



# A Policy Framework for Safe and Humane Cross-Border Exchange of Fishermen

National Commission for Human Rights, Pakistan

## 1. A Humanitarian Imperative

As of today, 197 Indian fishermen remain detained in Malir Jail, Karachi. Most were arrested not for any violent or criminal activity, but for inadvertently drifting across an invisible maritime line in the Arabian Sea.

This situation exists alongside another important reality: Pakistan has, in recent years, undertaken one of the largest humanitarian repatriation efforts in South Asia, facilitating the return of over 650 Indian fishermen between 2023 and 2025, contributing to a cumulative total of 2,661 Indian fishermen repatriated since 2014.

These actions were grounded in Pakistan's constitutional values, international human rights obligations, and a recognition that poverty, environmental pressure, and navigational uncertainty should never be criminalized. At the same time, the continued detention of fishermen on both sides of the border shows that goodwill alone is not enough. Without clear systems, even humanitarian commitments remain fragile.

This moment therefore presents a critical opportunity: to transform ad hoc humanitarian gestures into a stable, lawful and predictable system that protects fishermen and their families from recurring injustice.

## 2. Why Fishermen Keep Getting Arrested

The crisis is not accidental. It is the result of three structural failures that continue to reproduce injustice year after year.

### a. An invisible and disputed maritime boundary

The maritime boundary near Sir Creek remains unresolved, leaving fishermen to operate in legal uncertainty. Pakistan and India have never agreed on where the boundary begins at sea, meaning thousands of fishing boats work in waters that are legally undefined.

Most fishing vessels are small wooden boats without GPS, radio, or navigation equipment. Fishermen drift with tides and wind, unaware that they have crossed a boundary until they are intercepted by armed patrols. What is treated as a border violation is, in reality, a failure of states to provide safe and regulated access to the sea.

### b. A broken consular system

The 2008 India–Pakistan Consular Access Agreement was meant to prevent prolonged suffering. It requires:

- Exchange of prisoner lists twice a year
- Consular access within 90 days of arrest
- Repatriation within one month of sentence completion

In practice, these safeguards are inconsistently applied. Many fishermen remain in prison long after completing their sentences due to delayed verification, poor coordination between ministries, and the absence of enforcement mechanisms.

### **c. The disappearance of humanitarian institutions**

The Indo–Pak Joint Judicial Committee, once an effective neutral channel for resolving prisoner cases, has been inactive since 2013. Its absence has removed one of the few spaces where humanitarian considerations could override political stagnation.

## **3. The Real Cost of Delay**

For coastal communities in Sindh and Gujarat, a fisherman's arrest is not a minor legal event. It is a social and economic catastrophe.

Children leave school to support families. Women enter informal labour. Parents wait for years without knowing whether their sons are alive. Some never receive confirmation.

One Pakistani fisherman, Amir Hamza, died of COVID-19 in an Indian jail after serving his sentence but before his repatriation was approved. His death was not simply the result of illness. It was the result of delay.

Every day a fisherman remains detained after completing his sentence is not merely inefficient, it is a denial of the right to liberty and family life.

## **4. Pakistan's Leadership and the Need for Structure**

Pakistan's recent releases of Indian fishermen demonstrated moral and institutional leadership. They showed that human dignity can be prioritized even in difficult diplomatic environments.

But experience has also shown that humanitarian action must be protected by systems. Without clear procedures, timelines, and institutional responsibility, fishermen will continue to fall into bureaucratic limbo, regardless of goodwill.

The challenge now is not whether Pakistan should act humanely, it already has. The challenge is how to make that humanity durable, predictable, and lawful.

## **5. Recommendations**

A sustainable framework must focus on process, accountability, and prevention, not ad hoc crisis management.

### **a. A coordinated fishermen exchange framework**

Repatriation should be governed by clear operating procedures that ensure:

- Verification of nationality is time-bound
- Sentence completion triggers automatic processing
- Transfers occur on fixed, regular schedules

No fisherman should remain in detention simply because paperwork has stalled.

### **b. A permanent Fishermen Exchange Cell**

A standing coordination mechanism involving:

- Ministry of Foreign Affairs
- Ministry of Interior
- Maritime Security Agency
- National Commission for Human Rights

should track every detained fisherman from arrest to repatriation. No case should be lost between institutions.

#### **c. Revival of the Joint Judicial Committee**

This body should be restored as a humanitarian oversight mechanism with authority to:

- Visit prisons
- Review sentence-completed cases
- Recommend immediate releases

Human dignity should not depend on diplomatic cycles.

#### **d. A digital foreign prisoners registry**

As ordered by Pakistan's Supreme Court in 2018, a public, real-time database must record:

- Arrest dates
- Sentence status
- Consular access
- Repatriation stage

Transparency prevents invisibility. Invisibility enables injustice.

#### **e. Preventing future arrests**

Until Sir Creek is resolved, Pakistan should advocate for:

- Joint maritime warning systems
- Early-warning patrols
- GPS or alert buoys

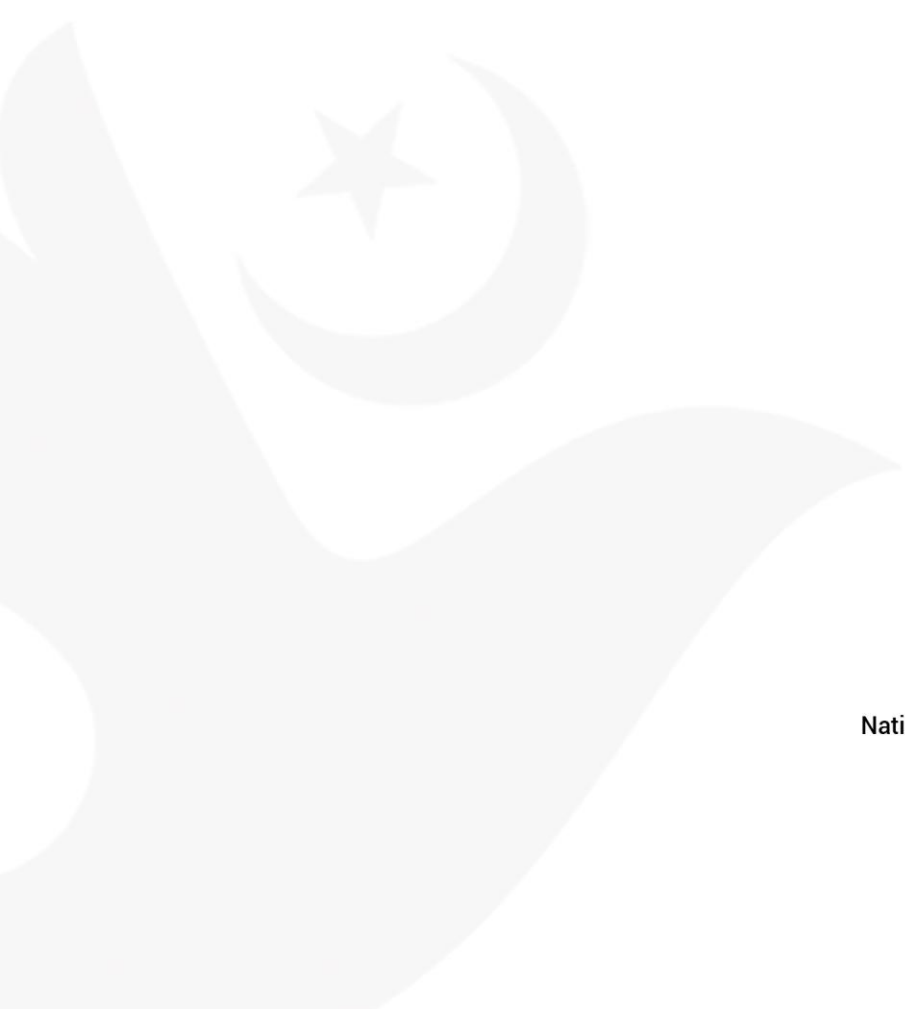
Fishermen should be guided away from danger, not punished for it.

## **6. From Charity to Justice**

Pakistan has shown that it can lead with humanity. The task now is to ensure that no fisherman's fate depends on discretion, delay, or diplomatic weather.

Humanitarianism must be anchored in law, data, institutions, and predictable process. Only then will fishermen, and their families, be protected from a cycle of arrest, waiting, and forgetting.

That is how dignity is secured, not through goodwill alone, but through systems that remember the most vulnerable even when the world looks away.



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