

# Where do the Fishworkers Go?

Report of the Round table Conference on  
India-Pakistan Fishworkers and Prisoners Issues



The Research Collective  
Pakistan India Peoples' Forum for Peace and Democracy  
October 2019

# **Where do the Fishworkers Go?**

**Report of the Round table Conference  
on India-Pakistan Fishworkers and Prisoners Issues**

**The Research Collective &  
Pakistan India Peoples' Forum for Peace and Democracy**

**The Research Collective (TRC)**, of the Programme for Social Action (PSA), facilitates research around the theoretical framework and practical aspects of development, sustainable alternatives, equitable growth, natural resources, community and people's rights. Cutting across subjects of economics, law, politics, environment and social sciences, the work bases itself on people's experiences and community perspectives. Our work aims to reflect ground realities, challenge conventional growth paradigms and generate informed discussions on social, economic, political, environmental and cultural problems.

**Pakistan India Peoples' Forum for Peace and Democracy (PIPFDP)** is a membership based people's forum that has two chapters in India and Pakistan. The objective of this initiative is to facilitate common people in both the countries to listen to voices that are different from the belligerent voices of the respective Governments. It is with the objective of asserting the sanity of the peace loving people of India and Pakistan that concerned citizens and groups in both the countries have come together to formulate strategies for promoting peace and strengthen democracy in the sub-continent.

Cover Design and Layout: Media Collective (Musthujab Makkolath)  
Published by The Research Collective- PSA

October 2019

For private circulation only

Suggested Contribution: Rs. 50/-

For copies:

Programme for Social Action

G-46 (First Floor), Green Park (Main)

New Delhi-110016

Phone Number: +91-11-26561556 | 26561557

Email: [trc@psa-india.net](mailto:trc@psa-india.net)

## Foreword

### **Fishworkers omitted in the crossword of Pakistan-India conflict**

The arrest of fishworkers of India and Pakistan on the maritime border between the two countries has been an issue of serious concern and engagement for Pakistan Indian Peoples' Forum for Peace and Democracy (PIPFDP) for over two decades now. This round table conference on fishworkers' arrests and prisoners issue between India and Pakistan organised by PIPFDP, with support from The Research Collective and others, was within a few days of the release of thirty Indian prisoners, at the beginning of August 2018, by the new Government of Pakistan. The meeting, which was attended by diplomats, civil society organisations, lawyers, representatives of fishworkers' unions, peace activists, etc., witnessed a positive and detailed discussion on the possibilities of working out mechanisms, which could pave the path for peaceful and equitable ways of working to benefit fishworkers and find more lasting solutions to the issue. As the report details from the proceedings of the round table, the fact emerges that they are the most vulnerable due to the industrialisation of the coast, depletion of marine resources and tensed border relations.

Previous interventions by the civil societies in India and Pakistan – PIPFDP, along with allied forces like the National Fishworkers' Forum (NFF India), Pakistan Fisherfolk Forum, Legal Aid Organisation (Pakistan), Pakistan Institute for Labour Education and Research (PILER), Human Rights Commission of Pakistan, Edhi Foundation, Human Rights Law Network (HRLN India), Programme for Social Action (PSA India) and local fishing people's organisations of Gujarat, have formed a coalition that has worked over several years to understand the plight of the fishworkers languishing in the jails of each other's countries. Their interventions which led to the forming of a Joint Judicial Committee, which nominated judicial representatives from both India and Pakistan, primarily focused on examining the health conditions of the prisoners, enquiring into their legal conditions and status of their cases and finding out whether consular access has been given to them or not. However, the Joint Judicial Committee has not met since 2014, which is a cause for concern. This was one of the main demands of the meeting as well, where representatives from both countries committed to putting pressure on both governments towards the appointment and proper functioning of the Joint Judicial Committee.

It is also commendable that after the interventions of the civil society groups and judiciary, the term of the sentence of the fishworkers has reduced considerably, yet,

major gaps have emerged in collating information about the names and information of the prisoners. While this information must be provided by the government and should form part of public information, it is usually held in secrecy except on certain occasions, without any proper justification. As per the Consular Access Agreement of 2008, both India and Pakistan must provide consular access to each other's prisoners. Under this provision, every year on 1<sup>st</sup> January and 1<sup>st</sup> July, both the countries are supposed to exchange a list of names and details of prisoners from each other's country. This is a rare occurrence and now with the dilution of the consular access, even a basic demand for the implementation of the consular access appears to be a huge ask.

PIPFPD has attempted several initiatives, in collaboration in the past two decades to circumvent the complex issue of resource sharing, arrest and release of fishworkers, and confiscation of boats. The round table is a continuation of our efforts to find affirmative transformation to the issue, providing a relief to the fishers and finding a lasting solution to the conflict. The legal and humanitarian efforts on this count have been consistently supported and enhanced by several of our partners in the sorority. While legal aid efforts are constantly kept up by Legal Aid Organisation of Pakistan, Human Rights Law Network of India and PILER (Karachi), the humanitarian aid to the prisoners during incarceration and after release has been diligently executed by the Edhi Foundation (Pakistan) and the NFF linked fishers' groups in India. The contribution of individuals, including Veljibhai Masani and Jeevan Jungi should be specially mentioned here (despite their organisational affiliations) apart from veteran journalists and activists like Jatin Desai (former General Secretary of PIPFPD India), etc. from India.

Bureaucratic misconduct, errors of biased judgement and prejudice against a community whose livelihood means are looked down upon by an upper caste/class of officers, etc. have contributed immensely to the apathy towards fishworkers—on both sides. The Government of India, and its concerned ministries, have been at best bad postmen at their task. This routine humanitarian violence of arresting the fishermen is dismissive of the fact that these stakeholders in this fishing business are crossing the international waters because there are no fishes on the Indian side and fishing is essentially a chase of a school of fish, which are not aware of such borders! More Indian boats crossover to the Pakistan side rather than the other way, which squarely puts the onus to find a solution on the Indian Government.

The sustainable ecological balance of the Indian Ocean is being affected by rapid industrialisation on the western coast, especially Gujarat. This threat has the ability to intensify the conflict and further put pressure on the political and economic arrangements. The coast of Gujarat has already been experiencing a lack in catch, particularly the north-western part of Gujarat which was renowned for its lucrative fishing business. However, the infamous 'Gujarat model' of development has affected the ecological balance of the sea, leading fishing vessels from south Gujarat to crowd in the coast of Kutch as has been concluded by various research studies, particularly *Where have the Fish Gone: Impact of Industrial Development of Fishworkers in Gujarat* (The Research Collective, 2017). This is a moment of complete crisis and there needs to be an assessment of the economic logic and given the current situation of India-Pakistan relations, an interim solution must be discussed to alleviate this misery.

It is in this light that the proposal of a Maritime Economic Cooperation Agreement (MECA) by The Research Collective has to be seen. The detailed discussion on the possibility of a formalised agreement between the two governments, with active participation by fishworkers organisations and legal groups, aimed at restricting the exploitation of the marine resources by companies and ensuring food sovereignty and livelihood rights of the fishing communities, was the crux of the session on MECA at the round table. However much has changed on either side of the border since then. The parliamentary election of 2019, before which the dramatic episode of Pulwama happened, contributed to a war cry on the Indian side. The current situation in Kashmir following the unilateral abrogation of Article 370 and the partition of the state by the Indian Government, has further maimed the previous attempts by the civil society in both India and Pakistan in resolving the coastal conflict between the two countries.

The diplomatic relationship between India and Pakistan has reached a nadir; high commissions do not work on either side and the communications between the civil societies on both sides of the border is also under duress. People are still interacting to a certain extent and families on both sides are occasionally meeting, but it seems like the possibilities are slipping away. An interim solution has to be found to this misery which aims to take the objectives of the Mumbai round table conference of 2013. Hence, we need to re-strategise, we need to make sure that our agenda gets picked up by other organisations, the consular access and medical facilities for prisoners be systematised and most importantly the Joint Judicial Committee members be finalised and meetings be facilitated by both governments. Does the

peace movement have the courage to stand up and say that this issue has enough strength and bring this issue to the limelight? Things around are surely bleak, but it is important to ask the question of whether it is possible for us to see the misery and the problem as an opportunity.

**Vijayan MJ**

General Secretary

Pakistan India Peoples' Forum for Peace and Democracy – India Chapter

# **Report on the Round table Consultation on India Pakistan Fishworkers and Prisoners Issue**

## **About the meeting**

The meeting, titled 'Round table Consultation on India Pakistan Fishworkers and Prisoners Issues' was organised by the Pakistan India Peoples' Forum for Peace and Democracy (PIPFPD) on 31st of August, 2018 at the Indo Global Social Service Society (IGSSS), New Delhi, India.

## **The Political Context and Rationale of the Meeting:**

The purpose of the round table was to take stock of the situation regarding the arrest of fishworkers by India and Pakistan. The meeting also aimed to discuss ways to resolve the problem, based on and informed by the experience of decades of negotiation and intervention by activists, fishworkers themselves, their families, fishworkers forums on both sides of the border as well as others involved in the issue. This conference was an outcome of four months of tremendous hard work to gain permission to hold the programme with participants from Pakistan to join the programme, their visa applications getting processed and to have activists, diplomats, fishworker leaders, etc. from both the sides of the border.

The Kerala-Karnataka floods that affected India during the mid of August had torpedoed the regions and the lives of several Adivasi and Dalit communities in the area. In that context, especially given the presence of representation from fishworkers at the round table, the hard work and commitment towards the relief efforts of the fishworkers was acknowledged and appreciated. One hoped outcome of the round table was to improve the understanding of non-coastal people regarding the predicament of the fishworkers and in the process bring them closer to each other.

Pakistan India Peoples' Forum for Peace and Democracy (henceforth PIPFPD or Forum), at this juncture, is positioned amidst landmark political crossroads, especially with the upcoming general elections in the year 2019, which will be a contest between democracy and communalism. Not only might the polling days show the contradictions between various forces in the country, but also the days and months leading up to the election may see the expression of the ongoing ideological clashes in the country, through campaigns which feed regressive skepticism and suspicion between citizens and communities. The Forum must steer itself carefully through these contextual and political challenges, especially against the background

of several activists in India facing and braving arrests, with the expectation and commitment that in the days to come, it shall continue to remain steadfast in its engagement to promote peace and democracy.

The spirit of the people who initiated the National Fishworker's Forum (NFF) and the Pakistan Fisherfolk Forum (PFF) has mirrored the effort by the same people who initiated activism and drew the attention of the governments of the two countries to the perils of the lives of prisoners languishing in each other's jails – people like Premjibhai Khokri, Fr. Thomas Kocherry, Harekrishna Debnath, Matanhy Saldanha, etc. This collaboration between NFF, PFF and PIPFPD has taken an active turn under the leadership of the likes of Jatin Desai, in the last five years, who have worked tirelessly to build an alliance between parties having similar concerns about the plight of prisoners. The efforts of the Forum have been boosted by the establishment of the Joint Judicial Committee (JJC)<sup>1</sup> in 2008. Now through initiating the conference, the aspirations and endeavours of the Forum hopes to develop with the changing context.

Till now, the efforts of the Forum have been to try and stop arrests of fisherfolk across the maritime borders of the two countries. The Forum has also attempted to initiate and sustain a credible network of communication between the fishworkers, boat-workers and activists in two countries to support information sharing, documentation and the provision of legal aid to prisoners on both sides. Even while these networks have not always reflected coordination, they, however, have demonstrated enterprise towards the provision of legal assistance to people in custody. Through creating pressure on government agencies, the rangers in Pakistan, the home ministry, the external ministry, the coast guard, and the navy in India, a lot of effort has been contributed towards the resolution of the issue.

However, it is necessary to keep reviewing the current context. For example, after the swearing-in of the new Prime Minister of Pakistan Imran Khan, thirty Indian prisoners were released from Pakistani jails, including twenty-six fishworkers, reflecting the stagnated repetition of the system of using prisoners as a goodwill gesture. On the other hand, India has arrested four fishworkers from Pakistan. Thus, we are still faced with a humanitarian crisis, whereby even though it has been established that these individuals who cross international water boundaries do it for the sake of their

---

<sup>1</sup> First formed in 2007, the JJC consists of retired judges of the higher judiciary who visit and meet prisoners in each other's jails and propose steps to ensure their humane treatment and expedite release of prisoners and fishermen who have completed their prison terms. The last meeting was hosted by India in October 2013.

livelihood and are not involved in criminal activities such as smuggling of narcotics, trafficking of arms, etc. they are still arrested and treated as criminals. This is in spite of the persistent intervention of activists on both sides of the border. Even then nationality verification involves a long and arduous process; often beginning only after the prisoner has served their sentence, adding to time they serve in a foreign prison.

The core rationale for the meeting involved the recognition of the hard work by civil society in trying to negotiate the release of incarcerated fishworkers amidst the hostility between the two countries. Beyond that, taking a cue from the years of struggle by those concerned with the fishworkers' plight, the round table sought to engage with policymakers and those in bureaucracy to find a way forward towards the possibility of a concrete political resolution of the issue.

### **Positive that Visa was granted**

PIPFPD has initiated discussions between the activists on the issue of prisoners of the two countries over the past decades. Although PIPFPD has held meetings and connected with experts, activists from across the border have primarily continued without being able to meet in person, instead often meeting only through transnational video calling services. Hence, the approval of visa by the Indian authorities for the Pakistani delegates who travelled to New Delhi should be recognised. Their participation in the round table sends a positive signal from the government which might be interpreted as encouraging further dialogue and discussion on the fishworkers' arrest issue. The dedicated efforts of activists like Altaf Khoso (Legal Aid Office, Karachi) and Bhargavi Dilipkumar (Executive Secretary, PIPFPD India), who have consistently struggled to make this happen, keeping the hope of discussions for peace and democracy alive, must be congratulated. Although, unfortunately the Secretary and President of the PFF could not make it to the conference, those present expected that the spirit of the organisation would be represented by activists like Karamat Ali Saab (Founder President of Pakistan Fisherfolk Forum).

### **Agenda of the meeting**

The core agenda for the meeting was to:

- Deliberate on how to increase communication between these organisations (the Legal Aid Organisation, the Edhi Foundation in Pakistan, Pakistan Institute of Labour Education and Research), PFF, NFF and the PIPFPD in order to resolve the situation.

- Discuss what new tactics might be developed and used in order to achieve resolution of the situation.
- Take stock of the current situation of the fishworkers arrested on both sides of the border and review the initiatives undertaken to support them by civil society.
- Deliberate on prospects for new alternative ways to address and resolve the issue.

### **Attendees at the Meeting**

The meeting was attended by civil society representatives from various walks of life and grassroots movements, as well as representatives of fishworkers groups from Gujarat. There was also participation from eminent civil society activists from Pakistan. Apart from the representatives of PIPFPD, who organised the event: Vijayan MJ (General Secretary) and Bhargavi Dilipkumar, other attendees included Jatin Desai (eminent journalist, national committee member and former General Secretary of PIPFPD); Syeda Hameed (feminist activist, academic, former member of the National Commission for Women and Planning Commission of India) and Tapan Bose (filmmaker, peace activist); and co-Chairpersons and founding members of PIPFPD.

Representatives of peace activists and government officials from Pakistan also attended the meeting, including; Justice (R) Nasir Aslam Zahid (Barrister-at-Law, former Chief Justice of Sindh High Court and a Judge of the Supreme Court of Pakistan, former member of the India-Pakistan Judicial Committee on Prisoners); Karamat Ali (Founder President of Pakistan Fisherfolk Forum (PFF) and Executive Director of Pakistan Institute of Labour Education and Research (PILER)); Haya Emaan Zahid (Programme Director at the Legal Aid Organisation (LAO) in Pakistan); Advocate Althaf Hussain Khoso (Litigation Manager at Legal Aid Organisation, Pakistan); and Imran Khan (government representative of Pakistan). These organisations in Pakistan have been working consistently to free Indian fishworkers in Pakistan.

Participants like Jatin Desai and Justice Nasir Aslam have been involved on this issue for a long time and are the first set of people to have taken action to try to resolve the issue of fishworkers getting arrested by the each other's authorities in India and Pakistan. The assembled collective aimed to learn from their experience.

Further, representatives of fishworkers from Maharashtra and Gujarat, India were present including Veljibhai Masani (Chairman, Gujarat Fisheries Central Co-operative Association Limited - an initiative of Department of Agriculture, Farmers

Welfare and Co-operation Department, Government of Gujarat); Jivanbhai Jungi (Member of Porbandar Boatowner's Association, Gujarat, India); and Mr. Narendra Patil (Chairperson, National Fishworkers' Forum). Their presence helped to make the programme more participatory and rooted in real experience. They are grassroots activists who have been struggling to take positive action on the fishworkers' arrest issue for several years in Gujarat and beyond.

For several years, PIPFPD has been working on the case of Hamid Ansari, an Indian man imprisoned in Pakistan for several years. The conference was also graced with the presence of his parents Nihal Ansari and Fauzia Ansari.

The round table also saw the presence of Mujahid Nafees (Gujarat Collective and Convener, Minority Coordination Committee); Harsh Narayan (filmmaker); Pragna Narang (freelance journalist); Manimala (senior journalist, feminist author and a member of PIPFPD-India chapter); the representatives of Indo Global Social Service Society (IGSSS); Aashima Subberwal (General Secretary of Programme for Social Action and National Committee Member of PIPFPD); Arun Mohan (Media Collective); Aswathy Senan and Gargi Adhikari (The Research Collective); and members of Delhi Solidarity Group namely Anil Tharayath Varghese, Jibin Robin, and Ayaz Ansari.

Homage was paid in the meeting to esteemed figures who had passed away recently and who had contributed to peace in the region: Kuldip Nayar, a celebrated Indian journalist, human rights activist and former High Commissioner of India to the UK; Atal Bihari Vajpayee, former Indian Prime Minister and initiator of peace negotiations through diplomacy and commencement of bus services between India and Pakistan; and Madiba (Nelson Mandela), anti-apartheid revolutionary and the first black President of South Africa.

### **Setting the Context**

After the welcome address by Bhargavi, the context of the meeting was set by Vijayan MJ. He explained the rationale behind holding the meeting and the political context in which it is taking place. The keynote address of the meeting was provided by Dr. Syeda Hameed. She elaborated on the present predicament of India, especially assault on civil rights and human rights activists, and a surge in public protests, showing a rise in people's political consciousness. She expressed much optimism from the recent election in Pakistan, and the appointment of a new Prime Minister in the country, Imran Khan, who brings with himself politics beyond that of the Muslim League and the Pakistan People's Party, who have been at the helm of the country's

affairs for far too long. Jatin Desai's address began with laying down the facts and figures about the arrestees in both countries, explaining one of the differences in the situation of the prisoners across the border. He highlighted that 90 percent of Indian prisoners in Pakistan are fishworkers. On the other hand, there are more Pakistan civilian captives than fishworkers in Indian prisons.

Justice Nasir Aslam Zahid reaffirmed his commitment to connecting Indian prisoners in Pakistan with their families in India, something that he has been doing for several years. He laid down the main points of contention that remain regarding the identification of prisoners in Pakistani jails, outlining that even though the process, with the advancement of technology, can be easily done, it takes much longer than it should.

## Session I: Response from the Fishworkers' Movements

This session focused on responses from the representatives of the various fishworkers' movements in both countries. Karamat Ali was of the opinion that the issue of the imprisonment of fishermen is essentially an issue that represents the relations between India and Pakistan. When both countries announce the release of prisoners, it is done as a gesture of goodwill. It seems that the two countries do not have any other ways of showing goodwill to each other. This issue, thus, must be viewed from the perspective of being a regional issue. There are four countries in the region that have access to the sea (Bangladesh, India, Pakistan, Sri Lanka), and the lack of clarity of the demarcation of sea boundaries gives rise to this issue. There must hence be an understanding that the issue cannot be solved by only two countries bilaterally, but needs to be addressed as a South Asian issue. While patriotism seems to have become the first and last resort of the political elite of the countries of South Asia, there should be a shift in attitude towards humanity. The land and the sea are not for countries to divide among themselves, but for the people and should be utilised accordingly.

Mr. Narendra Patil, a leader of the fisherfolk in India, opined that no one goes to catch fish and cross the international boundaries either willingly or consciously. In India, fishermen are given a biometric card which contains all their information which needs to be verified on both sides. These days there is no lack of documentation, what is needed is verification and redressal on the spot by government officials. It is not true that there are no identity documents of the fishworkers available on the boats. In fact, the fishing boats contain ample information on the identity of the fishworkers and the purpose of their presence in the sea in the form of their fishing permits. Thus, to improve the scenario, there needs to be verification of the fishermen on the spot itself by the border security forces, the navy and the coast guards of both the governments.

This session was followed by a response from Tapan K Bose. Taking cognizance of Mr. Narendra Patil's explanations, Tapan enumerated the practical problem in determining boundaries at sea between India and Pakistan. It is hard to take the idea of having a maritime border between India and Pakistan seriously when the border is not marked definitely. He summed up that considering these factors, the allegations of fishworkers being penalised for crossing the border cannot be ethically made.

Before the second session of the discussion began, the issue of the arrest of Hamid Ansari was taken up at the round table. Fauzia Ansari, Hamid Ansari's mother, explained the predicament of her son who has been in a Pakistan prison for more than six years, and set the context of his arrest and subsequent incarceration. Unable to get a legitimate visa to Pakistan, Hamid had crossed the border to Pakistan illegally. He was caught in 2012, after which he went missing, and the family was unable to trace him. In January 2016, the family was informed that he had been caught by the Pakistani military, tried in the military court, sentenced to three years imprisonment and shifted to Peshawar Central Jail. The punishment term of three years was over in January 2018, over and above a three year period of detention which he served before his sentencing. His release was also subject to consular access and issuance of travel documents by the High Commission, which did not materialise. Fauzia Ansari pointed out that Hamid also faced physical attacks at Peshawar jail thrice during his stay. He was further actively discouraged to share information about the conditions that he was living in with his lawyers, or anyone else that he met in the prison. Whenever he had access to the lawyers, they were surrounded by military representatives, which was a way to threaten him tacitly into keeping quiet. At the time of the meeting he was yet to be transferred back. The family, at this moment, is unable to get any information regarding his condition. She said that from the day of the conference, there are about 106 days left to her son's release. Her appeal to the gathering was to ensure that these 106 days should not extend by even a single day.

Captain Imran assured the mother that all necessary measures according to the law of Pakistan will be taken to ensure a speedy release. He also committed to making sure that any health issues will be taken care of, considering all possibilities under humanitarian grounds and decorum international bodies abide by. Advocate Haya also assured that the LAO will continue to raise these issues and make sure that Hamid is given access to lawyers, consular access is provided to him and that he does not have to stay in the prison even a single day beyond his prison sentence.

## **Session II: Voices from the Ground; Taking stock of the situation in the fishing belt and of prisoners languishing in the jails of India and Pakistan**

The session titled 'Voices from the Ground', aimed to navigate through the ground situation with respect to fishing activities of the fishworker community in Pakistan and India (focusing on Gujarat) and the conditions of the jails in which those arrested are kept. Even when the prisoners have finished their sentences, they often languish over and above their prison sentences before they are repatriated to their home countries. This is a serious issue, given that, even if it is a matter of mere months, for a family member whose relative has been living in jail in a foreign country, it is an urgent matter. The session was moderated by Advocate Haya.

Veljibhai Masani, Chairman of Gujarat Fishermen Association, has been involved in the issue of the release of fishworkers since 1989, since a very young age, for which purpose he has also visited Karachi around twelve times and has stayed there for close to three months. He explained that:

1. The only concern of a fisherman is to catch fish which is his source of livelihood. The sole purpose of the fishing community is to pursue their livelihood and that is all that they are interested in. Till date there has been no evidence of them—be they of India or Pakistan—ever being involved in any sort of anti-national or anti-social activity. They are hard working people, who only want to live their lives catching fish. It must be their right to fish in the water.
2. Fishing is essentially a hunting activity, where when the fish flee, the fishworker also chases the fish. In this process, the issue or idea of the distance that the fishworker has covered with his boat, or the idea of the existence of an international border, does not exist in their mind. This leads to the capturing of boats and arrest of fishworkers by the authorities of the neighbouring countries, and the eventual emotional as well as economic damage to the family members of the arrested. Although it is necessary to make sure that there are enough resources made available for the identification of the boat and the fishworker, the speaker drew attention to the fact that identification papers and documents are available in the boats in the form of the registration document of the boats, their licenses, etc. It is actually the relationship between the two countries, which have deteriorated over a span of time, which has

contributed to the arrest of the fishermen. There is this prevalent idea among the fishing community that it is the fishworkers from both sides of the border who can actually bring the divided communities of the two countries closer.

3. The fishworkers on both sides had been cooperating and coordinating with one another with respect to release of the fishworkers and their boats. Now, that has completely stopped. A single boat costs a great deal for not only the fishworker but also the family which buys the boat as a source of income and livelihood. If the boats of each country, which have been confiscated by the authorities of the neighbouring country were released, then there would be significantly less burden on the lives of the fishworkers and their family.

Jeevanbhai Jungi highlighted that:

1. The Joint Judicial Committee on prisoners between the two countries should be revived immediately. The meetings of JJC should not just be conducted, there should also be persistent activism to ensure that the decisions taken in the committees are implemented by both governments. Whenever there is an election in any part of the country, the discussions and work related to the issue of the fishworkers take a back seat. This has happened when there has been an election in Pakistan, and similarly, it will be repeated when India has its general election next year. The work of the JJC must continue relentlessly, irrespective of these impediments.
2. The legal identification documents of the boat, the boatowner and the fishworker are all available in the boat. The coastguards of the neighbouring country should verify the identity of the fishworker based on these documents if he crosses over to the other side and release him immediately on humanitarian ground. There is no purpose served by either of the countries to arrest fishworkers and keep them for so many years in prison.
3. It is only the level of pollution in the Gujarat side of the sea that has compelled the fishworker to travel beyond the international line. The relevant question that needs to be asked to the Indian government is who is responsible for such an immense level of pollution in the seas of the country. And why is it not possible for the responsible authorities to control this pollution even now?
4. Displaying a map of Sir Creek and pointing at the proximity of the land regions of both the countries around Sir Creek, Jungibhai explained how the ambiguity

of the line across the area has led to immense confusion as to what might be the legal boundary in that area between Pakistan and India. No one, especially the fishworkers, knows for sure which part of the sea is the Indian side and which part of the sea is the Pakistani side.

Advocate Altaf highlighted that all arrested Indian fishworkers are kept in one prison in Pakistan. In the case of India, it is not the same—the arrested Pakistani fishermen are kept in many different prisons. Due to this, it is easier to collect information about any Indian prisoners in Pakistan as information is just required from one prison. While Pakistani prisoners are in multiple Indian prisons, locating them requires collecting information from all those places. He reiterated the necessity to revive the JJC, and also identify the role of the activists in supporting it. The vision of the activists should be strong and they should have a clear idea as to what their role is in pressurising the governments into accepting the recommendations of the JJC. The role of the activists and the NGOs involved should not end with the creation of the JJC, but they should help in its proper functioning by involving the government and help with technology.

In case the government is not showing prudence, it might be necessary for activists to push the process of nationality verification or extension of consular access to the prisoner themselves. Altaf spoke of the necessity for civil society on both sides of the border to be proactive in helping with the identification of prisoners using technology. The activist must also ensure that this seemingly perpetual silence of the governments is broken once and for all, otherwise, there is little chance of change.

Mohanbhai Siyal from Porbandar Boatowners Association noted that:

1. The livelihood of around 20 families depends on one boat. In Gujarat, at present, there are about 25,000 boats. There are thus about 5 lakh families whose livelihoods depend on these boats. Further, the price of a boat is extremely high. When the boatowner and the main fishworker is the same, he is already burdened with heavy loans, either from banks or from other dealers. There have been instances when a boatowner has had to sell his house or his land, against which he had taken the loan to buy a boat. Further, there is no option of respite from private moneylenders, if money has been borrowed from them. The fishworkers are thus forced to risk crossing the border and ensuring a good catch, so as to get a bonus or commission from the boatowner, who in turn will pay back the money lenders.

2. Another thing that needs to be kept in mind is the difference in the structure of Pakistani and Indian boats. They are differently made because the methods which are employed to fish are different in the two countries. Even the character of the sea might be very different on two sides of the border, which is why different types of approaches are applied. Either kind of boat will not work for the fishing activities in the other country. Thus, when the boats are caught along with the boatowners and fishworkers in the neighbouring country, they are left to rot, essentially because that boat is of no use on the other side of the border. This makes it even more important today to demand release of the boats of fishermen who have been caught and captured on the other side of the border.

Advocate Haya pointed out that PM Imran Khan mentioned the deteriorating condition of jails in Pakistan in his inaugural speech, also noting alongside the condition of the prisoners languishing in these jails. He also mentioned the necessity for organisations like the LAO in such situations. At present, there is a discussion going on in the Senate of Pakistan about how many citizens of Pakistan are currently imprisoned in jails of foreign countries, as well as how many prisoners of foreign origin are serving sentences in Pakistani jails. This issue seems to be highlighted in the top areas of the PM's 100 days plan. This brings hope regarding the current government of Pakistan paying fruitful attention to the issue. She also mentioned that the Indian government has already placed their nominations for the JJC. It is expected now that Pakistan, after the successful completion of its general elections, will also send its nomination as soon as possible, which should include not only lawyers, and retired judges, but also members of civil society as well. It is important that the journalist community also come forward to spread the word around this issue and make it possible for the prisoner to reach his family.

The response of Capt. Imran Khan entailed a perspective from law enforcement. He opined:

1. With respect to the issue of maritime security, in the last 70 years there has been not a single incident of firing by either Indian or Pakistani authorities on any fishing boats, while several instances can be cited when such authorities have open fired on fishing boats in other maritime border regions. He stated that we should acknowledge this gesture of the law enforcement authorities on both the sides, since the boats could be seen as a belligerent and hostile vessel and hence an occupational hazard of the fisherfolks.

ROUND TABLE CONFERENCE  
India-Pakistan Prisoner's issue  
31<sup>st</sup> August, 2018, IGSSS, New Delhi-India  
PAKISTAN INDIA PEOPLE'S FORUM FOR PEACE & DEMOCRACY



**ROUND TABLE CONFERENCE**  
**India-Pakistan Prisoner's issue**  
31<sup>st</sup> August, 2018, IGSSS, New Delhi-India  
PAKISTAN INDIA PEOPLE'S FORUM FOR PEACE & DEMOCRACY







2. A detailed discussion between the Indian Coast Guards and the Pakistan Maritime Security Agency has been conducted on the question of how best to deal with the issue of fishworkers, and look at it from a humanitarian perspective. The Government of Pakistan has taken cognizance of the matter. Deliberations are on to expedite the process to ease the exchange of information. In 2015, Pakistan returned 57 boats while there has been no reciprocity from the Indian side.
3. While recognising the economic rights of the fisher community, when it comes to fishing, the speaker pointed out that the regulations and restrictions regarding crossing the borders to another country's maritime terrain should be viewed from the perspective of encroaching on the economic rights of the other country's fishworkers.
4. If there is a problem of pollution in the Indian side of the sea, the Indian fishworkers cannot infringe on the economic freedom and rights of the Pakistani fishworkers and start fishing in the Pakistani side of the sea which could lead to a clash of economic interests. It cannot be forgotten that allowing Indian fishworkers to venture into the Pakistani side of the sea would also lead to the infringement of the sources of livelihood of Pakistani fishworkers.

The participants further had a discussion, reflecting on the presentation of the session, following which there was an official release of the policy brief prepared by The Research Collective titled 'Ending the War at Sea: In Pursuit of Permanent Solution to the India-Pakistan Fisheries Conflict'.

## Session III: Discussion on the Marine Economic Cooperation Agreement Policy Brief

The post-lunch session entailed a discussion on the Policy Brief, chaired by Aswathy Senan. In her presentation she:

1. Introduced The Research Collective (TRC) and discussed the foundation of the most recent publication, drawn from the last three TRC publications on the fishworkers issue and the publication on the ecological fallout that the Gujarat coast has been facing in recent times. She also highlighted that parts of the publication draws heavily from conversations with Vijayan MJ and Jatin Desai.
2. Laid the context of the discussion which involves identification of the four stakeholders in this crisis, namely: the Indian fishworkers and associations, the Pakistani fishworkers and associations, the Indian government and the Pakistan government. She also highlighted the fact that as well as a humanitarian crisis, it is also in fact an ecological issue, given that Gujarati fisherfolk are only straying into Pakistani waters due to the pollution on the Indian waters and its impact on the fish stock.
3. Presented TRC's understanding of what could be the way forward on the issue, over and above the insight that the already tried and tested methods of dealing with the arrest of the fishworkers must continue to be strengthened. This policy brief proposes the possibility of developing a Maritime Economic Cooperation Agreement (MECA) between the two countries
4. Requested the attendees to read through certain sections of the policy brief and then deliberate on it.

The TRC was unable to translate the brief into relevant regional languages like Hindi, Urdu or Gujarati. However, a translation will be done soon, and circulated, so as to make sure that the concerned fishworkers get the chance to deliberate on the issues and possibilities highlighted in the document. Whatever the response to the policy brief is in the meeting, was proposed to be included in a reworked draft in the future.

In the course of the discussion, while Karamat Ali reiterated the necessity to view the issue of maritime conflict between the two countries essentially as a regional issue,

Vijayan elaborated the need for a possible maritime economic cooperation between the two countries. Veljibhai observed that the fishworkers of Gujarat are aware of the threat to their livelihood from pollution. They are aware of the methods of self-regulation that they must incorporate in their practice of fishing, in order to sustain the environment. The proposal of maritime cooperation, even when a new and relatively unfamiliar issue, might have traction among them in the long run with the right kind of engagement, communication, and sensitisation. Advocate Altaf noted the urgency of the creation of a committee to discuss and form a position on the nuances of any possible MECA and its implementation. Bhargavi also highlighted the need to sensitise the fishworkers on the subtleties of the concept, given that they have no clarity on the nuances of their own labour rights. Aashima Subberwal drew the attention of the discussant to the need to deliberate on the details of the proposal and the mechanism of its implementation.

The floor recommended that TRC work upon the policy brief taking the suggestions and recommendations received from the members in consultation with the fishworkers' unions and prepare a revised draft of the same.

## Session IV: Transforming the conflict situation—Strengthening Systems in Place

The last session of the round table chaired by Tapan Bose deliberated on the methods of optimising civil society approaches, discussions on comprehensive solutions and demands, and in building a shared vision between all stakeholders. While Justice Nasir Aslam Zahid observed the need to open trade protocols between the two countries to lay the ground for maritime economic cooperation, he also observed that there is still goodwill and affection between the citizens of the two countries. Veljibhai agreed with this observation, citing the example of Indian and Pakistani fishworkers sharing goods with each other at sea while fishing.

Tapan Bose concluded that the problem of the arrest of fishworkers is purely an issue of political intent of the governments of the two countries that has been sabotaging civilian connections between them. The sea does not only have fish, but also oil, gas, and other energy resources. It is only a matter of who is to have authority over these resources.

Summarising the discussion of the round table, Jatin Desai reiterated the implications of pollution of the coasts on the Indian side of the sea, which have pushed the fishworkers towards crossing the international maritime boundary between the two countries. The main points that emerged are as follows:

1. The speaker was convinced that this issue cannot be solved by a political solution. It needs to be addressed on humanitarian grounds, because the main problems that the arrested fishworkers face are in proceedings after they are arrested, such as delay in being presented to court, delay in consular access, delay in nationality verification, delay in repatriation, etc.
2. There should be time limits for procedures after the arrest of the fishworkers, alongside the development of the policy of no-arrests to begin with, in the form of a joint policy. The fishworkers have fished in the Arabian Sea since time immemorial, much before these two states were formed. They have a shared history which needs to be remembered and respected.

Reiterating Jatin Desai's opinion, Mr Syed Haidar Shah, Deputy High Commissioner, Pakistan surmised that even with the negotiations around the formulation of a long-

term policy initiative on the part of the two governments, the focus should be to cater to the needs of the people who are arrested, within the parameters that are provided now. Return of the boats, reduction in time in procedures after the arrest, reduction in processing time, extend educational facilities to minor prisoners, access to consular privileges are areas that should get attention and be worked on into the future.

### **Number of Fishworkers Arrested on Both Sides Currently**

Two days before the conference, the upper house of Pakistan, the Senate, was apprised that 594 Pakistanis are incarcerated in Indian prisons, while about 472 Indian prisoners are imprisoned in Pakistani jails. These figures were submitted by the Foreign Minister of Pakistan. Apparently, around 420 Pakistani prisoners have been released by India in the last five years, while 1,997 Indian prisoners have been released by Pakistan. It is important to analyse what these numbers mean and indicate, alongside understanding the necessity for nationality verification.

### **Industrial Pollution, Marine Resource Depletion and Threats posed by the Blue Economy**

From the discussion, the following core points on the issue of the pollution of seas and implications of Blue Economy have emerged:

1. Around 2008, discussions took place between India and Pakistan on the inadvertent crossing of borders. However, today, even the fishworkers have come a long way to express that because of the lack of fish on the Gujarat coast. Due to pollution, they have no option but to cross over to the Pakistani side to fish. The Birla Cement factory in Porbandar and the thermal power plants in the Saurashtra and Diu areas are major contributors to pollution of the sea.
2. It must be recognised that the Gujarat Government has to be held accountable for allowing thermal power plants that cause pollution by the coast and in the ocean. This is a model of devastating development, that thankfully has not been replicated on the Pakistani side of the sea.
3. One must be wary of terms like 'Blue Economy' that have been popularised and become a government buzz word in recent times. If pursued unabated, it will destroy any coast in India or elsewhere. The idea of Blue Economy should be challenged through collective action by the fishworker community.

4. Today, despite the large-scale destruction that has already been caused by these kinds of ideas of development, a Coastal Zone Management Plan is being implemented in Gujarat. The map made to execute the plan completely ignores the livelihoods of the fishworkers communities. Places where they live, fish and dry their fish have been completely erased from the plan map. This is a phenomenon that is not restricted to or is unique to India only, but is being implemented in several places across the world. Because of this, while it would take around seven days to return from a fish catching expedition a decade ago, today it takes almost two weeks. The reason for this is that to catch fish, the fishworkers have to go farther inside the sea, towards Pakistan.
5. The destruction of mangroves is an issue not only in India, but also in places like Pakistan. For example, in Karachi 1,000 acres of wetlands are being grabbed in the name of development. Activists working on the fishworkers issue have been abducted in Pakistan, which is a gross violation of human rights.
6. Poor water resource management has become a very serious issue in Pakistan. Big development projects in the wetlands have taken away the source of livelihood of the fisherfolks. In normal circumstances, they would have farmed this land in the seasons they do not fish. But they have been removed from these areas. This has also affected the environment, leading to an increase in salinity of water in the area.
7. The deltas are being systematically destroyed. The speaker stressed that the delta and wetland destruction of Pakistan cannot be solved without solving the Siachen issue with India.

### **Hostile Political Relationship Between the Two Countries: Repercussions on Sir Creek and Kashmir**

1. The issue of militarisation of Kashmir and Siachen, over decades, has led to the increase of the hostile relationship between the two countries. The longstanding political disillusionment regarding the position of Kashmir has propelled enmity between the two countries, making the fishworkers a part of some sort of proxy war. They have become the collateral in this hostility.
2. From then on, as pointed out by Karamat Saab, to further diplomatic coherence, the exchange of prisoners between the two nations became a mere goodwill gesture. There should be another way to show humanitarian concern and

goodwill gestures between the countries. Several Pakistani civilians suffer from ill health and cannot afford to get treatment in Europe, the Americas or any other Western country. They are willing to come to India and get treatment there. However, they are not given a visa. Giving a visa for such people can be a goodwill gesture. Instead, poor fishworkers are arrested and then released in the name of goodwill. This should stop.

3. The activists involved in this struggle should think of ways in which this can be resolved through united efforts by India and Pakistan.
4. There have always been problems with physical meetings between the activists of India and Pakistan, due to restrictions on visa because of political tensions between the two countries. However, dialogue and discussion must continue despite these problems, taking full advantage of the technology available.
5. At least once a month, meetings should be conducted between the activists across the border, so as to better understand the day-to-day undertakings regarding the arrest of fishworkers. This way, it will be easier to take stock of the methods being used to resolve the issue and decide if they are working or need to be modified in some way.
6. Only a few people, who deal in arms in South Asia, do not want the tension between the two states to subside. Peace comes at the cost of profit for these individuals, which is why, even while the possibilities of a full-fledged war between India and Pakistan in the future might not be imminent, a sense of suspicion is perpetrated to keep the capital flowing into the arms business in the region. The fishworkers pay the price of this tension.
7. This proximity between the two countries can be explored to resolve political issues, like the water sharing dispute at the regional level.

### **Procedures in Place: Flaws and Loopholes in Resolving the Issue:**

#### **• Identity/Nationality Verification:**

- Identity verification of fishworkers is possible in the captured boat itself at the time of the arrest. In spite of this, the fishworkers on either side of the maritime boundary are arrested, incarcerated, charged with passport

violation and then even after serving their sentence have to go through the arduous process of identity verification through official channels.

- In official language, until the identity and nationality of a prisoner, who is an Indian, is verified, they are categorised as an individual, who is 'believed to be Indian'. Similarly, Pakistani prisoners in Indian jails are called 'Pakistani' or 'believed to be Pakistani/Indian'.
- The process often takes more than a year, leading to the prisoner spending a year more than required in the jail of a foreign country.
- Jatin Desai observed that Markandey Katju, a Supreme Court judge in India at that time, made a significant judgment saying that the law clearly says one cannot incarcerate a prisoner beyond his/her sentence, even if the problems of nationality verification remain a valid point. It becomes the task of the government to build shelters for these kinds of prisoners, who have completed their sentence, yet cannot be repatriated to their countries due to the delay in the nationality verification process. Since then shelters have been made for prisoners who have completed their prison term.
- It is critical to note that in today's age, with the kind of technological advancement that we observe around us, citizenship of an individual can be expected to be proven within 24 hours. Yet there have been cases where this process has taken 3 to 4 years.
- On 1st of January and 1st of July each year, a list documenting the names and details of prisoners is exchanged between India and Pakistan. Both governments do not disclose these lists of people caught along the border. The list should be made public and put online also. At one point, it was possible to file an RTI and get the list. However, that is not possible now as the Ministry of External Affairs has stopped providing the list in India.
- The proposal that emerged from the round table took cognisance of the problem and concurred that civil society must get involved in ascertaining the identity of the prisoners with the help of modern technology. This task is but a matter of few minutes, but it can transform into almost a year of misery for the fishworkers.

- **Joint Judicial Committee:**

From the discussion in the round table, it emerged that the Joint Judicial Committee (formed in 2008), between the two countries has contributed immensely by highlighting the plight of the prisoners in the jails of both the countries. Under the recommendations of the JJC, the perspective of the justice system regarding the incarceration of fishworkers has softened over time. After they are arrested, the fishworkers are often charged with several crimes. However, due to the contribution of the JJC, they are only sentenced for passport violations. The attendees of the meeting thus believe that there is the need to urgently revive the JJC.

Currently, the Indian nominations for the JJC have come. For the first time, there is one member of the committee who speaks Gujarati, while two nominees are former Delhi High Court Judges. The nominations are: Justice Jaspal Singh (Delhi High Court), Justice Retd. Harshvardhan (Former Judge, Gujarat High Court), Justice Retd. Devnarayan Thangvi (Former Judge, Rajasthan High Court) and Justice Retd. Indermeet Kaur Koccher (Former Judge, Delhi High Court). Pakistan is yet to make its recommendation.

- **Duration of legal procedures:**

- The time that is taken to present arrested fishworkers in court is at least one and a half years, which must be immediately reduced. After they have served their sentences they mostly remain confined in foreign territories for several more months waiting for the identification process to be completed. Further, the process of repatriation is also complicated, because they were caught in the sea but are released by land, through the Wagah border. The confiscated boats are not returned and are ruined in the process. These are important issues of concern and difficulty for fishworkers.
- Recollecting from his conversations with Faisal Edhi, Jatin Desai expressed the opinion that the family members of a prisoner who is arrested in a foreign country, must have visiting rights. Under UN conventions, relatives have the right to meet a family member in prison. A family must not and should not be deprived of this right. However, if that is not possible, for whatever security reasons cited by the governments, assistance can be sought of technology through video conferencing portals, to enable the families to communicate with their relatives in prison. That way, at least the families can ascertain if the person is doing fine.

- **NGOs in place:** Non-governmental initiatives by people on both sides of the border have facilitated the process of identification of fishworkers in prisons. LAO, Pakistan helps Indian prisoners in Pakistan with legal consultation and has often helped the prisoners to get in touch with their families back home. Similarly, the Edhi Foundation has assisted the arrested fishworkers with humanitarian assistance. They provided them with food, and helped with transportation after their release from the prisons. The activities of NFF and PFF have drawn the attention of local communities of both countries towards the issue of the arrests, and have helped mobilise activism around it. Veljibhai, and various other contacts, through their hard work have played a tremendous role in establishing information linkages between necessary places and people.

In the past, they have contributed to the extent of communicating a letter written by the family of a fishworker who died in captivity in a Pakistani jail, to the Prime Minister of India. In similar situations when a fishworker dies in a Pakistani jail, it is extremely difficult to not only receive information of his death, but also to swiftly pass on the documents necessary to sanction the transfer of his remains across the border to India, to his family.

- **Consular access:** The right to have consular access, according to international law, is essential to prisoners arrested and sentenced in foreign countries. Between India and Pakistan, an agreement to ensure access to all prisoners was reached in 2008. Under this, every citizen arrested in either country should be given consular access within three months. However, in reality, fishworkers who have been arrested in Pakistan or in India, are not provided with this access. A concrete way forward with respect to the legalities on this issue is required as a basic step forward. If some form of a chart or document is made that clearly and comprehensively lays down the rights these prisoners are entitled to, this could be immensely helpful to sensitise the activists themselves as well as the families of the prisoners regarding what consular access is and the legal implications and necessity of consular access.
- **Contractual fishworkers:** There is large scale involvement of contractual workers in fishing activities, and often even the families do not know specifically what type or kind of work their family member is involved in. Some form of a manual that clarifies their situations, correlated rights and potential solutions is necessary to sensitise the stakeholders regarding not only the urgency of the situation but also awareness regarding basic labour rights.

- **Flaws with the goodwill gestures:** The attendees agreed that in the bid to release fishworkers as a part of a goodwill gesture, both the Indian and Pakistani governments have resorted to some sort of physical bartering system of human beings, trying to send the message of diplomatic generosity towards each other in the international forum. It was recognised that there are several other ways to show diplomatic goodwill, such as allowing visas to people who genuinely need to cross borders between the two countries, rather than treating the toiling population of fishworkers as pawns in the diplomatic game.

## **Recommendations from the Round table: The Way Forward**

### **1. Improving Existing Processes:**

- On-the-spot Identity Verification and Intimation to the Ministry: Several representatives at the meeting highlighted the fact that the identification documents of the fishworkers are available in the boat itself. A fishworker does not venture into the sea without legitimate licenses for the boat, or identification documents of the individuals in the boat. It is the process of identification verification, which takes such a long time after the fishworker has been incarcerated and has already served their sentence, that leads to the delay in their release. On-the-spot verification of documents by the authorities of the country into whose boundary a boat has strayed, can lead to immediate identification of the people in the boat and thus facilitate understanding of the purpose of the boat in those waters. Once it is established that it is a fishing boat, the fishworkers should not be arrested, and they should be freed of suspicion of being in a smuggling boat or otherwise.
- Addressing livelihood issues, such as the release of boats: There is a huge cost involved in the buying of boats by fisherfolk, and the livelihood of multiple of families is dependent on remuneration from the boats. The boats that have been caught by the authorities of either country cannot be used to fish in the other country, owing to the difference in fishing techniques, and practices. When the boats are caught, they end up being locked away, rotting to ruin. There should be stipulated periods within which the boats must be returned to the home country. It should also be noted that there is a huge chain of corruption that contributes to the wreckage of these boats, which needs to be identified and eradicated.

### **2. Viewing the Issue as a Humanitarian Crisis and the Implementation of No-Arrest Policy:**

- The fundamental argument in favour of no-arrest policy comes from the understanding that the issue of the arrest of fishworkers is primarily a humanitarian issue. The priority should be to reduce the problems of those in trouble. It is difficult to persuade Indian and Pakistani officials to sit together in a room and reach a resolution. Thus the possibility of cooperation between the two countries is for now a distant expectation, even though it is deeply necessary.

- It is important to address the historic baggage between the two countries before proceeding with the new proposals of implementing a Maritime Economic Cooperation Agreement between the two countries. In the meantime, efforts must be made to try and reduce or stop the arrests of innocent fisherfolk, and to get the speedy release of those currently incarcerated. Immediately and in ongoing manner, efforts should be made to ensure that the pain people from both countries go through is reduced. A long-term track is necessary, but the focus should also be to cater to the needs of the people who are arrested currently, within the parameters that are available now.
- The issue of arrest of fishworkers should not be viewed as a legal one, because these two countries have been created fairly recently in 1947, before which the fishing water was common. Thus there should be the implementation of a no-arrest policy by both countries. If the Pakistan military thinks there is an infringement of territory, then they should push back the fishermen instead of arresting them.
- The arguments against viewing the issue as a humanitarian crisis and the subsequent demand for the implementation of a no-arrest policy stems from the idea that nowadays the fishworkers cross the maritime boundary inadvertently needs to be reexamined. The pollution of the Gujarat coast has forced the fishworkers to venture farther into the sea in search of a good catch. Thus, the idea that crossing the boundary was unintentional is wrong. It must be recognised that the fishworkers of Gujarat today do not have any option but to cross over to the other side in order to sustain a livelihood. The introduction of government regulated maritime economic cooperation might facilitate that process of fishing within restrictions and might pave the path towards a political resolution of the problem.

### **3. Viewing the Issue as a South Asian Crisis**

- There is the possibility of the resolution of the issue by viewing it from a regional perspective, rather than observing it as only a bilateral problem. As per the Law of the Sea, bonafide fisherfolk should not be arrested if they stray into each other's territory. This should be implemented in an equitable manner.
- As per SAARC conventions, the citizens of South Asia have the right to access social security from another South Asian country. In that context, the fishworkers have every right to pursue their livelihood on any side of the sea border without

fear of being arrested. There should be a regional mechanism that implements this.

- The socio-economic situation of the two countries in question reveals the problems of inequality and intolerance here. The issue of the fishworkers cannot be resolved unless these socio-economic issues in the individual countries are handled. Until the right to livelihood is legitimately recognised multilaterally by the SAARC countries together, the situation of the fishworkers cannot be solved.
- However, even in international fora and associations like the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC), this spirit and principle is yet to be represented.

#### **4. MECA: Suggestions**

- There is the need to move beyond the constant firefighting between the two countries regarding the issue and provide a possible pathway that is suitable for all the parties in the future, including taking into consideration the environmental concerns. The proposal emerges of entering into a Maritime Economic Cooperation framework, whereby the fishworkers' issue will not be looked at simply as a humanitarian issue of no-arrest, instead moving towards providing a tangible means of cooperation in the field of livelihood itself. In that respect, a political-economy perspective which can be actively deliberated and discussed to settle the point in question could be considered. PIPFPD must examine how the discussion and issues laid out in the document can be transformed into policy.
- Activists have, over the years while working on this issue, tried to steer around the Law of the Seas. As between the fishworkers in India and Sri Lanka, the fishworkers of Pakistan and India also have cordial relations. However, one must remember that around twenty years back, there was no dispute between the fisherfolks of Sri Lanka and India as well. These conflicts often arise when there is over-exploitation of resources by one party. We must be wary that further deterioration of relations between India and Pakistan can take place in the future, if trawler fishing by India in the Arabian Sea beyond India's maritime boundary, continues unabated. There is the possibility of revenue loss by Pakistan, and this is where the concerns raised by Captain Imran stand vindicated. The primary point of this potential cooperation would be the declaration of a common fishing area between Pakistan and India.

- Gujarat, unlike other fishing regions in India like Karnataka or Kerala, does not have a marine regulation policy. It is time to seriously address the issue of registration of new boats, and benami ownership of boats—issues which have been highlighted by boatowners’ association of Gujarat earlier as well. There is no solution beyond responsible fishing on the part of Gujarat fishworkers with respect to licensing, rotational fishing, etc. a practice already being followed in other parts in India, like in Tamil Nadu.
- An assessment should take place of the potential transfer of revenue from India to Pakistan, towards the royalty for the extraction of marine resources. Pakistan could potentially use these revenues for the development of fish-landing activities and to support the fisherfolks themselves. Whether this is possible should be further discussed with the stakeholders. However, this is a system which would need to be established afresh, because there are institutions that would need to be formed. Moreover in the process, the impacted fishworkers should not feel that this further destabilises their possibilities of livelihood.
- There are several details however that would need to be charted out before maritime economic cooperation could be examined seriously. What could be the basis of the transfer of assessment? What could be the basic points of the regulations proposed? Which body would implement these regulations? What would be the regulations governing these regulatory bodies to ensure that the process does not become corrupt? There should be a committee of representatives of stakeholders, and lawyers who can also contribute to help lay down the basics and the technicalities.
- Nothing can be achieved without consultation with the fishworkers themselves which necessitates regular meetings with the fishworkers from both India and Pakistan and get their response on such a policy. It will be important to meet with relevant Parliamentarians, especially the Gujarat MPs.
- Even while the fishworkers might not be ready with this proposal, Veljibhai observed, there are so many boats in the Gujarat sea, and every year the number increases by hundreds which the government needs to regulate. The boatowners regularly discuss issues, including the issues related to saving the ecology, like cleaning up the pollution, not catching small fishes, etc. If the MECA policy brief is translated and circulated among the fishworkers, it will be a great initiative to sensitise them.

- Tapan Bose observed that there should be a bedrock mechanism for marine economic cooperation between the two countries. A joint regulatory force and joint management to protect the fishing zone for India. PIPFPD should make a detailed document considering all these issues which could potentially become a bilateral agreement. It should be considered if it would be possible to establish fast-track courts to deal with these issues.

## **5. Coastal MPs Forum**

The discrepancies laid bare regarding statistics about prisoners in Indian and Pakistani jails, between the facts presented in the Indian and Pakistani Parliaments, must be brought to focus. Attempts should be made to facilitate a meeting with the Parliamentarians in each country who are sympathetic on the issue, be they in power or in opposition, with the goal to raise the issue on the floor of both parliaments. This can be done with the involvement of all the stakeholders. While the technicalities of the cooperation need to be ironed out, lawyer friends supporting the cause can facilitate this.

## Afterword

Today, the horizon for the fishworkers caught as by-catch in the larger conflict between the India and Pakistan oscillates between hope and fear. Never before has the geopolitics in South Asia been so unpredictable with spectacular acts of diplomacy and aggression being deployed simultaneously. As the optics of war increased the TRP ratings of news channels, the dimension of war playing out at sea got conveniently cut away from frame. While conflict escalated, the paths to resolution on the imprisonment of fishworkers stagnated, as is evident from the fact that not a single meeting of the Joint Judicial Committee on Prisoners was held since 2013. It is for this reason and many others that the August 31, 2018 'Round table Consultation on Indo-Pak Fishworkers and Prisoners Issues' becomes important as a historical marker in the unravelling of this humanitarian crisis. The mood of the meeting was much embroiled in the implications of the recent investiture of Imran Khan, dawning a new leadership in Pakistan and the rising election fervour of the Indian democratic carnival.

The resource support and partnership provided by the Heinrich Böll Foundation, Germany over the last many years to PSA, has provided a lot of consistency and strength to our work on fishworkers across the borders. We thank IGSSS Delhi for their support towards the conference. This document could not have been possible without the effort of Gargi Adhikari, Savita Vijayakumar and Jibin Robin who worked in putting together this report.

The primary significance of this round table conference is the fact that it brought peace activists from across the border to the same room to reflect history of the conflict and to forge new strategies for resolution. Dialogue is the cornerstone of any peace process and as civil society organisations, the challenge has been to keep communication channels alive. This is not only to coordinate information regarding arrests and strategies for fair trials and release, but a vital function in bringing relief to the families on both sides.

The mechanisms employed by both states to use imprisoned fishworkers as diplomatic gifts during national holidays is a deplorable form of public relations practiced by both countries. The round table discussed the need to transcend these acts of tokenism, an act which tramples on the individual's dignity and turns them into an object to be bartered. The Round table flagged this practice as one that is directly in violation of Human Rights and called for an immediate end to this act that is reminiscent of medieval practice of exchanging prisoners of war.

Majority of the discussions centred around the practical interventions necessary to end this conflict from release at sea policies to a Maritime Economic Cooperation Agreement, which will allow for mutually beneficial access to maritime resources by fishworkers of both countries. However, many issues remain to be resolved in the current state of affairs, where the period from arrest to release on both sides take an unjustified amount of time, with deliberate obstruction to the Consular Access, despite an Agreement that was signed in 2008. The deplorable conditions in the prisons themselves and issue of boats being confiscated is something that has not yet reached any solutions, a critical issue in light of post release rehabilitation of livelihoods and recovery of families from the trauma of imprisonment.

For the groups that gathered on August 31, 2018, the period that has followed has been one of rapid adaption to an ever changing political environment in the region. The first victory came for parents of Mohammed Hamid Ansari present at the round table, and for the campaign which won his release in December 2018. However, for the fishworker communities of Gujarat, the last six months have revealed contrasting general election campaigns: between the amplified promises to resolve this issue by the then PM candidate Narendra Modi in 2014, to the deafening silence on the issue during the 2018-19 campaign. The biggest victory of all of course, is the release of almost 350 Indian fishworkers in April 2019. The implication of this move, in terms of reciprocation by the Indian Government and the larger significance it has on furthering the peace process is currently under threat, owing to the revoking of article 370 in Jammu & Kashmir and the ensuing escalation of tensions between the two countries.

Looking ahead, the process of building lasting solutions continues to live through the everyday efforts made by people on the ground who are part of the Forum as well as numerous support organisations on either side of the border. From Justice Nasir Aslam Zahid, Karamat Ali, Legal Aid Organisation, Edhi Foundation, Pakistan Institute of Labour Education & Research, Pakistan Fisherfolk Forum, National Fishworkers' Forum, Programme for Social Action, Dr. Syeda Hameed, Tapan Bose, Jatin Desai and Vijayan MJ to numerous others, especially fishworkler leaders who work behind the scenes - buried between phone calls, bureaucracy and the glacial pace of the judicial system are the unglamorous stories that inch us towards lasting peace. The peace they and the community dreams of is not the mere absence of war, but the restoration of human dignity of the primary food producers of these two countries, a form of peace that guarantees freedom from fear, and instead celebrates the fishworker and their right to catch fish!

**Where do the Fishworkers Go?** is the report of the round table conference on the India-Pakistan fishworkers and prisoners issue held in New Delhi on 31st of August 2018. Attended by the members of fishworkers' unions, civil society groups, bureaucracy, and NGOs from both the countries, the round table saw discussions on the issue of Indo-Pak prisoners and deliberated on the flaws in the existing mechanisms and ways to improve them.

**The Research Collective**, of the Programme for Social Action (PSA), facilitates research around the theoretical framework and practical aspects of development, sustainable alternatives, equitable growth, natural resources, community and people's rights. Cutting across subjects of economics, law, politics, environment and social sciences, the work bases itself on people's experiences and community perspectives. Our work aims to reflect ground realities, challenge conventional growth paradigms and generate informed discussions on social, economic, political, environmental and cultural problems.

**Pakistan India Peoples' Forum for Peace and Democracy (PIPFPD)** is a membership based people's forum that has two chapters in India and Pakistan. The objective of this initiative is to facilitate common people in both the countries to listen to voices that are different from the belligerent voices of the respective Governments. It is with the objective of asserting the sanity of the peace loving people of India and Pakistan that concerned citizens and groups in both the countries have come together to formulate strategies for promoting peace and strengthen democracy in the sub-continent.