breakwater in the sea. The following images from the Report clarify the expansion plans -



The Karnataka report says that although the High Court of Karnataka put a stay on construction of the port based on a PIL by fishers, construction of office buildings, godowns, shops and such ancillary construction has continued.

The Karnataka Report draws attention to the implications of these plans, emphasising that - *the land reclamation would lead to dislocation for all the fishworkers who live in and around the existing harbour. A lot of the fishworkers here were from fishing villages displaced due to Project Seabird in the late 80s – showing the threat of double displacement. The breakwater would cause further erosion all along the*

Karwar coast impacting traditional fishing families who practice fishing in Baithkoli, Tagore Beach and Aligadda beach in Karwar.

The implications of the port were further validated by the testimonial of KT Tandel, President, Uttara Kannada District Fishermen's Association Forum, Karwar, who echoing traditional community sentiments, asserted that Karwar beach is 'God's gift' - a deep natural harbour that people seek shelter in during storms. In his words, "*It is a beach made for fishworkers*". Mr. Tandel expressed his great concern with the port projects, saying - "*With Sagarmala, 3 km of the beach will be taken - 1 km will go for port directly, rest will get acquired for tourism. When they do this, we fishworkers will have nothing. Long jetties and breakwaters will take away coasts, and only a small stretch near Goa border will be left.*

Mr. Tandel pointed out that fishing is a crucial activity in Karwar, and involves everyone in the community, including the youth. The women, he points out, are engaged in value chain activities. He says that the government has not taken into account their lives and livelihoods - ***We need a seminar with the government to build their awareness. They are only seeing commercial profits, they are not seeing us, our lives. They want only foreign exchange, they are not seeing our exchange. What will we do? Will we be working, will we be gambling? How many people will die, how many will lose livelihoods? Have they done those studies?***

c. Mormugao Port, Goa

The Goa report points out that Goa's adoption of the Blue Economy is part of an industrialisation strategy that aims to shift away from iron ore mining (after many mines were shut down due to citizen activism), and become the industrial hub for the western coast, supporting thermal power plants in Karnataka and steel plants in Maharashtra. For a state with only 105 km coastline, Goa has more than 30 projects under Sagarmala with a total investment of Rs. 10,294 crores. This shows the intensity of investments in Goa under the Blue Economy.

According to the Goa report, the expansion of Mormugao Port is planned to include additional berths within the existing Port, as well new berths separately for coal, iron ore, cruise tourism and fisheries, as well as 2 berths for the Navy and Coast Guard, quadrupling the overall built up area. In the Mormugao Port masterplan, the entire coast of Vasco Bay is constructed upon, leading to the disappearance of the fishing village of Kharewado.

The implications of the plans in Goa were validated by Olencio Simoes, the General Secretary of Goencha Ramponkaranchi Ekvott (Goa fishworkers union) -

"From 2016 we are against Sagarmala in Goa.....Mormugao is one of 12 major ports, and they get autonomy under the Major Port authority Bill 2020. ***53 kms out of 105***

kms in Goa belongs to Mormugao trust and 78,000 acres of water spread area. Port is being privatised by Adani, Jindal. These people will decide what will be done with this area. In Goa there are 30 projects planned under Sagarmala, including 5 port expansion plans. In 2017, there was a public hearing in Goa which was the highest public hearing for 8 days where ***people objected to projects. But these projects were planned by the Ministry of Shipping. They want to take over the entire coastline and make Goa as a coal hub*** to get coal from Australia and Indonesia and transport it to the Maharashtra steel industry.

d. Wadhwan port, Maharashtra

According to the Maharashtra report, the state has executed nearly 100 projects under Sagarmala, with a total of ~1.12 lakh crores allocated, making the state the largest recipient of Sagarmala investments. The Wadhwan Port in Palghar District has been proposed in the natural mangrove system of Dahanu taluk. This region has been declared as an ecologically sensitive area. Additionally, a multi-cargo captive jetty proposed by the Jindal Group is located 22km away from Wadhwan in Nandgaon village.

The implications of the Wadhwan Port were brought out by Purnima Mehar, Maharashtra MachhimarKruti Samiti (MMKS) and EC Member-NFF:

“The area where it is planned is Dahanu Taluk, where a lot of people live, including fishers, small farmers and adivasis. From 1996, the proposal of Wadhwan port has been mentioned. The effect was going to be on the fishworkers, and also on the farmers and adivasis, on our lives and livelihoods. So seeing this, all the people came together and the protest movement started.” She further stated that in 2014, with the financial support from Jawaharlal Nehru Port Trust and the Maharashtra Maritime Board, the union government announced the port again, and they understand that the Adani Group has also invested in the port.

Ms. Mehar also emphasised on the impact on vulnerable groups, adivasis and women-***“There are about 10,000 women fishworkers, who work in fish vending. As fisherwomen, we believe that our work is important, because we play the role of providing food, for food security. This project will affect the intertidal area, which will affect women a lot, because women collect oysters and shells from these areas and catch small fish.”*** She pointed out that the women depend on the sale of several high value fish like pomfret and Bombay duck which is sourced from this region. She also added that***“this work that women do for drying, catching fish, and selling is not counted in the government’s estimation of fisheries trade or in the fishing policies. This project will be a huge shock to the women. The fishers won’t get anything if they’re displaced. There is no provision for compensation for fishers.***

On the situation of adivasis, she highlighted that they are one of the most vulnerable groups in the region but are not being protected - *“This taluk, it is a PESA region², and the law for PESA allows us to oppose the project. But there are plans for port and port-related railways, so this law for adivasis might become a problem. So the governor has passed an ordinance which is going to affect the law for adivasis. **The law that the Governor has brought is dangerous for our adivasis, and legally, it is a violation of international human rights conventions.**”*

She ended on a note of strength saying that *“We will keep up the struggle against the port. The protest has come out very strongly. Now the women and youth are coming forward in the struggle, and we have hope that through our struggle, we will get rid of the port!”*

e. Mumbai Coastal Road, Maharashtra

Kiran Koli, leader of the Maharashtra MachhimarKruti Samiti (MMKS) spoke of the Mumbai coastal road project saying that the proposal was initially floated in 2011, and the costs have increased from Rs. 5000 crore to Rs. 15000 crore in 2020. The project has a total length of 29.2 km and is spread over 244 ha, of which only 44 ha is for the road while the remaining area is proposed for tourist spots and jogging parks. He pointed out the implications of the road were not discussed with the people living here - ***These are also the areas populated by small fishworkers, or those fishworkers we often call living below the poverty line, who carry out their business using non-mechanized means, and manually cast the net to catch a rich supply of prawns, lobsters and different fish species. This is how they earn their livelihood. As a result of the construction of the coastal road, these fishworkers are on the verge of losing their livelihood and their means of earning.***

He further pointed out that there was no plan for the mangroves that would be destroyed, and that four villages are going to be severely affected. He said there was no clarity on compensation and rehabilitation. He added - *“Neither the BMC, nor the Government of Maharashtra has given any serious thought to the plight of these people. The High Court’s decision to ‘stay’ the project (legally a ‘no construction’ order) has also been lifted by the Supreme Court without paying due attention to details of destruction that this project would bring forth in its implementation. We feel betrayed by this decision of the Supreme Court. We demand justice.”*

f. Gujarat

² Panchayat (Extension to Scheduled Areas) Act, 1996 which allows for limited autonomy to areas with high populations of Scheduled Tribe (classified as Scheduled Areas under the Constitution)

UsmanganiSherasiya, a senior leader of the MachimarAdhikarSangarsh Samiti (MASS), Gujarat, held that this alienation of rights is not a new phenomenon, but one that has been implemented for many years in Gujarat -

*“When the Research Team came to study Blue Economy in Gujarat, it became clear to them that in Gujarat, the implementation of Blue Economy is already done. Of the 1600 km coastline of Gujarat, 400-500 km is in Kutch. **In Mundra, if you look at the way Adani has built a part of the Blue Economy - from captive jetties to ports to warehouse - in all of Gujarat, you can see clearly that the Blue Economy has been established.** Adani Group has established it and if you look at the Jamnagar region, Reliance has established it. So all along the coastline, there are already chemical industries and port-based industries here. From when Narendra Modi was the Chief Minister of the state, he already had an idea that we have so much coastline, so how do we develop it, and that is what is now being implemented as the ‘Blue Economy’. **But this concept of development has no place for fishers, which is clear in the Blue Economy model as well.**”*

The expert presentation made by Dr. Aparna Sundar also confirmed the trajectory of coastal and ocean grabbing that such a development model has produced. Dr. Sundar traced the history of development along the coast since 1989 and emphasised that **“in the past thirty years, what is seen is a worsening and deepening of the issues presented.”** She pointed to the shift in the agents responsible – from the State to domestic and international private actors. She noted that this is essentially the privatisation of public resources and utilisation of public resources for private profit, and ‘capital accumulation by dispossession and displacement,’ where capital is making profit by dispossessing communities from their land and natural resources. Dr. Sundar also identified that **“enclaves are created for tourism, industry, national security, mining, port development and other industries through violence and securitisation of the regions so that communities are kept out of them through extremely forceful means”**. She pointed out that ocean grabbing is being justified in the name of conservation and crisis and emphasised that **“we see the creation of marine protected areas and P.As (protected areas) and blue carbon initiatives and also we see the use of the language of crisis to enable this (capital) accumulation”**. She gave the examples of Cyclone Ockhi which was used to move fishing communities away from the beach to make place for tourism and the argument of global food crisis to justify industrial aquaculture.

2. CHANGES TO LAW AND POLICY TO SUIT CORPORATES

The People also pointed out that to enable this occupation, laws and policies have been changed to suit corporate wants as opposed to the needs of citizens. Both at the national and state levels, several laws and policies that provided for the protection of the environment and of fishing communities were changed and diluted. This includes -

- Coastal Regulation Zone (CRZ) notification 2019, which grossly diluted the provisions of the 2011 CRZ notification and the original CRZ 1991, in several important ways.
- National Waterways Act, 2016 which was brought in for the development of inland transport through the nationalisation of 111 waterways.
- Environment Impact Assessment (EIA) notification (draft), 2020 - the draft EIA notification dilutes provisions under the EIA notification 2006, and goes against the parent Environment Protection Act, 1986.

A series of policies and schemes, including the National Fisheries Policy 2020, Sagarmala, Swadesh Darshan and others, have laid the foundation for the change in coastal governance. Most of these have come in through the executive, with little to no parliamentary or public debate.

Similar changes to law and policies, which dilute rights of fishworkers and protection of the environment in favour of corporate interest have also been brought at the state level in all the states –

In the **state of Kerala**, new laws and policies brought in to facilitate the Blue Economy include -

- Kerala State Fisheries Policy 2019 - which encourages deep sea fishing and promotes tourism
- Kerala Marine Fishing Regulation (Amendment) Act, 2017 - which requires registration of all boats, with the intent to limit the number of boats, and creates the threat that all the traditional boats that are left without licence will be declared IUU fishers. The Act also establishes a 3-tier system of fisheries management, but the Kerala report states that - *“Under the guise of co-management, the state is intruding into traditional institutions, and giving itself great powers, leading to a systematic erosion of customary governance.”*
- Kerala Fish Auctioning Marketing and Quality Control Ordinance, 2020 - was opposed when brought in as a Bill in 2017. It proposes formalisation of the supply chain under government control. According to the Kerala report - *“In the context where big private companies are coming into fish sale, the Ordinance may pave the way for the end of the customary auctioning system, leading to the loss of livelihood for all people dependent on the informal supply and value chain, from auctioning to vending, especially fisherwomen.”*

In the state of **Karnataka**, new laws and policies brought in to facilitate the Blue Economy include

- Karnataka Industrial Policy 2014-19 which had a target of creating a land bank for industrial uses of 40,000 acres, **established private industrial areas over 100 acres each with complete private ownership, proposed removing restrictions on land conversion**, and setting up of a single-window clearance for companies

- Karnataka Minor Ports Development Policy of 2014 proposed the expansion of existing minor fishing ports into commercial ports; **proposed that acquisition even for private ports to be done by the government**, and fixed a cap of 11% as the maximum state government investment in all joint venture port projects
- Tourism Policy of Karnataka 2015-20 - which **laid thrust on mega tourism projects worth 100 crores** and above,; and promoted cruise tourism in Mangaluru and Karwar.
- Agri Business and Food Processing Policy, 2015 - which proposed the modernisation of fish markets, which was implemented by setting up a 500-tonne seafood processing plant which was leased out to a private contractor. Online seafood delivery companies like FreshtoHome and Licious shortcut existing supply chains. ***This form of modernisation marginalises existing fish vendors, particularly women.***

In the **state of Goa**, new laws and policies brought in to facilitate the Blue Economy include –

- Goa Investment Policy 2014 - which proposes private investments for high-end tourism, allow construction of private terminals/jetties and creation of a logistics hub.
- Goa Tourism Policy 2020 - which places restrictions on community run beach shacks through increased licensing requirements, promotes development of luxury, high-end accommodation, and proposes pursuing Blue Flag certification for several beaches along the coast.
- Goa Marine Fishing (Regulation) Amendment Act, 2019 - which authorises the ‘Marine Police’ to intercept, enter, search fishing boats and inquire against fishers within 12 nm, and protects the police against any liability for loss or damage to fishing vessels and gear

In the state of **Maharashtra**, new laws and policies brought in to facilitate the Blue Economy include –

- Maharashtra Maritime Development Policy, 2016 - which provides for development of ports and port connectivity, captive jetties, Coastal Economic Zones, and inland waterways, among others.
- Maharashtra Tourism Policy 2016 - which aims to generate Rs. 30,000 crore investment in the tourism sector by 2025; **promoted mega tourism projects with existing land banks**
- Maharashtra Industrial Policy 2019 proposes creation of land bank for industries; strengthen the single-window system; enhanced corpus of Rs. 1000 crore for the existing Critical Industrial Infrastructure Fund (CIIF), and promotion of private infrastructural development.

Gujarat was unique in that it was one of the earliest states to pilot the Blue Economy model, starting from the late 1990s. Old laws and policies and new ones all promote privatisation.

- In 1995, the Gujarat Port Policy pioneered private sector participation in ports. **It encouraged private investors to establish captive jetties, private ports, rail**

linkages, shipbuilding and repair yards and participate in support services. This attracted India's largest quantum of private investment, and the port privatisation model was replicated and extended the model to other sectors.

- In 1999, the Gujarat Infrastructure Development (GID) Act was enacted which **provided the legal framework and roadmap for Public-Private Partnership (PPP).**
- In 2009, the government released the Blueprint for Infrastructure in Gujarat (BIG 2020), a vision document that aimed to make Gujarat the globally preferred destination for business driven by infrastructural growth.
- Gujarat Industrial Policy, 2015 - categorised projects from MSME (< Rs. 10 crores) to Ultra Mega projects (> Rs. 4000 crores) to facilitate incentives and proposed the establishment of private industrial parks
- **Integrated Maritime Policy, 2017** - aims to facilitate a coordinated approach to maritime issues with different sectors and actors, including aquaculture, marine biotechnology, ocean energy, and seabed mining. In addition, it envisages the Maritime Spatial Planning as a tool to ensure an efficient and sustainable management of activities at sea.

In her expert presentation, Dr.Aparna Sundar also established that the new forms of modernisation under Blue Economy involve the legalization and institutionalization of enclosure of resources and privatisation - ***“Not only do they undermine the traditional rights of fishing communities, but they are premised on the weakening or undoing of hard won legislations that gave communities some form of protection..”*** She stated the example of the Coastal Zone Regulation Notification, 2019, which gave more concessions to the tourism industry, reducing the no development zone, allowing for ecotourism, allowing for more constructions on the beach and also reducing the regulation of ground water withdrawal or waste discharge, aiding the creation of closed spaces that exclude people who had traditional rights. ***“The people from the communities go from being rights holders to job holders at best and most of the time, not even being job holders but job seekers.”***

Elaborating further, Aparna pointed out the various kinds of traditional community rights that have been threatened by the Blue Economy model of development. The processes of modernisation have challenged the existence of village institutions that have traditionally governed access to the ocean resources by having norms around fishing gears, spatial limits of seasons of fishing. She stated that the understanding of the collective rights to the commons is being overthrown by the new model of development. She emphasised that ***“what we need is a return to the recognition of the importance of the link between knowledge, the commons and governance, and this is recognised by international codes such as the small scale fisheries (SSF) guidelines of the FAO (Food and Agriculture Organization)”***.

3. LACK OF CONSULTATION WITH COMMUNITIES

In all instances, the testimonials pointed to the complete lack of consultation or prior informed consent with communities on any of these projects.

- In the case of Vizhinjampport in Kerala, M. Amala said that during the 2014 and 2016 Parliamentary and Assembly elections, women spoke to MLAs and MPs to stop the port construction, and 15-20 women got up on stage at a political convention to ask to stop the port. She said that they had even worked with an independent research organisation to study the erosion from the port. But none of it worked. In her words - *“ Even if we take all these measures, the government only wants corporate growth. When development is brought into a place, decisions must be taken only after consultation with the people there. But they are not thinking - who does it benefit, who does it impact, how does it impact the fishworkers.”*
- In Maharashtra, the Maharashtra MachhimaarKruti Samiti had filed a litigation against the Coastal Road at the National Green Tribunal in Pune in 2012. But, they state that even today, the case has not been heard because the position of the judge who retired in 2014 was not filled. . According to Kiran Koli - *“The apathy of the union government towards filling these positions at the NGT also point that whichever good judgements were passed by the NGT earlier are not followed in letter and spirit thereafter. Earlier, when the Peddar Road Flyover concerns were raised in 2005, renowned singer Lata Mangeshkar opposed such a construction and it was stopped. So, a government that can listen to a famous personality like Mangeshkar has no ears for the thousands of fishworkers is indeed very depressing. We the stakeholders were not taken into confidence, and this violates the clauses of the 2019 CRZ notification. In 2011, the then Environment Minister Jairam Ramesh took the fishworkers into consultative confidence before enacting the laws towards CRZ 2011. But, the government of today acts authoritatively and we have no qualms in blaming it for the manner in which such laws come into force. When amendments to the CRZ Act were being made in 2019, we the fishworkers were not consulted. In a nutshell, we are convinced that these amendments were made to capacitate projects such as coastal roads, and whatever guarantees of protection of coastal biodiversity that existed heretofore have been severely diluted.*
- The Note on Blue Flag beaches submitted to the Jury points out that in the case of the Blue Flag beaches as well, there has been little or no public consultation with fishworkers and other coastal communities. The Note states that while some of the Panchayat members were consulted **in Kappad in Kozhikode district in Kerala, no larger consultations were held with the community.**It further states that **in Kasarkod beach in Uttara Kannada district of Karnataka, fishworkers have said that they were not told of any such project on the beach.** The implementing agencies in both Kappad and Kasarkodare departments without adequate community representation, nor have they conducted public consultations. The Maharashtra report also shows that a stretch of 5 km was demarcated for Blue Flag beach near Bhogave

and Devbag villages, which have been leased to private companies for development of tourism activities. The report says that the **fishworkers** *“said that they were totally unaware about leasing of the beaches and no consultations had happened for processing the tender or public hearing.”*

4. DESTRUCTION OF ECOLOGICAL SYSTEMS

Evidence has also been presented before the Jury in the form of testimonials that the Blue Economy has no regard for ecological systems and this impacts communities -

- In Gujarat, Kamaleshbhai Madhiwala, leader of Samasth Bharuch Jilla Machimar Samaj talked about the issues in Bharuch district. He said that there are almost 15000 fishworkers who are dependent on the estuary where the Narmada river meets the Arabian sea. According to him, their major concern is with the Gujarat Industrial Development Corporation areas (GIDC) – industrial enclaves that have several factories. He said that between the 4 major GIDC areas, there are thousands of industries many of which don't have treatment plants and release sewage into the Narmada. He emphasised that this has impacted fishworkers negatively – *“They have made Narmada river into a gutter. Earlier the fishers would come back with a boat full of fish. But fish production was drastically reduced because of the pollution. We used to have a lot of hilsa fish here, our production was Rs. 500-600 crores But in the last few years, with the expansion of industrialisation, the entire coastline has become polluted - pipelines are broken and sludge is jammed up and released on the coast. Due to the presence of chemicals like nickel and lead, we find lakhs of baby fish dead on the shores.”* Mr. Madhiwala says that they have registered complaints with the Gujarat Pollution Control Board, but no action has been taken. He also spoke about the potential harms from the proposal for a new barrage on the Narmada river – *“There is a proposal for the Bhabhut barrage in the middle of Narmada estuary, and there is provision for 80% of the water to go to Dahej GIDC and Vilayat GIDC. But people are being told that it is for agriculture; in cities, they are being told that it is for drinking water. It is destroying the fishers, livestock and nature here. There is a system of snatching the livelihoods and giving to the industrialists.”*

His concerns over waste were reiterated by Rashmi Patel, an environmental researcher who added that the entire coastline of the Gulf of Khambhat in south Gujarat are full of industries, primarily fertiliser, chemical, textile, pulp and paper mills, and mineral industries. She pointed out that the waste water is treated, untreated or partially treated, and is released into the Gulf, which has made the entire south Gujarat coastline highly polluted. Ms. Patel further points out– *“According to one report, 600 million litre per day of industrial waste water is released into the Gulf of Khambhat through rivers and creeks in South Gujarat. There is 453 sq.km. PCPIR region which has Dahej and Vilayat GIDC, and SEZ with petrochemical industries. And the effluents from these are released into the Narmada estuary, because of which*

the fish population in the estuary is reducing.” She also stated that nearly 6000 ha of coastal area has been converted into illegal aquaculture farms which release large quantities of untreated waste water into the Gulf of Khambhat.

- In Maharashtra, Purnima Mehar, pointed to the ecological destruction as well in the case of the Wadhwan port - *“If you see the place where the port is planned, the traditional fishers talk of it as the golden belt, because the coastal and marine biodiversity here has all elements and aspects...the fisheries, the resources are very good. It was called ‘shankodhar’ because you would get live shankha (chank).”*

Similarly, Kiran Koli pointed to the ecological impacts of the coastal road - *“As the coastal road is over the sea..the biodiversity of the area and the mangroves in the area would be completely destroyed. Moreover, the boulder area has mangroves where fish breed. Many different species of fish and lobsters go into the deep ocean during the months of March, April and May to lay eggs there. During the rains, when the seas are rough, these eggs are brought to the coast thus enhancing fish and lobster populations. Thus the coastal road would destroy protected areas. These are also the areas populated by small fishworkers, or those fishworkers we often call living below the poverty line, who carry out their business using non-mechanized means, and manually cast the net to catch a rich supply of prawns, lobsters and different fish species. This is how they earn their livelihood. As a result of the construction of the coastal road, these fishworkers are on the verge of losing their livelihood and their means of earning.”*

- In Alappad, Kerala, Jackson Pollayil, President of Kerala Swatantra MatsyaThozhilali Federation (KSMTF) pointed to the erosion being caused by extensive black sand mining. He pointed out that - *“The Kuttanad region that generates rice crops for the entire state will get submerged in sea water with this mining as the distance between the paddy fields and the coastal regions have come down to few meters with the high proportion of mining. Sea washing and black sand mining done in extensive form has caused loss of traditional livelihoods. The fish resources have died and become eliminated due to sea washing. It has also caused near extinction of sea turtles. Shrimp sources in Alappuzha also have become scarce. The erosion has taken place due to decades of black sand mining.”* He pointed out that the mining is being carried out with disregard to environmental and other laws. Mr. Pollayil also talked about the impacts of this erosion – *“There was a school that had thousands of students, it has shut down as the panchayat where it is located has been submerged by sea water. Around 100 to 150 loads of sand is taken out every day. When the sand is taken it should be naturally replaced. But since that is not done the people are forced to move out of their vanishing lands.”*

In Thiruvananthapuram, Amala reiterated that - *“Instead of protecting the coasts by planting mangroves, they spend crores to build seawalls, harbours and ports. These will destroy our ocean wealth. From Kovalam to Adimalathura, is the place with the*

most corals - they have all been removed because of the port. So there is no opportunity for the baby fish to grow. So this means fishworkers, fisherwomen and their families are all going to be orphaned because of the government's policies."

- In Goa, Olencio Simoes also talked about the environmental impacts of the projects - *"The current port is handling 7 million metric tonnes per year, now they want to handle 130 million metric tonnes per year. So they require rivers for transport, which is planned to be built across one sanctuary. They are planning a 4 lane road via Mollem National Park, and double laning of Konkan railways. They are planning 15 tunnels, for which 90,000 trees will be cut, and transmission lines will be expanded. The Western Ghats is a UNESCO World Heritage Site, 8th biodiversity hotspot. For the Indian monsoon, the Western Ghats is the key. The rivers are flowing via the ghats. It will be a huge setback for people of Goa that it is being destroyed for doubling a railway track. Aside from these, Goa has the highest death per million due to COVID-19. This is ample evidence to the fact that coal pollution has severely affected the respiratory system of the people of Goa."*

5. DOUBTFUL FINANCIAL BENEFITS

Another egregious aspect of the Blue Economy model is that despite the tall economic claims, experts are doubtful whether the model is even economically beneficial to the Indian economy.

Dr. Himanshu Damle, a lead financial analyst associated with the Public Finance Public Accountability Collective (PFPAC), pointed out that the Blue Economy model of development is not as attractive for investments as it is made out to be. He pointed out that ocean assets are valued at USD 24 trillion, but global investment is only at 1% of this, and the untapped potential is the basis for investment. He mapped out investments by a few international players into the Blue Economy including the Organization for Economic Co-operation and Development (OECD) which had mobilized USD 29.2 billion of private finance, the World Bank which has invested USD 3.6 billion in its initiative ProBlue, the Asian Development Bank which has invested USD 5 billion and the European Investment Bank with an investment of EUR 2.5 billion. Dr. Damle drew attention to the fact that the largest chunk of global capital investment pledges actually comes from corporates, private finances and venture capital. He pointed out that at the 'Our Oceans' Conference in Oslo in 2019, although a majority of the pledges were made by governments, **when actual amounts are compared, the private sector accounts for 78.9% (50 billion USD) of the total amount pledged towards Blue Economy.** These investments came from corporate entities such as the Norges Bank Investment Management, CISCO, DNB, MAERSK, DOW, PepsiCo., and others, each of which has a specific interest in the investment. Of these, the DNB ASA, which is the largest financial services provider based out of Norway, has pledged an amount of USD 51.3 billion till 2025 for financing renewable energy projects and renewable infrastructure. This pledge in terms of actual amount, exceeds the pledges by other players like the World Bank, Bilateral development Banks or Governments.

Dr.Damle’s mapping makes clear that the largest role in global capital for Blue Economy is held by corporate entities of the Scandinavian countries and points to a geo-politics where these countries are the harbingers of the Blue Economy.

Dr.Damle further explained that in India, Blue Economy could be considered as an aggregation of infrastructure projects under the Sagarmala, Bharatmala and other infrastructure projects such as tourism, inland waterways, industrial clusters and others, **for which the Government of India has allocated USD 3.3 billion. Importantly, these investments were expected to reach a multiplication of upto USD 9.6 billion in private investments, which has not really taken place.** India has also planned 14 coastal economic zones with a total investment of USD 150 million per zone. **All of these investments in the blue economy have been mobilized by the Government of India through budgetary allocations, Debt/ Equity markets, Green/ Blue Bonds, public finance, corporate and private finance, investments from multilateral and bilateral development banks, etc.** But India is still far away from fulfilling its international pledges towards the Blue Economy paradigm because of a lack of clarity of what constitutes the Blue Economy in India, a depressed economy and banking crisis, currency depreciation, and data manipulation, and the COVID-19 pandemic, all of which has deterred private investors. So Dr.Damle points out that **considering the various factors influencing the current state of economy, it is unlikely that the Blue Economy investments in India will actually be viable or profitable.**

This is also validated by the case study on Vizhinjam by AJ Vijayan, submitted to the Jury, which points to the report of the Comptroller and Auditor General (CAG) that casts serious doubts on the economic feasibility of the Vizhinjam project, and the manner in which revenues are divided. The case study points out that - *“The C&AG has calculated that, towards the year 2054, the additional profit gained by the Adani group will be Rs 61095 crores, which obviously will be the equal to net loss for the state Government. This exactly was the calculation of the feasibility study, considering the irregularities during the project, including the extension given out of the way to the contractor. Even if the state Government takes back the project after 40 years, it is bound to pay Rs. 19.555 crores to the Adani group, which in turn would make a total loss of Rs. 5608 crores.”*

The Kerala Report’s statement sums up this issue—*“This represents the direct usage of public funds for a white elephant, while enabling corporate profiteering in real estate.”*

JURY OBSERVATIONS

The Jury states that it has witnessed the pain that local communities are going through. The Jury also draws inspiration from the tremendous resistance from the ground to unjust and exclusionary development processes under Blue Economy.

“I learnt the pain that has been expressed by the persons in their testimonies... the pain in their eyes”. - Justice (Retd) Akbar Ali

The Jury observes that the Blue Economy development paradigm is pushing rampant privatisation and corporatisation of commons. The Blue Economy rhetoric that is often raised by the centre and state governments is that everything is being done for ‘the wellbeing of the people’ and ‘protection of the environment’. But in reality, what is actually implemented is not just a ‘business as usual’ strategy, but a ‘business on stilts’ strategy, that is, governments are aiding privatisation and corporatisation of resources. The Jury also observes that the case studies and testimonials make it abundantly clear that policies and laws that had previously been made with the objective of sustainability and equitability were being rolled back to favour business interests of corporate entities. In addition to this, government systems have turned a blind eye to corporates that have explicitly violated laws and rules, as is the case of the coast of Gujarat. Often, corporatisation and privatisation are justified in the language of ‘national interest’, as is the case of extraction of black sand from coastal Kerala, absolving the State from being responsible for destruction of the environment and displacement of people. The result of such a development paradigm is that only 5% of the people hold the entire wealth of the country, which is gained at the cost of 30-35% of the lower margins who suffer for this.

The Jury observes a violation of basic human rights – deprivation of people’s livelihoods, historical rights to resources, and exclusion of communities from developmental decision making, often contrary to India’s own constitutional mandates. The Jury notes that the testimonials and reports reveal the failure of the State to consult local communities, who are knowledge holders and rights holders to coastal and ocean commons. It is not only that the State has failed to compensate for loss of property or livelihoods but there is a failure to adhere to a more fundamental principle of inclusive and democratic decision making, where custodians of the commons participate in decisions relating to the commons. Despite commitments that have been made by States at various international instruments, not only is there a lack of consultation with local communities for projects that are coming in their area, the value that communities such as small scale fishworkers are bringing to the local and national economy is being deliberately invisibilized. Macro level policies that are driving developmental paradigms have failed to recognize the contribution of small scale fishworkers on local livelihoods, the economy and their contribution to food security and the customary rights of these indigenous communities.

“The big issue ... is the failure to consult with local communities, the failure to consult with local knowledge holders, rights holders and the failure to recognize the enormous contribution that small scale fishing communities play in the economy and in local economies and local livelihoods, providing food security and a livelihood income for local families.” - Professor Merle Snowman

“.. all the work that fishworkers are doing and the value they are bringing to the economy are invisibilized. Therefore there is a need to actually visibilizetheir contributions so that such data informs policy-making at the macro level” - Ms. Pamela Philipose

In many instances, it is clear that projects under the Blue Economy framework of development are creating lesser jobs for local communities. Whether there is any real gain to local economies and local communities from such development is undetermined, begging the question, **Whose Blue Economy is it?**

The Jury notes that there is complete disregard of ecological processes that are fundamental to life on Earth. It is observed that privatisation of coastal commons has undermined India’s commitments towards conservation and protection of biodiversity. A clear instance of this is the destruction of the UNESCO world heritage site of Western Ghats because of infrastructure developments. This is destroying the people who share a co-dependent relationship with the ecosystem. Ecological systems are integrated and linked to one another and rivers, seas and the land and forests cannot be seen as separate and unrelated entities. Interrupting one ecosystem with infrastructure projects will surely impact other ecosystems as well. The Jury notes that many of the Blue Economy projects in India have failed to recognize the importance of integrating ecological systems and processes.

“Livelihoods are not about jobs. They are about having relationships, which are one of respect and which enables people to make a living but ensure that the resource remains for future generations. And that is the only way to protect our planet. We must ensure that the current generation uses the knowledge to protect for the future.”- Ms. Liziwe McDaid

The Jury sounds anote of caution against relying only on environmental impact assessments. EIA, as they are done today, have huge inadequacies. They fail to account for cumulative impacts and losses to the marine environment. They also ignore the social and economic losses and gains to affected communities. What is needed instead is a strategic risk assessment that takes into consideration economic, social, cultural, ecological and human rights costs, which are assessed taking into account the current realities of the climate crisis. The Jury notes with concern that plans that were made decades ago are still being implementedas in the case of the freshwater reservoir in Gulf of Khambhat, and the port in Dahanu. The context and concerns of the environment and climate change have evolved since then and it is imperative that any project be assessed from the perspective of current realities.

We need to be looking at this from a strategic environment assessment and risk assessment point of view ... risks associated with the new intervention linked to the risks already faced by local communities. And of course, (the risk of) climate change...We need to really ask the hard questions. We need to demand evidence around what are the actual economic gains for the country and in the local environment, what are the social and economic gains to the local communities... We need to know about the risks, the social losses, the social impacts”. - Professor Merle Snowman

The Jury also observes that the Tribunal provides an understanding that all over the world, there are people who are ready to stand up for their rights and expose the contradictions posed by the Blue Economy model of development. It is also striking that a coastal march held thirty years ago, which brought together coastal communities across India, presented issues that are relevant to this day. The Jury appreciates the fact that this Tribunal brought together various groups of marginalised communities- fishworkers, adivasis and farmers who spoke out about the port project in Dahanu. There is tremendous power in networks that can cut across boundaries and forge solidarity among communities that are being disadvantaged. Networks, such as the One Ocean Hub that links communities across the world to forums such as the World Forum of Fisher Peoples (WFFP) and highlights the contradictions in international policies and agreements, maybe the need of the hour.

“The testimonies that we hear is really an indication of and a recognition of the strength of the people”- Ms. Liziwe McDaid

JURY VERDICT

“... the idea of people consulting and respecting each other and making decisions around the areas in which they live has been taken away and corporate greed is used to systematically undermine and destroy their environment for short term greed. It is turning human resources and natural resources into money with no belief or understanding of the consequences of this for us and for the future generations.” - Ms. Liziwe McDaid

“...the rise of an authoritarian, majoritarian government and leadership and the crony capitalism that comes with it has a lot to do with the dilemmas that we face here.”- Ms. Pamela Philipose

*“It is rampant ocean and green grabbing, rampant corporatisation and complete disregard of the rights of the local fishing community and their local institutions.....It is like business as usual, but on steroids!”
- Professor Merle Snowman*

“Whose economy is this and whose livelihood is this? ... When we look at blue economy from law or Dharma...., I can see that the scales of justice are tilted against the fisherfolk”- Justice (Retd) Akbar Ali

The arguments and evidence before this Tribunal clearly point to several omissions and failures by the Government of India, International Financial Institutions and Multilateral Development Banks. The evidence presented is direct and clearly shows that there has been a complete violation of rights of the people, overriding India’s commitments under international law and contrary to India’s own Constitutional mandates. It is also clear to the Jury that there has been a wholesale takeover of resources to suit the interests of a handful of corporate entities. The model of development is ecologically destructive, and is increasing

inequality among the people, and is particularly affecting fishworkers, adivasis, women and farmers.

Keeping in mind the historical, social and political context of India, all the evidence presented before us, and domestic and international laws, the Jury asks that the Government of India and the state governments of Kerala, Karnataka, Goa, Maharashtra and Gujarat, take important actions to –

a. Transform paradigms of development:

There is an urgent need to critically assess and rethink the model of development that is being followed globally, and in India in particular. The push has been towards corporatisation and privatisation of resources, leaving the lower margins of the society to bear the brunt of such developments, clearly violative of the principles enshrined under Articles 19, 21, 38 and 39 of the Constitution of India. The economy of local markets, food security and the rights of communities such as fishworkers must be protected by States. Models of development must respect these rights and needs, and prioritise them for economic growth. This is a transformation that is imperative both at the level of the Government of India and at the policies pushed and promoted by the multilateral development banks and international financial institutions.

The Government of India also has a responsibility under Articles 1.2 and 6.1 of the International Convention on Economic, Social and Cultural Rights; Principles 1 and 4 of Rio Declaration on Environment and Development; Articles 8 and 10 of the Convention on Biological Diversity and Article 192 of United National Convention on Law of the Seas to ensure sustainable and equitable development which is not only in harmony with nature but also ensures the rights to subsistence and work for all. Additionally, the Paris Agreement places a responsibility on the Government of India to ensure financial flows are consistent towards ensuring low greenhouse gas emissions and commitments to address the climate crisis are adhered to. It is also imperative for member States of International Financial Institutions and Multilateral Development Banks to ensure that these institutions respect and promote commitments made under various international instruments.

b. Ensure environmental protection:

The Blue Economy model has failed to address the immediate and dire concerns of the climate crisis, and have ignored fundamental laws of nature such as the interlinking of different ecosystems. This is contrary to India's constitutional obligations to protect and preserve the environment under Articles 21 and to several obligations undertaken by States, including India, to protect the environment under Principles 1 and 4 of Rio Declaration on Environment and Development; Articles 8 and 10 of the Convention on Biological Diversity and Article 192 and 194 of United National Convention on Law of the Seas and the Paris Agreement.

- i. Laws and policies that have been altered or introduced to favour projects under the Blue Economy at the cost of the environment are contrary to principles enshrined under the Constitution of India. Such laws and policies must be revisited and re-aligned to prioritise constitutional obligations to protect the environment and respect the public trust doctrine.
- ii. States have an obligation to ensure environmental conservation and protection of biological diversity under various international instruments. Multilateral Development Banks and International Financial Institutions must realign the idea of development under Blue Economy, which currently ignores the huge climate change risks and disaster risks and disregards the delicate interconnectedness between ecosystems, to respect principles of environmental sustainability. India and international institutions must develop a strategic risk assessment framework that looks at the risk of a particular project, linked with the already existing risks of environmental degradation and climate change.

c. Assess the cost of development:

The trajectory of development followed has had severe impacts which have spanned social, economic, environmental and cultural spheres. The fundamental issue is that there are no holistic assessments of the cost of development which factor in the social and economic losses and gains, including those to the local economies and to local communities. Commitments flowing from International Covenant on Social, Economic and Cultural Rights place an obligation on all states to respect and recognize subsistence rights of communities. Further, India's constitutional principle of the right to life, read along with several other fundamental rights under Articles 14, 21 and 39 affirm this obligation. Keeping this in mind, a more holistic approach to assessing costs and benefits of projects is imperative.

- i. The Government of India, and respective states, should immediately put a stop to coastal projects such as the Wadhwan Port in Maharashtra, Vizhinjam port in Kerala, the coastal road projects in Maharashtra and others which have been challenged by the people before this tribunal. These projects have failed to realistically assess the cost of development and have had severe impacts on people and the ecology.
- ii. The Government of India, the international financial institutions and the multilateral development banks should undertake detailed assessments that include the economic and social value that is brought in by communities such as small scale fishworkers, adivasis, farmers and other workers to components of the economy such as food security, local livelihoods, local food production and value to the local economy, and include the destruction of these systems in assessments for development.
- iii. The Government of India, and respective states, in keeping with the constitutional principles, should ensure recognition of women's work in fishing and recognition of allied activities as part and parcel of fishing

activities. Social measures are also needed to increase capability of and participation of women in government agencies and in fishers associations.

- iv. In accordance with the principles enshrined under the Constitution of India and various international instruments to protect and conserve nature, the Government of India must strengthen the environment impact assessment framework in such a way as to include assessment of cumulative impacts of multiple projects (social, economic, cultural, political, environmental and human rights), loss to marine and coastal environment and must include a holistic assessment of social and economic impacts to local communities such as small scale fishworkers.

d. Respect the rights of communities:

There is an urgent need for including affected communities in developmental decision-making processes and ensuring democratic representation of all sections of the society. The Government of India is also under a constitutional obligation to ensure participation of communities in decision making and ensure democratic development, and is also bound by several international legal commitments such as Article 5.2 of the United Nations Declaration on Rights of Peasants; Article 19 of the United Nations Declaration on Rights of Indigenous People; Sec I Para 6 and Sec III Para 38 of the United Nations Basic Principles and Guidelines on Development based Evictions and Displacement and Article 8 of the Convention on Biological Diversity. It is imperative that small scale fishworkers and other coastal communities are allowed to actively participate in developmental decisions of coastal and marine commons.