



International Tribunal on the Impact of Blue Economy in Indian Ocean countries

Verdicts of the Six Tribunal Series
held between August
2020 - February 2021

International Independent Tribunal on Blue Economy
Organising Committee

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 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 the 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 & 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 a 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 channels and facebook pages of host organisations. 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

Globally, the concept of the Blue Economy has been emerging and projected as the 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 many Small Island 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 Initiative 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 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 as an inevitable consequence of exploitation of coastal and marine resources.

Exclusion of Marine and Coastal Communities from their habitats, governance and user rights on marine and coastal commons, and resulting in loss of livelihoods by allowing oceans and coasts as open access systems.

Enforcement of Maritime Security as a deliberate strategy of blue economy towards militarisation of coast and increasing global governance

OUR INITIATIVE – THE BE TRIBUNAL SERIES

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 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 socio-economic 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

• 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(Srilanka) 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, socio-cultural 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 in large, as a

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.

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

Date of Tribunal: 27th August, 2020
Date of Jury Verdict: 12th November, 2020

Verdict signed by Members of the Jury:
Ms. Makoma Lekalakala
Director of Earthlife Africa, Johannesburg
winner of Goldman environmental award

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

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

TABLE OF CONTENTS

STATEMENT OF INTENT	2
TRIBUNAL PROCESS	3
PEOPLE'S CHARGESHEET	3
EVIDENCE PRESENTED	3

A.	Evidence submitted by The Research Team	3
B.	Testimonies by community representatives	3
1.	On the subject of the BE development framework:	3
2.	On the subject of women and development within the BE framework	4
3.	On the subject of Chundikulam Bird Sanctuary	5
4.	On the subject of Governance of Government Armed Forces (Northern Province)	6
5.	On the subject of the Colombo Port City Development of Fishers (Southern Province)	7
C.	Expert Presentations	8
JURY VERDICT		11

STATEMENT OF INTENT

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

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

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

The Tribunal was attended by more than 600 people from across Sri Lanka and fishing community leaders and civil society activists participated in the Tribunal. The Jury was encouraged to see the participation of the community through online platforms and the powerful use of technology to make the Tribunal

widely accessible to the people of Sri Lanka and other countries in the middle of the COVID-19 pandemic. The Jury also appreciates the testimonies that were presented by the local affected people along with the report on the Blue Economy presented by the Research Team, and expert presentations.

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

TRIBUNAL PROCESS

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

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

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

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

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

2. Fishing community leaders made important statements, particularly –
 - a. Nadine Nembhard, Secretary General of World Forum for Fisher Peoples, (Belize)
 - b. Bishop Asiri Pereira, Methodist church, Sri Lanka
 - c. T. Peter, General Secretary, National Fishworkers' Forum India

And moderators

- a. Vijayan, Research Scholar, Carnegie Civic Research Network & General Secretary, Pakistan India People's Forum for Peace & Democracy (PIPFPD)
- b. Herman Kumara, National Convenor, NAFSO

3. A report - 'Blue Economy - Exploring the Socio Economic Political and Ecological Implications on the Coastal Communities of Sri Lanka' was submitted to the Jury, and an executive summary was presented during the Tribunal. The Jury takes note of the methodology used as per the Report, including –

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

4. Presentations by Dr. Arvind Rajagopal, New York University on 'Geopolitics of Blue Economy in South and South-East Asia'.

5. Testimonials from 6 community representatives across different sites on the implications of the Blue Economy on their communities.

PEOPLE'S CHARGESHEET

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

jury:

1. The Sri Lankan Government has disregarded the traditional wisdom, livelihood aspirations, peace, human rights, dignity and progress of the fishing communities, in both in Northern regions and in the South of the country;

2. The Sri Lankan Government has disregarded international conventions, including the United Nations Convention on the Law of the Sea, other international FAO regulation and management codes, the constitutional rights of citizens and the traditional and customary rights of the fishing community in the process of ushering in corporate and market-led projects on to the coastal and marine zone of the country. As per the testimonies, these projects are violative of natural justice and negates the right to life, livelihood and equality before law, of the community. The testimonies presented were able to prove how their resources are being grabbed, how they are being dispossessed of their fishing grounds and how environmental restrictions are resulting in further displacement.

3. The International Financial Institutions, including the World Bank, the Asian Development Bank and the International Monetary Fund (along with new age Development Finance Institutions) are behind the aggressive push for corporate land and ocean grab in Sri Lanka;

4. Mega development projects like the Chinese (invested & operated) Colombo Port City project have not only evicted fishers without adequate land and livelihood compensation, they have also forever destroyed the traditional sustenance and disregarded the claim of fishers to the ocean. Coastal communities across the South/ Western, Western and North/Western regions asserted that coastal destruction and sea erosion was ongoing along their coast, and that this was causing a loss of space for fisher women for post-harvest processes.

5. The traditional, small-scale fishers from the north and south of the country have charged the Sri Lankan state and the concerned departments of not giving priority hearing to the sector, which has played a key role in maintaining the food security of millions;

6. The women fishers of the marine sector have charged that they are not dealt with equally or given any consideration as significant contributors to the fishing activity. Also, women asserted that they are marginalised in the market places due to big investors setting up large scale businesses in the harbours.

7. The women fishers of the northern provinces have charged the Sri Lankan military and government of severing traditional fishery rights, and also the right to life and peace of the community by denying educational access, healthcare access and peaceful habitat rights to the Tamil citizens. Thousands of fisher people are still living in IDP welfare camps since 1990.

8. Environmentalists and the community have charged that the Government has unleashed havoc on the future generations by risking the marine protected areas and vulnerable coastal lands and waters to heavy industrialisation, mangrove destruction and dredging for tourism and other activities. Fisher people in the north claimed that the Government of Sri Lanka has slackened environmental protection through de-gazetting of mangrove lands to cater to the demands of intensive aquaculture.

9. The sea erosion witnessed in Sri Lanka has made the traditional fishing communities, especially in southern areas, more vulnerable to climate change, natural disasters and livelihood loss;

10. The northern fishers have charged the state of Sri Lanka with denial of their rights by the Government's provision of commercial harbours and habitat settlements to the southern fishers in northern areas. They have also mentioned that this directly has resulted in polarisation and division of the Sri Lankan fishing community;

11. The traditional marine fishers have also charged that industrial aquaculture has denied them of their rights to value chain as well as supply chain and denied the local communities their right to drinking water.

EVIDENCE PRESENTED

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

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

- Negombo Dry Fish vending.

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

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

A. Evidence submitted by The Research Team

The Research Team presented that globally, the Blue Economy (BE) has been emerging since the United Nations Conference on Sustainable Development (Rio+20) in 2012, and has been projected as a sustainable economic growth model. It is envisioned that under this model, coastal nations would open their coastal and marine ecosystems as sites of development for the development of different sectors like fisheries, aquaculture, tourism, shipping, mining and others. Since then, many Least Coastal Developing Countries (LCDC) and Small Island Developing States (SIDS) have been adapting and shifting their national growth models towards the Blue Economy/Blue Growth strategies. At the global level, a range of actors at the international level, from the World Bank and the United Nations, to portfolio managers and venture capitalists are active proponents and investors in the Blue Economy agenda.

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

The Research Team while studying the focus areas under the global BE agenda has been able to discern that Sri Lanka's strategic location adjacent to the world's busiest shipping zones makes it a particularly desired destination for investments. The imperatives driving these investments have both global, regional and national dimensions. Globally, the American and Chinese geopolitical tug-of-war has led

to countries being carved up on account of their suitability to provide ports and havens of investments. Regionally, on account of the historical border conflict with India, and India's direct alignment with American interests for its own Blue Economy, Sri Lanka and India are paying more attention to the common maritime borders. And finally, given Sri Lanka's own history and the North-South divide, the BE investments, as they touch down and interact with the social, cultural, historical and economic histories of the regions, create particularly specific outcomes.

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

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

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

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

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

-NAFSO

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

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

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

- Socio-ecological impacts of the Colombo Port City- The work on the Colombo Port City is leading to serious socio-economic problems and malnutrition. It is estimated that the number of fishers directly affected is now in excess of 30,000 in Negombo alone. The overall figure, including those engaged in associated trades, is estimated to be more than 600,000. The majority of the people cannot afford to purchase deep-sea fish and are dependent for both their livelihood and food security on small-scale fishing. Coastal villages are also being washed away due to the erosion caused by the project. Some fishers have no place even to park their boat because of sea erosion caused by sand mining.
- Loss of access to coastal and marine spaces - Fishers have lost their beach

seining sites, craft anchorage sites and fish drying sites, first, as a result of climate-induced sea erosion and second, as a result of land grabbing by tourism interests.

- Transformation from self-employed to wage labourers - On account of the failure of fisheries management and regulation over the years, fisheries resources in Sri Lanka's waters have been deeply impacted. Sri Lanka has also opened up its waters to foreign fishing fleets. Given the decline in fisheries resources to the SSF, the absence of other livelihood options, many SSF have begun to join foreign industrial fishing boats as waged workers. While the Research Team did not investigate the aspect of the at-sea working conditions, based on similar shifts in other countries, such as Thailand and Indonesia, it can be assumed that the fishworkers work in harsh conditions where they are underpaid and overworked.

- Militarisation of the coast - The Sri Lankan Government's policy decision on permitting the Army to control and manage the development interventions along the coastline has negatively impacted fishers, as well as the coastal and ocean resources. The conversion of coastal lands into tourism, aquaculture, hotels, infrastructure and development projects is underway through the direct intervention of military and leading to the forced eviction of coastal communities. The armed forces run and manage the country's tourism sector - nearly 150 hotels are planned to be managed by the military; and holidays packages and resorts such as Golf Link Hotel Trincomalee, Lighthouse Gallery Colombo, Lagoon Cabanas, Sober Island Resort Trincomalee and others are managed by the navy. It has been found that Tamil communities were forcibly made to work in the tourism resorts administered by the armed forces. Public beaches have become private beaches, and beach access roads have become private property of tourism stakeholders.

- Water problems from industrial aquaculture - The promotion of intensive culture fisheries has resulted in most of the drinking water sources, irrigation channels, lagoons and reservoirs in the northern region being converted to industrial aquaculture. The destruction of traditional pathways, waterways and flood plains has led to the drying up of surface water bodies. Extraction of ground water for shrimp farming has resulted in acute water crisis and health hazards like kidney stone and waterborne communicable diseases. Industrial aquaculture has displaced women from the fisheries value chain and supply chain, even as industrial aquaculture is being promoted as an alternative livelihood option for women.

- Issues with fishing harbours - The fishing harbours at Pesalai and Point Pedro, even though claiming to benefit the fishing community of the Northern province, are being opposed by the fishing community. The reason for this is that they do not have access to buy multi-day boats and deep-sea vessels as they are heavily indebted already and there is no credit support from the Government. These projects will also have detrimental effects on the area's shoreline fisheries, stocks and biodiversity. The families, dependent on shoreline fishing, especially women vendors, will be totally displaced.

- Inadequate social security measures for fishers and fisher women - There are around 5000 households living in welfare camps as internally displaced people since they were displaced in 1990. The reason for their presence here is due to forced eviction without any compensation or rehabilitation. Many of the women are forced to undertake waged work in extremely vulnerable working conditions without adequate infrastructure facilities including water and toilets. The women in IDP camps face physical and economic insecurity.

B. Testimonies by community representatives

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

1. On the subject of the BE development framework:

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

- The rhetoric of development in the name of Blue Green Economy has raised false hopes among the people, but in reality, it is destroying us and our resources instead

- The present form of aggressive and exploitative development is being pushed on us by the State who is supposed to be the protector. They advocated that the implications of Blue Economy will be positive but they are serving it for private interest by allowing foreign access in Sri Lankan waters

- Our Government is not transparent and its own vision document and policy perspectives are promoting foreign investments to expand the resource use from the coastal land towards the ocean; we see this for example when foreign

vessels are promoted in the northern waters

- In addition, coastal resources which were serving our livelihood are being exploited by market players by fishing in shallow waters, estuaries, lagoons which were our common resources and we are left out without access, losing our customary rights and we are forced to move from our primary livelihood to alternative livelihoods

- The Government is keen to promote alternate livelihoods in areas away from our coastal habitats and thus displacing us from our home land

- Industrial aquaculture and salt harvesting, wind mills, commercial harbours for multiday boats, new settlements for southern fishers and thus every inch of our space is being encroached for private profits. We keep resisting as we are aware that we are not going to be benefited, as we are further marginalized by the implications. This is the situation prevailing across this region and I am the witness to this painful reality.

2. On the subject of women and development within the BE framework
AnanthiSasidharan, former Women's Minister, Northern Province:

- The land grabbing process is continuing in the north and east and we are constantly raising our voice against it. We only gain sympathy but our rights are not recognized. Our people are forced to engage in unknown occupations and our primary livelihood is at stake

- My experience with women is very pathetic. They are no longer self-reliant. There is no credit support and they are employed as daily wage earners. In my view, Blue Economy is not a sustainable one as there is no development in our region, and especially the educational aspirations of our children are not addressed. Our women are constantly facing gender violence and there is no security as our coast is regulated by the military

- Our boats get damaged at the harbours, parking boats is unsafe. We don't get compensation for damages. The Navy controls the harbours

- Our children do not have access to nutritious food as the State is promoting export-oriented food production. All the prevailing welfare schemes before the war are no more in practice. There is no fund allocation for our cooperatives where we had access for our entrepreneurial activities and we have been displaced to from our original habitats

- We do not have the freedom to fish in our own waters as we are facing issues with the Indian navy, as the trawlers are regularly fishing in our territories. Indian navy is seizing our boats, we are tortured and we cannot make any complaints against these atrocities with the police and we lose our fish catch. Our own government is not supportive and not taking action against this

- Illegal activities and trafficking of narcotic drugs is ongoing and we could not access the sea for fishing

- There are many shrimp farms in the coastal areas in the north and as a result the fishermen have no place to do their fishing. Women are forced to work in these shrimp farms as labour. Earlier the women used to pick up shells but now these areas are given for big shrimp farms prohibiting their access

- Women leadership is lacking in the co-operatives which are managed by men

- We cannot tolerate any more violence and we demand the Government to ensure peace by regulating the militarization of the coast. The Sri Lankan Government should devolve funds and powers to the Northern Province for economic and social empowerment. We are assertive and courageous and we need our own space to move towards peace and prosperity

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

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

- Most women are back on land when the men have gone fishing and have to maintain the family. The women however do not feel safe and the children cannot continue their education.

- Even during the tsunami, we face many difficulties in terms of access to nutritious food, and we were unable to continue their activities.

3. On the subject of Chundikulam Bird Sanctuary

Rathnasinghem Muralitharan, Chairperson DIFSO, Jaffna:

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

4. On the subject of Governance of Government Armed Forces (Northern

Province)

- In the Northern region, the Military and Navy has taken the full control over the ocean and coastal resources. They establish all sorts of coastal and ocean-based business to harness the revenue for national growth. The production-oriented industrial fisheries developments such as Aquaculture and Mariculture, ports, tourism and other coastal infrastructure projects are being implemented by military in a big way, resulting in the dispossession of fisher customary rights over land and sea. For instance, tourism hotels and resorts were managed and run by military
- The private entities are playing vital role in fisheries development projects which alienates the fishers for the ocean and coast. Further, the Government is keen on promoting alternate livelihoods for fishers, which makes the fishers to disintegrate from fishing activities
- Women are the worst affected, there is no physical security. The Navy harasses fishers on the sea, and takes away the fish catch.

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

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

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

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

- The Post Tsunami and War reconstruction development policies had opened the coastal gateway for economy. The Colombo Port City (CIFC), is a

city-on-the-sea, a financial centre with shopping and office complexes, hotels, and apartments for investors. The project is the landmark of the infrastructure development program of Sri Lanka and China and is part of China's "Belt and Road (BRI) Initiative". We are not opposed to development but this model induces severe impacts on us.

- CIFIC had a detrimental impact on marine ecology and biodiversity, yet, there have been absolutely no efforts to mitigate the ill-effects, including the non-provision of a livelihood support. The shore has been destroyed and the sand/shore has been altered. For the last three months (June-August, 2020), these areas have been destroyed really badly, with resulting erosion
- The Environmental Impact Assessments (EIAs) carried out are inadequate, incomplete and violated procedures and process of EIA. For example, sand mining and ground levelling that had already been conducted prior to the EIAs was illegal because there was no proper impact assessment of the project activities prior to begin the project as required by the National Environment Act No. 47 of 1980, which is the EIA legislation in Sri Lanka
- Fishers who live along other coastal areas (from Kammalthota to Ratmalana) say that their income from fishing has reduced drastically due to the denial of access to fisheries as well as the depletion of fish resources and damaged to coastal environment caused by sand mining. The project will also affect the livelihood of 600,000 persons who depend on fishing and other fishing related activities.

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

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

-Ms. Subashinie Kamalanathan, Convener, PMAPC

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

- Negombo woman fishworker

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

-People's Movement Against Port City (PMAPC)

C. Expert Presentations

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

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

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

- The subject expert presented on the subject of geopolitics, and linked the current geopolitical juncture of the BE to two points: one, the concentration of wealth in the hands of the few, that is rising inequality in the face of neoliberal growth, and two, the devaluation and dismissal of expertise;

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

“The Blue Economy covers $\frac{3}{4}$ of our planet’s surface – it is the ultimate site of convergence, the largest repository of resources, and the barometer of the world’s health as a whole. It is a place where international collaboration is essential, and where a fair division of wealth should occur – we either survive together or we perish together. It is the last frontier.”

-Arvind Rajagopal

JURY OBSERVATION

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

1. Fishing communities in the Blue Economy:

The Jury observes that the Blue Economy, by its very name, is a development framework related to the oceans and the coasts. Thus, the de facto primary stakeholders of the projects under this framework are the people who live and practice livelihoods in these locations, in this case the fishing communities of Sri Lanka. The Jury has extensively heard today that the coastal and marine areas of Sri Lanka support are inhabited by traditional fishing communities, who in spite of the challenges of civil war, climate crisis, political upheaval over the decades, continue to participate in a fishing economy that sustains the lives of many, and provides cheap, local and nutritious food to the country. The Jury also notes that the fishing communities are the biggest users of coastal and marine spaces and have the highest dependence on them. Thus it becomes imperative to see the Blue Economy’s impacts from their perspective. It is beyond question to this Jury that fishing communities must be placed, as not only the de facto but also the de jure primary stakeholders of coastal and marine spaces, a point that we observe is lacking within the national legal framework in Sri Lanka.

2. The planning of the Blue Economy:

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

3. Blue Economy as a development framework:

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

4. The geopolitics of the Blue Economy:

The range of projects within the Sri Lankan plan that related to ports, logistics and infrastructure, in addition to their funding mechanisms, make it evident to the Jury that the Blue Economy model is a part of a global macro-economic process that is primarily focussed on the reduction of per mile costs of transportation of goods. The Jury notes that Sri Lanka straddles an important node of the global shipping corridor between South East Asia, Africa, Asia and the Middle East. Thus, the Blue Economy, while conceived and executed by the nation-state, is also catering to a whole range of global interests and investments, that at times have the ability to undermine the question of national interest. The Jury observes that while the material solidarity of the fishing communities in the region is based on the idea of shared common resources, the Blue Economy model has the potential to pit nation-states against each other for cost competitiveness in the global market. There is a fear that these larger questions can subsume the interests of citizens like the fishing communities.

5. Militarisation in the Blue Economy:

A related matter to the geopolitical point in the Blue Economy is the rise of militarisation in its various forms, be that surveillance through online tracking, the rise of maritime police to secure beaches, or the advent of the 'Monitoring Control and Surveillance' mechanisms at sea. The Jury finds this especially concerning in

Sri Lanka given the recent history of the country with civil war, and the long-term trauma and distress that this has manifested. The Jury also notes with concern the use of the military in implementing projects and being involved in the planning and management of different components of the Blue Economy. Fishing communities, which have forever been on the fringes of state policy-making, are now being polarised with the differential involvement of the military in the north and in the south. The Blue Economy must offer peace and prosperity to the people of Sri Lanka not from the barrel of the conceptual gun but in a manner that allows for healing and reparations. These concerns are entirely missing from the engagement with the people, and it is our fear that without including the specific interest of the people in Sri Lanka, the militarisation aspect of the Blue Economy will further exacerbate the processes of alienation and othering. The testimonies presented today also highlight the overt and covert forms of military power being shown to the fishing communities.

6. Gender Quotient of the BE framework

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

JURY VERDICT

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

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

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

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

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

The Jury is guided by various international instruments that are already in place, and urges that the principles of these instruments, reflect in the policies of the Sri Lankan government. Since conventions such as the Voluntary Guidelines for Small-Scale Fisheries (VG-SSF) and the ILO's 'Work in Fishing' Convention can address the fisher's issues, we recommend that the conventions be ratified and put into national policy. We also urge the Sri Lankan state to re-visit their

responsibilities under various other conventions such as the Convention on Biodiversity, RAMSAR convention, and look at principles such as 'Polluter Pays', 'Public Trust Doctrine', as well as their country progress on the SDG goals, and examine the BE development framework under their combined scope.

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

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

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

The Jury has heard from the testimonies that the losses being faced by the fishing communities on account of their displacement and loss of access to life and livelihood options are not being considered when implementing the BE projects. Thus, we recommend that the Government of Sri Lanka undertake an economic

loss assessment of the areas where fishers are facing displacement and ensure that where displacement is inevitable, adequate compensatory mechanisms are put in place.

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

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

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

Date of Tribunal: 22nd October 2020
Date of Jury Verdict: 30th October 2020

Verdict signed by Members of the Jury:
Justice Kolse Patil
social activist, former Judge of High Court of Bombay, India

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

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

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

TABLE OF CONTENTS

STATEMENT OF INTENT 2

TRIBUNAL PROCESS 3

PEOPLE'S CHARGESHEET 3

EVIDENCE PRESENTED 6

1. What will be the impact of the Omnibus law on the Indonesian fishing community and environment? 6
2. What have been the impacts of the privatisation of coastal and marine commons on the community and the environment? 8
3. What are the threats faced by the fisher community as a result of the development of private tourism models? 9
4. Does Indonesia's marine spatial planning process have an anti-people and anti-environment agenda incorporated into it? 11

JURY OBSERVATIONS 13

JURY VERDICT 15

STATEMENT OF INTENT

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

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

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

The Jury has been informed that during this Tribunal, we will have the opportunity to hear testimonies and evidence from organisations, experts and fisher community members and this provides an opportunity to give these affected communities an international platform to voice their issues and raise global awareness on the

situation in Indonesia. The Jury has arrived at this verdict based on the evidence presented before us, and on our varied experiences, and we recommend principles, actions and measures to be taken into account by the Indonesian government, the global mechanisms and concerned international organisations.

TRIBUNAL PROCESS

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

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

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

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

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

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

And moderators

- a. Vijayan, Research Scholar, Carnegie Civic Research Network & General

Secretary, Pakistan India People's Forum for Peace & Democracy (PIPFPD)

b. Muhammad Reza, KIARA

3. A report - 'Blue Economy - Exploring the Socio Economic Political and Ecological Implications on the Coastal Communities of Indonesia' was submitted to the Jury, and an executive summary was presented during the Tribunal. The Jury takes note of the methodology used as per the Report, including –

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

4. Presentations by three experts, Carsten Pederson, researcher and political activist on Marine Spatial Planning as a tool for BE with special reference to Indonesia, Miloon Kothari, former UN Rapporteur on Blue Economy in Indonesia and Threat to Commons and Nayana Udayashankar, researcher at Equitable Tourism Options, India on Implications of Tourism, a Component of Blue Economy in Indonesia

5. Testimonials from 3 community representatives across different sites on the implications of the Blue Economy on their communities.

PEOPLE'S CHARGESHEET

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

1. International Convention on Civil and Political Rights

On the basis of article 6.1.

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

On the basis of article 10.1

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

2. International Convention of Economic, Social and Cultural Rights

On the basis of article 1.2:

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

3. United Nations Declaration on the Rights of Peasants

On the basis of Article 4.1

“States shall take all appropriate measures to eliminate all forms of discrimination against peasant women and other women working in rural areas and to promote their empowerment in order to ensure, on the basis of equality between men and women, that they fully and equally enjoy all human rights and fundamental freedoms and that they are able to freely pursue, participate in and benefit from rural economic, social, political and cultural development.”

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

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

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

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

On the basis of article 5.2

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

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

4. UN Declaration on the Rights of Indigenous Peoples

On the basis of Article 19

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

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

On the basis of Sec.I Para 6.

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

On the basis of Sec. II B Para 16.

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

of location, and access to essential services such as health and education,”

On the basis of Sec. II C Para 25

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

On the basis of Sec. II D Para 32

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

On the basis of Sec. III Para 38

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

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

1. The verdict of the Indonesian Constitutional Court No. 3 of 2010

concerning Judicial Review on Law No. 27 of 2007

2. Articles 28 A of the Indonesia Constitution of 1945 which states “Every person shall have the right to live and to defend his/her life and existence”

3. Article 28I (5) of the Indonesia Constitution of 1945 which states “For the purpose of upholding and protecting human rights in accordance with the principle of a democratic and law-based state, the implementation of human rights shall be guaranteed, regulated and set forth in laws and regulations.”

4. Article 28G (1) of the Indonesia Constitution of 1945 which states “Every person shall have the right to protection of his/herself, family, honour, dignity, and property, and shall have the right to feel secure against and receive protection from the threat of fear to do or not do something that is a human right.”

5. Article 28H (1) of the Indonesia Constitution of 1945 which states “Each person has a right to a life of well-being in body and mind, to place to dwell, to enjoy a good an healthy environment, and to receive medical care.”

6. Article 33 (3) of the Indonesia Constitution of 1945 which states that “The land, the waters and the natural resources within shall be under the powers of the State and shall be used to the greatest benefit of the people.”

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

EVIDENCE PRESENTED

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

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

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

a. The new Omnibus law will potentially lead to the displacement of about 8

million fisher households, thereby legitimising the dispossession of people.

b. While the Ministerial Decree of MMAF No.18/2014 explicitly banned foreign vessels in fishing operations, the enactment of Omnibus Law 2020 has opened up Indonesian sea/waters to foreign fishing vessels. Currently it appears as if fishery resources will soon go to those who can purchase fishing licenses at a higher cost, further corporatizing the marine fishing sector, marginalizing the coastal community and denying their customary right over fishery resources. This is against the sovereign national interests of Indonesia and its people, especially the fishing community.

c. The Omnibus law also weakens environmental regulations by relaxing environmental standards for businesses activities that require an environmental impact assessment. Additionally, people living in areas around these projects will no longer be able to appeal the impact assessment document, according to amendments to Article 26 of Law 32/2009. Environmental experts will also no longer be involved in environmental impact analysis. In effect, the principle of Free, Prior, Informed Consent and the right to self-determination have been removed from Indonesia’s governance process which is a violation of the Universal Declaration of Human Rights and the UN Declaration on the Rights of Indigenous Peoples.

d. Indonesia also does not recognise the role of women in fisheries leaving them doubly impacted by the new law, as fisherwomen are not even considered stakeholders in any of these processes.

e. In its 2010 verdict, the Constitutional Court affirmed that communities have four rights over natural resources that flow from Article 33 of the 1945 Constitution - Right to Access, Right to Clean Water, Right to Derive Livelihood Benefit, and Right to Customary Governance. The amendments brought in by the Omnibus law are evidently in violation of this judgement.

f. Furthermore, the decentralisation of functions to the provincial governments has been nullified by the Omnibus law, further eroding the federal nature of constitutional governance. This centralises several aspects of administration, including fisheries management.

“States bear the primary obligation to uphold human rights principles, which is often also concerning non state actors. Impacts of evictions affect the most marginalised sectors, leave people homeless, leave people vulnerable, especially

women and children...States are obligated to review their policies to make sure they are consistent with the UN guidelines...States must intervene so that market conditions do not affect people's marginalities. Before any project is planned, impact assessment must be conducted, to be able to assess the damage to people and communities. These should be carried out in consultation with people, according to differential access. All possible alternatives to eviction must be explored, displacement must be minimised. We can see in Indonesia that such steps are not being followed"

- Miloon Kothari, Former UN Rapporteur

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

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

a. KIARA noted that Boskalis carried out lots of infrastructure development projects in coastal and small islands in Indonesia, such as the sand mining and reclamation in Makassar and Banten, artificial island development in Jakarta Bay, development of TanjungEmas port (part of the sea highway plans), and others

b. The value of the contracts obtained by Boskalis for the two dredging activities in Makassar and Banten waters reached up to EUR 75 million; contract for construction of artificial islands in Jakarta Bay is valued at over EUR 173 million. The passing of the Omnibus law and centralisation of powers enhances the potential for corruption, kickbacks and nepotism, along with increasing the control of corporates like Boskalis.

c. The mining area of Boskalis for the Makassar New Port project is part of the traditional fishing ground of local fisherfolk. Fisherfolks in Cambaya, Tallo, and KodingarengLompo island are facing negative impacts because of the environmental degradation from the Makassar sand mining activity, such as the decrease of their fish catch and income. Their average income has dropped to less than 30% of earlier levels with some reporting negative balance after paying for fuel

d. After the mass demonstration by the coastal community in Makassar, many participants received threats and repressive action from the local authorities which resulted in fisherfolk fearing going out to sea. The repressive action of

Indonesian authorities clearly implies that the government does not side with the interests of the coastal community and fisherfolks in Makassar.

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

- Ibu Masnuah, PPNI, Kodingareng island

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

- Ibu Zakiah, fisherwoman, Kodingareng island

Transcript of video evidence produced before the jury

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

- Ibu NibrasFadhlillah, KIARA

e. The Jakarta Giant Sea Wall project has destroyed the fishing grounds of the fishers of Muara Angke. After some villagers filed cases against the project, the

government responded by filing criminal cases against these individuals. While the government has proposed a relocation site, it is far from the coast and fishers would no longer be able to continue fishing for their livelihood. The government has also halted essential civic welfare measures to the village like running water, healthcare etc. which people claim is done in order to force them to relocate.

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

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

a. In Mandalika, West Nusa Tenggara, there are many people who have filed cases with the Indonesian courts against illegal claims over their lands by the Indonesian Tourism Development Corporation (ITDC). One such case was filed by Umar against the ITDC and others. In the appeal hearing, the High Court Judge Panel of NTB ruled in favour of Umar, after he previously lost in the District Court of Praya, Central Lombok.

b. In the document “Investigation and Coalition Report of Infrastructure Monitoring on AIIB Loan for Projects in Indonesia” it is stated that in 2019, ITDC had compulsorily acquired farm land and converted it into road infrastructure. According to the people in the Ebunut Village, the ITDC carried out a preliminary survey first in the afternoon, then in the night they deployed an excavator which destroyed the people’s farms, including their corn and cash crops.

c. A photo was shown to the jury of the police force deployed in Mandalika. There are several cases where the local community experienced displacement and land grabbing by the government which deployed hundreds of police officers to evict people from their lands. The Jury could witness a clear militarisation strategy employed by the Indonesian government to privatise community lands and commons.

d. The document “Investigation and Coalition Report of Infrastructure Monitoring on AIIB Loan for Project in Indonesia” states that about 9,448 families or 32,857 people from the villages of Kuta, Sukadana, Sengkoland Mertak will be affected by the Mandalika Area tourism project development. The direct impact of such a project is expanding forced land acquisition, where the PT ITDC will take over people’s residential areas and productive farms located at the basic

infrastructure development zone for the commercial area such as hotel, housing, and MICE (Meeting, Incentive, Conference, Expo) facilities.

e. Not only are farms and houses acquired, fishing communities will lose access to the sea. Example, shellfish and crab fishworkers in the Seger Kuta Beach are predominantly women. They will lose their access to the sea, because the Indonesia Tourism Development Corporation (ITDC) also claimed the beaches under the Mandalika tourism SEZ.

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

- Berce Toli, ANTRA North Sulawesi

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

- Mas Parid Riwanuddin, KIARA

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

- Nayana Udayashankar, EQUATIONS

f. On 1st October 2020, the Komnas HAM (Human Rights National Committee) Commissionaire Beka Ulung Hapsara stated that this kind of illegal

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

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

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

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

b. KIARA noted that almost all the ocean grabbing activities, including those by Boskalis as mentioned earlier, is legitimized by the Marine Spatial Policy seen in the Coastal and Small Islands Zonation Plan (RZWP3K). In accommodating the national project on economic development, RZWP3K allows the government to 'sell' the space and resources to investors. Thus, RZWP3K is actually a form of deprivation of livelihood and living space of fisherfolk, fisherwomen, and other communities who live in coastal areas and small islands.

c. The Zonation Plan for Coastal Areas and Small Islands (RZWP3K) of East Kalimantan has allocations for special terminal construction in 121 locations which is much more than the area given to fishers. The allocation for fisherfolk settlement is only 25.22 hectares (62 acres) and this area has to accommodate 1,37,553 fishing households. A 2.6-million-hectare area in the ocean is assigned for fishing but this is further out to sea and beyond the reach of traditional or

small-scale fishers and so the fishing boats will have to compete for space with larger ships which carry coal. The plan also does not protect coastal ecosystems. As a result, primary mangrove ecosystems, such as in Balikpapan Bay, are under threat of disappearing due to industrial expansion and development of the new capital area.

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

- Muhammed Asif, KIARA, Sangian island

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

- Carsten Pedersen, Researcher and Political Activist

JURY OBSERVATIONS

The Jury notes that the Indonesian government has embarked on a path of economic growth that is in conflict with the needs and lives of coastal fishing communities, and contradictory to the healthy upkeep of the environment. While the government may feel that GDP-based economic growth is the primary indicator of growth and success, the Jury observes that there are many critiques that state that economic growth is a flawed measure of success as it lacks nuance, and can further the dispossession of people and the destruction of the environment. This can be clearly seen in the video shared where the Jury saw the conflict between fisherfolk and the marine police over a mining project that was blocking access to traditional fishing grounds. The Jury notes the strong case made by women about the brunt of these development projects falling on their shoulders. Women being excluded from the value chain and becoming labour was a key point of note. The words 'Blue economy is making a killing', uttered

by one of the testifiers, continued to echo in our minds as we deliberated over the verdict. The Jury observes that in the Blue Economy model, it appears that the role of the state recedes to being that of a broker, which through successive rounds of exclusions and enclosures redistributes coastal lands, accompanied by the dilution of environmental laws and clearances. There is a push towards the financialization of natural resources, where the collectively governed commons are brought under private property and market regimes. Such developmental policy interventions assume that coastal lands are empty lands devoid of existing livelihoods or civil, political, economic, social and cultural interactions.

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

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

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

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

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

However the Jury also observes that there are gaps in the evidence that we recommend to the Tribunal organisers to pursue further. The first is the impact on culture and linked impacts to socio-ecological resilience as a result of the eviction of people and the alienation of their resources. Secondly, the Jury feels that the aspect of centralisation of powers and the legal/moral position of provincial governments on this legal development must be investigated further as this trend is of grave concern. If provincial governments are against this process, they could be powerful allies to the community. The Jury recommends that the organisers also investigate the financial aspects, particularly identifying who is financing such projects. Such backers should be questioned and the illegalities and impacts of their investment exposed. There is precedent for holding financing

institutions accountable for the impacts of the projects they funded. The Jury also advises the organisers and the community to unpack the problem before them, so they are not overwhelmed by the scale of the issue. The Jury recommends to them to aim for small victories as each victory would provide momentum for the next, and make decision-makers take the community more seriously. The Jury also notes the increasing number of cases that argue the inter-connectedness of the rights of nature-people, for example the case in Columbia where people are trying to protect the Amazon or the case around the river Ganga in India.

The Jury also notes the need to propose and push for alternative models of development. Given that according to the plan, until 2030, the key aspect is tourism, clear alternatives should be put forward by communities which are ecologically sustainable and economically beneficial. This is possible as there are already community-based tourism initiatives to learn from which can demonstrate that fishing does not have to be excluded by tourism. The Jury observes that often with governments, strong economic arguments will make an impact but the Jury also urges the community to continue pushing for improved rights.

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

JURY VERDICT

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

multiple UN guidelines and standards.

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

1. The Omnibus law is legitimising practices which violate the rights of communities. It also causes further harm to the environment. Hence this law must immediately be suspended or redrafted to align with international human rights and environmental standards and agreements, and in a manner that upholds the rights of the Indonesian people and safeguards the environment for future generations.

2. State repression against coastal communities must cease and the captive victims should be given fair trial against the false cases filed against them

3. The Constitutional Courts of Indonesia have upheld the right to customary governance of natural resources in the 2010 ruling against Marine Spatial Planning, and have stated that this right flows from Article 33 of the 1945 Constitution. A clear devolution of powers is needed to ensure the Centre does not take over the jurisdiction of customary governance institutions or the local and provincial governments

4. The marine spatial plans do not reflect perspectives for holistic protection of the coastal and marine environment, biodiversity loss and ecological integrity nor does it safeguard the livelihood rights of the fisherfolk. Hence, the MSP systems must be reviewed in toto, keeping in mind environmental sustainability and livelihood sustainability of coastal communities.

5. Communities must be involved in decision making processes on issues that impact them. For example, regulating industrialised fishing and marine planning processes.

6. Recognising the reality of climate change, stricter environmental and social impact assessments are needed for large construction and infrastructure projects on vulnerable coastlines, including projects that involve land reclamation, as they have the potential to exacerbate flooding for all low-lying areas.

7. Women should be recognised for their role in fisheries, and their welfare should be actively considered in development and fisheries planning and management.

The Jury emphasises that the rights of fishing communities to self-determination

is a basic, fundamental right recognised in international conventions and must be respected by the Indonesian government.

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

Date of Tribunal: 10th November, 2020

Verdict signed by Members of the Jury:

Jst (Rtd) Ms. Anjana Prakash, former judge at Patna High Court and
Senior advocate at the Supreme Court of India

Dr. Dina M Siddiqi, Faculty of Liberal Studies at New York University
Prof. D. Parthasarathy, Professor of Sociology at Department of
Humanities and Social Sciences, Indian Institute of Technology, Bombay.

Dr. Petch Manopawit, Conservation Scientist and former Deputy Director,
IUCN South East Asia Group.

Ms. Soontaree Sengking, head of the NGO’s Coordination Committee on
Development, Thailand.

TABLE OF CONTENTS

STATEMENT OF INTENT	1
PEOPLE’S ALLEGATIONS	2
TRIBUNAL PROCESS	7
EVIDENCE PRESENTED	9
Commodification of natural resources	10
Implications for the people	11
JURY OBSERVATIONS	15
JURY VERDICT	16

STATEMENT OF INTENT

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

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

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

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

Human rights and state repression - We note with concern the reports of state repression of activists. Amnesty International, Human Rights Watch and other international organisations have pointed to the violent repression of the freedoms of citizens. A 2019 report by Amnesty International points to the

practice of enforced disappearance and a Statement by International NGOs points to the unnecessary and excessive use of force against pro-democracy protesters.

PEOPLE'S ALLEGATIONS

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

The following main violations have been brought to our notice -

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

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

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

The International Convention of Economic, Social and Cultural Rights

On the basis of Article 1.2:

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

And Article 6.1

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

The Employment Policy Convention, 1964

On the basis of Article 1.1

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

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

On the basis of Sec.I Para 6.

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

On the basis of Sec. III Para 38

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

as appropriate.”

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

Discrimination (Employment and Occupation) Convention, 1958

Article 2

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

Convention on Elimination of all forms of Discrimination Against Women

Article 3

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

and Article 11

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

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

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

The International Covenant on Civil and Political Rights

Article 6.1.

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

And Article 10.1

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

4. That the Blue Economy programme, led by the Government of Thailand, IFIs, and multinational corporations has unleashed havoc on nature and the availability of resources for future generations by exposing marine protected areas and vulnerable coastal lands and waters to heavy industrialisation.

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

This in violation of

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

Principle 1

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

Principle 3

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

Principle 4

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

Principle 15

“In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.”

Paris Agreement

On the basis of Article 2

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

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

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

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

Convention on Biological Diversity

On the basis of Article 8

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

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

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

(j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement

of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices;

Article 10 -

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

- (a) Integrate consideration of the conservation and sustainable use of biological resources into national decision-making;
- (c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements;
- (d) Support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced; and

United Nations Convention on Law of the Sea:

Article 192-

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

On the basis of Article 194-

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

TRIBUNAL PROCESS

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

- 1. Context setting by Jesurethinam, Executive-Director of SNEHA who pointed out the dominant context of Blue Economy as -
 - Exploration based on scientific assessments
 - Exploitation of resources
 - Expansion of coastal and marine sectors

And that this is done through a legal, liberal, global agreements; International Finance Institutions

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

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

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

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

3. Statements by fishing community leaders -

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

trying to push down our throats.”

b. Samae Jehmudor, Secretary general of FisherFolk Federation, Thailand (Pattani) - “We know that there has been development in the coastal areas of Thailand, particularly industrial development. This has expanded to cover every area. Thailand and other countries face a similar situation....all these development plans will affect the fishers in the area, our livelihoods will be affected, our food security will be affected. Since COVID pandemic, the fishers are not very much affected. They are only affected economically. We have food on our plates everyday even during a pandemic. We must coordinate with government and private entities to make them understand the importance of coastal and marine resources.”

c. Mr. Narendra Patil, Chairperson National Fishworkers Forum, India (Maharashtra) - “In India this is the third cycle - first there was white revolution, then green revolution, then now blue revolution. Now we have the Pradhan Mantri Matya Sampada Yojana. But what about small-scale fisheries? We are always waiting for (something for) small-scale fishers.”

4. Presentations by two experts, Mr. Antonio Tujo on the Geopolitics of Blue Economy in South-East Asia, and Mr. Leo Saldanha on the Role of IFIs and Impacts of Blue Economy in Thailand and Mekong Region

5. Video testimonials and live testimonials from community representatives from 4 sites on the issues with the Jana and Pak Bara port, Laem Chabang Port, Bangataboon Bay culture fisheries and Surat Thani culture fisheries.

EVIDENCE PRESENTED

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

Geopolitics of the region

A very important factor for understanding the developments in Thailand are the geo-politics of the region and the role played by other countries. With the Andaman Sea on its West and bounded by Malaysia, Cambodia, Vietnam, Laos

and Myanmar on other sides, Thailand is practically a gateway to the South-East Asian region.

Antonio Tuja pointed out how it is caught between two major powers wanting to establish infrastructural and military control. On one hand, there is China and on the other hand, there is the US. China, he points out, has its economic interests in the form of the Belt and Road Initiative, the Thai Canal, petroleum exploration in the South China Sea and military strategy with the artificial islands and the nine dash line claim in the South China Sea. On the other hand, the US has redefined its Indo-Pacific strategy with changing relationships with India and Japan. It has military ties with Philippines, Thailand, Vietnam. The US is looking for military control, but they also have a slew of instruments for finance and ports.

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

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

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

COMMODIFICATION OF NATURAL RESOURCES

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

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

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

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

have shown how we can coexist with nature and develop sustainably”

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

IMPLICATIONS FOR THE PEOPLE

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

1. Loss of life, liberty and livelihoods -

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

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

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

Somboon Kamhaeng reiterated this, saying that the villagers in Satun have been

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

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

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

2. Loss of food security -

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

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

This was also reiterated by the testimonial of Praveen: “Bangtaboon Bay has been feeding over 10,000 families in the area. People used commons to find food, get their regular needs. Problem when public land invaded by private capital. Need to protect public land so small people can have access to natural resources.” Another community member also said that COVID has made the importance of food security clear to them - “Clear that the Covid pandemic has not affected our food security at all. Even though the catch was not selling well, people have plenty to eat. This can only happen if the resource base is secure. For the future, economic security has to be based on resource security.”

3. Lack of recognition for fishers, particularly women

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

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

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

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

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

4. Ecological impacts

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

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

The community has been resisting these impacts - In Pak Bara, they have filed a charge to the administrative court for false urban planning to challenge the zoning which reduces their food production area. In Phetchaburi where cockle farming is done, the community is demanding the government deal with upstream pollution. Fishers have formed conservation groups in 3 provinces but a lawsuit was filed against them. In the Bangtaboon area, 25 groups of small fishers have been trying to regenerate the natural resources of the bay. At the provincial level, fishers have an association of fishers and will be the voices for lobbying the governments for

issuing laws that protect natural resources. The associations mentioned that they have sent letters to different provincial and national officers and have seen some responses. “We have to have all the stakeholders coming together to work on the conservation”

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

JURY OBSERVATIONS

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

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

The Jury further observes that the Blue Economy related developments and

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

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

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

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

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

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

JURY VERDICT

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

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

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

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

- Justice (Retd)

Anjana Prakash

It is important to shift the narrative, how we think about nature and natural resources. The very idea of the commons has been so discredited over the last

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

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

- Dr. Dina M. Siddiqi

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

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

- Prof. D. Parthasarathy

The agenda of Blue Economy is proposed in the name of trying to achieve sustainable development. The marine and coastal department which is tasked with this is trying to propose new tools such as Marine Spatial Planning, but this tool will be effective based on how they're going to engage with communities. The fisherfolk have demonstrated that they have organised themselves well on the

development issue, and the only way forward is to make sure that the government is accountable for the Blue Economy agenda. For the coastal situation, the only way to go is that they have to keep organising themselves, they have to keep following the development agenda but also to make sure that they use the best available tools like Marine Spatial Planning that are going to be used to map ocean resources. If we keep engaging and making sure that (the government) hear our concerns, that will be the effective way forward, trying to address the issues in the name of the Blue Economy.

- Dr. Petch Manopawit

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

We also need to address the proportion of women in decision making processes at provincial and national level, particularly in Bangtaboon Bay. We should look at the particular ways in which women can voice their opinions, there must be legal measures. In the Thai Constitution, we need positive discrimination to ensure women participation at all levels. Our target should be that women can register themselves as part of fisheries occupation.

- Ms. Soontaree Sengking

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

1. Rethinking paradigms of development:

There is an urgent need to rethink the model of development that is being followed globally, as well as in Thailand. In the era of globalisation and liberal trade, the economy of the local markets, food security and subsistence rights cannot be

compromised by States. This is a transformation that is imperative both at the level of the State of Thailand and at the policies pushed and promoted by the multilateral development banks and international financial institutions.

2. Political and Constitutional reforms:

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

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

3. Addressing socio-ecological impacts:

The trajectory of development followed has had severe impacts which have spanned across social, economic, environmental and cultural spheres. The fundamental issue is with the assumption that commodification of resources can ensure economic and environmental sustainability. However, the impacts on communities immediately affected by such developments shows otherwise. There is little attention paid to several ecological crises of climate change. .

a. It is important for reliable studies to be conducted by the Government that study the impact of the Blue Economic development on fishers and fisher livelihoods.

b. There is a need to re-think the idea of sustainability within the Blue Economy idea of development, which currently ignores the huge climate change risks and disaster risks. It also disregards the delicate interconnectedness between land and sea, which is fundamental to environmental sustainability, especially in the light of increasing exposure to climate hazards.

c. Mapping of coastal commons must be undertaken to ensure that they are not taken over by industrial interests, and that legal rights of fishers are protected

d. We appeal to the Green Bench of the Thailand Supreme Court to take cognizance of the socio-ecological impacts being caused by the Blue Economy development model in Thailand.

4. Legal reforms:

a. To ensure that communities affected by destructive development are able to access justice, a judicial forum to address environmental concerns must be set up in such a way as to hasten the process of delivery of justice.

b. There were also several legal changes that were implemented to expedite infrastructural development in Thailand, which violate the rights of communities and cause further harm to the environment. These laws must immediately be suspended or redrafted to align with international human rights and environmental standards and agreements, so that it upholds the rights of the Indonesian people and safeguards the environment for future generations.

International Jury Verdict:

Independent People's Tribunal on the Implications of

Blue Economy in East Coast of India

Date of Tribunal: 25th November 2020

Verdict signed by Members of the Jury:

Jst (Rtd) K. Kannan, Formet 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, Professor at the Melbourne University, Australia
Prof. Saleemul Huq, Director, International Centre for Climate Change
and Development, Bangladesh

TABLE OF CONTENTS

JURY STATEMENT OF INTENT 3
TRIBUNAL PROCESS 4
PEOPLE’S CHARGESHEET ON THE BASIS OF INTERNATIONAL AND
DOMESTIC LAWS 6
United Nations Declaration on the Rights of Peasants 6
EVIDENCE PRESENTED TO THE JURY 9
Implications of intensive aquaculture 9
Impacts of port modification and expansion 11
Impacts of instructure based investments 13
Tourism and its implications 14
Shift in common property regime 16
Implications of Sagarmala 17
JURY OBSERVATIONS 19
JURY VERDICT 21

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.

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 were not possible, the Jury was provided historic, social, economic and cultural analyses. We would like to recognise the following:

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

- Exploration based on scientific assessments

- Exploitation of resources

- Expansion of coastal and marine sectors

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

“The ocean is being shared and marine spatial planning is being done in India. But where is 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.”

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

a. Nadine Nembhard, Secretary General of World Forum for Fisher Peoples, (Belize)- 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..”

b. Harman Kumara, National Convenor, NAFSO and Special Invitee, WFFP Srilanka- 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.”

c. 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, Srilanka 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.

3. 4 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. 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

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.

4. 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'.

5. Video testimonials and live testimonials from community representatives from 4 states on the social and ecological implications of ports, intensive aquaculture, infrastructure projects, tourism and shift in governance of coastal commons.

PEOPLE'S CHARGESHEET 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. Breach of the following international agreements are brought to the jury's notice:

1. 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 co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

2. 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

4. 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.

5. The United Nations Basic Principles and Guidelines on Development-based Evictions and Displacement Sec.I Para 6.

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

Sec. 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 minimizing 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:

1. 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.”

2. 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 nearshore 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 agrofeed companies for aquaculture.

Organisations like DMF further contest the legality of aquaculture operations. Their documentation of aquaculture operations indicate 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, 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 a 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, saline water intrusion to 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 kms 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 wrt 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 agri 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 was 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 crore 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 centers 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 govt is handing over beaches to private corporates instead

of taking care of lives and livelihoods of fisherfolks.....Two kms has been barricaded, only those who pay can enter, all fishworkers who were dependent on the ecosystem there have been displaced. Govt 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 nearshore 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 invisibilizing”

- 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 is 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 deepsea 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.

Take over of fishers 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 kms , the forest dwellers are given rights to take honey medicinal herbs. These women and fishworkers should be given same rights”

- Pal Samy, Ramanathapuram Traditional Fish Workers 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, which 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 economic 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, 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 Public Tribunal on the
Implications of Blue Economy in Bangladesh

Date of Tribunal: Monday, 30th November, 2020

Members of the International Jury:

Dr. Vandana Shiva (Environmental Activist and Food Sovereignty Advocate),

Ms. Shireen Parveen Huq (Member EC - Naripokko and Women Rights Activist),

Adv. Anand Grover (Senior Advocate, Supreme Court of India and Former UN Rapporteur, India),

Mr. Ezra Mbogori (Executive Director, Abika Uhaki Foundation, Kenya)

TABLE OF CONTENTS

STATEMENT OF INTENT	2
PEOPLE’S ALLEGATIONS	2
TRIBUNAL PROCESS	6
EVIDENCE PRESENTED	9
Blue Economy as acceleration of extractivism and exploitation	9
Marginalisation of already marginalised groups	10
Wreaking havoc on ecosystems	13
JURY OBSERVATIONS	14
JURY VERDICT	18

STATEMENT OF INTENT

The Jury is informed of the methodology and framework of the BE related study, which was conducted by the deputed team of researchers for the project under the leadership of Ms. Jesurathinam (Tribunal and Research Coordination), Gandhimathi (Lead Researcher), Sridhar Rao and Jones Thomas with help and support from the members of the host organisation COAST. The team undertook a visit to Bangladesh and conducted field visits in Maheshkhali island and Cox Bazaar areas. The report prepared by this Team, along with oral testimonials, and two expert opinions have been presented to the Jury as well as to representatives of fishworkers and CSOs from Bangladesh and other countries, and to the general public through the Independent People's Public Tribunal held on 30th November 2020.

The Jury takes note that the People's Tribunal in Bangladesh is the fifth Independent People's Public Tribunal, the first four being held in Sri Lanka on 27th August 2020, in Indonesia on 22nd October, 2020, in Thailand on 10th November 2020 and in India (East Coast) on 25th November 2020..

The Jury notes that the Tribunal has brought forward serious issues regarding basic human rights, loss of livelihood and ecological impacts with the Blue Economy programme being undertaken in Bangladesh. The Jury also notes that Bangladesh has held a historically important position of it being one of the rare post-colonial countries in South Asia, that went in for a liberation struggle from another form of internal occupation and got liberated with the help of international allies and progressive movements, alike. This also adds onus on the Bangladesh government to understand and respond to the historically marginalised people of Bangladesh, especially traditional communities like fishworkers, who are also currently facing added oppression from climate linked disasters, while continuing to bear the brunt of class and ethnic oppression in their land.

The Jury also notes the environmental and ecological vulnerability felt in the region, with cyclones, storms and other natural disasters becoming a frequent

occurrence.

PEOPLE'S ALLEGATIONS

The coastal communities and people of Bangladesh through this Tribunal hearing charge the government of Bangladesh, as well as various International Finance Institutions (IFIs) and multinational corporations (leading the Blue Economy programme), for violating the fundamental and constitutional rights of the communities. They have effectively argued that the capital intensive and exploitative investments have not only taken away the right to free and prior informed consent of the communities in question, but also have violated and disregarded basic human rights, dignity, livelihoods, traditional knowledge and progress of coastal communities. Additionally, they allege that the government has disregarded the needs, priorities and aspirations of the citizens, particularly of the fishing community, and has violated its international obligations.

1. That International Financial Institutions and Multi-lateral Development Banks are leading an aggressive push for corporate land and ocean grab in Bangladesh. Mega development projects like the Special Economic Zone in Maheshkhali Island and the tourism and airport projects in Cox Bazaar have not only displaced fishworkers, but also destroyed their traditional livelihoods. Therefore, it is alleged that the actions of the Bangladesh government as well as other international actors are in direct violation of -

The 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 co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.”

And Article 6.1

“The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which

he freely chooses or accepts, and will take appropriate steps to safeguard this right.”

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

Sec.I Para 6.

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

Sec. III Para 38

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

2. That the Blue Economy programme, led by the Government of Bangladesh, IFIs, and multinational corporations has unleashed havoc on nature and the availability of resources for future generations by exposing marine protected areas and vulnerable coastal lands and waters to heavy industrialisation.

Additionally, projects like the Maheshkhali Island SEZ, especially in a region that is one of the most vulnerable to climate change and disasters has made the coastal communities even more vulnerable.

This in violation of

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

Principle 1

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

Principle 3

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

Principle 4

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

Principle 15

“In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.”

Paris Agreement

On the basis of Article 2

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

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

(b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a

manner that does not threaten food production; and

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

Convention on Biological Diversity

On the basis of Article 8

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

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

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

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

Article 10 -

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

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

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

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

TRIBUNAL PROCESS

Important facts and evidence were presented before the International Jury in the Tribunal through presentations and testimonials by different people. The jury accepts them as contextual, circumstantial and factual pointers and has accommodated some of the key arguments into this verdict -

1. Context setting by Jesurethinam, Executive-Director of SNEHA who pointed out the dominant context of Blue Economy as -

Exploration based on scientific assessments

Exploitation of resources

Expansion of coastal and marine sectors

And that this is done through a legal, liberal, global agreements; International Finance Institutions:

“The prerequisites of a neoliberal growth model will be a market led model, for example aquaculture which is being pushed to produce export oriented vs local consumption of food. Market is controlled and ruled by the corporates. The fisheries are now compelled to feed the market, not for the domestic workers.”

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

a. FGDs with the representatives of coastal communities, trade union leaders, Federation members, associations, and civil society organizations.

b. Interviews with traders and supply chain intermediaries in fisheries

c. Interfaces with national and local coastal authorities; interaction with government officials and ministerial interaction, including with port authorities

d. Interactions with experts and academicians

e. Doctrinal research on global, national and local policies, and institutional frameworks of Bangladesh

The Bangladesh Report was presented before the Jury in the Tribunal by the lead researcher, Ms. Gandimathi, and the entire report was submitted to the Jury as well. Important parts of the report have been captured in the following sections.

3. Statements by the moderators -

Vijayan MJ, Research Scholar, Carnegie Civic Research Network & General Secretary, Pakistan India People's Forum for Peace & Democracy (PIPFPD) -

The Blue Economy / Blue Revolution is a narrative set by the State. In this regard, the State does not only refer to the country Governments, but also the larger phenomenon of the State, which includes the transnational corporations, the Multilateral Financial Institutions and international capital.

Beyond the Paris, the Kyoto and the Doha protocols and the different rounds on the climate and the environment negotiations, here is an effort by the fishing community, led by the fishing community organizations, to tell the world that the Blue Economy cannot just be a top down agenda set by the financial and global capital.

We are very clear when we stand here today that the State and the global capital have enough microphones to be heard.... It is the people who have to be heard... ‘

Sanat Kumar Bhowmik (Deputy Executive Director, COAST, Bangladesh) This is the culmination of the series of tribunals conducted in four other countries as well- Sri Lanka, Indonesia, Thailand and India (East coast). Bangladesh is honoured to be part of this Indian Ocean series of a people's analysis of the BE.

Rezaul Karim Chowdhury, Executive Director of COAST (Bangladesh) - Today we are here to discuss the Blue Economy aspect of Bangladesh, especially to stand by our small scale fisherpeople. That is our mission. The tribunal is an important step but not the end, and we will continue our journey.

4. Statements by global fishing community leaders -

Nadine Nembhard, General Secretary of World Forum for Fisher Peoples - WFFP, (Belize) -

There are 3 crises that we small-scale fishers are facing - climate change, Covid-19, and the economic (livelihood) crisis. The government and states are promising new development and job creation under Blue Growth. Blue Initiatives are in sectors like oil, gas, port development, shipping, tourism, sea mining, smart cities, bio-engineering.

We in WFFP, as the global fisheries movement, have been asked to participate in Blue initiatives. But we are only there after the agenda has been set and the political direction has been set, so we are just part of a process without any say... We need our Governments to respect the humanness of fisherpeople.

Mr. Naseegh Jaffer, Director, Masifundise Development Organisation & Former GS of WFFP - I want to share 3 perspectives about Blue Economy - it is about business and economy. (It is) not about life, not about social life, not about environments, it is not about human rights. When we speak and hear the term Blue Economy, it is always driven with the need to make business and the need to make money...

We need to understand the notion of commodification, of turning the environment into a commodity which can be exchanged for value, particularly for monetary value....The Blue economy is putting the ocean up for sale....If the ocean is being put up for sale, it means that then everything that connects with the ocean gets commodified...The plant life, the shoreline, the minerals in the sand- all of that that has provided life and interacts with each other, that is now being commodified. .. It dispenses us...(This is) because people are not part of the Blue Economy (and) of the profiteering process. I think the jury must take this into account very strongly. We cannot have a tribunal without talking about what comes afterwards. And resistance comes afterwards.

Mr. Narendra Patil, Chairperson, NFF India - Yesterday, I visited Vadhawan port, near Dahanu, in Maharashtra. JNPT has contracted at 65,000 crore to build the biggest port in Asia. They want to build an independent port. NFF and everyone from here strongly oppose the port. ... On 21st of November, we had a big celebration where also people declared they oppose this port.

5. Presentations by two experts - Siddharth Chakravarthy on Promotion of Culture Fishers in the Context of BE and Soumya Dutta on Climate Change, Aggressive Oceanic & Coastal Development and Future of Fishers Livelihoods

6. Oral testimonials from 5 community representatives on Maheshkhali SEZ, and deep sea fishworkers, dry fish workers, tourism development, crab culture in

Cox Bazaar.

7. Case study presentation by COAST on Gothivanga village in the Bay of Bengal

EVIDENCE PRESENTED

Evidence was presented on the following points -

1. That the Blue Economy is primarily a scheme for acceleration of extractivism and exploitation led by international organizations

The Bangladesh Report prepared by the Research Team of the BE Tribunal shows that the Bangladesh government is restructuring and revisiting their ocean related policies based on an umbrella policy, named Bangladesh Integrated Coastal and Ocean Management Policy (ICOMP). ICOMP was drafted based on the guidance given by the World Bank and European Union in order to amend laws, policies, and institutions connected to 27 functions of the Blue Economy. The World Bank has suggested deregulation in order to bring forth these Blue Economy components. As a part of the implementation of the Blue Economy in Bangladesh, the Bangladesh government has envisioned coastal fishing hamlets and their adjacent areas as Coastal Zones for investment. 23 Coastal Zones have been identified to be developed into Special Economic Zones. The government has also received bilateral investments from Japan, China and India in the Government to Government (G2G) Economic Zone, thereby creating the Japanese Economic Zone in Arihajar Upazila of Naryanganj District, Chinese Economic and Industrial Zone in Anwara of Chattagrom and two Indian Economic Zones, Kustia and Mongla. The aim of these projects is increasing exploitation of coastal and marine resources, for profits.

The Bangladesh Report points to this in the Special Economic Zone on Maheshkhali island, off the coast of Cox's Bazar. The Maheshkhali island has an area of 362.18 sq.km land and riverine area, and the people depend on agriculture, fisheries, salt harvesting and handicrafts. According to the 2011 census, the total population of

the island is ~3.2 lakh. Maheshkhali is one of the islands chosen for developing infrastructure projects, including a container port, thermal power projects, LNG terminal and more, covering a total land area of 3167 ha, ie. 31.67 sq.km, which is 8% of the total area of the island. The Bangladesh Report further states that when the sub-district (Upazilla Nirbahi) officer was questioned, he said that the people of the island were happy about the developments, but local political parties and CSOs said that they were unaware of any of the development projects and there was no information in the public domain.

The motives of extraction and exploitation are also visible in the manner in which culture fisheries is being promoted in Bangladesh. In 2018, the World Bank approved a \$240 million Bangladesh Sustainable Coastal and Marine Fisheries Project (BSCMFP) for fisheries sectoral development. Part of this programme has been the promotion of the expansion of culture fisheries farms all over the low-lying and waterlogged areas of Bangladesh.

The shift that has occurred in the fisheries sector was captured by Siddharth Chakravarthy, a researcher with The Research Collective (TRC-PSA), in his presentation on aquaculture. He pointed out that aquaculture is one of the fastest growing sectors in the world, growing at 7.5% per year and surpassing fish production from all wild sources. According to FAO, culture fisheries has created employment, higher yield, and kept prices in check. But, the Jury notes that this is not a simple, organic process, rather it is a result of several factors that have been brought together - decline in capture fisheries, climate crisis, plateauing of the green revolution, and changes in the logistics nodes.

Siddharth pointed out that capture fisheries have plateaued since the 1990s, with the fish/mile ratio reduced to a third since 1950. Since the 1980s, there have been changes in technology and increasing times spent at sea but the catch per fleet is 1/3rd of the catch in the 1950s. Climate change has exacerbated this issue since warming oceans have redistributed the fish stocks in the ocean itself; fish will move to colder water, ie further from coastal areas and fishers will have to go further in. Coastal industrialisation, thermal plants and chemical units, along with mega tourism projects, have all played a significant role in the coastal waters

warming as well as in polluting the sea to the extent, where fish depletion in the coastal waters has been made the reality. At the same time, there is a plateauing of the green revolution - agricultural productivity is declining, and land based animal protein is no longer perceived as sustainable. Hence, there is a shift in the agrarian sector, and there is a narrative to save the farming crisis by encouraging fisheries based projects. The fourth of these factors is logistics, which is being driven to containerisation - one container moving from port to river to road. He added - There is an in-built logic to containerisation. It is like the clock and works in its rhythm that is opposed to nature. Container ship has its schedule set a year in advance and needs to keep its schedule. Missing even a day will change a lot of things and cause huge losses to the MNCs that often operate these. Nature and fishing are cyclical in nature as fishworkers will say. Hence, from a Blue Economy perspective, natural seafood production is not possible, for example, containers cannot have different size fishes or different types. So we will see a push towards more monocultures as they can be frozen into blocks easily.

What this indicates is the manner in which the agenda of 'development', whether of industrial production or of food production is monopolised towards a certain kind of aggressive production model that has serious implications for people and ecosystems.

2. That the Blue Economy leads to further marginalisation of already marginalised groups

The Blue Economy agenda has no space for participation of local communities, or their development in real terms. This is seen in Bangladesh in the manner in which the Maheshkhali SEZ is being developed, tourism development in Cox Bazaar and the disregard for fishworkers in Cox Bazaar and Gothivanga village.

a. Displacement in Maheshkhali

The Bangladesh Report points out that in Maheshkhali island, small-scale fishworkers were living as a self-employed group, but became economic migrants with the construction of the SEZ zone. With the new Seaboard Economic Zone

project, they are facing forced eviction again.

The testimonial of Mamun ul-haq makes clear the vulnerability of the people living here -

In Materbari, coal power projects have started and deep sea activities are taking place. Because of these current activities many local people are jobless now. There is a crisis of fishing. Cargo ships are coming in, therefore many small fish which we can see in the rivers are depleting now. In Materbari the natural lagoons are also disappearing. The natural shrimps around our area were of high quality, but that project is also closed now. When the financial possibilities of earning are affected, that leads to our suffering as well. At one point, manual labourers were recruited locally. They would recruit 2000 laborers at one time. But what is happening now is that the powerful, rich people in Dhaka are bringing in tenders to recruit people from outside. In this example, I am focusing only on the unskilled workers. The big contractors are bringing unskilled workers from outside. Our people are out of work now.

b. Disregard of fishworkers, Cox Bazaar and Gothivanga

The Research Team noted that the workers in the dry fish yard are distress migrants from nearby districts. The report points to the marginalisation of the community - "The entire family works as daily wage labourers on a contract basis in the dry fish yards. The Dryfish processing becomes a household income generating activity. Most of the women dry available quantities of fish in the free space of their houses and sell to the dry fish producer on a weekly basis. They are paid according to the size and weight of the dry. We observed that workers were paid low and especially women are paid very low compared to the men workers. Their earnings are meagre as they depend upon the fish catch which is highly seasonal (rainy season no job)." But rather than plans to support these communities, the plan is to transform the existing domestic airport in Cox Bazaar to an international airport, taking up large stretches of the dry fish yard.

Aman Ullah, a fishworker working with dry fish testified saying that profits are low and that there is no government support, and this in turn leads them to pay

low wages to the workers - “Our problem is the sutki (dry fish) cultivation that we do, we don’t get the desired price for it. The government excludes us. There is no mechanism for sutki cultivators and we are not able to make profits. There is no support or mechanism created for the ones who are labourers. We, who are sutki cultivators, often cannot pay their wages. Fish in the sea are reducing day by day, the reason for this is trawling. If the big trawlers are stopped, then the fish in the sea will be alive. There is no mechanism of loan from the government. Often it happens that we have to sell our fish at a cheap price. We can’t keep our labourers because of financial constraints.”

This was reiterated by Eneit Ullah, a crab cultivator - I am a crab businessman and our work is affected. The projects are closed now. Crab exports are not happening to Malaysia, China and other countries. So we are not getting the desired price in our business. The crabs are supposed to be sold at a particular time, and with the financial constraint they could not do it. Therefore, many crabs died. We did not get any support from any banks or through any schemes. The conditions of the value chain are bad. Therefore, we are not getting the right price. The government should do some serious thinking into this. The hunters are not getting the right amount, they are upset because of that. Even if we procure enough crabs, the suppliers are also not there. They are also facing loss and not able to make profit. The suppliers keep telling us that almost every month they are facing loss. Just because of the value chain, we are not able to sell and lending of money is also not taking place. We don’t know how to navigate this situation.”

The case study done by COAST found similar lack of support for fishworkers in Gothivanga village in Maheshkhali. There are ~5500 people living in the village, of which ~3500 are registered fishermen, and women and children catch fish in the nearby river. The only educational institution is a junior school. Fishers use traditional methods of fishing and almost no modern technology is available to them. The study states - Most of the time they have to struggle to survive. Bigger and technology based fishing catch large amounts of fish and dump the smaller fish, which has reduced the catch of smaller fishers. They do not have enough opportunities to earn a decent living. There is a lack of investment in human capital for employment.

At the same time, other livelihood opportunities are also closed off.

c. Pushing out of existing small tourism workers in Cox Bazaar
The Bangladesh Report points out that in Cox Bazaar, as part of the Mega Tourism project, pond beautification projects were initiated in three traditional ponds - Laldighi, Golghihi and Bazarghata. Poor households who live around the ponds have been served eviction notices because of the claim that the beauty of the ponds was being lost due to ‘illegal occupants’. No provision was made for compensation or relocation of project affected families.

The issues with tourism development under the Blue Economy model was also validated by the testimonial of Asif ud-dolah, who pointed out that because of increasing tourism, big contractors have started taking over the space and pushing out the local community. In his words -

“In Cox’s Bazar tourism sector, you know that many people are coming here from various countries. As many people have started coming in, so the big contractors come here to conduct financial dealings. The areas near to the sea/ocean are bought by the big companies now and they plan to do business here. People who live in these areas or have their own small business have to leave their place now. In other words, they are being forced out from their own place. There is no rehabilitation plan for them either. Slowly, the business which belongs to us will go to these big contractors and our local people will be affected. The locals would engage in small business, some would be related to shell cones and jewellerys and small hotels. But the big companies are affecting their business.”

The experience of Blue Economy in Bangladesh makes clear that rather than supporting local communities, the model further marginalises them.

3. That the Blue Economy wreaks havoc on ecosystems

In addition, the Blue Economy model of aggressive industrial production has serious impacts on the ecosystems that support the life and livelihoods of

communities.

Abdul Haleem, a fishworker from Cox Bazaar points to the problems with trawling - “The big trawlers cause us difficulty in our daily lives. The big trawler boats put nets to the bottom of the sea and catch all the fish there. They take all the big fish away and the small fishes which are left in the sea, they die eventually. Because of the large ships coming into the area, the small fish therefore die. They destroy our nets. Most of the fishermen who are doing deep sea fishing are facing problems. There is no support from the government in terms of monetary support for our issues. I oppose the big trawlers who come to our seas and hamper our fishing activities.”

Eniet Ullah, who does crab culture also pointed to the problems with pollution - “If the sea is polluted that is definitely going to be a problem for us. Big trawlers are doing business here because of which the big crabs and their ecosystem are being destroyed. The big crabs which give babies are dying. We depend a lot on that.”

Most importantly, the serious vulnerabilities of the climate crisis is a major consideration for Bangladesh that is being completely disregarded. Soumya Dutta, the co-convenor of the South Asian People's Action on Climate Crisis (SAPACC) pointed out that the Indian Ocean is the warmest of the 5 oceans, with a 1°C rise in temperature as opposed to 0.7°C average over the last 65-70 years. And even within that, the northern Indian Ocean, ie Bay of Bengal region is particularly vulnerable, particularly to cyclones. Studies have shown that the chance of big storms has increased by nearly 3 times in the last 42 years. He also pointed out that this doesn't affect only the coast, but also tidal areas that may be 50-60 km away from the coast, because of storm surges increasing land submergence. Roughly 1/3rd of Bangladesh is in tidal areas, and so this impacts agriculture as well.

Referring to testimony by Abdul Haleem on bottom trawling, Soumya Dutta further pointed out that the continental shelf produces 25-35% of all fish, and the sea bed is the most biologically productive area which also produces the nutrients required to keep fish alive. So if the sea bed is raked, through bottom trawling

or through nodule mining, it will completely destroy the biological productivity of the ocean. Soumya Dutta highlighted that 92% of heat and 30% of carbon is absorbed by the ocean, and fish are particularly sensitive to temperature and to PH changes, both of these have been massively disturbed.

Soumya Dutta points to the impact that climate change will have on communities - “For communities depending on nature, it is not a process of change, it is a crisis...By 2060-2070 more than 30 million people who will be climate refugees. As a direct impact of storms, in Amphan, 10.5 lakh houses were severely damaged.” He points out that while early warning systems have been created, it is not enough - “You have to work with coastal communities to increase resilience. Knowledge created by people's perspectives is important to counter the industry's idea. The industry is looking at the climate crisis as a way to invest but their 'solutions' will work for sustainable profit making, not for nature, It doesn't consider what will happen to coastal communities, these are expendable. Nature and market have very different rules - if you put a monetary tag, you are inevitably entering into a destructive cycle. People and nature have to be centre stage.”

JURY OBSERVATIONS

At the end of the Tribunal, Jury members made interim observations, in the presence of all participants and journalists. The Jury made a special mention that what is seen as a Blue Economy model of development is actually a neo-liberal agenda of intensive production models. This kind of aggressive industrial production was actually set in motion in the 1980's with the economic agenda of the World Economic forum and it was termed to be 'the great reset'. However, in reality, what actually happened was a continuation of a neo-liberal agenda which has resulted in destructive development.

The jury also noted that such development agendas are set by the club of rich northern countries, led by the World Economic Forum, international financial institutions and multilateral development banks. These institutions place conditionalities on States, who are unable to exercise sovereignty or even participate in the decisions that influence such conditionalities. This system has

its roots in capitalism that goes back to a few centuries. In Bangladesh as well, the World Bank has suggested changes to 27 laws and policies in order to implement Blue Economy and on its part, the Bangladesh Government has proposed the Bangladesh Integrated Coastal and Ocean Management policy as an umbrella document.

In such a system, what is sacrificed is the value of human lives and the environment. The issues of displacement, loss of livelihood and food security, particularly for marginalised groups, as seen in Bangladesh, is worrying. Communities have been treated as expendable commodities, resulting in production systems that have no place for people and livelihoods. The case of small scale fishworkers in Maheshkhali who have been pushed out because of the creation of an economic zone, the pond beautification project for which many marginalized families were evicted all point to this lack of value in human life. On the one hand, the justification is that jobs are being created through industries such as aquaculture and tourism, on the other hand, there are no real estimates of how many jobs and livelihoods have been lost in the process. The Blue Economy is literally “fishing without fishers”, and having “coasts without communities”.

The Jury members critically commented on the absence of women’s representative voices in the tribunal. The research team clarified that the area of Cox Bazar and Maheshkhali, in which the study had been undertaken, was very conservative and women were not considered to openly participate in a tribunal like process. However, from the jury members’ own experiences with women’s protest against intensive aquaculture practices in Bangladesh, it was reasonable to expect that women were extensively affected by the Blue Economy model of development.

The Blue Economy framework and approach are also anti-nature and completely destructive of the environment. It was also observed that in the name of a redesign, what is being done is gobbling up every bit of the earth and destroying nature, only to push artificially prepared food like lab food and lab fish. The jury also noted how industrial food production systems such as aquaculture, as is shown in the case of Bangladesh, are environmentally destructive and yet being aggressively pursued in Bangladesh. It is also important to note that the impact has been that

it has taken away the last remaining resources from communities who have been able to live sustainably for all these years.

The narrative that is pedaled to justify destructive developmental paradigms is that of job creation. This is true of industries within the Blue economy such as aquaculture, which has gained popularity as an industry that has created jobs and economic well-being.. However, negative outcomes are rarely put within calculations of profits and as a result, for every job that is created, there is a loss of many more from displacement, loss of access to resources, environmental degradation, privatisation of commons and other such consequences.

The jury members were struck by the observation that nature and market do not adhere to the same rules. Only the rules of the market are being played out within the Blue Economy framework . For instance, in the global seafood trade, only some species of fish are valued and even among those, these species need to be of a uniform size, shape and weight. Over and above this, they are expected to be made available at all times of the year. The sea food trade embodies only the principles of the market, giving an impetus to monocultures. This completely destroys diversity in the marine ecosystem, commodifying nature and its resources and destroying the balance in the ecosystem. Ignoring nature’s rules to satisfy the market is a dangerous trend and needs to be addressed.

The Jury also expressed that one of the most worrying concerns was that previously tested and failed mechanisms and technologies continued to be implemented. For example, the world has recognized the issues with coal fired power plants, yet Bangladesh is going ahead with a plan for a coal fired power plant with the help of India. The added concern, the Jury felt, is that the first proposal for a coal fired power plant was in West Bengal, India, where it was rejected as being environmentally destructive and only then was it proposed to be set up in Ramphal, Bangladesh - in the midst of the rich Sunderbans. The geo-politics between nation states has a huge role to play in such decision making and is a matter of grave concern.

The Jury also felt that it is important to think about alternatives. The Jury believes

that there is a need to critically assess the assumptions on which these development paradigms are based, and also actively seek answers and provide alternatives. The Jury noted that during the time of COVID crisis, the world has witnessed a collapse of global trade, and local production has sustained the economy, showing that there is a possibility for a different kind of a reset.

This is the long term agenda of capital. It is not just the Governments at the country level- they don't really have any control. The developmental agendas are set formally by the conditionalities of the IMF, World Bank.... There is no sovereignty even of governments.....

The complete destruction of nature is the root of capital. The harmony that existed, if it ever existed has been breached to an extent that we can destroy our own resources. But certainly in the interim, we are destroying the lives and the existence of the communities who are left with no other alternative.. Reducing them to utmost penury.

We must pose a question of an alternative. As an economic paradigm alternative. We need to start thinking, what do we eat, is it sustainable in terms of energy....
-Mr. Anand Grover, Senior Advocate & Former UN Rapporteur, India

It is time for new solidarities to reclaim South Asia as a people's South Asia. I've looked closely at the Green Revolution and the new language of the green economy and the blue economy is the anti-green economy and the anti-blue economy..... The Blue Economy is fishing without fishers. You want the fish, but not the fishermen. You want the coast, but not the coastal communities....But the same group that is designing the great reset is gobbling up the earth, against nature, against human rights, against centuries of common rights. ... The Blue Economy and this tribunal is showing us a world where there will be no food, there will be no people. There cannot be trade without production and we have witnessed in the covid lockdown, long distance trade collapsed. It was the local production that survived. We need to take lessons from nature. We need to take lessons from our traditional communities on how to build resilience in times of climate change. And most importantly, we don't live in ways that contribute to hunger, inequality, climate change, disaster and covid epidemics..- Dr. Vandana Shiva, Environmental Activist and Food Sovereignty Advocate.

I'm struck by the observation how nature and the market have different rules. It brought me to think about how values are what has been lost- the value of human life. We are working with it, to ensure that it becomes the guiding principle to any development. This is counter to the neo-liberal agenda. What comes through clearly is the issues of displacement, issues of loss of livelihood, insecurity.... Given the crisis that has befallen all of us, this is an opportunity for a different kind of reset and how does one initiate such a reset. - Mr. Ezra Mbogiri, Executive Director, Abika Uhaki Foundation, Kenya.

It is not surprising that a lot of stereotypical expectations are proving to be true again and again. So the absence of community stakeholders in the planning and decision making is not at all surprising....Testimonies were eye opening and took us to practical and concrete problems. For example, the first testimony was about the Matarbari coal fired power plant. Now, the whole world has recognized the issues with coal fired power plant, but Bangladesh is going ahead, with the help of India. It has begun the destruction of Sundarbans on our side. Interestingly, the power plant was rejected by West Bengal because they didn't want their Sundarbans to be affected, so it has moved to our side. So this is the other the politics to be considered- the relationship between India and Bangladesh, which is an obstacle to move towards a healthier (development)- Ms. Sheerin Parvin Huq, Member-EC, Naripokko, Women Rights Activist, Bangladesh

JURY VERDICT

The case made before this Tribunal clearly points to several omissions and failures by the Government of Bangladesh, 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, particularly that of their right to food security. The model of development is ecologically destructive and increasing inequality and unjustly criminalising those who speak out and protest these actions.

1. Transforming the current paradigm of development:

Blue Economy is a part of the on- going economic agenda of the 80s, which was the great reset. It is a continuation of the neoliberal agenda on many fronts. It is only about property, and it is not bothered about ecosystems. Blue Economy is a continuity and acceleration of extractivism, exploitation and externalizing costs. While the narrative that is being peddled is of creation of jobs, the loss of jobs is ignored.

a. The Government of Bangladesh must rethink the developmental paradigm that it is pursuing and revisit the projects that it is developing, from the perspective of the socio- economic and political perspectives of fishing communities too. It is imperative that Bangladesh align its commitments towards its people and the environment, enshrined under its own Constitution and the various international instruments, particularly the International Covenant on Economic, Social and Cultural rights and the Convention on Biological Diversity

b. It is also important for International Financial institutions and the Multilateral Development Banks, which seem to be setting the developmental agenda for Bangladesh, to respect States' sovereignty and make sure to include the Government of Bangladesh and its democratic systems, in decision making regarding developmental projects.

2. Make sure to adopt inclusive and participatory development protocols:

It is clear that there is no participation of ordinary citizens, who are affected by governance or developmental decision making. Persons who are affected by the developmental projects are not counted as stakeholders, and are not included in the planning and decision-making process. People who are marginalized are further marginalized by the Blue Economy model and it is taking away the last resources of the communities who are dependent on it. The marginalized are being treated as expendable and there is a clear loss of value to human life in pursuance of the development agenda. This is in violation of Bangladesh's commitments under the United Nations Basic Principles and Guidelines on Development based Eviction and the International Covenant on Economic, Social and Cultural Rights and most importantly, violative of the Fundamental Rights under the Constitution of Bangladesh.

There is an urgent need for the Government to align its policies, laws and projects that have been pursued under Blue Economy in accordance with commitments under the Constitution and various international instruments. At the same time, it is also important for the Government of Bangladesh to include its people in developmental decision making and ensure participatory and inclusive development.

3. Pay immediate attention to climate crisis and environmental concerns:

It is evident that nature and the market have different rules, and nature has a higher place, and must be given priority. However, what becomes clear is that the Blue Economy does not respect ecological limits or the commons and failed ideas of climate resilience, which have been tested in other countries (and have not worked) are still being pursued. In this context, there is a need for the Government of Bangladesh to undertake an accurate scientific assessment of ideas that are being propagated as climate solutions to avoid mistakes being committed again.

4. Seek alternatives:

For sustainable and inclusive development, there is a need to question the current model of development and actively pursue an alternative model. What Bangladesh and the world needs is an alternative growth and development paradigm that is based on harmony with nature and not only on profit. The responsibility seeking such an alternative lies not only at the level of the State of Bangladesh, but also with the multilateral development banks and international financial institutions.

International Jury Verdict:

Independent People's Tribunal on

Implications of Blue Economy in India (West Coast)

Date of Tribunal: 15th December 2020

Date of Jury Verdict: 5th February 2021

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

Verdict signed by Members of the Jury:

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

Professor Merle 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

TABLE OF CONTENTS

STATEMENT OF INTENT 2
TRIBUNAL PROCESS 2
PEOPLE’S CHARGESHEET 5
EVIDENCE PRESENTED 10
1.DISPLACEMENT AND LOSS OF LIVELIHOODS 10
2. CHANGES TO LAW AND POLICY TO SUIT CORPORATES 16
3. LACK OF CONSULTATION WITH COMMUNITIES 19
4. DESTRUCTION OF ECOLOGICAL SYSTEMS 21
5.DOUBTFUL FINANCIAL BENEFITS 23
JURY OBSERVATIONS 24
JURY VERDICT 27

STATEMENT OF INTENT

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

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

The Jury is obliged to the fishworkers, experts and other groups who placed a large volume of information and perspectives about the impact of different coastal programmes before this Jury. The Tribunal covered a wide range of serious issues regarding basic human rights, loss of livelihood and ecological impacts with the Blue Economy in the west coast of India. We also note that the Tribunal is taking place in a larger social, political and economic context. The Jury notes that as this verdict is made public, it will have been more than 6 months since farmers in India have been protesting against the three Farm Bills. Farmers from major agricultural regions in the country have been camping outside the capital in the harsh northern winterdemanding that their voices and rights, as citizens and as the stewards of the country's food security, be heard and taken into account by the government. The Jury notes with concern the failure of the democratically elected government to assure its citizens that their rights and needs will be

respected and protected. The Jury also notes with alarm the death of nearly over 100 farmers during the protest. In solidarity with the farmers and as co-producers of food, fishworkers under the aegis of the National Fishworkers Forum called for a 'Samundar Bandh' on December 8th 2020. They have also expressed their solidarity in this Tribunal. The Jury makes no comment on the merits of the farm laws, however, we reaffirm our conviction that fundamental rights and freedoms of citizens and Constitutional principles of democratic decision-making must be safeguarded.

TRIBUNAL PROCESS

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

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

- Exploration based on scientific assessments

- Exploitation of resources

- Expansion of coastal and marine sectors

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

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

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

- a. Nadine Nembhard, Secretary General of World Forum for Fisher Peoples

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

b. Debasis Samy, Vice President, National Fishworkers Forum, India pointed to the threats to the lives and livelihoods of small scale fishworkers because of the Blue Economy, and also the associated threats to the ecosystem - “If small-scale fishers are not there on the coastline and can’t carry on their livelihoods, coastlines will become unhealthy.” He also appealed to the Jury for their support - “I keep using the word ‘threat’ repeatedly, because this threat and fear is induced by the government and we need your support and your opinion, so that the message is not only among us, but goes to the government also.”

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

3. Statements by Moderators

a. Vijayan, Research Scholar, Carnegie Civic Research Network & General Secretary, Pakistan India People’s Forum for Peace & Democracy (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.”

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

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

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

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

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

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

PEOPLE'S CHARGESHEET

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

1. Specifically, that GoI and respective state governments have allowed and encouraged private and public companies to take over land and ocean spaces through the unchecked development of ports, tourism, mining, oil explorations and other projects leading to the loss of livelihoods, dignity and access to resources of fishing communities. And that therefore the Government of India has failed to safeguard the fundamental rights of the citizens under -

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

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

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

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

would be to deprive him of his means of livelihood to the point of abrogation.

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

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 subserve the common good;

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

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

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

International Convention of Economic, Social and Cultural Rights

Article 1.2:

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

And Article 6.1

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

The Employment Policy Convention, 1964

Article 1.1

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

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

Sec.I Para 6.

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

Sec. III Para 38

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

UN Declaration on the Rights of Indigenous Peoples

Article 19

“States shall consult and cooperate in good faith with the Indigenous Peoples

concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them”

Rio Declaration on Environment and Development Including but not limited to

Principle 1

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

Principle 4

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

Paris Agreement

Article 2

“...

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

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

Convention on Biological Diversity

Article 8

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

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

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

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

Article 10 -

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

- (a) Integrate consideration of the conservation and sustainable use of biological resources into national decision-making;
- (c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements;
- (d) Support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced; and

United Nations Convention on Law of the Sea (UNCLOS)

Article 192-

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

Article 194-

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

EVIDENCE PRESENTED

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

1. DISPLACEMENT AND LOSS OF LIVELIHOODS

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

a. Vizhinjam port, Kerala (Adani Group)

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

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

She recollected that even when only the fishing harbour in Vizhinjam was built, coastal erosion was happening in areas of Panathura and Poonthura, and ominously predicted the extent of the impact with the port - For Vizhinjam port, there is dredging, which only 40% has been done, and already there is erosion up till the airport-Veli-Vettukadu areas, and at the same time, there is accretion in

Adimalathura-Pulivulla area. Already, the government has notified Adimalathura as a 'No Fishing Zone', and given the community a package to keep them quiet."

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

b. Karwar port, Karnataka

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

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

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

The implications of the port were further validated by the testimonial of KT Tandel, President, Uttara Kannada District Fishermen's Association Forum, Karwar, who

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

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

c. Mormugao Port, Goa

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

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

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

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

d. Wadhwan port, Maharashtra

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

The implications of the Wadhwan Port were brought out by Purnima Mehar, Maharashtra 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!”

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

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

f. Gujarat

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

2. CHANGES TO LAW AND POLICY TO SUIT CORPORATES

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

Coastal Regulation Zone (CRZ) notification 2019, which grossly diluted the provisions of the 2011 CRZ notification and the original CRZ 1991, in several

important ways.

National Waterways Act, 2016 which was brought in for the development of inland transport through the nationalisation of 111 waterways.

Environment Impact Assessment (EIA) notification (draft), 2020 - the draft EIA notification dilutes provisions under the EIA notification 2006, and goes against the parent Environment Protection Act, 1986.

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

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

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

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

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

- Karnataka Industrial Policy 2014-19 which had a target of creating a land bank for industrial uses of 40,000 acres, established private industrial areas over 100 acres each with complete private ownership, proposed removing restrictions on land conversion, and setting up of a single-window clearance for companies
- Karnataka Minor Ports Development Policy of 2014 proposed the expansion of existing minor fishing ports into commercial ports; proposed that acquisition even for private ports to be done by the government, and fixed a cap of 11% as the maximum state government investment in all joint venture port projects
- Tourism Policy of Karnataka 2015-20 - which laid thrust on mega tourism projects worth 100 crores and above,; and promoted cruise tourism in Mangaluru and Karwar.
- Agri Business and Food Processing Policy, 2015 - which proposed the modernisation of fish markets, which was implemented by setting up a 500-tonne seafood processing plant which was leased out to a private contractor. Online seafood delivery companies like FreshtoHome and Licious shortcut existing supply chains. This form of modernisation marginalises existing fish vendors, particularly women.

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

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

or damage to fishing vessels and gear

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

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

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

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

the Maritime Spatial Planning as a tool to ensure an efficient and sustainable management of activities at sea.

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

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

3. LACK OF CONSULTATION WITH COMMUNITIES

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

- In the case of 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 does it impact, how does it impact the fishworkers.”

- In Maharashtra, the Maharashtra MachhimaarKruti Samiti had filed a litigation against the Coastal Road at the National Green Tribunal in Pune in 2012. But, they state that even today, the case has not been heard because the position of the judge who retired in 2014 was not filled. . According to Kiran Koli - “The apathy of the union government towards filling these positions at the NGT also point that whichever good judgements were passed by the NGT earlier are not followed in letter and spirit thereafter.\ Earlier, when the Peddar Road Flyover concerns were raised in 2005, renowned singer Lata Mangeshkar opposed such a construction and it was stopped. So, a government that can listen to a famous personality like Mangeshkar has no ears for the thousands of fishworkers is indeed very depressing. We the stakeholders were not taken into confidence, and this violates the clauses of the 2019 CRZ notification. In 2011, the then Environment Minister Jairam Ramesh took the fishworkers into consultative confidence before enacting the laws towards CRZ 2011. But, the government of today acts authoritatively and we have no qualms in blaming it for the manner in which such laws come into force. When amendments to the CRZ Act were being made in 2019, we the fishworkers were not consulted. In a nutshell, we are convinced that these amendments were made to capacitate projects such as coastal roads, and whatever guarantees of protection of coastal biodiversity that existed heretofore have been severely diluted.

- The Note on Blue Flag beaches submitted to the Jury points out that in the case of the Blue Flag beaches as well, there has been little or no public consultation with fishworkers and other coastal communities. The Note states that while some

of the Panchayat members were consulted in Kappad in Kozhikode district in Kerala, no larger consultations were held with the community. It further states that in Kasarkod beach in Uttara Kannada district of Karnataka, fishworkers have said that they were not told of any such project on the beach. The implementing agencies in both Kappad and Kasarkod 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, Kamalleshbhai Madhiwala, leader of Samasth Bharuch Jilla Machimar Samaj talked about the issues in Bharuch district. He said that there are almost 15000 fishworkers who are dependent on the estuary where the Narmada river meets the Arabian sea. According to him, their major concern is with the Gujarat Industrial Development Corporation areas (GIDC) – industrial enclaves that have several factories. He said that between the 4 major GIDC areas, there are thousands of industries many of which don't have treatment plants and release sewage into the Narmada. He emphasised that this has impacted fishworkers negatively – “They have made Narmada river into a gutter. Earlier the fishers would come back with a boat full of fish. But fish production was drastically reduced because of the pollution. We used to have a lot of hilsa fish here, our production was Rs. 500-600 crores But in the last few years, with the expansion of industrialisation, the entire coastline has become polluted - pipelines are broken and sludge is jammed up and released on the coast. Due to the presence of chemicals like nickel and lead, we find lakhs of baby fish dead on the shores.” Mr.

Madhiwala says that they have registered complaints with the Gujarat Pollution Control Board, but no action has been taken. He also spoke about the potential harms from the proposal for a new barrage on the Narmada river – “There is a proposal for the Bhabhut barrage in the middle of Narmada estuary, and there is provision for 80% of the water to go to Dahej GIDC and Vilayat GIDC. But people are being told that it is for agriculture; in cities, they are being told that it is for drinking water. It is destroying the fishers, livestock and nature here. There is a system of snatching the livelihoods and giving to the industrialists.”

His concerns over waste were reiterated by Rashmi Patel, an environmental researcher who added that the entire coastline of the Gulf of Khambhat in south Gujarat are full of industries, primarily fertiliser, chemical, textile, pulp and paper mills, and mineral industries. She pointed out that the waste water is treated, untreated or partially treated, and is released into the Gulf, which has made the entire south Gujarat coastline highly polluted. Ms. Patel further points out– “According to one report, 600 million litre per day of industrial waste water is released into the Gulf of Khambhat through rivers and creeks in South Gujarat. There is 453 sq.km. PCPIR region which has Dahej and Vilayat GIDC, and SEZ with petrochemical industries. And the effluents from these are released into the Narmada estuary, because of which the fish population in the estuary is reducing.” She also stated that nearly 6000 ha of coastal area has been converted into illegal aquaculture farms which release large quantities of untreated waste water into the Gulf of Khambhat.

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

Similarly, Kiran Koli pointed to the ecological impacts of the coastal road - “As the coastal road is over the sea..the biodiversity of the area and the mangroves in the area would be completely destroyed. Moreover, the boulder area has mangroves

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

In Alappad, Kerala, Jackson Pollayil, President of Kerala Swatantra 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. So this means fishworkers, fisherwomen

and their families are all going to be orphaned because of the government's policies.”

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

5. DOUBTFUL FINANCIAL BENEFITS

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

Dr. Himanshu Damle, a lead financial analyst associated with the Public Finance Public Accountability Collective (PFPAC), pointed out that the Blue Economy model of development is not as attractive for investments as it is made out to be. He pointed out that ocean assets are valued at USD 24 trillion, but global investment is only at 1% of this, and the untapped potential is the basis for investment. He mapped out investments by a few international players into the Blue Economy including the Organization for Economic Co-operation and Development (OECD) which had mobilized USD 29.2 billion of private finance, the World Bank which has invested USD 3.6 billion in its initiative ProBlue, the Asian Development Bank which has invested USD 5 billion and the European Investment Bank with an investment of EUR 2.5 billion. Dr. Damle drew attention

to the fact that the largest chunk of global capital investment pledges actually comes from corporates, private finances and venture capital. He pointed out that at the ‘Our Oceans’ Conference in Oslo in 2019, although a majority of the pledges were made by governments, when actual amounts are compared, the private sector accounts for 78.9% (50 billion USD) of the total amount pledged towards Blue Economy. These investments came from corporate entities such as the Norges Bank Investment Management, CISCO, DNB, MAERSK, DOW, PepsiCo., and others, each of which has a specific interest in the investment. Of these, the DNB ASA, which is the largest financial services provider based out of Norway, has pledged an amount of USD 51.3 billion till 2025 for financing renewable energy projects and renewable infrastructure. This pledge in terms of actual amount, exceeds the pledges by other players like the World Bank, Bilateral development Banks or Governments.

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

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

India will actually be viable or profitable.

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

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

JURY OBSERVATIONS

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

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

The Jury observes that the Blue Economy development paradigm is pushing rampant privatisation and corporatisation of commons. The Blue Economy rhetoric that is often raised by the centre and state governments is that everything is being done for ‘the wellbeing of the people’ and ‘protection of the environment’. But in reality, what is actually implemented is not just a ‘business as usual’ strategy, but a ‘business on stilts’ strategy, that is, governments are aiding privatisation and corporatisation of resources. The Jury also observes that the case studies and

testimonials make it abundantly clear that policies and laws that had previously been made with the objective of sustainability and equitability were being rolled back to favour business interests of corporate entities. In addition to this, government systems have turned a blind eye to corporates that have explicitly violated laws and rules, as is the case of the coast of Gujarat. Often, corporatisation and privatisation are justified in the language of ‘national interest’, as is the case of extraction of black sand from coastal Kerala, absolving the State from being responsible for destruction of the environment and displacement of people. The result of such a development paradigm is that only 5% of the people hold the entire wealth of the country, which is gained at the cost of 30-35% of the lower margins who suffer for this.

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

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

and a livelihood income for local families.” - Professor Merle Snowman

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

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

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

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

The Jury sounds 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 violative of the principles enshrined under Articles 19, 21, 38 and 39 of the Constitution of India. The economy of local markets, food security and the rights of communities such as fishworkers must be protected by States. Models of development must respect these rights and needs, and prioritise them for economic growth. This is a transformation that is imperative both at the level of the Government of India and at the policies pushed and promoted by the multilateral development banks and international financial institutions.

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

b. Ensure environmental protection:

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

i. Laws and policies that have been altered or introduced to favour projects under the Blue Economy at the cost of the environment are contrary to principles enshrined under the Constitution of India. Such laws and policies must be revisited and re-aligned to prioritise constitutional obligations to protect the environment and respect the public trust doctrine.

ii. States have an obligation to ensure environmental conservation and protection of biological diversity under various international instruments. Multilateral Development Banks and International Financial Institutions must realign the idea of development under Blue Economy, which currently ignores the huge climate change risks and disaster risks and disregards the delicate interconnectedness between ecosystems, to respect principles of environmental sustainability. India and international institutions must develop a strategic risk assessment framework that looks at the risk of a particular project, linked with the already existing risks of environmental degradation and climate change.

c. Assess the cost of development:

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

fundamental rights under Articles 14, 21 and 39 affirm this obligation. Keeping this in mind, a more holistic approach to assessing costs and benefits of projects is imperative.

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

ii. The Government of India, the international financial institutions and the multilateral development banks should undertake detailed assessments that include the economic and social value that is brought in by communities such as small scale fishworkers, adivasis, farmers and other workers to components of the economy such as food security, local livelihoods, local food production and value to the local economy, and include the destruction of these systems in assessments for development.

iii. The Government of India, and respective states, in keeping with the constitutional principles, should ensure recognition of women's work in fishing and recognition of allied activities as part and parcel of fishing activities. Social measures are also needed to increase capability of and participation of women in government agencies and in fishers associations.

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

d. Respect the rights of communities:

There is an urgent need for including affected communities in developmental decision-making processes and ensuring democratic representation of all sections

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