

**International Jury Verdict:**  
**Independent People's Tribunal on the Implications of**  
**Blue Economy in Thailand**

**Date of Tribunal:** 10th November, 2020

Verdict signed by Members of the Jury:

- Jst (Rtd) Ms. Anjana Prakash, former judge at Patna High Court and Senior advocate at the Supreme Court of India
- Dr. Dina M Siddiqi, Faculty of Liberal Studies at New York University
- Prof. D. Parthasarathy, Professor of Sociology at Department of Humanities and Social Sciences, Indian Institute of Technology, Bombay.
- Dr. Petch Manopawit, Conservation Scientist and former Deputy Director, IUCN South East Asia Group.
- Ms. Soontaree Sengking. head of the NGO's Coordination Committee on Development, Thailand.

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# STATEMENT OF INTENT

The Jury is informed that in December 2018, the Research Team, comprising Jesu Rethinam, A. Gandhimathi, Sridhar Rao and Jones Spartegus (Research Team) along with members of the Sustainable Development Foundation (SDF), Thailand, conducted field visits in Pak Bara, Songkhla and Laem Chabang in Thailand. The report prepared by this Team, along with video and live testimonials, and two expert opinions has been presented to the Jury as well as to representatives of fishworkers and CSOs from Thailand and other countries, and to the general public through the ***Independent People's Public Tribunal held on 10th November 2020***.

The Jury takes note that the People's Tribunal in Thailand is the third Independent People's Public Tribunal, the first two being held in Sri Lanka on 27th August 2020 and in Indonesia on 22nd October, 2020.

The Jury notes that the Tribunal has brought forward serious issues regarding basic human rights, loss of livelihood and ecological impacts with the Blue Economy programme being undertaken in Thailand. We also note that the disregard for the lives and livelihoods of fishing and coastal communities in Thailand is taking place in a larger social, political and economic context of Thailand including -

- Democracy debates and military regimes - Debates on the Constitution of Thailand have been going on in different forms since 1932. Most recently, in 2014, then General Prayuth Chan-ocha took office as Prime Minister through a military coup. In 2017, a new Constitution was brought into effect by the National Council for Peace and Order, a body established under the military regime. The Constitution concentrated powers in the hands of the military. Protests against the current government and the Thai monarchy started in February 2020, and have been continuing to this day. Protestors are demanding the dissolution of the government, reform of the monarchy, a new Constitution and ending the repression of activists.

- Human rights and state repression - We note with concern the reports of state repression of activists. Amnesty International, Human Rights Watch and other international organisations have pointed to the violent repression of the freedoms of citizens. A [2019 report by Amnesty International](#)<sup>1</sup> points to the practice of enforced disappearance and a [Statement by International NGOs](#)<sup>2</sup> points to the unnecessary and excessive use of force against pro-democracy protesters.

## PEOPLE'S ALLEGATIONS

The people of Thailand through this Tribunal process have charged the Thailand government as well as various International Finance Institutions (IFIs) and multinational corporations leading the Blue Economy programme of violating and disregarding the basic human rights, dignity, livelihoods, traditional knowledge and progress of coastal communities. Additionally, they charge the Thailand government of disregarding the needs, priorities and aspirations of their citizens, particularly of the fishing community, and of violating its international obligations.

The following main violations have been brought to our notice -

1. That International Financial Institutions and Multilateral Development Banks are leading an aggressive push for corporate land and ocean grab in Thailand. Mega development projects like the Grand Thai Canal, Jana/Pak Bara port, the Eastern Economic Corridor have displaced fishers and destroyed the livelihood of fishers and disregarded the established claim of fishers to use and manage coastal and ocean spaces as traditional commons.

Furthermore, the manner in which anti-IUU policies have been framed, by stopping registrations of boats and other measures, has denied fishers their right to livelihood.

Therefore, it is alleged that the actions of the Thailand government as well as other international actors are in direct violation of -

- The International Convention of Economic, Social and Cultural Rights

On the basis of Article 1.2:

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<sup>1</sup> <https://www.amnesty.org/en/countries/asia-and-the-pacific/thailand/report-thailand/>

<sup>2</sup> <https://www.hrw.org/news/2020/11/25/statement-international-ngos-pro-democracy-protests-november-17-and-25-2020>

“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

On the basis of 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

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. 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.”

2. That women fishers of the marine and aquaculture sector are not treated equally and are not recognized as a significant contributor to these sectors, by denying them recognition as fishworkers. This is in violation of

- Discrimination (Employment and Occupation) Convention, 1958

Article 2

“Each Member for which this Convention is in force undertakes to declare and ***pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment*** in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.”

- Convention on Elimination of all forms of Discrimination Against Women

Article 3

“States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, ***to ensure the full development and advancement of women , for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms*** on a basis of equality with men.”

and Article 11

“States Parties ***shall take all appropriate measures to eliminate discrimination against women in the field of employment*** in order to ensure, on a basis of equality of men and women, the same rights, in particular: ....

(d) The right to equal remuneration, including benefits, and ***to equal treatment in respect of work of equal value***, as well as equality of treatment in the evaluation of the quality of work”

3. That claims to rights by the people have been met with undue force and the people have been wrongly arrested. This in violation of

- The International Covenant on Civil and Political Rights

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.***”

And 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.”

4. That the Blue Economy programme, led by the Government of Thailand, IFIs, and multinational corporations has unleashed havoc on nature and the availability of

resources for future generations by exposing marine protected areas and vulnerable coastal lands and waters to heavy industrialisation.

Additionally, the Grand Thai Canal and the seabed mining on the coasts of Thailand has made the coastal communities more vulnerable to climate change and natural disasters, adversely impacting ecosystems, species habitats, livelihoods, and biodiversity.

This in violation of

- 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 3

“The right to development must be fulfilled so as to equitably meet ***developmental and environmental needs of present and future generations.***”

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.”

Principle 15

“In order to protect the environment, the precautionary approach shall be widely applied by States 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.***”

- Paris Agreement

On the basis of Article 2

“This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by:

(a) Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;

(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

On the basis of 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:

Article 192-

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

On the basis of 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.

# TRIBUNAL PROCESS

A lot of important information was presented before the Jury in the Tribunal through presentations and testimonials by different people -

1. Context setting by Jesurethinam, Executive-Director of SNEHA who pointed out 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 a legal, liberal, global agreements; International Finance Institutions

*“In every process from the beginning, from planning and governance the coastal and marine communities are totally excluded and they don’t have even a say in the decision-making or planning process”*

2. The report, *Blue Economy in Thailand: Exploring the Socio-Economic, Political and Ecological Implications on the Coastal Communities* (Thailand Report), which is based on:
  - 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

Highlights of the Thailand Report was presented before the Jury in the Tribunal and the entire report was submitted to the Jury. The jury members posed questions and received responses from the researchers and community leaders / members on the impacts of blue economy on artisanal fishers and coastal ecosystems.

3. Statements by fishing community leaders -
  - a. Nadine Nembhard, General Secretary of World Forum for Fisher Peoples, (Belize) - *“Blue Economy is very dangerous for small scale fishers. We must be vigilant in dealing with capitalists. This is the time for us to stand united. We have been pushed and been marginalised for too long. I have been in the industry for 15 years and never seen things so bad. The space is being divided by marine spatial planning. And where do the small scale fishers fit, we see no space for them. We must have a seat at the table. We must be at all meetings and have our voices heard. We have to be part of the systems, and we have to*

*challenge the systems, governments, environmental NGOs against the systems that they are trying to push down our throats.”*

- b. Samae Jehmudor, Secretary general of FisherFolk Federation, Thailand (Pattani) - *“We know that there has been development in the coastal areas of Thailand, particularly industrial development. This has expanded to cover every area. Thailand and other countries face a similar situation....all these development plans will affect the fishers in the area, our livelihoods will be affected, our food security will be affected. Since COVID pandemic, the fishers are not very much affected. They are only affected economically. We have food on our plates everyday even during a pandemic. We must coordinate with government and private entities to make them understand the importance of coastal and marine resources.”*
  - c. Mr. Narendra Patil, Chairperson National Fishworkers Forum, India (Maharashtra) - *“In India this is the third cycle - first there was white revolution, then green revolution, then now blue revolution. Now we have the Pradhan Mantri Matya Sampada Yojana. But what about small-scale fisheries? We are always waiting for (something for) small-scale fishers.”*
4. Presentations by two experts, Mr. Antonio Tujo on the Geopolitics of Blue Economy in South-East Asia, and Mr. Leo Saldanha on the Role of IFIs and Impacts of Blue Economy in Thailand and Mekong Region
  5. Video testimonials and live testimonials from community representatives from 4 sites on the issues with the Jana and Pak Bara port, Laem Chabang Port, Bangataboon Bay culture fisheries and Surat Thani culture fisheries.

## EVIDENCE PRESENTED

Evidence is presented before the Jury of two major factors that determine the issues being faced by the community - the geopolitics of the region and commodification of the commons.

### **Geopolitics of the region**

A very important factor for understanding the developments in Thailand are the geo-politics of the region and the role played by other countries. With the Andaman Sea on its West and bounded by Malaysia, Cambodia, Vietnam, Laos and Myanmar on other sides, Thailand is practically a gateway to the South-East Asian region.

Antonio Tuja pointed out how it is caught between two major powers wanting to establish infrastructural and military control. On one hand, there is China and on the other hand, there is the US. China, he points out, has its economic interests in the form of the Belt and Road Initiative, the Thai Canal, petroleum exploration in the South China Sea and military strategy with the artificial islands and the nine dash line claim in the South China Sea. On the other

hand, the US has redefined its Indo-Pacific strategy with changing relationships with India and Japan. It has military ties with Philippines, Thailand, Vietnam. The US is looking for military control, but they also have a slew of instruments for finance and ports.

*“In ASEAN, the national framework of the Blue Economy is controlled by corporations rather than focusing on fishing and coastal communities. And it is also determined by the geo-political framework..... it’s not about fisheries, port development - it’s about ocean grabbing .....Geopolitics that combine economic, military and political interests.” - Antonio Tuja*

One of these ‘economic-military-political’ strategies is the grand infrastructural project related to the Kra Canal or the Grand Thai Canal. The Kra Canal proposes to cut right through southern Thailand, carving the country open from Krabi province on the western Andaman Sea coast to Songkhla on the eastern Gulf of Thailand coast. This Kra Canal project is accompanied by a mega-infrastructural programme of which a part is to connect the western and eastern coast between Satun province and Songkhla with a Thai Land Bridge. Apart from this, there are also several projects including railroads, deepsea transshipment ports and energy hubs.

Some of these proposals were earlier rejected by the Thailand government because of protests from the citizens, but they’ve now been revived by the National Council for Peace and Order (NCPO) government with Chinese investments. China’s shadow looms large over several aspects of Thailand’s other Blue Economy initiatives too.

## COMMODIFICATION OF NATURAL RESOURCES

One of the most important factors brought up in the Tribunal is the commodification of natural resources which pushes away the fishing communities who are using, managing and protecting nature as commons. There is an important distinction between nature as resources, for food and livelihoods, and nature for money. Under the Blue Economy, nature is valued only for money.

The problems of commodification were also brought out by the expert presentation of Leo Saldanha. He pointed out that the economic engine divides the world, and takes control of the resources cherished and nourished by people. He says that *“financial institutions function in a dysfunctional way. Since the 1990’s almost all natural resources were seen as viable only if they were converted to a financial asset.”* This, he points out, is why marine resources are also being turned into a commodity. This comes from the World Bank and other institutions, and *“for them to speak about life along the coastline in ways that are nourishing will not fit*

*into the corporate system.”* On the other hand, he points out that over generations, people have evolved a system of commons. which comes from the public trust doctrine.

Fishers from Pak Bara have given an example of the public trust doctrine with which they have used and conserved resources. In the testimonial, the community pointed out that UNESCO has declared Satun as a Geo-park, and the people have been trying to convince the government that it is possible and important to develop Satun sustainably with the resources that are available.

As Somboon Kamhaeng points out - *“Our people are concerned about the resources, which will generate tourism for them. This is the natural capital we have. There was clear evidence that the sea around Pak Bara is very important for the economic activities of the people. UNESCO has declared it as a global geo-park - the government has to take this into consideration. The people of Satun have in the past 10 years shown to the government how important the sea is to their lives, their livelihood, how they can grow organic food.. The people of Satun have shown how we can coexist with nature and develop sustainably”*

The community has also been examining the Environment Impact Assessment studies done by the government, and have found flawed data and neglected things. In Songkhla Lake, a 1040 sq.km lagoon, and a protected ecosystem under Ramsar convention, the community has been working on restoration programmes.

## IMPLICATIONS FOR THE PEOPLE

The implications of the geopolitics and commodification of commons on the citizens is very real -

### 1. *Loss of life, liberty and livelihoods -*

Under the Blue Economy framework, the same local coastal communities that have been sustainably using and protecting these natural resources are denied access to these spaces.

The Laem Chabang port, opened in 1981 has continued expansion, and now covers a total land and sea area of 5200 ha. The report states that there has been a continuous reduction of fish catch and because of increased living costs of the area, many of the fishers are still heavily indebted. While the community has adapted by diversifying into mussel culture, the expansion plans for the port now threaten to quash the mussel culture also. Somnuck Jongmeewasin said - *“The new project is called Eastern Economic Corridor (which) started in 2017 until 2027 - this development will increase industry areas. Big problem is they are increasing industrial areas and reducing our coastal access area....If EEC comes, then everything will go and no one can go near the area”*.

The Pak Bara deepsea transshipment port is proposed to cover an area of 31,250 ha. The report states that *“Fishers expressed that a shipping corridor along the western coast and the industrial zone will deny their access to coastal habitats and marine resources. Therefore, the megaprojects such as port, petrochemical hub, road and rail threaten the basic rights of the communities.”*

Somboon Kamhaeng reiterated this, saying that the villagers in Satun have been saying that the area should not be developed as a large development project, but be given to the community to manage. He also said that *“In Jana there has been an announcement of a special industrial estate, under the decree of SEZs, the industrial estates cannot be set up on its own, there has to be other considerations to help it function, that is what the villagers are communicating to all levels of government. We want to propose an alternative development plan.”*

However, their protests have been met with repression by the State, and the protestors have faced arrests for dissent against the port. Nine of the protestors had been charged with various offences and were embroiled in legal battles, which took 3 years to reach the Court. They believe that the cases will be concluded this year (i.e. 2020) . Apart from this, 17 people have been arrested in Songkla province. But the community stays firm - *“We are facing these risks, but we the people are ready to challenge any new development that comes up”*

As one of the video testimonials pointed out - *“Public spaces should be converted back to public spaces and govt laws related to marine spaces must be integrated to have fair access to resources, the laws should be to support communities”*

## 2. **Loss of food security -**

The link between natural resources and food security was brought up multiple times. Mr. Samae Jehmudor, Secretary General of FisherFolk Federation of Thailand pointed out that even though the *COVID pandemic had hit the fishers economically, they were not as severely affected because “we have food on our plates everyday even during a pandemic.”*

This was reiterated in the testimonial from Laem Chabang: *“New project is called EEC, starting in 2017 until 2027, this development will increase industry areas. Big problem is they are increasing industrial area and reducing our coastal access area. In the COVID time we had food security. Many people lose job and could not go home, they can catch crabs and fish and survive. Without mass tourism, everyone can go to the sea and catch fish. If EEC comes, then everything will go and no one can go near the area”.*

This was also reiterated by the testimonial of Praveen: *“Bangtaboon Bay has been feeding over 10,000 families in the area. People used commons to find food, get their regular needs. Problem when public land invaded by private capital. Need to protect*

*public land so small people can have access to natural resources.”* Another community member also said that COVID has made the importance of food security clear to them - *“Clear that the Covid pandemic has not affected our food security at all. Even though the catch was not selling well, people have plenty to eat. This can only happen if the resource base is secure. For the future, economic security has to be based on resource security.”*

### **3. *Lack of recognition for fishers, particularly women***

A key issue in Thailand has been the recognition of Small Scale Fishworkers (SSF), particularly of women. The National Policy for Marine Fisheries Management, 2015 and the National Fisheries Act 2015 have a clear goal of reducing fishing capacity and effort. Fishing vessels have been categorized based on size, and a cap placed on the number of vessels permitted. The policies also have measures in place against Illegal, Unreported, Unregulated (IUU) fishing. Fisheries Department officials confirmed to the Research Team that the aim of the Fisheries Management Plan is to reduce the number of boats.

This reduction of registration along with the anti IUU measures have serious implications for fishworkers. The report from Thailand states that the Satun FFF representatives said that out of the *nearly 1,00,000 artisanal boats in the country, only 27,000 have been registered, and that registrations have been stopped for the past 3-4 years* ever since the new fisheries management plans were in place.

The lack of recognition is particularly noticeable for women, who are closely involved in the fisheries. Women not only deal with the catching of the fish but are also responsible for the entire post-processing of the fish. Video testimonials from Petchubari and Surat Thani highlighted the lack of recognition for women fishworkers -

*“Women also go out to the sea on a boat, when we get back to home we have to take care of family, we do more work than men.”*

*“Government must place equal importance on women fishers, without us the men cannot do anything.”*

### **4. *Ecological impacts***

The socio-ecological impacts of the Blue Economy projects were also brought up continuously. The report points out that proposed expansion of the deepsea port, establishment of energy hub, Thai Land bridge project and Thai Canal will have serious implications on the physical boundary of Thailand. Linking the canal on the eastern and western side to the sea will have changes in the underwater current, shift in species movement, disruption in food chain, change in direction of oceanic current, thus leading to macro level threats to coastal and marine ecosystem.

Video testimonials from those doing culture fisheries in Bangtaboon Bay, Phetchaburi pointed out that the shrimp harvest has been drastically reducing - *“we used to get thousands of baht now we’re lucky if we get 400 baht”*. They say that this is because of the pollution happening upstream, which causes the shrimp culture areas downstream to become affected by the waste since aquaculture depends on water quality. The waste also affects cockle farmers. According to one testimony, in 2015, the shrimp farmers were able to harvest 900 kilos, next year it was half, and *“now in 2020 we can’t produce any cockles”*. The community says *they invested about one million, which “disappeared in the blink of an eye.” Even fishing has become difficult - “if we go out to fish, we can’t catch anything. Earlier, we could catch a lot of fish near our house”*

The community has been resisting these impacts - In Pak Bara, they have filed a charge to the administrative court for false urban planning to challenge the zoning which reduces their food production area. In Phetchaburi where cockle farming is done, the community is demanding the government deal with upstream pollution. Fishers have formed conservation groups in 3 provinces but a lawsuit was filed against them. In the Bangtaboon area, 25 groups of small fishers have been trying to regenerate the natural resources of the bay. At the provincial level, fishers have an association of fishers and will be the voices for lobbying the governments for issuing laws that protect natural resources. The associations mentioned that they have sent letters to different provincial and national officers and have seen some responses. *“We have to have all the stakeholders coming together to work on the conservation”*

Antonio Tujo also pointed out the impacts of deep sea mining. In Thailand, there is seabed mining already and there are plans to do deep sea mining as well. There are places in the South Asian Ocean and Indian Ocean that have cobalt and polymetallic nodules. The nodules/sulphites that are found in the deep sea vents are metals that are *“spewed out from the mantle of the earth”*. There are cracks under the sea on the crust of the Earth, and through these cracks, hot water and minerals and precious metals come out. But when these are extracted, it can create geological danger. In cases where there are no vents, the mining is done through the scraping method, where metal chains drag the sea floor, bringing up hot water and minerals, and the minerals are extracted and the waste water, after processing, is dumped back. *“So on the one hand, there’s marine environment destruction, the different animals, but on the other, the waste water destroys the water. Deep sea mining can cause effects of earthquakes’*. Not all countries can do deep sea mining, he says, but China is one of the countries poised to do this.

# JURY OBSERVATIONS

The Jury notes that what has been presented is a transnational problem - a problem of global capitalism, which has been percolating at different levels. The very idea of commons has been discredited in many ways. The marine and coastal commons had been privatised and turned into commodities to be used for financial gain only. There needs to be a fundamental shift in thinking from commodification of resources to protection and nurture of nature and the natural world.

The Jury observes that it would be helpful to conduct a public mapping process where coastal and marine commons (and customary rights attached to these) could be mapped out, giving them legal legitimacy. Private claims put on public commons could then be more easily fought off.

The Jury further observes that the Blue Economy related developments and projects did not take into consideration the ecological processes that are fundamental to life on Earth. Many of the Blue Economy projects in Thailand have severe ecological impacts such as coastal erosion, salinity intrusion and ocean acidification. Together with climate change related impacts such as sea level rise, increase in ocean temperature, storm surge, and increase in frequency and intensity of tropical cyclones, they are likely to have severe adverse impacts on coastal communities, ecosystems, settlements, and infrastructure. Such impacts on the environment and fisher livelihoods need to be studied and recorded. It is also required to question the 'science' behind the assumption that the Blue Economy will lead to growth and sustainability.

What is also crucial is to ensure that communities are not homogenised and there is integration of all social groups. Communities that have diverse practices and livelihoods cannot be pitched against one another and it is important that all interests are represented for developmental decisions.

The jury is also concerned by the exclusion of women in decision making processes, which is compounded by the lack of recognition of women's work. Women are also disproportionately affected by the impacts of destructive development. When food security is affected, women are forced to put in more efforts to provide food for the family, while continuing to keep up with other household responsibility.

The Jury observed that the developmental agenda failed to be inclusive of fishing communities, who were most violently affected by such development. In such a situation, continuous engagement is the only avenue open and the Jury encourages communities to use tools such as the Marine Spatial Planning (MSCP) to have their voices heard. The jury also notes the evidence that pointed to increasing militarisation of the seas, which is a dangerous trend. The Jury advised that this would need a well thought out response.

The question before the Jury was whether such privatisation had been facilitated by a legal process or deliberate dilution of laws. As detailed in the research report, to facilitate many programmes under Blue Economy the government has introduced new legislations, amendments in existing laws as well as policies.

The Jury sought clarity on the size of the population of fishers and those involved in allied activities, which could be gained from census information on fishing and allied activities. The jury was informed that there was no census or clear information that documented the number of people involved in fishing and allied activities, which is a major lacuna..

## JURY VERDICT

The case made before this Tribunal clearly points to several omissions and failures by the Government of Thailand. The evidence presented is direct and clearly shows that there has been a complete violation of rights of the people, particularly that of their right to food security. The model of development is ecologically destructive and increasing inequality and unjustly criminalising those who speak out and protest these actions.

As members of the Jury, we put out the following statements on our own behalf and on behalf of the Jury -

- *There should be representation of the people who are going to be affected by the policies of the government....everyone needs a constituency because it is a political voice that needs to be heard. Since they have hands-on experience, and they are the ones affected, they should be heard. At all costs, the interests of the local community must be protected....even if there is industrialisation, the interests of local persons must be evenly balanced. The goal must not be only commodification or exploitation, but also protection of the marine resources. There should be food security at all costs, otherwise also and during COVID times especially.*

*There should be some thought process to stop the interests of China being what leads the economy in Thailand, and the interests of the locals should be foremost.*

- Justice (Retd) Anjana Prakash

- *It is important to shift the narrative, how we think about nature and natural resources. The very idea of the commons has been so discredited over the last 20-25 years. If you don't push back against the idea of privatization, that natural resources have no value unless you commodify or market it, then no matter how much you hear the voices of the community, they will have no real resonance with the people who have power. We need to think at a global level, not just about global capital and geopolitics, which are important, but in the very ways we think about development - it is important to rethink what development means using local voices.*

*We must not homogenize the idea of community, which means multiple things, including gender. The people who suffer the most are being pitted against each other. Community rights and community interests shouldn't be generalised.*

- Dr. Dina M. Siddiqi

- *There is a strong need to question the assumptions behind the Blue Economy and the assumptions about sustainability - we need to question the science behind the claims of the Blue Economy leading to growth and also being sustainable; secondly, the sustainability is hugely ignoring the links to climate change related coastal hazards and risks; third, we need to question the legality because the common property rights are completely missing when they come up with new kinds of laws and policies for the Blue Economy; and fourth, the economy of the small scale fishers is completely missing when we talk about trade and markets, these are also important kinds of market.*

*We also need to rethink the imagination of what is ocean and sea and the relation of land and sea and what kind of risks are being created by the Blue Economy. It is not just about property and ownership, but also ecological flows that take place in the environment. Blue Economy projects have significant impacts in terms of enhancing risks of coastal flooding, erosion, salinity intrusion, storm surge and ocean acidification.*

- Prof. D. Parthasarathy

- *The agenda of Blue Economy is proposed in the name of trying to achieve sustainable development. The marine and coastal department which is tasked with this is trying to propose new tools such as Marine Spatial Planning, but this tool will be effective based on how they're going to engage with communities. The fisherfolk have demonstrated that they have organised themselves well on the development issue, and the only way forward is to make sure that the government is accountable for the Blue Economy agenda. For the coastal situation, the only way to go is that they have to keep organising themselves, they have to keep following the development agenda but also to make sure that they use the best available tools like Marine Spatial Planning that are going to be used to map ocean resources. If we keep engaging and making sure that (the government) hear our concerns, that will be the effective way forward, trying to address the issues in the name of the Blue Economy.*

- Dr. Petch Manopawit

- *What I can see clearly from the report is the problem that women are facing. Women are more stressed to find income from other sources, apart from work they have to carry in the family. They used to use the sea just in front of their house to find food, but now that fisheries and aquaculture has changed, that affects the role of women in food security. The government hasn't acknowledged that pre and post fishing is also part of fishing occupation, that is where women play important roles.*

*We also need to address the proportion of women in decision making processes at provincial and national level, particularly in Bangtaboon Bay. We should look at the particular ways in which women can voice their opinions, there must be legal*

*measures. In the Thai Constitution, we need positive discrimination to ensure women participation at all levels. Our target should be that women can register themselves as part of fisheries occupation.*

- Ms. Soontaree Sengking

The jury finds the Thai government, International Financial Institutions and Multi-lateral Development Banks must rethink the manner in which the Blue Economy model of development is being pushed on to the people of Thailand, particularly fishworkers. Immediate reparations and repairs must be made along the following lines

1. Rethinking paradigms of development:

There is an urgent need to rethink the model of development that is being followed globally, as well as in Thailand. In the era of globalisation and liberal trade, the economy of the local markets, food security and subsistence rights cannot be compromised by States. This is a transformation that is imperative both at the level of the State of Thailand and at the policies pushed and promoted by the multilateral development banks and international financial institutions.

2. Political and Constitutional reforms:

a. There is an urgent need for the Government to ensure democratic representation of all sections of the society. As a significant portion of the population is involved in fishing and allied activities, it is imperative that their participation in developmental decisions are ensured through political representation. For this, the government of Thailand must undertake a population census of all fishworkers and allied activities, and being included in the fishing sector must not be based on boats only.

b. The impacts of destructive development are disproportionately borne by women of Thailand, who are not even included in the decision making process. To address this, it is important that the Thai Government ensure recognition of women's work in fishing, recognition of allied activities as part and parcel of fishing activities are imperative. Constitutional reforms to secure the representation of women in national and provincial governments is a must. Additionally, to address the historical injustice that women have suffered, Constitutional amendments against gender based discrimination and positive discrimination measures to aid political, cultural and social development of women must be a priority. Social measures are also needed to increase capability of and participation of women in Government agencies and in fishers associations.

3. Addressing socio-ecological impacts:

The trajectory of development followed has had severe impacts which have spanned across social, economic, environmental and cultural spheres. The

fundamental issue is with the assumption that commodification of resources can ensure economic and environmental sustainability. However, the impacts on communities immediately affected by such developments shows otherwise. There is little attention paid to several ecological crises of climate change. .

- a. It is important for reliable studies to be conducted by the Government that study the impact of the Blue Economic development on fishers and fisher livelihoods.
- b. There is a need to re-think the idea of sustainability within the Blue Economy idea of development, which currently ignores the huge climate change risks and disaster risks. It also disregards the delicate interconnectedness between land and sea, which is fundamental to environmental sustainability, especially in the light of increasing exposure to climate hazards.
- c. Mapping of coastal commons must be undertaken to ensure that they are not taken over by industrial interests, and that legal rights of fishers are protected
- d. We appeal to the Green Bench of the Thailand Supreme Court to take cognizance of the socio-ecological impacts being caused by the Blue Economy development model in Thailand.

4. Legal reforms:

- a. To ensure that communities affected by destructive development are able to access justice, a judicial forum to address environmental concerns must be set up in such a way as to hasten the process of delivery of justice.
- b. There were also several legal changes that were implemented to expedite infrastructural development in Thailand, which violate the rights of communities and cause further harm to the environment. These laws must immediately be suspended or redrafted to align with international human rights and environmental standards and agreements, so that it upholds the rights of the Indonesian people and safeguards the environment for future generations.