

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

Date of Tribunal: 27<sup>th</sup> August, 2020

Date of Jury Verdict: 12<sup>th</sup> November, 2020

Verdict signed by Members of the Jury:

Ms. MakomaLekalakala, Director of Earthlife Africa, Johannesburg, winner of Goldman environmental award

Dr. Oscar Amarasinghe, Professor at the Department of Agricultural Sciences, University of Ruhuna, Sri Lanka

Justice (Rtd.) JastiChelameswar, former Judge of Supreme Court of India and former Chief Justice of High Court of Guwahati and Kerala

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**STATEMENT OF INTENT**

The Jury notes that the *Independent People's Tribunal on the Implications of Blue Economy in Sri Lanka, held on 27<sup>th</sup> August 2020* was the first in a series of six important country Tribunals, which are being conducted by a consortium of social, environmental and community rights advocacy organisations from South and South East Asia. The Tribunals are being held in the Indian Ocean countries of Sri Lanka, Indonesia, Thailand, India, Bangladesh and Pakistan.

The Jury's verdict was determined keeping in mind the following key aspects:

1. The impact of Blue Economy projects on the life, livelihood and habitat of the coastal fishing communities in Sri Lanka;
2. The impact on the fishing communities, of the social and economic polarisation brought in by the civil war and anti-Tamil violence in Sri Lanka;
3. The diverse aspects of Blue Economy related projects in the country and the key environmental impacts to the country and people;
4. The gender component of fish work and the questions of denial of rights to the women fishers (including the key livelihood related difficulties);
5. The diverse aspects linked to tourism and marine/coastal protection programmes of the government of Sri Lanka, which have direct implications for the coastal communities;
6. The impact of International Financial Institutions and global geo-politics, on the fisheries sector in SL.

The Tribunal was attended by more than 600 people from across Sri Lanka and fishing community leaders and civil society activists participated in the Tribunal. The Jury was encouraged to see the participation of the community through online platforms and the powerful use of technology to make the Tribunal widely accessible to the people of Sri Lanka and other countries in the middle of the COVID-19 pandemic. The Jury also appreciates the testimonies that were presented by the local affected people along with the report on the Blue Economy presented by the Research Team, and expert presentations.

The Jury notes that that the Tribunal is not designed to be conducted in the manner of court proceedings where both parties are represented by their legal arguments, but rather as an important opportunity for the voiceless fishing community of Sri Lanka to raise their issues, concerns and views regarding the consequences of the paradigm of Blue Economy on their lives and livelihoods, from the lens of their shared collective and traditional wisdom.

## 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. Bishop Asiri Pereira, Methodist church, Sri Lanka
  - c. T. Peter, General Secretary, 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. Herman Kumara, National Convenor, NAFSO

3. A report - '*Blue Economy - Exploring the Socio Economic Political and Ecological Implications on the Coastal Communities of Sri Lanka*' 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 Dr. Arvind Rajagopal, New York University on '*Geopolitics of Blue Economy in South and South-East Asia*' .
5. Testimonials from 6 community representatives across different sites on the implications of the Blue Economy on their communities.

## PEOPLE'S CHARGESHEET

The following key charges were pressed through the testimonies presented to the jury:

1. The Sri Lankan Government has disregarded the traditional wisdom, livelihood aspirations, peace, human rights, dignity and progress of the fishing communities, in both in Northern regions and in the South of the country;
2. The Sri Lankan Government has disregarded international conventions, including the United National Convention on the Law of the Sea, other international FAO regulation and management codes, the constitutional rights of citizens and the traditional and customary rights of the fishing community in the process of ushering in corporate and market-led projects on to the coastal and marine zone of the country. As per the testimonies, these projects are violative of natural justice and negates the right to life, livelihood and equality before law, of the community. The testimonies presented were able to prove how their resources are being grabbed, how they are being dispossessed of their fishing grounds and how environmental restrictions are resulting in further displacement.
3. The International Financial Institutions, including the World Bank, the Asian Development Bank and the International Monetary Fund (along with new age Development Finance Institutions) are behind the aggressive push for corporate land and ocean grab in Sri Lanka;
4. Mega development projects like the Chinese (invested & operated) Colombo Port City project have not only evicted fishers without adequate land and livelihood compensation, they have also forever destroyed the traditional sustenance and disregarded the claim of fishers to the ocean. Coastal communities across the South/Western, Western and North/Western regions asserted that coastal destruction and sea erosion was ongoing along their coast, and that this was causing a loss of space for fisher women for post-harvest processes.
5. The traditional, small-scale fishers from the north and south of the country have charged the Sri Lankan state and the concerned departments of not giving priority hearing to the sector, which has played a key role in maintaining the food security of millions;
6. The women fishers of the marine sector have charged that they are not dealt with equally or given any consideration as significant contributors to the fishing activity. Also, women asserted that they are marginalised in the market places due to big investors setting up large scale businesses in the harbours.
7. The women fishers of the northern provinces have charged the Sri Lankan military and government of severing traditional fishery rights, and also the right to life and peace of the community by denying educational access, healthcare access and peaceful habitat rights to the Tamil citizens. Thousands of fisher people are still living in IDP welfare camps since 1990.

8. Environmentalists and the community have charged that the Government has unleashed havoc on the future generations by risking the marine protected areas and vulnerable coastal lands and waters to heavy industrialisation, mangrove destruction and dredging for tourism and other activities. Fisher people in the north claimed that the Government of Sri Lanka has slackened environmental protection through de-gazetting of mangrove lands to cater to the demands of intensive aquaculture.
9. The sea erosion witnessed in Sri Lanka has made the traditional fishing communities, especially in southern areas, more vulnerable to climate change, natural disasters and livelihood loss;
10. The northern fishers have charged the state of Sri Lanka with denial of their rights by the Government's provision of commercial harbours and habitat settlements to the southern fishers in northern areas. They have also mentioned that this directly has resulted in polarisation and division of the Sri Lankan fishing community;
11. The traditional marine fishers have also charged that industrial aquaculture has denied them of their rights to value chain as well as supply chain and denied the local communities their right to drinking water.

## **EVIDENCE PRESENTED**

The focus of the Tribunal was on the implications of Blue Economy on livelihoods, coastal resources, biodiversity and the resulting displacement, denial of user and customary rights to the coastal and ocean resources and exclusion of small-scale fishworkers (SSF) from policies and economic and legal reforms. In particular, evidence was presented on the impacts of the following projects and issues:

- Port City Project, Colombo
- Chundikulam National Park
- Small Scale Fishers and Women Fish Workers of Marine Sector (Northern and Southern Province)
- Negombo Dry Fish vending.

The Jury notes that these projects allow us to understand the different settings where the Blue Economy is touching down and interacting with the socio-ecology in Sri Lanka, and highlight the varied and often diverging interests within the Blue Economy framework. These raise questions against the backdrop of the triple win (social-ecological-economic) narrative offered by this development framework.

Key parts of the evidence submitted to the Jury have been summarised below:

### **A. Evidence submitted by The Research Team**

The Research Team presented that globally, the Blue Economy (BE) has been emerging since the United Nations Conference on Sustainable Development (Rio+20) in 2012, and has been projected as a sustainable economic growth model. It is envisioned that under this model,

coastal nations would open their coastal and marine ecosystems as sites of development for the development of different sectors like fisheries, aquaculture, tourism, shipping, mining and others. Since then, many Least Coastal Developing Countries (LCDC) and Small Island Developing States (SIDS) have been adapting and shifting their national growth models towards the Blue Economy/Blue Growth strategies. At the global level, a range of actors at the international level, from the World Bank and the United Nations, to portfolio managers and venture capitalists are active proponents and investors in the Blue Economy agenda.

In line with the above, Sri Lanka as an island nation adopted the Blue Economy under the 'Blue Green Economy for Sri Lanka' plan and began to shift national budget allocations towards harnessing the potential of ocean and coastal resources. Sri Lanka has envisioned the Blue Economy as a pathway to prosperity, and for transforming Sri Lanka into an investment hub of the Indian Ocean region, through a knowledge-based, highly competitive, social-market economy.

The Research Team while studying the focus areas under the global BE agenda has been able to discern that Sri Lanka's strategic location adjacent to the world's busiest shipping zones makes it a particularly desired destination for investments. The imperatives driving these investments have both global, regional and national dimensions. Globally, the American and Chinese geopolitical tug-of-war has led to countries being carved up on account of their suitability to provide ports and havens of investments. Regionally, on account of the historical border conflict with India, and India's direct alignment with American interests for its own Blue Economy, Sri Lanka and India are paying more attention to the common maritime borders. And finally, given Sri Lanka's own history and the North-South divide, the BE investments, as they touch down and interact with the social, cultural, historical and economic histories of the regions, create particularly specific outcomes.

The overarching plan under which the BE focus areas are located is Sri Lanka's **National Physical Plan 2013-2030**. This plan illustrates that 5 new mega cities, 22 domestic airports, 15 commercial harbours, 5 super highways which connect to Asian highway network through Rameswaram in southern coastal India. The goal is to make Sri Lanka one of the 'Wonders of Asia by 2030'. The mega development projects are financially supported through investments and loans by foreign countries or foreign companies with high-stakes interests, both geopolitical and profit-oriented.

The Research Team points out that as a result, there is scant concern for natural resources such as land, water, forest, and oceans which are instead dedicated to cater to the needs of mega development projects. Consequently, communities who are custodians of and dependent on natural resources are being dispossessed from their lives and livelihoods, thus increasing poverty, food insecurity, and threatening their well-being. The impacts are borne harshest by fisher women, who are unable to continue their activities and develop their economy. For instance, in Colombo, fisher women who were largely involved in the Dry Fish business are now unable to due to the inundation of their lands due to the port city project. Some of the comments that highlight the nature of the BE in Sri Lanka are:

*“Technocrats sitting in AC offices do not understand the impact of their actions on how they play out on the coastline. They do not realise how the natural conditions are altered and how they affect fishers, like water currents etc. and how these alterations cause shore erosion.”*

- Galle-P.H. Lambert, Fisher Leader & Executive Committee member-SFO

*We believe, the land, water and forest are inalienable rights of people. Land should be available to farmers while marine and water resources should be available to fishers. However, the so-called development project will be provided luxury to the privileged few while depriving the rights of majority in the society. It is lesser than even 1% of the country benefiting from such projects while majority are made to pay be the loans and interest for borrowed money.*

-NAFSO

*Women fishworkers are not respected in Sri Lankan society. Women were secondary to the men who fished and were considered the bread-earners. But women represent the society, however even our children are not respected and unable to continue their livelihood. In society and the organisation, we are hampered and considered secondary. This is the same situation in our interaction with the state/government as well.*

– Negombo-Ms. Rimalika Fernando, Executive Committee Member,SVFWO

The Jury notes that the Research Team has presented the following overall findings:

- **Socio-ecological impacts of the Colombo Port City-** The work on the Colombo Port City is leading to serious socio-economic problems and malnutrition. It is estimated that the number of fishers directly affected is now in excess of 30,000 in Negombo alone. The overall figure, including those engaged in associated trades, is estimated to be more than 600,000. The majority of the people cannot afford to purchase deep-sea fish and are dependent for both their livelihood and food security on small-scale fishing. Coastal villages are also being washed away due to the erosion caused by the project. Some fishers have no place even to park their boat because of sea erosion caused by sand mining.
- **Loss of access to coastal and marine spaces** - Fishers have lost their beach seining sites, craft anchorage sites and fish drying sites, first, as a result of climate-induced sea erosion and second, as a result of land grabbing by tourism interests.
- **Transformation from self-employed to wage labourers** -On account of the failure of fisheries management and regulation over the years, fisheries resources in Sri Lanka's waters have been deeply impacted. Sri Lanka has also opened up its waters to foreign fishing fleets. Given the decline in fisheries resources to the

SSF, the absence of other livelihood options, many SSF have begun to join foreign industrial fishing boats as waged workers. While the Research Team did not investigate the aspect of the at-sea working conditions, based on similar shifts in other countries, such as Thailand and Indonesia, it can be assumed that the fishworkers work in harsh conditions where they are underpaid and overworked.

- **Militarisation of the coast**-The Sri Lankan Government's policy decision on permitting the Army to control and manage the development interventions along the coastline has negatively impacted fishers, as well as the coastal and ocean resources. The conversion of coastal lands into tourism, aquaculture, hotels, infrastructure and development projects is underway through the direct intervention of military and leading to the forced eviction of coastal communities. The armed forces run and manage the country's tourism sector - nearly 150 hotels are planned to be managed by the military; and holidays packages and resorts such as Golfink Hotel Trincomalee, Lighthouse Gallery Colombo, Lagoon Cabanas, Sober Island Resort Trincomalee and others are managed by the navy. It has been found that Tamil communities were forcibly made to work in the tourism resorts administered by the armed forces. Public beaches have become private beaches, and beach access roads have become private property of tourism stakeholders.
- **Water problems from industrial aquaculture**-The promotion of intensive culture fisheries has resulted in most of the drinking water sources, irrigation channels, lagoons and reservoirs in the northern region being converted to industrial aquaculture. The destruction of traditional pathways, waterways and flood plains has led to the drying up of surface water bodies. Extraction of ground water for shrimp farming has resulted in acute water crisis and health hazards like kidney stone and waterborne communicable diseases. Industrial aquaculture has displaced women from the fisheries value chain and supply chain, even as industrial aquaculture is being promoted as an alternative livelihood option for women.
- **Issues with fishing harbours**-The fishing harbours at Pesalai and Point Pedro, even though claiming to benefit the fishing community of the Northern province, are being opposed by the fishing community. The reason for this is that they do not have access to buy multi-day boats and deep-sea vessels as they are heavily indebted already and there is no credit support from the Government. These projects will also have detrimental effects on the area's shoreline fisheries, stocks and biodiversity. The families, dependent on shoreline fishing, especially women vendors, will be totally displaced.
- **Inadequate social security measures for fishers and fisher women**-There are around 5000 households living in welfare camps as internally displaced people since they were displaced in 1990. The reason for their presence here is due to forced eviction without any compensation or rehabilitation. Many of the women are forced to undertake waged work in extremely vulnerable working conditions

without adequate infrastructure facilities including water and toilets. The women in IDP camps face physical and economic insecurity.

## **B. Testimonies by community representatives**

Community representatives and fishing leaders submitted testimonies on the implications of the Blue Economy on their communities -

### **1. On the subject of the BE development framework:**

*N.V.Subramaniam, Chairperson, Northern Provinces Fisher People's Union (NPFPU):*

- The rhetoric of development in the name of Blue Green Economy has raised false hopes among the people, but in reality, it is destroying us and our resources instead
- The present form of aggressive and exploitative development is being pushed on us by the State who is supposed be the protector.They advocated that the implications of Blue Economy will be positive but they are serving it for private interest by allowing foreign access in Sri Lankan waters
- Our Government is not transparent and its own vision document and policy perspectives are promoting foreign investments to expand the resource use from the coastal land towards the ocean; we see this for example when foreign vessels are promoted in the northern waters
- In addition, coastal resources which were serving our livelihood are being exploited by market players by fishing in shallow waters, estuaries, lagoons which were our common resources and we are left out without access, losing our customary rights and we are forced to move from our primary livelihood to alternative livelihoods
- The Government is keen to promote alternate livelihoods in areas away from our coastal habitats and thus displacing us from our home land
- Industrial aquaculture and salt harvesting, wind mills, commercial harbours for multiday boats, new settlements for southern fishers and thus every inch of our space is being encroached for private profits. We keep resisting as we are aware that we are not going to be benefited, as we are further marginalized by the implications. This is the situation prevailing across this region and I am the witness to this painful reality.

### **2. On the subject of women and development within the BE framework**

*AnanthiSasidharan, former Women's Minister, Northern Province:*

- The land grabbing process is continuing in the north and east and we are constantly raising our voice against it. We only gain sympathy but our rights are not recognized. Our people are forced to engage in unknown occupations and our primary livelihood is at stake
- My experience with women is very pathetic.They are no longer self-reliant. There is no credit support and they are employed as daily wage earners. In my view, Blue Economy is not a sustainable one as there is no development in our region, and

especially the educational aspirations of our children are not addressed. Our women are constantly facing gender violence and there is no security as our coast is regulated by the military

- Our boats get damaged at the harbours, parking boats is unsafe. We don't get compensation for damages. The Navy controls the harbours
- Our children do not have access to nutritious food as the State is promoting export-oriented food production. All the prevailing welfare schemes before the war are no more in practice. There is no fund allocation for our cooperatives where we had access for our entrepreneurial activities and we have been displaced to from our original habitats
- We do not have the freedom to fish in our own waters as we are facing issues with the Indian navy, as the trawlers are regularly fishing in our territories. Indian navy is seizing our boats, we are tortured and we cannot make any complaints against these atrocities with the police and we lose our fish catch. Our own government is not supportive and not taking action against this
- Illegal activities and trafficking of narcotic drugs is ongoing and we could not access the sea for fishing
- There are many shrimp farms in the coastal areas in the north and as a result the fishermen have no place to do their fishing. Women are forced to work in these shrimp farms as labour. Earlier the women used to pick up shells but now these areas are given for big shrimp farms prohibiting their access
- Women leadership is lacking in the co-operatives which are managed by men
- We cannot tolerate any more violence and we demand the Government to ensure peace by regulating the militarization of the coast. The Sri Lankan Government should devolve funds and powers to the Northern Province for economic and social empowerment. We are assertive and courageous and we need our own space to move towards peace and prosperity

*Rimalika Fernando: Women Fisher worker, Executive Committee Member of SVFWO, Negombo:*

- Women fishworkers are not respected in Sri Lankan society. Women were secondary to the men who fish and were considered the bread-earners. But women represent the society, however even our children are not respected and unable to continue their livelihood. In society and the organisation, we are hampered and considered secondary. This is the same situation in our interaction with the state/government as well
- Most women are back on land when the men have gone fishing and have to maintain the family. The women however do not feel safe and the children cannot continue their education.
- Even during the tsunami, we face many difficulties in terms of access to nutritious food, and we were unable to continue their activities.

### **3. On the subject of Chundikulam Bird Sanctuary**

*Rathnasingham Muralitharan, Chairperson DIFSO, Jaffna:*

- Chundikulam Bird Sanctuary comprising 24,000 acres is an old project. But in July 2012, an extra 24,000 Ha was added as National Park and now total of 48,000 acres is now captured by government.
- There was no public notice, no gazette notification, no public hearing during this transfer
- The government keeps lying about the National Park tourism resort project, and to support their claim of a National Park, they are even resorting to bringing animals from outside
- Southern multiday mechanised fishing boats are plundering our seas and fishing grounds. Our fisheries resources are getting damaged. We cannot compete with them, since we don't have their technology
- Land grab is also happening with wind mills and aquaculture too. Shrimp farms are causing huge pollution, and damaging our drinking water sources
- Point Pedro fishing harbour is being constructed, but it's not meant for us Tamil fishers from northern provinces
- Migrating fishing vessels owned by private companies from southern Sri Lanka use destructive fishing practices. Their large purse-seine nets catch even endangered species like Rays and Sharks
- In Jaffna district alone, there are 28,000 women from fishing communities who have lost their husbands and are women headed households. They are all dependent on fish vending and other post-catch activities for livelihood. With no fish for us, these women suffer acutely. How can these women do crab-culture or shrimp-culture? Those can be done only by large private businessmen
- After a full genocide, the government is now using Blue Economy to make all the Tamils as refugees and slaves
- In regions that were under control of LTTE alone, the government has made up to 200m from sea as 'coastal land', whereas in the rest of the country, it is only 100m. This is because they want to grab the entire coast into tourism resorts and privatise it, away from the communities.
- We don't want any such "development", and want to continue our traditional livelihoods in a safe and secure environment.

### **4. On the subject of Governance of Government Armed Forces (Northern Province)**

- In the Northern region, the Military and Navy has taken the full control over the ocean and coastal resources. They establish all sorts of coastal and ocean-based business to harness the revenue for national growth. The production-oriented industrial fisheries developments such as Aquaculture and Mariculture, ports, tourism and other coastal infrastructure projects are being implemented by military in a big way, resulting in the

dispossession of fisher customary rights over land and sea. For instance, tourism hotels and resorts were managed and run by military

- The private entities are playing vital role in fisheries development projects which alienates the fishers for the ocean and coast. Further, the Government is keen on promoting alternate livelihoods for fishers, which makes the fishers to disintegrate from fishing activities
- Women are the worst affected, there is no physical security. The Navy harasses fishers on the sea, and takes away the fish catch.

*“Fish is regularly taken away from us, we are tortured and we cannot even report this to the police. The navy comes and hits us with their boats and we are unable to report these issues. Our occupation is being encroached by the (India) navy. They seize our boats and it takes us months to get them back; in our own ocean we are unable to be independent.”*

-AnanthiSasidharan, former Women’s Minister, Provincial Council, Northern Province

##### **5. On the subject of the Colombo Port City Development of Fishers (Southern Province)**

*SubashinieKamalanathan, Convener, People’s Movement Against Port City (PMAPC)*

- The Post Tsunami and War reconstruction development policies had opened the coastal gateway for economy. The Colombo Port City (CIFC), is a city-on-the-sea, a financial centre with shopping and office complexes, hotels, and apartments for investors. The project is the landmark of the infrastructure development program of Sri Lanka and China and is part of China’s “Belt and Road (BRI) Initiative”. We are not opposed to development but this model induces severe impacts on us.
- CIFC had a detrimental impact on marine ecology and biodiversity, yet, there have been absolutely no efforts to mitigate the ill-effects, including the non-provision of a livelihood support. The shore has been destroyed and the sand/shore has been altered. For the last three months (June-August, 2020), these areas have been destroyed really badly, with resulting erosion
- The Environmental Impact Assessments (EIAs) carried out are inadequate, incomplete and violated procedures and process of EIA. For example, sand mining and ground levelling that had already been conducted prior to the EIAs was illegal because there was no proper impact assessment of the project activities prior to begin the project as required by the National Environment Act No. 47 of 1980, which is the EIA legislation in Sri Lanka
- Fishers who live along other coastal areas (from Kammalthota to Ratmalana) say that their income from fishing has reduced drastically due to the denial of access to fisheries as well as the depletion of fish resources and damaged to coastal environment caused by sand mining. The project will also affect the livelihood of 600,000 persons who depend on fishing and other fishing related activities.

*“Sand mining for the construction of the CIFIC has already caused sea erosion and washed away parts of people’s homes in Bassiyawatte, just South of Negombo and directly in line with the sand mining now claimed to be less than 8 km from shore. Boats once parked on the shore have now to be launched from the adjoining lagoon, which adds a considerable time to their journey”.*

*“Soon, Sri Lanka will be a stooge to China and we are losing our sovereignty, our freedom of speech, our independence. We have already lost so much”.*

-Ms. SubashinieKamalanathan, Convener, PMAPC

*“After the construction of the Port city project, suddenly sea water rushed in and destroyed dry fishing grounds. Never such a rush in 32 years. Erosion is a major problem. Original fishing grounds, spawning grounds are damaged. There are big pits in the sea due to continuous dredging for port. They protested and government agreed to dredge 10 kms ashore. But they do not comply. Compensation for the erosion damaged houses was extended only for insured fishers. Even for repairing houses in the Coastal Zone, they have to avail permissions.”*

- Negombo woman fishworker

*“According to the movement PMAPC, this project will displace 50,000 families and livelihoods of 30,000 small scale fishermen living from Hendala to Negombo, and it will adversely affect our western and southern coastline including Panadura, Angulana, Mount Lavinia, Uswetakeiyawa, and upto Negombo. The EIA of the project has not included the effect on sand and rock mining, the adverse impact on fish breeding areas, damage to coral reefs and coastal erosion”*

-People's Movement Against Port City (PMAPC)

## **C. Expert Presentations**

### **1. Geopolitics of BE in South and South East Asia:**

*Arvind Rajagopal, Professor of Media, Culture and Communication, NYU*

This is a summary for the report made by a member of the Research Team. The paper is annexed to the verdict report.

- The subject expert presented on the subject of geopolitics, and linked the current geopolitical juncture of the BE to two points: one, the concentration of wealth in the

hands of the few, that is rising inequality in the face of neoliberal growth, and two, the devaluation and dismissal of expertise;

- This has consequently led to a trend where the national interest has come to replace the culture of democracy and asking questions, a consequence of which is the rise of surveillance capitalism with the increasing ability of states to monitor its citizens;
- The rise of the ‘national’ question also signals the rise of the state as being a platform for the marginalised to being one for the rich;
- A further outcome of this is the private capture of the media on one hand, and the uncontrolled rise of media on the other. Similarly, the imperative to produce cheap goods for the global market means that there is a segmentation of labour markets which leads to the exploitation of social divisions and the resulting reduction of costs of commodities;
- Thus, the BE is a part of a larger shift in development based on the tenets of free markets and free ideas, both of which are far from being free.

*“The Blue Economy covers ¾ of our planet’s surface – it is the ultimate site of convergence, the largest repository of resources, and the barometer of the world’s health as a whole. It is a place where international collaboration is essential, and where a fair division of wealth should occur – we either survive together or we perish together. It is the last frontier.”*

-Arvind Rajagopal

## **JURY OBSERVATION**

Every nation state has the responsibility to protect the planet Earth. Natural resources are not infinite entities. Oceans are the major regulator of greenhouse gas emissions, sequestering close to 50% of the carbon released over the period of the industrial age. Water cycle, biodiversity and food chain cannot be altered without seriously harming humanity. The Jury’s concern is to bring the attention of the Sri Lankan state to consider the ecology as a major stakeholder in the development plans and consider the

### **1. Fishing communities in the Blue Economy:**

The Jury observes that the Blue Economy, by its very name, is a development framework related to the oceans and the coasts. Thus, the *de facto* primary stakeholders of the projects under this framework are the people who live and practice livelihoods in these locations, in this case the fishing communities of Sri Lanka. The Jury has extensively heard today that the coastal and marine areas of Sri Lanka support are inhabited by traditional fishing communities, who in spite of the challenges of civil war, climate crisis, political upheaval over the decades, continue to participate in a fishing economy that sustains the lives of many, and provides cheap, local and nutritious food to the country. The Jury also notes that the fishing communities are the biggest users of coastal and marine spaces and have

the highest dependence on them. Thus it becomes imperative to see the Blue Economy's impacts from their perspective. It is beyond question to this Jury that fishing communities must be placed, as not only the *de facto* but also the *de jure* primary stakeholders of coastal and marine spaces, a point that we observe is lacking within the national legal framework in Sri Lanka.

## **2. The planning of the Blue Economy:**

One of the biggest concerns that this Jury observes of the development framework in Sri Lanka is the absence of an understanding of the coastal ecology by the planners. The testimonies presented to us indicate extraction of sand, filling of wetlands and reclamation from the sea. Ideas like rigid zonation make clear that the planning and development model which has been used on land is not suited for the sea. It is with grave concern that we note that in the era of climate crisis and rising sea-levels, island countries such as Sri Lanka are highly vulnerable when natural barriers are removed and replaced with concrete structures. The fishing communities, as people who are able to discern and predict these changes, are very clear about the fact that the planners in the country are ill-equipped to understand the challenges of living on the coastline, and the impacts of this form of development. On this point, the Jury also observes that the Blue Economy of Sri Lanka is not at the moment consulting with the primary stakeholders of the coastline, and is thus missing the opportunity to build a truly long-term and ecologically benign futuristic economy.

## **3. Blue Economy as a development framework:**

The Jury also observes that while development in the oceans and coastal space is not a new phenomenon, the imperative to now develop infrastructure and avenues for growth in the coastal and marine spaces under the Blue Economy is a unique and new phenomenon. Under this framework, there is an attempt to streamline a wide range of activities from conservation, port cities, fishing and aquaculture, tourism and climate crisis mitigation, which would earlier have been considered as acting in diverging directions. The Jury notes that the Blue Economy can be seen as ushering in a new form of multi-stakeholderism that brings investments and actors across a wide range of portfolios. While previous blue growth models have focussed on fisheries development primarily, the Blue Economy model takes fisheries as only one component, and therefore presents a challenge to the fishing community.

## **4. The geopolitics of the Blue Economy:**

The range of projects within the Sri Lankan plan that related to ports, logistics and infrastructure, in addition to their funding mechanisms, make it evident to the Jury that the Blue Economy model is a part of a global macro-economic process that is primarily focussed on the reduction of per mile costs of transportation of goods. The Jury notes that Sri Lanka straddles an important node of the global shipping corridor between South East Asia, Africa, Asia and the Middle East. Thus, the Blue Economy, while conceived and executed by the nation-state, is also catering to a whole range of global interests and investments, that at times have the ability to undermine the question of national interest.

The Jury observes that while the material solidarity of the fishing communities in the region is based on the idea of shared common resources, the Blue Economy model has the potential to pit nation-states against each other for cost competitiveness in the global market. There is a fear that these larger questions can subsume the interests of citizens like the fishing communities.

#### **5. Militarisation in the Blue Economy:**

A related matter to the geopolitical point in the Blue Economy is the rise of militarisation in its various forms, be that surveillance through online tracking, the rise of maritime police to secure beaches, or the advent of the ‘Monitoring Control and Surveillance’ mechanisms at sea. The Jury finds this especially concerning in Sri Lanka given the recent history of the country with civil war, and the long-term trauma and distress that this has manifested. The Jury also notes with concern the use of the military in implementing projects and being involved in the planning and management of different components of the Blue Economy. Fishing communities, which have forever been on the fringes of state policy-making, are now being polarised with the differential involvement of the military in the north and in the south. The Blue Economy must offer peace and prosperity to the people of Sri Lanka not from the barrel of the conceptual gun but in a manner that allows for healing and reparations. These concerns are entirely missing from the engagement with the people, and it is our fear that without including the specific interest of the people in Sri Lanka, the militarisation aspect of the Blue Economy will further exacerbate the processes of alienation and othering. The testimonies presented today also highlight the overt and covert forms of military power being shown to the fishing communities.

#### **6. Gender Quotient of the BE framework**

Promoters of the Blue Economy have consistently held that women stand to gain immensely from the alternate livelihood framework provided within BE. However, the Jury notes that in Sri Lanka the women have become the worst victims of the commercialisation and privatisation of lands and water. The Jury notes with concern the massive number of women now living in IDP camps. From the testimonies presented today, it is evident that the displacement of women continues under the Blue Economy. Thus women are going to be the biggest losers of their livelihoods, but also are further victimised since their only alternative is in low paid, waged work. Their children are denied access to better educational facilities or families denied better healthcare facilities.

### **JURY VERDICT**

The Jury has heard the evidence via the research, testimonies and the presentations made before us in the Tribunal and has reached a verdict related to the impact of the Blue Economy on the fishing communities of Sri Lanka. Drawing on our wide juridical and academic experiences with the subject of the impacts of development, the Jury would like to state that the Blue Economy in Sri Lanka, as it exists and is being implemented at the moment, has begun to cause long-standing damage to fishing communities and to the coastal and marine

ecology of Sri Lanka. It is also evident to us that the fishing communities impacted by the different projects presented today have attempted to voice their grievances to the government, and asked for their constitutionally mandated rights to be met. However, we find that the Sri Lankan government has failed in its responsibility and duty to uphold the rights and dignity of the communities involved.

The Jury, with utmost respect to, and keeping in mind our limitations to comment on the internal sovereignty-related aspects of the nation state of Sri Lanka, would like to draw the immediate attention of the Government of Sri Lanka, the international financial and statutory agencies and UN agencies, to address the issues raised by the communities facing peril. The issue of damages caused by extensive coastal and marine infrastructure projects, as part of the port-led and exploitation driven Blue Economy framework is no more just an issue of nation states and their rights. It is a global question that affects the lives, livelihoods, habitats, natural environs and protection of the coastal fishing communities, identified also as the frontline victims of the unfurling climate disaster.

The different clauses mentioned in this Jury Observations and Verdict relate to the diverse aspects of life and traditional livelihood, eco-habitats, environment, culture, socio-political life & infrastructure, policies, financial architecture, development paradigm & prior informed consent of the local communities, and so on. The Verdict is addressed to the Government of Sri Lanka as well as the international community, which must step up its actions urgently to protect the vulnerable fishing communities.

The Jury is cautious not to reflect on the trade agreements and treaties of the Sri Lankan government with global capital and the geopolitical issues arising out of it as these are policy issues and must be addressed by the people of Sri Lanka and their democratic government. However, the Jury expresses utmost concern regarding the exploitative and unfavourable aspects of such.

The Jury is guided by various international instruments that are already in place, and urges that the principles of these instruments, reflect in the policies of the Sri Lankan government. Since conventions such as the Voluntary Guidelines for Small-Scale Fisheries (VG-SSF) and the ILO's 'Work in Fishing' Convention can address the fisher's issues, we recommend that the conventions be ratified and put into national policy. We also urge the Sri Lankan state to re-visit their responsibilities under various other conventions such as the Convention on Biodiversity, RAMSAR convention, and look at principles such as 'Polluter Pays', 'Public Trust Doctrine', as well as their country progress on the SDG goals, and examine the BE development framework under their combined scope.

The Jury also finds that the Sri Lankan government must make remedies available to the persons affected. The Sri Lankan Government should think of promoting resilient mechanisms to reduce or halt the vulnerabilities of the people; people are equals and need to be protected as laid down in the constitution of Sri Lanka in Article 12. Along these lines, we find that the

The Government of Sri Lanka stand exposed on several questions of law and natural justice. The Jury identifies the key aspects to include the denial of:

- a. Right to life,
- b. Right to free and prior informed consent in the case of acquisition of land and common property resources,
- c. Right to dignified livelihoods clubbed with the right to practice customary and traditional occupation
- d. Right to drinking water,
- e. Right of access to education and healthcare facilities,
- f. Right to organisation and democratic dissent
- g. Freedom from exploitation
- h. Labour rights
- i. Protection from industrial pollution
- j. Right to sustainable development
- k. Right to Equality before law
- l. Women's right to safety and protection from violence and exploitation by state or non-state actors, including armed forces
- m. Right to fair compensation and 'land for land' in instances of application of principle of Eminent Domain.

The Jury has heard from the testimonies that the losses being faced by the fishing communities on account of their displacement and loss of access to life and livelihood options are not being considered when implementing the BE projects. Thus, we recommend that the Government of Sri Lanka undertake an economic loss assessment of the areas where fishers are facing displacement and ensure that where displacement is inevitable, adequate compensatory mechanisms are put in place.

Having heard the militarisation aspects of the Blue Economy, the Jury observes that the interference of the military at the moment is not regulated by an appropriate legal regime. We recommend to the Sri Lankan state to minimise the interference of the military, and create appropriate legal regimes such that restraint on the basis of the military's interference can be worked out.

Finally, the Jury annexes the verdict by Jury member Oscar Amarasinghe, in relation to the fishing policies of Sri Lanka. The points in this document are agreed upon and supported by the other jury members.