



Caught in the Current: Fishermen Trapped by Geopolitics and Marginality



This report is about one of South Asia's most overlooked humanitarian crises, the arrest and prolonged detention of Indian and Pakistani fishermen. It documents NCHR's campaign that secured the repatriation of hundreds back home.

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Foreword



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At the heart of this human rights struggle lies a simple truth: dignity must not be constrained by borders. The plight of hundreds of poor fishermen, arrested, detained, and often forgotten for merely crossing an invisible maritime line, lays bare the human cost of unresolved geopolitics. These are men who venture into the Arabian Sea not as criminals, but as providers, seeking to feed their families in the face of poverty, dwindling fish stocks, and climate uncertainty. For too long, their suffering has been met with silence.

This report is the outcome of the NCHR's sustained efforts to give voice to that silence. It documents what is possible when institutional action is guided by compassion, persistence, and the rule of law. Importantly, the report does not shy away from what remains undone: the Pakistani fishermen who continue to languish in Indian jails, the systemic issues that delay repatriation, and the families whose grief is deepened by uncertainty and neglect.

Through evidence-based advocacy, inter-agency collaboration, and direct community engagement, NCHR's campaign demonstrates that a rights-based approach to cross-border detention is both necessary and possible. We must resist the idea that such repatriations are diplomatic favors; they are, at their core, a matter of humanitarian justice.

We hope this report not only records the efforts made but also serves as a call to action, for policymakers, human rights institutions, and civil society across the region. The protection of human dignity cannot wait for perfect bilateral relations. Where political processes stall, let humanitarian leadership step in.

This work is dedicated to the families who waited at the shore and the returnees who brought hope back home.

Executive Summary

The arrest and prolonged detention of Indian and Pakistani fishermen for inadvertently crossing maritime boundaries has remained one of the most overlooked and recurring humanitarian issues in South Asia. This report presents a comprehensive account of the National Commission for Human Rights (NCHR)'s sustained campaign to address this crisis, with a particular focus on the successful repatriation of over 650 Indian fishermen from Pakistani jails in 2023, a critical milestone in a long-standing cross-border challenge. Notably, while the 2023 campaign saw the largest wave of repatriations, Pakistan also facilitated the return of a smaller cohort of Indian fishermen in 2025, underscoring both the ongoing nature of the crisis and the continued relevance of institutional interventions.

Rooted in a rights-based framework and built on sustained engagement with federal ministries, prison authorities, civil society organizations, and India's National Human Rights Commission, NCHR's intervention reflects the power of principled, data-driven advocacy. It highlights how a national human rights institution can unlock bureaucratic paralysis, generate political will, and deliver concrete outcomes in even the most diplomatically sensitive domains.

These fishermen, largely from marginalized communities, are routinely arrested after straying into Pakistani waters, often unknowingly, due to unclear maritime boundaries, poor navigational equipment, and hostile sea conditions. Once detained, they face prolonged incarceration, sometimes well beyond the completion of their sentences, due to delays in consular access, nationality verification, and diplomatic clearances.

Through targeted prison visits, meticulous case profiling, formal communications, and inter-agency coordination protocols, the Commission's efforts contributed directly to the release of over 650 Indian fishermen in 2023, and to a cumulative total of 2,661 repatriations since 2014. The initiative also documented widespread procedural delays, gaps in implementation of the 2008 Consular Access Agreement, and continued dormancy of critical mechanisms like the Indo-Pak Joint Judicial Committee.

Despite this progress, systemic challenges persist. Cases of prolonged separation, unresolved verification, and avoidable deaths, such as that of a Pakistani fisherman, who died in an Indian jail due to COVID-19 while awaiting repatriation, underscore the human cost of inaction.

This report situates these interventions within their legal, political, and humanitarian context. It offers firsthand accounts from impacted families and detainees, draws lessons for institutional reform, and proposes clear, durable policy recommendations, including:

- Reviving the Joint Judicial Committee;
- Establishing a public digital database of foreign prisoners;
- Codifying rights-based repatriation protocols with fixed timelines;
- Designating focal persons in relevant ministries for cross-border detainees.

Ultimately, this campaign demonstrates that even in environments of geopolitical strain, rights-based diplomacy and institutional accountability can restore dignity, correct systemic injustices, and chart a path toward lasting reform.

Chapter 1:

Introduction: Beyond Borders, Beyond Blame

The arrest and prolonged detention of foreign fishermen, reflects one of the most enduring and overlooked humanitarian issues in the South Asian region. These individuals, who inadvertently cross maritime borders in pursuit of livelihood, find themselves caught at the intersection of fragile diplomatic relations, unresolved territorial disputes, and systemic policy failures. The issue is not one of criminality, but of poverty, desperation, and the absence of navigational certainty. For those living along the coastline of Sindh or Gujarat, the sea is not merely a source of sustenance, it is a battleground of survival, one whose legal and political contours are often invisible to those who traverse it.

Fishermen represent one of the most marginalized communities in both India and Pakistan. Their work is hazardous, physically taxing, and economically unrewarding. As natural resources dwindle due to overfishing and climate degradation, many are forced to venture deeper into contested waters, where the line between national jurisdictions is often unmarked and subject to diplomatic disagreement. Most boats are small, unequipped with GPS or electronic border alerts, and entirely reliant on experience and instinct. A momentary lapse in direction or a sudden current can lead to months or years in foreign jails, where detainees have little access to legal recourse, family contact, or consular assistance.

The human cost is profound. Families often learn of the detentions months' later, if at all. There are mothers who wait years without confirmation of their sons' fates, wives who are pushed into informal labor markets, and children who drop out of school to help support households. The detainees themselves endure harsh prison conditions, language barriers, and psychological distress. While the bilateral Consular Access Agreement of 2008 commits both governments to exchange detainee lists biannually and to ensure repatriation after the completion of sentences, implementation has been inconsistent at best¹.

The role of the National Commission for Human Rights (NCHR) in addressing this crisis represents a rare instance where institutional will was aligned with moral responsibility. In early 2023, NCHR initiated a campaign that focused on identifying Indian fishermen in Pakistani jails who had completed their sentences or whose release was being delayed due to bureaucratic inaction. Working in close collaboration with the Legal Aid Society and key government ministries, the Commission carried out prison visits, compiled verified data, and advocated for diplomatic clearance to facilitate repatriation². What followed was the release and return of more than 650 Indian fishermen over a period of several months, a tangible

¹ Ministry of External Affairs (India). (2024, January 1). *Exchange of list of prisoners between India and Pakistan* [Press release]. https://www.mea.gov.in/press-releases.htm?dtl%2F39728%2FExchange_of_list_of_prisoners_between_India_and_Pakistan

² Voicepk.net. (2023, May). *600 Indian fishermen will find their way back home this month*. <https://voicepk.net/2023/05/600-indian-fishermen-will-find-their-way-back-home-this-month/>

human rights achievement in a region more commonly associated with deadlock and distrust.

This thematic impact report provides a detailed account of the campaign, the geopolitical and legal context surrounding these detentions, the human stories involved, and the lessons learned. It aims not only to recount what was done, but to frame the issue of detained fishermen as one of structural injustice, international obligation, and ultimately, political will. The release of these individuals was not an act of charity or an isolated diplomatic gesture, it was a restoration of rights, a return to dignity, and a reassertion of the principles enshrined in both domestic law and international norms.

In doing so, NCHR reaffirmed its role as a guardian of rights not only for citizens within national borders but for all human beings who fall under the protection of Pakistan's legal and moral frameworks. The Commission's work underscores the power of principled advocacy in contexts where geopolitics often silence humanitarian imperatives. And perhaps most importantly, it reminds us that even within entrenched political rivalries, there are pathways, however narrow, that lead to justice. The maritime border between Pakistan and India is not drawn in ink or stone, it is a vague and shifting line on the Arabian Sea. Yet this invisible line has caused immeasurable human suffering for one of the most marginalized groups in South Asia: fisherfolk. Each year, poor fishermen from both countries are arrested for crossing this unclear boundary, often unknowingly, and detained for months or even years. These are not smugglers or militants; they are men seeking livelihood, driven by environmental stress, poverty, and lack of navigational tools.



Chapter 2:

Context: The Unseen Boundary, Sir Creek and Systemic Neglect

The issue of fishermen arrests and detentions between India and Pakistan is inextricably tied to the long-standing and unresolved dispute over Sir Creek, a 96-kilometre marshy estuary located in the Rann of Kutch region. This narrow stretch of water, which opens into the Arabian Sea, is more than just a geographic quirk; it is a flashpoint of geopolitical contention that has lingered since the Partition. Pakistan claims that the boundary lies along the eastern bank of the creek, while India maintains that it follows the mid-channel, or thalweg principle³. This disagreement over the boundary results in an undefined maritime demarcation that leaves both nations' fishermen operating in legal ambiguity.

In its "Note Verbale No. 003/2025" dated 11 July 2025, submitted by Pakistan to the United Nations Commission on the Limits of the Continental Shelf (CLCS)⁴, Pakistan reiterated that the land terminus of the boundary in the Sir Creek region is still unresolved, and no mutually accepted boundary point exists. It emphasized that any maritime claims, including seabed rights, must be based on a settled land boundary, thereby reinforcing Pakistan's legal position that until the dispute is resolved, maritime delimitation efforts should be held in abeyance.

Compounding the problem is the lack of visible maritime borders in the Arabian Sea. Unlike land borders marked by fences, signs, and check-posts, the sea offers no such visual cues. The vast majority of small-scale fishermen who operate in the waters near Sir Creek are impoverished, uneducated, and unequipped with modern navigational tools like GPS devices. Their boats are often wooden and rudimentary, with no radio or real-time location technology. When tides shift or winds push them off course, many unknowingly drift into disputed waters or across borders that they cannot see. For this, they are treated as criminals, subjected to arrest by maritime security forces, and handed over to the police for prosecution under the Foreigners Act and the Fisheries Act.

Once arrested, the plight of these fishermen becomes bureaucratic and slow-moving. Because of strained bilateral relationship between India and Pakistan, the verification of a detainee's nationality can take months. In some cases, individuals have remained in custody even after completing their sentences because the required consular access was delayed or denied. The 2008 Consular Access Agreement between the two countries mandates biannual exchanges of lists of civilian prisoners and fishermen, and requires consular access to be granted within 90 days. However, implementation of this agreement remains inconsistent

³ Misra, V. S. (2000). The Indo-Pak boundary in the Sir Creek region: A historical and legal analysis. *Boundary and Security Bulletin*, 8(4). Durham University

⁴ Government of Pakistan. (2025, July 11). *Note Verbale No. 003/2025 to the UN Commission on the Limits of the Continental Shelf*. United Nations.

https://www.un.org/depts/los/clcs_new/submissions_files/ind48_09/20250711PakNvUn003.pdf

and vulnerable to political fluctuations. Verification often depends on minor details, a surname, a dialect, a village name, to be cross-referenced through official channels, which can themselves be understaffed or obstructed by political inertia.

The humanitarian cost of these delays is devastating. Prisoners often languish in foreign jails for months or even years after completing their terms. Meanwhile, families back home suffer not only emotional trauma but financial hardship. In most cases, these fishermen are the sole breadwinners in their households. Their arrest deprives families of income and security, leading to school dropouts, mental health deterioration, and in some cases, complete social marginalization. For women in particular, the disappearance of a husband or son without clear knowledge of his whereabouts triggers both economic distress and social stigma.

In nearly all cases, their fishing boats are confiscated at the time of arrest. These boats are not just a means of livelihood, but the life savings of already impoverished families. Upon eventual release and repatriation, the loss of their boats leaves them economically devastated, forcing them to start again from scratch; without resources, without income, and often without support.

On both sides of the border, these coastal communities have long been neglected. In Pakistan, many of the Pakistani fishermen arrested are from Thatta, Sujawal, or Karachi's Ibrahim Hyderi and Rehri Goth neighborhoods. These are places with limited access to basic public services, high levels of poverty, and minimal state oversight. In India, similar conditions prevail along the Gujarat coastline, where lower-caste fishing communities have for generations relied solely on the sea for their livelihood. These communities remain politically disenfranchised and economically dependent on informal networks and seasonal fishing cycles.



Yet despite the clear humanitarian dimensions of this issue, it continues to be overshadowed by nationalist narratives. When arrests are made, the language used is often that of suspicion and security, portraying these men as trespassers or potential spies. Media coverage, particularly during times of political tension, exacerbates these portrayals. Rarely are the voices of fishermen or their families centered in the public discourse. Instead, they become nameless figures in state-led rhetoric about sovereignty and territorial integrity.

In this complex and fragile ecosystem of law, policy, poverty, and politics, the arrest of a fisherman is never just about a border crossing. It is about the failure of states to draw the line between human need and political grievance. It is about the weaponization of bureaucratic delay and the indifference of systems that were never designed to account for the lives of the poor. It is about unresolved territorial disputes metastasizing into everyday injustices. Above all, it is a reminder that in the absence of compassionate governance and bilateral will, it is always the most vulnerable who suffer the most.

The context of the fishermen detentions is thus one of deep structural dysfunction. It is rooted in unresolved diplomatic boundaries, exacerbated by technological gaps, and perpetuated by institutional indifference. To address it meaningfully requires more than diplomatic exchange; it requires a human rights approach that prioritizes the dignity, livelihood, and liberty of those most affected. This is the space that NCHR sought to intervene in—a space where policy paralysis could be replaced with principled action.

Chapter 3:

NCHR Interventions: A Rights-Based Response

The intervention of NCHR in the plight of detained Indian fishermen marked a turning point in the institutional response to cross-border detentions in Pakistan. As a statutory body with a mandate to investigate, report, and recommend remedies for human rights violations, NCHR recognized early in 2023 that the issue of detained fishermen had become emblematic of both systemic neglect and geopolitical inertia. What began as an inquiry into the conditions of foreign prisoners soon evolved into a coordinated humanitarian campaign to restore justice and dignity to hundreds of affected individuals.

NCHR began its campaign in early 2023, following a prison survey revealing over 1,100 foreign prisoners in Pakistan, many of whom had completed their sentences. Recognizing both the urgency and the humanitarian imperative, NCHR initiated a comprehensive strategy rooted in its statutory mandate and grounded in principles of human dignity and justice. A key partnership was forged with the Legal Aid Society, whose legal expertise and case tracking significantly strengthened the Commission's response framework.

The first step in this intervention was collecting reliable information on the number, identity, and legal status of Indian fishermen held in Pakistani prisons. Joint prison visits were conducted, particularly to Malir Jail in Karachi, where the majority of foreign fishermen were detained. These visits were not limited to passive observation. Teams from NCHR engaged directly with detainees, reviewed case files, engaged directly with detainees and documented instances where sentences had been completed or legal proceedings were stalled.

The Commission's advocacy was multi-layered. Formal communications were issued to the Ministry of Interior and Ministry of Foreign Affairs. In 2023, NCHR raised the issue of Pakistani fishermen detained in India with the Chairperson of the Indian National Human Rights Commission. However, no response was received.

In parallel, the Commission adopted a quiet yet firm approach to diplomatic and public advocacy, consistently framing the problem through a human rights lens. This consistent pressure eventually resulted in governmental approval to release the prisoners in three phases, marking a rare example of cross-border cooperation in an otherwise adversarial bilateral relationship.

During these visits, the NCHR teams created individual profiles of detainees, noting their date of arrest, prison number, home state in India, sentence duration, and date of sentence completion. The Commission uncovered dozens of cases where prisoners remained incarcerated despite having completed their sentences months or even years earlier.

NCHR also noted with concern the psychological and physical conditions of the detainees. Many suffered from untreated medical conditions and symptoms of trauma related to extended imprisonment, isolation from family, and uncertainty about their future. The Commission raised these concerns in its formal communications and recommended immediate medical assessments, legal aid access, and humanitarian consideration for

prisoners in distress. In some instances, particularly where detainees were elderly or in ill health, NCHR advocated for accelerated release and repatriation.

Simultaneously, the Commission issued public advisories and statements to frame the issue within the language of international humanitarian obligations. NCHR invoked Articles 9 and 10 of the International Covenant on Civil and Political Rights (ICCPR), emphasizing the right to liberty, humane treatment of detainees, and prompt release upon completion of sentence. These statements were critical in countering the dominant security-driven narratives and in reshaping public understanding of the issue.

In total, over 650 Indian fishermen were repatriated in three major batches over the course of 2023. The process was handled with extraordinary logistical precision: NCHR coordinated with Sindh police, jail superintendents, border authorities, and the Fishermen Forums to ensure smooth transfer. Each repatriation was accompanied by official documentation, exit permits, and humanitarian support packages including basic clothing and supplies for the return journey. NCHR member was present at the time of departure from Karachi and then again at Wagah border

Importantly, NCHR used this opportunity to document systemic gaps and propose institutional reforms. In its submissions to relevant ministries, the Commission advocated for:

- Creation of a centralized and regularly updated registry of foreign prisoners
- Establishment of a joint India-Pakistan task force to verify and process detainee identities
- Issuance of standard operating procedures for prison authorities handling foreign nationals
- Periodic monitoring visits by independent commissions to assess prison conditions

The work did not stop at repatriation. NCHR has committed to sustaining this agenda through the development of a policy brief, regional consultations with civil society, and engagement with international human rights bodies. The Commission has also offered to support capacity-building initiatives for prison staff and foreign affairs officials to improve coordination in future cases.

What distinguished NCHR's intervention was its insistence on principled engagement. This was not a campaign rooted in charity or goodwill; it was an institutional assertion of justice. The Commission saw these fishermen not as foreign detainees but as individuals under Pakistan's temporary jurisdiction, entitled to rights, dignity, and lawful treatment. It was this paradigm shift, from charity to obligation, that made the campaign both impactful and replicable.

The release of such a large number of Indian fishermen over a period of several months was the most visible outcome of this work. But the less visible, and arguably more important, outcome was the demonstration that institutional action can pierce through diplomatic stagnation and restore dignity to those rendered invisible by politics. It affirmed the value of statutory bodies that are willing to act decisively, ethically, and in alignment with constitutional principles.

One of the key challenges identified during these visits was the breakdown in communication between provincial prison authorities, the Ministry of Interior, and the Ministry of Foreign Affairs. Prisoners who had completed their sentences remained incarcerated due to delays in consular verification, lack of clarity on nationality, or simple bureaucratic inertia. Recognizing this, NCHR issued formal communications to the relevant ministries, urging immediate verification of nationality and expeditious repatriation.

Beyond administrative advocacy, NCHR also employed a strategic diplomatic approach. The Commission avoided sensationalism and instead framed its appeals within the framework of Pakistan's legal obligations and international human rights standards. This careful positioning allowed NCHR to maintain credibility with state stakeholders while keeping the focus on the humanitarian nature of the issue. The Commission emphasized that the detention of foreign nationals beyond their sentence period contravened both domestic constitutional protections and international norms, including the right to liberty and protection from arbitrary detention.

The pressure worked. By mid-2023, the Government of Pakistan approved the repatriation of Indian fishermen in phased releases. NCHR worked closely with prison authorities, border officials, and the Indian High Commission to facilitate these transfers. The repatriation process involved careful coordination to ensure that each individual had been verified, medically assessed, and processed through appropriate legal channels. The Commission also maintained follow-up contact to confirm successful handover at the Wagah Border and to address any last-minute obstacles.

In addition to direct interventions, NCHR used its platform to shift public discourse around the issue. Through statements, media engagement, and targeted briefings, the Commission challenged prevailing narratives that painted arrested fishermen as security threats. Instead, it emphasized their vulnerability, their economic precarity, and the injustice of punishing poverty as a crime. The Commission further urged the revival of the Indo-Pak Joint Judicial Committee on Prisoners, a dormant but once-effective mechanism for resolving such cases through mutual cooperation.

Chapter 4:

Impact: Tangible Results and Enduring Challenges

The impact of NCHR's coordinated efforts extended beyond the immediate humanitarian results to influence broader policy, public sentiment, and diplomatic procedures. Between 2023 and 2025, two key developments stand out as indicators of this change:

By mid-2025, official figures revealed a significant milestone: a total of **2,661 Indian fishermen** had been repatriated from Pakistan since 2014, reflecting cumulative humanitarian progress across multiple campaigns. Notably, within this number, **500 fishermen were repatriated from 2023 onward**, signifying the direct contributions of NCHR's campaign⁵.

Beyond statistics, the **human impact** of these repatriations has been profound. Hundreds of families who faced years of silence received closure, practical support, and emotional healing. The public shift in narratives from seeing detained fishermen as security threats to recognizing them as economically fragile individuals has helped counteract nationalistic misinformation and opened space for empathetic discourse.

Complementing the numbers is how lists and dialogue have become more systematic and predictable. In July 2025, as part of the biannual exchange of prisoners lists under the 2008 Consular Access Agreement, Pakistan's Ministry of Foreign Affairs shared details of **246 Indian prisoners** in Pakistani custody, including **53 civilian prisoners and 193 fishermen**, with the Indian High Commission in Islamabad. In parallel, India submitted its list of **463 Pakistani detainees**, comprising **382 civilians and 81 fishermen**⁶.

On **September 9, 2025**, India repatriated **67 Pakistani prisoners**, including **48 fishermen**, via the Attari/Wagah border crossing⁷. While such releases mark progress in bilateral humanitarian gestures, the continued presence of dozens of fishermen on both sides – many well past their sentence completion – illustrates the incomplete implementation of consular protocols and underscores the need for institutionalized, rather than ad hoc, cooperation.

Moreover, these developments occurred against the backdrop of growing diplomatic volatility. The May 2025 Pahalgam terror attack led to heightened tensions and disruptions

⁵ Ministry of External Affairs (India). (2024, January 1). *Exchange of list of prisoners between India and Pakistan* [Press release]. https://www.mea.gov.in/press-releases.htm?dtl%2F39728%2FExchange_of_list_of_prisoners_between_India_and_Pakistan

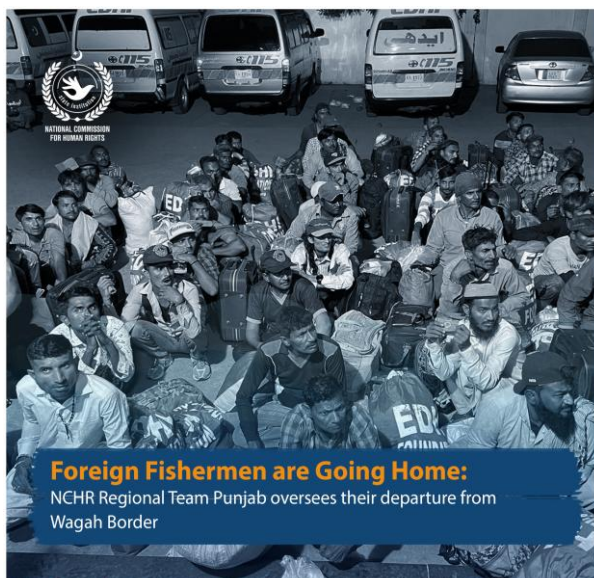
⁶ Dawn. (2025, April 2). *India shares list of 463 Pakistani prisoners*. <https://www.dawn.com/news/1945468>

⁷ The Express Tribune. (2025, July 3). *India releases 67 Pakistani prisoners*. <https://tribune.com.pk/story/2565844/india-releases-67-pakistani-prisoners>

in bilateral exchanges, leaving families anxious about the safety and fate of their loved ones, highlighting the fragile nature of humanitarian diplomacy in polarized times⁸.

Impact Summary

- Over **650 fishermen repatriated between 2023–2025**, contributing to a cumulative total of **2,661** since 2014.
- Semiannual prisoner/fishermen list exchanges, **July 2025 update**, demonstrated continuity of bilateral mechanisms.
- Diplomatic breakdowns, notably post-Pahalgam 2025 security events, have exacerbated anxieties among families and disrupted repatriation pathways



⁸ FairPlanet. (2023). *Stranded across borders: Jailed fishermen forgotten amid diplomatic breakdown*. <https://www.fairplanet.org/story/stranded-across-borders-jailed-fishermen-forgotten-amid-diplomatic-breakdown/>



Chapter 5:

Legal and Policy Landscape: Fragile Frameworks and Missed Opportunities.

The 2008 Consular Access Agreement: A Fragile Framework

Signed in May 2008, the *India–Pakistan Consular Access Agreement*⁹ was a landmark bilateral commitment aimed at protecting the rights of detained citizens in each other's prisons. It obligates both governments to:

- Exchange comprehensive lists of civilian prisoners and fishermen twice annually, on **January 1** and **July 1**.
- Provide **consular access within 90 days** of arrest to the appropriate diplomatic missions.
- Ensure **repatriation within one month** of sentence completion, once nationality is confirmed.

While this framework provides a clear procedural path for the identification and return of detainees, **its implementation remains inconsistent and politically vulnerable**. National security concerns, regional elections, and flare-ups in Kashmir or other areas often disrupt cooperation, even when detainees have completed their sentences. In numerous cases, prisoners, especially poor fishermen lacking official identification, languish in jails for years beyond their lawful confinement.

2018 Supreme Court Ruling: Legal Activism Meets Bureaucratic Delay

In a significant intervention, Pakistan's Chief Justice *Saqib Nisar* issued a **landmark directive in 2018**¹⁰ that sought to remedy systemic inaction. The ruling called on the government to:

1. **Establish a centralized, public database** of all foreign prisoners in Pakistani custody.
2. **Ensure full implementation** of the Consular Access Agreement.
3. **Reconstitute the Indo–Pak Joint Judicial Committee** to resume its humanitarian oversight role.

These directives were hailed at the time as a turning point in legal accountability. However, their practical realization has remained largely symbolic. While the Ministry of Interior and

⁹ Government of India & Government of Pakistan. (2008). *Agreement on consular access between the Government of the Islamic Republic of Pakistan and the Government of the Republic of India* [Treaty]

¹⁰ Supreme Court of Pakistan. (2018). *Ruling by Chief Justice Saqib Nisar on foreign prisoners and consular access*

Foreign Affairs took partial steps toward compliance, there has been **no sustained effort to institutionalize these reforms**.

The ruling remains important as a judicial precedent, empowering civil society and institutions like the National Commission for Human Rights (NCHR) to push for transparency and accountability. However, without an enforcement mechanism or cross-ministerial commitment, its impact has been limited to sporadic implementation during moments of political will.

The Dormant Joint Judicial Committee: A Missed Humanitarian Channel

Perhaps the most glaring institutional vacuum is the **Indo–Pak Joint Judicial Committee on Prisoners**. Created in **2007**, the Committee comprised four retired judges from each country. It was designed to:

- Visit prisons in both countries.
- Meet detained civilians and fishermen.
- Recommend repatriation for those who had completed sentences or faced humanitarian concerns (age, illness, mental health).
- Serve as an apolitical forum to address the rights of prisoners outside of traditional diplomatic channels.

Between 2007 and 2013, the Committee held several successful visits and facilitated the release of multiple prisoners, building confidence between the two sides. However, since **2013**, the Committee has been **inactive**. Subsequent efforts have been either sidelined or drowned in geopolitical developments, including the 2019 Pulwama-Balakot crisis and more recent 2025 cross-border tensions.

The **reconstitution of the Joint Judicial Committee** remains a standing recommendation of human rights organizations, including the NCHR. Without it, efforts at bilateral repatriation lack an institutionalized, depoliticized framework capable of protecting the most vulnerable prisoners on both sides.

Chapter 6:

Humanitarian Costs: The Human Faces of Systemic

Failure

The cost of bureaucratic delay is counted in fractured families and lost years. Most detained fishermen are the primary income earners in their households. Their disappearance plunges entire families into economic precarity. In communities along the Sindh and Gujarat coasts, it is not uncommon to find women working long hours in informal sectors or taking loans to feed their families. School dropout rates among the children of detained fishermen rise sharply.

One such story is that of Hamida, a widow from Thatta, who waited 13 years before learning that her husband had died in Indian custody. During those years, she raised three children alone, surviving on sporadic support from her village and charitable donations. Her story is emblematic of hundreds of others whose lives remain suspended between silence and waiting.

These are not isolated tragedies. They represent a systemic failure to differentiate between administrative violations and criminal conduct, and an inability to safeguard the rights of the most vulnerable.

1. Shaukat Ali's Bitter Release and His Missing Brother

After more than seven years in detention, **Shaukat Ali**, released in 2024, faced a painful irony: his release had been granted, but his brother, detained alongside him in Sir Creek, remained behind. In the words of Shaukat:

"When I got my release orders, I felt very sad to learn that my brother had not got his. I didn't want to leave him behind in India, but I had no other choice."¹¹

He returned to Karachi amid emotional reunions, stepping into a home made whole by his release, but still haunted by the absence of his sibling. This personal rupture underscores the uneven implementation of repatriation policies.

2. Shehrbano Bibi's Desperate Wait

In a coastal village in Pakistan, **Shehrbano Bibi** waited years on the shore for her son, detained by Indian authorities for drifting across an ambiguous maritime line. She recounted the hardship of those days:

¹¹ International Collective in Support of Fishworkers. (2023, June). *Pakistan fishermen return home after years in Indian jail*. <https://icsf.net/newss/pakistan-fishermen-return-home-after-years-in-indian-jail/>

"I begged for alms to feed my children."¹²

By the time her son returned home, the family had endured emotional trauma, economic collapse, and a poverty rooted in involuntary separation.

3. Amir Hamza: Lost to COVID and Bureaucracy

In November 2017, **Amir Hamza**, a Pakistani fisherman, was arrested for an inadvertent crossing. Though he served his sentence, he was not released and tragically died of COVID-19 in Bhuj jail, India, in June 2021. The bureaucratic delays had cost him his life.¹³

The delays extended even after his death, his body was repatriated only three months later, highlighting systemic failure and a profound humanitarian lapse.

4. The Forgotten Ten of Kharo Chaan

In 2025, NCHR conducted a field visit to Union Council Kharo Chaan, located in the coastal belt of Thatta District, to document the plight of families whose loved ones have been detained in Indian jails since December 2021. The findings from this visit painted a distressing picture of despair, abandonment, and profound institutional neglect.

Ten fishermen, including three brothers and a minor, were arrested after allegedly straying across the maritime boundary while fishing. Since then, their families have received no official communication or confirmation of their status, whether living or deceased.

The human toll is staggering:

- Among the detainees is a boy who was only 11 years old at the time of arrest.
- The father of the three Katyaar brothers died during their imprisonment, never seeing his sons again.
- Their mother is now nearly blind, her health deteriorating under the stress of uncertainty and lack of access to basic medical care.

¹² Arab News. (2024, April 3). *Pakistan urges India to ensure early repatriation of Pakistani prisoners*. <https://www.arabnews.com/node/2575233/pakistan>

¹³ The Wire. (n.d.). *Climate change and tragedy unfolds for Indian and Pakistani fishermen*. <https://m.thewire.in/article/environment/climate-change-tragedy-india-pakistani-fishermen#:~:text=Amir%20Hamza%2C%20around%20the%20same>

Chapter 7:

Lessons Learned: Principles for Effective Intervention

The effort to secure the release and repatriation of Indian fishermen by Pakistan's National Commission for Human Rights (NCHR) offered a rare and tangible example of institutional success in a deeply complex, politically sensitive, and protracted cross-border issue. As the process unfolded, several critical lessons came to the fore, lessons that extend beyond a single case and carry implications for policy, diplomacy, and human rights practice across the region.

One of the most salient takeaways is that persistent engagement by a human rights institution, even in a hostile or polarized geopolitical context, can yield concrete humanitarian outcomes. The Commission's role as a constitutional body allowed it to convene actors from different arms of the state, prisons, ministries, law enforcement, and create the political will necessary for action. This underlines the importance of empowering national human rights institutions (NHRIs) with both the mandate and independence to address cross-border humanitarian issues.

Second, the success of this case reaffirmed the power of rights-based diplomacy. By framing the issue in terms of international human rights obligations and the dignity of individuals, rather than national jingoism or political scorekeeping, the Commission was able to shift the tone of engagement with other stakeholders. This approach also allowed it to garner public and media support without provoking hostility or political backlash. It reinforced that human rights can serve as a unifying language in polarized environments when anchored in law and due process.

The experience also exposed the dangers of institutional fragmentation. Despite a bilateral consular agreement between India and Pakistan dating back to 2008, the process of confirming identities, arranging consular access, and securing repatriation was riddled with delays. One key lesson is that humanitarian agreements, no matter how well drafted, must be matched with implementation protocols, focal points, and inter-ministerial coordination. The absence of such mechanisms, particularly the non-functioning of the Indo-Pak Joint Judicial Committee, resulted in unnecessary suffering for those caught in the system.

Moreover, the case highlighted the urgency of building institutional memory. Much of the early information on detained foreign fishermen was incomplete or unavailable, with no centralized public database to track prisoners. The Commission's intervention revealed that without systematic record-keeping and accessible data, advocacy efforts risk becoming reactive and dependent on individual discretion rather than institutional routine. The 2018 Supreme Court judgment mandating the creation of a foreign prisoners database remains under-implemented, pointing to the need for stronger monitoring mechanisms within state institutions.

Importantly, the experience underscored the need to balance bilateral engagement with domestic accountability. While the issue of fishermen's detention is inherently cross-border, the delays and suffering were often rooted in domestic bureaucratic inertia and political

reluctance. The Commission's public position, that the state must uphold its responsibilities regardless of the other country's reciprocity, became a key principle that helped anchor the case in national constitutional values, not just international norms. This lesson is particularly relevant in contexts where human rights issues are viewed through the lens of national interest or foreign policy exceptionalism.

Finally, the repatriation process illuminated the value of sustained public pressure and media engagement. Coverage by local and international press helped keep the issue visible and lent urgency to official procedures that otherwise may have languished. Civil society organizations such as the Edhi Foundation and the Pakistan Fisherfolk Forum also played crucial roles in sustaining grassroots momentum and offering reintegration support to returnees. This coordination between state and non-state actors provided a template for future cases, underscoring that collaborative models, not isolated heroism, offer the most sustainable results.

Chapter 8:

Recommendations: A Roadmap for Durable Reform

1. Reconstitute the Indo-Pak Joint Judicial Committee on Prisoners

The dormant status of the Joint Judicial Committee, which has not met since 2013, represents a major institutional gap in bilateral humanitarian cooperation. Its revival is essential for regular review of prisoners' cases and to ensure swift repatriation post-sentence. The committee's reactivation should include updated terms of reference, fixed meeting schedules, and a publicly accessible reporting mechanism. As a bilateral body comprised of retired judges, it has the legitimacy and neutrality needed to facilitate meaningful dialogue even during periods of political strain.

2. Ensure Timely Implementation of the Consular Access Agreement

Despite the 2008 Consular Access Agreement mandating biannual exchange of prisoner lists, consular access within 90 days of arrest, and repatriation within one month of identity confirmation, compliance remains inconsistent. Both countries must institutionalize a dedicated liaison unit within their respective ministries to ensure timely data sharing and follow-through. Mechanisms should be created to monitor compliance, flag delays, and publish periodic implementation reports, ideally through their national human rights institutions or ombudspersons.

3. Establish a Public Database of Foreign Prisoners

In line with the 2018 directive of Pakistan's Supreme Court, the Government should establish a centralized, publicly accessible digital database of all foreign prisoners, updated in real-time. This should include details on arrest date, charges, consular access status, sentence completion, and repatriation progress. Such a tool can empower families, NGOs, and oversight bodies to advocate effectively and ensure accountability.

4. Designate Focal Persons for Cross-Border Prisoners

To address institutional fragmentation and bureaucratic delay, each relevant department, including the Ministries of Foreign Affairs, Interior, Maritime Affairs, and Prisons, should designate a focal person responsible for cross-border prisoner cases. These officials should meet regularly to track progress, coordinate data verification, and liaise with their Indian counterparts where needed. Publicizing the names and contact points of these focal persons can also improve transparency and responsiveness.

5. Adopt a Rights-Based Repatriation Protocol

Both governments should develop and adopt a codified Repatriation Protocol grounded in international human rights standards, ensuring detainees are not held beyond their sentence or without timely consular access. The protocol must include clear timelines, responsibilities, and appeal mechanisms. Gender-sensitive and child-sensitive provisions should be

incorporated, especially in cases involving family members or minors inadvertently crossing maritime borders.

6. Strengthen Role of National Human Rights Institutions

NHRIs such as NCHR should be permanently empowered, through legislative clarity and administrative support, to intervene in transnational detention cases, monitor detention conditions, access prisoners, and submit periodic recommendations to governments. Their role should not depend on ad hoc permissions or case-by-case invitations. Formal MOUs with ministries can institutionalize this role. With regard to Pakistani prisoners abroad, NCHR has worked closely with other NHRIs, e.g. the Malaysian National Human Rights Commission SUHAKAM has extended great support for Pakistani prisoners held in Malaysia. It is hoped that the Indian Commission for Human Rights also reciprocally take up the issue of our Pakistani fishermen languishing in Indian prisons.

7. Enhance Coordination with Civil Society and Humanitarian Agencies

Organizations like the Edhi Foundation and Pakistan Fisherfolk Forum have played critical roles in repatriation, reintegration, and public awareness. Governments should formally engage these actors through advisory committees, service contracts, or resource-sharing mechanisms. Civil society can also assist in documentation, family tracing, and legal representation for detained fishermen.

8. Promote Bilateral Maritime Boundary Clarification and Demarcation

Although politically sensitive, the lack of an agreed maritime boundary in the Sir Creek region is a core driver of recurring arrests. Confidence-building measures, including joint mapping exercises or mediated arbitration, should be considered. In the interim, both countries should establish joint patrolling or early warning systems to minimize inadvertent crossings and reduce unnecessary arrests.

9. Introduce Rehabilitation and Reintegration Programs for Returnees

Returned detainees often suffer psychological trauma, financial hardship, and social stigma. A structured reintegration framework, covering healthcare, psychosocial counseling, livelihood support, and legal aid, should be developed in collaboration with local governments and humanitarian organizations. Special provisions should exist for elderly, disabled, or chronically ill returnees. The return of boats remains a key humanitarian demand alongside prisoner exchanges. However, in practice, the return of vessels has been sporadic and rare. Pakistan did return 57 Indian fishing boats as a goodwill gesture around 2019, but no subsequent releases have taken place since then

10. Institutionalize Periodic Review of Detention Conditions

Independent human rights monitors, journalists, or medical experts should be permitted to conduct regular assessments of conditions in prisons holding foreign detainees. Transparency in detention standards is vital to ensure humane treatment and build reciprocal trust.

Chapter 9:

Conclusion: From Charity to Structural Change

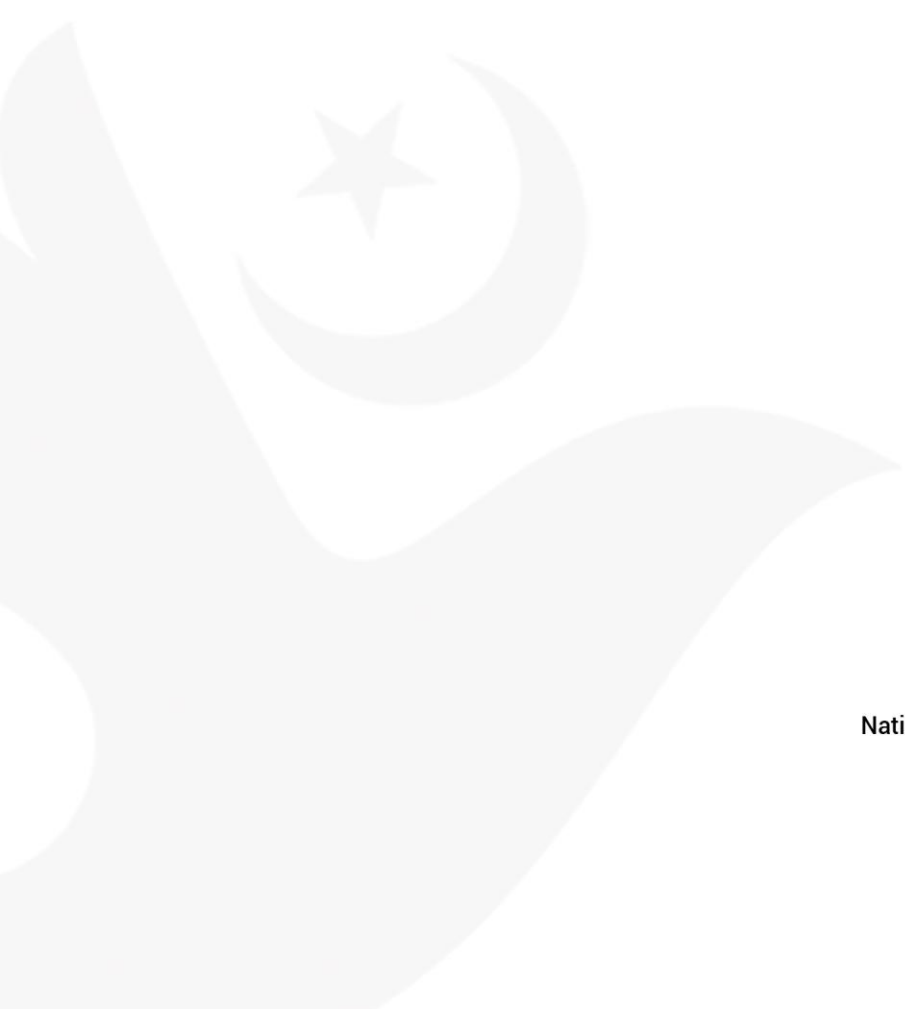
The release and repatriation of Indian fishermen from Pakistani prisons is far more than a bilateral milestone, it is a testament to what is possible when institutional mandate, political will, and human dignity align. In the face of diplomatic inertia, delayed protocols, and the painful human toll of transboundary incarceration, the National Commission for Human Rights (NCHR) stepped into a space traditionally left to foreign ministries and political channels. What unfolded was a rare and powerful demonstration of a national human rights institution using its constitutional authority to correct systemic delay, give visibility to the invisible, and push the state to act on its own legal and moral obligations.

The case highlights not only the value of such interventions, but also the structures that must now be put in place to prevent similar violations in the future. The consistent failures to implement bilateral agreements, the lack of functioning oversight mechanisms like the Joint Judicial Committee, and the absence of inter-agency coordination must no longer be seen as administrative lapses, but as systemic denials of basic human rights. NCHR's role, along with support from civil society and humanitarian organizations, provides a model of rights-based advocacy that places human beings, not geopolitics, at the center of foreign detention cases.

However, this success must not become an isolated incident. It must serve as a springboard for broader reforms that embed justice, transparency, and timeliness into the legal and administrative handling of foreign prisoners. Every day of delay in repatriation is a day stolen from someone's life, an injustice not just to the prisoner, but to their families, their communities, and the principle of due process. The tragic deaths of individuals like Amir Hamza, the silent grief of families like Shehribano Bibi's, and the continued separation of people like Shaukat Ali from his brother are reminders that the human cost of policy failure is always far higher than statistics can convey.

This intervention also challenges us to reconceptualize cross-border justice not as an extension of diplomatic favor but as a core element of state responsibility. Reciprocity from India remains critical, and both governments must work toward depoliticizing prisoner issues through the consistent implementation of signed agreements and renewed dialogue. But in the absence of such cooperation, Pakistan must continue to uphold its own commitments under domestic and international law, because human rights are not transactional.

The road ahead will require much more than good intentions. It will demand institutional memory, data infrastructure, legal reforms, and the courage to act swiftly in politically sensitive spaces. Yet if this intervention proves anything, it is that with clarity of mandate, collaboration across institutions, and a refusal to look away, it is possible to restore hope, and restore justice, to those who have long been denied both.



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