

International Independent Blue Economy Tribunal Organising Committee

Research Team

- . Ms. Jesu Rethinam, Research Co-ordinator
- Ms. A. Gandimathi, Lead Researcher
- · Mr. Sridhar Rao, Research Team Member
- Mr. Jones Thomas Spartegus,
 Research Team Member

We recognise the contributions of

- Mr. MJ Vijayan, General Secretary, Pakistan India People's Forum for Peace and Democracy (PIPFPD), India
- Ms. Nirmala Karunan, International Jury Coordinator, India
- Mr. Carsten Pedersen, Researcher, Transnational Institute (TNI), Netherlands
- Mr. Herman Kumara, National Fisheries Solidarity Organisation (NAFSO), Sri Lanka
- Mr. Anil Tharayath Varghese, Delhi Forum

Documentation & Jury Assitance Team

- . Ms. Marianne Manuel, Dakshin Foundation
- Ms. Nayana Udayashankar, Equations
- · Ms. Stella James, Equations
- Ms. Aswathy Senan, Research Collective PSA
- Ms. Savita Vijaykumar, Research Collective PSA
- Mr. Siddharth Chakravarthy, Research Collective PSA
- Ms. Devika Shetty, Independent Researcher
- Ms. Evita Das, Pakistan India People's Forum for Peace and Democracy
- Ms. Shilpa Krishnan, Dynamic Action

Visual Documentation

- Ms. Kaavya Edwards, Independent Film maker
- Mr. Arun Mohan, Media Collective, New Delhi

Resource Partners

- · SwedBio, Sweden
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INTERNATIONAL JURY VERDICT ON

THE INDEPENDENT PEOPLE'S TRIBUNAL ON
THE IMPLICATIONS OF THE BLUE ECONOMY IN
EAST AND WEST COAST OF INDIA

International Independent Blue Economy
Tribunal Organising Committee

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Jones Spartegus, Research Team Member

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Social Need Education Human Awareness

37, Muthumariamman Kovil Street

Vellipallayam, Nagapattinam 611 001

www.snehangt.com

www.blueeconomytribunal.org

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INTRODUCTION

The Indian Ocean Blue Economy Tribunal series has been the result of a consistent civil society intervention, by a mix of several regional NGOs and community organisations of fishers. It was organised for five key Indian Ocean countries, namely; Indonesia, Thailand, Bangladesh, Sri Lanka and India (West Coast and East Coast held as separate Tribunals). The preparatory work for the Tribunal Research team was a long spread out process from late 2017 till July 2020 including field investigations in five countries, expert deliberations in different regions, meetings and workshops with stakeholder community organisations, and formal and informal interactions with different government agencies, multilateral agencies, etc.

"The Blue Economy frame is a result of capital's search for new terrains to explore, exploit and expand its horizons. The Tribunals are an effort to bring forth the primary stakeholders of oceans, the fishing communities, to share their views on this international frame of Blue Economy (BE) and communicate their perspectives on how a new order should be created..."

Jesu Rethinam, International Coordinator, BE Research Team

Hence, the primary objective was to explore amidst the coastal fishing communities to understand their worldview and opinion regarding the BE framework and implementation.

"The Indian Ocean Tribunal series stands vindicated in its approach to include and recognise the coastal fishing communities. The World Bank and many other international institutions that have pushed the frame of BE have often ignored the fishworkers as communities that have lived with the oceans, and as stakeholders. The tribunal is the first step by the communities in these countries to engage with and critique this alien framework..."

- Nadine Nembhard, Secretary General, World Forum of Fisher Peoples (WFFP) Methodology of Tribunals

The Tribunals were to be held in physical spaces in different countries, but had to be completed in an online format, due to restrictions imposed on travel and gatherings by the pandemic struck governments across the world. However, that led to the tribunals attracting global attention and a wider audience than just the country audience. The online format also gave opportunity to fishing communities from different regions in every

country to participate in the deliberations of the tribunals, instead of limiting their participation to only organisational leaderships in respective areas.

A large number of thinkers, activists, and experts also got an opportunity to understand and analyse the studies done by the Tribunal Research team and place their opinion on related aspects, in front of the tribunal juries. The Jury consisted of widely recognised and credible, independent members selected from jurists and legal luminaries, academia, marine and coastal experts, food sovereignty advocates, journalists and other civil society leaders from across the world, especially the global south.

The tribunals were presented with comprehensive methodologically derived narratives from experts, community members, etc. Each tribunal comprised of detailed presentations including:

- 1. Country Report by the Research team
- 2. Case Study presentations
- 3. Testimonials by coastal fishing community representatives
- 4. Expert presentations on geo-political issues, finances, and related sectoral issues (environment, climate change, tourism, port-led industrial development, aquaculture, women's role in fisheries, traditional and customary rights, etc.)

The tribunal presentations were recorded and for the sake of outreach and transparency, are made available online; using YouTube and Facebook pages of host organisations. The summary of tribunal proceedings as well as video links for the same can be found at the comprehensive repository built for the same at: http://blueeconomytribunal.org/

The last among the tribunals, the one held on the West Coast of India, concluded with an honourable Jury Member, a known jurist, asking the question: 'whose blue economy is it?'. It might be a rhetorical question and may appear naïve, but the answer to the question is precisely what is required today. This farce and façade of 'Blue Economy', 'Blue Growth' and 'Blue Revolution' can only be exposed by calling out the technocrats and autocrats of the world. They are constantly trying to sell big dreams to the poor, in lieu of the natural resources they hold. Earlier it was the indigenous people, who were told to sacrifice for development and growth. Now it is the turn of the fishing communities...".

MJ Vijayan,

Research Scholar and Activist for Peace; Facilitator of the BE Tribunals

BACKGROUND - BLUE ECONOMY

Globally, the concept of the Blue Economy has been emerging. It has been projected as a Sustainable Economic Growth model by the Coastal Nations who have opened the ecosystems of the ocean and coast which explores Fisheries, Aquaculture, Tourism, Shipping, Biotechnologies, Maritime Security, Mining, Oil and Gas, Renewable Energy in an economically sustainable way. The aim of the Blue Economy/Blue Growth strategy using ocean and coastal ecosystem services are shared as Sustainable Economic Development Spaces through ecosystem integrity. Most of the Least Coastal Developing Countries (LCDC) and several Small Islands Developing States (SIDS) had been adapting and shifting towards the Blue Economy/Blue Growth strategies to fulfil food security and attain decent livelihoods.

In 2008, the World Bank and UN's FAO jointly published report 'The Sunken Billions: The Economic Justification for Fisheries Reform'. According to the report, "By improving governance of marine fisheries, society could capture a substantial part of this \$50 billion annual economic loss. Through comprehensive reform, the fisheries sector could become a basis for economic growth and the creation of alternative livelihoods in many countries. At the same time, a nation's natural capital in the form of fish stocks could be greatly increased and the negative impacts of the fisheries on the marine environment reduced".

Following this report, the book, "The Blue Economy: 10 years 100 innovations 100 million jobs" by Gunter Pauli in November 2009, expressed that a Blue Economy Business model will shift society from scarcity to abundance "with what is locally available", by tackling issues that cause environmental and related problems in new ways. Then, most of the Global and Regional Platforms such as First Blue Economy Summit (2014, Abu Dhabi, United Arab Emirates), First "Our Ocean" Conference (2014), UN Conference on SIDS (2014, Apia, Samoa) promoted Blue Economy/ Blue Growth Model, through collateral agreements for technology transfer, knowledge transfer, funding support, providing Maritime Security for Indian Ocean, Pacific Ocean and other high seas.

Inspired by these developments, the World Bank and the FAO came up with the report in 2017, "The Sunken Billions Revisited: Progress and Challenges in Global Marine Fisheries" which advocated for Bio-Economic Model, an integrated Economic-Ecological tool used to analyse the welfare effects of changes in environmental quality.

Further, the World Bank came up with report titled 'The Potential of the Blue Economy: Increasing Long-term Benefits of the Sustainable Use of Marine Resources for Small Island Developing States and Coastal Least Developed Countries'. This report focused on two major challenges: one is to govern the ocean sustainability which aims for sustainable fisheries to ecosystem health and then substantial ocean governance which requires collaboration across nation-states and across the public-private sectors partnership. Therefore, the FAO, World Bank, Multilateral Financial Institutions, Bilateral Organisations, State Development Agencies, and other global actors propagate Blue Growth Initiate as a Sustainable tool to attain the SDG 2030 targets. The Small Islands Developing Nations and Coastal Least Developing countries widely adopted the Blue Economy growth for economic development of their nation.

To conclude, the Blue Economy Growth Model is nothing but transforming the Blue (Natural) Capital into various economic sectors i.e. Oceans and Seas as Sustainable Shared Economic Development Spaces for inclusive growth. In addition, the Blue Economy Model is successor of Ocean economy Model with a tag of sustainable exploitations and explorations of the oceans and coastal commons towards achieving sustainable growth in 2030.

Summary of the Dominant Discourse

Globally-adopted Blue Economy reiterates the exploration of potential ocean and marine resources through scientific assessment, exploitation of the above resources through sustainable means, and expansion of existing coastal and marine economic activities to facilitate their economic growth as well as sustainable use of resources through a legal, liberal global trade and economic agreements including environmental monitoring, among the countries with the financial support of international financial institutions and other private multinational investors.

Our Perspectives

However, when the above concepts are viewed from the perspectives of traditional marine fishing communities, especially through gender and ecological perspectives, we assume that the following implications will be the outcome of Blue Economic Model as this model seems to be the extension of the Neoliberal paradigm in South and South East Asian Countries.

Ecological externalities such as loss of biodiversity would be an inevitable consequence of exploitation of coastal and marine resources.

The exclusion of marine and coastal communities from their habitats, governance, and user rights on marine and coastal commons, resulting in a loss of livelihoods by allowing oceans and coasts as open access systems.

The enforcement of maritime security as a deliberate strategy towards the miltarisation of the coast and an increase in global governance.

Our Initiative - The Blue Economy Tribunal

In the above context, SNEHA undertook a study to explore the social, economic, ecological and political implications of 'Blue Economy' on SSF and fisherwomen in South and South East Asia with the following objectives:

- ❖ Production of knowledge from the ground that explores the established dominant discourse on Blue Economy and its professed merits, and to explore the socioeconomic political ecological implications of Blue Economy on coastal communities especially SSF and Women.
- ❖ To evolve a South and Southeast Asia declaration towards evolving alternate jurisprudence for restoring and strengthening customary governance and user rights by ensuring the ecology integrity of Marine, Coastal and Terrestrial Ecosystems.
- ❖ The outcome the global and regional fisher forums were enhanced knowledge on the long-term implications of blue economy and made them to rethink and reverse the wheels the Blue economy discourses in all levels of public dialogues.

SNEHA undertook the study covering countries in South and South East Asia. (India, Thailand, Sri Lanka, Bangladesh and Indonesia). The Action Research was undertaken with the collaboration of several Fishers Rights Centric grassroots organisations such as NFF Supports Organisations (India), COAST(Bangladesh), SDF(Thailand), KIARA(Indonesia), and NAFSO (Sri Lanka) as field partners.

Based on the field evidences and depositions of the fisher communities, the research findings illicit grab on ocean and coastal commons, marginalisation of fishers and coastal communities, legal dispossession of coastal and marine commons, denial of fishing and livelihood rights, strategic exclusion and eviction from coastal region, ocean and coastal ecosystems destructions and degradation resulting in reduction of ecosystem services, denial of collective rights over coastal and ocean commons, declaration of coastal habitats as coastal economic zones, livelihood impacts for small-scale fishers, sociocultural disintegration of fisher communities, inequitable distribution of socio-economic benefits, exclusion in the decision making govern systems, and conflicts between the fisher communities of ocean and coastal spaces. Through consultations, the research findings had been validated, finally Independent People's Tribunals were organised to depose their everyday experiences on the implications of Blue Economy. The verdicts of the tribunals reflected research findings at large.

INTERNATIONAL JURY VERDICT

Independent People's Tribunal on the Implications of the Blue Economy in East Coast of India

Date of Tribunal: 25th November 2020

States Covered (India): Tamilnadu, Andhrapradesh, Odisha and West Bengal

Verdict signed by Members of the Jury:

Jst (Rtd) K. Kannan,

Former Judge at the High Court of Punjab & Haryana and Chairman of the Railways

Claims Tribunal, Principal Bench, New Delhi, India

Liziwe McDaid,

Climate Justice Activist, Goldmann Environment Awardee, South Africa

Dr Paula Satizábal,

Research Fellow at the Melbourne University, Australia

Prof. Saleemmul Huq,

Director, International Centre for Climate Change and Development, Bangladesh

JURY STATEMENT OF INTENT

The Independent Peoples' Tribunal on the Impact of Blue Economy on the East Coast of India is part of a series of tribunals being held across Bangladesh, India, Indonesia, Sri Lanka and Thailand. These tribunals are an outcome of two years of rigorous research and community participation by a consortium of civil society organisations across these 5 countries. The series of tribunals is being facilitated by SNEHA, a civic action group working on coastal and marine issues in India. Given the length of the Indian coastline and the variety of local languages spoken, two tribunals are being organised for the country - one for the East Coast and one for the West Coast of India. The Indian tribunals are being hosted by the National Fishworkers Forum, with the support of various allied organisations such as the Delhi Forum, Dakshin Foundation, Equitable Tourism Options- EQUATIONS, LAW Trust, Environment Support Group, Centre for Financial Accountability, The Research Collective-PSA, Public Finance Public Accountability Collective and other solidarity groups like the Coastal Action Network (CAN).

The Jury members express our gratitude to the organisers for inviting us to be part of this important international tribunal, as the Jury. It was indeed a day of great exposure and learning, especially for those of us who come from other parts of the world. The Jury is informed of the systematic dilution of environmental laws, mass diversion of commons for private profit and the land and ocean grabbing from coastal fisher communities in the name of the Blue Economy and national development. These actions have been adopted by the government to build a profitable ocean economy by privatising and commodifying ocean and coastal resources. Protests by the community against projects that are impacting their lives are met with legal action or police oppression.

On behalf of the fishing community of the east coast of India, a collective of organisations from across several countries in South and South-East Asian, led by SNEHA, India, and National Fishworkers Forum, India approached the Jury members to hear the concerns of the community. The People's Tribunal will give these impacted communities a global platform to raise their issues and build international solidarity and awareness around the situation in India. The Jury was informed that during this tribunal it will have the opportunity to hear testimonies and evidence from fisher community members, civil society organisations, and experts. Based on the evidence presented the Jury would need to arrive at a verdict which could include recommendations of remedial actions or measures to be taken by the Indian government, the global inter-governmental agencies and concerned international organisations.

TRIBUNAL PROCESS

The Jury members are deeply impressed by the detailed presentations done as submissions during the Tribunal. The Jury expresses its appreciation for the effort taken towards comprehensively presenting much important information before the Jury in the Tribunal, through presentations and testimonials by different people. In instances where direct corroboration of certain arguments was not possible, the Jury was provided historic, social, economic and cultural analyses. We would like to recognise the following:

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.

"The ocean is being shared and marine spatial planning is being done in India. But where are fisheries in the whole context? The sharing is with investors (and) business people through different components of Blue Economy... This is a neoliberal growth model, market-based growth, export oriented, 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."

Fishing community leaders from other regions and countries made important statements, particularly -

Nadine Nembhard, Secretary General of World Forum for Fisher Peoples, (Belize)-shared news from Belize that the Ministry of Fisheries has been replaced by the Ministry of Blue Economy and pointed out to the dire consequences that this change would have on small scale fishworkers. She lent a voice of support to the tribunal process - "We appreciate the work you are doing to expose the truth about the Blue Economy. These tribunals are good examples of the type of actions that we should be supporting and recommending for all fisher peoples... You have the support of the entire world forum of fisher peoples."

Herman Kumara, National Convenor, NAFSO and Special Invitee, WFFP Sri Lanka- described this new era of blue economy as one in which States are exploiting the common resources and made an appeal for international solidarity. "Now, with the blue economy concept or practice, the corporates will run with the resources and capture everything....Though the pandemic clearly exposed the lacks of the neo-liberal economic policies, now we can see how the states are taking over the resources of the people and how they are using this (the pandemic) to take over the resources, displace the fishing communities and destroy the environment. The States are exploiting the common resources of the people. And we need international solidarity and we need to come together more."

Narendra Patil, Chairperson National Fishworkers Forum, India - Welcomed everyone to the tribunal to discuss the east coast of India, after the successful completion of tribunal across Indonesia, Sri Lanka and Thailand. He also drew attention to the projects such as the port development-led Sagarmala project and shipping corridor project, which are threatening the livelihoods of traditional fishworkers across India.

Four State reports - 'Blue Economy - Exploring the Socio Economic Political and Ecological Implications on the Coastal Communities' - from Odisha, West Bengal, Andhra Pradesh and Tamil Nadu, along with the executive summary presentation of the overall implications for the east coast was made during the tribunal. The Jury is impressed upon by the submissions that adequate methodological due diligence has been applied by the Research team and representatives of the fishing community, in presenting the following facts before the Jury.

The Methodology included: -

- a. Focussed Group Discussions with the representatives of coastal communities, trade union leaders, Federation members, associations, and civil society organisations.
- 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

The executive summary was presented before the Jury in the Tribunal, and all the state reports were submitted to the Jury as well. Important parts of the reports have been captured in the following sections.

Presentations by three experts, Khushi Kabir, Coordinator, Nijera Kori, Bangladesh on 'Promotion of Culture Fisheries in the Context of Blue Economy'; Usha Ramanathan, Social Activist, India on 'Coastal Commons, Community Rights and the Principle of Eminent Domain' and Stella James, Researcher, EQUATIONS on 'Tourism Development in India in the Context of Blue Economy'.

Video testimonials and live testimonials from community representatives from four states on the social and ecological implications of ports, intensive aquaculture, infrastructure projects, tourism and shift in governance of coastal commons.

PEOPLE'S CHARGE SHEET ON THE BASIS OF INTERNATIONAL AND DOMESTIC LAWS

The Indian fishing community charged the Indian government with breach of obligations arising from international human rights law and international environment agreements and violations of the Indian constitution. A breach of the following international agreements is brought to the Jury's notice:

International Covenant of Economic, Social and Cultural Rights Article 1.2:

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

United Nations Declaration on the Rights of Peasants Article 5.2

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

- (a) A duly-conducted social and environmental impact assessment;
- (b) Consultations in good faith, in accordance with article 2 (3) of the present Declaration;
- (c) Modalities for the fair and equitable sharing of the benefits of such exploitation that have been established on mutually agreed terms between those exploiting the natural resources and the peasants and other people working in rural areas

United Nations Declaration on the Rights of Indigenous Peoples Article 19

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

The United Nations Basic Principles and Guidelines on Developmentbased Evictions and Displacement

Sec. I Para 6.

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

Sec. II B Para 16

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

Sec. II C Para 25

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

Sec. II D Para 32

States must give priority to exploring strategies that minimize displacement. Comprehensive and holistic impact assessments should be carried out prior to the initiation of any project that could result in development-based eviction and displacement, with a

view to securing fully the human rights of all potentially affected persons, groups and communities, including their protection against forced evictions. "Eviction-impact" assessment should also include exploration of alternatives and strategies for minimising harm.

Sec. III Para 38

States should explore fully all possible alternatives to evictions. All potentially affected groups and persons, including women, indigenous peoples and persons with disabilities, as well as others working on behalf of the affected, have the right to relevant information, full consultation and participation throughout the entire process, and to propose alternatives that authorities should duly consider. In the event that agreement cannot be reached on a proposed alternative among concerned parties, an independent body having constitutional authority, such as a court of law, tribunal or ombudsperson should mediate, arbitrate or adjudicate as appropriate.

Additionally, the people charged the Indian Government with violations of the following domestic laws and norms:

Indian Constitution Article 21

No person shall be deprived of his life or personal liberty except according to a procedure established by law.

The Supreme Court over the years has passed judgements that clarify that the 'right to life' as enshrined in the Constitution also encompasses the right to live a life of dignity, right to livelihood, right to clean environment and all other fundamental needs such as health, nutrition, shelter etc. that make life worth living and not a life of mere existence.

In addition in the case of Bandhua Mukti Morcha v. Union of India the Court observed that when Article 21 is read in combination with clauses (e) and (f) of Article 39 and Articles 41 and 42 of the Directive Principles of State Policy, the right to life must "include protection of the health and strength of workers, men and women, and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and humane conditions of work and maternity relief."

Public Trust Doctrine

As accepted in MC Mehta v. Kamal Nath [(1997) 1 SCC 388], the State is a Trustee of natural resources and must ensure that the public resources are protected for the benefit of the public. Destruction of these resources and enabling private profiting from these public resources violates the public trust doctrine that is now part of Indian jurisprudence.

The people also raised the issue of the government diluting the following environmental laws in order to facilitate the rampant destruction of the environment, the displacement of local communities and suppression of consultative processes in favour of corporate and commercial interests and to facilitate the implementation of the planned Blue Economy agenda.

- 1. Coastal Regulation Zone notification 1991 and 2011 was diluted by the Coastal Regulation Zone Notification 2019 (which in turn violates the umbrella legislation of Environment Protection Act)
- 2. Environmental Impact Assessment 2006 saw various diluting amendments culminating in the draft EIA 2020 (which in turn violates the umbrella legislation of Environment Protection Act, 1986)
- 3. Coastal Aquaculture Authority Act was created under the justification that it is mandated by the judgement of S Jagannathan vs. Union of India [(1997) 2 SCC 87]. This judgement banned the practice of aquaculture in the CRZ areas by interpreting the CRZ 1991 notification. However, the new Act goes against the spirit of the judgement and is a push towards regulating and intensifying aquaculture in water bodies.
- 4. The Right to Fair Compensation and Transparency in Land Acquisition Act 2013 (LARR) was passed in 2013 which mandates community consent for Public Private Partnerships and Private Projects, mandatory Social Impact Assessment, 100% compensation where land is acquired, and Rehabilitation and Resettlement of those who are affected is also mandatory. In 2014 the government diluted the above LARR of 2014 through an ordinance overturning all the mandatory compliances.

EVIDENCE PRESENTED TO THE JURY

The Jury heard findings, research study, testimonies from coastal people (mainly fishworkers and fishworkers union representatives) and expert presentations on the implication of the Blue Economy on coastal communities and small scale fishworkers in particular on the East coast of India. Reflecting on the evidence presented, we asked ourselves the following questions, to arrive at this verdict:

1. What implications does the emergence of intensive aquaculture on the east coast hold for coastal communities and ecologies on the east coast?

Under the Blue Economy Framework, and its implementation in India, aquaculture is a major feature. This is reflected in legal, fiscal, and state level policy changes that have emerged in the last few years. In this regard, evidence on the impacts of intensive aquaculture presented from all four coastal states on the East Coast shows that aquaculture has had a devastating impact on people and landscape in detrimental ways. In West Bengal, Odisha, Andhra Pradesh and Tamil Nadu many of the issues reported are common. Effluent discharge from aquaculture farms are reported to be released into tidally influenced water bodies affecting not only the ecology of the estuaries, preventing spawning of fish, but also the near-shore waters. This is evidenced by small scale fishworkers who attribute the decline in the catches to pollution runoff from farms.

Privatisation of common property resources is yet another concern, in places like Lake Chilika. A 1990s policy that permitted the entry of private investment, to lease and enclose the lake has wreaked havoc. Not only are the small scale fishworkers seeing their livelihoods being threatened by issues of pollution, but the embankments built on the lake have disturbed the natural tidal ebb and flow, affecting the marine life that live here. Aquaculture at large, seems to favour private interests over public. The new policies, financial allocation of state investments all seem to be targeting enterprises rather than local communities. This is especially evident in allocation for hatcheries, technology, and agro-feed companies for aquaculture.

Organisations like Dakshin Banga Matsyajeebi Federation further contest the legality of aquaculture operations. Their documentation of aquaculture operations indicates that the majority of them violate the norms of the Coastal Aquaculture Authority Act and land conversion laws.

On the question of legality, the report from Tamil Nadu highlights the moves by the state to regularise aquaculture farms through legislation. Further, are the plans for 'Aquaculture Zones' and permissions being given to draw water from groundwater and other sources in these states that are already drought prone. Finally, in the face of increasing climate change related impacts, the destruction of mangroves and converting land into aquaculture was reported as a matter of great concern in locations like the Sundarbans, Odisha and Tamil Nadu whose coasts regularly face cyclones, floods and storm surges.

"Coastal aquaculture has been of a grave concern. With its intensive nature, fishers have been complaining against ill effects like coastal pollution, encroachment, loss of land use of habitat, salinity increase, and loss of cultivable land."

- Pradip Chateerjee,

Dakshinbanga Matsyajibi Forum, West Bengal

"Small scale fishers are struggling a lot with intensive shrimp aquaculture. We used to catch small foraging fish near the shoreline, now it is not possible. Lot of people who worked near shorelines have lost their livelihood. Intensive shrimp farms have no effluent control. They let it out untreated into coastal waters."

- Debabrata Khutia,

Kanthi Mahokuma Khoti Matsyajibi Union, West Bengal

"Promotion of culture fisheries created a huge displacement, areas where shrimp aquaculture was more practiced, poverty increased to the highest levels in the country as those who practiced aquaculture were making money by exploiting the local people whose traditional income sources were destroyed and grabbing their land."

- Kushi Kabir,

Coordinator, Nijera Kori, Bangladesh

2. Port modification and expansion seems to be a significant thrust area of Blue Economy, what are the issues this present for coastal communities in the present and future?

The research team presented to the Jury, the scope of the Sagarmala port-led development project. As the flagship sector of the Blue Economy in India, the vision is to transform India into a maritime economy, by establishing new ports and modernising old

ports along the 7500-odd km coastline of India. Beyond ports, the project envisages several 'coastal economic zones' for various industries as well as a multi-modal transformation of the road, river and railway networks to link the ports to the rest of the country.

It was reported that currently Adani operates 10 ports and terminals, which is 24% of the country's port capacity in India. The team presented the fiscal allocation for the various components under Sagarmala which itself is telling where the priorities lie -

Component wise Investments in Sagarmala

★ Total investment: 7,78,080 Cr

★ Port led industrialisation: 51%

★ Port Connectivity: 30%

★ Port modernisation: 18%

★ Coastal community development: 1%

During the Tribunal the port development projects from several locations of the East coast were heard with testimonies and evidence of the distress this has caused the socio-ecology of the East coast. Key concerns reported start with the sheer scale and numbers. In states like Odisha whose coast is 480km, there are currently 13 ports that are being planned. Whereas in Tamil Nadu, the plans of 27 ports on 1000-odd km coastlines renders a vision of 1 port for every 40km. One of the main concerns that was reported across port development projects is the high levels of coastal erosion and accretion effects it brings to the coastline. Being a mineral rich state, the processing and loading of cargo is expected to also create tremendous pollution to air, water and soil in irreversible ways. Other concerns are linked to the access to the coast, which is heavily restricted in port clusters. With high security levels, fishworkers report harassment. Land grabbing is also being reported by coastal communities, who are being either forced to vacate, causing severe concerns regarding displacement.

Ports and other big coastal infrastructure are also compounding the current existential threats in the form of climate change impacts. The east coast over the last decade and more has seen a spike in the frequency of cyclones. The construction of ports has made the coastline extremely vulnerable - exacerbating the impact of cyclones, storm surges, and saline water intrusion into groundwater tables. This has reduced the capacity for climate change adaptation and mitigation and has put lives directly at risk. In all port projects

presented, one of the main issues is the poor handling of cargo as well as deplorable standards of waste management during construction. This has caused decline in fish stocks, health and capacity of breeding in shallower waters.

"Kakinada port, harbour is there. They are still constructing Uppada harbour. 18 km of coast has already been washed off, which cannot be reclaimed ever. If Uppada is constructed entire coast will be washed off."

- Debashis Pal,

Democratic Traditional Fishers Workers Forum, Andhra Pradesh

"Paradip port was being constructed, the fish started getting affected. In 1989 and 1999, two cyclones affected our fishing community. That time they told us you cannot go fishing near the port areas and they will set up separate fishing harbours for us. They discussed with us many times, the fishing harbour was to be set up near the 5th gate of the port, but they have never set up this harbour, not yet. They have made arrangements for trawlers to go out and fish, but no arrangements for traditional fishers. We informed our plight to the fishing director and other authorities but they haven't made any arrangements for us. We fish with a lot of difficulty; we have to walk 10kms after catching fish."

- Subba Rao, Sandhakuda Village, Odisha

3. In addition to port led development under Sagarmala, there are several other infrastructure-based investments that are being planned and currently underway. What are the other areas of infrastructure developments and who benefits and who is disadvantaged by these?

Other infrastructure projects include 'Coastal Economic Zones', Offshore Oil and Gas, Allied infrastructure of culture fisheries. CEZs are industrial parks in close proximity to ports which are situated a little inland. Under the Sagarmala plans these CEZ will host industrial manufacturing/processing facilities. Acting as a hub for factories of different goods. Coastal communities express concern about land acquisition, resulting displacement. Potential health hazards due to poor monitoring and management of pollution with regards to industrial production systems. Testimony example was cited in Visakhapatnam, where pharmaceutical companies have raised levels of pollution which has been directly attributed to a drop-in fertility rates of women.

Offshore Oil and Gas projects and their impacts were mentioned by several state representatives present at the meeting. The research team pointed out that in East Godavari, which was also reiterated by testimonials, "Offshore exploration resulted in access to fishing grounds lost, loss of fish species, destruction of coastal and marine ecosystems, gas leakages and explosions leading to death, suppression of protests." Under the new fisheries policies and fiscal allocation, there is major focus on the development of pre- and post-harvest technologies to support aquaculture. This is in the form of hatcheries, seafood processing plants, biochemical industries and other equipment manufacturing. Concerns from fishworkers include - the marginalisation of livelihoods as fisheries policies are reoriented to benefit private enterprises.

"They (the government) are not only taking agriculture land but also water and coastal areas. People will not be able to farm, fish.... They will set up thermal and power plants. This will make the entire delta area into a desert."

- Sethuramalingam,

Writer (on the Tamil Nadu hydrocarbon projects)

"Commons is not just a physical space, a pie that can be neatly cut up and shared between different people. Commons is about community."

- Stella James, EQUATIONS, Bangalore

4. The east coast of India has several stretches of long sandy beaches. What are the plans for Tourism under the Blue Economy and what are the socio-economic and ecological costs and benefits?

As per the Swadesh Darshan Scheme, Integrated Development Theme Based Tourist Circuits by Ministry of Tourism was implemented in which Rs. 89,594 lakhs were passed. Several points from all the East coast states were developed to be tourist spots. ICZMP Phase I pilot project implementation in Gujarat, Odisha and West Bengal: contributed to boost tourism and investment promoted for tourist infrastructure development activities including cruises around the lake. Various states have passed policies and set aside large budgets to promote tourism

The West Bengal Tourism Policy of 2016 and 2019 proposed laying of essential infrastructure and private investment for resorts and other tourism facilities pushing for complete formalisation and corporatisation of tourism.

12th Five Year Plan proposes to enhance the tourism sector with total outlay 364.00 crore in Tamil Nadu. The Tourism Policy 2015 of Andhra Pradesh aimed to generate Rs. 10,000 crores of private investment, targeting to make tourism account for 7% of the state's GDP creating additional 5 lakh jobs.

Thirteen beaches were selected for Blue Flag Beach Certification, an eco-label for high quality beach cleanliness, while the target is 200 beaches through ICZM-Phase 2 project. Such certification leads to various developmental activities such as landscaping, illumination, creation of public convenience, building wayside amenities, watch towers, development of walkways, upgradation of beaches, purchasing beach buggies, jetski, ampicraft, Wi-Fi, installation of CCTV Cameras etc. Additionally, as seen in Puri, beaches that get blue flag certification are privatised and fishers and the local informal vendors will not be permitted to engage in their pre and post fish landing activities. This kind of privatisation and restriction of access to beaches pushed women to unsafe locations to do post fishing activities like drying and selling. Eco-tourism is promoted in ecologically sensitive areas, from which communities were earlier displaced in the name of conservation. Most of these projects were done by the state government and other departments like the Forest Department and resulted in displacement of communities from these places.

While such community-based ecotourism centres promised employment for the fishers' communities, the reality is that fishers were reduced to mere labour in the informal tourism economy. All of these tourism development projects highlighted during the tribunal denied access of fishing grounds to the fisher communities which shows the serious socio-cultural impacts of tourism. These tourist projects would also lead to increased focus on securitisation of tourist spots, and thus coastal areas.

Many coastal ecotourism projects also impact the mangrove ecosystems which are breeding grounds for fish species including prawns and many migratory birds.

"Because of Blue flag beach the livelihood of the fisher folks are being affected, only for some money government is handing over beaches to private corporates instead of taking care of lives and livelihoods of fisherfolks......Two kms have been barricaded, only those who pay can enter, all fishworkers who were dependent on the ecosystem there have been displaced. The government has not discussed with fisher folks before having the Blue flag beach....Beaches seem to be only for foreigners and tourists and not for people who have been living here for generations."

- A. Ganesh Rao,

Odisha Traditional Fishworkers Union, (on Puri beach and its blue flag certification)

"Tourism sector is to be regulated by the CRZ land regulation zone but there are constant violations, violations of pollution restrictions. Just like when big infrastructure is placed on coastline, tourism sucks up groundwater..... For fishworkers it is about land as much as water. Land is very important; the beach for drying, sorting and processing of fish, mending nets, boat building and tourism is reducing access to these spaces."

- Debasis Shyamal,

Dakshinbanga Matsyajibi Forum (on tourism in Digha beach, West Bengal)

"Under Blue Economy tourism is a capital intensive model. The plans are designed to exclude marginalised communities, by treating them as cheap labour for tourism.....They clubbed fishing activities and seaweed under littering in the government presentation (MoEFCC 2018 presentation), along with solid waste, industrial discharge."

- Stella James,

EQUATIONS, Bangalore

5. The management of coastline and waters in India largely comes under the common property regime. Under the Blue Economy regime there seems to be a shift in this respect. If so, how? What is the resulting impact?

From the evidence presented on the wide-ranging projects that come under the ambit of the Blue Economy it is clear that customary rights, traditional resource governance mechanisms, and the access, use and control of coastal land and water by local communities is under threat in various ways.

In the case of aquaculture, the Jury heard the case around Lake Chilika where leasing policies have essentially led to the privatisation of a common property resource and the slow erosion of rights through private capture. With respect to tourism, evidence was presented about how fishworkers were being cast out of their own resource base. The seafront is a place throughout the east coast of India, where fishers conduct a significant part of their fisheries related activities. From drying and mending nets; drying, sorting, processing fish; parking their boats etc. However, the approach to tourism under Blue Flag certification and other methods looks to sanitise the beach by removing the people who claim first rights.

The notification and subsequent construction and operation of port projects essentially privatise the coastline. As they function as PPP projects, Usha Ramanathan reports of public money spent on security. At sea, mariculture projects which are in the pipeline according to recent fisheries policies envisages the enclosure of near-shore waters for private leasing. Fishworkers expressed concerns about how this will affect their customary rights over their resource, the restrictions it will pose and the effect mariculture will have on the ecology.

"It's clear that the government helps private players. All we have is the Public Distribution System that gives us 5kg of rice but otherwise all other support is for private players."

- T. Rahman,

Traditional Fishworkers Union, Andhra Pradesh, India

"People are not poor. Policies impoverish them time and again. We have seen that in land acquisition.induced vulnerability because of state policies, redundancy and displacability are in built into these systems.... By not taking people into processes they (the state) are creating systems of invisibilising."

- Usha Ramanathan, Human Rights Activist, India

6. Sagarmala allots 1 percent of the budget for coastal community development. But the vast infrastructure development would in fact be detrimental to them than beneficial. What are the potential dangers that the fishing community foresee due to BE and the infrastructural developments it entails?

Fishers are being seen as mere recipients of welfare, and not as right holders. Their capture-fisheries-based livelihoods as well as identity are severely under threat.

The following impacts are already being seen and will only increase under BE.

Fishers who, on their route to fishing grounds, enter protected areas which are under the jurisdiction of the Forest Department are registered with charges of being violators of National Park boundaries and there have been cases where criminal charges have been filed against them. Shrinking and loss of physical access to coastal and marine spaces due to the various ocean-grabbing exercises. Systemic exclusion of the fishworker community from consultations pertaining to their native spaces. Declaration of no fishing zones in tourist spots, security zones and conversation spaces hamper livelihoods of the fishers.

Due to space crunch at fishing harbours, the trawlers are given preference over boats of small-scale fishers.

The testimonials and research reports further highlight the following potential dangers from BE.

Constant risk of oil spills and disasters which would ruin marine ecosystem and coastal community. Pollution and waste caused through these infrastructure and other activities that cause devastating environmental impacts on fragile seabed near coastal waters and deep-sea waters, degrade marine ecology and lead to drop in fish resources. Women fishworkers pushed to unsafe zones for post fishing activities like drying and selling fish and lose their domestic buyers. Militarisation of the coast and increase of coastal police lead to physical threat and harassment of fishers. Marginalisation of fishing communities in fisheries policy as the new categories of fish farmer and fish growers particularly with regard to aquaculture policies. Takeover of fisheries sector by private investors who which would lead to displacement of fishers from their native coast and make them migrant labourers. Convert traditional fishworkers to labour in these coastal development projects.

"Because of corona we couldn't sell our products and our incomes diminished, and now we have to face this. We do not want any of this Blue Economy plan. We want diesel subsidies none of this Blue Economy plan."

- K. Lakshmi,

Traditional Fishworkers Union, Andhra Pradesh

"Seaweed grows on dead corals, but in the name of coral protection, they restrict us or blame us for destroying the live corals. Women dependent on the seaweeds for livelihood......Livelihood of women are dependent on this 560 km, the forest dwellers are given rights to take honey medicinal herbs. These women and fishworkers should be given same rights."

- Palsamy,

Ramanathapuram Fishworkers, Trade Union (impact of creating the Gulf of Mannar National Park)

"What we are learning to recognise by looking at the Blue Economy - the difference in meaning between terms like 'use' vs 'exploitation'. Community 'use' is converted into something that has to produce trillions which then becomes about 'exploitation'.

- Usha Ramanathan, Social Activist, India "Barriers and entry fees on blue flag beaches is about the relationship they are defining. They are taking our beaches, our common areas. They are making it into a club, rather than these being commons and our right to access them."

- Stella James, EQUATIONS, Bangalore

JURY OBSERVATIONS

The Jury thanks all those who testified. Storytelling is a political act. Although each testimony was unique and very painful, together they tell us a broader story of the precarity experienced by small-scale fishing communities in the context of expanding neoliberal policies and interventions, deregulation, marketisation, and privatisation of oceans. The Jury notes that a central aspect of the current situation is the lack of recognition of coastal communities' use rights and tenure over their coastal marine territories and resources. This has enabled powerful economic and political actors to explore, exploit and expand coastal and marine development with the purpose of economic growth.

The Jury understands that communities are being faced by a lack of political will by national and local government agencies to support the interests and rights of small-scale fishers. By a very terrestrial justice system, this only emphasises the relevance of social movements pushing for policy and regulatory reforms. A country develops by empowering people. The Jury notes the need to redefine development, a need to move away from the current system where the State takes over everything and gives crumbs to people. Instead the State and our systems of development should empower people, like the coastal communities whose plight has been presented to the tribunal.

It is clear to the Jury that current models of tourism are evicting people and damaging ecosystems instead of rejuvenating them and providing local people with better opportunities. The Jury can see that the current model of Blue Economy as seen in India is clearly a way to steal the rights of people to life, regardless of the generations who have lived along the coast, knowing how to manage these resources. What is missing and invisible to the blue economy is the many ways in which coastal communities use and engage with oceans that go beyond economistic understandings. That is why sharing stories matters; we need these stories to show that these coastal marine spaces are not opened for the exploitation. They are indeed complex places full of history, culture, tradition, social relations, and resource use. These struggles are shared; millions of coastal

fishing communities are facing similar threats, in the context of harmful legal reforms and policies. Collective action emerges as a light of hope in this grim context of exploitation, exclusion and dispossession.

The stories we heard resemble the many stories and experiences of small-scale fishing communities in the Global South. These are stories about the destruction, dispossession, and marginalisation of coastal worlds. The impacts are on traditions and fishing ways of living, on displacement and in cases, have involved murdering of activists as well. The increasing danger and fear of destruction, in the context of climate change as well as militarisation that comes along with the expansion of these economies in particular large infrastructure projects. Yet, these are also stories about care and resistance, the signing of petitions, requests to government agencies, demands for participation, protests. There is a need to build global, national and local solidarity given that all oceans are connected. Those of us with privilege must stand by these affected communities and speak for the environment. The Jury notes the need to raise international awareness of these issues and to advocate with investors and alert them to the fact that their investment is an investment in destruction.

JURY VERDICT

The Indian government's Blue Economy model seems to be oblivious to the climate crisis that is currently facing the world. Coastal communities will be the worst affected and based on the testimonies and evidence presented before the Jury it is clear that instead of building their resilience, the government's actions invisibilises them and further marginalises them.

There are different areas where action needs to be taken.

Strengthening the Legal and Policy Framework

- 1. In areas where laws and regulations recognise coastal rights and tenure, there is a need to return to rule of law.
- 2. Where laws have been softened or amended to allow destruction of the environment and community, these laws must be rolled back to return to their protective function.
- 3. Withdrawal of policies that would facilitate coastal plunder and lead to coastal erosion and climate crisis.

Building Resilience

- 1. Recognition of traditional knowledge and its ability to help build resilience in communities towards climate change.
- 2. Redistribution of resource rights to the community with legal backup. This should be written so as to allow communities to have the right to say no.
- 3. Meaningful representation in governance at all levels.
- 4. Recognition of fishworkers and workers of fishing allied activities as contributors to the growth of the nation and guardians of the coast.
- 5. Federalism in fisheries needs to be reinstated where regular and rigorous consultations are made with the affected fishing communities before implementation of a project in their areas. This requires foregrounding small- scale fisheries and their representatives as central to fisheries decision-making arenas, allocating funding and support to ensure that their participation is real and that their voices are heard.
- 6. Special dispensation must be put in place to ensure that the voices of women are heard in all decision-making consultations.

Restorative Justice

- 1. A detailed assessment of the fisher people who have lost their habitat and livelihoods needs to be made and they should be compensated adequately. Such compensation must take into account the loss of sustainable livelihoods, the loss of access to resources held over generations and the displacement of people from their ancestral lands and coastal-marine territories.
- 2. Infrastructure like beach resorts that have displaced community and where it is not possible to remove, should be owned and managed in a way that compensates the affected communities. Communities should have representatives on boards and receive a share of the benefits as part of the compensation for lost future livelihoods for people and their children.
- 3. Damaged environments must be rehabilitated properly, ensuring the participation and inclusion of the ecological knowledge of fishing communities.
- 4. The rehabilitation process must be based on indigenous knowledge and such processes must be carried out consultatively and should aim to provide livelihoods to those affected.
- 5. Measures to protect women fishworkers who have been doubly disadvantaged as they have lost access to safe working places and their source of livelihood. This must include compensation and rehabilitative measures to protect women fishworkers and enable them to earn an alternative livelihood.

INTERNATIONAL JURY VERDICT:

Independent People's Tribunal on the Implications of Blue Economy in India (West Coast)

Date of Tribunal: 15th December 2020 Date of Jury Verdict: 5th February 2021

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

Verdict signed by Members of the Jury:

Justice (Retd.) Akbar Ali,

High Court of Madras, India

Professor Merle Snowman,

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

Ms. Liziwe McDaid,

Climate Justice Activist, Goldmann Environment Awardee, South Africa

Ms. Pamela Philipose,

Journalist & Public Editor, The Wire.in

JURY STATEMENT OF INTENT

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

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

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

TRIBUNAL PROCESS

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

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"

Fishing community leaders from other regions and countries made important statements, particularly -

Nadine Nembhard, Secretary General of World Forum for Fisher Peoples (Belize) reminded everyone of the massive challenges being faced by the fisheries sector and that this could impact local harvested food. She said - "We, at the global and national level, should focus on implementation of SSF guidelines, because I believe that this gives us hope to combat this Blue Economy buzz." She pointed to the need to look at things in the SSF guidelines that can be implemented like climate change, gender equity and equality, and responsible governance and tenure among others.

Debasis Syamal, Vice President, National Fishworkers Forum, India pointed to the threats to the lives and livelihoods of small scale fishworkers because of the Blue Economy, and also the associated threats to the ecosystem. "If small-scale fishers are not there on the coastline and can't carry on their livelihoods, coastlines will become

unhealthy." He also appealed to the Jury for their support - "I keep using the word 'threat' repeatedly, because this threat and fear is induced by the government and we need your support and your opinion, so that the message is not only among us, but goes to the government also."

Nibras Fadihlillah, KIARA, Indonesia, compared the situation in India and Indonesia, saying that the challenges faced by the community in both places were similar-As the land resources have been overexploited, they are shifting to marine resources. Sea and marine resources have been seen as the materials to get profits and investments for the big giant companies...Blue Economy affects the livelihoods of marine and coastal communities, and projects being done in different countries in the name of sustainable development destroys the environment" She also highlighted gender issues and that fisherwomen are one of the actors that are most impacted by these projects. She also left a message of hope for all saying that "small movements, small changes can change everything."

Statements by Moderators

Vijayan, Research Scholar, Carnegie Civic Research Network & General Secretary, Pakistan India People's Forum for Peace& Democracy (PIPFPD) spoke of the push by international financial institutions of the Blue Economy agenda, and also of how it has played out - "On the other hand, there is the absolutely unconsulted processes of development that continue on the body of the vulnerable and historically oppressed communities, especially the fishing and agricultural communities of the coast."

Anil Tharayath Varghese, Coordinator, Delhi Forum also pointed to the corporatisation of the coast - "The testimonies are evident by themselves of what is happening. It is not just industrialisation of the coast, but rampant corporatisation and they are ruthless. Neither do they consider life or livelihood, nor people or nature."

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

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

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

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

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

PEOPLE'S CHARGE SHEET

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

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

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

Article 21 of the Constitution of India - "No person shall be deprived of his life or personal liberty except according to a procedure established by law" read with

Article 19(1)(g) - "All citizens shall have the right - to practise any profession, or to carry on any occupation, trade or business", and

Article 14 - "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India".

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

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

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

2. Communities have pointed out that not only is there a lack of consultation, there is a lack of proper information to the community. and state governments have violated the freedom of information under Article 19(1)(a) - "All citizens shall have the right

- to freedom of speech and expression" as laid down in various judgments including State of UP v. Raj Narain [1975 AIR 865] "In a government of responsibility like ours, where all the agents of the public must be responsible for their conduct, there can but few secrets. The people of this country have a right to know every public act, everything, that is done in a public way, by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearing."
- 3. The People also allege that the Government of India and state governments have violated principles of environmental justice and environmental protection established under the Article 21 Right to Life, including -
- a. **Public Trust Doctrine** as accepted in MC Mehta v. Kamal Nath [(1997) 1 SCC 388] The State is the trustee of all-natural resources which are by nature meant for public use and enjoyment. Public at large is the beneficiary of the sea- shore, running waters, airs, forests and ecologically fragile lands.... But in the absence of any legislation, the executive acting under the doctrine of public trust cannot abdicate the natural resources and convert them into private ownership or for commercial use.

b. Precautionary Principle

The precautionary principle was adopted by countries in the Rio Declaration on Environment and Development under Principle 15 - "In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."

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

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

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

Article 38 of the Constitution of India -

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

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

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

- (a) that the citizens, men and women equally, have the right to an adequate means to livelihood:
- (b) that the ownership and control of the material resources of the community are so distributed as best to sub-serve the common good;
- (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

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

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

International Convention of Economic, Social and Cultural Rights Article 1.2:

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

Article 6.1

"The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right."

The Employment Policy Convention, 1964

Article 1.1

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

The United Nations Basic Principles and Guidelines on Developmentbased Evictions and Displacement

Sec I Para 6.

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

Sec. III Para 38

"States should explore fully all possible alternatives to evictions. All potentially affected groups and persons, including women, indigenous peoples and persons with disabilities, as well as others working on behalf of the affected, have the right to relevant information, full consultation and participation throughout the entire process, and to propose alternatives that authorities should duly consider. In the event that agreement cannot be reached on a proposed alternative among concerned parties, an independent body having constitutional authority, such as a court of law, tribunal or ombudsperson should mediate, arbitrate or adjudicate as appropriate."

UN Declaration on the Rights of Indigenous Peoples Article 19

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

Rio Declaration on Environment and Development, including, but not limited to Principle 1

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

Principle 4

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

Paris Agreement Article 2

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

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

Convention on Biological Diversity Article 8

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;

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

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

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:

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

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

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

United Nations Convention on Law of the Sea (UNCLOS) Article 192-

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

Article 194 -

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

EVIDENCE PRESENTED

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

1. DISPLACEMENT AND LOSS OF LIVELIHOODS

The Tribunal has put forward that the Blue Economy model has led to rapid and reckless development all along the coast and the privatisation of commons which have been used and managed for centuries by fishing and coastal communities. A few examples of the development projects coming up along the coast leading to the displacement and loss of livelihoods of the fishing community were brought forward during the Tribunal -

Vizhinjam Port, Kerala (Adani Group)

The Kerala Report describes that Vizhinjam was planned as a Multi-purpose Deepwater Seaport in an area of 360 acres, including 130 acres of land reclaimed from the sea, and a breakwater of 3180m. The implications of the Vizhinjam port was put forward clearly in the testimony of M Amala, a field organizer of SEWA in Thiruvananthapuram, who testified regarding the impacts felt by the community from Vizhinjam - "They are going against nature - they are built by blocking the sea. In the district of Thiruvananthapuram, where thousands of fishworkers are living, people are displaced and lose their livelihood, which is not considered. This is being done only for the growth of the corporates, regardless of which government is in power."

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

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

Karwar Port, Karnataka

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

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

The Karnataka Report draws attention to the implications of these plans, emphasising that - the land reclamation would lead to dislocation for all the fishworkers who live in and around the existing harbour. A lot of the fishworkers here were from fishing villages displaced due to Project Seabird in the late 80s showing the threat of double displacement. The breakwater would cause further erosion all along the Karwar coast impacting traditional fishing families who practice fishing in Baithkoli, Tagore Beach and Aligadda beach in Karwar. The implications of the port were further validated by the testimonial of KT Tandel, President, Uttara Kannada District Fishermen's Association Forum, Karwar, who echoing traditional community sentiments, asserted that Karwar beach is 'God's gift' - a deep natural harbour that people seek shelter in during storms. In his words, "It is a beach made for fishworkers". Mr. Tandel expressed his great concern with the port projects, saying - With Sagarmala, 3 km of the beach will be taken - 1 km will go for port directly; rest will get acquired for tourism. When they do this, we fishworkers will have nothing. Long jetties and breakwaters will take away coasts, and only a small stretch near Goa border will be left.

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

Mormugao Port, Goa

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

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

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

"From 2016 we are against Sagarmala in Goa, Mormugao is one of 12 major ports, and they get autonomy under the Major Port authority Bill 2020. 53 kms out of 105 km in Goa belongs to Mormugao trust and 78,000 acres of water spread area. Port is being privatised by Adani, Jindal. These people will decide what will be done with this area. In Goa there are 30 projects planned under Sagarmala, including 5 port expansion plans. In 2017, there was a public hearing in Goa which was the highest public hearing for 8 days where people objected to projects. But these projects were planned by the Ministry of Shipping. They want to take over the entire coastline and make Goa as a coal hub to get coal from Australia and Indonesia and transport it to the Maharashtra steel industry.

Wadhwan Port, Maharashtra

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

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

"The area where it is planned is Dahanu Taluk, where a lot of people live, including fishers, small farmers and adivasis. From 1996, the proposal of Wadhwan port has been mentioned. The effect was going to be on the fishworkers, and also on the farmers and adivasis, on our lives and livelihoods. So, seeing this, all the people came together and the protest movement started." She further stated that in 2014, with the financial support from

Jawaharlal Nehru Port Trust and the Maharashtra Maritime Board, the union government announced the port again, and they understand that the Adani Group has also invested in the port.

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

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

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

Mumbai Coastal Road, Maharashtra

Kiran Koli, leader of the Maharashtra Machhimar Kruti Samiti (MMKS) spoke of the Mumbai coastal road project saying that the proposal was initially floated in 2011, and the costs have increased from Rs 5000 crore to Rs 15000 crore in 2020. The project has a total length of 29.2 km and is spread over 244 ha, of which only 44 ha are for the road while the remaining area is proposed for tourist spots and jogging parks. He pointed out the

implications of the road were not discussed with the people living here - These are also the areas populated by small fishworkers, or those fishworkers we often call living below the poverty line, who carry out their business using non-mechanized means, and manually cast the net to catch a rich supply of prawns, lobsters and different fish species. This is how they earn their livelihood. As a result of the construction of the coastal road, these fishworkers are on the verge of losing their livelihood and their means of earning.

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

Gulf of Kutch (Mundra Port), Gujarat

Usmangani Sherasiya, a senior leader of the Machimar Adhikar Sangarsh Samiti (MASS), Gujarat, held that this alienation of rights is not a new phenomenon, but one that has been implemented for many years in Gujarat.

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

The expert presentation made by Dr Aparna Sundar also confirmed the trajectory of coastal and ocean grabbing that such a development model has produced. Dr Sundar traced

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

2. CHANGES TO LAW AND POLICY TO SUIT CORPORATES

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

- ❖ Coastal Regulation Zone (CRZ) Notification 2019, which grossly diluted the provisions of the 2011 CRZ notification and the original CRZ 1991, in several important ways.
- ❖ National Waterways Act, 2016 which was brought in for the development of inland transport through the nationalisation of 111 waterways.
- ❖ Environment Impact Assessment (EIA) Notification (Draft), 2020 the draft EIA notification dilutes provisions under the EIA notification 2006, and goes against the parent Environment Protection Act, 1986.
- ❖ A series of policies and schemes, including the National Fisheries Policy 2020, Sagarmala, Swadesh Darshan and others, have laid the foundation for the change in

- coastal governance. Most of these have come in through the executive, with little to no parliamentary or public debate.
- ❖ Similar changes to law and policies, which dilute rights of fishworkers and protection of the environment in favour of corporate interest, have also been brought at the state level in all the states

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

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

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

- ❖ Karnataka Industrial Policy 2014-19 which had a target of creating a land bank for industrial uses of 40,000 acres, established private industrial areas over 100 acres each with complete private ownership, proposed removing restrictions on land conversion, and setting up of a single-window clearance for companies
- ❖ Karnataka Minor Ports Development Policy, 2014 proposed the expansion of existing minor fishing ports into commercial ports; proposed that acquisition even for

private ports to be done by the government, and fixed a cap of 11% as the maximum state government investment in all joint venture port projects

- ❖ Tourism Policy of Karnataka 2015-20 which laid thrust on mega tourism projects worth 100 crores and above; and promoted cruise tourism in Mangaluru and Karwar.
- ❖ Agri Business and Food Processing Policy, 2015 which proposed the modernisation of fish markets, which was implemented by setting up a 500-tonne seafood processing plant which was leased out to a private contractor. Online seafood delivery companies like 'Fresh to Home' and 'Licious' shortcut existing supply chains. This form of modernisation marginalises existing fish vendors, particularly women.

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

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

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

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

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

- ❖ In 1995, the **Gujarat Port Policy** pioneered private sector participation in ports. It encouraged private investors to establish captive jetties, private ports, rail linkages, and shipbuilding and repair yards and participate in support services. This attracted India's largest quantum of private investment, and the port privatisation model was replicated and extended the model to other sectors.
- ❖ In 1999, the **Gujarat Infrastructure Development** (GID) Act was enacted which provided the legal framework and roadmap for Public-Private Partnership (PPP).
- ❖ In 2009, the government released the **Blueprint for Infrastructure in Gujarat** (BIG 2020), a vision document that aimed to make Gujarat the globally preferred destination for business driven by infrastructural growth.
- ❖ Gujarat Industrial Policy, 2015 categorised projects from MSME (< Rs. 10 crores) to Ultra Mega projects (> Rs. 4000 crores) to facilitate incentives and proposed the establishment of private industrial parks
- ❖ Integrated Maritime Policy, 2017 aims to facilitate a coordinated approach to maritime issues with different sectors and actors, including aquaculture, marine biotechnology, ocean energy, and seabed mining. In addition, it envisages the Maritime Spatial Planning as a tool to ensure an efficient and sustainable management of activities at sea.

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

who had traditional rights. "The people from the communities go from being rights holders to job holders at best and most of the time, not even being job holders but job seekers."

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

3. LACK OF CONSULTATION WITH COMMUNITIES

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

- ➤ In the case of Vizhinjamport in Kerala, M. Amala said that during the 2014 and 2016 Parliamentary and Assembly elections, women spoke to MLAs and MPs to stop the port construction, and 15-20 women got up on stage at a political convention to ask to stop the port. She said that they had even worked with an independent research organisation to study the erosion from the port. But none of it worked. In her words -"Even if we take all these measures, the government only wants corporate growth. When development is brought into a place, decisions must be taken only after consultation with the people there. But they are not thinking who does it benefit, who it impacts, how does it impact the fishworkers."
- ➤ In Maharashtra, the Maharashtra Machhimaar Kruti Samiti had filed litigation against the Coastal Road at the National Green Tribunal in Pune in 2012. But, they state that even today, the case has not been heard because the position of the judge who retired in 2014 was not filled. According to Kiran Koli "The apathy of the union government towards filling these positions at the NGT also point that whichever good judgements were passed by the NGT earlier are not followed in letter and spirit thereafter. Earlier,

when the Peddar Road Flyover concerns were raised in 2005, renowned singer Latha Mangeshkar opposed such a construction and it was stopped. So, a government that can listen to a famous personality like Mangeshkar has no ears for the thousands of fishworkers is indeed very depressing. We the stakeholders were not taken into confidence, and this violates the clauses of the 2019 CRZ notification. In 2011, the then Environment Minister Jairam Ramesh took the fishworkers into consultative confidence before enacting the laws towards CRZ 2011. But, the government of today acts authoritatively and we have no qualms in blaming it for the manner in which such laws come into force. When amendments to the CRZ Act were being made in 2019, we the fishworkers were not consulted. In a nutshell, we are convinced that these amendments were made to capacitate projects such as coastal roads, and whatever guarantees of protection of coastal biodiversity that existed heretofore have been severely diluted.

➤ The Note on Blue Flag beaches submitted to the Jury points out that in the case of the Blue Flag beaches as well, there has been little or no public consultation with fishworkers and other coastal communities. The Note states that while some of the Panchayat members were consulted in Kappad in Kozhikode district in Kerala, no larger consultations were held with the community. It further states that in Kasargod beach in Uttara Kannada district of Karnataka, fishworkers have said that they were not told of any such project on the beach. The implementing agencies in both Kappad and Kasargod are departments without adequate community representation, nor have they conducted public consultations. The Maharashtra report also shows that a stretch of 5 km was demarcated for Blue Flag beach near Bhogave and Devbag villages, which have been leased to private companies for development of tourism activities. The report says that the fishworkers "said that they were totally unaware about leasing of the beaches and no consultations had happened for processing the tender or public hearing."

4. DESTRUCTION OF ECOLOGICAL SYSTEMS

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

- ★ In Gujarat, Kamaleshbhai Madhiwala, leader of Samasth Bharuch Jilla Machimar Samaj talked about the issues in Bharuch district. He said that there are almost 15000 fishworkers who are dependent on the estuary where the Narmada River meets the Arabian Sea. According to him, their major concern is with the Gujarat Industrial Development Corporation areas (GIDC) industrial enclaves that have several factories. He said that between the 4 major GIDC areas, there are thousands of industries many of which don't have treatment plants and release sewage into the Narmada. He emphasised that this has impacted fishworkers negatively "They have made Narmada River into a gutter. Earlier the fishers would come back with a boat full of fish. But fish production was drastically reduced because of the pollution. We used to have a lot of Hilsa fish here; our production was Rs 500-600 crores. But in the last few years, with the expansion of industrialisation, the entire coastline has become polluted pipelines are broken and sludge is jammed up and released on the coast. Due to the presence of chemicals like nickel and lead, we find lakhs of baby fish dead on the shores." Mr. Madhiwala says that they have registered complaints with the Gujarat Pollution Control Board, but no action has been taken. He also spoke about the potential harms from the proposal for a new barrage on the Narmada River "There is a proposal for the Bhabhut barrage in the middle of Narmada estuary, and there is provision for 80% of the water to go to Dahej GIDC and Vilayat GIDC. But people are being told that it is for agriculture; in cities, they are being told that it is for drinking water. It is destroying the fishers, livestock and nature here. There is a system of snatching the livelihoods and giving to the industrialists."
- ★ His concerns over waste were reiterated by Rashmi Patel, an environmental researcher who added that the entire coastline of the Gulf of Khambhat in south Gujarat are full of industries, primarily fertiliser, chemical, textile, pulp and paper mills, and mineral industries. She pointed out that the waste water is treated, untreated or partially treated, and is released into the Gulf, which has made the entire south Gujarat coastline highly polluted. Ms. Patel further points out "According to one report, 600 million litres per

day of industrial waste water is released into the Gulf of Khambhat through rivers and creeks in South Gujarat. There is a 453 sq.km PCPIR region which has Dahej and Vilayat GIDC, and SEZ with petrochemical industries. And the effluents from these are released into the Narmada estuary, because of which the fish population in the estuary is reducing." She also stated that nearly 6000 ha of coastal area has been converted into illegal aquaculture farms which release large quantities of untreated waste water into the Gulf of Khambhat.

- In Maharashtra, Purnima Mehar, pointed to the ecological destruction as well in the case of the Wadhwan port - "If you see the place where the port is planned, the traditional fishers talk of it as the golden belt, because the coastal and marine biodiversity here has all elements and aspects...the fisheries, the resources are very good. It was called 'shankodhar' because you would get live shankha (chank)." Similarly, Kiran Koli pointed to the ecological impacts of the coastal road - "As the coastal road is over the sea...the biodiversity of the area and the mangroves in the area would be completely destroyed. Moreover, the boulder area has mangroves where fish breed. Many different species of fish and lobsters go into the deep ocean during the months of March, April and May to lay eggs there. During the rains, when the seas are rough, these eggs are brought to the coast thus enhancing fish and lobster populations. Thus the coastal road would destroy protected areas. These are also the areas populated by small fishworkers, or those fishworkers we often call living below the poverty line, which carry out their business using non-mechanized means, and manually cast the net to catch a rich supply of prawns, lobsters and different fish species. This is how they earn their livelihood. As a result of the construction of the coastal road, these fishworkers are on the verge of losing their livelihood and their means of earning."
- ★ In Alappad, **Kerala**, Jackson Pollayil, the President of Kerala Swatantra Matsya Thozhilali Federation (KSMTF) pointed to the erosion being caused by extensive black sand mining. He pointed out that "The Kuttanad region that generates rice crops for the entire state will get submerged in sea water with this mining as the distance between the paddy fields and the coastal regions have come down to few meters with the high proportion of mining. Sea washing and black sand mining done in extensive form has caused loss of traditional livelihoods. The fish resources have died and become

eliminated due to sea washing. It has also caused near extinction of sea turtles. Shrimp sources in Alappuzha also have become scarce. The erosion has taken place due to decades of black sand mining." He pointed out that the mining is being carried out with disregard to environmental and other laws. Mr. Pollayil also talked about the impacts of this erosion "There was a school that had thousands of students, it has shut down as the panchayat where it is located has been submerged by sea water. Around 100 to 150 loads of sand is taken out every day. When the sand is taken it should be naturally replaced. But since that is not done the people are forced to move out of their vanishing lands."

- ★ In **Thiruvananthapuram**, Amala reiterated that "Instead of protecting the coasts by planting mangroves, they spend crores to build seawalls, harbours and ports. These will destroy our ocean wealth. From Kovalam to Adimalathura, is the place with the most corals they have all been removed because of the port. So, there is no opportunity for the baby fish to grow. This means fishworkers, fisherwomen and their families are all going to be orphaned because of the government's policies."
- ★ In Goa, Olencio Simoes also talked about the environmental impacts of the projects—
 "The current port is handling 7 million metric tonnes per year, now they want to handle
 130 million metric tonnes per year. So, they require rivers for transport, which is
 planned to be built across one sanctuary. They are planning a 4-lane road via Mollem
 National Park, and double-laning of Konkan railways. They are planning 15 tunnels,
 for which 90,000 trees will be cut, and transmission lines will be expanded. The
 Western Ghats is a UNESCO World Heritage Site, 8th biodiversity hotspot. For the
 Indian monsoon, the Western Ghats is the key. The rivers are flowing via the Ghats. It
 will be a huge setback for people of Goa that it is being destroyed for doubling a railway
 track. Aside from these, Goa has the highest death per million due to COVID-19. This is
 ample evidence to the fact that coal pollution has severely affected the respiratory
 system of the people of Goa."

5. DOUBTFUL FINANCIAL BENEFITS

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

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

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

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

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

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

JURY OBSERVATIONS

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

"I learnt the pain that has been expressed by the persons in their testimonies... the pain in their eyes".

- Justice (Retd) Akbar Ali

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

The Jury observes a violation of basic human rights deprivation of people's livelihoods, historical rights to resources, and exclusion of communities from developmental decision making, often contrary to India's own constitutional mandates. The Jury notes that the testimonials and reports reveal the failure of the State to consult local communities, who are knowledge holders and rights holders to coastal and ocean commons. It is not only that the State has failed to compensate for loss of property or livelihoods but there is a failure to adhere to a more fundamental principle of inclusive and democratic decision making, where custodians of the commons participate in decisions relating to the commons. Despite commitments that have been made by States at various international instruments, not only is there a lack of consultation with local communities

for projects that are coming in their area, the value that communities such as small scale fishworkers are bringing to the local and national economy is being deliberately invisibilised. Macro level policies that are driving developmental paradigms have failed to recognize the contribution of small scale fishworkers on local livelihoods, the economy and their contribution to food security and the customary rights of these indigenous communities.

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

- Professor Merle Snowman

".. all the work that fishworkers are doing and the value they are bringing to the economy are invisibilised. Therefore, there is a need to actually visibilise their contributions so that such data informs policy-making at the macro level"

- Ms. Pamela Philipose

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

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

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

- Ms. Liziwe McDaid

The Jury sounds a note of caution against relying only on environmental impact assessments. EIA, as they are done today, have huge inadequacies. They fail to account for cumulative impacts and losses to the marine environment. They also ignore the social and economic losses and gains to affected communities.

What is needed instead is a strategic risk assessment that takes into consideration economic, social, cultural, ecological, and human rights costs, which are assessed taking into account the current realities of the climate crisis. The Jury notes with concern that plans that were made decades ago are still being implemented as in the case of the freshwater reservoir in Gulf of Khambhat, and the port in Dahanu. The context and concerns of the environment and climate change have evolved since then and it is imperative that any project be assessed from the perspective of current realities.

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

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

communities across the world to forums such as the World Forum of Fisher Peoples (WFFP) and highlights the contradictions in international policies and agreements, maybe the need of the hour.

"The testimonies that we hear is really an indication of and a recognition of the strength of the people"

- Ms. Liziwe McDaid

JURY VERDICT

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

-Ms. Liziwe McDaid

"the rise of an authoritarian, majoritarian government and leadership and the crony capitalism that comes with it has a lot to do with the dilemmas that we face here."

- Ms Pamela Philipose

"It is rampant ocean and green grabbing, rampant corporatisation and complete disregard of the rights of the local fishing community and their local institutions..... It is like business as usual, but on steroids!"

- Professor Merle Snowman

"Whose economy is this and whose livelihood is this? ... When we look at blue economy from law or Dharma...., I can see that the scales of justice are tilted against the fisherfolk"

- Justice (Retd) Akbar Ali

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

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

a. Transform Paradigms of Development

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

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

b. Ensure Environmental Protection

The Blue Economy model has failed to address the immediate and dire concerns of the climate crisis, and have ignored fundamental laws of nature such as the interlinking of different ecosystems. This is contrary to India's constitutional obligations to protect and preserve the environment under Articles 21 and to several obligations undertaken by States, including India, to protect the environment under Principles 1 and 4 of Rio

Declaration on Environment and Development; Articles 8 and 10 of the Convention on Biological Diversity and Article 192 and 194 of United National Convention on Law of the Seas and the Paris Agreement.

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

c. Assess the Cost of Development

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

i. The Government of India, and respective states, should immediately put a stop to coastal projects such as the Wadhwan Port in Maharashtra, Vizhinjam port in Kerala, the coastal road projects in Maharashtra and others which have been challenged by the people before this tribunal. These projects have failed to

- realistically assess the cost of development and have had severe impacts on people and the ecology.
- ii. The Government of India, the international financial institutions and the multilateral development banks should undertake detailed assessments that include the economic and social value that is brought in by communities such as small scale fishworkers, adivasis, farmers and other workers to components of the economy such as food security, local livelihoods, local food production and value to the local economy, and include the destruction of these systems in assessments for development.
- iii. The Government of India, and respective states, in keeping with the constitutional principles, should ensure recognition of women's work in fishing and recognition of allied activities as part and parcel of fishing activities. Social measures are also needed to increase capability of and participation of women in government agencies and in fishers associations.
- iv. In accordance with the principles enshrined under the Constitution of India and various international instruments to protect and conserve nature, the Government of India must strengthen the environment impact assessment framework in such a way as to include assessment of cumulative impacts of multiple projects (social, economic, cultural, political, environmental and human rights), loss to marine and coastal environment and must include a holistic assessment of social and economic impacts to local communities such as small scale fishworkers.

d. Respect the Rights of Communities

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

International Independent Blue Economy Tribunal Organising Committee

FACILITATING ORGANISATIONS







HOST ORGANISATIONS











COORDINATING ORGANISATIONS













