

International Jury Verdict:
Independent People’s Tribunal on the Implications of
Blue Economy in Indonesia

Date of Tribunal: 22nd October 2020

Date of Jury Verdict: 30th October 2020

Verdict signed by Members of the Jury:

Justice Kolshe Patil, social activist, former Judge of High Court of Bombay, India

Nur Hidayati, environmental activist, National Executive Director of WALHI (The Indonesian Forum for Environment) – Friends of the Earth Indonesia

Gam Shimray, indigenous rights activist, Secretary General of Asia Indigenous People’s Pact

Pooven Moodley, lawyer and activist from South Africa, Executive Director of Natural Justice

TABLE OF CONTENTS

STATEMENT OF INTENT	2
TRIBUNAL PROCESS	3
PEOPLE’S CHARGESHEET	4
EVIDENCE PRESENTED	7
1. What will be the impact of the Omnibus law on the Indonesian fishing community and environment?.....	7
2. What have been the impacts of the privatisation of coastal and marine commons on the community and the environment?.....	9
3. What are the threats faced by the fisher community as a result of the development of private tourism models?	10
4. Does Indonesia’s marine spatial planning process have an anti-people and anti-environment agenda incorporated into it?.....	12
JURY OBSERVATIONS	14
JURY VERDICT	16

STATEMENT OF INTENT

The Jury notes that the International Peoples' Tribunal on the Implications of Blue Economy in Indonesia is an outcome of two years of rigorous research, documentation and community participation done by a consortium of civil society organisations in Bangladesh, India, Indonesia, Sri Lanka and Thailand - with informed participation of the Pakistan civil society groups. The series of six tribunals is being facilitated by SNEHA, a civic action group working on coastal and marine issues. The Indonesia Tribunal was hosted by KIARA-Indonesia. The Jury members express our gratitude to the organisers for inviting us to act as the Jury in this important international tribunal. It was indeed a day of great exposure and learning, especially for those of us who come from other parts of the world.

The Jury notes with concern the national context in which this Tribunal is being held. On October 5th 2020, the Indonesian House of Parliament passed the Job Creation Law of 2020, known popularly as the Omnibus Law. This overarching law contains over 1000 amendments to 79 pre-existing environmental, labour and investment regulatory laws. The Jury observes that of key concern to the fishing community and rights-based organisations is the fact that this law deregulates the provisions of environmental laws for several industries to facilitate private investments, bars local communities from registering environmental complaints and abolishes Environmental Assessment committees. The Jury cautions the government of Indonesia that this law will transform *res commune* into *res nullius*, public access and control into limited access according to the property right regime.

The Jury is informed that this law is the latest in a series of actions by the Indonesian Government that dispossesses fishing communities of their lands, livelihoods and freedoms in favour of corporate interests. These actions are part of a larger Blue Economy model adopted by the government to build a profitable ocean economy by privatising and commodifying ocean and coastal resources. The Jury is also alarmed to note that protests by the community against projects that are impacting their lives are met with legal action or policy oppression.

The Jury has been informed that during this Tribunal, we will have the opportunity to hear testimonies and evidence from organisations, experts and fisher community members and this provides an opportunity to give these affected communities an international platform to voice their issues and raise global awareness on the situation in Indonesia. The Jury has arrived at this verdict based on the evidence presented before us, and on our varied experiences, and we recommend principles, actions and measures to be taken into account by the Indonesian government, the global mechanisms and concerned international organisations.

TRIBUNAL PROCESS

The Jury notes that the following important process was undertaken to make submissions before us, and the information provided in the Tribunal and through written submissions form the basis of the Jury's verdict. Key statements and points of evidence are highlighted below.

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 made important statements, particularly –
 - a. Nadine Nembhard, Secretary General of World Forum for Fisher Peoples, (Belize)
 - b. DwiAstuti, Head Presidium KIARA
 - c. Narendra Patil, Chairperson, National Fishworkers Forum India

And moderators

- a. Vijayan, Research Scholar, Carnegie Civic Research Network & General Secretary, Pakistan India People's Forum for Peace & Democracy (PIPFPD)
- b. Muhammad Reza, KIARA

3. A report - *‘Blue Economy - Exploring the Socio Economic Political and Ecological Implications on the Coastal Communities of Indonesia’* was submitted to the Jury, and an executive summary was presented during the Tribunal. The Jury takes note of the methodology used as per the Report, including –
 - 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
4. Presentations by three experts, Carsten Pederson, researcher and political activist on *Marine Spatial Planning as a tool for BE with special reference to Indonesia*, Miloon Kothari, former UN Rapporteur on *Blue Economy in Indonesia and Threat to Commons* and Nayana Udayashankar, researcher at Equitable Tourism Options, India on *Implications of Tourism, a Component of Blue Economy in Indonesia*
 5. Testimonials from 3 community representatives across different sites on the implications of the Blue Economy on their communities.

PEOPLE'S CHARGESHEET

The fisher community of Indonesia has charged the Indonesian government with breach of obligations arising from international human rights law and international environment agreements and violations of the Indonesian constitution. Breach of the following international agreements have been brought to the Jury's notice:

1. International Convention on Civil and Political Rights

On the basis of article 6.1.

“Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”

On the basis of article 10.1

“All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”

2. International Convention of Economic, Social and Cultural Rights

On the basis of 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.”

3. United Nations Declaration on the Rights of Peasants

On the basis of Article 4.1

“States shall take all appropriate measures to eliminate all forms of discrimination against peasant women and other women working in rural areas and to promote their empowerment in order to ensure, on the basis of equality between men and women, that

they fully and equally enjoy all human rights and fundamental freedoms and that they are able to freely pursue, participate in and benefit from rural economic, social, political and cultural development.”

On the basis of article 4.2 (g) and (h)

“States shall ensure that peasant women and other women working in rural areas enjoy without discrimination all the human rights and fundamental freedoms set out in the present Declaration and in other international human rights instruments, including the rights:

(g) To have equal access to financial services, agricultural credit and loans, marketing facilities and appropriate technology

(h) To equal access to, use of and management of land and natural resources, and to equal or priority treatment in land and agrarian reform and in land resettlement schemes

On the basis of article 5.2

“States shall take measures to ensure that any exploitation affecting the natural resources that peasants and other people working in rural areas traditionally hold or use is permitted based on, but not limited to:

(a) A duly conducted social and environmental impact assessment;

(b) Consultations in good faith, in accordance with article 2 (3) of the present Declaration;

(c) Modalities for the fair and equitable sharing of the benefits of such exploitation that have been established on mutually agreed terms between those exploiting the natural resources and the peasants and other people working in rural areas”

4. UN Declaration on the Rights of Indigenous Peoples

On the basis of 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”

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

On the basis of 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”

On the basis of Sec. II B Para 16.

“All persons, groups, and communities have the right to resettlement, which includes the right to alternative land of better or equal quality and housing that must satisfy the following criteria for adequacy: accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education,”

On the basis of Sec. II C Para 25

“In order to secure a maximum degree of effective legal protection against the practice of forced evictions for all persons under their jurisdiction, States should take immediate measures aimed at conferring legal security of tenure upon those persons, households and communities currently lacking such protection, including all those who do not have formal titles to home and land”

On the basis of Sec. II D Para 32

“States must give priority to exploring strategies that minimize displacement. Comprehensive and holistic impact assessments should be carried out prior to the initiation of any project that could result in development-based eviction and displacement, with a view to securing fully the human rights of all potentially affected persons, groups and communities, including their protection against forced evictions. “Eviction-impact” assessment should also include exploration of alternatives and strategies for minimizing harm.”

On the basis of 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.”

Additionally, the Jury observes the following violations by the Indonesian Government of domestic constitutional law and norms:

1. The verdict of the Indonesian Constitutional Court No. 3 of 2010 concerning Judicial Review on Law No. 27 of 2007
2. Articles 28 A of the Indonesia Constitution of 1945 which states "Every person shall have the right to live and to defend his/her life and existence"
3. Article 28I (5) of the Indonesia Constitution of 1945 which states "For the purpose of upholding and protecting human rights in accordance with the principle of a democratic and law-based state, the implementation of human rights shall be guaranteed, regulated and set forth in laws and regulations."
4. Article 28G (1) of the Indonesia Constitution of 1945 which states "Every person shall have the right to protection of his/herself, family, honour, dignity, and property, and shall have the right to feel secure against and receive protection from the threat of fear to do or not do something that is a human right."
5. Article 28H (1) of the Indonesia Constitution of 1945 which states "Each person has a right to a life of well-being in body and mind, to place to dwell, to enjoy a good and healthy environment, and to receive medical care."
6. Article 33 (3) of the Indonesia Constitution of 1945 which states that "The land, the waters and the natural resources within shall be under the powers of the State and shall be used to the greatest benefit of the people."

Additionally, the Jury notes the fundamental deviation from the principles of 'decentralisation', as was devised by the Indonesian Parliament in 1988, through the 'Omnibus Law', which is aimed at centralisation of administration and governance. We understand this to be a degeneration of the Indonesian democratic norms and practises. We empathise and extend our solidarity with the people of Indonesia in their expressions of the democratic right to dissent against such an aberration.

EVIDENCE PRESENTED

The Jury heard testimonies of the burdens placed on the traditional fishing and other coastal/inland communities of Indonesia and reflect on the following questions, as part of this verdict:

- 1. What will be the impact of the Omnibus law on the Indonesian fishing community and environment?**

The Jury notes that the testimonies presented before us make the following important points of fact and argument -

- a. The new Omnibus law will potentially lead to the displacement of about 8 million fisher households, thereby legitimising the dispossession of people.

- b. While the Ministerial Decree of MMAF No.18/2014 explicitly banned foreign vessels in fishing operations, the enactment of Omnibus Law 2020 has opened up Indonesian sea/waters to foreign fishing vessels. Currently it appears as if fishery resources will soon go to those who can purchase fishing licenses at a higher cost, further corporatizing the marine fishing sector, marginalizing the coastal community and denying their customary right over fishery resources. This is against the sovereign national interests of Indonesia and its people, especially the fishing community.
- c. The Omnibus law also weakens environmental regulations by relaxing environmental standards for businesses activities that require an environmental impact assessment. Additionally, people living in areas around these projects will no longer be able to appeal the impact assessment document, according to amendments to Article 26 of Law 32/2009. Environmental experts will also no longer be involved in environmental impact analysis. In effect, the principle of Free, Prior, Informed Consent and the right to self-determination have been removed from Indonesia's governance process which is a violation of the Universal Declaration of Human Rights and the UN Declaration on the Rights of Indigenous Peoples.
- d. Indonesia also does not recognise the role of women in fisheries leaving them doubly impacted by the new law, as fisherwomen are not even considered stakeholders in any of these processes.
- e. In its 2010 verdict, the Constitutional Court affirmed that communities have four rights over natural resources that flow from Article 33 of the 1945 Constitution - Right to Access, Right to Clean Water, Right to Derive Livelihood Benefit, and Right to Customary Governance. The amendments brought in by the Omnibus law are evidently in violation of this judgement.
- f. Furthermore, the decentralisation of functions to the provincial governments has been nullified by the Omnibus law, further eroding the federal nature of constitutional governance. This centralises several aspects of administration, including fisheries management.

“States bear the primary obligation to uphold human rights principles, which is often also concerning non state actors. Impacts of evictions affect the most marginalised sectors, leave people homeless, leave people vulnerable, especially women and children...States are obligated to review their policies to make sure they are consistent with the UN guidelines...States must intervene so that market conditions do not affect people’s marginalities. Before any project is planned, impact assessment must be conducted, to be able to assess the damage to people and communities. These should be carried out in consultation with people, according to differential access. All possible alternatives to eviction must be explored, displacement must be minimised. We can see in Indonesia that such steps are not being followed”

2. What have been the impacts of the privatisation of coastal and marine commons on the community and the environment?

The Jury notes that the testimonies evidence before us make the following important points of fact and argument

- a. KIARA noted that Boskalis carried out lots of infrastructure development projects in coastal and small islands in Indonesia, such as the sand mining and reclamation in Makassar and Banten, artificial island development in Jakarta Bay, development of Tanjung Emas port (part of the sea highway plans), and others
- b. The value of the contracts obtained by Boskalis for the two dredging activities in Makassar and Banten waters reached up to EUR 75 million; contract for construction of artificial islands in Jakarta Bay is valued at over EUR 173 million. The passing of the Omnibus law and centralisation of powers enhances the potential for corruption, kickbacks and nepotism, along with increasing the control of corporates like Boskalis.
- c. The mining area of Boskalis for the Makassar New Port project is part of the traditional fishing ground of local fisherfolk. Fisherfolks in Cambaya, Tallo, and Kodingareng Lompo island are facing negative impacts because of the environmental degradation from the Makassar sand mining activity, such as the decrease of their fish catch and income. Their average income has dropped to less than 30% of earlier levels with some reporting negative balance after paying for fuel
- d. After the mass demonstration by the coastal community in Makassar, many participants received threats and repressive action from the local authorities which resulted in fisherfolk fearing going out to sea. The repressive action of Indonesian authorities clearly implies that the government does not side with the interests of the coastal community and fisherfolks in Makassar.

“Boskalis is a company from Holland undertaking this project and it is undermining the livelihood of our community. They make the clean water dirty, corals have gone from healthy to unhealthy, the yield of the fishing activity has decreased. The community is affected by the land grabbing by this company. And the burden of women is doubled. I am from PPNI, witnessing the struggle of the Kodingareng people because of the mine being built in the middle of the sea. The project is in the middle of their fishing ground.”

- Ibu Masnuah, PPNI, Kodingareng island

“Law enforcers should protect the citizens but they are oppressing us and protecting Boskalis. We want to protect our resources from mining. In Kodingareng we don’t sail anymore, the tide is increasing and the project is in our livelihood area and this makes us worried...The fisherfolks in Kodingareng island are struggling now. We get threatened by the authority of Indonesia after our demonstration in the middle of the sea. Our husbands are afraid to go to the sea to catch fish. However, even if we go to the sea, our sea is not good anymore right now as the water becomes muddy because of sand mining, so the income decreases. Even today, we have to borrow money to meet the households needs.”

- Ibu Zakiah, fisherwoman,
Kodingareng island

Transcript of video evidence produced before the jury

“The fishing community is refusing the mining project. You can see the law enforcement has approached, collided and almost crushed the fishing boat. This is the response to our refusal...in our own region. The fisherwomen are voicing their refusal to the project. They are intimidated when they act in this manner; they are afraid to sail to the sea.”

- Ibu NibrasFadhilillah, KIARA

- e. The Jakarta Giant Sea Wall project has destroyed the fishing grounds of the fishers of Muara Angke. After some villagers filed cases against the project, the government responded by filing criminal cases against these individuals. While the government has proposed a relocation site, it is far from the coast and fishers would no longer be able to continue fishing for their livelihood. The government has also halted essential civic welfare measures to the village like running water, healthcare etc. which people claim is done in order to force them to relocate.

3. What are the threats faced by the fisher community as a result of the development of private tourism models?

The Jury notes that the evidence presented before us make the following important points of fact and argument

- a. In Mandalika, West Nusa Tenggara, there are many people who have filed cases with the Indonesian courts against illegal claims over their lands by the Indonesian Tourism Development Corporation (ITDC). One such case was filed by Umaragainst

- the ITDC and others. In the appeal hearing, the High Court Judge Panel of NTB ruled in favour of Umar, after he previously lost in the District Court of Praya, Central Lombok.
- b. In the document “Investigation and Coalition Report of Infrastructure Monitoring on AIIB Loan for Projects in Indonesia” it is stated that in 2019, ITDC had compulsorily acquired farm land and converted it into road infrastructure. According to the people in the Ebunut Village, the ITDC carried out a preliminary survey first in the afternoon, then in the night they deployed an excavator which destroyed the people’s farms, including their corn and cash crops.
 - c. A photo was shown to the jury of the police force deployed in Mandalika. There are several cases where the local community experienced displacement and land grabbing by the government which deployed hundreds of police officers to evict people from their lands. The Jury could witness a clear militarisation strategy employed by the Indonesian government to privatise community lands and commons.
 - d. The document “Investigation and Coalition Report of Infrastructure Monitoring on AIIB Loan for Project in Indonesia” states that about 9,448 families or 32,857 people from the villages of Kuta, Sukadana, Sengkoland Mertak will be affected by the Mandalika Area tourism project development. The direct impact of such a project is expanding forced land acquisition, where the PT ITDC will take over people’s residential areas and productive farms located at the basic infrastructure development zone for the commercial area such as hotel, housing, and MICE (Meeting, Incentive, Conference, Expo) facilities.
 - e. Not only are farms and houses acquired, fishing communities will lose access to the sea. Example, shellfish and crab fishworkers in the Seger Kuta Beach are predominantly women. They will lose their access to the sea, because the Indonesia Tourism Development Corporation (ITDC) also claimed the beaches under the Mandalika tourism SEZ.

“In 2007, there were some constructions which we struggled against. We experienced similar things as shown in the video and police were against us. Despite the intimidation we still fight, from 2016 we are fighting.”

- Berce Toli, ANTRA North
Sulawesi

“Labuan Bajo was previously a conservation area, and is now becoming a commercial tourism area. The island has the ancient Komodo dragon, but the current president Jokowi wants to develop this area as a super tourism area for G-20 and ASEAN summit in 2023. Common people cannot enter this area because this will become an expensive, premium area....The traditional occupations are

“fishing and hunting. Now they have to provide tourism related services.”

- Mas ParidRiwanuddin,
KIARA

“Tourism under BE was supposed to incorporate climate change, include social groups (women, indigenous people), maximise local benefits. But it is also meant to be open to foreign investment and this last part has taken over...Irony is local communities are rarely opposed to conservation or tourism but what they oppose is exclusionary conservation / tourism. BE model is moving from the commons as community to commons as a commodity for sale...Tourism for jobs is being used as an excuse to change key environmental and labour laws and create a conducive environment for investment. Special tourism areas lead to privatisation, displacement, loss of access to resources, loss of food security and dilution of environmental and labour laws”

- Nayana Udayashankar,
EQUATIONS

- f. On 1stOctober 2020, the Komnas HAM (Human Rights National Committee) Commissionaire BekaUlungHapsara stated that this kind of illegal action of land acquisition was being conducted without any legal rights transfer. Komnas HAM findings show many intimidation practices by officers against land owners. Komnas HAM also found omission of land compensation by the PT Indonesia Development Corporation (ITDC), even though the land was acquired. Based on this, BekaUlungHapsara stated that this practice was actually a form of intimidation, and that this also occurred with deploying excessive police personnel.

4. Does Indonesia’s marine spatial planning process have an anti-people and anti-environment agenda incorporated into it?

The Jury notes that the testimonies evidence before us make the following important points of fact and argument

- a. In 2011, the government issued a policy called 2011-2015 Masterplan Percepatan dan Perluasan Pembangunan Ekonomi Indonesia (MP3EI) – Masterplan of Acceleration and Expansion in Indonesia Economy Development – as a new framework for Indonesia’s development. In the maritime sector, this policy became the basis of space grabbing in the coastal areas and small islands, and led to loss of access to livelihoods for the coastal community. KIARA pointed out that some of the mega projects related to this policy, such as Special Economic Zones (Kawasan EKonomiKhusus – KEK), Industrial Zone (Kawasan Industri – KI), International Hub-Port, port and tourism change spatial use by eliminating the rights to housing and rights to access coastal and marine resources.

- b. KIARA noted that almost all the ocean grabbing activities, including those by Boskalis as mentioned earlier, is legitimized by the **Marine Spatial Policy** seen in the Coastal and Small Islands Zonation Plan (RZWP3K). In accommodating the national project on economic development, RZWP3K allows the government to ‘sell’ the space and resources to investors. Thus, RZWP3K is actually a form of deprivation of livelihood and living space of fisherfolk, fisherwomen, and other communities who live in coastal areas and small islands.
- c. The Zonation Plan for Coastal Areas and Small Islands (RZWP3K) of East Kalimantan has allocations for special terminal construction in 121 locations which is much more than the area given to fishers. The allocation for fisherfolk settlement is only 25.22 hectares (62 acres) and this area has to accommodate 1,37,553 fishing households. A 2.6-million-hectare area in the ocean is assigned for fishing but this is further out to sea and beyond the reach of traditional or small-scale fishers and so the fishing boats will have to compete for space with larger ships which carry coal. The plan also does not protect coastal ecosystems. As a result, primary mangrove ecosystems, such as in Balikpapan Bay, are under threat of disappearing due to industrial expansion and development of the new capital area.

“In 2015, the government decided the region is a national park for maritime tourism. This was based on just a computer assessment by the government. They did not care about the opinions of the people living here.”

- Muhammed Asif, KIARA, Sangian island

“Blue Economy is framed around the UN sustainability agenda, but in reality, it is just about an ocean economy and is driven by capital. With MSP, all marine regulation is brought under one umbrella; the purpose of this is to deregulate and make it easier for investment in the ocean sectors. In Indonesia, the coastal communities are being sidelined in the decision making....All the governments say one thing, that Marine Spatial Planning is important, but they do not say what it looks like at the local level. This model is totally detached from realities at the ground level.”

- Carsten Pedersen, Researcher and Political Activist

JURY OBSERVATIONS

The Jury notes that the Indonesian government has embarked on a path of economic growth that is in conflict with the needs and lives of coastal fishing communities, and contradictory to the healthy upkeep of the environment. While the government may feel that GDP-based economic growth is the primary indicator of growth and success, the Jury observes that there are many critiques that state that economic growth is a flawed measure of success as it lacks nuance, and can further the dispossession of people and the destruction of the environment. This can be clearly seen in the video shared where the Jury saw the conflict between fisherfolk and the marine police over a mining project that was blocking access to traditional fishing grounds. The Jury notes the strong case made by women about the brunt of these development projects falling on their shoulders. Women being excluded from the value chain and becoming labour was a key point of note. The words '*Blue economy is making a killing*', uttered by one of the testifiers, continued to echo in our minds as we deliberated over the verdict. The Jury observes that in the Blue Economy model, it appears that the role of the state recedes to being that of a broker, which through successive rounds of exclusions and enclosures redistributes coastal lands, accompanied by the dilution of environmental laws and clearances. There is a push towards the financialization of natural resources, where the collectively governed commons are brought under private property and market regimes. Such developmental policy interventions assume that coastal lands are empty lands devoid of existing livelihoods or civil, political, economic, social and cultural interactions.

The Jury is also gravely concerned by the trend of reverting to a centralised governance system through the Omnibus law, the accumulation of power in the hands of the central government, and the weakening of the role of provincial governments. Such centralisation has been seen in other countries to weaken democratic spaces and decrease people's access to justice. In the face of the government's pro-corporate agenda, there is no alternative for the community but to create a people's movement to oppose these actions. The Jury also notes the alarming instances of police suppression of protest, as well as the government's decision to file criminal charges against protestors and against those who went to court to oppose large projects. The impact on ecology, local community and the issue of militarisation and false criminalisation is evident to this jury.

The Jury notes that the scientists of the Inter-governmental Panel on Climate Change (IPCC) in their report gave the world 10 years for radical transformation in how we live. Many indigenous communities have also raised the alarm that the world has 5 years in which to change how it operates. Such traditional knowledge is being increasingly recognised even by the scientists in the IPCC. The Jury emphasises the criticality of constantly referring to this context when making decisions. The Blue Economy is not happening in a vacuum; it is happening at a time where 1 in 5 countries are already facing ecosystem collapse and there has more than 60 percent extinction in the last 50 years. In Jakarta everyone can already see the impacts of sea level rise. This is no longer a future scenario; it is happening now. The Jury stresses the importance of ensuring this as

a mobilisation point to challenge government and corporate plans that are leading to the exploitation of people and the planet. The current pandemic has highlighted how our systems work for a rich few, and how vulnerable communities are impacted at a greater level, with women in this group facing a double impact. Solidarity with fishing communities around the world is key to rectify this imbalance.

Based on the response from Mr. Miloon Kothari, the Jury recommends that Indonesian civil society and the community bring their struggles to the attention of the UN, including the UN Human Rights Council, and attempt to build pressure on the government using the international peer review process. Other international guidelines to be noted are as follows

- United Nations (UN) Declaration on the Rights of Indigenous Peoples (2007) and the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (2018)
- UN Declaration on the Rights of Peasants and Other People Working in Rural Areas,
- Rutzolijirisaxik Voluntary Guidelines for the repatriation of traditional knowledge relevant for the conservation and sustainable use of biological diversity, under the UN Convention on Biological Diversity, and
- Mo'otzKuxtal Voluntary Guidelines relating to the free, prior and informed consent of Indigenous peoples and local communities relating to knowledge, innovations and practicing, also under the UN Convention on Biological Diversity.
- The Paris Agreement, under the UN Framework Convention on Climate Change.

However the Jury also observes that there are gaps in the evidence that we recommend to the Tribunal organisers to pursue further. The first is the impact on culture and linked impacts to socio-ecological resilience as a result of the eviction of people and the alienation of their resources. Secondly, the Jury feels that the aspect of centralisation of powers and the legal/moral position of provincial governments on this legal development must be investigated further as this trend is of grave concern. If provincial governments are against this process, they could be powerful allies to the community. The Jury recommends that the organisers also investigate the financial aspects, particularly identifying who is financing such projects. Such backers should be questioned and the illegalities and impacts of their investment exposed. There is precedent for holding financing institutions accountable for the impacts of the projects they funded. The Jury also advises the organisers and the community to unpack the problem before them, so they are not overwhelmed by the scale of the issue. The Jury recommends to them to aim for small victories as each victory would provide momentum for the next, and make decision-makers take the community more seriously. The Jury also notes the increasing number of cases that argue the inter-connectedness of the rights of nature-people, for example the case in Columbia where people are trying to protect the Amazon or the case around the river Ganga in India.

The Jury also notes the need to propose and push for alternative models of development. Given that according to the plan, until 2030, the key aspect is tourism, clear alternatives should be put

forward by communities which are ecologically sustainable and economically beneficial. This is possible as there are already community-based tourism initiatives to learn from which can demonstrate that fishing does not have to be excluded by tourism. The Jury observes that often with governments, strong economic arguments will make an impact but the Jury also urges the community to continue pushing for improved rights.

The Jury notes that many other countries are currently in similar struggles around access to land, water and natural resources for livelihoods as well as destruction to the environment by pro-corporate governments. Jury member, Mr. Pooven Moodley gave the example of Lamu, on the east coast South Africa, where many similar major projects and impacts are seen - large port development, oil and gas drilling, dredging, eviction of small-scale farmers and loss of livelihoods of fishers due to actions like dredging and the destruction of mangroves. The ocean has no boundaries apart from artificial ones; what happens in the waters of one country affects others. Given all of this, there is a need to build international solidarity and use the interconnectedness of issues to build a stronger global movement and strategy against such anti-people, anti-environment lobbies.

JURY VERDICT

The case made before this Tribunal is clear and straightforward. The Indonesian government is clearly violating the rights of its people, including depriving them of their right to Free, Prior and Informed Consent, destroying ecosystems, increasing inequality and unjustly criminalising those who speak out and protest these actions. The jury finds the Indonesian government guilty of violating multiple UN guidelines and standards.

The government must take steps to reverse this situation and must make immediate reparations and repairs along the following lines:

1. The Omnibus law is legitimising practices which violate the rights of communities. It also causes further harm to the environment. Hence this law must immediately be suspended or redrafted to align with international human rights and environmental standards and agreements, and in a manner that upholds the rights of the Indonesian people and safeguards the environment for future generations.
2. State repression against coastal communities must cease and the captive victims should be given fair trial against the false cases filed against them
3. The Constitutional Courts of Indonesia have upheld the right to customary governance of natural resources in the 2010 ruling against Marine Spatial Planning, and have stated that this right flows from Article 33 of the 1945 Constitution. A clear devolution of powers is needed to ensure the Centre does not take over the jurisdiction of customary governance institutions or the local and provincial governments
4. The marine spatial plans do not reflect perspectives for holistic protection of the coastal and marine environment, biodiversity loss and ecological integrity nor does it safeguard the livelihood rights of the fisherfolk. Hence, the MSP systems must be reviewed in toto,

keeping in mind environmental sustainability and livelihood sustainability of coastal communities.

5. Communities must be involved in decision making processes on issues that impact them. For example, regulating industrialised fishing and marine planning processes.
6. Recognising the reality of climate change, stricter environmental and social impact assessments are needed for large construction and infrastructure projects on vulnerable coastlines, including projects that involve land reclamation, as they have the potential to exacerbate flooding for all low-lying areas.
7. Women should be recognised for their role in fisheries, and their welfare should be actively considered in development and fisheries planning and management.

The Jury emphasises that the rights of fishing communities to self-determination is a basic, fundamental right recognised in international conventions and must be respected by the Indonesian government.