



FISHING IN TROUBLED WATERS

The turmoil of fisher people caught between India and Pakistan

PSA

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Report & Compilation

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Dialogue for Action, an initiative of PSA, aims at asserting meaningful engagements between South Asian people with a belief that people and communities have an inherent capacity to work towards conflict transformation and such promotion of dialogue processes is the lasting solution to civil, political, economic and cultural conflicts. The objective is to create conducive people-centric spaces, legislations and judicial protection of citizens – through inter-community dialogue, advocacy with state and non-state actors, media interactions and popular action – for preservation of active democracy, peace, human rights and justice in South Asia. The specific areas taken up include: Indo-Pak fishers issue/conflicts, Siachen conflict between Indian and Pakistani Armies, Sir Creek conflict in Indo-Pak maritime waters, issues of prisoners between India and Pakistan, the larger battle of democratic movements in Central India's tribal region and the conflicts between different ethnic communities in North East region.

The Research Collective is an initiative of PSA that provides research facilities to different communities, organizations and situations. TRC facilitates research around the theoretical framework and practical aspects of development, industry, sustainable alternatives, equitable growth, natural resources, community & people's rights. It has gained from the past experience of researchers and socio-economic analysts who have tried to make specific interventions using data and information collected from local communities and governments, alike. Cutting across subjects of economics, law, politics, social and nature sciences, the work bases itself on peoples' experiences and community perspectives.

Dedicated to the fond memory of
our dear friend, comrade and legal luminary from Pakistan

Iqbal Haider

&

Matanhy Saldanha

Political activist and leader of National Fishworkers' Forum
(India)

The fisher people of India and Pakistan will miss the strong
political activism and advocacy they both engaged in, for the
protection of rights and livelihood of the fishing community in
South Asia.

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We thank Sajith Kumar for the cartoon illustration on the cover page which has truly captured the essence of this publication.

A special thanks to Joe Athialy for the cover design and for listening to our endless suggestions.

Arrests, Release and everything in between

An Introductory note on the issue of arrest of Indian and Pakistani fishworkers, efforts made for their release and a lasting transformation of this conflict

This report and compilation is going to press at a time when the murderous attack on Sarabjit Singh in Kot Lokhpat Jail near Lahore has taken his life and a similar attack on Pakistani prisoner Sanaullah Ranjay in Jammu jail has taken the Indo-Pak peace process itself two steps backward. When the respective governments are hiding behind nationalism and political leaderships left without any defense, we think it is essential for people of both countries to understand the plight of the lives of prisoners caught in the diplomatic crossfire between India and Pakistan. In this report, we are taking the issue of fishworkers, who mostly constitute a majority of such prisoners.

The issue of fishworkers arrests between India and Pakistan by the Indian Coast Guard and the Maritime Security Agency (MSA) of Pakistan dates back to the independence of Pakistan and India. However, the intensity or the number of people arrested has mostly been on the rise and by the late 1990s, it was alarmingly high. There was a situation where the number of Indian fishworkers arrested in Pakistan almost reached a thousand.

This compilation covers the contemporary history of intense efforts of the last four years in getting the fishworkers released from the other country's jails as well as creating a mechanism for permanent release of fishermen. It aims at covering the issues faced by fishermen of India and Pakistan and includes a section comprising of a timeline of the efforts made by groups of activists from both sides. It also gives a glimpse of significant dialogue processes between activists and governments of two countries that they have led to. The latter part of the publication comprises a collection of articles by various journals/magazines/newspapers over the last few years addressing some key aspects of the issue. The compilation of articles include a wide ranging spectrum reflecting the irregularities from governments while handling this issue and the legal complexities that arise; analysis based on factual information about not just the arrests and releases but also details of the fishing areas and the disagreements regarding that; the severity of the situation changing over the years in terms of dialogues and disagreements along with the increasingly hostile attitude towards fishermen post the Mumbai 26/11 terrorist attack; the environmental aspects and the effect on the catch with the consistently rising pollution levels at the coastlines; the efforts being made by groups of activists from both sides and the circumstances, which the fisher community is faced with.

However, such a documented compilation will be incomplete without the mention of the significant work done by three fisher leaders, especially in India.

Premjibhai Khokhari, a veteran leader of the Gujarati fisher people and a household name in the fishing community villages of Central and Northern Gujarat, was one of the first persons to take up this issue with the National Fishworkers' Forum (NFF) in India, the Pakistan Fisherfolk Forum (PFF), Pakistan India Peoples' Forum for Peace & Democracy (PIPFPD) and the governments of India and Pakistan. Premjibhai took the following steps for the release of Gujarat fishworkers from Pakistani jails.

1. A list was compiled consisting of fishermen from Gujarat who were arrested by MSA, on a semester or annual basis including the names of those who were found to be missing.
2. This list was communicated by him to the above mentioned agencies like NFF, PIPFPD and PFF and the good will of the organizations was used to communicate and influence both governments.
3. Governmental help was sought for and the Gujarat government was approached with concrete demands for fixing boat monitoring machinery like the Global Positioning System (GPS) on all fisher boats in order to prevent violations caused by crossing the maritime boundary.

Thomas Kocherry, a renowned anti-globalization activist who worked tirelessly for unionizing the fishworkers across India, Pakistan, Sri Lanka and many other parts across the globe, spent considerable time in the fishing community villages of Gujarat and the fishing community villages of Karachi (Sindh province) to evolve a mechanism towards a resolution of this issue. He was also a key figure in the evolution of NFF and PFF along with being the connecting factor between fishworker organizations and peace fora like PIPFPD and Pakistan Institute for Labour Education and Research (PILER). One may recollect his efforts for the release of fishworkers even at a time when livelihood struggles of fishermen were at the peak, whether in Umbargaon (Gujarat) against the port or against the joint fishing ventures that promoted fishing at a larger level by getting big foreign vessels in Indian waters. Thomas Kocherry also connected many a research organizations and labour resource groups in India to the issue. The compilation on the issue done by Centre for Education & Communication (CEC) in 1998 was an outcome of one such initiative. CEC's work on the issue had tremendous impact and the report was used largely in legislative advocacy.

It was Harekrishna Debnath, Chairperson of NFF and leader of the fishing community from Bengal, who substantiated the rationale for instituting the Economic Cooperation Agreement (ECA) between India and Pakistan towards a permanent resolution of this issue. During the Machimaar Adhikaar Yatra in 2008, he and the NFF leadership travelled through the coastal villages in Gujarat and advocated for a fisher's solution to this issue. In an interview given to the then member of parliament Mr. Suresh Prabhu (also former minister for the Ministry of

Environment and Forests during the NDA regime) on state owned Lok Sabha TV, Harekrishna was one of the first fisher leaders to address the issue of why Indian fishermen cross over into the Pakistani side of the sea for fishing. Analyzing the depth of the issue, Harekrishna elaborated on how pollution caused by industrial units, tourism, thermal power plants, chemical industries, etc. on the coast led to the destruction and depletion of marine resources all along the Gujarat coast. This, according to him was at the core of why Gujarati fishworkers were going across to Sir Creek and Pakistan seas for a 'better catch'. During the interview, he gave details of a workable mechanism that takes into account the concerns of fisher people from both sides, while respecting the territorial sovereignty of both countries. Harekrishna advocated details of this mechanism, as an Economic Cooperation Agreement on marine resources and cited several examples from across the globe where similar agreements have been reached between oceanic neighbours.

By the time activists like Jatin Desai and some others involved with different peace fora got into understanding the issue and working towards release of arrested fishermen from both countries, Premjibhai had passed away. On December 30, 2009 Harekrishna Debnath succumbed to cancer. However, the ground was set for people to understand the issue and to work towards a concrete mechanism for resolving the same. Picking up the threads, a group of activists worked towards primarily reducing the number of fisher people in Pakistani and Indian jails. As a result, the figure in 2012 reached a historic low of less than a hundred fishermen belonging to the other side in their respective jails. It has been observed that the heightened tension at the Line of Control (LoC) between the two countries at the beginning of this year led to an increase in the number of arrests of fishermen and occasional relaxation in the number of arrests is no longer a matter of consideration. As we write this report¹, the number of Indian fishermen in Pakistan's Malir jail in Karachi is 342 and the number of Pakistani fishermen in Indian jails is 159. According to the figures of the Government, submitted to the Supreme Court of India on February 12, 2013, a total of 297 Pakistani prisoners are in Indian jails which include 37 fishermen. However, the efforts made for the release of prisoners have been recognized at certain levels and there has been an order early this year by then Pakistan's Interior Minister, Rehman Malik² according to which all Indian fishermen in Pakistani jails are to be released. This positive step is definitely encouraging for the ongoing dialogue process and demands are being made for the Indian Government to reciprocate in like manner.

The following interventions, though not necessarily in chronological order, facilitated this impact/ achievement:

¹Figures taken from NFF Press Release dated March 25, 2013

²Rehman Malik orders release of all Indian fishermen held in Pakistani jails. The Express Tribune. January 22, 2013. <http://tribune.com.pk/story/497572/rehman-malik-orders-release-of-all-indian-fishermen-held-in-pakistani-jails/>

1. The creation of a mechanism for information and data sharing through local fishworkers organizations was the primary challenge before the group of activists. After the death of Premjibhai Khokhari, there was nobody in Gujarat to continue doing similar meticulous documentation and information sharing. Hence, a mechanism had to be created for that on the Indian side. This information gathering included the number of people arrested, their names, the date of arrest, and the name and number of their boats. The PFF and the local journalists in Karachi helped in compiling a similar list from Pakistan. This sharing of information with each other became the primary step. It is interesting to note that even the government agencies have in some senses started depending on this list that is regularly shared with them, since the official communication often takes much longer. While the system requires a more strategic approach and further building of methodologies, it is indeed an achievement that channels have been opened for the same.
2. Efforts were made to get the media and journalist fraternity to cover the issues concerning fishermen and report on the fishermen arrested by both countries and plight of their families. The moving stories of old fishermen languishing in Indian and Pakistani jails and narratives of difficulties their families have to face due to their sole bread winner being under arrest were taken up. Such media reports in prominent national dailies like The Hindu, DNA, The Times of India, Tribune, The Telegraph, Indian Express (in India) and Dawn, Jang and The News (in Pakistan) have also been taken note of by concerned ministries, officials, fisher people and political leadership.
3. The creation of governmental channels to communicate information and data and to build pressure on them was an important milestone. An effective use of media stories has worked very well in this process. Three years after beginning these interventions, members of the collective are effectively in touch on a regular basis with Ministry of Home Affairs (MHA), Ministry of External Affairs (MEA) in India and Interior Ministry in Pakistan, along with the Pakistani High Commission in India (New Delhi) and the Indian High Commission in Pakistan (Islamabad).
4. An important step taken in this regard involved addressing the judiciary in both countries and pleading for a humanitarian approach and human rights-based intervention. The two main activities were:
 - a) Filing of Public Interest Litigations (PILs) in Supreme Courts of both countries.
 - b) Forming a joint judicial mechanism at the civil society level involving former judges and legal luminaries from both countries.

It is indeed an achievement that the Supreme Courts of India and Pakistan have in effect endorsed a joint judicial mechanism to help finding a permanent solution to this issue.

5. A regular activity has been to visit fishworkers in prisons of India and Pakistan. This has immensely helped in building the confidence and trust of fishermen and their families. It must be noted that while fishworkers from India are in one jail in Pakistan (Malir District Prison, Karachi), they are in different jails in Gujarat like Sabarmati and Rajkot, making tracking and visiting a difficult task.
6. The visit of eminent personalities including former judges to the concerned coastal villages of India (Gujarat and Diu) was organized in the third quarter of 2011. This helped building firsthand experience for visiting luminaries who have been consistently working on the issue since then. Visits to coastal villages in Karachi (Sindh province) also helped the team understand better the ground situation and realities.

An Economic Cooperation Agreement aiming at shared marine resources and implementation of 'Release at Sea', is a long way ahead in this journey and would need efforts which would also bring together the diverse actors including the government and the fishing sector. Detailed discussions that the Delhi Roundtable dealt with in this report elaborate the nuances of such an agreement.

It also requires political will from the leadership of India and Pakistan, including a permanent resolution of the Sir Creek issue. The released fishermen continue to be deprived of their livelihood sources since their boats are still under the custody of Government and are yet to be released. We are working towards a mechanism for 'release at sea' and 'release of the seized boats'.

Interventions are now needed for the release of confiscated boats of fishermen from both sides. According to official figures, there are close to 765 Indian boats in Pakistan and around 200 Pakistani boats in India. It is important to note that all Indian boats are owned by fishermen from Gujarat and Diu and there are no big companies involved here. Some people from the fishing communities buy boats by taking loans from friends or moneylenders. Usually, banks do not provide loans as the business is considered a risky one and could turn the bank's loan unproductive. When their means of livelihood are taken away due to such confiscation, it becomes virtually impossible for fishermen to repay loans and this has led to many cases of suicide. The report from the meetings held in the fisher villages with the community, by leading jurists and activists, details the plight of the fisher people.

While all the confiscated boats may not necessarily be in a good condition, it becomes the responsibility of the host country to ensure that the boats are returned

in working condition. The boats should at least be returned in the condition they were confiscated in. In order to materialize this, the arrested fishermen have to be released via sea route so that they can return with their boats. As of now, both the governments release fishermen via the usual land route of Wagah/ Attari border. Thus, both governments need to put a mechanism in place, in sea, to facilitate their return with boats, while preventing more confiscations and arrests.

The current situation is such that, the Indian and Pakistani groups are already strategizing on how to get the boats released in working condition. We have written to both the governments and there are plans to resort to legal redressal. We hope that the Supreme Court interventions, initiated by our groups, will yield desired results. The road map ahead is not easy but joint action has, so far, yielded positive results and we believe that it will continue to make a positive impact. We expect that other peace groups and workers movements in both countries will support these initiatives with an open mind.

Despite the long term challenges mentioned above, the cheer that has been brought to the lives of hundreds of arrested fishermen through their release, has given this process ample reason to celebrate the impact of our involvement. From an earlier situation of fishermen languishing in jails for several years, we are now at a juncture where their release is secured within months.

We are humbled that today the National Fishworkers' Forum has used our intervention to understand the different dimensions of the complicated set of issues forming the undercurrents of the arrests and release. The letter from NFF to Rahul Gandhi and Sushil Kumar Shinde in the first week of April 2013 clearly reflects the arguments we have been putting forth (Kindly refer to Annexure 1). It is indeed a great pleasure to know that we have stuck to our original position of being worthwhile in solidarity service to the marginalized people's mass movements and struggles.

Dialogue for Action (DA) will continue to strive for conflict transformation and to make sure that effective mechanisms for lasting solution to the issue are in place. Aimed at benefitting the fisher people, our efforts will also meaningfully strengthen the cause of peace in the subcontinent. We hope to impact the governments further and secure the safety and livelihood of fishworkers of both countries.

Jatin Desai
Coordinator, Dialogue for Action

Vijayan MJ
General Secretary, PSA

I.

Timeline of different dialogue processes and the current situation

A. Visits to Coastal Villages, Prisons, Seminars & Conferences

Visits to Coastal villages – Mapping issues	Visits to Prisons – Engaging statecraft
<p>A visit was made to coastal villages of Saurashtra & Diu in June 2012 and a meeting was organized with hundreds of members of fishing communities in Porbandar, Mangrol and Diu. In Diu, women turned up in large numbers. They were desperate to know about the status of release of their arrested near and dear ones. A similar emotion was also seen in Ibrahim Hyderi in Pakistan.</p>	<p>Senior journalist Jatin Desai along with Dr Ritu Dewan from University of Mumbai, visited the Karachi jail in April 2008 where they met 30 minor prisoners who were Indian fishermen. These prisoners were meeting someone from India for the first time after their arrest and felt that the visitors could get them released. However, it was just a visit and the team conveyed that all that they could do was write extensively on the issue in both countries. These prisoners were later released in August 2008 which is when a visit was made to their villages.</p>
<p>In November 2011, during a visit to Karachi, the delegation also visited Ibrahim Hyderi, a small hamlet of fishermen in Karachi. Some of the fishermen present had been arrested by India and released after they completed their sentence. Jatin Desai mentioned his meeting with Mai Bhagi, whose son, son-in-law and two other relatives were arrested by the Indian Coast Guard in 1999 after their boat was destroyed in a cyclone in mid-sea. She was trying to find out more about her relatives and how to get them released from the Indian prison as soon</p>	<p>Jatin Desai has been consistently arguing that there is a difference between the situation in this context in India and in Pakistan. Most Indian fishermen are in one jail in Pakistan, mostly in Karachi while in India, Pakistani fishermen are in various prisons. It is also true that the number of fishermen arrested by Indian authorities is lower because there is lesser fish on the Indian side. Moreover, they are scattered across jails mainly in Gujarat because of the long Indian coast line.</p> <p>There also exists a difference in the</p>

as possible. Indian journalists wrote about her plight after their return but it was an attempt in vain. It was soon discovered that her son-in-law Nawaz Ali had died in a Civil Hospital in Ahmedabad in September 2012. After many efforts his body was sent to Karachi after 25 days. Preceding this incident, Rambhai Wala an Indian fisherman died in Karachi prison and his body came to India after 45 days of efforts. The attitude surely reflects the insensitivity of the authorities on both sides and the lack of powerful lobbies to get such things done for the fishworkers.

kind of access that both countries give to just meet the prisoners. For instance, in India, there are only three prisons where consular access³ is given- Jaipur, Tihar jail in Delhi and Amritsar. Thus, prisoners from Gujarat have to be brought to Jaipur which contributes to the complicated process also making it difficult for the members of India-Pakistan Judicial Committee on Prisoners to meet Pakistani prisoners in Indian jails. (See Annexure 2 for the recent Joint Statement on Sixth meeting of the India-Pakistan Judicial Committee on Prisoners to Pakistan)

Pakistani and Indian civil society, activists, lawmakers and groups working on the issue led a successful delegation to Gujarat and Diu from September 20 - 22, 2011. The team consisted of Justice (R) Nasir Aslam Zahid, Iqbal Haider, Karamat Ali and Jatin Desai. They were accompanied by Bharat Modi, Jivam R. Jungi, Velji Masani and few other fishermen from Gujarat & Diu. The meetings with fishermen & their families were organized in Diu, Mangrol, Veraval and Porbandar. These meetings were successful and were well attended by hundreds of people. The team addressed the media and intellectuals in Rajkot, a major city in the Saurashtra region of Gujarat and met with the Fisheries Commissioner of Gujarat in Ahmedabad.

In a detailed interview for this publication, Mr Desai also opined that civil society engagement with the issues of fishworkers is stronger in Pakistan because people working on this, like the *Legal Aid Office* are mainly engaged with organizations that provide legal and other aid to prisoners and are based around Karachi itself where most of the Indian fishermen are taken after arrest. However, in India there is a problem due to the huge distances and prisoners being scattered.

³ Consular access in prisons implies that the prisoner can approach the High Commission of the other country for immediate identification and for the legal networking process to begin.

Jatin visited coastal Saurashtra & Diu to meet released fishermen in September 2008 who were minors and had been released by Pakistan in August that year. He had also met them in Karachi jail in April 2008 where he had detailed conversations in Gujarati (their native language and his) with them and they asserted that they would not go to mid-sea to catch fish since there is a possibility of getting caught by Pakistan's Maritime Security Agency (MSA). However, the sad irony of their circumstances is such that after returning to their villages they were again getting ready to go to mid-sea to catch fish saying that they did not have any other option because of lack of employment opportunities.

According to Jatin, in India, an additional problem is that political representation is not happening from the community, in Gujarat especially, which could help raising the issue in many places.

There were visits made to coastal areas from 1997 onwards and Jatin Desai participated in many such delegations.

B. Joint Conferences & Meetings

The International Conference on Criminal Justice System and Governance, held between April 26-29, 2012 in Karachi was attended by many serving & retired judges, lawyers, peace activists, academicians, journalists and others. Journalist and activist, Jatin Desai made a presentation on the issue of plight of Indian and Pakistani fishermen.

Alongside, a separate close group meeting addressing issues of fishermen was also organized and was attended by representatives of PFF; Justice (R) Nasir Aslam Zahid Chairperson, Committee for Welfare of Prisoners, Pakistan and member, India-Pakistan Judicial Committee on Prisoners; Iqbal Haider, Senior Political Activist, Advocate at the Supreme Court of Pakistan and former Law minister of Pakistan; Karamat Ali, PILER/ PFF and others. A review of the joint initiatives that had been taken up earlier was discussed at length.

Another meeting was organized in Karachi which addressed issues of fishermen and other prisoners languishing in the jails of the two countries, along with a press conference addressed by Saeed Baloch, Secretary of PFF; Justice (R) Nasir Aslam Zahid; Mr. Iqbal Haider; Karamat Ali and Jatin Desai. The visit to Ibrahim Hyderi and other coastal areas exposed the team to the issues concerning the fisherfolk and their families.

In November 2011, a 23 member delegation from the Mumbai Press Club made a visit to Karachi and Hyderabad. The Press Club, Mumbai have formed fraternal relations with Karachi Press Club with the idea of sensitizing journalists of both the countries. They met the Chief Minister of Sindh province along with other cabinet members. The delegation also had an interaction with office bearers of Chambers of Commerce in Karachi & Hyderabad. Their emphasis was on trade liberalization and also trade through the Khokrapar – Munabao route. The delegation communicated that if this route is opened for trade, then it will be extremely beneficial to traders & customers of Sindh, Rajasthan, Gujarat & Maharashtra.

A round table consultation was organized by Focus on the Global South and PILER on September⁴ 16, 2011 in New Delhi that brought together fishworkers, labour organizations, former judges, senior journalists and academicians along with activists who have been working on similar issues in South Asia. It was indeed a pioneering initiative that led to honest introspection of the current scenario and largely focused on the Sir Creek issue since that was one of the eight issues under the composite dialogue between the two countries.

The meeting ended with a firm belief that the issue of Sir Creek along with Siachen can be resolved without much difficulty if the political leadership in both the

⁴ The report of this round table is included in this publication on page 19

countries put its mind to it. Detailed discussions were focussed on what role the civil society groups and media could play in effectively guiding and pressurising the respective governments.

A seminar on relations between India and Pakistan was organized in Mumbai by *Focus on the Global South*, along with PIPFPD on July 3, 2010. The main thrust of the meeting was to engage with the civil society groups so that continuous pressure could be put on the governments to release the arrested fisher people and also resume the peace process.

A Roundtable addressing issues related to fishing and the problems of the fisherfolk on the India-Pakistan maritime border was held on April 19, 2010 in New Delhi. The roundtable was organized in collaboration with NFF; Boat Owners Association, India; PFF and PILER. The discussion revolved around the arrests and release of the innocent fisherfolk, consular access, and related issues. There was an agreement to file a petition in the apex courts of both India and Pakistan asking for the release of at least those fisherfolk who have completed their sentence.

These efforts have led to a direct impact on the decisions of the Supreme Court of India. After months of deliberations, lobbying with the governments, filing of petitions in the respective Supreme Courts, it was in September 2010 that fisherfolk and other civilian prisoners from both sides who have been in jails serving long terms were released.

A major part of the credit goes to the Pakistani civil society in general, and specifically to Iqbal Haider, Justice (R) Nasir Aslam Zahid and Peace activist Karamat Ali who did the negotiations in Pakistan and in India. The personal intervention of Smt. Sonia Gandhi, Chairperson of United Progressive Alliance (UPA) made a big difference to our initiatives. Currently, a petition is pending before the Supreme Court of India dealing with the mechanism or apparatus to address the issue on a long-term basis.

The Dawn⁵ reported on December 1, 2011 that civil society representatives urged the Indian and Pakistani governments to work towards resolutions of Sir Creek and put an end to arresting innocent fishermen. A reception was organized by PILER and PFF in honour of fishermen who were recently released at the Karachi Press Club. Besides, PFF supporters and civil society activists, a large number of fishermen and their relatives hailing from different coastal villages of Karachi, Thatta and Badin participated in the programme. While highlighting the basic livelihood problems that the fisher people have to face, demands were made for the governments of the two countries to be accountable and it was emphasized that legislative mechanisms must be used. The need for a more humanitarian approach was also cited.

⁵Demand for resolution of Sir Creek issue. The Dawn. <http://archives.dawn.com/archives/105599>

On April 14, 2011, The News⁶ reported a press conference addressed by Justice (R) Nasir Aslam Zahid; Ex- Senator, Iqbal Haider; Chairman Pakistan Fisherfolk Forum, Mohammad Ali Shah and Peace Activist, BM Kuttay. Civil society members called for immediate release of all the fishermen languishing in Pakistani and Indian jails and suggested that a buffer zone of 100 nautical miles between the territorial waters of the two countries be created.

⁶Call to set up Indo-Pak fishing zone. The News. April 14, 2011. <http://www.thenews.com.pk/Todays-News-4-41484-Call-to-set-up-Indo-Pak-fishing-zone>

C. Government Response: Meetings and Joint Statements

In the first week of August 2012, Jatin Desai along with fishermen and boat owners held a press conference in Ahmedabad prior to then Indian External Affairs Minister Mr. S M Krishna's Pakistan visit to review the peace process that resumed since March 2011 with his counterpart Ms. Hina Rabbani Khar. The idea was to highlight the plight of fishing communities and pressurize the governments to initiate a move towards the resolution of the fishworkers issue. It was noted that it was only due to various efforts since 1999 that the number of arrested fishermen has come down drastically. The demand has been to move towards a 'No Arrest Policy' and the issue of confiscated boats has consistently come up. In July 2011, more than 700 Indian trawlers were in the custody of Pakistan and more than 110 Pakistani boats in Indian custody. These boats are owned by fishermen and around 100 people survive on one boat. When a boat is confiscated, it deprives fishermen of their livelihood.

At the end of the meeting between Mr. S M Krishna, Indian External Affairs Minister & Ms. Hina Rabbani-Khar, Pakistan's Foreign Minister on September 8, 2012, a joint statement⁷ was issued which states the following,

“The Ministers welcomed the release of prisoners and fishermen, including those suffering from ailments, in the past year or so. They agreed that the Agreement on Consular Access should be implemented in letter and spirit including immediate notification of arrests by either side, consular access to all persons within three months of arrests, release of prisoners within one month of completion of sentence and confirmation of their national status. The Ministers also welcomed the continued work of the Judicial Committee and agreed with the need to implement its recommendations on various aspects of release and repatriation of prisoners and fishermen of each country by the other and adoption of the humane approach in dealing with cases of fishermen and prisoners, especially women, elderly, juvenile, and those terminally ill or suffering from serious illness or physical/ mental disability.

The Ministers noted that talks were held between the Director General of the Pakistan Maritime Security Agency and the Director General of the Indian Coast Guard in New Delhi in July 2012 and agreed to the importance of continuing their meetings. They further directed that the issues relating to fishermen as contained in para-10 of the Joint Statement issued after the Interior/Home Secretaries talks between Pakistan and India in March 2011 would be further examined by the relevant authorities of the two countries.” (The Hindu. September 8, 2012)

⁷Joint Statement issued by India and Pakistan at Islamabad. The Hindu. September 8, 2012. <http://www.thehindu.com/news/resources/article3874620.ece>

There was a meeting⁸ between Indian Home Secretary and Pakistani Interior Secretary held in New Delhi on March 28-29, 2011 where the following decisions were taken:

“Both sides agreed that the problems and issues of the inadvertent crossers should be viewed sympathetically, and in a focused and sensitive manner. Accordingly, both sides also agreed to task the Coast Guard of India and Pakistan Maritime Security Agency to work on setting up a mechanism for release of inadvertent crossers (fishermen) and their boats on the same lines as the inadvertent crossers on land. The group will submit its report to the Home / Interior Secretaries before the next round of talks.”

The Defence Ministry officials mentioned that during the meeting, the group held preliminary discussions and recognized the need for addressing the humanitarian aspect of inadvertent crossing of maritime borders by legitimate fishermen.

The remarkable aspect of it was that, this was the first time that both governments recognized these fishermen as “inadvertent crossers” and agreed upon the setting up of a mechanism for their release. However, the bureaucratic set-up seems to be inadvertently delaying the implementation of this agreement. The first meeting of the task force consisting of the Indian Coast Guard and Pakistan's Maritime Security Agency (MSA) was held in July 2012. It should have taken place in the third or at least the last quarter of 2011 but, it was delayed as India took a long time in nominating its members.

⁸Full Statement of India- Pakistan home/ interior secretary level talks. The Times of India. March 29, 2011 http://articles.timesofindia.indiatimes.com/2011-03-29/india/29357360_1_pakistan-and-india-thimphu-pakistan-authorities

D. Timeline⁹ of arrested and released fishermen: 2010 onwards

Arrested fishermen- Timeline:

2013	2012	2011	2010
January 21, 2013- 27 Indian fishermen arrested ¹⁰	October 22, 2012- 39 Indian fishermen arrested ¹¹	December 17, 2011- 12 Indian fishermen arrested ¹²	October 30, 2010- 32 Indian fishermen arrested ¹³
	October 16, 2012- 13 Indian fishermen arrested ¹⁴	November 18, 2011- 122 Indian fishermen arrested ¹⁵	October 14, 2010- 5 Indian fishermen arrested ¹⁶
	October 12, 2012- 24 Indian fishermen arrested ¹⁷	November 10, 2011- 27 Indian fishermen arrested ¹⁸	March 27, 2010- 5 Indian fishermen arrested ¹⁹
	October 2, 2012- 17 Pakistani fishermen arrested ²⁰	October 6, 2011- 36 Indian fishermen arrested ²¹	

⁹The list of arrested and released fishermen is not a comprehensive list. This is presented here mainly for the purpose of establishing a pattern looking at the numbers reported in the media. It must also be noted that there are clear contradictions in the way things are reported in the media that seem to portray a nationalistic bias. The Indian media does not usually report when Pakistani fishermen are arrested and similarly, the Pakistani media does not report much about Indian fishermen getting arrested. The Indian media also does not report when Pakistani fishermen are released. They only report when Indian fishermen are arrested and released. These figures are extremely important and these contradictions and selective reporting strategies, if overcome, could be a significant tool for the release of innocent fishermen.

¹⁰Rehman Malik orders release of all Indian fishermen held in Pakistani jails. The Express Tribune. January 22, 2013. <http://tribune.com.pk/story/497572/rehman-malik-orders-release-of-all-indian-fishermen-held-in-pakistani-jails/>

¹¹Pakistan arrests 39 Indian fishermen. The Times of India. October 22, 2012. Videos. <http://timesofindia.indiatimes.com/videos/news/Pakistan-arrests-39-Indian-fishermen/videoshow/16910153.cms>

¹²Pakistan arrests 12 Indian fishermen. NDTV. December 17, 2011. <http://www.ndtv.com/article/india/pakistan-arrests-12-indian-fishermen-158762>

¹³32 Indian fishermen arrested by Pak authorities. NDTV. October 30, 2010. <http://www.ndtv.com/article/india/32-indian-fishermen-arrested-by-pak-authorities-63414>

¹⁴Pakistan authorities arrest 13 Indian fishermen. CNN IBN. October 16, 2012. <http://ibnlive.in.com/news/pakistan-authorities-arrest-13-indian-fishermen/300782-56.html>

¹⁵Pakistan arrests 122 Indian fishermen, 23 fishing boats seized. NDTV. November 18, 2011. <http://www.ndtv.com/article/india/pak-arrests-122-indian-fishermen-23-fishing-boats-seized-150847>

¹⁶Five Indian fishermen arrested. The Express Tribune. October 14, 2010. <http://tribune.com.pk/story/62471/five-indian-fishermen-arrested/>

¹⁷Pakistan arrests 24 Indian fishermen. NDTV. October 12, 2012. <http://www.ndtv.com/article/india/pakistan-arrests-24-indian-fishermen-278987>

¹⁸Pakistan authorities arrest 27 Indian fishermen for illegal fishing. India Today. November 10, 2011. <http://indiatoday.intoday.in/story/pak-arrests-27-indian-fishermen-for-illegal-fishing/1/159394.html>

¹⁹5 Indian fishermen arrested in Pakistan. Rezaul H. Laskar. Outlook. March 27, 2010. <http://news.outlookindia.com/items.aspx?artid=678001>

²⁰India arrests 17 Pak fishermen amidst promises of détente. Jan Khaskheli and Kamran Mansoor. The News. October 2, 2012. <http://www.thenews.com.pk/Todays-News-4-135145-India-arrests-17-Pak-fishermen-amidst-promises-of-detente>

²¹Pakistan Authorities Arrest 36 Indian fishermen. Outlook. October 6, 2011. <http://news.outlookindia.com/items.aspx?artid=737432>

	October 1, 2012- 33 Indian fishermen arrested ²²	September 30, 2011- 48 Indian fishermen arrested ²³	
	September 16, 2012- 11 Indian fishermen arrested ²⁴	September 28, 2011- 11 Indian fishermen arrested ²⁵	
	April 4, 2012- 23 Indian fishermen arrested ²⁶	September 22, 2011- 25 Indian fishermen arrested ²⁷	
	March 30, 2012- 20 Pakistani fishermen arrested ²⁸	April 7, 2011- 10 Indian fishermen arrested ²⁹	
		March 10, 2011- 26 Indian fishermen arrested ³⁰	
		February 25, 2011- 20 Pakistani fishermen ³¹ arrested	

²²33 Indian fishermen arrested in Pakistan. Outlook. October 1, 2012.
<http://news.outlookindia.com/items.aspx?artid=776927>

²³Pak arrests 48 Indian fishermen; seize eight boats. September 30, 2011.
<http://www.ndtv.com/article/india/pak-arrests-48-indian-fishermen-seize-eight-boats-137766>

²⁴11 Indian fishermen arrested by Pakistan. Hindustan Times. September 16, 2012.
<http://www.hindustantimes.com/world-news/Pakistan/11-Indian-fishermen-arrested-by-Pakistan/Article1-930799.aspx>

²⁵Pak arrests 11 Indian fishermen. CNN IBN. September 28, 2011 <http://ibnlive.in.com/news/pakistan-arrests-11-indian-fishermen/188400-56.html>

²⁶23 Indian fishermen arrested by Pakistani naval authorities. CNN IBN. April 4, 2012.
<http://ibnlive.in.com/news/23-indian-fishermen-arrested-by-pakistani-naval-authorities/245620-56.html>

²⁷25 Indian fishermen arrested by Pakistan authorities. The Times of India. September 22, 2011.
http://articles.timesofindia.indiatimes.com/2011-09-22/india/30188539_1_maritime-boundary-pakistani-waters-indian-fishermen

²⁸20 Pak fishermen arrested off Okha. The Times of India. March 30, 2012.
http://articles.timesofindia.indiatimes.com/2012-03-30/surat/31260531_1_pakistani-fishermen-pak-fishermen-okha

²⁹10 Indian fishermen arrested by Pak authorities. NDTV. April 7, 2011.
<http://www.ndtv.com/article/india/10-indian-fishermen-arrested-by-pak-authorities-96979>

³⁰26 Indian fishermen arrested by Pakistan. The Times of India. March 10, 2011.
http://articles.timesofindia.indiatimes.com/2011-03-10/india/28676720_1_maritime-security-agency-indian-fishermen-maritime-boundary

³¹India arrests 20 fishermen from Pakistan. The Express Tribune. February 25, 2011
<http://tribune.com.pk/story/123923/india-arrests-20-fishermen-from-pakistan/>

Released fishermen³² - Timeline:

2013	2012	2011	2010
January 21, 2013- 4 Pakistan fishermen arrested ³³	October 24, 2012- 7 Indian fishermen released	July 29, 2011- 14 Indian fishermen released	December 28, 2010- 52 Pakistani fishermen released
	September 28, 2012- 46 Pakistani fishermen released	July 26, 2011- 87 Indian fishermen released	December 14, 2010- 12 Indian fishermen released
	September 10, 2012- 48 Indian fishermen released	April 15, 2011- 89 Indian fishermen released	December 13, 2010- 13 Indian fishermen released
	August 15, 2012- 55 Indian fishermen released	March 8, 2011- 8 Pakistani fishermen released	September 14, 2010- 7 Pakistani fishermen released
	July 17, 2012- 19 Pakistani fishermen released	March 1, 2011- 14 Pakistani fishermen released	September 6, 2010- 141 Indian fishermen released
	July 3, 2012- 18 Pakistani fishermen released		September 4, 2010- 101 Indian fishermen released
	June 27, 2012- 311 Indian fishermen released		September 2, 2010- 100 Indian fishermen released
	May 30, 2012- 16 Pakistani fishermen released		August 30, 2010- 100 Indian fishermen released
	April 13, 2012- 26 Indian fishermen released		January 2, 2010- 31 Pakistani fishermen released
	February 16, 2012- 13 Indian fishermen released		

³²These figures have been provided by senior Indian journalist and activist, Jatin Desai and have been obtained from the website of the organization, Legal Aid Office, Pakistan <http://www.legalaidoffice.org/indian-fisherman.php>

³³Rehman Malik orders release of all Indian fishermen held in Pakistani jails. The Express Tribune. January 22, 2013. <http://tribune.com.pk/story/497572/rehman-malik-orders-release-of-all-indian-fishermen-held-in-pakistani-jails/>

There is no doubt that these consistent efforts have led to the government authorities of both countries taking action on this issue. In 2012, Pakistan released a sizeable number of Indian fishermen from its prison and for the first time in the last many years the number of arrested Indian fishermen has come down to less than hundred. Many of these processes have resulted in the authorities realizing the problems that fishermen are facing. As mentioned earlier, Rehman Malik, the then Interior Minister of Pakistan gave a historic order early this year for releasing all Indian prisoners in Pakistani jails. This is a significant development. India must reciprocate³⁴ this gesture and the demand must now move towards a no arrest policy.

Keeping these initiatives in mind it is important to do a comparison with figures from the previous decade that reveal the difference in the number of arrests and releases owing to the increased awareness, acceptance and recognition of the issue among not just the Indian and Pakistani people but also the bureaucratic lobbies.

On³⁵ July 15, 1997, close to two hundred (conflicting numbers are reported by different sources) Pakistani fishworkers were released from Indian jails and a similar number of Indian fishworkers from Pakistani jails. The decade before this had higher number of arrests. According to a letter written by the Shree Akhil Gujarat Machhimar Mahamandal to the then Prime Minister Rajiv Gandhi dated January 20, 1988, a total of 38 boats and 320 Indian fishermen were held between January 12, 1987 and January 6, 1988. Some of these boats were released by Pakistan and returned to India on October 26, 1987 and November 20, 1987. The reality is that some of those people are still behind bars and the appeals and even reviews have not been filed for their release after the completion of sentence.

One of the most traumatic aspects of this is the situation faced by minors when they are arrested for years. One is looking at a substantial number of minors since 1996. In March 1996 alone, the Pakistan government released 38 minors.

It must also be noted that according to the United Nations documents on Maritime Boundary Agreements in 1998, India had a Maritime Boundary agreement with only Myanmar. There was no agreement at that point with Bangladesh, Pakistan or Sri Lanka. The situation has not improved much today for the fishworkers who are at the receiving end, despite interim joint patrol arrangements being worked out by India with Sri Lanka as well as Bangladesh. The Sri Lanka – India situation really portrays the lack of political will in protecting citizens.

³⁴ See Annexure 1: Letter from National Fishworkers' Forum to Mr Sushil Kumar Shinde sent on April 4, 2013

³⁵ Fishworkers as Prisoners of War- A Fact Finding Report and a Note on Pakistani Initiative. May 1998. Published for Preparatory Committee of South Asian Labour Forum by Centre For Education and Communication (CEC), New Delhi.

II.

From the Rapporteurs' Desk: Roundtable & Field Meetings at a glance

E. Bridging the Divide:

An Initiative towards Resolving the Pakistan- India fisherfolk issue

Report of the Round Table Conference held at India Islamic Cultural Centre, New Delhi on September 16, 2011

A day long round table meeting was organized in New Delhi on September 16, 2011 which aimed at finding solutions regarding the issue of Indian and Pakistani fisherfolk getting arrested in mid-sea. The round table was organized by *Focus on the Global South*, India in association with, *Pakistan Institute for Labour Education and Research (PILER)* with support from *Heinrich Boell Foundation (HBF)* – coordinated by Jatin Desai.

Indian and Pakistani fishermen getting arrested on the maritime border between the two countries has been an issue of crucial importance since many years. The severe hardships faced by the fisher people due to this have been reported by many journalists and fishers' organizations. Every fishing season, a sizable number of fishermen are arrested and there is a repeated delay in releasing such prisoners, which extends to few years even after the term of the sentence is over. These facts have raised concerns over the indifferent attitude of the government authorities in both the countries.

The meeting was attended by people associated with *Pakistan India Peoples' Forum for Peace and Democracy (PIPFPD)*; *Boat Owners Association*, Porbandar; *National Fishworkers' Forum (NFF)* and *Pakistan Fisherfolk Forum (PFF)*. The gathering included senior advocates, journalists, film makers and people working on various human rights issues.

The discussion focused on the wide ranging complexities of the issue, the severity of the situation and the ongoing dialogue processes. The need for a humanitarian perspective in policy level decisions was cited and an action plan was also discussed.

One of the basic problems highlighted was that the arrested fishermen, be they Indian or Pakistani, are left to suffer in other country's prisons for a long span of time, much more than that stipulated even by their sentence. The maximum sentence for crossing the border is seven years and fishermen are usually given a six month sentence. However in reality, most of them have to languish in the prison for

a far longer period, mainly due to insensitivity, red-tapeism and lack of political will. There are situations when the nationality verification procedure takes more than one year.

In mid-sea it is also difficult for semi-literate fishermen to realize that they have entered the water of the other country. After their arrest, the innocent fishermen become pawns in the hands of the governments of the countries that they are arrested in. A comprehensive policy to avoid such arrests and a political solution to the basic problem of arrests was cited as an urgent need along with an action plan for the upcoming year.

Justice (R) Nasir Aslam Zahid, Chairperson of the *Committee for Welfare of Prisoners*, Karachi, and member, *India-Pakistan Judicial Committee on Prisoners* chaired the first session wherein, Jatin Desai, then a Research Associate with the *Focus on the Global South* and a senior journalist, began the session by placing the issue in its historical context, tracing significant developments and by giving an idea of the kind of measures which can be taken in order to proceed towards a resolution. While reflecting on the first round table conference held in April 2010 in New Delhi, he highlighted the important ruling of Justice Markandey Katju and Justice R.M Lodha delivered in March 2010. The position taken by the Indian Government before the Supreme Court of India was that India is not releasing Pakistani prisoners whose sentence is over because Pakistan is not releasing Indian prisoners. Detention beyond the stipulated time period of the sentence is illegal and it was asserted that action taken by India must not depend on the actions of any other country. The case resulted in the Supreme Court giving orders for the immediate release of the sixteen Pakistani prisoners who had completed their sentence.

It was mentioned that, petitions were submitted to both the governments citing hardships of the fishermen after the roundtable that was organized a few years back. Subsequently, PILER, PFF and some arrested Indian fishermen filed a petition in the Supreme Court of Pakistan asking for the release of arrested Indian fishermen. The matter came before the bench headed by the Chief Justice of Pakistan, Iftikar Chaudhary. Seeing the stubborn pro-fishermen attitude of the Supreme Court of Pakistan, the authorities announced the release for 442 arrested fishermen. They were released between August 30, 2010 and September 6, 2010. This was the first time that such a large number of prisoners were released by Pakistan. Iqbal Haider, Senior Political Activist, Advocate at the Supreme Court of Pakistan and former Law Minister had appeared in the Pakistan Court at that time. Soon after this, a joint delegation of Indian and Pakistani activists which included Mr. Haider, Mr. Kuldip Nayar (veteran Journalist and renowned Peace Ambassador for Indo-Pak relations); Mahesh Bhatt (Filmmaker); Mr. Jatin Desai; Justice (R) Nasir Aslam Zahid and Mr. Karamat Ali (*Pakistan Institute for Labour Education and Research* – PILER & *Pakistan Fisherfolk Forum* - PFF) met Sonia Gandhi, Chairperson

of the United Progressive Alliance (UPA) and P. Chidambaram, the then Home Minister, Government of India - asking them to reciprocate in a similar manner and release Pakistani fishermen. India soon responded by releasing around hundred prisoners including fishermen.

A petition was filed in the Supreme Court of India later and the matter is subjudice. Adv. Colin Gonsalves, a senior counsel, is arguing the case before the Apex Court on behalf of the petitioners.

While getting to the depth of the issue of arrests on the maritime border, it was suggested that, if a fishworker is arrested for the first time then he should be released within a fortnight, with a mere warning. It was also mentioned that till 1965, fishing in mid-sea was not an issue. Neither India nor Pakistan used to arrest fishermen for entering their waters. Even later, the arrested fishermen and the trawlers used to be released. But after 1985, Pakistani authorities changed their strategy in the hope that if the boat is confiscated then Indian fishermen will not venture into the Pakistan water and thus numbers will decrease. However, this did not happen.

Kuldip Nayar, highlighted that the crux of the issue is the divide between both the countries which needs to be bridged. He cited instances portraying the affection among the people of both nations and cited Dr Khaleel Chisti's case as an example. Dr. Chishti, a resident of Karachi, Pakistan was arrested in 1992 on the charge of murder when he visited his mother in Ajmer and the trial court gave a ruling of life imprisonment in January 2011. Subsequently, the Supreme Court of India acquitted Dr Chishti of murder. He is more than 80 years old and suffers from various ailments. It was a case where he was present at the wrong place at the wrong time. Mr. Nayar has taken up the case appealing to the Government of India and the State of Rajasthan to release Dr. Chishti on humanitarian grounds. He explained that, even though there is an agreement for the release of Dr Chishti, this has not yet happened due to lack of political will. While speaking about the issue of fishermen of the two countries he emphasized the urgent need for evolving a mechanism so that arrested fishermen could be released without any delay.

Jivam R. Jungi, the Ex- President of Porbandar Fishermen and Gujarat Fishermen Association responded and highlighted some crucial points where it was noted that most of the arrested Indian fishermen are from the Saurashtra region of Gujarat and Diu. He explained that banks have given notices to the owners of the confiscated boats for their inability to pay loans and because of this sad reality fishermen are deprived of their livelihood. A boat caters to the livelihood of around hundred persons.

He also emphasized that Indian fishermen should be released via the sea route along with their boats and not from the Wagah border which is a route where the distance comes to around 3000 kms. Currently, released Indian fishermen are taken

to Wagah from Karachi via Lahore and then to Gujarat. Moreover, the return journey by train is a disadvantage for the fishermen since their boats would not be released for them to bring back via the same route.

Bharat D. Modi associated with the Porbandar Boat Owners Association of Gujarat shared that 512 boats from Gujarat and Diu were lying in Pakistan and 272 fishermen were in the Pakistani prisons. He also said that the trawlers belonging to Pakistani fishermen are usually well maintained by fishermen of Porbandar and it should be ensured that the same is done on the other side. He narrated experiences of his visit to Pakistan where he was a part of a delegation of boat owners who conducted a survey to assess the confiscated trawlers and it was observed that many of the boats were not maintained properly and could not be used. Around 210 trawlers were found to be in a condition where they could be used after doing some repair work. He also expressed fears regarding the rumour that some of the boats were sold off illegally.

He further pointed out that detailed memorandums have been submitted to the Indian Government officials but this was not very fruitful since some of them were certain that fishermen go towards the other side because they want more fish. However, he opined that this was a biased opinion of bureaucracy, without an understanding of the ground realities. Echoing the distress faced by the fishermen, he added saying that a fishing community does not have much political representation in the parliament and assembly and their voices are not heard prominently.

These observations triggered off a discussion, which was of crucial importance since it brought forth a detailed understanding of the issue. The immediate demands and concerns of the Indian and Pakistani fishermen were discussed. An urgent consensus put forth was that Indian and Pakistani boats that are in good condition must be sent back to the owners in the respective countries. It was also proposed that with the beginning of the new fishing season, the security forces should look at the issue from a humanitarian angle. The need for arresting fishermen was put to question and it was proposed that in extreme conditions, fishermen can be frisked and their boats searched, after which they should be released.

The number of boats which go into sea everyday was discussed briefly and it was mentioned that in the sea near Jakhau, Gujarat around 1200- 1500 Indian boats move daily and around 3000- 4000 Indian boats were venturing on a regular basis on an average in a year. Each trawler has the capacity to carry around seven crew members. The boats have to be registered with the authorities along with the crew members before they venture into the sea and it was noted that the procedure is duly followed by everyone.

While sharing experiences, it was mentioned that informally, boat owners and

fishworker organizations come to know about the arrest and confiscation of trawlers much earlier, but officially this information is made available only after three days when they are brought to the port city and a case is filed against them.

Sunil Devshi Gohel, Director, Gujarat Fisheries, gave an insight to the environmental scenario and said that the high pollution levels have been leading to depletion of marine resources in the Indian sea due to which fishermen have to go out of the permitted area.

Laxmanbhai Charaniya, Ex- President of Diu Fishermen Association highlighted various hardships faced by the fishing communities. He also mentioned about the acts of vandalism committed and violent attacks on the fishermen while at sea. He narrated past instances where fishermen had to face harassment and violence by smugglers and government forces alike.

Justice (R) Nasir Aslam Zahid highlighted that the important question is why Indian fishermen enter Pakistani water. Gujarat has a 1600 km long coastline but because of industrial pollution, fishermen have been finding it difficult to get good quality and quantity of fish nearby which is why they have to go deeper into the sea. In the process, sometimes they inadvertently enter the Pakistani waters. It was also said that in common interest, the Indian and Pakistani fishing community must protest the entry of big companies and foreign fishing vessels into the common waters as they fish on a large scale, which has serious effects on the livelihoods of traditional fisher people.

S. Zulfiqar Gardezi, Deputy High Commissioner, High Commission of Pakistan, New Delhi took forward the discussion by engaging in an interactive session, since he wanted inputs from the people belonging to the fishing community to understand the complexities of the situation at ground level. An important point raised by him was concerning the ownership of the boats; whether usually fishermen are owners of the boats or someone else owned such! Another aspect of the query was with regard to ownership of boats by business houses and the existence of fishing fleets. He explained that there is an impression that many boats are used for fishing business. Bharat D. Modi responded by saying that most of the fishermen work for their livelihood and all trawling boats are owned by the fishing community only. He said that most of them buy boats by taking loans from relatives or private money-lenders, as banks are reluctant to provide loans because of risk factors. Sunil Devshi Gohel negated the concern about fishing business ventures. He added that in the fishing market, the basic categorization is that of dry fish, fresh fish and prawns. The partnerships are all within the community members and not with any companies or businessmen.

Mr. Iqbal Haider, asserted that some action needs to be taken immediately on the issue of confiscated trawlers and he could take the cases forward in Pakistan, if all possible details are given to him. Usually, only the fisherman's name is given which is insufficient. The power of attorney from the owners of the boat would also be required. Justice (R) Nasir Aslam Zahid gave a reminder to those present that these

details were supposed to have been collected immediately after the meeting held the previous year but this task has not been completed. He requested that this task be expedited. Jivam R. Jungi responded saying that an affidavit was required in order to hand over the power of attorney. It was decided that this needs to be given top priority to enable further action.

The difficulties faced while using the Global Positioning System (GPS) fitted in the trawlers was also discussed and was brought up by S. Zulfiqar Gardezi. The main problem cited by Bharat Modi was that though the GPS is installed in each and every trawler in Gujarat and Diu, many fishermen find it difficult to operate. Jivam R. Jungi explained that it is difficult to realize where one country's water ends and other's commences and even with a minor entry violation of around five nautical miles, fishermen can be caught. He also explained that the GPS alarm rings when the boat enters the other side but by the time it is realized and course rectified, the boat has moved far ahead. There are several cases of the cable getting damaged and the boat going out of control due to strong currents. Karamat Ali raised an important issue saying that the GPS is made according to the Indian understanding of the maritime boundary line and its functioning is under dispute since the maritime border has not been declared through a consensus between both countries. The two areas, Sir Creek and Kori Creek are under dispute due to which there is no consensus on the border.

Matanhy Saldanha, senior political activist and then Chairperson of *National Fishworkers' Forum* (NFF) said that the organizers should have ensured the participation of representatives of the Indian Government in the meeting, since policy matters and interventions were discussed. He said that the fishermen should not be punished as long as their purpose was only fishing and not any unlawful activity. In addition to this, he said that they could be set free with a warning or their catch could be confiscated instead of the trawler. Habitual violators could be marked and be dealt with separately. He also suggested that a common fishing zone could be beneficial to both countries and that should be considered as an immediate demand. The urgent need for analysis of these issues was highlighted and the fact that the fishermen also need to introspect regarding the nature of the conflict and the ways of reducing the incidents.

Mr. Matanhy suggested that the NFF and PFF should work more closely on these issues in the future. Citing the happenings in the past, he tried to explain how people coming together, could take demands forward like they did in the case where boat owners and fishermen got together in India and protested to stop huge fishing vessels from entering their waters. The National Fisheries Action Council against Joint Ventures was one such initiative.

He also stated the evidence as revealed by marine resource experts, according to whom, by 2035, fish will not be available in these waters due to major depletion of resources. A control on the number of fishing vessels in India itself was cited as an

urgent requirement. Fishermen in many areas have also been exporting fish, making livelihood not the only concern. However, it was proposed that a fixed number of vessels could be allowed on certain agreements and conditions and this was taken as a significant proposition. He opined that continuing in the present way will only increase the hardships people are facing.

S. Zulfiqar Gardezi highlighted the importance of joint platforms like the roundtable and said that releasing prisoners and giving consular access has to be worked out effectively. He gave details of the number of prisoners saying that among the 540 Pakistani prisoners, the majority are fishermen. They are in Indian jails at the moment, despite the fact that a sizable number has been released and around 200 Indians are in Pakistani jails. He mentioned that a judicial committee on prisoners was made to get over problems of inaction and in fact, judges of both Apex courts have started viewing such prisoners from a humanitarian perspective. Regarding the maritime border not being demarcated, leading to inadvertent line crossing, it was reported that action was being taken, a draft was being prepared and meetings were being organized. He further suggested that fishermen from both sides should be called for a meeting together and similar meetings should be organized in Pakistan as well.

Justice (R) Nasir Aslam Zahid mentioned that three minors belonging to Gujarat were in the juvenile jail in Karachi and appealed for their release since their sentence was over. The letters written by them were handed over to S. Zulfiqar Gardezi who offered his complete support and asked for details of travel documents.

Vijayan MJ, at the time associated with *Delhi Forum*, added certain significant insights to the discussion. He referred to an interview of Late Shri Harekrishna, former Chairperson of NFF with Suresh Prabhu, (also former Minister of Environment and Forests and Member of Parliament from Maharashtra) on Loksabha TV. The debate was that if trade agreements could be signed between countries for industries, then similar agreements could also be made possible for the fishing industry. It was also noted that consultations are never held with the fishworkers when big fishing vessels are given permission or license to operate in the Indian or Pakistani seas. This needs to be addressed effectively. Further, Vijayan raised the concerns about high levels of pollution along the coast line not just in India but also in Pakistan. He argued against the setting up of thermal power plants or nuclear plants on the coastline, which cause the worst kind of environmental pollution since they pump hot and contaminated water; and in the case of nuclear plants, they put out waste that can cause radiation in the sea. Observations revealed that even Kutch region will be severely affected with the thermal power projects coming up in the next five years. Chemical industries need not be given access to the coasts when they can operate on any other land. In the case of Mega thermal plants, while cooling mechanisms are available to avoid pumping in hot water into the sea,

big industrial units do not use them to save on costs. After all, the big corporations do not care about such environmental and livelihood protection, since their livelihood is not from the sea.

He also suggested that meetings between fishermen from both sides is extremely important and must be organized at the earliest, where issues need to be addressed including livelihood and industrial fishing.

The “greed” among fishermen for industrial fishing from Gujarat and Maharashtra was also highlighted as an issue, which needs to be recognized and stopped. More importantly, he cited the need for the younger generation among these traditional communities to understand the attachment that fishermen have with water bodies, the basis on which their community is formed.

Iqbal Haider drew attention to the fact that the judicial trend has now changed for the better and trial courts have improved. Fishermen are now given softer punishment. The only problem has been consultation and the preparation of travel documents. He further raised concerns over the fact that the issue of the boats not being returned to the owners has consistently been ignored. Even fishermen tend to forget about their boats since it requires tremendous follow-up capacities to get a captured boat back.

Jivam R. Jungi further said that the boats that are in a good condition should be returned but for those which are ruined, compensation should be paid. Other delegates responded by saying that these details have to be sorted by government bodies, which can be worked towards.

Tapan K Bose, Co-Chairperson and founding member of PIPFPD, moderated the next session, which addressed the key issue of the Sir Creek conflict between India and Pakistan. He focused on the need and urge for a resolution through which both countries could benefit.

Bharat Bhushan, senior journalist and then Editor, *Mail Today* gave a detailed analysis of the Sir Creek issue, in his key note address for the session. He elucidated that Sir Creek is a 96 km (60 miles) marshy wasteland between India and Pakistan in the Rann of Kutch. Some experts believe that the region is also rich in oil and gas, which are to be found below the sea-bed. Sir Creek separates the Indian state of Gujarat from Pakistan's Sindh province.

The dispute primarily involves two issues. The first is demarcation of the India-Pakistan border along the Sir Creek and demarcation of the maritime borders from the mouth of the creek seawards into the Arabian Sea. Once the borders are defined, it would help in the determination of maritime boundaries, which would in turn help determine the limits of the Exclusive Economic Zone (EEZ).

Article 57 of United Nations Convention on Law of the Sea (UNCLOS) was stated, according to which, “The Exclusive Economic Zone shall not extend beyond 200

nautical miles from the baseline from which the breadth of the territorial sea is to be measured.”

The Indian contention on this is that the Sir Creek boundary lies in the middle of the channel, while Pakistan contends that it is situated on the East bank. India cites the Thalweg doctrine in its support, which says that the river boundaries between the two states will run through mid-channel. Pakistan argues that the doctrine is not applicable in this case since it applies to bodies of water that are navigable. India's argument is that Sir Creek is navigable in high tide and the fishing trawlers use it to go to sea. Pakistan contends that it is not navigable as it remains dry most of the year. Bharat Bhushan explained that the very contentious issue has been tangled in polemics. Hence, Sir Creek is the scene of numerous arrests of Indian fishermen who have unwittingly strayed either into the disputed areas or into the territorial waters of Pakistan.

It is believed that the Sir Creek dispute began in 1908, between the ruler of Sindh and the Rao of Kutch over a pile of firewood lying on the banks of the Kori Creek, situated on the east of Sir Creek, which separated the two principalities. The Bombay Government, under British rule, took up the matter and brokered an agreement between the two principalities in 1913 in the form of a map number B-44 which was published in 1914. Map B-44 was subsequently implemented in 1924 in the form of map number B-74, both of which are now referred to as the “1914 Resolution Maps”. Some experts believe that maps B-44 and B-74 differ in their contents. The dispute resurfaced after partition, in 1948. In July 1948, Pakistan raised the issue of the Sindh/Kutch border. It remained dormant for a couple of years but erupted again in 1965. Between April 1965 and September 1965, skirmishes between India and Pakistan were witnessed and events that followed led to full-fledged war between the two countries. After the war, the then British Prime Minister Harold Wilson persuaded India and Pakistan to end hostilities and set up a tribunal to resolve the dispute of Sir Creek. Accordingly, an Arbitration Panel was set up, which published its report on February 19, 1968, and redefined the boundary between Kutch and Sindh. It asked both governments to erect pillars along the newly defined boundary but neither was too enthusiastic about this and, thus, the demarcation remains incomplete till today.

Further, over the years, quite a few natural geomorphic changes have taken place in the region. So, it is believed that the Sir Creek is now somewhat different from the map B-44 published in 1914.

There has been significant progress since 2006-2007 and joint surveys have begun. The Indian Navy conducted a survey to check where the creek is present by checking the pillars.

The two countries also decided to make maps separately and then exchange. It was noticed that most part of the area has the same boundaries for both the countries and the differences are on merely fifty nautical miles.

Bharat Bhushan also stated that industrial interests are not there in this area, and so it could be easily declared a mutual fishing zone and no lines need to be demarcated. He said that cooperative solutions as practiced elsewhere should be adopted. The ongoing attempt at making an agreement between India and Sri Lanka in this context was also mentioned.

It was reemphasized that fishermen from both countries are demanding joint fishing licenses, identity cards etc. for joint fishing to begin, since the border rules are going to get violated because the fish are not adequate. He argued that the problem should not be confused with the land dispute and should be minimized and then solved.

Karamat Ali stated the irony that the issue forces us to think about; saying that the dispute is over a few miles and a large population of the two countries is getting affected. Various instances were cited of promises being made by the governments and many agreements finalized including the Sir Creek issue for which only the signatures were pending but no action has been taken. He asserted that a cooperative solution has to come from the people through proactive citizenship since the governments do not want these issues to be resolved.

Jivam R. Jungi expressed his support for a common fishing ground. He recalled the earlier times when there was no such problem and all these resources were common. However, now, the temporary common line is improper. He explained that Sir Creek to Porbandar, 129 nautical miles is where the border line falls. Usually the border is decided keeping in mind the latitude and longitude, the point where the sea ends which is the land point.

Bharat Bhushan added saying that the only problem coming up here is regarding the *Moohana* since the Peer Senai water is also there.

Jivam R. Jungi asserted that even earlier, demands have been made that 25 nautical miles towards Pakistan and the same towards India can be made a common fishing ground, a free fishing zone and a no arrest zone but this has not been considered yet. Bharat Bhushan suggested that quantity restrictions could be placed to ensure restrictions on industrial fishing. It was argued that a temporary solution would be difficult because fishermen are arrested if they go even a bit towards the other side.

The discussion session brought forward certain vital aspects which also needed to be discussed and taken forward. Tshering Chonzom, associated with the Heinrich

Boell Foundation, India reflected on the day's discussions and said that fishermen do not seem to have a problem with entering each other's fishing zones. However, if fishermen from India go in such large numbers or if Pakistani fishermen come to fish in Indian waters in big numbers, then it is bound to make the other side insecure and could lead to tensions among fishermen. Thus, confidence-building measures between the communities are important.

Nighat Khan, associated with the *ASR women's resource centre* and *South Asian Women for Peace*, Lahore touched on a very crucial aspect, which was related to the hardships faced by the families of men who are caught and the circumstances which the women in the household have to face. She appealed for urgent action to cater to this aspect by all concerned.

Tapan K Bose while highlighting problems among fishermen communities in India, explained situations wherein many of the boat workers are continuing to work as bonded labour since businessmen are buying boats and running it like a business while the traditional fishermen are not getting the opportunity to fish on their own. This kind of relationship with the owner creates a serious problem because then the fishermen are forced to fish until the targets are met. Thus, it is important to resolve this problem and address the concerns of the people while working towards a joint fishing area.

Consolidating the day's discussions, Jatin Desai highlighted the key points that emerged and insisted that an increase in the representation of fishworkers is required in order to build solidarity at every level. He explained that visa regimes create many difficulties, but it is important to take this involvement ahead. It was mentioned that through this meeting certain central issues have come up on the basis of which campaigning can be done for the next few years.

Karamat Ali further suggested that penalties can be put forward for habitual violations. He reiterated that fish is not the only issue and this entire practice of making arrests actually creates more hatred among people. In actuality, the issue is also that the security forces have to catch someone or else would not have anything to report back with. The immediate issue to be addressed was highlighted as that of the fishermen in prisons and their captured boats. He felt that justice was the biggest casualty in this and that timely intervention to redress issues was required from civil society groups and governments alike.

There were several cases cited by Karamat Ali, which reflected the increasing intolerance among government authorities, resulting in them lashing out at their own people. For instance, after the Mumbai terrorist attack, the Pakistani fishermen arrested were tortured and serious complaints have been filed. This needed to be tackled in India since many incidents have been reported and it has affected the goodwill between the fishermen. He argued that fishermen do not need to be treated like prisoners of war and thus, there is a need to address the broader issues.

He supported the idea of cooperative fishing but explained that larger issues could interfere with its formulation and implementation.

Between suggestions for immediate actions and a need to tackle larger issues, the discussions resulted in many pointers towards developing a deeper understanding into the actual problems faced by the fisher people. It was agreed upon that fishworkers must get involved and mechanisms need to be devised for them to participate in policy level decisions. The need for a common fishing agreement between four different countries in South Asia was also discussed.

Anoop Bose, a lawyer, added to the discussion saying that a demand should also be made for a no arrest zone since these people are fishermen, not soldiers and a mechanism for immediate release should also be devised.

Karamat Ali added some suggestions for building solidarity and getting people of the two countries to engage with each other. He explained that whenever Indians are caught and sent to Pakistani jails people from the PFF make regular visits every few months and this is a practice which should also begin in India. Justice (R) Nasir Aslam Zahid added to this saying that civil society in India also needs to take up this issue. It was suggested that in case fishermen are shifted around between jails not as per schedule, then lawyers should be arranged. This would be an important way to make their voices heard and will show that Pakistanis and Indians are meeting and making the effort to make peace. It was proposed that meetings like these could also be opened for press coverage, since that will help highlight the issue in the media in both countries.

Adding on, Justice (R) Nasir Aslam Zahid highlighted the importance of making an action plan for taking these issues forward. Karamat Ali said that collective efforts by people, like in 1994, when PIPFPD was formed, should be the proactive response to the situation.

Varsha Rajan Berry, associated with *Focus on the Global South - India and South Asians for Human Rights* (SAHR) agreed that building solidarity is important and similar efforts are urgently required in India.

Tapan Bose gave the concluding remarks to the session, saying that one of the basic problems on both sides is that of establishing the identity of fishworkers. Requests are sent to Pakistan from India and vice versa, but the entire proceedings relating to establishing identity of prisoners takes anything between six months to sometimes several years. He suggested that unconditional release of fishworkers who are only charged with violations like trespassing the national boundaries could also be demanded, since these people are not smugglers or terrorists.

It was asserted that it is important for fishermen from both countries to pressurize the respective governments. Demands must be made to the MPs and MLAs for them to take this issue to the parliament/senate and state assemblies for debates. Policy

changes take a long time and the wait could have dampening impacts on the peace process. The meeting ended on the note that the voice has to come from the people and a sustained campaign definitely needs to be worked on.

List of Participants:

Anoop Bose, Lawyer

Bharat Bhushan, Senior Journalist and Editor, *Mail Today*

Bharat D. Modi, Porbandar Boat Owners Association.

Dr. Farhat Nasir Zahid, Committee for Welfare of Prisoners, Pakistan

Dr. Lena Ganesh Activist and Researcher

Haris Kidwai, *Pakistan India People's Forum for Peace and Democracy (PIPFPD)*

Iqbal Haider, Senior Political Activist, Advocate at the Supreme Court of Pakistan and former Law Minister

Jatin Desai, Research Associate with the *Focus on the Global South* and a senior journalist

Jivam R. Jungi, Ex- President of Porbandar Fishermen and Gujarat Fishermen Association

Justice (R) Nasir Aslam Zahid, Chairperson, *Committee for Welfare of Prisoners*, Pakistan and member, *India-Pakistan Judicial Committee on Prisoners*

Karamat Ali, *Pakistan Institute for Labour Education and Research (PILER)*, *Pakistan Fisherfolk Forum (PFF)*

Kuldip Nayar, Veteran Journalist and renowned Peace Ambassador for Indo- Pak relations

Laxman Bhai Charaniya, Ex- President Diu Fishermen Association

Mahesh Bhatt, Filmmaker & Peace activist

Matanhy Saldanha, Senior Political Activist and Chairperson of *National Fishworkers' Forum (NFF)*

Nighat Said Khan associated with the *ASR resource centre* and *South Asian Women For Peace*

Ramaswamy R. Iyer, *Centre For Policy Research* & Former Secretary, Water Resources, Government of India

S. Zulfiqar Gardezi, Deputy High Commissioner, High Commission of Pakistan, New Delhi

Sonila Swaminathan, *Focus on the Global South*

Sukumar Muralidharan, Senior Journalist associated with the *International Federation of Journalists*

Sunil Devshi Gohel, Director, Gujarat Fisheries.

Tapan K Bose, Co- Chairperson and founding member, *Pakistan India People's Forum for Peace and Democracy (PIPFPD)*

Tshering Chonzom, Programme coordinator, *Heinrich Boell Foundation (HBF) India Office*

Varsha Rajan Berry associated with *Focus on the Global South, India and South Asians for Human Rights (SAHR)*

Vijayan MJ, *Delhi Forum, NFF & PIPFPD*

F. Report of the visit to coastal areas of Gujarat & Diu, Meeting fishworkers and their families September 17-19, 2011

It was for the first time in the history of independent India that a joint delegation of legal luminaries and activists from India and Pakistan visited the coastal Saurashtra region of Gujarat and Diu, a Union Territory, from September 17 to 19, 2011. The delegation included Justice (R) Nasir Aslam Zahid, Chairperson, *Committee for Welfare of Prisoners*, Pakistan and member, *India-Pakistan Judicial Committee on Prisoners*; Iqbal Haider, Senior Political Activist, Advocate at the Supreme Court of Pakistan and former Law Minister; Karamat Ali, *Pakistan Institute for Labour Education and Research* (PILER), *Pakistan Fisherfolk Forum* (PFF) and Jatin Desai, then a Research Associate with the *Focus on the Global South* and a senior journalist. Gujarat has a huge coastline of 1600 kms and thousands of fishermen and their families are dependent on fishing, many of which are from Kharva and Koli traditional fishing communities. The fishermen from Saurashtra go to mid-sea to catch fish as the nearer areas in sea do not give them either a quality catch or catch in big quantities. Over the years they have to go far deeper into the sea, due to multiple factors that have led to the depletion of marine resources on the Gujarat coast.

While observing the change in the situation over the years, it was noted that even after partition of the two countries in 1947 and the 1965 war, there were no major cases of fishermen arrests and a maritime border between the two countries was not recognized. Moreover, in case of any arrests, there was not much delay in the release. The situation got aggravated post the 1980's when arrested fishermen were increasingly kept in prison for longer years. However, even in those circumstances, the release of trawlers was ensured. In the 1990s Pakistan decided to not return Indian fishermen's trawlers with the intention that it will prevent Indian fishermen from entering into Pakistan's territorial waters. India also tried to follow the same procedure but that was also not a deterrent since the economic prospects of fishing in one's own territorial waters declined drastically during this period.

As on the date of the discussions, around 530 Indian trawlers were lying in Pakistan and about 220 Pakistani trawlers in India. The observations made in 2007 were shared when a delegation of Indian Boat Owners visited Karachi and other areas of Pakistan to survey the number of trawlers in usable conditions. They found that out of the confiscated trawlers, little less than half could be used with some repair work. It was an official delegation but no action could be taken even regarding the usable trawlers. Over the years, it has become clear that arrested fishermen also become pawns in the hands of governments of both countries and much of these arrests and releases happen arbitrarily, at the whims of executive decision-makers.

The arrest of Indian and Pakistani fishermen has become a major issue and it is now recognized by both the governments, since the issue is of livelihood and humanitarian concerns. No fisherman wishes to go to deep sea to get arrested and languish in another country's prison for an indefinite period but, the harsh reality of existence compels them to go to mid sea. The resolution of the Indian and Pakistani fishermen issue can and will strengthen the peace dynamics in the region as it will be the biggest Confidence Building Measure (CBM). Sir Creek is under dispute and if resolved can bring down the number of arrests. Indian and Pakistani governments have recognized this and it is one of the issues taken under Composite Dialogue (CD) as well.

The civil society in both countries has been playing a major role which has definitely made an impact. Pakistan released 442 Indian fishermen in the first week of September 2011. It was for the first time that fishermen were released in such large numbers and this was made possible because of the intervention of the Supreme Court of Pakistan and Pakistani activists. Subsequently, India also released around 150 Pakistani prisoners including fishermen because of the significant role played by Indian activists.

The highlight of the visit was felicitation of the team members, as an expression of gratitude by the fishworkers in the villages. The role played by such groups from both sides has always been appreciated by the fisher people.

One of the most significant aspects of the visit was the meeting with Mr Patni, Fisheries Commissioner, Ahmedabad during which updates about the situation were discussed. The meeting was also attended by representatives of fishworkers, boat owners and exporters. Mr Patni highlighted the kind of efforts that have been made till now and said that insurance has been provided for every fisherman in Gujarat. He elaborated on the status of systems for boats and that big boats are not allowed to catch fish within five nautical miles from the Gujarat coastline. He mentioned that though all the trawlers of Gujarat have a Global Positioning System (GPS), there are situations where it becomes difficult to control a trawler even after it gives a signal of entering into another country's water. It was agreed upon that a humanitarian approach would be required while dealing with fishermen and their families and the circumstances that they have had to face. Suggestions made by him included the need for the respective countries to put up the details of arrested fishermen on the website as that would make it convenient for the fishing community and especially, the families of fishermen to know about the arrest. He also suggested that in cases where there is consistent violation by crossing another country's maritime border, the cancellation of licenses could be the mode of punishment. Another issue he pointed out was the absence of a nodal Fisheries ministry at the Centre, that it is the Agriculture Ministry that handles the issue currently.

In response to Mr Patni's comments, Mr. Karamat Ali said that while the issue is

diplomatic in nature; it is affecting the lives of fishermen. On both sides, it is the fishermen who face hardships and a humanitarian approach is definitely required to resolve the issue. He asserted that there is a dire need for a curb on licenses issued to big companies to catch fish since that is aggravating problems for fishermen. Over the years, granting licenses to small, traditional fishermen has lost focus. It was suggested that 50 nautical miles could be declared as a Joint Co-operative zone and a clear statement could be issued to both the governments to not give licenses to big companies for fishing in this zone.

Within three days, the team covered the area extensively and met hundreds of fishermen and their family members. The visit to Rajkot, a major city in the Saurashtra region, on the way to Diu from Ahmedabad was of special significance since the interaction there was primarily with socio-political activists and people working with the media. The issue of other prisoners was also discussed. A few cases were brought to the notice of the team about other prisoners in Pakistani jails and the Pakistani delegation assured the family members that action would be taken.

Many people came all the way from Kutch to meet the Pakistani delegation with high expectations that something would be done about their relatives serving prison terms in Pakistani jails. In many cases, the prisoners had completed their sentence but were yet to be freed. While mentioning that there were many such cases, they highlighted one special case - that of a shepherd, Jusaq Sadiq, a resident of Khavda, bordering Pakistan, who was grazing his cattle in the border area but within the Indian territory and was arrested when he went behind his cattle which loitered into the Pakistani area. He was convicted by the Vth Civil & Judicial Magistrate on October 7, 2010. After having completed his sentence and as per the order of Judicial Magistrate, South Karachi dated October 19, 2010 he was supposed to be deported to India within three months, but is still languishing in the Pakistani prison. The residents of Kutch also said that there are few Kutchis in Pakistani prisons who had entered Pakistan by mistake. The delegation assured them that they will pursue the matters, once back in Pakistan.

On the morning of September 18, 2011 a meeting with fishermen and their families was held at Diu. More than 1500 people were present and around 75 per cent of them were women. As the fishing season started few days ago, many male members were not present. The Deputy Collector of the District also attended the meeting and the fishing community felicitated Pakistani and Indian activists. A large number of women came forward with their cases and almost each one of them had a similar story where a close family member had been imprisoned. They explained the difficulties that the families have to face when the person arrested is the main breadwinner of the house. An appeal was made to the delegation to consider their problems and put an end to the long years of imprisonment for fishermen. The meeting lasted for some hours and was a charged one with emotions running high.

After a point, the delegation found it difficult to give satisfactory responses to all the complaints and grievances. The situation depicted to the team the apathy of the state authorities, which never held such hearings with families of affected persons, on either side.

The team also went to Veraval, where another meeting was held with fishermen and their families. Around a thousand people had gathered but they had to wait since there was a huge delay in the arrival time of the team due to the long distance and bad road conditions. Their condition was similar to that of the various other families that the team had met. Karamat Ali in his response to the villagers shared that the condition of the families of the arrested fishermen in Sindh, Pakistan is no different.

Another meeting was organized at Mangrol before reaching Porbandar. Here again, more than 1500 members of the fishing community were present at the venue. The Pakistani delegates expressed their solidarity and said that there is a need for people on both sides to stay united in this struggle for justice. The Indian and Pakistani fishermen unions were also urged to meet regularly and discuss the issues they were faced with.

Two different meetings were held in Porbandar between September 18 and 19, 2011. Porbandar has a sizeable population of fishermen and boat owners and their respective organizations are quite strong in this region. They have a solid network and are connected with fishermen and their families living in the villages. In case of any problem at sea, they are the first ones to take action. Separate large meetings were held with the two categories of fishers – traditional small-scale fishers and the boat workers/owners.

The boat owners expressed their problems and stated that around 520 Indian trawlers are in Pakistan. An official delegation which visited Pakistan in 2007 did a survey of the trawlers and came to the conclusion that around 200 were in usable condition after doing some repair work. However, there is no follow up of that because of which all the trawlers are still in Pakistan. It was emphasized that the process for sending trawlers to the respective owners in the two countries should be pushed, since the peace process has been re-initiated.

According to the boat owners, each trawler costs between 30-35 Lakh Indian rupees. It was also reiterated that when trawlers are confiscated, it gets very difficult for the owners to repay the loans taken for the trawlers. As a norm, banks do not give loans for buying trawlers since it is officially counted in the 'risky investment' category. Many a times, the fishermen take loans from family members or from private money lenders at high interest rates than those prevalent in the market and this requirement for paying up the loans forces many of them to go to deep sea and sometimes cross borders. This pressure increases when the boat is confiscated or capsized and this has been the main reason behind many cases of suicide.

It was pointed in the meeting that the impression about trawlers being owned by people from the business community needs to be rectified. It was noted that the people from the fishing community in this area are the owners of all the trawlers. Though many boat owners live in Porbandar town, it is far from being a rich township. The livelihood of most of the citizens of the town depends on the fishing industry.

Few leaders of the community like Bharat Modi, Veljibhai Masani, Jivam Jungi, Sunil Gohel and others explained that the fishermen have no option but to go deeper into sea which is towards Pakistan. Some years ago, fishermen used to go to the sea and return with a big catch in 6-7 days, but now they take at least 12- 13 days to return with a decent catch. This is happening primarily because of industrialization and the spread of chemicals in the coastal region leading to high levels of pollution. It was mentioned that the heavy industries situated along the coastline in the Saurashtra and Kutch region, along with drastic climate change in the entire region are the real culprits.

Wherever the delegation went, they were told narratives of the difficulties that the fisher people have been facing. Women attended these gatherings in large numbers outnumbering the men folk most of the times. One practical difficulty was that the fishing season had just started and many men were in the sea or getting ready to go to sea. It was also noted that, certain things like drying of fish and repairing of nets are mainly done by women and when the men are arrested, their work gets affected and they suffer the most. Despite all these factors, the delegation felt that since these women work by themselves, they are equipped and prepared for direct confrontations with officials.

Meeting with fishermen and their families reflected the gravity of the situation. Though these fishing communities are sizeable in number, it was evident that they lack the political bargaining power. They do not have much political representation in the state legislature and parliament, and hence their issues have not been politicized effectively. It was noted that, a similar situation prevails in case of fishing communities of Pakistan.

A plan of action was envisioned, the basis of which were the following.

- Fishermen arrested on the maritime border must be released while at sea after completing legal formalities.
- Trawlers must not be confiscated and in case they are confiscated, they should be released along with the fishermen.
- A petition should be filed in the Supreme Court of Pakistan for the release of the confiscated trawlers.
- Regular meetings between Indian and Pakistani fishermen must be organized.

- An Indian delegation should visit Pakistan's coastal areas and meet fishermen and their family members.
- A joint co-operative fishing zone and an Economic Co-operation Agreement by both countries would be needed.

III.

What's on PRINT...

A compilation of articles on arrest of fisher people and the need for a permanent mechanism to resolve the crisis

A. Analysis

Tulbul, Sir Creek and Siachen: Competitive Methodologies

Bharat Bhushan

South Asian Journal, No.7
January- March 2005

<http://safma.net/article.php?artID=25>

The resolution of the disputes over Tulbul Navigation Project/Wullar Barrage, the Sir Creek boundary and the Siachen conflict can help change the parameters of India-Pakistan relations, enabling them to move forward on the more difficult issue of Kashmir. That this is not an impossible task has been evident for quite some time. But the two neighbours have been engaged in such one up-manship that nobody wants to give an inch even if the consequent peace dividend is evident.

India and Pakistan have, in the past, come fairly close to agreements on the Tulbul Navigation Project/Wullar Barrage dispute and the Siachen conflict. Just as nations deserve the political leadership they get, they also inherit their lack of vision from one generation to the next. Besides, successive weak governments in Islamabad and New Delhi have been forced to retreat from possible solutions lest they are seen as compromises. Only strong and popular governments can give concessions and be sure that they are not seen as compromising the national interest.

In a sense this article presents virtually nothing new. What it does, however, is to put together the various aspects of three of the less intractable disputes between the two countries and suggests not specific ways of resolving them but of surrounding them with measures to build confidence thereby making them amenable to resolution.

I. The Tulbul Navigation Project/Wullar Barrage Dispute

This dispute is over the Indian proposal to construct a barrage on the Jhelum River downstream from the Wullar Lake in Jammu & Kashmir. The project itself, in a sense, goes back to 1912. The then government of Punjab had approached the

Maharaja of Kashmir seeking permission to construct a barrage on Wullar Lake. In 1924, the Punjab government renewed the proposal offering Rs. 1.85 lakh as annual royalty. The Maharaja, however, rejected the proposal as he was apprehensive that the construction of the barrage might lead to water-logging in Sopore and Baramulla.

The current dispute, though, arises from Pakistan viewing the construction of a barrage on the Wullar as a storage work. Islamabad refers to it as the Wullar Barrage dispute while India, which sees the project as an attempt to make the Jhelum navigable, calls it the Tulbul Navigation Project. The name Tulbul comes from a village at the western tip of the town of Sopore, although when the project was started by India in 1980 the site was shifted to Ningli, on the eastern side of Sopore which was nearer to the Wullar.

Pakistan's contention is that a barrage at the mouth of the Wullar is a contravention of the Indus Water Treaty. The 1960 Treaty assigned the unrestricted use of the eastern rivers of the Indus basin (including Beas, Ravi and Sutlej) to India and of the western rivers (including Chenab, Indus and Jhelum) to Pakistan.

It, however, permitted India the limited use of the western rivers for domestic and agricultural use, run-of-the-river hydroelectric generation and any non-consumptive use that did not diminish the water flow to Pakistan. The Treaty also permitted India limited storage of water of the western rivers -- a general storage capacity of 300,000 acre feet on the various channels of the Jhelum (excluding Jhelum Main) and 10,000 acre feet on the Jhelum Main itself.

Controlling water for navigation is a permissible activity under the Indus Water Treaty. The Indian position is that the Tulbul Navigation Project is neither an act of storage nor of impounding the waters of the Jhelum, but of controlling the flow for navigation. The project would leave the volume of water flowing to Pakistan intact. India maintains that the project would, in fact, help regulate the water flow in the Jhelum and would benefit power projects downstream both in the Indian side as well as Pakistani side of Jammu & Kashmir.

The problem of navigation in the Jhelum arises in the lean season from October to February. During this period, the flow of water in the river is 2,000 cubic feet per second and its depth is about 2.5 feet. This cannot support navigation. Around the year navigability requires double the flow and depth -- hence the barrage that would make the river navigable from between Sopore and Baramulla.

The work on the barrage began in 1984 but was stopped in 1987 by the Rajiv Gandhi

government after Pakistan protested. Many in India believe that stopping construction was a mistake and that the decision was taken by Rajiv Gandhi to please Benazir Bhutto. Since then there have been ten rounds of secretary-level talks between India and Pakistan to settle the Tulbul/Wullar Barrage dispute bilaterally. The last round was held in the first week of August, 2004. Although matters have not proceeded apace since then, the basic draft agreement on the dispute had been arrived at in October 1991.

Initially, the barrage was to be gated. After Pakistan's objections, it was decided to un-gate it. This is reflected in the stipulations of the 1991 draft agreement. In the agreement the two sides agreed that: (a) India would keep 6.2 meters of the barrage un-gated with a crest level at EL 1574.90 metres; (b) India would not make any alteration in the salient features of the project without mutual agreement between the two countries; (c) India shall forego the general storage capacity of 30,000 acre feet out of the provision permitted to it on the Jhelum (excluding Jhelum Main); (d) in return for this, the water level in the barrage will be allowed to attain the full operational level of 5177.90 feet -- the timing of the filling of the lake will be decided by the two Indus Water Commissioners and, should they fail to reach an agreement, the filling of the lake would be between June 21 and August 20; (e) except for the stipulation regarding the filling of the lake, India would let all the waters entering the Wullar Lake downstream; and (f) all differences will be settled under the provisions of the Indus Water Treaty.

Later, in addition to the above, Pakistan demanded that India forego the construction of the 390 MW Kishenganga hydroelectric project. Its argument was that this project would affect Pakistan's proposed Neelum-Jhelum power project. New Delhi did not give any such commitment. The 1991 draft was reproduced verbatim in the non-papers handed over to Pakistan by India in 1994. During the 1998 composite dialogue, the Pakistani delegation had apparently insisted on starting the talks afresh but then agreed to pick up the threads from the 1991 draft.

By the time the latest round of talks took place in August 2004, the Pakistani position seems to have hardened with Islamabad insisting that India gave up the project. New Delhi is of the view that there are two reasons for this: One, Pakistan has decided that no deviation from the Indus Water Treaty was acceptable to it; and two, wherever Pakistan can prevent India from taking up a project in Jammu and Kashmir it has decided to do so as a signal to the Kashmiris that Islamabad can exercise a veto.

II. Boundary Dispute along the Sir Creek

Whenever India and Pakistan begin to normalise ties, they begin by releasing fishermen and fishing boats seized by them for crossing over into their respective territorial waters. These fishermen and their boats are seized along the un-demarcated border of the Gujarat Coast.

This dispute of an un-demarcated boundary along the Arabian Sea and the Rann of Kutch straddling Pakistan's Sindh province and the Indian state of Gujarat is not limited only to fishermen and fishing. In August 1999, a Pakistani Atlantique surveillance aircraft was shot down by the Indian Air Force in the Rann of Kutch. New Delhi claimed that the Atlantique was on a spying mission and had violated India's airspace. The ten sailors and six crew members on board the aircraft died. India claimed that the debris fell two kilometres within its territory and Pakistan made a contrary claim. However, as it turned out, it actually fell on both sides of the border.

The next day when the Indian Air Force tried taking a group of journalists to the site where the debris had fallen, Pakistan apparently retaliated by firing on the Indian helicopters ferrying the media personnel. Pakistan's claim was that its ground-to-air missiles were aimed at the Indian fighter jets accompanying the helicopters which were apparently in violation of their airspace. The shooting down of the Atlantique was taken by Islamabad to the International Court of Justice. The verdict eventually came in India's favour i.e., the court accepted that India was justified in shooting down the intruding aircraft.

There is both an international border as well as an un-demarcated border in the Rann of Kutch between India and Pakistan. The incident of the Atlantique surveillance aircraft being shot down took place over the clearly demarcated international boundary -- to the north-east of the un-demarcated one. The 1965 India-Pakistan war also began in the Rann of Kutch.

The Sir Creek dispute, as the name indicates, is about the un-demarcated boundary because of the claims and counterclaims of India and Pakistan. The dispute is about a tidal channel called Sir Creek -- a 38 km estuary in the marshes of the Rann of Kutch. The boundary along this tidal channel between India and Pakistan has not been delimited.

There are two issues involved in the dispute -- the delimitation of the boundary along the creek and the demarcation of the maritime boundary from the mouth of the creek seawards in the Arabian Sea. The dispute is complicated by Pakistan

linking its resolution with the Kashmir issue and its refusal to separate the resolution of the land boundary along the creek from demarcation of the maritime boundary. Without demarcating the maritime boundary, neither India nor Pakistan can exploit the ocean resources in its Exclusive Economic Zone (up to 200 nautical miles). As this area adjoins Bombay High where India has been exploiting sub-sea oil and gas deposits, there is some expectation of similar reserves in the adjoining disputed area.

Legend has it that the Sir Creek dispute began much before Indian independence in 1908 between the ruler of Sind and the Rao of Kutch over a pile of firewood lying on the banks of Kori Creek to the east of Sir Creek, which divided the two principalities. The dispute was referred to the British government in Bombay which gave its ruling in 1914 through a resolution which had a map attached to it. Up to the 1960s, the dispute remained unresolved but was dormant. Then Pakistan began claiming that half of Rann of Kutch along the 24th parallel belonged to it. The 1965 war that began in the Rann of Kutch followed this claim. The boundary dispute was referred to the India-Pakistan Western Boundary Case Tribunal. The tribunal was chaired by a Swedish judge, Gunnar Lagergren and comprised two others -- Ales Bebler of Yugoslavia (Indian nominee) and Nasorallah Intezam of Iran (Pakistan's nominee).

The two sides agreed before the tribunal that their dispute should be limited only to the boundary to the north. There was some agreement on the boundary to the south, which began at the head of Sir Creek and moved eastwards along the 24th parallel. India claimed that after moving eastwards for a short distance, the boundary turned sharply north at a right angle to meet the northern boundary of the Rann. Pakistan, on the other hand, claimed that it went on straight eastwards along the 24th parallel. The tribunal gave its award on February 19, 1968. It rejected Pakistan's claim that the border between Gujarat and Sindh should run roughly along the 24th parallel beginning at the head of Sir Creek, moving eastwards from there. This would have involved dividing the Rann in the middle and transferring about 3,500 sq miles of territory from India to Pakistan.

The tribunal upheld India's claim that the boundary line from the head of the Sir Creek went a short distance eastwards, then turned northwards at a right angle and then ran along the northern edge of the Rann (see map at the end of the article). This northern edge had also formed the boundary between the British Indian state of Sindh and the Kutch state before 1947. As a result of the tribunal broadly accepting the Indian contention, only about 300 sq miles of territory was awarded to Pakistan. The decision was accepted by both India and Pakistan.

This still left the boundary of the Sir Creek -- from its head in the marshy lands of the Rann to its mouth in the Arabian Sea -- and the maritime boundary between India and Pakistan un-demarcated. India and Pakistan had agreed not to refer this part of the un-demarcated boundary for adjudication to the tribunal. Because of this understanding between the parties, the tribunal had noted that it had not taken into consideration the boundary along the Sir Creek.

The dispute has festered since then. As a result, it is not possible for India and Pakistan to distinguish between their territorial waters (the zone up to 12 nautical miles, where states enjoy exclusive rights and can restrict passage of foreign boats), their contiguous zones (up to 24 nautical miles, where states can enforce custom and fiscal laws, fisheries laws and ban acts prejudicial to the state) or their Exclusive Economic Zones (up to 200 nautical miles extendable to 350 nautical miles for countries with continental shelf).

Pakistan's contention is that the boundary along the Sir Creek must lie along the eastern edge of the creek. India believes that the boundary should be along the middle of the creek; that it should be demarcated using the 'thalweg' or the mid-channel principle ('thal' - valley, 'weg' - way). The 'thalweg' principle lays down that boundaries along a river or a valley must lie along the line connecting the deepest points along a river channel or the lowest points along the valley floor. The case for a mid-channel boundary is based on the Sir Creek being a navigable channel throughout the year. Pakistan's contention is that the creek is not navigable and, therefore, the mid-channel principle does not apply.

India and Pakistan both refer to the 1914 resolution of the Bombay government about the dispute between Sindh and Kutch over the Kori Creek and the map attached to it. The map shows a green line running along the eastern edge of Sir Creek on the Kutch side and Pakistan claims that this was the boundary between Sindh and Kutch. This was the map that India had relied on prior to the constitution of the India-Pakistan Western Boundary Case Tribunal.

However, in 1958 Pakistan had itself admitted that this map was 'intended no more than an annexure to the Bombay Government resolution'. This resolution, according to veteran lawyer and analyst A. G. Noorani, has a reference to the Indian government's 'sanction' on November 11, 1913, of the Kutch-Sindh compromise over Kori Creek, which had been spelt out by the Bombay government in a letter of September 20, 1913. The letter referred to the line on the attached map 'from the mouth of Sir Creek to the top of Sir Creek.'

The letter also quoted the Sindh Commissioner as saying, '... the Sir Creek changes its

course from time to time and the western boundary of the area, which it is proposed to surrender to the Rao [of Kutch] should, therefore, be described as "the centre of the navigable channel of the Sir Creek".' This is seen as support for the Indian contention. The Secretary to the Bombay government commented on this, saying: 'I am to explain that the term 'navigable' is really inappropriate in the larger sense. The creek is, of course, tidal, and it is only at certain conditions of the tide that the channel is navigable and then only to the country craft as the point from which the proposed boundary turns due east from the creek.' Noorani concludes, 'This is not a rejection of the Sindh Commissioner's condition but essentially an acceptance of it.'

Today, the Sir Creek does not flow as shown in the 1914 map. It has shifted westwards i.e., towards Pakistan. However, the head of the creek, as it existed then, is marked by a boundary pillar, called Western Terminal -- it was from this point that some 38 pillars marked the horizontal boundary eastwards. Pakistan neither recognises the existence of the Western Terminal nor the pillar-based horizontal boundary eastwards. Pakistan's contention is that the eastward boundary should be based on the dotted line as drawn in the 1914 map. This line is below the boundary marked by the pillars. The contentious question is: What should be recognised -- the pillars on the ground or the line on the 1914 map? In the current climate, neither country is willing to concede territory.

So the dispute remains where it was -- with Pakistan insisting on the left bank of the creek and the dotted line on the 1914 map as the boundary and India insisting on the mid-channel of the creek and the pillars to the east as the boundary.

Meanwhile, under the UN Convention on Law of the Sea (UNCLS) both countries have to bring their Maritime Zone laws in consonance with it by defining their baseline points to define their maritime boundary and its co-ordinates have to be deposited with the UN. Islamabad has, in an attempt to define its maritime boundary along the eastern edge of the Sir Creek in the 1914 map up to a point on an Indian low tide elevation. This would allow Pakistan not only to claim the Sir Creek entirely but even the Pir Sinai Creek to its east. This would not be acceptable to India and this claim is likely to be protested against.

India also has to deposit its baseline point co-ordinates with the UN. Once it does so, Pakistan may also object to the manner in which India defines its baseline point. There would be no way out but bilateral negotiations, provided for in UNCLS to sort this out. Why is this of any significance? Although the area under dispute along the Sir Creek is estimated to be only about six to seven square miles, it also involves as much as 250 sq. miles of ocean and ocean floor. If the boundary was moved by, say,

one kilometre along the coastline, it could translate into the loss of a few hundreds of square kilometres of the Exclusive Economic Zone in an area which could be rich in oil and natural gas. The issue, therefore, not only concerns land claims but also sub-sea resources. Both Indian and Pakistani experts believe that the Sir Creek dispute is amenable to a solution. But their governments have been intransigent and there has been no real progress on the ground.

There are two simple ways of increasing cooperation between India and Pakistan in the Sir Creek area: One, by decreasing the area in dispute by settling those parts which are easier to resolve and leaving the more intractable parts for later; two, by leaving the boundary question aside for the time being and exploring cooperation in the non-boundary related areas which would have a direct and fruitful bearing on the disputed area in the long run.

To reduce the area of the dispute, India has proposed the median or the equidistant method where the demarcation of the maritime boundary would begin from the seaward side. This would involve taking a point 200 nautical miles from both Indian and Pakistani coasts and moving the point forward by drawing an equidistant line towards the coast. This series of equidistant points or equidistant line can move up to an agreed point towards the coast -- perhaps 50 nautical miles from the coast. This would help demarcate the boundary along the better part of the Exclusive Economic Zone of the two countries and leaving the boundary near the coast undefined for the time being (see map at end of article).

This proposal has not been accepted by Pakistan. If the equidistant principle is not accepted by Pakistan, India may even be willing to take its baseline point on the coast and the Indian baseline point and use the triangulation method to mark the boundary up to a certain mutually acceptable distance (say, 50 nautical miles once again) and narrow down the differences on the maritime boundary.

The second way out, some experts have suggested, is to temporarily set aside the boundary dispute and explore cooperative ventures in the region. The fishermen's unions in Gujarat and Sindh have suggested licensed joint fishing with quantity restrictions. They point out precedents for sharing border resources. The fish in Lake Victoria breed in the territorial waters of Kenya but then go off to Ugandan waters but this fact can be used to prevent the Kenyan fisherman from access to this resource, they point out. India and Sri Lanka have already agreed to declare their border fisheries a joint resource. The joint fishing licenses that the fishermen's unions of Sindh and Gujarat in India suggest could be photo-identity cards issued by the coastguards and the fishermen's unions jointly on either side. This would

prevent unnecessary harassment of fishermen whose unions, in fact, enjoy excellent fraternal ties.

Some experts have also suggested that, since the marine environment of India and Pakistan along the Sindh and Gujarat coasts are closely linked, the two countries could conduct cooperative environmental studies and share data. These could, for example, relate to oil spills or preservation of mangroves.

Oil spills in this region are bound to go up over time as it is estimated that by the year 2007 nearly 50 per cent of India's oil imports would be through ports along this coast. In 2002, when an oil tanker broke near Karachi Port, the first thing that the Pakistani authorities did was to inform India of the oil spill and the danger it may pose to its marine environment. Pollution caused by oil and heavy metals seeping into the sea from ship-breaking activities have damaged marine life and also caused environmental concern in this area. The loss of coral reefs and mangroves due to pollution along the Gulf of Kutch has led to cyclones hitting the mainland with undiminished fury. Experts have also suggested that India and Pakistan should jointly study the threats to these mangroves and coral reefs. A mechanism for carrying out these studies already exists under the South Asian Seas Action Plan of which both India and Pakistan are signatories.

III. The Dispute over 'Mountain Rose'

Siachen is the world's highest battlefield with gunfire being exchanged at 16,000 to 20,000 feet above sea level. Nine out of ten deaths on the Siachen are due to climate with only one being combat-related. It is no wonder then that the Siachen dispute between India and Pakistan is described as one of the most futile and wasteful in the world both in material and human terms.

The defence secretaries of India and Pakistan have met eight times to discuss the Siachen dispute in an attempt to resolve it -- their last meeting being in August 2004. Twice the two sides came close to settling the dispute but the political climate was perhaps not right to reach a settlement. The solutions proposed include demilitarisation of the glacier and of creating a 'Zone of Disengagement'. However, mutual lack of trust has prevented a resolution of the dispute.

Siachen invokes strong passions in both India and Pakistan. It is the stuff of legends. It was for the brand rub-off offered by it that former Defence Minister of India George Fernandez visited the Glacier often on New Year's Eve or Christmas. For most Indians Siachen, symbolises unparalleled gallantry, bravery and a commitment to protect national interest. This was why the nation was shocked to know that last year some

army officers had fabricated video evidence of fake encounters with Pakistani soldiers in the Siachen area to secure gallantry awards.

Pakistan's President General Pervez Musharraf's 'Siachen consciousness' is also very high. In September, 1987, as brigade commander of the Special Services Group, he was responsible for leading an attack on an Indian position at Bilafond La, one of the two main passes on the Soltoro ridge (the other being Sia La - 'La' means a mountain pass) to the Siachen Glacier from Pakistan-administered Kashmir. His forces had to retreat. Having also served as Pakistan's Commander of Northern Areas, he knows the Siachen dispute intimately.

Although the boundary dispute between India and Pakistan in this region is referred to as the Siachen dispute, the Siachen Glacier is in fact under Indian control. There is no battle raging on the glacier itself. Indian soldiers sit on the Soltoro ridge to the west of the Siachen Glacier (see map at end of article). Between the Pakistani forces and the Glacier, therefore, there are high mountain peaks controlled by India.

The Siachen Glacier flows in the valley formed by the Soltoro ridge to its west and the Eastern Karakorams. It is about 72 km long from its highest point at Indira Col to its snout. It gets its name from the wild mountain roses that grow near its snout. Siachen is the source of the Nubra River that meets the Shyok River, originating from the Eastern Karakorams, at Thoisi. Later, it feeds into the Indus.

Militarily, the Siachen Glacier can be divided into three parts. The Northern Glacier is the most difficult, containing the highest peaks. The Central part is where the glacier is broadest -- up to 20 km wide and this is where India has its Kumar Post from where expeditions are launched to the various Soltoro peaks. The Southern Glacier is narrow -- only four to five km wide. Helicopters maintain the entire Northern and Central Glacier while ponies and porters supply the Southern Glacier. There are stretches of a fair-weather road that also services the glacier.

The Indian army has taken 105 mm field guns to the glacier to support the peaks. They had to be knocked down for transport and reassembled. They are deployed at the lower end of the Northern glacier and in the Southern glacier. The Base Camp has 130 mm and the Bofors 155 mm guns. The difficulty in using field guns on the glacier arises from shifting ice which moves by about two inches a day in winters and 10 to 20 feet a day in summer. Registering a target and using the calculations to shoot after even a couple of days will not guarantee a hit because of shifting gun positions. At present three battalions of the Indian army are deployed in the Siachen region -- one each in the northern, central and southern parts of the glacier. At any point of time three

battalions are deployed, three are in training and three awaiting orders. The soldiers manning the observation posts on the Soltoro and the camps have to be relieved every 30 days to three months.

The estimates of the costs of hostilities on Siachen vary. Lt. General (Retd) V. R. Raghavan in his definitive work 'Siachen - Conflict without end' says: 'No one has an accurate assessment, but everyone has a figure to quote and a point to make.' Without endorsing any estimate, he quotes cost figures ranging from US \$ 1.2 million per day for both India and Pakistan; US\$ 1.94 million a day for India alone; and Rs. 2.5 crore to Rs. 6.5 crore for India alone to US\$ 18.5 million a day for Pakistan and thirty times that for India. Pakistan's former foreign secretary Shaharyar Khan once said that the cost of a roti (bread) for a Pakistani soldier posted in that region is more than Rs. 450. George Fernandes told the Indian Parliament that Siachen costs the exchequer Rs. three crore per day.

The Siachen dispute originated because the boundary in Jammu & Kashmir, after the Karachi Agreement of 1949, was not fully demarcated. A ceasefire line (CFL) on the map ended at a grid point with co-ordinates NJ-9842 on the Soltoro ridge. This was near the northern-most point where troops were deployed when the fighting ended in 1948. Although the CFL subsequently changed into the Line of Control (LoC) after the Simla Agreement of 1972, its end points remained the same.

The descriptive explanation of the boundary beyond NJ-9842 -- 'thence North to the Glaciers' -- has created confusion. India believes that this means that the boundary would go north through the nearest watershed, the Soltoro ridge. Pakistan draws a straight line from NJ-9842 going northeast to the Karakoram pass. The former interpretation gives the control of the Glacier to India, the latter, to Pakistan.

In 1978, the Indian army became aware of maps showing the LoC as a straight line extended from NJ-9842 to the Karakoram pass appearing in publications abroad. The same year an Indian army mountaineering expedition led by Colonel N. Kumar, brought back evidence of foreign mountaineering expeditions being launched into the Siachen area from Pakistan-administered Kashmir.

Kumar's expedition also did not go unnoticed. Both sides were convinced that the other was trying to establish a military presence in the area. New Delhi and Islamabad began exchanging protest notes asking the other to desist from entering its territory. It was then that India realised that Pakistan was behind the extension of NJ-9842 to the Karakoram pass, claiming the Siachen glacier. India objected to this 'cartographic aggression' as it meant Pakistan claiming territory up to the Karakoram pass and preparing the ground for involving China in the India-Pakistan dispute.

The Indian Army believed that the choice before it was either to be blind to this activity or pre-empt Pakistan. In late 1983, India had intelligence that Pakistan was also purchasing large quantities of high altitude gear and its troops were planning to occupy the passes leading to the Siachen Glacier. Two months before the mountaineering season was to begin in April 1984, India airlifted two platoons of Kumaon Regiment and placed them on the two key passes of Bilafond La and Sia La on the Soltoro ridge. Pakistan had been effectively pre-empted. Both India and Pakistan see geo-political compulsions in fighting for Siachen. In 1963, Pakistan ceded 4,500 sq km of Kashmir, the Shaksgam Valley to the west of the Karakorams, to China because it wanted a border with China. But India believes that the disputed territory of the former princely state of Jammu & Kashmir was not Islamabad's to give away. India, therefore, did not recognise this settlement. However, New Delhi came to know of the Chinese activities in the area only a decade after China had built the Aksai Chin highway passing through it. The belated Indian presence on the Soltoro ridge abutting the Shaksgam Valley seeks to question the Sino-Pakistan 'border settlement'.

If there is no military presence on the Soltoro ridge, Indian military experts argue, then India would be blind to any activity inimical to its interests in and around the Soltoro ridge, in the eastern Karakorams and in what the Indian Army calls 'Sub-sector North' abutting the eastern Karakorams but contiguous to the Shaksgam Valley. Satellite pictures and air surveillance, they argue, provide only images but it is physical observation which indicates an adversary's intent. Initially, the Siachen conflict was also justified in terms of countering a threat to Ladakh from Pakistani forces coming down the Nubra Valley via Siachen. This is now considered logistically unviable.

That Siachen rankles in the Pakistani mind is evident from the fact that the Kargil misadventure, some in Pakistan claim, was aimed at undoing the Indian takeover of Siachen. One of its objectives apparently was to snatch Siachen from India by cutting off the Srinagar-Leh highway.

India and Pakistan have held eight rounds of talks on the Siachen dispute. They apparently came close to resolving the dispute in 1989 and then again in 1992. These attempts were unsuccessful because of two reasons: first, Pakistan wants India to withdraw to pre-Simla positions by vacating the Soltoro ridge but wants to retain its own military positions claiming that they are pre-1971; and second, to keep up the myth of engaging India on the Siachen glacier, it refuses to exchange maps marking the present ground positions. These would show that Pakistan is nowhere near the Siachen glacier and that its posts on the Soltoro are at much lower heights (9,000 to 15,000 feet) than India's.

Was there really a settlement in the offing in 1989? American scholar Robert Wirsig has claimed that India made six proposals to Pakistan in 1989: cessation of cartographic aggression by Pakistan (i.e. extending the LoC from NJ-9842 northeast to the Karakoram pass); establishing a demilitarised zone at the Siachen glacier; exchanging maps to show present positions on the ground; delimiting the border beyond NJ-9842 towards the China border based on ground realities; formulating ground rules for future military stand-off - a measure of last resort; and redeploying Indian and Pakistani forces to mutually agreed positions.

Pakistan apparently countered this with two alternative proposals: deployment of Indian and Pakistani forces to mutually agreed positions held at the time of the 1971 ceasefire (pre-Simla positions); and only then, the delimitation of an extension of the LoC beyond NJ-9842.

There were differences over which should come first -- delimitation or the redeployment of forces. Re-deployment was seen as entirely an Indian withdrawal with Pakistan staying put. India was unwilling to accept demilitarisation to mean only an Indian pullout.

The sixth round of Siachen talks in 1992 also raised hopes for a solution. India claimed that there was a broad understanding on the redeployment of Indian and Pakistani troops and on creating a 'Zone of Disengagement' on either side of the Soltoro ridgeline -- although Pakistan was still unwilling to mark its current deployment on a map indicating the ground reality before disengagement. Whatever hopes that Indian officials had for a settlement even then were dashed when they approached the political leadership. The Zone of Disengagement Plan did not find political acceptance with Narasimha Rao's minority government.

In the seventh round of talks in November 1998, India referred only to the Soltoro range with no mention of the Siachen glacier. The proposal for a Zone of Disengagement was also dropped.

The 1998 proposals, instead, suggested a comprehensive ceasefire along the Soltoro region based on a freeze of the ground positions; discussions of the modalities of ceasefire in a definite time-frame; bilateral mechanisms for the ceasefire including flag meetings and hotlines between divisional commanders; and authenticating the existing position on the Soltoro range beyond NJ-9842. Pakistan rejected the proposals. The Indian position had clearly hardened in the face of Pakistan's refusal to recognise the ground reality.

The army has the dominant say in the Siachen dispute. The Indian army's position is that there should be no asymmetrical redeployment of troops. There is no glacier on the Pakistani side. To climb up the Soltoro peaks Pakistani army does not have to traverse a glacier - just mountaineering is enough. If there is a pullback by the Indian army to say, Leh or Turtuk but the Pakistanis stay in Skardu; then they can occupy the key positions on the Soltoro ridge in ten days' time. It would take India three to four months to do that.

Pakistan's President, General Pervez Musharraf, has apparently assured India that, should demilitarisation take place, his army would not reoccupy the crucial passes on the Soltoro ridge. However, after Pakistan's Kargil misadventure, his assurances are likely to be taken with a pinch of salt in India. All the same, the two sides have agreed to engage in a military-to-military dialogue to explore ways of disengaging from the Siachen Glacier and this may be a movement forward.

There have also been proposals for converting the Siachen Glacier area into a science park -- an environmental zone, jointly managed by both India and Pakistan. However, till such time as the entire area is demilitarised without either side feeling defeated, these proposals can only remain pipedreams.

Conclusion

There are some disputes between nations that have the potential of being addressed relatively easily but they get linked with bigger disputes and seem intractable. Yet, if these smaller contentious issues were analytically separated from the bigger ones and resolved, they could have a positive impact on the prospect of solving the bigger disputes.

The Tulbul Navigation Project/Wullar Barrage dispute is easily resolvable and there even exists a draft agreement on it. If, in return for allowing the project, Islamabad wants its pound of flesh in terms of a greater share of water from the Indus, it can bring such a proposal to the table. Obduracy would neither be in the interests of the people of Jammu & Kashmir nor of improving Indo-Pak relations.

Similarly, in the Sir Creek area, solutions or at least half-way houses are possible. As a small beginning, after the foreign secretary level talks of June 2004, the two sides have agreed to send a team to survey the boundary pillars east of head of the Sir Creek. This may not seem like much progress but it is a small co-operative step forward and should be viewed positively. In the case of the Siachen dispute, the political leadership both in Pakistan and in India seems far too weak at present to sell a complete solution to their people. The glacier, many people in India and

Pakistan believe, has no strategic significance and its militarisation is the result of competing and irrational nationalisms. This irrationalism as well as competition needs to be downscaled. The disengagement in the Soltoro region would be a good beginning but this requires a decisive leadership both in India and Pakistan.

The status of Jammu & Kashmir is arguably the biggest contentious issue between India and Pakistan. There are some who argue that unless the Kashmir issue is addressed adequately nothing significant can be achieved between India and Pakistan. However, unless the overall atmosphere is improved between the two countries, a compromise on Kashmir would be difficult to sell for either Islamabad or New Delhi.

The need, therefore, is to change the parameters of the problem. Once its dimensions are changed -- for example by surrounding it with agreements on the relatively less difficult disputes between the two countries -- then psychologically at least Kashmir may not seem as intractable as it does now. On the other hand, if both India and Pakistan harden their stands on even the smaller disputes, engaging on Kashmir would become disproportionately difficult.

(Bharat Bhushan is the Editor of The Telegraph in Delhi. The views expressed in this article are his and do not represent the views of the newspaper. Mr. Bhushan may be contacted at bharat@abpmail.com)

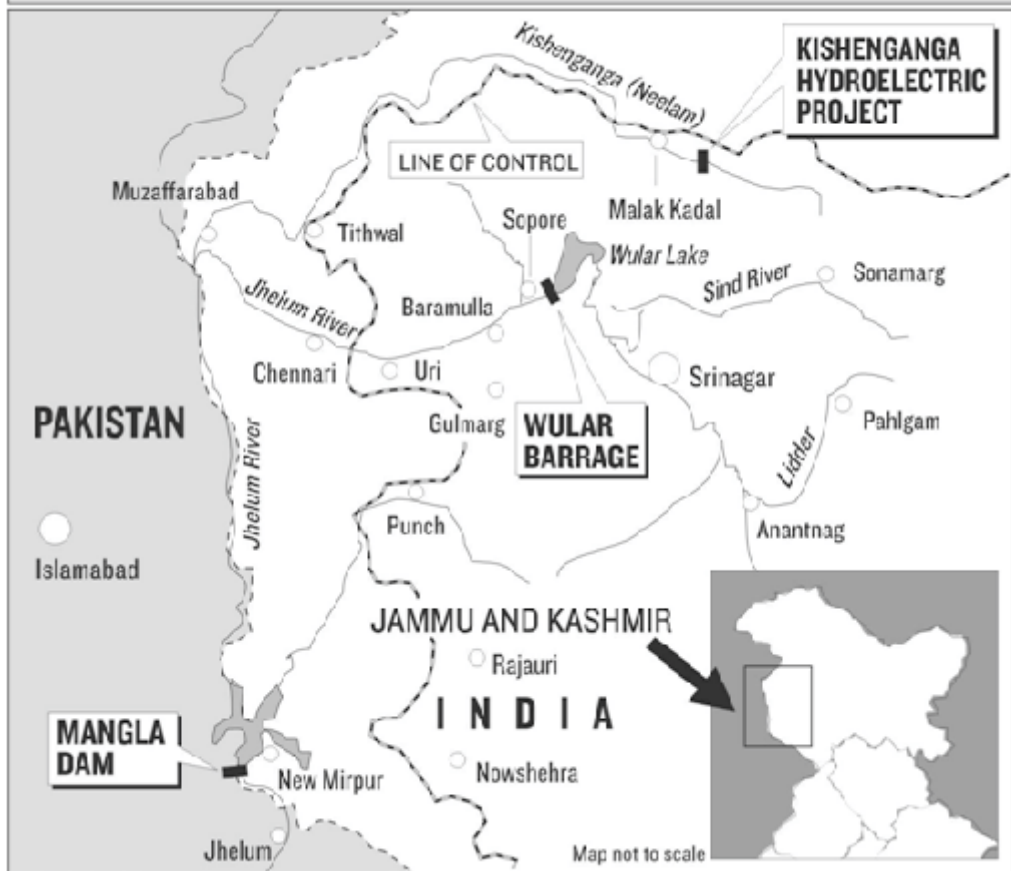
Author's Note: This article is largely based on a series of news reports that I wrote in the Hindustan Times (November 9-12, 1998) and for The Telegraph (December 18, 2003 and August 1, 2004) and a paper, 'India's Maritime Boundaries - The Case of Sir Creek, presented at the Media and Conflict workshop organised by the South Asia Forum for Human Rights (SAFHR) in Kathmandu, Nepal in September, 2003.

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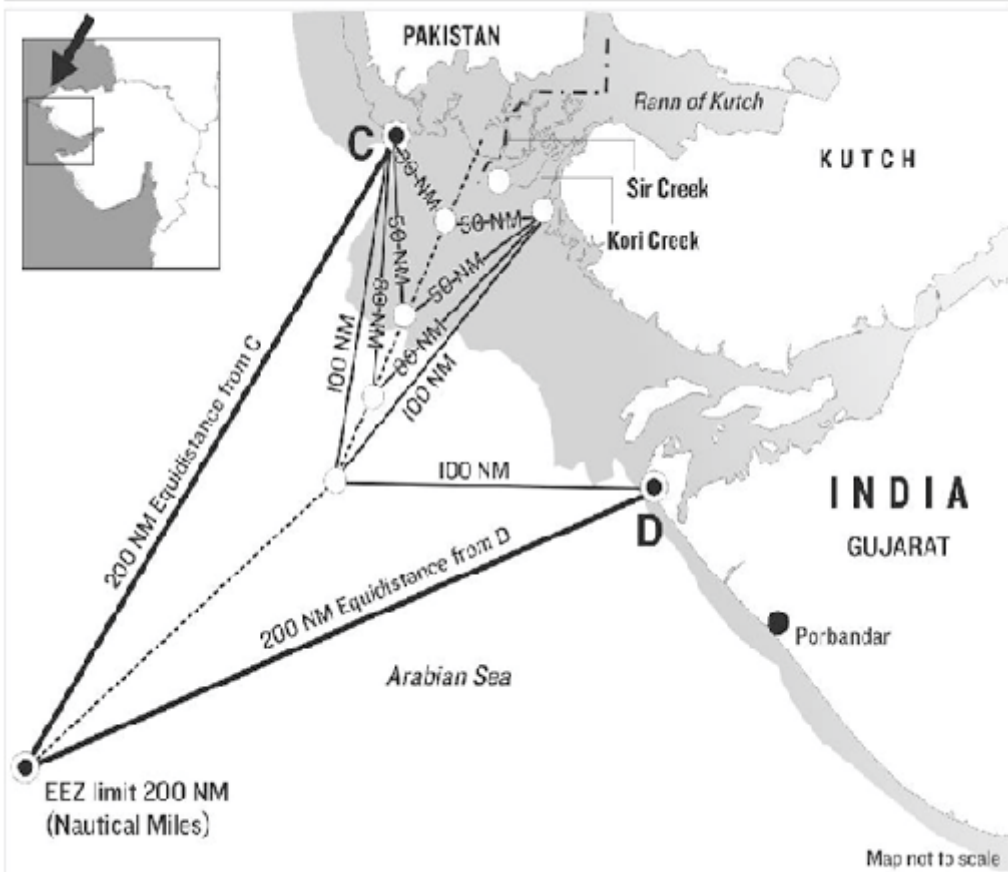
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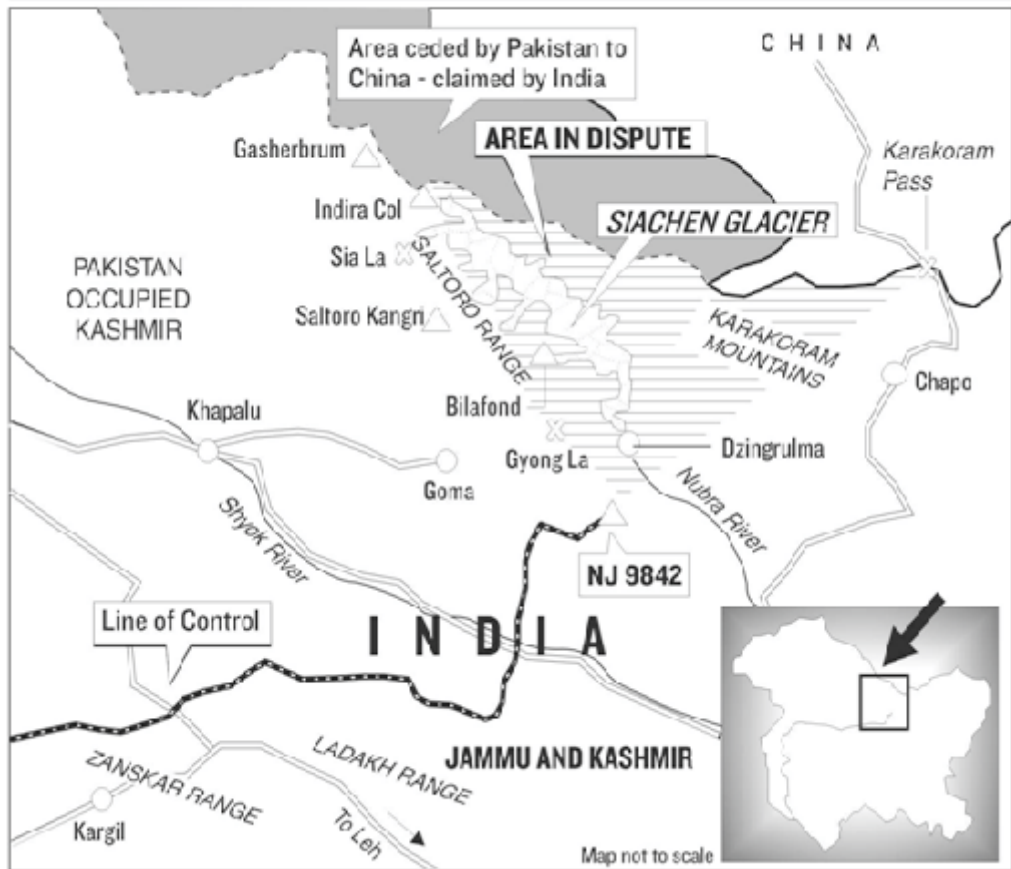
Map by VINEY BHATNAGAR

SIR CREEK: Reducing the maritime dispute using seaward approach



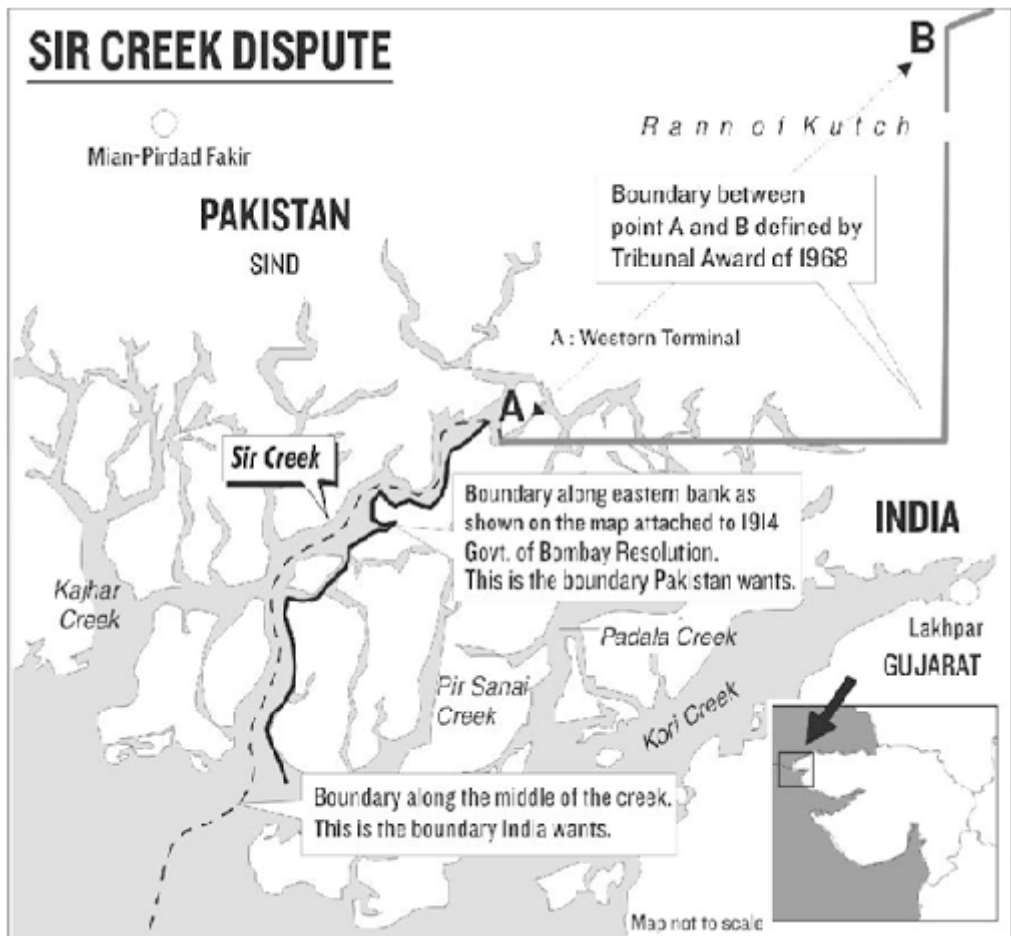
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SIACHEN GLACIER AND THE SURROUNDING AREAS



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SIR CREEK DISPUTE



Map by VINEY BHATNAGAR

Blurred Borders: Coastal Conflicts between India and Pakistan

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Coastal fisherfolk of India and Pakistan are often arrested for crossing borders. They are victims of defined and undefined boundaries and borders in the seas, and increasing conflicts over renewable resources. These coastal conflicts need to be understood from several overlapping but distinct perspectives. Low-intensity conflicts over environmental concerns are as serious as conventional war and simultaneously question cartographic and border anxieties of these countries

We're Prisoners of War, Chacko said. Our dreams have been doctored. We belong nowhere. We sail unanchored on troubled seas. We may never be allowed ashore. Our sorrows will never be sad enough. Our joys never happy enough. Our dreams never big enough. Our lives never important enough. To matter.

-The God of Small Thingsⁱ, Arundhati Roy,

This paper is about the troubled and tragic journeys and livelihood insecurities of coastal fisherfolk of India and Pakistan, who are arrested and kept in jails by these countries for having entered each other's arenas. These fisher- folk are victims of defined and undefined boundaries and borders in the seas, and increasing coastal conflicts over renewable resources.

Most studies on marine coastal fisherfolk of south Asia have been ethnographic descriptions, concentrating on their social life, rituals, knowledge, fishing organisation, kinship structure and patterns.ⁱⁱ There have been some studies, which have reflected on the growing tensions and conflicts between fishermen of the region, especially between traditional fishers and mechanised trawler owners.ⁱⁱⁱ On the other hand, studies on tensions between India and Pakistan, which have attracted a vast number of scholars, have been largely focused on 'big' and 'visible' points of conflict like Kashmir, Kargil, nuclear politics, various Indo-Pak wars and Hindu/Muslim conflict.^{iv} There has been scant mention of the less spectacular, everyday conflicts engendered across these countries, which perhaps are equally, if not more, damaging, and which have directly impacted the lives of many. The 'in- visible' and the 'marginal' maybe banal, common, and almost unnoticeable, but can be equally insidious. This paper probes not high moments of conflict, but everyday arenas of it. The arrest of fisherfolk on both sides of the border is a classic example of this.

In the process, this paper also highlights a dynamic interplay between ecology and conflict. It argues that there is a need to rethink questions of peace and security in the context of people, environment and resources. Conflict has a direct relationship with environmental degradation and struggle over natural resources. In fact, in the

recent years, many social scientists too have argued that renewable resource scarcity (e.g., land degradation, deforestation and fisheries depletion) is increasingly a factor that contributes to political conflict.^v At the same time the paper moves beyond looking at environmental crisis as the sole reason for this conflict. Rather it links the renewable resources scarcity to other arenas of society, economics and politics.

The governments of India and Pakistan have attempted to remould the recalcitrant clay of plural cultures and civilisations into lean, uniform, hyper-masculine, and disciplined countries, where borders particularly have become sacrosanct. While in the case of land, they have been successful mostly in drawing clear-cut lines, there is great anxiety about the seas, where any line of demarcation is blurred. The close geographical location of the two countries, whereby they share the resources of the seas, has led to fisher people crossing sea borders since long, but they are increasingly perceived as causing grave instability to territorial boundaries, spilling into everyday tensions and conflicts. These fishermen have inevitably been drawn in the ambit of rivalry and antagonism, and are repeatedly paying a heavy price for it. They have been victims of a discursive process by which both the involved nations have produced clear-cut categories like insider and outsider, safety and danger, domestic and foreign, self and other.

For the fisherfolk themselves, the concept of sea borders is often difficult to comprehend, as they are often blurred and the seas in any case, are intricately linked to their livelihoods. However, they are repeatedly arrested and jailed for several years for transgressing the maritime boundaries between the two countries while engaged in fishing, and are treated almost as prisoners of war. The arrests began as early as 1987, and continue till date. These fisherfolk, already disadvantaged due to ecological malaise, declining fishcatch, increasing mechanisation and government onslaught, have been further torn due to the specific nature of relations between India-Pakistan. Thus, an already grim situation has been further exacerbated. The toll of this purportedly low-intensity conflict is no less than that of any conventional war. Here, gross violations of human rights have been justified through acceptable, standard clichés. Arrests are described as acts of nationalism; jailing of innocent fishermen is called border protection.

This paper attempts to understand these coastal conflicts from several overlapping but distinct reasons, including ecology, security, human rights and identity. It is mainly divided into four sections. The first one highlights the declining sea resources afflicting the coastal region. The second section explores the cartographic and border dilemmas of the two nations. The third talks of the tremendous human suffering involved in these arrests. And the last focuses on the ambiguous identities of these fisherfolk and the human resilience that emerges from the crucibles of spatial dislocations.

I

Conflict and Ecological Crisis

Third Fisherman: Master, I marvel how the fishes live in the sea. First Fisherman: Why as men do a-land - the great ones eat up the little ones.

-Priceles, William Shakespeare

It has been argued effectively that traditional analyses of conflict, which rely primarily on ethnic, religious and cultural explanations, are not enough since these do not take into account the increasingly obvious links between growing scarcity of renewable resources and violent conflict, especially in developing countries, as they are more vulnerable to environmental changes.^{vi} Ecological threats may be more diffuse than clearly identified military threats, but they can be as pervasive. Further, security is being shaped on an anvil of environmental edifice, where it is asserted that large-scale human-induced environmental pressure may seriously affect national and international security.^{vii} The theoretical literature on security studies has encouraged this new thinking, where conventional arguments of state secrecy, nuclear and military power have made way for ecological concerns, placing them on top of the agenda of policy-makers. It is argued that environmental degradation raises the levels of stress within national and international society and increases the likelihood of many different kinds of conflict, impeding the development of cooperative solutions.^{viii} The links between environment and security also bring forth the complexity of the environmental crisis. The crisis in marine resources and the decline of fisheries is critical in any analysis of coastal conflicts between India and Pakistan.

However, while acknowledging the role that ecological crisis and environmental degradation play in increasing conflicts, it is not enough to understand the plight of coastal fisherfolk of India and Pakistan merely in environmental terms, or in terms of 'biology' and 'nature'. Though we should not underestimate environmental scarcity, people have also shown tremendous tenacity for overcoming it, finding alternative methods, and even at times exercising self-control for the larger benefit. A more nuanced approach would be that insofar as security is premised on maintaining the status quo, it runs counter to the changes needed to alleviate many environmental problems because it is precisely the status quo that has produced them. It is the inequities in the use of resources that are a major problematic in the current economic crisis. We need to also ask - security for whom? For the people or for the nation? After all it is the poor who are the most vulnerable to environmental crisis and ecological threats. To a large extent, those who currently benefit from the existing modes of development and political order are those least likely to take environmental arguments seriously or to wish to initiate dramatic changes. They are also those most likely to construct

political arguments in terms of environmentalists as a security threat when suggestions of limitation on resource uses or wasteful lifestyles are advocated. And to a large extent they are those capable of using military force to maintain the status quo. Actually military action puts the preservation of the state above any concerns for environmental stability or even the survival of large numbers of people.

The decline in marine resources in both India and Pakistan is linked with a complex matrix of unequal economic distribution of wealth and capitalist relations in the coastal areas^{ix} It is true that too many people fishing too much has also been a cause for scarcity of this renewable resource. Growing levels of pollution, mechanised fishing and aquaculture have contributed greatly to the ecological crisis. However, the environmental malaise inflicting the region is not the sole reason for scarcity of sea resources and the growing conflict. A discourse that largely stresses ecological scarcity as a central reason for conflict, is partially flawed. Both scarcity and conflict are also socially and economically induced.^x Scarcity is also about preserving the concentration of wealth and power in the hands of a few. This is not to deny the role of environmental scarcity but to state that socially and economically generated divisions in the marine sector have also contributed to growing conflicts over resources. Thus, unequal distribution of resources has exacerbated ecological crisis as well as conflict. Further, people whose livelihoods have been 'degraded' by various processes cannot be expected to take seriously the idea of conservation.

The Indian Ocean is the third largest ocean in the world, with the bulk of the supply for domestic consumption of fish coming from the traditional/artisanal fishers. The fishers of India and Pakistan have been children of the sea, and ocean their shop floor. Fishing is not only an occupation for them but a way of life. They also play a large part in the prosperity of the two countries by earning a substantial foreign exchange. However, the growth of a global capitalist economy and culture has impacted on these fishing communities. There has been an unfettered process of homogenised capitalist growth in the fisheries, jeopardising the heterogeneity in the sector. However much diverse regions of the world may have been brought into contact, and however much production may have been rationalised and consumption increased, these processes have more drastically homogenised culture by spreading the civilisation of endless production and consumption across all national bounds.

Modernisation approaches to the common property resources like marine fisheries have proved dangerous to the coastal eco- systems, depleting resources, marginalising large sections of the coastal population and displacing fisherfolk from their traditional occupation, thus increasing the insecurity. State policies with regard to coastal fisheries have deprived people of their livelihood. To err is human - to err constantly is policy-making. The marine fishing policies of India and Pakistan

are not geared towards the needs of the fishworkers and people at large but are oriented towards generating maximum profit for a few. They have accelerated the destruction of the coastal and marine ecosystem, without contributing in any way to an ecologically sound use of a fragile renewable resource. They have enhanced the flow of food from the needy to the affluent, ignoring the nutritional needs of the under or malnourished sections of the population. In fact, policy-making related to coastal areas of the Indian Ocean and to fisheries development throughout this past century is characterised by an evangelical zeal to do away with the traditional systems, and transplant 'modern technology' in their place. Thus a major change that a century of fisheries development has brought about is a radical transformation of a traditional, subsistence-based, livelihood activity into a corporate, commercial, business venture, where risks are outweighed by profit, and which inevitably leads to overexploitation.^{xi}

Environmental concerns cross national boundaries: there is declining fish catch on both sides; pollution has affected both nations. In Pakistan, marine resources define the livelihoods of more than two million people in Sindh and Balochistan.^{xii} Spread over 1,000 km between Sir Creek and Jiwani (adjacent to Iran), the largest concentration of marine fish harvesters and workers is within Karachi division. The Indus is the largest river of Pakistan, which discharges into the Arabian Sea. The Indus delta is a typical fan-shaped delta, built by the discharge of large quantities of silt, washed down the Indus river from the Karakoram and Himalayan mountain ranges. The present delta covers an area of about 6,00,000 hectares. This deltaic environment is characterised by the presence of extensive mangrove forest that grows on the margins of the interwoven creek system.^{xiii}

However, there has been a steady decline of fishery stocks in the region due to the degradation of natural resources through large-scale pollution of coastal waters and through the sizeable reduction of fresh water flows to the Indus delta, due to the construction of dams. Thus the Indus deltaic region, particularly the coastal areas of Kette Bandar, Kharo Chhan and Jatti, are very vulnerable and doubly damned, facing both reduction of fresh water and increase of polluted water. The degradation threats are so serious that experts usually use the term 'gradual death of delta' while referring to it. This has adversely affected mangrove forests, which in turn decreases breeding of fish. The increasing salinity of creeks is also detrimental to fish stocks. The decline of fresh water flows has further degraded croplands along the coast, directly as well as through sea water intrusion. Mohammad Ali Shah, president of the Pakistan Fisherfolk Forum states that with commercialisation, the sustainable tradition of fishing has died down. In addition, thousands of fisherfolk have been displaced from their livelihood through the destruction of the Indus Delta. Many fishing communities have been left with no option but to migrate to the nearest city.

According to Sikander Brohi, a Karachi-based researcher, 70 per cent of Pakistan's fish production, drawn in from inland fisheries and the 1,000 km coastal area, is affected by globalisation. Specifically, it is the advent of industrial fishing that has adversely affected and marginalised artisanal and traditional fisherfolk. The quantity of their catch has steadily depleted because of the kind of nets and techniques used by industrial trawlers. These changes have also had a direct impact on the role of women in the fish business. In the past, women would be involved in both fishing and processing. Some of them continue to play an active role, particularly along the Balochistan coast. But in Sindh, largely as a result of increasing commercialisation, women do not go out in the boats any more.

The picture on the other side of the border, i e, on the coast of Gujarat in India, appears to be almost a carbon copy.^{xiv} Gujarat has a rich heritage of live corals and coral islands in the Gulf of Kutch. Coral reefs offer an enormous variety of habitats to marine life. However, they are being dredged out and systematically destroyed. Saurashtra and Kutch particularly have about 20,000 ha of mangroves. Mangrove forests are locally known here as 'cher forests'. Again, over the last two decades or more, there has been large scale destruction of these life giving mangroves all along the coastline from Umbergaon in the south to Koteswar and above in the north. Remote sensing techniques used by the Space Applications Centre (SAC)-Indian Space Research Organisation (ISRO), Ahmedabad, have shown beyond doubt that the mangroves are being depleted at a very fast clip and in cumulative proportions. There has also been indiscriminate exploitation of seaweeds. Sand dunes and mud flats are being removed. As a result, the first four natural defences to tidal waves and cyclones are going or gone, resulting in more and more coastal damage and destruction together with loss of lives. Protected areas and reserved areas are being denotified in the name of 'development'. CGZ laws are constantly flouted.

But the most important reason for the decline in fishcatch and marine ecological malaise in Gujarat is perhaps the lack of a Gujarat Fisheries Act. Unlike the forest department of the state, which has an act of its own, the fisheries department, even after more than 40 years of the formation of the Gujarat state, does not have an act which would give a legal clout to the department. The department is therefore like a toothless tiger with no power to control many aspects, and cannot take punitive actions. In fact, fishermen fear the Port and Customs Department more than fisheries. Remarks I C Jadeja, Superintendent of Fisheries at the Fisheries Department in Porbandar:

Unlike Kerala or Tamil Nadu, there exist no fishing regulations in Gujarat, including on the use of nets. The government thus has no control over exploitation of marine resources. We can just give advise to the boat-owners and fishermen about the net size but have no control over its actual

implementation. We have repeatedly submitted recommendations to the Gujarat Government, but to no avail.^{xv}

This is substantiated by R K Nair of the Fisheries Survey of India, Porbandar. He remarks:

Fisheries is a state subject, and the centre cannot do much in it. The Marine Fishes Regulating Act was not enacted in Gujarat, because a Jain woman sitting in the Ministry of Law did not want to touch it. She considered it 'polluting' and also believed that by implementing this Act, she would be sanctioning the 'killing' of fish, which went against her religious beliefs. She could not even conceive that the Act was essentially meant for the preservation of fish. Further, in Gujarat, due to the religious inclinations of the government, no such law can be passed on Buddha Purnima, Mahavir Jayanti or Gandhi Jayanti.^{xvi}

There has actually been a Blue Revolution in the state of Gujarat, particularly since the 1990s. It has resulted in a social and economic transformation of the fishing structure, with intimate connections between the marine policy of the state and the social economy of the fishing community. There has been a penetration of capitalism in this industry, alongside its internationalisation and expansion. The geopolitical influence of the fisheries sector has expanded considerably, with fisheries playing a large role in the prosperity of this state. In fact, Gujarat stands first in marine fish production in India^{xvii} and the government earns a foreign exchange of around Rs 400 crore through it. In 1999-2000, the export of fish from the state touched a whopping one lakh tonnes, earning a foreign exchange worth Rs 475 crore.^{xviii}

However, this very period of 'development' of the marine sector has seen a sharp degradation of the coastal resources and its environment. Its impact is reflected in the declining quantity and variety of fish catches, decreasing fishing days, increasing durations of fishing trips, increasing conflicts with other fisherfolk, and the largest ever number of destitute women and old people in the fishing villages.^{xix} Gujarat has a total of 3.60 lakh fishermen population of which 2.42 lakhs are on the marine side.^{xx} The Kharava^{xxi} community of Saurashtra, which refers to itself as Sagar Putra (son of the sea), forms about 70 per cent of the total fishing community, and has a 2,000-year-old history of maritime activity. These fishermen have realised in the past 15 years that motorised fishing involves much more capital, and that by using smaller and smaller mesh sizes they are ultimately the sufferers. There is an increasing exposure to the vagaries of catch and price fluctuations. The debts to the local moneylenders and the fish trader-financers have multiplied. Very little of the profits and foreign exchange generated by fish export markets have benefited the local fishers and fishing communities. As fishes have declined and control over marine resources increasingly

concentrated, the lives and livelihoods of fisherfolk have become increasingly precarious. There has been a marginalisation of the small-scale artisanal fishers. They today are greatly weakened from increasingly unsustainable livelihoods, from alienation, from lack of use rights, from loss of common property resources, and from lack of easy alternatives.

However, not all have suffered. The developments in the marine fishing industry have been lopsided, leading to heavy financing and liberal subsidies aimed at one species, one market, and a handful of exporters. Market-based regimes and increasing commodification of fisheries has meant that control over resources has passed to actors outside the fishing community. The owners of mechanised trawlers and aquaculture farms and those who have economic and political power in society have actually grown stronger. The state and powerful private interests monopolise resources and control the markets. The elites of the fishing industry deny the fisherfolk control over the resources, markets and decision-making, on which their livelihoods depend.

Ironically however, it is the fishermen who are mainly asked to pay the price for ecological degradation. The solutions suggested often minimise a disruption to the status quo. They are largely bans on fishing in the mangroves, on entry into mangroves themselves, on shrimp seeds, on fishing during certain parts of the year and in certain areas around the year. In effect, every problem is met with either a ban, or a regulation of access, to everything that the coastal people have depended on for their livelihoods for centuries. In practice, regulations have meant a reduction of dependence of the coastal people on the natural resources like fish, mangroves and shells, and an erosion of their community rights over the water bodies. It appears that while the mechanised trawler owners and the aquaculture practitioners have been given the responsibility of increasing foreign exchange, the responsibility for conservation of resources and curtailing overexploitation of environment has fallen on the shoulders of the poor fishermen. It is they who are asked to adapt to austerity measures. Thus solutions suggested are frequently simplistic, technocratic, oppressive and gender-blind - all of which ultimately reinforce the very structures that create ecological crisis.^{xxii}

A grave consequence of all this has been increasing conflicts, both within and without. There are conflicts between small-scale fishers and the mechanised fishers, between fishermen and boat-owners, between one region and another, and most critically between one nation and another. The political situation between India and Pakistan has enhanced the crisis.

II

Anxieties of Security and Cartographic Dilemmas

It is not necessary that war be waged only on borders Wherever there is war there are borders

-Snehmayi Chaudhry^{xxiii}

In the process of struggle for independence and decolonisation, India and Pakistan have inherited artificial boundaries, fragile national unities, brittle political systems and distorted economies. In such a scenario, one of the ways to claim legitimacy for their respective countries is by insisting on fixed mappings and firm boundaries, as is the case with most other countries as well, where assimilation, homogenisation and conformity acquire fundamental importance, with a refusal and repression of plurality and multiplicity, and a dread of difference.^{xxiv} It has been pointed out that borders are the markers of identity and have played a role in this century in making national identity the pre-eminent political identity of the modern state.^{xxv} Creation, maintenance and protection of maps, borders and boundaries, be it over land or sea has thus become a central concern of these countries, and more so given the nature of tensions prevailing and the obsession with a security-centric mentality.

At the same time, in the present context of international capitalism and globalisation, it has often been remarked, that there is growing irrelevance of national boundaries.^{xxvi} It would seem that the nation state has 'lived its time' in this century of globalisation, and no longer remains a significant variable to understand contemporary events. However, nationalism and globalisation actually seem to be strengthening each other in paradoxical ways. Globalisation seems to simultaneously integrate and fracture, include and exclude, national identities. This world of expanding deterritorialised boundaries is also the world of many more and numerous cases of stronger states.^{xxvii} Certainly, the ideal of nationhood today is a ubiquitous phenomenon, which continues to exert its hold over the political imagination; it continues to be reproduced as a cause worth more than individual life; and it frames the practice of political democracy.^{xxviii} Globalisation has not been accompanied by the opening of borders and the political realities of the present world show that the legal right to cross borders and frontiers is still controlled by the states. The case of coastal fisherfolk particularly proves the point, since forget the land, even sea territories are considered 'sacrosanct' by the nations. Territoriality provides a means of reifying power of the nation.^{xxix}

Territorial and border histories are incomplete without an ecological component. Environment and nature emerge from the background and play a leading role in the defining of borders. Mountains and seas have signified 'natural borders' for India historically. However, the seas surrounding India have been seen as a major point of vulnerability, producing unstable borders and leading to increasing uncertainties.

Borders, which delimit state boundaries and are transformed into national identity, are particularly fuzzy in the seas, thus posing a potential threat to everything that is identified with the nation. Thus even a Marxist scholar like K N Panikkar remarks, "It is necessary to emphasise that from that historic day when Vasco Da Gama with his fleet of warships arrived at Calicut, India has been under the relentless pressure of sea power, steady and unseen over long periods, but effectively controlling one's economic life and political life. In fact, since 1498, India has been blockaded."^{xxx} His geopolitics ends with a reminder, "The only practical remedy to this permanent geographical weakness of India... is the strength of her own internal political and economic structure... a strong central government having full control of the resources of the nation."^{xxxi} At another place he states, "To other countries the Indian Ocean is only one of the important oceanic areas, to India it is a vital sea. Her lifelines are concentrated in that area, her freedom is dependent on the freedom of that coastal surface. No industrial development, no commercial growth, no stable political structure is possible for her unless her shores are protected."^{xxxii} Various steps have thus been taken to organise a blue water navy to secure the Indian coastline and to define the sea border as accurately as possible.

India and Pakistan not only share their border on land but also their coastline. India itself has a long coastline of 7,417 km. Among the eight maritime states of India, Gujarat, situated on the western coast of India, has the longest coastline of 1,663 km, which is one-third of the entire coastline of the country.^{xxxiii} Pakistan has part of its coastline adjacent to that of the Gujarat coast. However, so far there are no bilateral agreements, defining the maritime boundaries between the two countries. Also, the Maritime Zones of India Act 1976 and 1981 under which the fishermen are detained and punished, do not correspond with the UN Convention of the Law of the Sea, of which India is a signatory. Same is true with the Maritime Zone of Pakistan Act, which is virtually identical with that of India.

At the heart of this lie the 'rival geographies'^{xxxiv} and contested cartographies between the two countries. Both India and Pakistan wish to depict their sea border not as a novel, fragile, contingent creation, but as something robust and real. The dispute between India and Pakistan over Sir Creek is central to this endeavour. The Sir Creek^{xxxv} is a 100 km-long estuary in the marshes of the Rann of Kutch, which lies on the border between the Indian state of Gujarat and the Pakistani province of Sindh. The Sir Creek is a fluctuating tidal channel, not truly a flowing 'creek', along which the boundary between India and Pakistan has not been demarcated. Till 1954, the borders around Sir Creek were virtually open, with free movement on both sides. However, after 1954, the stances on both sides became rigid, and a controversy evolved around Sir Creek.^{xxxvi} The dispute is intricately tied to the cause of fisherfolk since the area around it can be regarded as the biggest Asian fishing ground.

There are two issues involved in the dispute - the delimitation of the boundary along the creek and the demarcation of the maritime boundary in the Arabian Sea.^{xxxvii} As a result of the continuing Sir Creek boundary dispute, neither India nor Pakistan can submit their claims under the UN Convention on the Law of the Sea on the limits of their respective continental shelves. This has to be done by 2004. Without the maritime boundary demarcation between them, neither country can exploit the resources in its Exclusive Economic Zone (EEZ) (up to 200 nautical miles) or its continental shelf (up to 350 nautical miles). And this in an area that could have sub-sea oil and gas deposits. The problem is also intrinsically linked with the fishing rights of the two countries. The repeated apprehending of fishermen on grounds of boundary violations at sea gives this dispute acute humanitarian overtones.

India and Pakistan have held six rounds of discussions, starting in 1969, the last being in November 1998, but to no avail. Pakistan believes that the boundary along the Sir Creek must lie along the eastern edge of the creek. India believes the boundary should be fixed along the middle of the creek. Pakistan wants the Sir Creek boundary to be demarcated first and only then to delimit the maritime boundary. India's prime concern is the maritime boundary. In demarcating the maritime boundary, Pakistan wants to follow the principle of 'equity' (i.e., it must get as much maritime zone as India along this border). This involves the determination of the median line on the basis of equal distances from the shore. India does not accept this principle. The methods India has proposed for determining the maritime boundary use a seaward approach (equidistant line method) without any reliance on a base-line point on land. This means adjustments of the median line, taking into account the physical characteristics of the coastline. Using the Indian approach, the land boundary along the Sir Creek can be left to be negotiated later while in the short run agreeing, to the extent possible, on maritime boundary.

The Sir Creek boundary dispute is totally caught up in methodology and maps, and is a representative of national anxieties. The connections here go beyond the practical business of charting the length and breadth of national territories. They extend to the complex power relations underpinning the two nations involved here. The Sir Creek dispute goes against nationalising desires to produce a complete and secure cartography, and instead of a homogenising and flat map, points to the diversity in the very process of mapping. At the same time, it is not an intractable problem provided both the countries approach it in a spirit of negotiation and compromise, and also recognise the possibilities of in-betweenness, which refuse fixed framings and provide spaces for creative ambivalences.

However, the situation is further complicated because the foreign and defence policies of both the countries presuppose a given spatialisation of the world in terms of us and them. In this game of 'us' and 'them', histories are told and retold, traditions invented and denied, statuses ascribed and challenged, allegiances

forged and broken, and identities claimed and rejected.^{xxxviii} It is not enough for India and Pakistan to have their heroes; equally fundamentally they must have a foe, the 'other', which gives the state further credence.^{xxxix} The presence of the 'other' justifies the use of violence and suppression against the people assumed to be 'other'. In both these countries, inoculations of an evil 'other' have become part of a public discourse. The 'other' becomes more enduring here as it is anchored in the immediate neighbourhood, with disputed common borders. Indian nationalism cannot be nurtured without the existence of Pakistan and vice versa. Many writings succumb to this. As remarks one, "Pakistan has been a perennial source of threat to Indian security... growing Sino-Pakistan nexus has further heightened India's sense of insecurity."^{xl} From nuclear explosion to cricket matches to the 'lesser dramatic' arrest of coastal fisherfolk - everything is neatly fitted into this syndrome. Historical narratives of suspicion, ethnic fragmentation, hostility, stereotypes and mutual recriminations abound. Past and present collective histories of partition and wars have become intermeshed and united with the biographies and livelihoods of fisherfolk, becoming each other's terrains and influencing them.

In such a scenario, security discourses in India and Pakistan have acquired exaggerated dimensions. Both countries consider it their right to intervene in the everyday life of the coastal fisherfolk, their employment and their bodies, thus repackaging notions of sovereignty and security.^{xli} Any crossing of sea borders by them, even if unintentional, is censored. These fisherfolk become deviants and suspects in the eyes of India and Pakistan, as they are indifferent to established identities and stated boundaries. Statements of security are inscribed upon and made through the body of the arrested fishermen. The body of the fisherfolk is tortured in an attempt to avenge the daily affronts made by them. The result has been the use of physical force, threat, violence, arrests, and even killings, justified in the name of sovereignty of the state.

Both India and Pakistan, while claiming respect for human rights, vindicate the arrest of fisherfolk of each other's country as both an unavoidable and a necessary measure to forestall security threats and insure 'order' and respect for the law. As has been suggested, documents of civilisation are at the same time documents of barbarism.^{xlii} 'Unthinkable' and 'unpresentable' acts of these countries, like use of torture and violence and arrests, are made recognisable and acceptable by representing them in acceptable discourses like patriotism, retaliation for real and imagined acts of the past, terrorism, the need to preserve the state's territorial integrity and the requirement to protect the nation. These documents of 'protection' of borders are thus also documents of human suffering and violence conducted on the bodies and souls of fishermen and their families, and are inseparable from the hidden violence and nationalist jingoism of these countries. Territoriality of the state becomes a privileged medium for forcibly controlling the movement, lives and livelihoods of fisherfolk within the state's material and

physical space. An illegitimate act thus acquires legitimacy. The goal of these human rights violations is not just to protect the borders or inflict pain on an assumed 'other', but also to create punishable categories of such fisherfolk, forging and maintaining boundaries among them, enforcing behavioural norms among them and forcing them into conformity.

The arrests of coastal fisherfolk across borders have become embodied in various practices, institutions and icons of the state, be it coast guards, jails, police or courts. In many cases, agencies arrest the fishermen on suspicion of spying. They are often interrogated in that context where Indian fishermen are asked about their relations with RAW, while Pakistanis are investigated for their association with ISI. However, K C Pande, commandant, district headquarters, Coast Guards, Porbander, acknowledges that for their mutual convenience, patrolling agencies have worked out an imaginary line along the Sir Greek region, off the coast of Kutch. He further has no hesitation in stating that the fishing boats could unwillingly and unknowingly cross into other's territory because of tidal currents, wind force, cyclone and engine failures, and lack of navigational aids. Also, no Pakistani fishing boats till date have been found with arms and ammunitions on board. But this has not stopped the arrests. The Coast Guard officials candidly admit to the practice of 'tit for tat' among the enforcement agencies patrolling the territorial waters where "they capture so many of our boats and we capture that many in retaliation." Many officers also justify the arrests of fisherfolk by them by stating that they are 'just doing their jobs'. As an officer stated, "I do what I am hired to do, and that it is a matter of sacred duty to me". However this language suggests that the discourse of work is often used as an instrument of state control, an instrument whereby certain sections of society are deprived of essential aspects of their humanity through the work of others.^{xliii}

There has been no clear-cut policy till date regarding the release of the arrested fishermen. The measures on behalf of the government have been governed largely by ad hocism and political considerations, where the fisherfolk are used as mere pawns, either to intensify the tension or to reveal a face of compromise and humaneness. Recently, the Pakistan government released 269 Indian fishermen out of 343 lodged in different jails in Karachi. All the fishermen hailed from Gujarat.^{xliv} It was touted as a follow up to the confidence building measures (CBMs) announced by Mir Zafarullah Khan Jamail, in response to the peace initiative by Atal Behari Vajpayee.^{xlv} India reciprocated the gesture by releasing the 74 Pakistani fishermen, lodged in the Jamnagar prison in Gujarat. In the present talks going on between India and Pakistan, India has again proposed setting up a hotline between the Indian and Pakistani coast guards and twice-yearly meetings between officials, to reduce the arrests of coastal fisherfolk on both sides.

However, during the whole course of collection of material for this study - beginning

from 1990 till date - we have heard, read, cut and collected innumerable chronicles and short clip-pings of arrests and releases. We have moved in a constant pendulum of despair and hope. However, after more than 13 years of collecting information on arrests and releases of fisherfolk, we have realised that while every move for the release of fisherfolk needs to be appreciated, since we are talking of actual lives, livelihoods and families, this problem will remain as it is, till there is no political will to search for long-term solutions. We have witnessed time and again that when political tensions between the two countries reach new heights or relations between them sour, the arrests of fisherfolk escalate, who become one of the first groups to be caught in the virtual crossfire. And then in- negotiations of peace, they become tools to express regional cooperation. For example, just prior to the Agra Summit in July 2001 a proposal was mooted for settlement of issues related to such fishermen at the local level itself, without involving the foreign ministries of respective countries. Unfortunately the proposal never saw the light of day, as tensions arising out of diplomatic expulsions drowned the subject.^{xlvi} The bottom line is that most of the times bitter rivalry has prevented officials on both sides from agreeing to talk peace and reduce regional tension at their many bilateral meetings.

Largely, cartographic anxieties and border securities have been seen as synonymous with protection from external threats across borders to a state's vital interests and core values.^{xlvii} The question of people's security as an independent subject of inquiry does not arise here. In fact, the creation of a 'legible people'^{xlviii} - a people open to the scrutiny of officialdom - is a part of the security package

III

Fisherfolk as Prisoners of War:

An Anthropology of Suffering

And the death of the people was as it has always been: as if no one, nothing had died, as if they were stones falling on the ground, or water on the water

-Canto General,^{xlix} Pablo Neruda

These large number of Indian and Pakistani fishermen, who have been off and on lodged in jails of each other's country for years together,¹ have been deprived of basic legal and human rights. They represent the economically and socially marginalised subjects that have been left behind in the construction of an omnipotent nation state. They are the victims of a world obsessed with national pride, and rampant with boundary wars. India and Pakistan continue to physically and discursively marginalize or destroy various aspects of centrifugal otherness. The crossing of sea borders by the fisherfolk in a way proclaims the tenuous hold of the two countries over territories, boundaries and fixed identities, and hence the repression.

These fisherfolk have consistently been objects of state policies; never their subjects. They are kept in the dark at every stage from the time of their arrest. They complete their term of punishment as per court orders, but even then they are not released. Most often, they are never tried and are just locked away in prison. They have to wait for years for a formal process of exchange of prisoners to take place. They are usually released only through an 'exchange protocol', almost similar to the procedure often followed for the release of prisoners of war.^{li} Their release is mainly dependent on the state of relations between their governments. They are often exchanged in equal numbers, an exercise whose logic forces Indian and Pakistani authorities to keep on catching straying fishermen in each other's territorial waters.

When we went for our fieldwork in 1996 and again in 2002 in Gujarat, what greeted us were repeated outpourings of reports of arrests and sufferings. Stories, stories, stories! Of those being lodged in jails of another country for years due to no fault of theirs; of separation and poverty. We do not know how to write these accounts. How to write an anthropography of suffering, without it becoming a pornography of suffering? The experience of pain, and human violations are not just events; they are tied here with complex issues of nation states, boundaries, state rivalries, ecological malaise and political conflicts. We hear a 'forest of narratives' from these victims of arbitrary arrests, detention and torture, engendering multiple conceptions of reality. Although suffering is unique to each individual, the testimonies of many of the arrested fishworkers are remarkably similar. All the arrested fisherfolk undergo the psychological trauma of uprooting. Across borders, they share nostalgic and memory-driven multilingual narratives of their home, village and soil, not often articulated in terms of the nation. Home is fetishised as a place of protection, safety and sanctuary. Their neighbourhood and community back home provide points of reference, daily rhythm and meaning to their existence. The jail on the other symbolizes exile, creating claustrophobia, confinement and control. In the jail, they live in crowded conditions, sharing highly inadequate facilities, poor sanitation and lack of privacy. They suffer anxieties due to uncertainties of their release, undergoing feelings of helplessness. But more than anything else there is a deep sense of loss of everything - of dignity, of hope, of self-esteem. They are scared forever.

The suffering and traumatized fisherfolk are so broken by the ordeal that they often start speaking of a sense of guilt, shame, failure, moral inadequacy and embarrassment. They persistently question themselves as to what they had done to get themselves arrested in the first place.^{lii} Just as Jews have been held responsible for anti-Semitism,^{liii} women for misogyny,^{liv} so too these arrested fishermen blame themselves and are blamed by others for their own oppression. Some of fishermen

that we interviewed suffered deep social, political and psychological isolation while in jail, often contemplating suicide.

The suffering is not restricted to the individual sufferers. The situation of those who are left behind, of the families of these fisherfolk, is no better. They repeatedly express their loss of a loved one and their helplessness in getting them released. Here are just some brief snippets from some of the interviews.

Ghani Rehman of Pakistan, 31-year old, had been imprisoned in the Porbander jail of India for two and a half years when we met him in 1996. Ghani was the captain of Al Jashan boat, which had on board 14 fishermen. All were caught and penalised. Residing in the Sarhad state, Ghani Rehman's father Sayid Rehman was a fisherman as were his three brothers. Ghani's wife and children lived off the income from this trade. Hoping for a better income, Ghani came to Karachi and started working on the boat of a businessman. He narrated:

This time we were on the ocean for more than a month. We were throwing our net to catch fish and it was impossible to make out where the wind and water were driving the boat. If there were some signposts on the ocean, it would make it easier to discern boundaries. Suddenly the navy came. We did not even know whose navy it was. And then we were all captured in the Indian checkpoint.

After being arrested, Ghani wrote a letter to the boat owner. No reply came. He wrote to his family to do something but they were helpless. While in the jail, Ghani was wracked with worry of how his wife and children would be surviving. They struggled to survive by asking for help and loans. Ghani's wife wrote to him but did not talk of her difficulties in the letter. But her helplessness was clearly visible.

Naushad Ali, Muhammad Iqbal, Abu Usmaan, Ali Abu Samariya, Babal Gulmuhammad, Gaunar Khan Bahadur, Nisar Ahmed Usmaan, Ibrahim Adam and Khasina Ramzaan all had similar narratives. As he waited endlessly for his release and return to his country, Naushad Ali was completely shattered. He felt like committing suicide. He ached for his family. Hiding his trauma and disheveled appearance from us, he asked, "Why should we bear this pain because of tensions between two powers? Our heart is dead. Our hopes have been constantly belied."

Says Mai Khatoo, wife of a Pakistani fishermen who has recently been released after serving several years in Indian prison, "You cannot imagine the pain and agony I went through when my husband was imprisoned in India. Besides, worrying about his safety, I had to work day and night to feed five children as he was the only bread earner."^{iv} Majeed Golani, a fishermen from Ibrahim Hyderi, a small village on Karachi coast, was one of a dozen fishermen arrested by Indian forces a few years back. He gives the account of his own experience:

They did not give us food for two days until we were finally put in jail. We were mentally and physically tortured. They treated us like prisoners of war. We go for livelihood and they arrest us, it is injustice.^{lvi}

The villages of Vanakbar and Saudwara, in the union territory of Diu, are a catchment area for fisherfolk, not only for those living here but also for those of the nearby areas. There are more than 2,000 fisherfolk in these two villages and almost the same number have come here from outside. All go to far off regions in the ocean to catch fish. Catching fish and selling it is the sole source of livelihood here. Both these villages are full of narratives of anguish and pain of fishermen caught by the Pakistani coast guards or navy on the charge of crossing ocean borders. Innumerable families of the villages, which include old parents, wives, sisters, children have suffered grave difficulties due to the arrest of earning male members. According to Lakhan Bhai Puja, chief of Boat Association Vari Vistaar at Varanwada, in the past 20 years, more than 500 fishermen of this area have been arrested by the Pakistani Coast Guards and more than 150 boats seized. We interviewed many of the arrested and released fisherfolk here and their families.

Dhanji Harji Rathod of Vanakbara village was arrested in 1997. Writing to his family from Barrack No 11, Karachi East 34, Landi Jail, Pakistan, in 2002, he said:

Jail is our destiny...They caught us by force in the ocean. For five days we were kept in the boat itself. Then they took us to the jail. We get one cup of pulses and two slices of breads to eat. The bread is baked only on one side. We do not wish this punishment even on our enemies. There is one Pakistani prisoner who helps us sometimes and gives us cigarettes and soap.

Nathu Bhai of the same village, arrested in 2002, wrote this quote in a letter to his family, dated March 24, 2002:

Kismet mein likha hua pardesh, vatan ko kya yaad karoon. Yahan apna Nahin hai koi, fariyaad kisko kaise karoon. (Foreign land seems to be a part of my fate, so how do I remember my own country. In this land I know no one; to whom should I appeal.)

The quote captures the pain and the dilemma of him, where he craves for his nation - a nation that cannot even ensure his livelihood.

In 2000, two letters were written by the prison inmates Kader Taiyab Thaim and Ram Nathu on July 2 and Pujabhai Maya, Kanabhai Bava, Hirabhai Kaga and Babhubhai Ramji on May 16, saying that many of them suffered from different types of diseases as they did not have access to clean portable water, not to talk of two square meals a day. The letter by Kaderbhai, running into four handwritten pages, written to Jayaben Vadher of the Samudra Shramik Suraksha Sangh, a Kodinar-

based fishworkers' grassroots organisation, talked extensively of how they got "four half-baked chapattis with very little dal and half-a-cup tea" a day, how they were made to sleep on "rack-type beds, one above the other", how they were forced to drink the dirty water of the toilet and how they were given "water to take bath only once a month."^{vii} said a fisherman, who had now returned to his village after spending six years in a Pakistani jail, "We go to do our job. We fish for our livelihood. How can we be involved in anything illegal? Do we look like criminals?"

The families of the arrested fisherfolk often lack any information. Survival becomes one of the main issues, as most have no income with the loss of the breadwinner. We also witnessed increasing tensions within the family, with the wife having to suffer the most. The education of the children got disturbed. The families lacked any social security. Some families also broke down due to long periods of detention of the fishermen. There was no proper coordinating body to provide assistance to them, and authorities and politicians rarely cooperated with them.

Narratives by women particularly -mothers, wives and daughters of the arrested fisherfolk- disclosed the manner in which they were forced into vulnerable positions and experiences of sudden loss. Their voices expressed agonising doubts about lost connections and memories which could not be erased and wounds which could not heal. Often we found it difficult to get the women to speak their inner thoughts especially in groups. Perhaps talking also made the grief deeper; silence made it bearable. However, we witnessed emotional breakdowns, a deep nostalgia for the days gone by and a craving for the return to 'normal' circumstances. These women often constructed their past, when they had their husbands, sons and fathers around them, as a glorious one. They expressed their bitterness towards the state, towards the authorities on both sides, towards the boat-owners.

Savibahen Sosa, a 22-year old dalit woman and mother of two daughters, and whose husband was in a jail in Pakistan during 1995-96 said:

To live without a husband is to exist like a container without a cover. Everyone in the village considers you 'bhabhi' of the village and looks at you with strange motives. Being a widow is better. At least you have a fixed identity.

Bilkishbanu Shaik, a 20-year old Muslim Sunni, whose husband was arrested from Kutch border on December 26, 1998, stated:

Within two months of my marriage, my husband was arrested by Pakistani authorities. Our home was like a Jannat when he was around.

Or listen to Savita a Kori by caste and mother of four daughters and one son, whose husband was arrested in January 2002:

My husband and I got along like a house on fire. The kids love their father so much and say that their mother has been arrested in Pakistan. I really miss him. I have been reduced to a rag picker. Let him come back home this time; I will go hungry, but never let him go fishing again.

These narratives of the arrested fisherfolk and their families hide innumerable stories of pain and agony. None of them are unique; they are representative of many experiences of similar kinds. The stories of the fisherfolk are indescribably tragic and on several levels. They are tragic, of course, because their livelihood is converted in to a crime. They are harassed by coast guards and jail authorities, weakened economically and excluded from their only source of livelihood. But it is also tragic in other, subtle ways. There is, for instance, the toll on their families left behind, living a constant life of uncertainty and anxiety. There is also the tragedy of gross violation of basic human rights. Finally, there is the tragedy of a loss of self.

The fishworkers' unions, boat-owners associations and trade unions of both the countries have come together to highlight this problem and have been asking the governments to work out a long-term solution. Trade unions and labour support groups of both India and Pakistan, and their common platform, the South Asian Labour Forum (SALF) have continuously demanded the unconditional release of all the detained persons and a stop to the mid-sea arrest and imprisonment of fishermen. Thomas Kocherry, a leading light of the National Fishworkers Forum (NFF) of India, has continuously urged for a bilateral agreement between India and Pakistan that clearly defines the maritime boundaries; the establishment of effective steps to make the boundary visible to the fishermen in the sea; and a regional agreement at the SAARC level, whereby the fishermen of south Asian countries could fearlessly and in a friendly manner, fish in the Arabian Sea, Indian Ocean and the Bay of Bengal. Says Muhammad Ali Shah, president of the Pakistan Fisherfolk Forum, "Fishermen should not be made the victims of enmities and boundary disputes between the two countries. Nowhere in the world such a practice is in place. This is the tragedy of this region where fishermen are treated like prisoners of war." Karamat Ali, director, Pakistan Institute of Labour Education and Research (PILER) points out that even in cases of crossing of borders, fishermen are not guilty because there is no proper demarcation of sea borders between the two countries. He remarks, "It is a criminal negligence on the part of both the countries. There should be a demarcation according to UN Sea Conventions. Further, according to international sea laws, the maximum punishment for fishermen on violation is seizing their fish-catch. But in this case, they end up serving ten years in prison"

The deep trauma, pain and personal suffering that the fisherfolk and their families go through are intrinsically linked to political power and rivalries of states and governments. The personal here is very much political. These people are desperate,

poor and powerless. Their suffering is individual and collective, local and global.^{lviii} More often than not, the arrested fisherfolk have remained merely statistical numbers in the government records.^{lix} But suffering and innumerable stories of pain, anguish and anxieties, not only of those arrested, but also of those left behind, their families, boat-owners and other fisherfolk can never be conveyed by merely statistics and numbers. The victims on both side of the border may not share religions or countries. Rather, what they share is the experience of being treated as criminals for their livelihood, of gross human rights violations, of occupying a marginal position in the social ladder in inegalitarian societies. Many have suffered, and we have to take their suffering seriously. To say more is to simplify, but to fathom the statement is also to make the fact bearable. However, in the process also emerge their continuous efforts to live, to survive, to cope. In their own way, they challenge the state everyday through their activities and actions.

IV

Ambiguities of Identities of Fishermen

humari jaat machimaar

humari naat machimaar

hum sab machimaar ek

(our caste is fishing, our occupation is fishing, we all fishermen are one)

-A popular saying among fishworkers of Vanakbara village in Diu

Movement of fisher folk in the seas has been an age-old phenomenon, which has continued in partial and new ways. The constructed omnipotence of the state is in a way challenged on a daily basis by the activities of the coastal fisher folk, as they are engaged in deterritorialising journeys. The physical geography of the state is contradicted by the cartography of fish workers' identity. Sea boundaries are not only difficult to demarcate; these fish workers almost every day blur the lines between external and internal by continuously disrupting the authority and power of the state to define neat borders. Historically as well, lands have separated communities; ocean have brought them together. The seas thus signify a unity for the fisher folk communities, where crossing of borders and entering each other's territory is a daily phenomenon; it is natural and inevitable.

These coastal fisherfolk are part of what Homi Bhaba calls the "wondering people who will not be contained within the Heim of the national culture and its unisonant discourse, but are themselves the marks of a shifting boundary that alienates the frontiers of the modern nation".^{lx} They in a way represent negations of the proper working self, as their daily lives and life styles violate the fundamentals of the state

and notions of security and borders. As the state attempts more and more to reaffirm a given vision of borders and security, the fisher folk disorder and reorder established arrangements. Aggression of the state goes hand in hand with the transgression of the fisher folk, rupturing the conceptual and physical boundaries. There is a pervasive paradox here, where as much the border defines and controls, that much the fish workers break it.

What is the national identity of these coastal fish workers? Are they one of 'us' or 'them'? They represent a national fragment that symbolizes inter-state tensions of the moment they have multiple and dynamic trajectories of identity, challenging any claims of a unified nation. The territorially bounded practices of national citizenship and static international relations are too leaden-footed to match the dexterous footwork of these coastal fisherfolk. 'Identity' is not a static state of attributes that characterizes them. Their identity changes flows, reverses and reinvents itself. It is a constantly dynamic and performative practice, based in part on a historical inventory that memorializes past encounters but also something that changes in a different set of situations. Nuances and inflections in that inventory surface on different occasions and under different provocations. The identity of these fisher folk is a pluralist compartment that denies the dominant, morally transcendent mode of national becoming their movement reframes the question of identity in less territorially bounded and more mobile and mediated ways.

The very notion of citizenship is problematic for them as both their national identity and their spatial limits in terms of political boundaries are marked by fuzziness and fluidity. In fact, many of these coastal fisher folk have familial and marital ties across borders, making such lines even more problematic for them. The construction of a singular boundary is complicated here by ground realities, where legacies, boundaries and identities overlap. The state has been unable to eradicate these links across sea borders.

At the same time, we often get two polar views regarding these arrested coastal fisherfolk, where the state usually sees all those who cross the borders as potential threats to national security. On the other hand, most accounts of fisherfolk themselves and of their organizations portray them dominantly as victims. It is true that there are no visible and clear demarcation lines defining the sea borders and some of the violations are unintentional and accidental. Tidal factors, oceanic currents and storms also lead to these cross-ings. However, often there is a 'feigned ignorance' on the part of fish workers about such crossings. We hear muted, hidden voices among the fisher folk themselves which reveal that they are usually well aware that they are crossing the borders. These are actually hidden strategies of everyday survival within available resources; of abilities to secure their daily living. It is their way of coping with declining fish catch, and increasing their fish stock. Perhaps these can be partially seen

as their 'agentive moments'.^{lxi} At the same time, the rapid changes in prices of fishing crafts and fishing gear may also force them to cross the borders to cover their expenses. The boat owners may also forcefully motivate the crew members to do so. Most important perhaps, fisher people exercise their customary fishing rights as they practiced in the past.^{lxii} Says Shamji, a fisherman from Vanakbara village, Diu:

I am a fisherman and only a fisherman. I love my occupation. I have no other identity besides that. I do not know what borders and boundaries mean. I will go and fish wherever I can. It has been my customary right. How can I now allow the State to determine and change a right that I have always had?^{lxiii}

And he goes on to say:

Water and air have their own free will. How do we know that this is Pakistan's water or India's?

Perhaps these acts of 'conscious crossing of borders' can be seen as hidden transcripts of 'everyday resistance'.^{lxiv} They do to an extent signify ordinary weapons of subordinate and marginalized coastal fisherfolk. These crossing son a daily basis are less dramatic or headline-worthy, but they do signify a 'routine' way of survival. Their actions may not explicitly be a critique of the nation but they also do not encompass the nation. As subalterns, they are perhaps 'incapable' of 'imagining' a nation. It may thus be more useful to see these acts as representing an unconcern for state and national anxieties, and an exercise in asserting their customary fishing rights.

After all, behind a few hundred arrested, there are thousands who fish in other's waters consciously and escape. Says Daya Govind, a fisherman of Vanakbara village:

Even though I have been arrested once, I will continue to take the risk of crossing the border. I know it is treated as a crime, but do I have a choice? I have to survive. I cannot afford not to cross.^{lxv}

Thus, when the fishes beck on, boundaries are lost. These fisher folk defy the waves of the boundless sea and at the same time find moments of subversive pleasure in its flow. Here boundaries and nations dissolve; there is instead an indifference towards them. Through their actions, these fisher folk provide a space and create a discursive frame that can enunciate alternatives. The addresses of these alternative voices have not appeared in the directories provided by overwhelming nationalist and border concern.

We wish to also say that the fisher folk and their families learn to endure and also transcend their suffering.^{lxvi} Women of these fisherfolk families particularly reveal their extra ordinary capacity of continuing relationships and providing nurturance. Kalavanti of Vanakbara village, whose husband is in jail says:

Everyone in our family fishes. We do not know any other work. We will continue to do it. However long it takes, I will wait for my husband, and work towards his release.^{lxvii}

These fishing communities mark an ambiguous space, located on the margin so f these countries, precariously perching them-selves between the flow and the contained, legality and illegality, inside and outside. Thus anxieties of borders coexist with the unconcerned everyday life on the sea borders, as for these fishworkers it is simply a question of livelihood. These fisherfolk are like very short-term, temporary migrants into each other's territories. They represent a world of subalterity, of another universe of values, attitudes and outlook. These two worlds – from top 'cartographic anxieties', from below 'ironic unconcern' – make up the twilight zone in which sea borders between south Asian countries exist. The consciousness of these fisherfolk is theoretically against binarism and duality and offers a third optique, which is multi-perspectival and tolerant of ambiguity, ambivalence, and chaos. As liminal subjects and interstitial artisans, these fishworkers are stranded between legality and illegality. They produce ambiguity and doubt about the taken-for-granted values of home and the nation.

Conclusion

The political and social issues here are complex and resistant to easy solutions. However, broadly it can be said that the need of the times is to transcend the unfettered processes of capital accumulation as the development metaphor. We need to simultaneously contest, interrogate and reverse state anxieties. We need to rethink the very terms in which we converse about security, the very language we use to articulate our 'realities', problems and dreams.^{lxviii} India and Pakistan both inhabit a political system that elevates borders, boundaries and abstract security concerns as engines of an imagined nation. They however, appear to have ignored two major questions involved - the fisher folk's right to resources and livelihood and the incompatibility of their national laws with regard to the seas and internal laws and conventions. Should not questions of livelihood, of human dignity and the right to live feature in any discussion of national security and the drawing of borders? The attention of these countries has to shift from the security of the borders to the security of the people. This requires a fundamental shift in the basis of political legitimacy - from efficacy to the active consent of the governed.

Remarks Thomas Kocherry, "People are more important than territory and all the borders in the world".^{lxix} Premjibhai, secretary of NFF poetically states, "The fisherman is like a yogi, an ascetic, who worships the sea. He spends a large part of his life in the sea, away from his family. There are no borders for him. He is the son of the sea".^{lxx}

The need of the times is to have a region of productive ambiguity, to be adopted by both countries, in which there is a decentralization of settled conventions. Institutionalization of the rights of these coastal fisherfolk is not only needed to protect their interests; it can lead to a reduction in cross-border tensions and be a step towards peace and democracy. Coastal fisherfolk provide us with spaces for constructive interactions between peoples across boundaries, reducing constructs of exclusivist identities. Their lives embed our narratives with meaning, and are the very stuff that makes our life both social and living.

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^{vi} Homer-Dixon and Thomas, *Environment, Scarcity and Conflict*

^{vii} Peter H Gleick, 'Environment and Security: The Clear Connections', *Bulletin of the Atomic Scientists*, April 1991, p 18.

^{viii} Peter H Gleick, 'Environment and Security: The Clear Connections', *Bulletin of the Atomic Scientists*, April 1991, p 18.

^{ix} Mohammed Suliman (ed), *Ecology, Politics and Violent Conflict*, Zed Books, London, 1999

^x Nicholas Hildyard, 'Blood, Babies and the Social Roots of Conflict', in Suliman (ed), *Ecology, Politics*, pp 3-24.

^{xi} Vekatesh Salagrama, 'Coastal Area Degradation on the East Coast of India: Impact on Fishworkers', paper presented at a Conference on Forging Unity: Coastal Communities and the Indian Ocean's Future, at Chennai, India, 9-13 October 2001, p 1.

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^{xxii} Hildyard, 'Blood, Babies'.

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^{xxxix} B Kapferer, *Legends of People, Myths of State: Violence, Intolerance and Political Culture in Sri Lanka and Australia*, Smithsonian Institution Press, Washington, DC, 1988.

^{xl} Anil Kumar Singh, *India's Security Concerns in the Indian Ocean Region*, Har-Anand Publications, p 115-16, New Delhi, 2003.

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^{xliiv} B Muralidhar Reddy, 'Pak to Restore Diplomatic Ties; Road, Rail and Air Links', *The Hindu*, Delhi, May 7, 2003, p 1.

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^{xlivi} Mohammad Ayub, *The Third World Security Predicament: State Making, Regional Conflict and International System*, Boulder, Lynee Rienner, 1995, p 6.

^{xliiii} James Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed*, Yale University Press, New Haven, 1998, p 65.

^{xlix} These verses refer to the massacre of Chilean workers in 1946

¹ For example, by 1997, 180 Pakistani fishermen had been kept in Indian prisons for more than five years. The corresponding number of Indian fishermen in Pakistani jails for that many years was 193.

ⁱⁱ For example, in 1997, 195 Pakistani fish workers from Indian jails and 193 Indian fish workers from Pakistani jails were released in exchange.

ⁱⁱⁱ P Levi, *The Drowned and the Saved*, trans R Rosenthal, Summit, New York, 1988

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^{lv} Zulfiqar Shah, 'Bordering our Waters: Fishermen of India and Pakistan often face arrest on charges of violation of sea boundaries', *The News on Sunday*, February 17, 2002.

^{lvi} Shah, 'Bordering our Waters'

^{lvii} Rajiv Shah, 'State's Fishermen Languish in Pak Jails, Reveal Letters', *The Times of India*, July 26, 2000.

^{xliiii} For theoretical inputs on this, see Arthur Kleinman, Veena Dass and Margaret Lock (eds), *Social Suffering*, OUP, Delhi, 1998.

^{lix} Here too we often found it difficult, at various stages of our work, to determine the exact number of those who were still imprisoned in the two countries since government agencies did not release the figures.

^{lx} Homi Bhaba, *DissemiNation*, p 315, quoted in Neils Lazarus, *Nationalism and Cultural Practice in the Postcolonial World*, CUP, Cambridge, 2000, p 135.

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^{lxiii} Interview with Shamji, a fisherman from Vanakbara village, Diu, May 11, 2002.

^{lxiv} Here one is obviously inspired by the seminal work of James C Scott, *Political Arts of the Powerless: Interpreting the Hidden Transcripts of the Powerless*, Yale University Press, New Haven, 1992. Also see James C Scott and Benedict J Tria Kerkvliet (eds), *Everyday Forms of Peasant Resistance in South-East Asia*, Frank Cass, Britain, 1986; F D Colburn (eds), *Everyday Forms of Resistance*, Sharpe, New York, 1990.

^{lxv} Interview with Daya Govind, a fisherman from Vanakbara village, Diu, May 11, 2002.

^{lxvi} For theoretical inputs see Veena Das, Arthur Kleinman, Margaret Lock, Mamphela Ramphele and Pamela Reynolds (eds), *Remaking A World: Violence, Social Suffering, and Recovery*, University of California Press, Berkeley, 2001.

^{lxvii} Interview with Kalavanti, Vanakbara village, Diu, May 12, 2002.

^{lxviii} Navnita Chadha Behra, 'Discourses on Security: A Contested Terrain', in Navnita Chadha Behra (ed), *State, People and Security: The South Asian Context*, Har-Anand Publications, New Delhi, 2002, p 62.

^{lxix} Quoted by Bharat Bhushan, 'Fishermen Float Formula to Bridge the Creek', *The Telegraph*, December 18, 2003.

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B. Reports

Why do India and Pakistan treat their fishermen like fish?

Shivam Vij

Rediff News
October 1, 2012

<http://www.rediff.com/news/special/why-do-india-and-pakistan-treat-their-fishermen-like-fish-special/20121001.htm>

When a security force finds the vessel of another country within its maritime borders -- with no "objectionable materials apart from a large cache of fish" -- why can't they simply ask the vessel to return, asks Shivam Vij

The insensitive governments of India and Pakistan are not moved even when one of their citizens dies in the other country, especially if the citizen was a poor fisherman arrested for the crime of inadvertently crossing a maritime boundary.

After 23 days of lying in the morgue of Ahmedabad's Civil Hospital, the body of 32 year old Nawaz Ali Jat will finally reach Karachi on Monday by a Pakistan International Airlines flight. His family waited 14 years for his return, but they didn't even get to know when he died of kidney failure on September 8.

In May 1999, a cyclone hit the Karachi coast, pushing Nawaz's boat across Indian maritime borders. Along with his relatives, Usman Sachu, Zaman Jat and Usman Jat, Nawaz was arrested. India and Pakistan were fighting a war in the treacherous mountains of Kargil, a war that these fishermen had nothing to do with. But since they were Pakistanis who had committed the crime of being hit by a cyclone, they were charged with more than just trespass. Nawaz was accused and convicted of anti-State activities. Their families thought they had died, until they got a letter from them from inside Sabarmati Jail.

The spying charges meant that even though hundreds of fishermen have been arrested and released by India and Pakistan since then, Nawaz and his relatives were not. When Mumbai-based journalist and peace activist Jatin Desai asked the Indian government about his case in 2007, the government replied that India has no Pakistani fisherman arrested before 2000.

Desai has met Nawaz's family in Karachi and he says he wouldn't know how to face them the next time he goes there. Nawaz Ali Jat died after a long illness on September 8. The Gujarat government informed the ministries of home and external affairs on September 10. On receiving no response they wrote to the two ministries again on September 15 and then again on September 21. The MEA finally

woke up from its slumber and informed the Pakistan high commission on September 26. That's when Nawaz's family in Karachi got to know.

As if this wasn't insensitivity enough, it's been five days since then and there is no news when the body could be sent to Karachi. The Gujarat government is yet to hear from the MHA or MEA.

This indifference cannot be explained merely by Nawaz Ali Jat's nationality, because India clearly doesn't care much about Indian fishermen in Pakistani jails either. Rambhai, an Indian fisherman, died in Karachi on May 28 this year, and it took over 40 days for his body to reach Mumbai. India and Pakistan's reaction, as also of the media in both countries, would have been very different had these people been middle class city folk rather than poor coastal fishermen.

Indian and Pakistani fishermen are regularly arrested in the Arabian Sea between Gujarat and Sind. These are fishermen who have been fishing in these waters for generations. They did not ask for these maritime boundaries. More Indian fishermen than Pakistani ones get arrested, because some of the Indian fishermen deliberately take risk and cross the maritime boundary because there's more fish there. This is partly because industrial pollution has destroyed the ecology of the Gujarat coast. But often, it is bad weather or dysfunctional GPS that makes them cross that invisible border in the sea.

Another reason for such regular arrests is the Sir Creek dispute, where India and Pakistan disagree on what the maritime boundary is. On September 29, for instance, the Border Security Force arrested 9 Pakistani fishermen near Sir Creek in Bhuj. 'The intruders were not found in possession of any objectionable materials apart from a large cache of fish stored in their boat, ' *The Times of India* noted without irony.

Apart from Sir Creek area and the island of Diu (a Union territory), the affected Gujarat districts are Porbandar, Junagadh and Jamnagar in the Saurashtra region. The fishermen are from the Koli and Kharwa communities, though there are some tribals too. On the Pakistani side the fishermen are Muslim Kolis. These fishermen use not small boats but large trawlers. They're at sea for days. One trawler costs as much as Rs 50 lakh and up to a hundred people are dependent on it for their livelihood. When a trawler is caught by the Pakistanis, the Gujarat government gives each prisoner's family a princely sum of Rs 175 a day.

Jatin Desai, who is also joint secretary of the Pakistan-India People's Forum for Peace and Democracy, has been following the issue for years. He tells me that until 1996, Pakistan used to release the fishermen with the trawlers on the same sea. But to discourage them they started retaining the trawlers and sending the fishermen

via Wagah. This cripples them financially even after they return. As part of the ongoing India-Pakistan peace process the two countries have released hundreds of imprisoned fishermen in batches this year. But they still have the trawlers. Pakistan has some 600 of them, whereas India has 120.

There are around 45 Indian fishermen in Karachi's Malir jail, of whom 11 were arrested last month. The number of Pakistani fishermen in Indian jails at present is 60, in various jails in Gujarat. Desai tells me that this is the lowest figure of Indian fishermen in Pakistani jails since 1999. Until last year, the number of Indian fishermen in Pakistani jails was invariably over 300, and that of Pakistani fishermen in India was never below 100.

When a security force finds the vessel of another country within its maritime borders -- with no "objectionable materials apart from a large cache of fish" -- why can't they simply ask the vessel to return? What purpose is served by the arrests, keeping in jail (on tax-payers' money!) for years and then releasing them like doves as some meaningless 'confidence building measure'?

Saadat Hasan Manto's *Toba Tek Singh*, the no man's land where his protagonist Bishan Singh dies because he refuses to choose between India and Pakistan, was still a piece of land. What did Manto know that the men who rule India and Pakistan extend their territorial madness even to the high seas, arresting each other's Bishan Singhs daily, drilling into them that they aren't simply the fishermen of the Arabian Sea but of India and Pakistan and they better know how to recognise which droplet of the sea belongs to which country...

Shivam Vij

Indian Fishermen's boats rotting away

S. Raza Hassan

Dawn
April 3, 2011

<http://dawn.com/2011/04/03/indian-fishermens-boats-rotting-away/>

KARACHI, April 2: Hundreds of fishing boats belonging to arrested Indian fishermen are dumped on the shore of Saulahabad, giving a grim reminder that the tragedy of arresting fishermen by both Pakistani and Indian authorities continues unabated.

A visit to the shore of Saulahabad, a costal settlement connected to the Manora Island, showed that several hundred fishing boats seized along with Indian fishermen on different occasions have been piling on the land adjoining the sea.

A sizable number of these boats have degenerated into mere scrap while a few boats have become wreckage after running aground while being towed to the shore.

Likewise, a little distance from the pile around a dozen Indian boats were anchored in the sea and were in a relatively good condition.

Once Indian fishermen are detained by the Maritime Security Agency (MSA) for crossing into the territorial waters of Pakistan, they are handed over to the Docks police station where they are kept in a lockup.

The chairman of the Pakistan Fisher Folk Forum, Mohammad Ali Shah, told Dawn that about seven years back, before the release of the fishermen from any of the two countries, a representative delegation visited the country to make preparations for the repatriation of both boats and their operators.

The steps taken included the boats' satisfactory repairs, and their subsequent return through the sea route.

Criticising both the Pakistani and Indian governments, the PFF chairman said that through mutual consultation both governments had decided to do away with the repatriation of the boats in an attempt to punish the fishermen so that they never again dared to come near the suspected alien territorial limits again.

Such boats are either auctioned or just left to rot on the shore, said Mr Shah.

For the past many years, whenever fishermen are released either by Pakistan or India, they are repatriated by road through the Wagah Border in Punjab.

“In the first place, fishermen should not be arrested by both governments, but if they are arrested, the governments should restore the old practice of repatriation

through the sea route instead of land, so that the boats which are the rightful property of the arrested fishermen are returned to them as they are their source of earning a livelihood,” said Mohammad Ali Shah.

According to PFF statistics, during the last two years, around 1,000 Indian fishermen were arrested and some 700 of them were subsequently released and repatriated to India.

Similarly, during the same period as many as 2,200 Pakistani fishermen were arrested by the Indian maritime authorities, and so far 300 have been released by the Indian government and returned home.

“The seized boats belonging to the Indian fishermen are auctioned with the permission of the relevant court, and the revenue generated through the auction is deposited in the government exchequer,” said MSA spokesman Commander Naeem.

The action which is conducted by the MSA is duly advertised in the newspapers. The last auction was held in December 2010 during which around 90 boats were auctioned, the MSA spokesman told Dawn.

Different parties take part in the auction of Indian fishing boats to purchase them either for scrap or for their use for fishing, a boat craftsman, Haji Mohammad Wada, said.

“They are not worth much. Their price usually ranges between Rs60,000 and Rs100,000 and if a boat is in sound condition it may fetch up to Rs200,000,” said Mr Wada.

However, he was quick to point out the superiority of the craftsmanship of Pakistan-made boats over India-made fishing boats.

“Among other things, there is a distinction between the designs of the fishing boats of the two countries,” he remarked.

PAKISTAN: Fisherfolk Blues...

Qurat Mirza

Asian Human Rights Commission

March 23, 2012

<http://www.humanrights.asia/news/ahrc-news/AHRC-ART-027-2012>

I have a dream that one day every valley shall be exalted, and every hill and mountain shall be made low, the rough places will be made plain, and the crooked places will be made straight; "and the glory of the Lord shall be revealed and all flesh shall see it together."

And so even though we face the difficulties of today and tomorrow, I still have a dream. Martin Luther King, Jr. "I Have a Dream"

Smiling and wide-eyed, seven-month-old Kareem Bux is happy between the arms of his mother, grandmother and father in the courtyard of his home in the Rehri Village of Karachi coastal line. He is blissfully unaware of the fact that he has opened his eyes in one of the unfortunate families who are from the most neglected and unprivileged Fisherfolk community of the society. A society where the narrow stratum of elite families maintains extremely disproportionate control over the nation's wealth, and almost one-third of the people live below the poverty line; where all his basic rights are denied, where he will have to strive even to get his share of food.

Fishermen all around the world are the most marginalized and neglected sect, they face the same problem against the big corporations, against their own governments, against environmental pollution, global warming etc that is causing depletion of fish stocks day by day. There are 4 millions vessels all around the world, out of which only 1% is industrial deep sea trawlers and because of this 1% more than 70% of the fish stocks from the entire world are in decline. The negative impact of bottom trawling has on marine ecology, biodiversity and marine fishery resources are well known and recorded. According to the research carried out by the experts around the globe, if this continues then all the seas of the world will be out of fish by 2048.

The Fisherfolk in Pakistan are the indigenous people living on the 1120 kilometer-long coastline comprised of 26 creeks in Sindh and Balochistan provinces, which shares its sea water territories with India and Iran. The coastline of Sindh province is 350 kilometers and is very fertile and full of natural resources, having many small and big islands, creeks, wetlands, mangroves forests, fertile and agricultural lands and natural habitats for the migratory birds. Indus Delta which is the 6th richest and largest resource in the world is the part of the Sindh Coastline.

In the inland fisheries resources of Pakistan 1209 fresh water bodies are found only in Sindh province and their share in inland fishing is more than 70% in the country.

For fishermen the sea is both livelihood and heritage, the bright lights and prosperity of the city are as distant as another country. The 'fisherfolk', are a community bound together by their livelihood. This pervades their culture, rituals and identity. The songs of valor in face of nature, stories of sea conquests, and shells, driftwood and other 'gifts of the sea' adorn their lives. No matter whether they steer vessels or not, by virtue of being in the community, they are all 'fishermen'.

The fisher people of the coastal and inland areas of Pakistan have been fighting for their survival for many decades. The fishing communities, about five million people living in coastal and inland areas of Pakistan, are among the poorest and the most deprived people.

Since the degradation of water resources including the drying up of River Indus and intrusion of sea water in Indus delta, their life has become miserable. The fishermen, women and children have to face the occupation of fishing waters by sea lords, a feudal paramilitary force, the Rangers, and the powerful fish contractors along with large scale fishing by deep sea trawlers, marine pollution, lack of basic civic facilities and un-favorable government policies. Fishing communities are also vulnerable to natural disasters such as cyclones, floods and droughts.

The state has launched many so-called development projects, which instead of improving the living standards, has degraded the livelihood resources of the indigenous fisher communities.

The contract system is considered to be a curse on fishermen in Pakistan, where contractors deprive the fishermen of the major chunk of their fish catch as the contractors claim 75% share from the fish catch and also compel the fishermen to sell their only 25% fish catch share to contractors on throw away prices in place of selling the same in open market. The contractors also resort to over-fishing and forcing the fishermen and non-fishermen fishing labor to fish indiscriminately so as to extract more and more fish resources from the auctioned fishing grounds. This over-fishing has resulted rapid reduction in the fish resources in the fishing grounds of Sindh and it is feared that the fishing grounds may collapse resulting in the starvation of millions of fisherfolk communities/families.

In their bid to earn more from the auctioned fishing grounds, the contractors even spray poisonous chemicals in the fishing grounds. This kills the fish and brings them to the surface enabling the contractor's people to collect the dead fish to sell the same in the market. This largely degrades the fishing grounds and results in drastic reduction in fish catch in future.

Manchar lake is one of the biggest fresh water lakes across the Asia. Only a couple of decades ago, the Fisherfolk at the Manchar Lake were living on residential boats and the villages were known as floating villages. However the reckless attitude of the authorities has ruined almost everything for the poor fisherfolk. Once well off, the fishermen are now forced to survive in pathetic living conditions.

The diversion of Indus River through construction of mega dams in the upstream and new irrigation canals has caused water shortage at the tail-end areas of Indus, consequently many wetlands and natural habitats for the migratory birds are desiccated.

The Mangroves, Coral reef, and Sea Grass are the nurseries and shelters for fish, and the coastline of Sindh province has only one type of nurseries that are the Mangrove Forest. Mangroves, the breeding grounds of the shrimps and natural protection from calamities like cyclone and tsunami depends on fresh water, and the only source of fresh water in Sindh province is the Indus River. The massive construction of dams and barrages has stopped the downstreaming of the Indus that shattered the mangrove forests, destroying the entire life of the deltaic inhabitants.

Not only this, the reduction of fresh water flow in downstream has caused degradation of the fertile agricultural lands and more than two million acres land has been intruded upon by the sea. On the other hand the land grabbers are cutting the precious mangrove forest massively to reclaim the land. The fishermen in Pakistan have to pay the price for their being; they are killed by the land grabbers who are aboveboard, enjoying impunity with the full support of feudal and political influence.

Moreover, the construction of the Left Bank Outfall Drain (LBOD) has destroyed the rest of the livelihood sources of the people of district Badin in Sindh province, while the faulty and poor design of the project caused the deaths of more than 400 people during the cyclone A-2 in 1999 that ruined all the assets of the poor fisher and agriculture communities.

Overall the Government seems to care only about the feudal power and money, they are not doing much about the Fisherfolk; in fact nobody from the state is doing much for the betterment of the disadvantaged ones. The state has not only failed to protect the rights of the unprivileged Fisherfolk, but is supporting the criminal activities for their larger interests particularly in Sindh and Pakistan in general.

The lack of proper fisher friendly policies and laws and their implementation is a dilemma that pushed the fishermen back into deep rooted poverty and hunger. Almost all the water bodies of Sindh province are occupied by influential people. They use destructive, banned and illegal gear for fishing that causes depletion in fish stocks.

The fishermen are the sons of the sea, they own the sea and it is quite painful for them that 500 million gallon of sewerage, garbage and waste is dumped on top of their livelihood every day.

It is the plight of Pakistani fishermen--the producers of food for people around the world that they themselves deprived of it and forced to live a miserable life due to immense poverty. They are the group that exist at the fringes of the society and are increasingly pushed back further that their existence is now threatened, neither getting any support from the state nor the exporters who are earning huge profit on their catch.

Now the indigenous Fisherfolk are going through a fight for their survival. The children cannot enjoy their basic rights even safe drinking water, food and education. Contaminated water causes a lot of water-borne diseases and other health issues. In fact, the entire coast belt has almost no basic medical facilities. The four million Fisherfolk souls in Pakistan are solely dependent on marine and inland fisheries resources for their livelihood. But the majority of them are denied of their civic and fundamental rights, ensured under various national and international frameworks. The community is also denied of participation in political decision-making process that is the main reason they are sidelined by the authorities.

It is obligatory for the government of Pakistan to provide and protect fundamental human rights but these rights are denied for the Fisherfolk community which is guaranteed under constitution and international laws like Universal Declaration of Human Rights (UDHR), International Convention of Civil and Political Rights (ICCPR) and International Convention of Social, Economical and Cultural Rights (ICSECR). Also the fishing community and civil society have to come up and voice to protect the rights of the fishers and conserve their natural resources.

The poor fishermen demand the government to ensure a strict action against the use of prohibited nets in Sindh marine water and to phase out bottom trawling from territorial waters which has put juvenile fish stock at the verge of extinct. They demand the immediate release of about 900 fishermen languishing in Indian and Pakistani jails and urge the two governments to stop indiscriminate arrests of poor fishermen in future.

They demand that the Contract system should be eradicated from the country in order to impede the injustice with fishing community and to ensure their sustainable livelihood. Fishermen should be issued licenses so that they can catch fish freely and earn livelihood for their families in an honorable manner.

Fishermens' century-old settlements are still without a proper water supply system and people depend on rainy water they should be provided with the basic amenities and those indigenous fishermen who are displaced, must be rehabilitated to their original places with the provision of all basic facilities of their livelihood.

Fisherfolk--The most neglected, marginalized and disadvantaged community is beset by the polluters, land-grabbers, deep sea trawlers, by the city itself where 20 million people and their waste is being dumped into their backyard. They are beset by the security agencies across the border who treat them as the prisoners of war and the government to turn its back from their rights but still they are mobilized and organized, struggling hard for their rights and fighting back to get their existence recognized because they know "We be many and they be few, they need us more than we need them." (Arundhati Roy, War Talk)

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About AHRC: The Asian Human Rights Commission is a regional non-governmental organisation that monitors human rights in Asia, documents violations and advocates for justice and institutional reform to ensure the protection and promotion of these rights. The Hong Kong-based group was founded in 1984.

C. Columns

Pakistan-India Relations: Non-governmental Initiatives for Peace

B. M. Kutty

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Citizens' groups, civil society organizations and NGOs of the South Asian region have been involved in the peace process from the very inception of independence from colonial rule, due to the negative role played in this regard by the post-colonial ruling establishments. From day one, the newly independent states had to deal with contentious issues left behind by the erstwhile colonial rulers. This was particularly so in the case of Pakistan and India, whose adversarial relationship with each other at state and government level has, for more than half a century, stood in the way of this region benefiting from regional economic cooperation, like the under-developed countries in other regions with lesser resources have been able to do.

Non-governmental peace initiatives in South Asia have emerged due to two opposing factors, one negative and the other positive. The negative one was the inaction, if not antipathy, of governments in matters related to peace. This in turn (the positive factor) redoubled the urge among civil society groups to take the task in their own hands. This is how the current process of non-governmental interaction and alliance building took shape. Nevertheless, it is still passing through a crucial phase characterized by intra-regional political rivalry between governments on the one hand and the phenomenon of pervasive globalization and its adverse fallout on the other.

Peace initiatives at the non-governmental level have to be viewed in the context of the absence of healthy social development that, in turn, led the powerful sections of society, with their strong grip on the state and its institutions, to impose their own brand of ideology and statehood to oppress and plunder the people through both constitutional and extra-constitutional means. As a result, ethnic and religious chauvinism became the order of the day, particularly in Pakistan and India, and governments became the instruments sponsoring and sustaining it. The states were at loggerheads with one another, and obstructed the free flow of information and of the people. This has been typical of the subcontinent.

In the backdrop of this gloomy situation, a host of processes and events did take place, particularly in the last decade and a half, where the concerned persons, groups and communities endeavoured to come closer, define common perspectives and work out common agendas.

Background

Let us look back at an initiative that transcended the South Asian limits, but was yet most relevant to the South Asian context. The reference here is to the People's Plan for Twenty First Century - PP 21 - held in Japan in August 1989, which culminated in the formulation of the Minamata Declaration. It, for the first time, laid the focus on people's initiative as opposed to governments' initiative in resolving people's problems. It said:

The ruling powers maintain themselves by dividing the people and encouraging hostility among them. The rulers not only seek to rule us but also to manage our mutual relations, depriving us of our right to do this for ourselves. This we must reject and overcome. Trans-border political action, support and solidarity campaigns across borders will develop a new 'people' that transcends existing divisions.

Having said that mainly in the Asian context, let us now return to the Pakistan-India context. Strained, or should we say the confrontational relationship between the governments of Pakistan and India can be traced back to day one - 14-15 August 1947. But then, the yearning for friendly relations and interaction among the people of the two countries is also as old as that. While in many ways, the governments were trying to discourage and even undermine the chances of improvement of relations, the people of Pakistan and India, at various levels, were trying hard to do the opposite. A number of people's delegations of different denominations - cultural, political, lawyers, writers, trade unionists, women's rights activists, students, scientists, artists, academics, sportspersons, businessmen and so on-at the unofficial level, tried to keep that urge for Pakistan-India friendship alive, in the face of unhelpful official policy on both sides of the Divide.

Today, despite the apparent thaw in relations between the two countries, the political situation in the subcontinent epitomizes the elitist, undemocratic and militaristic nature of the Pakistan-India conflict. The states justify their actions with a flawed concept of national security that renders irrelevant the needs of common people, which, in turn, is symptomatic of deeper problems with the state of democracy and accountability in the Pakistani and Indian governments. Ultimately, this situation necessitates activism originating from the people's level and a citizen-inspired pursuit of peace.

This explains why and how the saner elements in society started to see it, watch it and asked themselves the question: 'What is going to happen if this process continues?' The peace folk, those who wanted peace between Pakistan and India, those who yearned for progress, development and prosperity for the people of the subcontinent, felt that if they failed to move, things would go from bad to worse.

Emergence of peace activism

Though the emerging peace activism was not formally coordinated under an umbrella or formal organization, cultural exchanges like mushairas were not uncommon, despite the common occurrence that both the governments would refuse to grant visas at the last minute. Travel across the border was extremely difficult. In spite of these obstacles, some intellectuals and political activists managed to organize programmes in both countries to raise awareness about the danger posed by nuclear weapons, particularly after India conducted its first nuclear test in 1974. 'The first peace group in Karachi was formed in the late 1980s with an initial membership of about a dozen people. This 'Citizens' Committee' did not take off, however, due to lack of funds, organizing drive, and time available on the part of the members.'¹

A significant event occurred in April 1984. The English language newspaper, *The Muslim*, invited a number of eminent Indian journalists and intellectuals to Islamabad for a conference with Pakistani journalists, politicians and retired civil and military officials. The rights and wrongs in the Pakistan-India relationship were aired by both sides with great frankness and candour. The contacts established between peace-seeking Pakistanis and Indians during this conference were to go a long way in making joint efforts towards peace in the following years.

In September 1987, writers from India and Pakistan met in Delhi under the aegis of the Academy of Fine Arts and Literature. Seven years later, they would be meeting in Karachi under the banner of 'Pen for Peace', with hundreds of old and young intellectuals and peace activists from all over the country and the South Asian neighbourhood participating in its sectorally structured programmes.

During the year 1990, a large number of eminent Pakistanis - academics, lawyers and jurists, political activists, parliamentarians, scientists, writers, poets and representatives of various professional bodies - issued a statement warning against the spectre of a fourth Pakistan-India war, if the disputes between the two countries, particularly the Kashmir issue, are not resolved, and called upon the two governments to refrain from seeking military solutions to patently political problems. The positive response to this statement from Indian counterparts led to a visit by some of the Pakistani signatories of that statement to India, resulting in a series of meetings with eminent personalities representing a broad spectrum of India's intellectual and political formations, including the then Prime Minister of India Rajiv Gandhi.²

¹Syma Mirza, *Citizens' Response to the Indo-Pak Conflict* (Karachi), April 2001, P-7

²Mubashir Hasan, 'India-Pakistan: walls must come down', PIPFPD Souvenir (Karachi) December 2003, p. 8.

In September 1990, the Centre for Policy Research, New Delhi, organized a seminar at Goa, India, at which it was agreed to organize a South Asian Dialogue, a yearly conference of scholars to meet once in each country for the next five years. The strategic objective of the dialogue was to be: 'Peace, Development and Cooperation.'

The first South Asian Regional Dialogue was held in New Delhi from 16-18 December 1991. Fifty-four delegates, former ministers, governors, secretaries to government of India, ambassadors, editors of national newspapers and renowned academics participated. Pakistan-India problems figured prominently in the discussions. The second South Asian Dialogue was held at Colombo in November 1992. The working group on Conflict Management and Resolution concluded that conflicts can be brought under control only through bilateral/multilateral negotiations laced with mutual understanding, accommodation and compromise. The third South Asian Dialogue was held in Lahore on 3-5 November 1993. The participants numbered 47. The fourth South Asian Dialogue was held at Kathmandu, Nepal in 1994 and the fifth at Dhaka, Bangladesh in 1997. These conferences served an extremely useful purpose. Serious-minded men and women sat together five times for three days and arrived at a consensus on many basic issues. As the yearly conferences followed one after another, the unanimity in views grew markedly.³

Advent of peace initiatives at people's level

Unfortunately, these exchanges were confined to high-profile intellectuals, former bureaucrats and their like. The messages they formulated for the people of the two countries stayed put at the elite level and failed to reach the multitudes at the grassroots. This happened later on when genuine people's rights groups and peace activists, trade unionists and others took charge of the peace movement in the 1990s.

At the level of the labour movement, several initiatives were taken in the 1990s. Leading representatives of the trade unions of multinational companies operating in the subcontinent met in New Delhi from 26 to 28 March 1992. Plant level workers' representatives from multinational companies such as Lever Brothers (now Unilever), Lipton, Parke Davis, Pfizer, Siemens, Reckit and Colman, S.K.&F and Philips met and exchanged views on plant situations and experiences, forms of collective bargaining and legislations and compared wages and working conditions in the different branches of each company. Workers' representatives from different branches of the same companies operating in Pakistan and India were meeting for the first time. A joint statement was issued on the need to consolidate and extend

³ Ibid., pp.8-9.

these linkages and resolutions on equalization of wages and service conditions, formation of a common information pool, a commitment to organize regular exchange visits of workers, a call for opposition to the World Bank-IMF-GATT/WTO dictations, and demands for South Asian governments to establish economic and political links within the region. It was also resolved to call for an immediate end to the futile and destructive arms race and settlement of all disputes through peaceful means only, commit themselves to a nuclear-free South Asia, removal of all restrictions on travel and trade to facilitate an unhindered people-to-people contact and formation of a South Asian Economic Community and a joint platform to resist the growing onslaught of the IMF and World Bank to undermine our economic and political sovereignty.⁴

Pakistan-India people's dialogue

It was in this backdrop that a group of concerned citizens from Pakistan and India, from different walks of life, engaged in a process to initiate a people-to-people dialogue on critical issues of peace and democracy. As a follow-up to this, a group of 25 persons from the two countries met in Lahore on 2 September 1994 and after consultations came to the conclusion that the crisis in their relations was being deliberately maintained by the ruling elites in utter disregard of the common interests and aspirations of the peoples of the two countries.

It was agreed that:

- war and attempts to create war hysteria should be outlawed;
- a process of de-nuclearisation and reversal of the arms race should be started;
- Kashmir being not merely a territorial dispute between Pakistan and India, a peaceful democratic solution of it, involving the peoples of Jammu and Kashmir, is the only way out;
- religious intolerance must be curbed as it creates social strife, undermines democracy and increases the persecution and oppression of disadvantaged sections of society; and
- the group constitutes a convening committee for setting up a Peoples' Forum for Peace and Democracy.

It was decided to hold a larger representative convention, to which should be invited from Pakistan and India representatives of the human rights movement, workers' organizations, peasant's movement, women's movement, environment

⁴ From a report, 'South Asian Labour for Peace Conference', organized by Pakistan Institute of Labour Education and Research (PILER), held in Karachi on 1-2 September 2003, pp. 17-20.

movement and other mass organizations, cultural workers, professionals and academics. Efforts should be made to involve persons well known for their commitment to peace, equity and social justice, communal amity, democracy and people's solidarity in the subcontinent.⁵

Formation of PIPFPD

This small group of concerned citizens formally established itself as the Pakistan-India People's Forum for Peace and Democracy (PIPFPD) during a follow-up meeting in New Delhi in November 1994. There, the members built upon the ideological groundwork laid a few months earlier in Lahore and established the group's organizational structure, chose Pakistani and Indian co-chairpersons, and decided to hold the first ever Pakistan-India People's Convention on Peace and Democracy in the following year.

The joint convention, held on 24-25 February 1995 in New Delhi, was attended by over 200 delegates from both countries and made recommendations on how to work towards demilitarization, a peaceful resolution of the Kashmir dispute, religious tolerance, and good governance. Recommendations included a Pakistan-India Comprehensive Test Ban Treaty, sectoral peace initiatives amongst artists, professionals, trade unionists, cessation of violence and human rights violations in Kashmir, the dissemination of information to combat governmental and media propaganda, and a relaxation of visa and travel restrictions.⁶

The Delhi Convention was a landmark event. It was the largest people's exchange between Pakistan and India and was quite possibly the largest gathering of Pakistani and Indian citizens since Partition. The media response to the event, however, was varied. Pakistani delegates read newspaper reports on their planes to Delhi which condemned them as Indian agents, before they had even arrived in Delhi for the conference.

Since then, the PIPFPD has held five more joint conventions - second in Lahore - November 1995, third in Calcutta - December 1996, fourth in Peshawar - November 1998, fifth in Bangalore - April 2000 and sixth in Karachi - December 2003. Each convention in one country registered a rise in the number of delegates coming from

⁵The statement was endorsed by the following signatories: From India: Nirmal Mukerjee, Rajni Kothari, K.G. Kannabiran, Prof. Dinesh Mohan, Gautam Navlakha, Kamal Mitra Chenoy, Teesta Setalvad, Tapan . . . Bose, Amrita Chhachhi. From Pakistan: I.A. Rehman, Karamat Ali, Dr. Mubarak Ali, Prof. Dr. Haroon Ahmad, Nighat Saeed Khan, Hussain Naqi, B.M. Kutty, Anees Haroon, Iftikhar-ul- Haq, Madeeha Gohar, Prof. Rashid Ahmad, Dr. Mubashir Hasan, Shahid Kardar, Khaled Ahmad and Prof. Mehdi Hasan.

⁶From proceedings of the first Joint Pak-India Convention, organized by PIPFPD, held in New Delhi on 24-25 February 1995.

the other country, so much so that the fifth in Bangalore was attended by 210 Pakistanis and the sixth in Karachi by over 260 Indians, representing all the provinces, various occupations and cultural formations from across the country. Not only was the original founding Lahore Declaration (September 1994) reiterated and endorsed at all these joint conventions but new ways to see them implemented in the face of new and difficult situations were recommended.

It is also to be noted here that in the 10 years since the PIPFPD came into being as an inclusive Pakistan-India people's initiative - inclusive in the sense that any Indian or Pakistani who subscribes to the founding objectives of the Forum, irrespective of his or her present or past occupations, can become a member of the Forum and play his or her due role to promote those objectives - there have been a number of other initiatives aimed at expanding people-to-people interaction at various levels.

Other peace initiatives

The next milestone in Pakistan-India people-to-people exchange was a visit to India in 1996 by a 10-member group of distinguished academics, writers, trade unionists and social activists from Pakistan at the invitation of Nirmala Deshpande MP, President of Akhil Bharat Rachmatnak Samaj and Association of Peoples of Asia (APA). The delegation held a series of highly fruitful meetings and discussions with different sections of society in Delhi and other Indian cities, focusing on how to promote and consolidate Pakistan-India relations. It was followed by a return visit to Pakistan by an Indian delegation consisting of renowned educationists, writers and social scientists in August 1997. The delegation was headed by Nirmala Deshpande. They held several meetings and discussions with students and academia of various educational institutions in Karachi besides civil society organizations and peace activist groups in the city, lasting several days.

1996-97 was a period during which one witnessed the emergence of several other peace initiatives. One such initiative impacting on Pakistan-India interaction at people-to-people level was the formation of the South Asian Labour Forum (SALF), following a South Asian consultation meeting held in Kathmandu in May 1996. Among other tasks it undertook over the years, the most important was its successful campaign with the governments of Pakistan and India which resulted in the release of more than 600 poor fishermen, including minor children, from Pakistan and India who had been languishing in each other's jails for several years. From then on, SALF went from strength to strength, so much so that it organized a historic South Asian Labour for Peace Conference in Karachi in September 2003 (described later in this essay).

On 14 and 15 August 1997, peace groups in Pakistan and India celebrated the 50th anniversary of independence of the subcontinent by holding a series of cultural programmes in various cities of India and Pakistan. Major events were organized in Hyderabad, (Andhra Pradesh, India), and Karachi, Pakistan.

The next major event in the forward march of the peace movement was witnessed in Karachi in February 1999. After the nuclear tests by India on 11-13 May and by Pakistan on 28-29 May, peace activists in different parts of the country decided to coordinate their separate ongoing initiatives and merge them into one national peace initiative. This effort led to the formation of the Pakistan Peace Coalition (PPC), a national coalition of individuals and organizations to coordinate progress towards the goals of denuclearization and global disarmament, regional peace, reduction of military spending, and the combating of increasing intolerance and violence in Pakistani society. The constituents of the Pakistan Peace Coalition came from diverse backgrounds including human rights, labour, women's issues, journalism, the arts, environmentalism, and other progressive agendas but shared a common concern for establishing peace at all levels of society: at home, in the workplace, in the streets, in villages, cities, the country, region, and ultimately the world.

This culminated in the convening of the first-ever Pakistan Peace Conference in Karachi on 27-28 February 1999. The guiding theme of the conference was: ' The root causes of war and a culture of peace ' and the objective was to help eradicate violence from national governance and reject military solutions to political disputes at all levels - local, regional and international. The Conference brought together more than 400 participants from Pakistan representing people from all walks of life from across the country who had a stake in peace within the country and in the region. There were also 50 delegates from India and other South Asian countries, besides leading members of the international peace movement including those from the distinguished group of doctors, International Physicians for Prevention of Nuclear War (IPPNW). The Conference assessed national, regional and global crises; reflected upon the obligations of and opportunities for civil society to draw upon the strengths of their solidarity in social, national and international resistance, reform and renewal. The essence of the Conference goal was the promotion of civil, political, gender, environmental and economic rights for all.⁷

Kargil: temporary setback to peace process

Only a few months later, however, the most serious fighting between Pakistan and India in ten years broke out in the Kargil area of Kashmir and interrupted the peace

⁷ See the conference report, Peace for All , organized by Pakistan Peace Coalition, held in Karachi on 27-28 February 1999

process being so painstakingly pushed forward by the civil society organizations and progressive political forces. During that ten-week long crisis, misplaced nationalistic fervour on both sides, coupled with competitive frenzy and militaristic hysteria burst forth amongst both populations, while the governments exchanged nuclear threats. Amidst this potentially explosive armed conflict, peace activists formed coalitions, issued statements and declarations and organized protests all over India and Pakistan. A meeting on 18 June 1999 in New Delhi called by the Pakistan-India People's Forum's National Committee led to the establishment of an organization called Citizens Against War, which consisted of a dozen Delhi based groups with an interest in peace. Citizens' groups appealed to the governments for an immediate end to the conflict and a return to sanity and mutual dialogue.

Post-Kargil peace initiatives

Post-Kargil peace activism also saw the emergence of several new initiatives including the South Asia Peace Conference and Rally in Calcutta in January 2000, organized by the Akhil Bharat Rachnatmak Samaj and the Association of Peoples of South Asia (APSA), which was attended by several thousand participants from across India, besides a sizeable delegation from Pakistan. It was followed by another such event in Chennai (Madras), in which too a Pakistani delegation participated.

A series of people-to-people exchanges at various levels continued in the first quarter of the year 2000, such as a team of Pakistani peace activists visiting India, a college level students delegation from India visiting Pakistan, an Indo-??? Soldiers' Initiative for Peace (IPSIP) meeting in Delhi, a conference in Dhaka to plan the formation of a South Asian Peace Coalition, and a Women's Initiative for Peace in South Asia (WIPSA) delegation from India to Pakistan in March, and exchange visits of Pakistani and Indian youth sponsored by the Youth Initiative for Peace. This flurry of activity was followed in April by the Pakistan-India People's Forum's fifth joint convention held in Bangalore, the largest conference ever with over 400 total participants. In May, a reciprocal WIPSA delegation from Pakistan visited Delhi, Jaipur and Agra.

In November 2000, there were two major events, one in India and the other in Pakistan, in support of peace, demilitarization and denuclearisation in the subcontinent. The first was a typical example of the type of sectoral peace programme advocated by many peace organizations for years, a gathering of writers, poets, artists, academics, and journalists from all over Pakistan at the Pen for Peace Conference in Karachi. The Pen for Peace Conference received excellent coverage in the national media. An editorial in Dawn , following the conference, termed it and other concurrent civil society initiatives as an opportunity to affirm

that conditions were ripe for peace between Pakistan and India and to make political recommendations for the Pakistani government to respond positively to the Indian government's offer of a ceasefire in Kashmir. This was a prime example of the way peace activists hoped that the media would use peace events as a launching pad to bring peace issues to the fore, spark debate, and require the state to listen.

The other important event in the subcontinent's peace movement was the first-ever national conference focusing on peace and disarmament, held in New Delhi in November 2000. Approximately 600 delegates from all over India, South Asia and other parts of the world participated in the National Convention for Nuclear Disarmament and Peace, which in turn was inspired by the Pakistan Peace Conference held in Karachi in February 1999. The Delhi Conference led to the establishment of the Coalition on Nuclear Disarmament and Peace (CNNDP) as a national coordinating body analogous to the Pakistan Peace Coalition (PPC).

Among other important initiatives for peace and free interaction at the Pakistan-India people-to-people level in recent years, one should rate the formation of the South Asian Free Media Association (SAFMA) and the series of joint conferences organized under its auspices in India and Pakistan in the top category. Last year's meetings in Lahore and Islamabad, in which not only media men and women from India but also legislators from all political parties including popular political figures and representatives of various professions participated, should stand out as a major achievement of SAFMA in bringing together public representatives of Pakistan and India closer together.

The last of recent major event to promote meaningful peace in the subcontinent was the South Asian Labour for Peace Conference held in Karachi in September 2003. It was a unique event, an assembly of South Asian workers 'for peace in the region'. Among them were 24 delegates representing all the central trade unions of India, besides over a hundred delegates and several hundreds of workers from Pakistan. There were also a few delegates from Bangladesh and Sri Lanka. The event was not marked by scholarly presentations and theoretical deliberations, but by inatural affirmations, warm receptions, soul-searching, sharing of common issues in the context of globalization and collective exploration into regional development perspectives. South Asian workers declared from Karachi that they have a stake in nurturing 'peace' in the region.

In Karachi, the working people of South Asia identified imperialist globalization, conflict among countries in the region and internal inequities as the major threat to peace in the region. They called for the initiation of a process of demilitarization, moving towards global and regional denuclearization, elimination of foreign military bases and weapons of mass destruction and arms, and ensuring that no

such bases are allowed to be set up in future in South Asia. The quintessence of the Karachi Declaration adopted at the conclusion of this historic conference lasting three days can be summed up in the following words of veteran progressive politician and parliamentarian, Surendra Mohan of India, in the following words:

We, the working class of the region, jointly affirm and resolve that the people and governments of the region must press for the maintenance of peace, reduction of tensions of all kinds and the fostering of a climate of good and friendly neighbours.⁸

Conclusion

A beginning was made in Lahore and New Delhi 10 years ago, on the road to a safer, more secure and nuclear-free South Asia, which is quite the opposite of what nuclear scientists, strategic thinkers and political elites have created for us. The peace movement today stands with the highest amount of participation and awareness and addresses the broadest range of issues ever. Annual activities, exchange of student and youth delegations, and various other existing initiatives continue. Activists emphasize that peace does not merely mean a lack of war or the eradication of nuclear weapons; it is an active concept of social, political, economic and environmental security for all citizens. These goals make the struggle for peace relevant to all individuals and attractive to leftist intellectuals and rural farmers alike. The importance of this diverse base is paramount, as the peace movement derives its strength from the people.

The sort of peace for which the peace movement stands is a progressive, comprehensive, just peace that not only eliminates the harmful anti-peace elements in society such as nuclear weapons and militarization but demands social equity, democratic rights and economic security for all citizens. Rajni Kothari, a long-time peace activist and co-founder of the Pakistan-India People's Forum for Peace and Democracy, explained to the audience at the 1999 Pakistan Peace Conference, Karachi, how a complex understanding of the root causes of violence necessitates an equally complex understanding of peace:

...peace is not something that is a disembodied phenomenon. Peace is not a naive thing that only by talking about it we will achieve it. Peace or lack of peace is rooted in the kind of society that we have created. It is rooted in injustice, in exploitation, in the conditions of women, in the conditions of the young, particularly of the girl child. There can be no real peace when

⁸ See a brief report of the conference organized jointly by Centre for Education and Communication (CEC) and PILER on behalf of the South Asia Labour Forum (SALF) in Karachi on 1-2 September 2003, South Asian Labour for Peace (Karachi), January 2004, p. 23

women are raped, lower castes as in India are molested, inequity grows around the world and the overall system of asymmetry gets further accented. We have to be very clear in our minds that whatever we may say about our being peace activists and being part of the peace movement, it is not something that can be achieved where there is so much human sufferings, so much injustice, so much exploitation, so much of mobilization of all kinds around, so peace has to be rooted in an understanding of violence which is deep enough....⁹

Mr. B. M. Kutty is former Joint Director, Pakistan Institute of Labour Education and Research (PILER) and Secretary, Pakistan Peace Coalition

⁹ Rajni Kothari, 'Closing plenary: valedictory address', Peace for All (Karachi), May 1997, p.l 17.

Looking a New Year gift horse in the mouth

Beena Sarwar

The News
January 11, 2012

<http://www.thenews.com.pk/Todays-News-14-86885-Looking-a-New-Year-gift-horse-in-the-mouth>

On January 8, 2012, 183 Indians crossed the Wagah border from Lahore, bundled up against the bitter cold, many in shawls gifted to them in Pakistan, eager to return home after being released from Pakistani prisons.

Much hard work, persistence and the humanitarian view taken by the Lahore High Court lie behind their release, termed “a New Year gift” from Pakistan to India.

The story of this particular prisoner repatriation started in October 2011, when advocate Awais Sheikh filed a writ petition before the Lahore High Court seeking the release of two Indians, Satinder Paul and Karale Bhanudas, who remained in Pakistani prisons despite having completed their sentence.

On the Lahore High Court's order to provide details on foreign nationals held in Pakistani prisons, Superintendent Jail submitted a list of 74 foreign nationals in prison, including 33 Indians, who had completed their terms of imprisonment.

Chief Justice of the Lahore High Court Ijaz Ahmed Choudry in his order of Nov 14, 2011, directed the release the two prisoners on whose case the petition was based, as well as all foreign prisoners who had completed their terms.

Pakistan's Ministry of Foreign affairs cleared six Indian civilian prisoners for release. However, two of them, Sakhi Muhammad and Bhavesh Kanti Parmar, were not released for “unknown reasons”, says Awais Sheikh.

On Jan 7, 2012, Pakistan released 183 Indian prisoners, including Satinder Paul Singh, Sanjeet Kumar, Nasim and Sama Yousaf, and 179 Indian fishermen. They were brought to Wagah border on Jan 8th morning. The First Secretary of Indian High Commission along with three other ICH officers and an officer of Pakistan's Interior Ministry, Islamabad, were also present.

It took them five hours at Wagah to complete the legal formalities at Customs, during which time advocate Awais Sheikh also remained with them. They finally crossed the border at 6.00 p.m.

“It was an unforgettable scene,” says Sheikh. “I bid them a hearty farewell with my best wishes. My apologies to them all for being kept in jails even after the

completion of awarded sentence. I wish that sanity would prevail and I pray that my voice reaches the governments of both countries”.

Justice delayed

There are still 276 Indian fishermen in Pakistani jails. “Of these, 83 have already served their sentence but cannot be released because Indian authorities have not confirmed their nationality,” explains Justice Zahid. Foreign prisoners can only be freed after respective embassies confirm their identity.

This is also the case in India, which currently has 440 Pakistani fishermen in custody, according to former Pakistan law minister Iqbal Haider. He says that the nationalities of 285 of these prisoners have been determined, but “no assistance can be provided to the remaining 164 until their citizenship is established.”

Officials at India's Ministry of External Affairs (MEA) say that India and Pakistan don't want to detain fishermen from the other country. “Once they cross the border, the legal process begins. The process of verifying nationalities involves visiting a fisherman's village to confirm his identity. Often the addresses given are incomplete or very remote. It may take a long time to get there," said an MEA official.

But rights activists say that this verification process, which takes six months to a year, only starts after the prisoners have completed their terms.

The process of verifying a prisoner's nationality should begin the moment he is arrested by India or Pakistan. “The process should be complete at the time of a prisoner's release so he does not remain in jail after serving his sentence,” says Jatin Desai.

Justice Zahid blames both countries for the delay in releasing innocent fishermen who inadvertently cross national borders while fishing. “These fishermen are usually given a six-month to a year's jail sentence. By the time they are sentenced, they have already served the term,” he maintains. “If both governments show interest, the process could be completed in less than a month.”

Both the Indian and the Pakistani Supreme Courts have ruled that keeping a prisoner even for a day after he completes his jail term is illegal.

Iqbal Haider has appealed to the Pakistani and Indian governments to release all foreign prisoners over 60 years of age, and to expedite their respective trials by providing them with legal facilities.

Until such steps are not implemented, the issue of cross-border prisoners will remain unresolved. In humanity's name, if not to gain the goodwill of thousands of

affected people, both governments must cut the bureaucratic red tape and existing, outdated protocols — the sooner the better.

Fishy business

Both countries routinely arrest each other's fishermen for transgressing maritime boundaries. Released fishermen are routinely repatriated via Wagah border, from where they have to make the tedious overland journey home.

“Gujarat and Karachi are so close to each other, and yet Gujarati fishermen released in Karachi have to travel all the way to Wagah border, and then from Amritsar to Gujarat. Many are from remote villages, and it takes even longer to reach,” says senior Mumbai-based journalist Jatin Desai, who is joint secretary, Pakistan India People's Forum for Peace and Democracy. “Why should they not be sent back by sea, along with their boats?”

Around 481 Indian fishing boats lie rotting in Karachi harbour. “Each boat costs around 30-40 lakh Indian rupees. Most fishermen are very poor and an entire fishing village chips in to buy a boat,” observes retired Supreme Court of Pakistan Justice Nasir Aslam Zahid.

Justice Zahid, chairman of the Committee for Welfare of Prisoners and a member of the Indo-Pak Joint Judicial Committee comprising eight retired judges — four each from India and Pakistan examining the issue of cross-border prisoners — points out that “even if both countries release all the captive fisherfolk, others will continue to be arrested.”

He suggests setting up a joint committee of officials from India and Pakistan stationed aboard a ship between the two countries to decide cases of fishermen accidentally straying across the maritime border. “The matter can be settled in the sea itself.”

Pakistan Fisherfolk Forum President Muhammad Ali Shah, hoping that India will also release the Pakistani fishermen in Indian jails, suggests that both countries should allow each other's fishermen to catch fish at a small scale in 50 nautical miles in other's waters, rather than criminalising this transgression.

A year ago, India and Pakistan agreed to set up a task force with two members each from Pakistan and India to improve the situation. “Pakistan has already nominated its members but India is yet to do so,” says Jatin Desai.

Indian and Pakistani peace activists in a joint press statement of October 2011 had urged their governments to release the fishermen and their boats. Both governments “need to recognise the fact that these traditional fishermen go to the mid-sea for their livelihood. Arresting them and confiscating their boats means

depriving their families from the livelihood, and causing them extreme distress,” said the statement... “The issue of fishermen needs to be seen from the humanitarian, not security angle.”

The POWS issue

Not included in the list of prisoners to be released were the two Sikh prisoners. One of them is Sarabjit Singh convicted for bomb blasts in Pakistan in 1990 even though the FIR does not mention his name but that of a Manjeet Singh (Surjit Singh says he is the victim of a mistaken identity; see report 'Why is Gopal Das free and not Dr Chishty?' by Shivam Vij). The other prisoner, who has languished for four decades, is Surjit Singh, a jawan of India's Border Security Force (BSF), taken prisoner of war in 1971 and given up for dead in 1974. In April 2011, he was found to be alive, in Kot Lakhpat Jail, Lahore, after Khushi Mohammad, an Indian prisoner released by Pakistan on his return mentioned the names of some of his compatriots still in Pakistani prisons.

Both Sarabjit and Surjit have now spent decades in prison, far beyond life imprisonment terms. Pakistan must repatriate them immediately, as human rights activists and lawyers on both sides are demanding.

In addition, both countries must look into the issue of the 'forgotten' prisoners of war.

In June 2011, Brian MacMahon, a former master mariner from India, now based in Australia, appealed to the Presidents of India and Pakistan to make efforts to locate and release the POWs on either side, and if they were no longer living, to provide information and their remains to their families in order to get some closure on their missing loved ones.

He cited the example of Australia, which has brought home the remains of every one of its servicemen missing in action 38 years after the conflict in Vietnam (which ended in 1971).

'Missing' Indian POWs who have been 'sighted' in Pakistan over the years include Major S. P. S. Waraich, Capt Kamal Bakshi, Subedar Assa Singh, and Wing Commander H. S. Gill. The 'discovery' of Surjit Singh ignites hope that they and their other colleagues may similarly be alive and undocumented in a Pakistani prison.

In September 2004, then Defence Minister of India, Pranab Mukherjee told reporters that an estimated “17 army officers, two junior commissioned officers and 19 other rank officers are currently in Pakistani jails.”

There are Pakistani POWs in India too. In June 2010, The Daily Mail Today, New Delhi, reported that 18 Pakistan Army personnel taken as prisoners of war in 1965

and 1971 were still in Indian custody, as confirmed by the Indian Ministry of Defence. This is “contrary to all norms of humanity as well in direct contravention of the Geneva Convention... these POWs also include two Majors who went missing during the wars” (June 24, 2010).

Given the number of cases where missing presumed dead armed forces personnel have been found alive in one prison or another, isn't it time for both countries to make concerted efforts to get these men back — if for no other reason, then in the name of humanity?

D. Terror, Counter terror and impact on fisher people

Porous borders, Unsafe waters
Anosh Malekar

Infochange India
April 2010

<http://infochangeindia.org/agenda/coastal-communities/porous-borders-unsafe-waters.html>

The 3.5 lakh fisher people of the Rann of Kutch have been swept up in the gigantic brawl between India and Pakistan. After the 26/11 terror attacks in Mumbai they live in perpetual dread of being apprehended by the Pakistani maritime authorities for straying into their waters, and endless inquiries and detention by the Indian security forces. Anosh Malekar reports

“Fishing is not for the fainthearted.”

“The sea currents and tides are part of a fisherman's life. They make fishing a dangerous game.”

“Fishermen are 10 times more likely to be injured or killed on the job than truck drivers.”

“The danger is the attraction.”

“When fisher people get out of sight of land, they feel they have left the law behind too.”

Skipper Laljibhai Sidi was unstoppable when queried about the occupational hazards of fishing. The middle-aged man from Diu, thinly built with a swollen gut, has been fishing for years in the Arabian Sea off the Gujarat coast.

Back then, in the 1980s, when he started as a teenager “with nimble fingers that trained fast”, nobody seriously believed that the ocean's free-roaming fish belonged to any one nation. “Six men in a small fishing boat felt safe by themselves anywhere in the deep sea. The skipper would announce 'Boys, we're going fishing tonight' and then add 'If anybody doesn't want to come, better opt out on the shore rather than be thrown overboard mid-sea'. As young boys, we always wanted to go,” he recalled.

Two decades later, however, life at sea is changing, especially around the Gulf of Kutch, and always for the worse.

Vanakbara is a typical fishing village, located on the western tip of Diu facing the Arabian Sea. The island itself is about 11 km long and 2 km wide, separated from the

Saurashtra or Kathiawar Peninsula in Gujarat by a marshy creek. Diu (from the Sanskrit word *dwip* or island) was a Portuguese colony for over 450 years till India took over in 1961.

Traditionally, the island economy has been based on trade and fishery. There was and is little agriculture with only 20% of the land mass under cultivation. Lately a part of the Daman and Diu Union Territory, tourism has emerged as a significant contributor to the economy of this area. A perfect weekend getaway, especially for Gujaratis coming from a dry state, Diu is better known now as a tippers' paradise!

“The residents of Vanakbara too love their tipples, preferring the environs of their shabby fishermen's bars to celebrate their victories at the dangerous game of fishing in foreign waters,” Laljibhai said. But this year, it is not time yet to celebrate the good catch. The first contingent of boats left the shores just five days ago.

At noon on August 21, the Vanakbara jetty was abuzz with activity, with boats lined up and readied for fishing expeditions. The atmosphere was charged. Nobody seemed to have the time to chat. The *tandels* or skippers were shouting last-minute instructions to their young assistants busy loading the boats with ice, salt, diesel and other provisions for longer spells of fishing that could stretch from a week to a fortnight. A little distance from the shoreline, expert repairmen in dirty tunics, their mouths bulging with tobacco and betel nut juice, were conducting last-minute repairs while their helpers cleaned the wood shavings at the insistence of the boat owners, who couldn't wait to see their vessels ready with a fresh coat of paint. A stone's throw away, closer to the warren of typical fishermen's dwellings, specialists were mending fishing nets. The fisher women, usually part of the scene sorting out the day's catch or hanging fish for drying on ropes, were conspicuous by their absence. The arrival of the first catch of the season was still a couple of days away.

Officially, all fishing activity, except by non-mechanised boats and on foot, is banned from June 10 to August 15 along the entire west coast of India to give a chance for fish to breed during the monsoon, and ensure the natural revival of stocks. But this year, Kutch district authorities had banned fishing without any exception, severely affecting the livelihood of traditional fishermen on the island. The authorities perceived a threat to India's maritime security in permitting small fishing boats in the Kutch Sea.

Over 50% of the fishing vessels operating near major ports on the country's western coast are unregistered. Most of these ports are compliant with the International Ship and Port Facility Security (ISPS) code, which prescribes the responsibilities of the government, shipping companies, shipboard personnel and port personnel to detect security threats and take preventive measures. The code

was introduced after the 9/11 attacks in the United States.

Still, the menace of unregistered boats persists. “Unregistered fishing boats neither have proper identification numbers nor do their crews have any identity cards. The boats enter the sea at will, with no information or record of what happens to them while at sea in close proximity to Pakistan. If left unchecked, these vessels can be used for any kind of subversive activities in India,” Assistant Superintendent of Fisheries Sukar Anjani said.

The Indian security agencies were especially wary since the 26/11 terrorists had hijacked Indian fishing boat *MV Kuber* from Porbunder, near the Sir Creek marshlands, and travelled to Mumbai to carry out the attack. The 10 Pakistani gunmen had earlier set out from Karachi in a Pakistani vessel.

The Indo-Pak boundary in Gujarat runs through the low-lying, salty wastelands called the Rann of Kutch. A number of creeks jut out like fingers from the body of the Arabian Sea into the marshy flatlands of the Rann. Apart from declaring an area of 10 nautical miles from the International Maritime Boundary Line (IMBL) as a no-fishing zone, the coastguard sought a ban on fishing in a 500-metre radius of oil refineries, oil rigs and important ports on the Saurashtra coast.

The fishermen were informed in advance about the changes in security measures that the coastguard planned to propose to the state government. They had no objection to the 10-nautical-mile no-fishing zone on either side of the IMBL, but wanted the no-fishing zone area to be limited to 100 metres instead of the proposed 500-metre radius. “We do understand that these are sensitive areas. We are ready to follow the boundary drawn from the IMBL, but a 500-metre no-fishing zone will adversely impact our livelihood,” Vanakbara Boat Owners Association president Bhagwanbhai Baraya said.

It all began with the industrial nations of the world sealing off their continental shelves with 200-mile 'exclusive economic zones' through the 1980s followed by new restricted zones, no-catch areas and special permit sectors that have reduced the once-unbroken blue sea into a complex maze of curbs and checks on traditional fishing.

On August 20, 2009, the day we arrived in Diu, seven local fishermen were knocked overboard by a patrol vessel of the island's coastal police. Their traditional wooden boat was destroyed completely; it reportedly split into pieces and sank within minutes of being hit by the patrol vessel. The fishermen were rescued and brought to a government hospital on the island. One of them had serious injuries and was shifted to Rajkot on mainland Gujarat, some 260 km by road. He died.

The following day, when I met Laljibhai, fishermen in Diu recalled the patrol vessel

intercepting the fishing boat for a routine security check, introduced since the 26/11 terrorist attack in Mumbai in 2008. After verifying the identity cards of the crew members, the patrol prepared to leave. Before anybody realised it, the operator of the vessel made a U-turn and charged at the fishing boat resulting in the mid-sea collision.

Kantibhai Kharwa, leader of the local fisher community, demanded that only well-trained and disciplined policemen be posted on marine patrol duty. "The police operator could not control the speed of the patrol vessel," he pointed out. A senior fisheries department official later alluded to an island rumour that the police operator was in an inebriated state. Of course there was no official verification. No tests for drunkenness were conducted.

The mid-sea collision at the start of the fishing season could be more than just a setback for the fishing crew involved, perhaps a bad omen for the entire fishing community on the tiny island, I thought. But the islanders went about their daily activities as if nothing had happened. At the Vanakbara jetty, fishermen were busy holding elaborate *havans*, the sacred purifying ritual, on their colourful fishing boats with distinct names and the Indian tricolour fluttering atop them.

Vanakbara boat owner Premjibhai Solanki said they had stopped going into the deep seas since the Mumbai incident. "What can we do? Our men and boats have been taken away in the past by Pakistan, leaving the families to starve," he said. "Our livelihood is dead. There is no fish left along Gujarat's coastline. But if we venture out in the high seas, we risk being captured by the Pakistanis."

Many of Diu and Gujarat's 3.5 lakh fisher people, who depend on marine fishing for a livelihood, must feel like Premjibhai these days -- ignored by the world, swept up in a gigantic brawl that is being fought largely over their heads, and scrambling to survive.

Because of a rich delta, Gujarat once had the best fishing grounds, and the Gulf of Kutch the best fish in India. The waters of the Indus delta at the Arabian Sea are considered good for fish breeding. It lures the Indian fishermen into Pakistan's territorial waters for a better catch. As a result, the Kutch Sea has become the scene of numerous arrests of fishermen after they stumble into either disputed areas or territory on the side of the border other than their own. The woes of these fishermen, after they are caught, are well-known. The two countries don't treat them as they should -- in accordance with international laws. They are kept in confinement with no charge, and offered no legal assistance.

In the wake of the Mumbai attacks, Pakistan's director-general of the Maritime Security Agency (MSA), in a weekly talk with his Indian counterpart, said he was

passing instructions to apprehend Indian fishermen caught fishing in Pakistani waters with immediate effect. According to official sources in Gujarat's capital, Gandhinagar, the director-general of the Indian Coast Guard (ICG) found that complaints by Pakistan about the large-scale presence of Indian fishermen in the Kutch Sea off the coast of Karachi, were not unfounded, and requested the state government to take stringent punitive steps against those found violating the International Maritime Laws.

In early-August 2009, India's Border Security Force (BSF) arrested nine Pakistanis and seized a small fishing boat in which they had entered Indian territory near Sir Creek on a day Prime Minister Manmohan Singh said intelligence inputs suggested more 26/11-type attacks on Indian soil launched from Pakistan. The BSF said its suspicions were raised when the nine Pakistanis claimed they had been fishing in the sea for three days, yet had not a single catch in the boat to show for it.

Porous borders along the International Maritime Boundary Line bordering Pakistan, and lack of enough maritime security personnel have made ports located on the western coast vulnerable to subversive activities. There are around 133 ports located along India's western coast, spread over five states and two union territories.

According to coastguard sources, minor ports like Oka, Veraval and Porbander located on the Saurashtra coast have the worst security in place. These ports handle commodities like oil, coal, pig iron, raw bauxite, wheat, sulphur, coke, LPG and fertilisers, among other things. Adjacent to these ports in the Rann of Kutch, which is rich in marine species, over 200 vessels can be found fishing on a daily basis.

“Since this area is rich in marine species, sometimes even fishing vessels from the Pakistan side tend to cross our border. However, with our limited resources and personnel, it is not possible to check every vessel. So we do only a random check,” said a Gandhinagar official.

The alignment of the international border here is disputed and is commonly referred to as the 'Sir Creek issue'. The Sir Creek dispute involves defining the international boundary along the creek, roughly a 100-km-long estuary in the saline wetlands of the Rann of Kutch between the state of Gujarat in India and the province of Sindh in Pakistan. The dispute predates the creation of India and Pakistan and stems from differences between the British Indian state of Bombay and the princely state of Kutch in the first decade of the 20th century.

Post-Independence, fresh complications ensued when it was noticed that Sir Creek had started to shift its course northwards towards Pakistan, a normal geographical phenomenon with shallow creeks. It is now one of eight major issues on the Indo-

Pak composite dialogue agenda devised by the rival South Asian nations for the peace process that they launched in 2004. The UN Convention on Law of the Sea required that all maritime boundary conflicts be resolved by 2009, failing which the UN may declare disputed areas as international waters.

Talks on Sir Creek, under the fifth round of the Indo-Pak composite dialogue, were scheduled to be held on December 2-3, 2008, in New Delhi. However, in the aftermath of the Mumbai terror attacks, India put a 'pause' on the dialogue.

There is also silence on the fate of the 554 fishermen and 418 boats from India, mostly Gujarat and Diu, still languishing in Pakistan's custody. For the families of the fishermen and boat owners this is disturbing, like the silence of the high seas.

Among those in Pakistani jails are 120 fishermen along with 19 boats from Diu. What happens to them? Former sarpanch of Vanakbara Ramjibhai Solanki had no answer. He only stared back at me. I had met him in 2004 with a similar query. The situation had not changed.

The fishermen of Diu are resigned to their fate. With the catch dwindling along their coast in recent years, it's not unusual for fishermen to move deeper into the sea in search of a better haul. And when storms break and the waters turn choppy, it does not take long for them to lose their bearings at sea. "We have to take the risk. During the day you lay the nets in the deep seas and wait all night for the elusive catch. But the currents on the high seas know no boundaries. They are fierce, and almost always accompanied by strong winds. And when the wind blows through the Kutch Sea, it turns you over to the enemy," Laljibhai said.

"We thought we were in safe waters," said Haresh Mandan, one of four fishermen from Diu who were spared by the Pakistani marine guards after they crossed their territorial waters on April 22, 2004. "It was around 11 am," he recalled. "We had spent six days at sea when the Pakistanis came in speedboats. They abused us saying, 'Why do you come here? We are tired of capturing you', and took away 21 fishermen and left four of us -- a 60-year-old and three minors."

Haresh was 18 at the time of the incident. And like all boys his age in Vanakbara, he had offered to help his friends on a fishing expedition that day. "When surrounded by the boats of the Pakistan navy personnel who were firing in the air, I was scared we were all going to be shot and dumped in the sea. Luckily, that did not happen."

For the families of those captured it is a long wait. "How do I feed my four children?" a young Deviben Sidi asked. "I am forced to take up casual labour. Is there any hope for my husband's return?"

Ramu Sidi was the *tandel* of the fishing boat *Nandini Sagar* from Vanakbara, which

was captured a couple of years ago. He had ventured out into the sea a day after his mother's cremation. "We badly needed money, there was no option," his wife recalled. Now she has to feed the children -- Yagnik, Milind, Pinkesh, and Jenil, aged between two and nine years -- on the meagre Rs 30 she earns as daily wages.

The family of Chunilal Jiva Sidi, who accompanied Ramu, is relatively better-off. His brothers Sonji and Vijay earn enough to feed his wife Dhaniben and eight-month-old son. Iruben, their mother, is concerned but helpless. "It is fate," she says of her eldest son. "I cannot ask my sons to give up fishing. The currents and tides are part of our lives."

The fisherfolk know they shouldn't be sending their children out to sea, but it's hard to resist the additional income and the boys have to learn the ropes someday. Young boys are in demand for their nimble fingers -- useful in sifting the small catch from the big, and for assisting the experienced fathers and uncles. The general equation is four-six adults and two minors to a boat. A boy earns up to Rs 3,000 a month for the season extending six to seven months a year.

"We don't know the fate of our brethren, some of whom have been languishing in Pakistani jails for years," said Manish Lodhari, the Porbander-based secretary of the National Fishworkers Forum (NFF), which has been appealing to the leaders of India and Pakistan to settle the matter once and for all. NFF's counterpart, the Pakistan Fisherfolks Federation, has been pursuing the matter with their leaders.

What happens once captured by Pakistan is incarceration in prison, mostly at Karachi Jail. Some of them will be lucky to be released as a goodwill gesture mostly around August 14 -- Pakistan's Independence Day -- but the procedure for release is completely arbitrary. It is entirely dependent on the goodwill of the two nations.

Responding to an NFF memo, a senior official in the Union Ministry of External Affairs conceded that a mechanism has to be put in place to address the prisoners issue. "Though there is a hotline between Indian coastguards and the Pakistan Maritime Force in place since 2006, and more than 1,500 boats have been saved from detention, there has to be a permanent mechanism to address the problems of fishermen not covered by any security net," the official stated.

India has an agreement with Sri Lanka on the maritime boundary in the Gulf of Mannar and the Bay of Bengal, allowing fishermen from both countries to share the catch. The fishermen of Gujarat and Diu hope the external affairs ministry will think of a similar solution with Pakistan, Lodhari said.

Infochange News & Features, April 2010

26/11 syndrome: Pleading for life, two fishermen left stranded in sea by their own

Hiral Dave

The Indian Express
May 4, 2012

<http://www.indianexpress.com/news/2611-syndrome-pleading-for-life-two-fishermen-left-stranded-in-sea-by-their-own/945301>

Two fishermen from Gujarat were left adrift on a “buoy”, a ball-like object made of plastic, in the Arabian Sea for two days without food or water since none of their brethren would take them on board despite their frantic pleas for help for the fear a repeat of 26/11 and harassment by intelligence agencies.

Four years after terrorists from Pakistan hijacked an Indian fishing trawler to reach Mumbai and stage attacks, fishermen from Gujarat are still shy of following their age-old unspoken code of not leaving behind even the dead bodies of their community members in the high waters.

Fazhrat Ali (26) and his cousin Sarafar Ali (21), both from Okha in Jamnagar district, were among the 85 Indian fishermen on board 13 boats who were caught by the personnel of Pakistan Maritime Security Agency (PMSA) on April 27.

On the same evening, PMSA released 72 of them while keeping the 13 boats and their tandels (captains) with them.

That was when Shri Ganesh, whose captain was Fazhrat, developed a problem and reported water-logging. Since the PMSA was not interested in keeping a damaged boat, they released Fazhrat and his boat.

Fazhrat, however, asked for at least a man to be sent with him. Accordingly, Sarafat, and another boat Saagar Samrat, which was also damaged, were released near the International Maritime Border Line off Jhakhau coast in Kutch district.

“On April 28, we got on a buoy. Soon, we spotted a trawler named Kalyani and made pleas for help, but in vain. The crew on board Kalyani had their own fears about taking strangers, though Indians, on their boat. We have never faced this before 26/11,” said Sarafat, who along with Fazhrat, was interrogated by various Indian agencies upon their arrival at Okha port in Jamnagar district on May 2.

“As luck would have it, a trawler from Okha, named Shri Puja, spotted us on May 1. After we answered all their queries to their satisfaction, they took us on board,” said Fazhrat.

The Ali brothers feel they would have not returned safe eventually had it not been for the Okha connection.

Shiv Puja later took them to another vessel Kuntiputra, which was on its way back to Okha.

The incident has left the fishing community shaken. “This is shocking. It only reflects the growing distrust that 26/11 attack has left behind on our fishermen,” says Velji Masani, a veteran leader of the fishing community. “We never even say no to carrying dead bodies. Here, it was a question of two lives.”

Kin of missing fishermen of Kuber boat request Maha CM for aid

DNA

November 25, 2012

<http://www.dnaindia.com/mobile/report.php?n=1316361&p=0>

On the eve of first anniversary of 26/11 attacks, family members of four missing fishermen aboard Kuber, the boat hijacked by terrorists, have requested the Maharashtra chief minister to consider them while providing financial assistance to victims of the Mumbai strikes.

The Indian Fishermen Association (IFA) has extended its support to the family members saying it had raised the demand soon after the attack last year and requested chief minister Ashok Chavan to consider their pleas on sympathetic grounds.

The four missing fishermen were identified as Ramesh Nagji from Simasi village in Junagadh, Balwant Prabhu, Mukesh Rathod and Nathu Nanu from Vasi Borsi village of Navsari.

Mukesh Rathod's wife Damyanti said, "Why the Maharashtra government has not given the financial assistance even after a year of the attack?"

His mother Shantiben too shared the same concern. "Till today nobody from the government has approached us to find out how we live."

Balwant Patel, Borsi village Sarpanch, said the missing fishermen are from his area and till date no financial assistance has been given to their family.

"If Maharashtra government showed human gesture by paying compensation of Rs5 lakh to the family of Amarsinh Solanki, the captain of Kuber boat, then why assistance is not paid to the family of other four missing fishermen?" asked Veljibhai Masani, president of Indian Fishermen Association.

Masani, quoting the captured terrorist Ajmal Kasab's statement in court, said that all the five crew members of Kuber boat were killed by the terrorists on their way to Mumbai. Kuber was found abandoned on the sea coast with the beheaded corpse of Amarsinh Solanki on November 26 last year, he added.

Masani said, "Kuber boat is now back into the sea for fishing after spending huge amount on its repairing and replacing damaged parts." The GPS system used by the terrorists proved that this boat was used to cross the international maritime water boundary line, to reach Mumbai, he added.

"If compensation of Rs5 lakh each is declared for the kin of more than 183 victims, including foreigners, by the Maharashtra government, then why the family

members of these four missing fishermen are deprived in getting it?" Masani asked adding that there should not be discrimination on giving the financial aid by Maharashtra government.

Now, one year is over after the 26/11 Mumbai attack which is enough to believe that the four missing fishermen of Kuber boat were killed by the terrorists, said Jivanlal Jungi, former president of the Porbandar Boat Association.

Jungi said that the body of Amarsinh Solanki was recovered from Kuber, the ill fated boat, near Mumbai while other four fishermen travelling in the same Kuber boat were killed and their bodies were thrown into the sea by the terrorists before reaching Mumbai on November 26 last year, he added. Kuber boat with the five fishermen on board had left Porbandar coast on November 14 last year for fishing into the Arabian sea, he said.

Manish Lodhari, secretary of Gujarat unit of National Fish Workers Forum said that there is no doubt about the terrorists killing the four crew members of Kuber boat. He said that the terrorists, after killing the four fishermen, should have thrown out their bodies into the sea and then the terrorists should have asked Amasinh Solanki to take them to Mumbai. After reaching Mumbai, the terrorists killed Solanki as well, he said. Solanki belonged to Wankbara area near Diu, the Union Territory, Manish said.

Annexure 1

Letter from National Fishworkers' Forum to Mr Sushil Kumar Shinde
April 4, 2013

NATIONAL FISHWORKERS' FORUM (NFF)

(A Federation of State Level Trade Unions in India)

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Sushil Kumar Shinde
April 2013
Minister of Home Affairs
Government of India

4th

Subject: Urgent concerns of Indian fisher people

Respected Sir,

We would like to bring to your kind attention that the issue of arrests of Pakistani and Indian fishermen has intensified over the past few months, especially after the recent tensions between the Armies of India and Pakistan at the Line of Control (LOC).

The current situation is such that the total number of Indian fishermen in Karachi's Malir Jail is 342. In the month of February alone, around 40 Indian boats were confiscated by Maritime Security Agency (MSA) of Pakistan, which involved over 100 fishermen who were imprisoned at Malir jail.

The situation on the Indian side is no different where around 159 Pakistani fishermen have been arrested. According to official data provided by the Indian government which was submitted to the Supreme Court of India on February 12, 2013, a total of 297 Pakistani prisoners are in Indian jails which include 37

fishermen.

The process of verification of citizens itself is extremely complicated and takes a long time. We urge you to fix a deadline of three months, within which the nationality must be verified.

The fear of getting arrested has led to increased reluctance among fishermen to go fishing in deep sea. As a result of which, there is a severe effect on the economy of fishing villages and towns of Saurashtra in Gujarat and Diu. The hardships have only increased because of the confiscation of boats which is a source of livelihood for the fisher people.

A large number of fishing boats are lying on Karachi coast and in Saurashtra. Most of these boats are damaged or their parts are stolen. There are reports that MSA has recently auctioned some of the Indian boats at throwaway prices, which is illegal and violation of the international laws and treaties. According to data gathered from various sources, about 765 boats of Indian fishermen are lying along Karachi coast, whereas over 200 fishing boats of Pakistani fishermen are confiscated by Indian Coast Guards.

We would urge you to look into this important matter and address our demands which are as follows:

- We demand for a "No Arrest Policy" which would be a significant Confidence Building Measure.
- Till this policy is evolved, we would require that a computerized identity card along with a permit to do fishing be provided to each fisherman in order to speed up the verification process. Presently due to lack of identity the fishermen are languishing behind the bars for many years despite the fact that the maximum sentence awarded to them is six months imprisonment.
- The Supreme Court of India has sought the opinion of the Government of India in the pending case of release of Pakistani prisoners. As you might already be knowing, the Pakistan government has ordered the release of all Indian fishermen held in Pakistani jails which was an order given in January 2013 (Please refer to articles in the Indian Express on January 23, 2013, the Tribune on January 22, 2013 and others). We demand from the Indian government to reciprocate in a similar manner. We would insist that the government of India takes a position with willingness to release Pakistani fishermen.
- Both the countries must release all fishing boats, confiscated at the time of

arrest of fishermen. In the past whenever, the fishermen were released, their boats were also released along with them, but that process has been suspended and now a large number of boats are kept confiscated despite the fishermen being released. We demand that the old system should be revived.

- Constitute a high-level working group involving the representatives from the fisherfolk community to monitor and prevent the arrest of fishermen and confiscation of the boats.

We ask that our concerns be addressed and hope for immediate action.

Yours Sincerely,

Rambhau Patil
Chairperson,
National Fishworkers' Forum (NFF)

Annexure 2

Joint Statement on Sixth meeting of the India-Pakistan Judicial Committee on Prisoners to Pakistan

May 3, 2013

1. Members of the India-Pakistan Judicial Committee on Prisoners visited Pakistani Jails in Karachi, Rawalpindi and Lahore from April 26-May 1, 2013. The members of the Committee, Justice (Retd.) Mr A.S Gill and Justice (Retd) Mr. M.A Khan from the Indian side and Justice (Retd) Abdul Qadir Chaudhry, Justice (Retd.) Mr. Nasir Aslam Zahid and Justice (Retd.) Mian Muhammad Ajmal from Pakistan side visited the Jails.
2. A total number of 535 Indian prisoners including 483 fishermen (including 11 juveniles) and 8 civil prisoners, believed to be Indian nationals at District Jail Malir, Karachi, 8 Prisoners, believed to be Indian nationals at Adiyala Jail, Rawalpindi and 36 Prisoners, believed to be Indian nationals at Kot Lakhpat Jail, Lahore were presented before the Committee.
3. The Committee also visited Jinnah Hospital, Lahore and saw Indian prisoner Sarabjit Singh, who was admitted in the Intensive Care Unit of the Hospital on April 26, 2013 following an assault on him by few other inmates in the prison and is in a state of coma. The Committee interacted with the doctors about the prognosis of the case. The Committee noted the unfortunate incident of violent attacks on two Indian prisoners at Kot Lakhpat Jail, Lahore and recommended that Jail authorities to ensure adequate security for all Indian prisoners to avoid any such incident in the future; and would review the arrangements during its next visit to Kot Lakhpat Jail, Lahore. The Committee also recommended that detailed report of the official inquiry conducted by relevant Pakistani authorities on the assault on Sarabjit Singh on April 26, 2013 be shared with the members of the Committee at the earliest.
4. The Committee was also informed about escape of one under-trial Indian fisherman from District Jail, Malir, Karachi on February 11, 2013 and detention of the crew of the two Indian wooden vessels along with its cargo, off Pasni, Pakistan on April 18/19 by Pakistan authorities and requested Pakistan side to apprise about these two incidents to Indian side at the earliest.
5. The Committee noted with satisfaction that as per the Agreement on Consular Access signed on 21st May 2008 between the two countries, the

list of prisoners was exchanged on 1st January 2013. The Committee appreciated the release of 684 Indian fishermen and 30 Indian civil prisoners by Pakistani authorities and 96 Pakistani fisherman and 59 Pakistani civil prisoners by Indian authorities since January 2012 till date.

6. On the conclusion of the visit, the Committee made the following recommendations:

a) The "Consular Access Agreement" of May 2008 signed between two governments be implemented in letter and spirit and consular access must be provided within three months of the arrest and not after completion of the prisoners' prison term. Complete details of charges on the prisoners and a copy of court's judgment of the sentence be shared in each case. The prisoners must be repatriated within one month of confirmation of national status and completion of sentences; it was noticed that in District Jail Malir, Karachi, there were 29 Indian prisoners who had completed their sentence more than a month ago; it was recommended that they be released and repatriated before May 17, 2013 and the two Governments should make all efforts that the time schedule is complied with strictly.

b) Consular access must be provided immediately to all those prisoners who have not been given consular access so far and the process of nationality confirmation should start immediately after consular access is provided; it was found that there were 459 fishermen and 10 such civil prisoners in the three jails for whom consular access was not provided. The Committee recommended providing consular access to all such prisoners and fishermen before May 17 and the Pakistani side agreed for the same.

c) Consular access be provided to all prisoners/fishermen who are believed to be Indian, in Pakistani jails and vice versa, every year, at least four times, namely in the first week of February, first week of May, first week of August, and first week of November.

d) The Committee noted that several names of prisoners had been dropped from the successive lists of prisoners, believed to be Indian, which were shared by Pakistan side twice every year. It is recommended that Pakistan side provide a formal verification to Indian side and vice versa if any names were left out from the previous list of prisoners, so that each side could follow up on each case and discrepancy in list maintained by each side reduced.

e) A mechanism should be developed for compassionate and humanitarian consideration to be given to women, juvenile, mentally challenged, old aged and all those prisoners suffering from serious illness/permanent physical disability; Indian prisoners (like Pakistani prisoners in Karachi jail) should be

allowed to make phone calls to their relatives in India at least once a month. The Indian prisoners appreciated the provision of basic necessities to them by the Prison and further demanded that they should be given some additional facilities. It is recommended that the existing facilities be continued and additional facilities required be provided by the Prison Authorities. Further, High Commission of India is allowed to supplementing any such requests for Indian prisoners.

f) It was also recommended that serious/terminally ill, mentally challenged and deaf and mute prisoners must be kept in appropriate hospitals/special institutions irrespective of confirmation of their national status and offence; it would be noticed that 1 prisoner in District Jail, Malir, Karachi, 2 prisoners in Adiyala Jail, Rawalpindi and 20 prisoners in Kot Lakhpat Jail, Lahore were mentally challenged; additionally, copies of the FIR, medical report and photograph at the time of their detention, to be shared with the High Commission of India, so that renewed efforts could be made to confirm their nationality; moreover, effort should also be made to rule out that these prisoners are not Pakistani nationals.

g) While noting that mortal remains of Mr Chambail Singh, Indian prisoner at Kot Lakhpat Jail, was repatriated to India after a lapse of nearly 2 months after his death on January 15, 2013, the copy of the post mortem report has not yet been shared with Indian side. It was recommended that post mortem report of Mr Chambail Singh be shared with the Indian side without any further delay.

h) Prisoners involved in minor offences like violation of Foreigners' Act, visa violation and inadvertent border crossing deserve compassion from both the sides.

I) The Committee noted that the respective courts must be requested for expeditious trial of all "under trial" prisoners. Respective High Commissions should create a panel of good repute lawyers/firms to pursue the cases of their prisoners in the local courts to locate, identify and defend such prisoners at all stages of their cases, if the prisoner(s) so wishes.

j) The Committee also endorsed the recommendations of the Home/Interior Secretary level talks held on 28-29 March 2011 at New Delhi to task the Pakistani Maritime Security Agency and Coast Guard of India to work on setting up a mechanism for release of inadvertent crossers (fishermen) and their boats, on the same lines as the inadvertent crossers on land; It was recommended that the fishermen should be repatriated by sea lanes along with their boats; a delegation of boat owners could visit Pakistan within the next 3 months to inspect all the Indian fishing boats detained in Pakistan so that decision could be taken regarding their return to India or sale in Pakistan, in consultation with concerned authorities and the same action be taken for return of Pakistani fishing vessels detained in India.

k) It was suggested that, subject to the confirmation of dates by both the sides through diplomatic channels, the next visit of the Committee to Indian jails will be arranged during the second half of September 2013 for at least 7- 9 days to ensure that the Committee is able to see each case in detail.

l) The Committee will review the action taken report on the earlier recommendations when the Committee meets next in India.

Justice (Retd.) Mr A.S Gill
Justice (Retd.) Mr. M.A Khan

Justice (Retd.) Abdul Qadir Chaudhry
Justice (Retd.) Mr. Nasir Aslam Zahid
Justice (Retd.) and Mian Muhammad Ajmal

Lahore
April 30, 2013

The issue of fishworkers arrests between India and Pakistan by the Maritime Security Agency (MSA) of Pakistan and the Indian Coast Guard (ICG) dates back to the independence of Pakistan and India. However, the intensity or the number of people arrested has mostly been on the rise and by the late 1990s, it was alarmingly high. This compilation covers the contemporary history of intense efforts of the last four years in getting the fishworkers released from the other country's jails as well as creating a mechanism for permanent release of fishermen. It aims at covering the issues faced by fishermen of India and Pakistan and includes a section comprising of a timeline of the efforts made by groups of activists from both sides. It also gives a glimpse of significant dialogue processes between activists and governments of two countries that they have led to. The latter part of the publication comprises a collection of articles.

